



DOST ADMINISTRATIVE ORDER NO. 019
Series of 2020

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THE RULES OF PROCEDURE FOR DISCIPLINARY CASES IN THE DOST SYSTEM

WHEREAS, pursuant to Section 6, Article IX-A of the 1987 Constitution and to Section 12 (2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of the 1987 (Executive Order No. 292), the Civil Service Commission (CSC) adopted and promulgated the "Uniform Rules on Administrative Cases in the Civil Service (URACCS)" in 1999 which was supplanted by the "Revised Rules on Administrative Cases in the Civil Service (RRACCS)" in 2011 to provide the necessary procedural guidelines that govern the disposition of disciplinary and non-disciplinary cases involving public officials and employees;

WHEREAS, Section (3), Chapter II, Book IV of the Administrative Code of 1987 empowers the Secretary to promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects;

WHEREAS, Section 7 (4), Chapter II, Book IV of the Administrative Code of 1987 empowers the Secretary to promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for proper execution of the laws relative thereto;

WHEREAS, in December 2008, the DOST Administrative Order (A.O.) No. 005 was issued to rationalize and systematize the conduct of the proceedings to expedite the resolution of administrative complaints involving officials and employees of the DOST;

WHEREAS, in 03 July 2017 the CSC promulgated the "2017 Rules on Administrative Cases in the Civil Service (2017 RACCS)" which revised the RRACCS of 2011;

WHEREAS, there is a need to rationalize and update the existing DOST A.O. No. 005, s. 2008 to conform with the 2017 RACCS;

NOW, THEREFORE, I, the Secretary of the Department of Science and Technology, hereby resolves to promulgate and adopt the following Rules of Procedures.

CHAPTER I
GENERAL PROVISIONS

Section 1. Title. These Rules shall be known as the "2020 Rules of Procedure for Disciplinary Cases in the DOST System."

Section 2. Scope. These Rules shall apply to all disciplinary cases in the DOST System, including those brought before by its attached agencies and regional offices.

Section 3. Definition of Terms. The terms hereunder shall be construed to mean as follows:

- a. ADMINISTRATIVE DISCIPLINARY CASE is a proceeding wherein an official or employee of the government is prosecuted for an act or omission punishable as non-

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penal offenses as provided for in the Civil Service Law, Administrative Code, and other laws pertaining to Public Officers and Civil Service employees.

- b. **AGENCY** refers to all agencies attached to the Department of Science and Technology regardless of whether or not they were created by a special law, including its Regional Offices.
- c. **BACK WAGES** refer to the compensation and other benefits that should have been earned but were not collected because of the illegal dismissal/separation or suspension following the principle that an illegally dismissed government employee who is later reinstated, is entitled to all the rights and privileges that accrue by virtue of the office held.
- d. **COMMISSION** refers to the Civil Service Commission composed of the Chairperson/Chairman and two (2) Commissioners.
- e. **COMPLAINANT** refers to the person who initiated or filed a complaint who may either be an individual or the disciplining authority.
- f. **DEPARTMENT** refers to the Department of Science and Technology (DOST).
- g. **DISCIPLINING AUTHORITY** refers to the person, tribunal or body duly authorized to suspend, dismiss or discipline officials and employees in the Department of Science and Technology, including its attached agencies and regional offices.

The disciplining authority in the DOST shall be the Secretary. The Executive Directors of Councils, and the Directors of the agencies and regional offices shall act as the disciplining authority in their respective offices.

In chartered agencies, the disciplining authority shall be its Board of Trustees or Governing Councils, as the case may be.

The President of the Republic shall be the disciplining authority for presidential appointees.

In cases where the President authorizes the Secretary to handle complaints against presidential appointees, these rules shall be applied in the DOST System. However, the Investigating Officer shall be at least one level higher to the person complained of.

- h. **DOST ATTACHED AGENCIES** refer to agencies of the DOST System organized and existing under a special charter and vested by law with functions relating to specific constitutional policies or objectives.
- i. **DOST SYSTEM** refers to the Department of Science and Technology including its Agencies, Regional Offices and attached Agencies.

- j. **EMPLOYEE** refers to a person who works for an agency and occupies a permanent position in either the first or second level and whose functions are not managerial in nature.
- k. **EXONERATION** contemplates a finding of not guilty for the offense/s charged. Downgrading of the charge to a lesser offense shall not be construed as “exoneration” within the contemplation of these Rules.
- l. **EX-PARTE** refers to the act or manner of conducting a proceeding where only one party is present without representation from or to other parties.
- m. **FINANCIAL AND MATERIAL INTEREST** is defined as pecuniary or proprietary interest by which a person will gain or lose something.
- n. **FORMAL INVESTIGATION** refers to the proceedings before the Hearing Committee duly constituted pursuant to Section 2, Chapter VIII of these Rules wherein the parties to the administrative case are given the opportunity to present their respective case in a trial-type hearing.
- o. **FORUM SHOPPING** refers to the filing of several administrative actions or complaints either simultaneously or successively before agencies or tribunals having concurrent jurisdiction over a case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and all raising substantially the same issues. Such case can either be pending in, or already resolved adversely by, some other tribunal or agency.
- p. **MOTU PROPRIO** refers to an action taken by the disciplining authority on its own initiative.
- q. **NON-PENAL OFFENSES** refer to offenses not criminal in nature.
- r. **OFFICIAL** refers to a person who occupies either a professional, technical, or scientific position and whose functions are managerial in character, exercising management over people, resource and/or policy and exercising functions such as planning, organizing, directing, coordinating, controlling, and overseeing the activities of an organization, a unit thereof or of a group, requiring some degree of professional, technical or scientific knowledge and experience, application of managerial skills required to carry out basic duties and responsibilities involving leadership, functional guidance and control. Positions of officials require intensive and thorough knowledge of a specialized field. JPP
- s. **PARTY ADVERSELY AFFECTED** refers to the: (i) respondent against whom a decision in an administrative case has been rendered; or (ii) to the disciplining authority/prosecuting agency in an appeal from a decision reversing or modifying the original decision.
- t. **PERSON COMPLAINED OF** refers to the person who is the subject of a complaint but who is not yet issued a notice of charge or formal charge by the disciplining authority.

- u. **PRELIMINARY INVESTIGATION** refers to the mandatory proceeding undertaken to determine whether a *prima facie* case exists to warrant the issuance of a Formal Charge/Notice of Charge against the person complained of.
- v. **PRIMA FACIE CASE** refers to the evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue it supports, but which may be contradicted by other evidence.
- w. **PUBLIC/SPECIAL PROSECUTOR** refers to any public or private lawyer duly designated by the disciplining authority to represent the agency in the formal investigation.
- x. **PRIVATE PROSECUTOR** refers to any private lawyer who represents the private complainant in an administrative disciplinary case.
- y. **REGIONAL OFFICES** refer to the offices in the administrative regions headed by a Regional Director.
- z. **RESPONDENT** refers to the person who is formally charged by the disciplining authority.
- aa. **SEXUAL HARASSMENT** refers to an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work-related, training or education related environment of the person complained of.
- bb. **SHOW-CAUSE ORDER** refers to the written document requiring a person to explain or justify before the disciplining authority or its duly authorized representative within a given period why no disciplining action shall be taken against him/her.
- cc. **THIRD LEVEL POSITION** refers to a position in the Career Executive Service (CES), which includes Undersecretary, Assistant Secretary, Executive Director, Regional Director, Deputy Executive Director and other officers of equivalent rank.

Section 4. Construction. These Rules shall be liberally construed in order to promote their objective in obtaining just, speedy, and inexpensive disposition of administrative cases.

In the absence of any applicable provision in these rules, the pertinent provisions of the Rules of Court may be applied suppletorily whenever practicable and convenient. Nevertheless, administrative investigations shall be conducted without strict recourse to technical rules of procedure and evidence applicable to judicial proceedings.

CHAPTER II JURISDICTION

Section 1. Jurisdiction. The disciplining authorities as defined in Section 3 (g), Chapter I of these Rules shall have original jurisdiction over their respective officials and employees. Their decision shall be final and executory in case the penalty imposed

is (a) reprimand, (b) suspension for not more than thirty (30) days, or (b) fine in an amount not exceeding thirty (30) days salary, unless a motion for reconsideration is seasonably filed. However, the decision rendered by the disciplining authority in these cases shall not be appealable.¹

Other decisions of the attached agencies and regional offices shall be initially appealed to the Department Secretary and finally to the Commission. Pending appeal, the same shall be executory except when the penalty is dismissal from the service, in which case, the same shall be executory only after confirmation by the Department Secretary.

Section 2. Jurisdiction over Sexual Harassment Cases. In sexual harassment cases, the complaint shall be filed with the:

- a. **Committee on Decorum and Investigation (CODI).** A CODI shall be created in all DOST agencies and offices.
 - i. In a work-related environment, a CODI shall be composed of at least one (1) representative each from (a) the management, (b) the accredited union, if any, (c) the second level employees, and (d) the first level employees, duly designated by the agency/office head.
 - ii. In an educational/training institution, the CODI shall be composed of at least one (1) representative from (a) the administration, (b) teaching and non-teaching staff, and (c) students or trainees, as the case may be, duly designated by the agency/office head.

When the complainant or the person complained of is a member of the CODI, he/she shall be disqualified and substituted as a member thereof, or the complaint for sexual harassment may be filed directly with the CSC.

The agency may formulate its own rules governing the term of office of its members which should not be more than two (2) years, and other matters pertaining to the functions of the CODI not otherwise provided in these Rules.

The head of office who fails to create a CODI shall be charged with Neglect of Duty.

- b. **CSC.** Complaint for sexual harassment filed with the CSC shall be remanded to the agency where the alleged offender is employed. However, the CSC may take cognizance of the case under any of the following circumstances:
 - i. The agency has no CODI;
 - ii. The disciplining authority is the subject of the complaint;
 - iii. The subject of the complaint is a CODI member; or

¹ Section 49, Rule 9, 2017 RACCS

- iv. There is unreasonable delay in complying with the periods provided in these Rules for the investigation and adjudication of a sexual harassment complaint.

For this purpose, there is unreasonable delay when any of the periods set in these Rules lapsed for a period of more than thirty (30) days without justifiable reason.

Section 3. Jurisdiction over complaints against Presidential Appointees. Cases against presidential appointees filed with the agency may be immediately dismissed due to lack of jurisdiction of the disciplining authority. However, in meritorious cases, the disciplining authority may request for the authority from or endorse the complaint to the Office of the President for proper disposition.

CHAPTER III COMPLAINT

Section 1. Who May Initiate. An Administrative Disciplinary Case may be initiated either:

- a. Motu proprio by the respective Disciplining Authority; or
- b. At the instance of any person through a complaint filed with the Disciplining Authority or CODI.

Section 2. Requisites of a Valid Complaint. A complaint shall be in writing and subscribed and sworn to by the complainant. It shall be written in a clear, simple and concise language in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation and to enable him/her to intelligently prepare a defense or answer/comment.

- a. full name, age, citizenship, and address of the complainant;
- b. full name and address of the person complained of as well as his/her position and office;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. certified true copies of documentary evidence and affidavits of his/her witnesses if any; and
- e. certification or statement of non-forum shopping.

In motu proprio cases or cases initiated by the respective Disciplining Authority or an authorized representative, a show-cause order, as defined in Section 3 (bb), Chapter I is sufficient.

Should there be more than one (1) person complained of, the complainant is required to submit additional copies corresponding to the number of the persons complained of.

Section 3. Failure to comply with requirements. In the absence of any requirements provided in the preceding section, the disciplining authority may dismiss the complaint without prejudice to its refiling upon compliance with the same.

Section 4. Anonymous Complaints. No anonymous complaint shall be entertained unless the act complained of is of public knowledge or the allegations can be verified; or the complaint is supported by documentary or direct evidence, at the discretion of the Disciplining Authority.

Section 5. When and Where to File a Complaint. Except when otherwise provided by law, an administrative complaint may be filed anytime with the respective Disciplining Authority or CODI for sexual harassment cases.

Section 6. Withdrawal of the Complaint. The withdrawal of the complaint or the desistance of the private complainant does not automatically result in the outright dismissal of the case nor discharge the person complained of, from any administrative liability.

CHAPTER IV PRELIMINARY INVESTIGATION

Section 1. Purpose of Preliminary Investigation. The mandatory proceeding of preliminary investigation is undertaken to determine whether a *prima facie* case exists to warrant the issuance of a Formal Charge/Notice of Charge against the person complained of.

Section 2. Who will conduct. Upon receipt of a valid complaint, the Disciplining Authority may create a Preliminary Investigation Committee, or designate a Preliminary Investigation Officer, or conduct the preliminary investigation *motu proprio*.

The Preliminary Investigation Committee shall be composed of:

- i. One (1) Chairperson, whose rank is at least one level higher than the person complained of, who shall be impartial with no personal relationship with any of the parties or interest in the case or issue and with proven integrity and probity; and
- ii. Two (2) Members, who are impartial and do not have personal interest in the case or issue and with proven probity.

For this purpose, "personal relationship" shall refer to either filial relations or close connections with any of the parties that may influence the conduct of the investigation or give the appearance of impartiality.

Section 3. How conducted. Preliminary investigation may be conducted in any of the following manner:

- a. requiring the submission of counter affidavit or comment and/or other documents from the person complained of within five (5) days from receipt of the complaint which is sufficient in form and substance;
- b. ex-parte evaluation of the records; or
- c. clarificatory meeting with the parties to discuss the merits of the case.

In *motu proprio* cases, the disciplining authority or its authorized representative shall issue a show-cause order directing the person complained of to explain within the same period of five (5) days, why no administrative case should be filed against the said person. The failure to submit a comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without the counter-affidavit/comment/explanation.

The right to counsel may be exercised even during the preliminary investigation.

Section 4. Duration of the Preliminary Investigation. Generally, a preliminary investigation shall commence within a non-extendible period of five (5) days upon receipt of the complaint by the disciplining authority and shall be terminated within twenty (20) days thereafter. However, the disciplining authority may extend such periods in meritorious cases.

Section 5. Preliminary Investigation Report. Within five (5) days from the termination of the preliminary investigation, the Preliminary Investigation Committee/Officer shall submit to the Disciplining Authority the Preliminary Investigation Report with recommendation and the complete records of the case. In case of varying recommendations from the members of the committee, the same shall be reflected in the report for the determination or consideration of the disciplining authority. The Preliminary Investigation Report shall be treated with confidentiality.



Section 6. Resolution after Preliminary Investigation. If a *prima facie* case is established after preliminary investigation, the Disciplining Authority may issue either a Formal Charge or a Notice of Charge pursuant to **Chapter V of these Rules**.

In the absence of a *prima facie* case, the complaint shall be dismissed.

Section 7. Deputation of Lawyers of Other Agencies. The Disciplining Authority may deputize lawyers for the conduct of Preliminary Investigation, who shall make the necessary reports and recommendation within the specified period.

For this purpose, lawyers from other DOST agencies or from the Office of the Solicitor General may be deputized by the Disciplining Authority.

CHAPTER V

FORMAL CHARGE/NOTICE OF CHARGE

Section 1. Issuance of Formal Charge; Contents. After a finding of a *prima facie* case, the Disciplining Authority shall formally charge the person complained of, who shall now be called as respondent.

The formal charge shall contain the following:

- a. a specification of charge;
- b. a brief statement of material or relevant facts, which may be accompanied by certified true copies of the documentary evidence, sworn statements covering the testimony of the witnesses;
- c. a directive to answer the charge in writing, under oath in not less than three (3) days but not more than ten (10) days from receipt thereof;
- d. an advice for the respondent to indicate in the answer whether or not a formal investigation is demanded; and
- e. a notice that respondent may opt to be assisted by a counsel.

Section 2. Notice of Charge. In the instances where the complaint was initiated by a person other than the Disciplining Authority, the Disciplining Authority may issue a written Notice of the Charge against the person complained of who will now be called respondent, to which shall be attached copies of the complaint, sworn statement, and other documents submitted. The notice shall contain the following:

- a. charge against the respondent with a statement that a *prima facie* case exists;
- b. a directive to answer the charge in writing, under oath in not less than three (3) days but not more than ten (10) days from receipt thereof; and
- c. a notice that he/she may opt to be assisted by a counsel of his/her choice and may elect to have a formal investigation.

If the respondent receives a Notice of Charge with incomplete attachments, the respondent may request for the lacking documents within ten (10) days from receipt of the formal/notice of charge and the period to answer will not run until the same is received by the respondent.

Section 3. Prohibited pleadings. The Disciplining Authority shall not entertain:

- a. Requests for Clarification;
- b. Bill of Particulars;
- c. Motion to Dismiss,
- d. Motion to Quash;
- e. Motion for reconsideration; and
- f. Motion for Extension of Time to file Answer.

The same shall be noted without action and attached to the records of the case.

**CHAPTER VI
ANSWER**

Section 1. When filed. – The Answer shall be filed with the Disciplining Authority within the period provided in the Formal Charge.

Section 2. Form and contents of the Answer. – The Answer shall be in writing and under oath. It shall contain the following:

- a. material facts and applicable law, if any;
- b. original or certified true copies of documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of his/her case; and
- c. an indication by the respondent whether or not he/she elects a Formal Investigation of the case.

Section 3. Evaluation of the Answer. – If the answer is found satisfactory, the case shall be dismissed by the Disciplining Authority, otherwise, a Formal Investigation shall proceed.

In case the respondent did not expressly request for a Formal Investigation, the case shall be decided based on the records available. Provided, however, that a Formal Investigation shall nevertheless be held if the case cannot be decided judiciously from the allegations in the complaint and in the answer and their supporting documents.

Section 4. Failure to File an Answer. If respondent fails or refuses to file an answer to Formal Charge or Notice of Charge within the given period, he/she shall be considered to have waived his/her right to submit the same and the case shall be decided based on available records.

**CHAPTER VII
PREVENTIVE SUSPENSION**



Section 1. Nature of Preventive Suspension. Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the respondent may be removed from the scene of the alleged misfeasance/malfeasance/nonfeasance while the case is being investigated.

Section 2. When Issued; Grounds. The proper Disciplining Authority, upon motion or *motu proprio*, may issue an Order of Preventive Suspension against the respondent upon issuance of the Formal Charge or Notice of Charge, or immediately thereafter, if:

- a. The charge involves:
 1. Dishonesty;
 2. Oppression;
 3. Grave Misconduct;
 4. Neglect in the Performance of Duty;
 5. Other offenses punishable by dismissal from the service; or

6. An administrative offense committed on its second or third instance and the penalty is dismissal from the service; and

b. The respondent is in a position to exert undue influence or pressure on the witnesses and/or tamper with evidence.

In order for a preventive suspension order to be valid, any of the conditions in Items a and b must be present.

Section 3. Alternative to Preventive Suspension. The proper Disciplining Authority may reassign respondent to another unit of the agency subject to the same periods as provided in the immediately succeeding section.

Section 4. Duration of Preventive Suspension. Unless otherwise provided for by law, the Disciplining Authority may place the respondent under preventive suspension for a maximum period of ninety (90) days.

When the administrative case against respondent under preventive suspension is not finally decided by the Disciplining Authority within the period of preventive suspension, the respondent shall be automatically reinstated in the service unless the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. Any period of delay caused by motions filed by the respondent shall be added to the period of preventive suspension. *Provided*, that where the order of preventive suspension is for a period less than the maximum period, the Disciplining Authority undertakes to finish the formal investigation within the said period and is precluded from imposing another preventive suspension. *Provided, further*, that should the respondent be on authorized leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully exhausted.

Provided, finally, that if the respondent is placed under preventive suspension in another case, the duration of the second preventive suspension shall simultaneously run with the first preventive suspension without prejudice to the service of the remaining period of the second preventive suspension.

Section 5. Remedies from the Order of Preventive Suspension. The respondent may file an Appeal with the Department Secretary or with the Commission within fifteen (15) days from receipt of the preventive suspension order. Pending resolution of the appeal, the order shall be executory.

A Motion for Reconsideration from the order of preventive suspension shall not be allowed. In case such motion is filed, the same shall be noted without action and attached to the records of the case and shall not stay the execution of the said order nor shall have the effect of stopping the running of the reglementary period to appeal.

Section 6. Payment of Back Wages during Preventive Suspension. The payment of back wages during the period of suspension shall be governed by the following:

- a. A declaration by the CSC that a Preventive Suspension Order is *void on its face*, entitles the respondent to immediate reinstatement and payment of back wages corresponding to the period of the illegal preventive suspension without awaiting the outcome of the main case.

The phrase “**void on its face**”, in relation to Preventive Suspension Order, imports any of the following circumstances:

- i. The Order was issued by one who is not authorized by law;
 - ii. The Order was not premised on any of the conditions under Section 2 of this Chapter;
 - iii. The Order was issued without or with defective Formal Charge/Notice of Charge; or
 - iv. The period imposed exceeded the prescribed periods, in which case, the payment of back wages shall correspond to the excess period only.
- b. A declaration of invalidity of a Preventive Suspension Order not based on any of the reasons enumerated in the immediately preceding paragraph shall result in the reinstatement of the respondent. The payment of back wages shall, however, await the final outcome of the principal case.

If the decision rendered in the principal case is exoneration, or when the penalty imposed is reprimand, the respondent shall be paid back wages. Otherwise, no back wages shall be paid.

Even if the respondents be eventually found innocent of the charge against them, the same shall not give rise to payment of back wages corresponding to the period of preventive suspension in the absence of any finding of its illegality.

CHAPTER VIII FORMAL INVESTIGATION

Section 1. Conduct of Formal Investigation; When Held. A formal investigation shall be conducted on the following circumstances:

- a. where the merits of the case cannot be decided judiciously without conducting such investigation; or
- b. when the respondent elects to have one.

The investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer or upon the expiration of the period to file an answer.

Said investigation shall be finished within thirty (30) days from the issuance of the Formal Charge/Notice of Charge unless the period is extended by the Disciplining Authority or its authorized representative.

The Hearing Committee shall deliberate collectively and not individually.

Section 2. Hearing Committee/Hearing Officer. The Disciplining Authority shall constitute a Hearing Committee or appoint a Hearing Officer which shall undertake the Formal Investigation.

- a. Appointment or Designation of Hearing Officer and Special Prosecutor.** The Disciplining Authority may deputize lawyers as Hearing Officer and Special Prosecutor in the conduct of Formal Investigation who shall make the necessary reports and recommendation within the specified period.

For this purpose, lawyers from other agencies or from the Office of the Solicitor General (OSG) may be deputized by the Disciplining Authority as Hearing Officer or Special Prosecutor.

- b. Composition of the Members of the Hearing Committee.** Should there be a Hearing Committee, it shall be composed of three (3) members, which includes one (1) Chairperson and two (2) members, to wit:

- i. One (1) Chairperson, whose rank is at least one level higher than the person complained of, who shall be impartial with no personal relationship with any of the parties or interest in the case or issue and with proven probity, who will act as the Hearing Officer; and
- ii. Two (2) Members, who are impartial and do not have personal interest in the case or issue and with proven probity.

- c. Secretariat for the Hearing Committee.** A representative preferably from the Personnel Division/Section in the agencies or Legal Division in the Central Office shall be designated to act as the secretariat and repository of the records of the case.

Section 3. Submission of Position Paper/Memorandum. At any stage of the proceedings, the parties may, based on their mutual consent, submit position paper/memorandum and consider the case submitted for decision without need for further hearings.

Section 4. Pre-Hearing Conference. At the commencement of the Formal Investigation, the hearing committee shall conduct a pre-hearing conference for the parties to appear, consider, and agree on any of the following:

- a. Stipulation of facts;
- b. Simplification of issues;
- c. Identification and marking of evidence of the parties;
- d. Waiver of objections to admissibility of evidence;
- e. Limiting the number of witnesses, and their names;

- f. Dates of subsequent hearings; and
- g. Such other matters as may aid in the prompt and just resolution of the case.

The parties may file their respective pre-hearing briefs, copy furnished the adverse party, three (3) days before the date of the pre-hearing conference.

The conduct of pre-hearing conference is mandatory. The failure of any party to attend the pre-hearing conference may cause the submission of the case for decision based on available records upon appropriate motion of the present party.

The designated special prosecutor or members of the hearing committee who fails to appear, without justifiable reason, at the pre-hearing conference may be liable for Neglect of Duty.

Section 5. Pre-hearing Conference Order. The agreement entered into during the pre-hearing conference shall be embodied in a Pre-hearing Conference Order and is binding on both parties unless, in the interest of justice, the hearing committee, through its Chairperson, may allow a deviation from the same. Both parties may file their respective comments/opposition to the Pre-hearing Conference Order within five (5) days from receipt thereof.

Section 6. Continuous Hearing and Postponement. Hearings shall be conducted on the hearing dates set by the hearing committee, through its Chairperson, or as agreed upon during the pre-hearing conference.

Each party may be granted one (1) postponement upon oral or written request.

If respondents fail or refuse to appear or not represented by counsel during a particular hearing despite due notice, the investigation shall proceed and the respondent/s shall be deemed to have waived the right to present evidence.

Section 7. Preliminary Matters.

- a. At the start of the hearing, the hearing committee, through its Chairperson, shall note the appearances of the parties.

Any counsel who is a member of the Integrated Bar of the Philippines (IBP) appearing before any hearing or investigation shall manifest, orally or in writing, his/her appearance, stating the following:

- i. his/her full name;
- ii. complete address, which should not be a P.O. box address, where he/she can be served with notices and other pleadings;
- iii. Professional Tax Receipt (PTR) number;
- iv. Attorney's roll number;
- v. Mandatory Continuing Legal Education (MCLE) compliance certification; and
- vi. IBP dues receipt number.

A lawyer/counsel who works for the government is required to present an Authority to Practice Profession from his/her agency head or the agency head's authorized representative.

A private prosecutor may be allowed to appear provided that the public prosecutor shall have direct control and supervision over the private prosecutor at all times.

- b. If, after being apprised of the right to counsel, respondents appear without the aid of counsel and without any justifiable reason, they shall be deemed to have waived the right thereto and the proceedings shall proceed. The respondents may act as his or her own counsel, with right to conduct direct-examination and cross-examination, etc.
- c. Before taking the testimony, the hearing officer shall place the witness under oath and take the name, address, civil status, age, and complete name and address of employment.
- d. A sworn statement of the witness properly identified and affirmed shall constitute direct testimony, copy furnished the other party.
- e. The use of Judicial Affidavit may also be adopted in place of the direct testimonies of witness. The adoption of the Judicial Affidavit Rule is without prejudice to clarificatory questions that may be asked during the hearing.
- f. Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.
- g. All pleadings filed by the parties shall be copy furnished the other party with proof of service. Failure in this regard shall justify non-receipt or non-action on the pleading. Any pleadings sent by registered mail or private courier service shall be deemed filed on the date stamped on the envelope or courier pack which shall be attached to the records of the case, and in case of personal delivery, the date stamped thereon.

Section 8. Order of Hearing. Unless the hearing officer directs otherwise, the order of hearing may be as follows:

- a. The prosecution shall present its evidence;
- b. The respondent shall present evidence in support of his/her defense; and
- c. There may be rebuttal or sur-rebuttal.

When the presentation of their witnesses has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After the presentation of witnesses is concluded, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) days after the termination of the investigation or hearing. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 9. Objections. All objections raised during the hearing shall be resolved by the hearing committee. However, objections that cannot be ruled upon by the hearing officer shall be noted with the information that the same shall be included in the memorandum of the concerned party to be ruled upon by the proper Disciplining Authority.

The hearing committee shall admit all evidence formally offered subject to the objection/s interposed against its admission. In case of doubt, it should allow the admission of evidence subject to the objection interposed against its admission.

Section 10. Markings. All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.), if presented by the prosecution, and by numbers (1,2,3, etc.), if presented by the respondent. These shall form part of the complete records.

Section 11. Issuance of Subpoena. The hearing officer may issue *subpoena ad testificandum* to compel the attendance of witnesses and *subpoena duces tecum* for the production of documents or things.

If a party desires the attendance of a witness and/or the production of documents, he/she shall make a request for the issuance of the necessary *subpoena ad testificandum* and/or *subpoena duces tecum*, at least seven (7) days before the scheduled hearing.

Section 12. Formal Investigation Report. Within fifteen (15) days after the conclusion of the formal investigation or after receipt of the Memoranda of the parties, if any, a report shall be submitted by the Hearing Committee to the Disciplining Authority.

Section 13. Contents of the Formal Investigation Report. The report shall contain the following:

- a. a narration of the material facts established during the investigation;
- b. the findings and the evidence supporting said findings;
- c. the jurisprudence, law or rules applicable, at the option of the Committee; and
- d. the recommendation.

The complete records of the case shall be attached to the report of investigation which shall be treated with confidentiality.

The complete records with Table of Contents shall be systematically and chronologically arranged, paged, and securely bound to prevent loss.

CHAPTER IX PENDENCY OF ADMINISTRATIVE/CRIMINAL CASE

Section 1. Effects of Pendency of an Administrative/Criminal Case. Except as otherwise provided by law, pendency of an administrative/criminal case shall not disqualify

respondent from promotion and other human resource actions² or from claiming maternity/paternity benefits.

For this purpose, a “pending administrative case” shall be construed as such when the Disciplining Authority has issued a Formal/Notice of Charge to the respondent.

The release of the retirement benefits of a person with pending case shall be governed by Republic Act No. 10154, otherwise known as “An Act Requiring All Concerned Government Agencies to Ensure the Early Release of the Retirement Pay, Pensions, Gratuities and Other Benefits of Retiring Government Employees” and its implementing rules.³

CHAPTER X DECISION

Section 1. When Case is Decided. The Disciplining Authority shall decide the case within thirty (30) days from the receipt of the Formal Investigation Report.

Section 2. Finality of Decisions.

- a. A decision rendered by the Disciplining Authority imposing the following penalties may be subject of a Motion for Reconsideration to the Disciplining Authority but shall not be appealable in the event the penalty is:
 - i. Reprimand;
 - ii. Suspension for not more than thirty (30) days; or
 - iii. Fine in an amount not exceeding thirty (30) days' salary.

However, the respondent may file an appeal or petition for review when the issue raised is violation of due process.

- b. A decision rendered by the Disciplining Authority imposing the following penalties shall be final and executory after the lapse of the reglementary period for filing a Motion for Reconsideration or an Appeal and no such pleading has been filed.
 - i. Suspension exceeding thirty (30) days; or
 - ii. Fine in an amount exceeding thirty (30) day's salary.

Appeal shall be in accordance with Chapter XIV of these Rules.

- c. Decision of the Executive Director shall become final and executory only upon the ratification of the Board of Trustees/Governing Council, as the case may be. However, decisions ratified by the concerned Board of Trustees/Governing Council may be appealed to the Civil Service Commission.

² Section 3, Rule I of the 2017 Omnibus Rules on Appointments and Other Human Resource Actions (Revised July 2018)

³ CSC Resolution No. 1302242 promulgated on 01 October 2013.

CHAPTER XI
ADMINISTRATIVE OFFENSES AND PENALTIES

Section 1. Classification of Offenses. Administrative offenses with corresponding penalties are classified into grave, less grave, and light, depending on their gravity or depravity and effects on the government service.

a. The following **grave offenses** shall be punishable by **dismissal from the service**:

- i. Serious Dishonesty;
- ii. Gross Neglect of Duty;
- iii. Grave Misconduct;
- iv. Being Notoriously Undesirable;
- v. Conviction of a Crime Involving Moral Turpitude;
- vi. Falsification of Official Document;
- vii. Physical or mental disorder or disability due to immoral or vicious habits;
- viii. Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws;
- ix. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
- x. Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by or any transaction which may be affected by the functions of one's office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between the giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;
- xi. Nepotism; and
- xii. Disloyalty to the Republic of the Philippines and to the Filipino people.

b. The following **grave offenses** shall be punishable by **suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense**:

- i. Less Serious Dishonesty;
- ii. Oppression;
- iii. Disgraceful and Immoral Conduct;
- iv. Inefficiency and Incompetence in the Performance of Official Duties;
- v. Frequent Unauthorized Absences (Habitual Absenteeism);
- vi. Habitual tardiness in reporting for duty causing prejudice to the operations of the office;
- vii. Loafing from Duty During Regular Office Hours;
- viii. Refusal to Perform Official Duty;
- ix. Gross Insubordination;

- x. Conduct Prejudicial to the Best Interest of the Service;
 - xi. Directly or indirectly having financial and material interest in any transaction requiring the approval of one's office;
 - xii. Owning, controlling, managing or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by one's office, unless expressly allowed by law;
 - xiii. Disclosing or misusing confidential or classified information officially known by reason of one's office and not made available to the public, to further one's private interests or give undue advantage to anyone, or to prejudice the public interest;
 - xiv. Obtaining or using any statement filed under the Code of Conduct and Ethical Standards for Public Officials and Employees for any purpose contrary to morals or public policy or any commercial purpose other than by news and communications media for dissemination to the general public; and
 - xv. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with one's office, unless such recommendation or referral is mandated by:
 - a) law;
 - b) international agreements, commitment and obligation; or
 - c) as part of the function of one's office.
- c. The **grave offense** of Inefficiency and Incompetence in the Performance of Official Duties may be punishable by **Demotion**. In this case, the guilty person shall suffer diminution in salary corresponding to the next lower salary grade with the same salary step.
- d. The following **less grave offenses** are punishable by **suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense:**
- i. Simple Neglect of Duty;
 - ii. Simple Misconduct;
 - iii. Discourtesy in the Course of Official Duties;
 - iv. Violation of existing Civil Service Law and rules of serious nature;
 - v. Insubordination;
 - vi. Habitual Drunkenness;
 - vii. Unfair discrimination in rendering public service due to party affiliation or preference;
 - viii. Failure to file sworn statement of assets, liabilities and net worth, and disclosure of business interest and financial connection including those of one's spouse and unmarried children under eighteen (18) years of age living in one's household;
 - ix. Failure to resign from one's position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest oneself of one's shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises; Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself/herself of said interest within



- the periods hereinabove provided, reckoned from the date when the conflict of interest had arisen; and
- x. Engaging directly or indirectly in partisan political activities by one holding non-political office.
- e. The **less grave offense** of Simple Dishonesty is punishable by **suspension of one (1) month and one (1) day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year for the second offense; and dismissal from the service for the third offense.**
- f. The following **light offenses** are punishable by **reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:**
- i. Simple Discourtesy in the Course of Official Duties;
 - ii. Improper or unauthorized solicitation of contributions from subordinate employees and in the case of teachers or school officials from school children;
 - iii. Violation of Reasonable Office Rules and Regulations;
 - iv. Habitual Tardiness;
 - v. Gambling Prohibited by law;
 - vi. Refusal to Render Overtime Service;
 - vii. Disgraceful, Immoral or Dishonest Conduct Prior to Entering the service;
 - viii. Borrowing Money by Superior Officers from Subordinates;
 - ix. Willful failure to pay just debts or willful failure to pay taxes due to the government;

The term "just debts" shall apply only to:

- a) Claims adjudicated by a court of law; or
 - b) Claims the existence and justness of which are admitted by the debtor.
- x. Lobbying for personal interest or gain in legislative halls and offices without authority;
 - xi. Promoting the sale of tickets in behalf of private enterprise that are not intended for charitable or public welfare purposes and even in the latter cases, if there is no authority;
 - xii. Failure to act promptly on letters and request within fifteen (15) working days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
 - xiii. Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
 - xiv. Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions;
 - xv. Engaging in private practice of one's profession unless authorized by the Constitution, law or regulation or the head of the office where the employee

- or official is assigned, and provided that such practice will not conflict with one's official functions; and
- xvi. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

Section 2. Offenses of Sexual Harassment. The following acts also constitute administrative offenses:

- a. For the purpose of these Rules, the administrative offenses of sexual harassment may take place in the following circumstances:
 - i. **Work-related sexual harassment** is committed under the following circumstances:
 - a) submission to or rejection of the act or series of acts is used as a basis for any employment decision (including, but not limited to, matters related to hiring, promotion, raise in salary, job security, benefits and any other human resource action) affecting the applicant/employee; or
 - b) the act or series of acts have the purpose or effect of interfering with the complainant's work performance, or creating an intimidating, hostile or offensive work environment; or
 - c) the act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a co-employee, applicant, customer, or ward of the person complained of.
 - ii. **Education or training-related sexual harassment** is committed against one who is under the actual or constructive care, custody or supervision of the offender, or against one whose education, training, apprenticeship, internship or tutorship is directly or constructively entrusted to, or provided by, the offender, when:
 - a) submission to or rejection of the act or series of acts as a basis for any decision affecting the complainant, including but not limited to, the giving of grade, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration; or
 - b) the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive academic environment of the complainant; or
 - c) the act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a trainee, apprentice, intern, tutee or ward of the person complained of.



- iii. **Other sexual harassment offenses** may also take place in the following instances:
 - a) in the premises of the workplace or office or of the school or training institution;
 - b) in any place where the parties were found as a result of work or education or training responsibilities or relations;
 - c) at work or education or training-related social functions;
 - d) while on official business outside the office, school or training institution or during work or school or training-related travel;
 - e) at official conferences, fora, symposia or training sessions; or
 - f) by telephone, cellular phone, social media, fax machine or electronic mail.

- b. **Persons Liable for Sexual Harassment.** Any government official or employee, regardless of sex, is liable for sexual harassment when he/she:
 - i. directly participates in the execution of any act of sexual harassment as defined by these Rules;
 - ii. induces or directs another or others to commit sexual harassment as defined by these Rules;
 - iii. cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished; or
 - iv. cooperates in the commission of sexual harassment by another through previous or simultaneous acts.

- c. **Classification of Offenses:**
 - i. **Grave Offenses** punishable by dismissal from the service shall include, but are not limited to;
 - a) Unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast);
 - b) Sexual assault;
 - c) Malicious touching;
 - d) Requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, a higher rating, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance; and
 - e) Other analogous cases.

 - ii. **Less Grave Offenses** shall include, but are not limited to:
 - a) unwanted touching or brushing against a victim's body;
 - b) pinching not falling under grave offenses;
 - c) derogatory or degrading remarks or innuendoes directed toward the members of the one sex, or one's sexual orientation or used to describe a person;

- d) verbal abuse with sexual overtones; and
 - e) other analogous case.
- iii. **Light Offenses** shall include, but are not limited to;
- a) surreptitiously looking at a person's private part or worn undergarments;
 - b) making sexist statements and uttering smutty jokes or sending these through text or electronic mail, including but not limited to social media platform, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advice, when they are by their nature clearly embarrassing, offensive, or vulgar;
 - c) malicious leering or ogling;
 - d) display of sexual offensive pictures, materials or graffiti;
 - e) unwelcome inquiries or comments about a person's sex life;
 - f) unwelcome sexual flirtation, advances, or propositions;
 - g) making offensive hand or body gestures at an employee;
 - h) persistent unwanted attention with sexual overtones;
 - i) unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
 - j) other analogous cases.

Section 3. Violations of Republic Act. No.9485 or the "Anti-Red Tape Act of 2007".

a. Classification of Offenses:

i. Grave Offense:

- a) Fixing and/or collusion with fixers in consideration of economic and/or other gain or advantage shall be penalized by dismissal and perpetual disqualification from public service.

ii. Light Offenses:

- a) Refusal to accept application and/or request within the prescribed period or any documents being submitted by a client;
- b) Failure to act on an application and/or request or failure to refer back to the client a request which cannot be acted upon due to lack of requirements within the prescribed period;
- c) Failure to attend to clients who are within the premises of the office or agency concerned prior to the end of official working hours and during lunch break;
- d) Failure to render frontline services within the prescribed period on any application and / or request without due cause;
- e) Failure to give the client a written notice on the disapproval of an application or request; and



- f) Imposition of additional irrelevant requirements other than those listed in the first notice.

The foregoing light offenses shall be penalized as follows:

- 1) First Offense - Thirty (30) days suspension without pay and mandatory attendance in Values Orientation Program;
- 2) Second Offense - Three (3) months suspension without pay;
- 3) Third Offense - Dismissal and perpetual disqualification from public service.

Section 4. Penalty of Fine. The following are the guidelines for the penalty of fine:

- a. The Disciplining Authority may allow payment of fine in place of suspension if any of the following circumstances is present:
 - i. When the functions/nature of the office is impressed with national interest such as those involved in maintenance of peace and order, health and safety, and education;
 - ii. When the respondent is actually discharging frontline functions or those directly dealing with the public and the human resource complement of the office is insufficient to perform such function;
 - iii. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office; or
 - iv. When the respondent has already retired or otherwise separated from government service and the penalty of suspension could not be served anymore, the fine may be sourced from the accumulated leave credits or whatever benefits due to the respondent.
- b. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave, and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day salary fine; *Provided*, that in Grave Offenses where the penalty imposed is six (6) months and one (1) day suspension in view of the presence of mitigating circumstances, the conversion shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.
- c. The maximum period to pay the fine shall not exceed one (1) year from the time the decision/resolution becomes final and executory. The conversion of suspension into fine shall render the decision final and executory and, therefore, not subject of appeal or any other similar relief.
- d. The failure of the respondent to pay the fine or part thereof shall cause the reversion to the original penalty of suspension. As such, respondent shall serve

the original penalty of suspension imposed, irrespective of the amount already paid.

- e. Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:
 - i. Fine equivalent to one (1) month salary shall be paid within two (2) months;
 - ii. Fine equivalent to two (2) months salary shall be paid within four (4) months;
 - iii. Fine equivalent to three (3) months salary shall be paid within six (6) months;
 - iv. Fine equivalent to four (4) months salary shall be paid within eight (8) months;
 - v. Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
 - vi. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.
- f. Fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory.

Section 5. Mitigating and Aggravating Circumstances. Except for offenses punishable by dismissal from the service, the following may be appreciated as either mitigating or aggravating circumstances in the determination of the penalties to be imposed:

- a. Physical illness;
- b. Malice;
- c. Time and place of offense;
- d. Taking undue advantage of official position;
- e. Taking undue advantage of subordinate;
- f. Undue disclosure of confidential information;
- g. Use of government property in the commission of the offense;
- h. Habituality;
- i. Offense is committed during office hours and within the premises of the office or building;
- j. Employment of fraudulent means to commit or conceal the offense;
- k. First offense;
- l. Education;
- m. Length of service; or
- n. Other analogous circumstances.

In the appreciation thereof the same must be invoked or pleaded by the respondent otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice, may take and consider these circumstances *motu proprio*.

Section 6. Manner of Imposition. When applicable, the imposition of the penalty shall be made in accordance with the manner provided herein below:

- a. The **minimum** of the penalty shall be imposed where only mitigating and no aggravating circumstances are present; or
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present; or
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.

Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied when there are more mitigating circumstances present; paragraph (b) shall be applied when the circumstances equally offset each other; and paragraph (c) shall be applied when there are more aggravating circumstances.

The following divisible penalties shall have their medium range of penalty, to wit:

- a. Penalty of suspension ranging from one (1) month and one (1) day to six (6) months shall have three (3) months as its medium penalty; and
- b. Penalty of suspension ranging from six (6) months and one (1) day to one (1) year shall have 9 months as its medium penalty.

Section 7. Penalty for Multiple Offenses. If the respondent is found guilty of two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances.

In case the respondent is found guilty of two or more counts of the same offense, the penalty shall be imposed in the maximum regardless of the presence of any mitigating circumstances.

Section 8. Duration and Effects of Administrative Penalties. The following rules shall govern the imposition of administrative penalties:

- a. The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability.
- b. The penalty of demotion shall result in diminution of salary corresponding to the next lower salary grade with the same salary step.
- c. The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all monetary benefits including leave credits.

- d. The penalty of fine shall be in amount not exceeding six (6) months salary of respondent. The computation thereof shall be based on the salary rate of the respondent when the decision becomes executory. Fines shall be paid within a period not exceeding one (1) year reckoned also from the date when decision becomes final and executory.
- e. The penalty of reprimand is an official rebuke against a person's behavior which does not carry any accessory penalty or result in the temporary cessation of work. In the event the penalty of reprimand was imposed on appeal as a result of modification of the penalty of suspension or dismissal from the service, the respondent shall be entitled to the payment of back wages and other benefits which would have accrued during the period of the suspension or dismissal.

Section 9. Administrative Disabilities Inherent in Certain Penalties. The following rules shall govern in the imposition of accessory penalties:

- a. The penalty of **dismissal** shall carry with it:
 - i. cancellation of civil service eligibility;
 - ii. perpetual disqualification from holding public office;
 - iii. bar from taking civil service examinations; and
 - iv. forfeiture of retirement benefits.

Terminal leave benefits and personal contributions to Government Service Insurance System (GSIS), Retirement and Benefits Administration Service (RBAS) or other equivalent retirement benefits system shall not be subject to forfeiture.

- b. The penalty of **demotion** shall carry with it disqualification from promotion for one (1) year.
- c. The penalty of **suspension** shall carry with it disqualification from promotion corresponding to the period of suspension.
- d. The penalty of **fine** shall carry with it disqualification from promotion for the same period the respondent is fined.
- e. The penalty of **reprimand** shall not carry with it any accessory penalties.
- f. A **warning or admonition** shall not be considered a penalty.

Section 10. Effects of Exoneration on Certain Penalties. The following rules shall govern when the decision is for exoneration:

- a. In case the penalty imposed is **fine**, the same shall be refunded.
- b. In case of **demotion**, the respondent shall be entitled to restoration of former salary grade with the same salary step and payment of salary differentials during the period the demotion was imposed.

- c. In case the penalty imposed is **suspension**, the respondent shall immediately be reinstated to former post without loss of seniority rights and with payment of back wages and all benefits which would have accrued as if the respondent has not been illegally suspended.
- d. In case the penalty imposed is **dismissal**, the respondent shall immediately be reinstated without loss of seniority rights and with payment of back wages and all benefits which would have accrued as if the respondent has not been illegally dismissed.
- e. The respondent who is exonerated on appeal shall be entitled to the leave credits for the period the respondent had been out of the service.

The grant of back wages and other benefits may be subject of settlement and/or compromise.

CHAPTER XII SETTLEMENT IN ADMINISTRATIVE CASES

Section 1. Applicability. In cases of light offenses where the act is purely personal on the part of the private complainant and the person complained of and there is no apparent injury committed to the government, settlement of offenses may be considered. Provided that settlement can no longer be applied for the second offense of the same act committed by the person complained of.

Section 2. Guidelines. The following are the guidelines in the settlement of purely personal matters in administrative cases:

- a. Settlement shall be allowed only for administrative offenses where the act is purely personal between the private complainant and the person complained of and there is no apparent injury to the government;
- b. Upon filing of the complaint, the disciplining authority or its authorized representative *motu proprio* shall determine whether the offense can be the subject of settlement. In the affirmative, the person complained of shall be required to comment and indicate therein whether he/she is willing to submit the case for settlement;
- c. The person complained of may move for the settlement of the complaint anytime before the issuance of the formal charge/notice of charge;
- d. If the person complained of opts for settlement, the disciplining authority or authorized representative shall issue an order requiring the appearance of parties;

- e. If settlement succeeds, a Compromise Agreement shall be executed between the parties and attested by the disciplining authority or authorized representative;
- f. The Compromise Agreement shall be binding on the parties which cannot be impugned unless it is proven that there was duress or fraud in its execution on the part of any of the parties;
- g. A decision shall be issued by the disciplining authority based on the Compromise Agreement which may include, among others, the provisional dismissal of the complaint;
- h. In the event that the proceedings fail, the disciplining authority or authorized representative shall issue an order terminating the process and continue with the investigation of the case; and
- i. In case of non-compliance by the person complained of with the Compromise Agreement, the case may be reopened for investigation until its final determination.

CHAPTER XIII MOTION FOR RECONSIDERATION IN DISCIPLINARY CASES

Section 1. Filing. The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof unless otherwise provided by law.

A motion for extension of time to file a motion for reconsideration is not allowed.

Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under these Rules, the finality of action shall be reckoned from the denial of the first motion for reconsideration.

Section 2. When deemed filed. A motion for reconsideration sent by registered mail or private courier service shall be deemed filed on the date stamped on the envelope or courier pack which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 3. Grounds. The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record or jurisprudence; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 4. Effect of Filing. The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered. In case of denial of the motion for reconsideration, the adverse party shall have fifteen (15) days to appeal the assailed decision reckoned from the day of receipt of Resolution of Denial of the motion.

CHAPTER XIV APPEAL IN DISCIPLINARY CASES

Section 1. Filing. Subject to Section 2, Chapter X of these Rules, decisions of disciplining authorities, imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the DOST Secretary within a period of fifteen (15) days from receipt thereof.

In case the decision rendered by an agency or regional office is appealable to the DOST Secretary and pending appeal, the same shall be executory *except* when the penalty is dismissal from the service, in which case the same shall be executory only after confirmation by the Secretary.

Section 2. When deemed filed. An appeal sent by registered mail or private courier service shall be deemed filed on the date stamped on the enveloped or courier pack which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

An appeal, once perfected, cannot be withdrawn except upon motion duly approved by the appellate body.

Section 3. Perfection of an Appeal. To perfect an appeal, the appellant shall submit the following documents:

- a. Memorandum containing the following:
 - i. Grounds relied upon for the appeal;
 - ii. Duplicate Original or Certified true copies of the assailed decision, resolution or order; and
 - iii. Certified true copies of documents or evidence relevant to the case.

The Memorandum shall be filed with the appellate authority, copy furnished the disciplining authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt of the memorandum, to the appellate or higher authority.

- b. Proof of service of a copy of the memorandum to the disciplining office;
- c. Proof of payment of the required fee; and



d. A statement or certificate of non-forum shopping.

If the appellant fails to comply with any of the above requirements within the reglementary period, the appellate agency shall direct compliance within a period of not more ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal/petition for review and shall cause its dismissal with prejudice to its refiling.

The appeal fee, in the amount of **TWO HUNDRED PESOS (PHP200.00)**, shall be paid to the agency of the disciplining authority. The rate of the appeal fee may be fixed through a subsequent issuance by the Secretary or the respective disciplining authority.

Section 4. Service of copies of pleadings. The appellant shall serve to the appellee copies of his/her appeal memorandum or other motions or pleadings. Proof of service thereof shall be submitted to the appellate agency.

Section 5. Appellees' Comment. The appellee shall submit to the appellate agency, his/her comments or objections to the appeal memorandum or pleadings of the appellant within ten (10) days from receipt thereof. Failure of the appellee to submit his/her comments or objections shall be construed as waiver thereof.

Section 6. Effect of Filing. Except for cases requiring confirmation of the Department Secretary, an appeal to the Commission shall not stop the decision/resolution from being executory.

Section 7. Action on the Appeal. Upon perfection of an appeal, the DOST Secretary shall:

- a. Issue an order directing the agency or regional office concerned to transmit the whole records of the case being appealed to the Office of the Secretary;
- b. The appellate agency shall review the records of the proceedings. The DOST Secretary may constitute a Review Committee which shall be authorized to review the records of the case and recommend to the Secretary the appropriate resolution or disposition of the appeal within the period prescribed by the DOST Secretary. Such period may be extended by the DOST Secretary upon request of the Review Committee for meritorious grounds.
- c. If necessary, the DOST Secretary may direct the Review Committee to conduct meetings/hearings for further clarifications.
- d. The DOST Secretary, upon the recommendation of the Review Committee shall resolve the appeal.

Section 8. Effect of Finding of Violation of Due Process. If on appeal, the Department Secretary or the Commission finds that the disciplining authority violated respondent-

appellant's right to due process, the Department Secretary or Commission shall dismiss the case against the respondent and order the immediate reinstatement of the respondent with payment of back wages and other benefits. However, the dismissal of the case shall be without prejudice on the part of the disciplining authority to re-file it in accordance with law.

Section 9. Petition for Review of Decisions of Agencies. Except in cases involving sexual harassment, a Decision/Resolution of disciplining authority in an agency exonerating the respondent or dismissing a complaint for lack of *prima facie* case or issuance of a formal charge for a lower offense is not subject to appeal or petition for review before the Commission.

Section 10. Petition for Review with the Commission. A party may elevate a Decision/Resolution of the Department Secretary before the Commission.

Section 11. Petition for Review with the Court of Appeals. A party may elevate a Decision/Resolution of the Commission before the Court of Appeals by way of a petition for review under Rule 43 of the Rules of Court.

CHAPTER XV PAYMENT OF BACK WAGES AND OTHER SIMILAR BENEFITS

Section 1. Who are entitled. The following are entitled to back wages and other similar benefits:

- a. An illegally dismissed or suspended official or employee who is exonerated/reprimanded and ordered reinstated in the service; and
- b. A respondent placed under preventive suspension, whose order of suspension was declared by the Commission as invalid.

Section 2. What are included. Subject to the guidelines provided hereinafter and other existing laws, rules, and regulations, the following benefits are included in the scope of the back wages:

- a. Salaries from the time the official or employee was illegally dismissed/suspended up to the time of actual reinstatement;
- b. Representation and Transportation Allowance (RATA) as provided under existing rules;
- c. Personnel Economic Relief Allowance/Additional Compensation Allowance (PERA/ACA);
- d. Restoration of Leave Credits;
- e. Loyalty Award;
- f. Anniversary Bonus;
- g. 13th, 14th Month Pay and Cash Gift;
- h. Uniform/Clothing Allowance;
- i. Performance-based Bonus; and
- j. Other similar benefits given to regular employees by the agency.



Section 3. Guidelines. The following are the guidelines on the payment of back wages and other similar benefits to an illegally dismissed/suspended employee:

- a. The payment of back wages should be computed based on the rate of salary grade/job grade/pay level/pay grade of the respondent at the time of dismissal or suspension including the increases in salary, allowances and other emoluments that may occur during the period the employee was prevented from rendering service.
- b. For entitlement to RATA, subject to existing rules and regulations, the requirement of actual performance of duty to an illegally dismissed or suspended respondent is dispensed with since it is unreasonable to expect or demand performance of his/her functions when the circumstances prevent one from doing so.
- c. The PERA/ACA shall be paid to civilian government personnel, whether occupying regular, contractual or casual positions, appointive or elective, whose positions are covered by RA No. 6758, as amended.
- d. The restoration of leave credits shall be subject to annual deductions of five (5) days forced leave/mandatory leave as required under the Omnibus Rules on Leave.
- e. For purposes of Loyalty award given to all officials/employees in the government who have rendered at least ten (10) years of continuous and satisfactory service in the government pursuant to CSC MC 6, s. 2002, the period under which the respondent was illegally dismissed or suspended should not be considered as a gap in the service. The same should be included in the computation of his/her length of service.
- f. Anniversary bonus is given during milestone years. A milestone year refers to the 15th anniversary and every fifth year thereafter. Respondent who have been illegally dismissed or suspended during the milestone years shall be entitled to the payment of anniversary bonus.
- g. The 13th /14th month pay plus Cash Gift under existing laws or as provided in the General Appropriations Act (GAA) shall be granted to each qualified official or employee which is equivalent to one (1) month basic salary.
- h. Uniform or Clothing allowance refer to the amount granted per year to each qualified official or employee as provided in the GAA.
- i. Bonuses based on performance shall be given on the basis of the rating of the employee prior to one's illegal dismissal or suspension from the service.

An illegally dismissed or suspended official or employee or a respondent who is exonerated or reprimanded is entitled to the payment of the aforementioned benefits from the time of illegal termination up to actual reinstatement.

Section 4. Allowable Deductions. The payment of back wages shall be subject to withholding tax, GSIS Premium, Phil-Health and HDMF fund contributions, and other monthly dues/deductions, if there be any, which is imposed by the agency.

Payment of 13th / 14th month pay, Cash Gift, Anniversary Bonus, and other additional bonus given by the agency which exceeds the ceiling tax exemption shall be subject to withholding tax.

CHAPTER XVI REMOVAL OF ADMINISTRATIVE PENALTIES OR DISABILITIES

Section 1. Recommendation for Removal of Administrative Penalties or Disabilities; Requirements. In meritorious cases, the DOST Secretary may recommend to the President, the commutation or removal of administrative penalties or disabilities imposed upon an official or employee in disciplinary cases.

Subject to existing procedures, a petition for a favorable recommendation for the grant of removal of administrative penalties or disabilities may be filed by a dismissed official or employee with the DOST Secretary upon submission of the following:

- a. Certified true copy of the decision or resolution in the disciplinary case;
- b. Favorable recommendation by the disciplining authority or head of office from which he/she was dismissed;
- c. Affidavit or certification from reputable members of the community where he/she resides that he/she is a good parent/family member and /or neighbor, law-abiding and active member of community and civic organizations;
- d. Proof of non-pendency of an appeal/petition for review relative to one's disciplinary case before any court/tribunal; and
- e. Proof of payment of filing fee.

Section 2. Guidelines. The following are the guidelines for the grant of favorable recommendation for the removal of administrative penalties or disabilities:

- a. Apart from compliance with the requirements, the petitioner must demonstrate through specific and positive action and behavior that he/she has become a useful member of the community;
- b. A minimum of three (3) years should have lapsed, form the time of the finality of the decision dismissing the petitioners from the service, in order that the petitioners may be considered as to have truly undergone moral reformation;
- c. The petitioner seeking the removal of administrative penalties or disabilities must have recognized/accepted his/her guilt in his/her petition to show that he/she is

repentant/remorseful of the consequences of his/her act, in addition to the above mentioned requirements;

- d. In case where a petitioner is above sixty-five (65) years of age, the Commission may favorably recommend the removal of his/her administrative penalties or disabilities, provided that he/she complies with the requirements and submit proof of moral reformation; and
- e. In cases where the person is found guilty of depriving the government of money or property, restitution shall be required before the Commission can favorably recommend the removal of administrative penalties or disabilities.

Section 3. Conduct of Background Investigation and Submission of Recommendation.

Upon receipt of a request sufficient in form and substance, the DOST Secretary may refer the same to the concerned agency or regional office for the conduct of background investigation and submission of recommendation within sixty (60) days from receipt of the directive.

Section 4. The Effect on the Removal of Administrative Penalties or Disabilities. Subject to existing laws and regulations, the grant of the request shall result in the restoration of the subject employee's privilege to be employed in the government service, unless the President specifically orders otherwise.

Restoration of civil service eligibility and the privilege to take civil service examinations shall not apply to those who were found guilty of any form of examination irregularity.

**CHAPTER XVII
MISCELLANEOUS PROVISIONS**



Section 1. Computation of Period. In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday, or a legal holiday or a special non-working day, in which case the period shall run until the end of the next working day.

Copies of decisions and other communications shall be served to the counsel of record if one is represented by a counsel. However, a party even if represented by a counsel, is not precluded from securing or being served a copy of said decisions and other communications. The period to perfect a Motion for Reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, whichever comes earlier.

Section 2. Effect of Pendency of Petition for Review/Certiorari with the Court. The filing and pendency of a petition for review with the Court of Appeals or Certiorari with the Supreme Court shall not stop the execution of the decision of the CSC unless the Court issues a restraining order or an injunction.

CHAPTER XVIII
EFFECTIVITY AND SEPARABILITY

Section 1. Repealing Clause. All DOST Administrative Orders, Memorandum Orders, and Memorandum Circulars, and Rules and Regulations inconsistent with these rules are hereby repealed.

Section 2. Separability. If any portion of these Rules is declared unconstitutional or invalid by competent authority, the other provisions not otherwise affected shall remain in full force and effect.

In case any part of these Rules are rendered inconsistent with subsequent issuances from CSC, the latter shall prevail.

Section 3. Transitory. The provisions of the existing DOST A.O. No. 005, s. of 2008 and CSC RRACCS shall continue to be applied to all pending cases which were filed prior to the effectivity of these Rules, provided it will not unduly prejudice substantive rights.

Section 4. Filing with the University of the Philippines Law Center. Three (3) certified true copies of these Rules shall be filed with the University of the Philippines Law Center on the date of publication.

Section 5. Effectivity. – These rules shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Bicutan, Taguig City, ___ day of _____ 2020.


FORTUNATO T. DE LA PEÑA
Secretary

THE RULES OF PROCEDURE FOR DISCIPLINARY CASES IN THE DOST SYSTEM

LIST OF ATTACHMENTS

ANNEX	SUBJECT
A	Sample Template of a Complaint Affidavit
A-1	Sample Template of a Sinumpaang Salaysay
B	Sample Template of a Formal Charge
B-1	Sample Template of a Notice of Charge
C	Sample Template of an Answer
D	Sample Template of an Order for the Conduct of a Formal Investigation
E	Sample Template of a Notice of Pre-hearing Conference
F	Sample Template of a Preliminary Conference Brief
G	Sample Template of a Pre-hearing Conference Order
H	Sample Template of a Subpoena <i>Duces Tecum and/or Ad Testificandum</i>
I	Sample Template of a Formal Investigation Report
J	Sample Template of a Decision
K	Sample Template of a Motion for Reconsideration
L	Sample Template of a Notice of Appeal
M	Sample Template of a Review Committee Report on Appeal
N	Sample Template of an Order of Finality
O	Flow Chart

REPUBLIC OF THE PHILIPPINES)
) S.S.

COMPLAINT AFFIDAVIT

I, (Name of Complainant), of legal age, Filipino, *single/married*, and a resident of _____, *(if government employee, state position, office, and agency)*, after having been sworn to in accordance with law, hereby depose and state:

1. That I am executing this Complaint Affidavit to charge (Name of Person Complained of), (Address), (Position), (Office);
2. *(Chronological narration of material and relevant facts);*
3. That I am requesting for an immediate investigation on this case and should be acted upon by the appropriate authority so as to avoid the same complaints in the future;
4. That I am executing this Complaint Affidavit to attest the truth of the foregoing facts for whatever legal purposes it may serve.

IN WTINESS WHEREOF, I have hereunto set my hand this ___ day of _____ in _____.

(Name of Complainant)
Affiant



SUBSCRIBED AND SWORN to before me this ___ day of _____ in _____ City. Affiant exhibited to me his/her _____ issued at _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20 ____.

**VERIFICATION AND
CERTIFICATION OF NON-FORUM SHOPPING**

I, (Name of Complainant) , of legal age, Filipino, single/married, and a resident of _____, after having been sworn to in accordance with law, hereby depose and state:

1. That I am the Complainant in this case;
2. That I have caused the preparation and filing of the foregoing Complaint and I have read all the allegations therein which are true and correct based on my personal knowledge and/or authentic documents; and
3. That I further certify that there is no pending action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency. If I should thereafter learn that the same or similar action is so pending. I shall undertake to inform the Honorable Court or Office of this fact within five (5) calendar days therefrom.

IN WTINESS WHEREOF, I have hereunto set my hand this ____ day of _____ in _____.

(Name of Complainant)
Affiant



SUBSCRIBED AND SWORN to before me this ____ day of _____ in _____ City. Affiant exhibited to me his/her _____ issued at _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20 _____.

REPUBLIC OF THE PHILIPPINES)
) S.S.

SINUMPAANG SALAYSAY

Ako si _____ (Pangalan ng Nagrereklamo), may sapat na gulang, Pilipino, may/walang asawa, at kasalukuyang naninirahan sa _____, (kung empleyado ng gobyerno, position, office, and agency), matapos makapanumpa ng ayon sa batas ay kusang loob na nagsasalaysay ng mga sumusunod:

1. Na inirereklamo ko si _____, _____ (Tirahan), _____ (Position), _____ (Office);
2. (Salaysay ng pagkakasunod-sunod na mga pangyayari);
3. Na ginawa ko ang Sinumpaang Salaysay na ito upang aking patunayan ang buong katotohanan ng aking salaysay na naas itaas at paninindigan ko ito saan man at kanino pa man.
4. Bilang patunay at patotoo sa lahat ng aking mga sinabi ay kusang loob kong nilagdaan ang aking pangalan sa ibaba nito na walag pumilit o nagturo sa akin.

SA KATUNAYAN ay nilagdaan ko ito ngayong ika-___ ng _____, _____ dito sa _____.

(Pangalan ng Nagrereklamo)
 Nagsasalaysay

SINUMPAAN AT NILAGDAAN sa harap ko ngayong ika-___ ng _____, _____ dito sa _____. Ang nagsasalaysay ay ipinakita ang kaniyang (_____ ID _____) inisyu noong (_____ Petsa ng Pag-Isyu _____) sa (_____ Lugar ng Pag-Isyu _____) bilang katunayan ng kanyang pagkatao.


Doc. No. _____;
 Page No. _____;
 Book No. _____;
 Series of 20 _____.

**VERIFICATION AND
CERTIFICATION OF NON-FORUM SHOPPING**

I, ____ (Name of Complainant) ____, of legal age, Filipino, single/married, and a resident of _____, after having been sworn to in accordance with law, hereby depose and state:

1. That I am the Complainant in this case;
2. That I have caused the preparation and filing of the foregoing Complaint and I have read all the allegations therein which are true and correct based on my personal knowledge and/or authentic documents; and
3. That I further certify that there is no pending action or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any other tribunal or agency. If I should thereafter learn that the same or similar action is so pending. I shall undertake to inform the Honorable Court or Office of this fact within five (5) calendar days therefrom.

IN WTINESS WHEREOF, I have hereunto set my hand this ____ day of _____ in _____.

(Name of Complainant)
Affiant 

SUBSCRIBED AND SWORN to before me this ____ day of _____ in _____ City. Affiant exhibited to me his/her _____ issued at _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20 _____.

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant)
Complainant,

-versus-

Administrative Case No. _____
For: *(Nature of the Complaint)*

(Name of Respondent),
Respondent.

X-----X

FORMAL CHARGE

Please be notified that after conducting an investigation at the instance of the undersigned on the basis of the complaint filed by (Name of Private Complainant, if any) or (Name of Agency), finds the existence of a *prima facie* case against (Name of Respondent), (Position) for (Offenses Committed), as defined in Section __, Chapter __ of 2020 Rules of Procedure for Disciplinary Cases in the DOST System in relation to Rule __, Section __ of the 2017 Rules on Administrative Cases in the Civil Service, committed as follows:

(NARRATION OF MATERIAL FACTS)

Accordingly, respondent is hereby given ten (10) days from receipt hereof, to submit his/her Answer under oath and affidavits of his/her witnesses to this office (*Note: state the particular office*). In his/her Answer, he/she should indicate whether he/she elects a formal investigation or waives his right thereto. Any Motion to Dismiss, request for clarification or Bill of Particulars shall not be entertained, pursuant to Section 3, Chapter V of the 2020 Rules of Procedure for Disciplinary Cases in the DOST System. If any of these pleadings are interposed by respondent, the same will be considered as an Answer and shall be evaluated as such. Likewise, respondent is advised of his right to be assisted by counsel of his/her choice.

Failure to submit the answer/explanation within the period prescribed herein, shall be considered as waiver thereof; and thereafter, this case shall be considered as submitted for decision based on documents and pieces of evidence available.

Respondent is hereby preventively suspended for a period of ___ days effective from receipt hereof pending investigation. (*Note: If preventive suspension is applicable*)

(Name of Disciplining Authority)
(Position)
(Agency)

Attachments:

- 1.
- 2.
- 3.

(Name of Respondent)
Received on: _____

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent.

x-----x

NOTICE OF CHARGE

Please be notified that at the instance of the undersigned finds the existence of a *prima facie* case against (Name of Respondent), (Position) for (Offenses Committed), as defined in Section __, Chapter __ of 2020 Rules of Procedure for Disciplinary Cases in the DOST System in relation to Rule __, Section __ of the 2017 Rules on Administrative Cases in the Civil Service, committed as follows:

(NARRATION OF MATERIAL FACTS)

Accordingly, respondent is hereby given ten (10) days from receipt hereof, to submit his/her Answer under oath and affidavits of his/her witnesses to this office (*Note: state the particular office*). In his/her Answer, he/she should indicate whether he/she elects a formal investigation or waives his right thereto. Any Motion to Dismiss, request for clarification or Bill of Particulars shall not be entertained, pursuant to Section 3, Chapter V of the 2020 Rules of Procedure for Disciplinary Cases in the DOST System. If any of these pleadings are interposed by respondent, the same will be considered as an Answer and shall be evaluated as such. Likewise, respondent is advised of his right to be assisted by counsel of his/her choice.

Failure to submit the answer/explanation within the period prescribed herein, shall be considered as waiver thereof; and thereafter, this case shall be considered as submitted for decision based on documents and pieces of evidence available.

Respondent is hereby preventively suspended for a period of ___ days effective from receipt hereof pending investigation. (*Note: If preventive suspension is applicable*)

(Name of Disciplining Authority)
(Position)
(Agency)

Attachments:

- 1.
- 2.
- 3.

(Name of Respondent)
Received on: _____

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: *(Nature of the Complaint)*

(Name of Respondent),
Respondent,

X-----X

ANSWER

I, *(Name of Respondent)* , of legal age, Filipino citizen with address at _____, after having sworn to in accordance with law, do hereby depose and state that:

- (I. STATEMENT OF FACTS)
- (II. DOCUMENTARY EVIDENCE)
- (III. DEFENSES/APPLICABLE LAW)

I am electing / not electing a Formal Investigation on the matter as guaranteed by pertinent laws, rules and regulations. *(Note: Choose whether to elect or not to elect formal investigation)*

I am executing this Answer under oath to attest to the truth and veracity of all the foregoing statements.

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____ in _____.

(Name of Respondent)
Affiant

SUBSCRIBED AND SWORN to before me this ___ day of _____ in _____ City. Affiant exhibited to me his/her _____ issued at _____.

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 20 ____.

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No. _____
For: *(Nature of the Complaint)*

(Name of Respondent/s),
Respondent/s,

X-----X

ORDER

The respondent in this case has elected NOT to have a formal investigation of the case as indicated in his/her Answer filed on _____.

Nevertheless, pursuant to Section 3, Chapter VI of the 2020 Rules of Procedure for Disciplinary Cases in the DOST System, this Office shall hold a formal investigation as the case cannot be decided judiciously from the allegations in the complaint and in the answer and their supporting documents.

SO ORDERED.

City of Taguig, _____.

(Name of Disciplining Authority)
Position

Copy furnished:

Prosecutor
Address

Respondent/s
Address

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent,

x-----x

NOTICE OF PRE-HEARING CONFERENCE

TO: (Name of Respondent)
(Address/Office)

(Name of Special Prosecutor)
(Address/Office)

Based on the records of this case, respondent has filed his/her Answer to the Formal Charge/Notice of Charge on _____. In view thereof, let the case be set for Pre-Hearing Conference on _____ at _____ am/pm at the _____.

Complainant and respondent are ordered to appear on the said date with or without the assistance of counsel.

The matters to be discussed during the pre-hearing conference are the following:

- a. Stipulation of Facts;
- b. Simplification of Issues;
- c. Identification and marking of evidence of the parties;
- d. Waiver of objections to admissibility of evidence;
- e. Limiting the number of witnesses, and their names;
- f. Dates of subsequent hearings; and
- g. Such other matters as may aid in the prompt and just resolution of the case.

In connection thereto, please submit to the Hearing Committee your respective Pre-Hearing Conference Briefs containing the foregoing matters, with proof of service to the other party, at least three (3) days before said pre-hearing conference.

Failure of the parties to appear in the said pre-hearing conference shall constitute as a waiver of their right to present evidence.

SO ORDERED.

(Name of Chairperson)
Hearing Committee

(Member)

(Member)

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No.

For: (Nature of the Complaint)

(Name of Respondent),
Respondent,

X-----X

PRELIMINARY CONFERENCE BRIEF

UNDERSIGNED SPECIAL PROSECUTOR or RESPONDENT, through counsel, and to this Honorable Committee, most respectfully submits this Preliminary Conference Brief and further avers:

STIPULATION OF FACTS

The prosecution/respondent proposes to the prosecution the following facts for their admissions:

- 1.
- 2.
- 3

ISSUES

- 1.
- 2.
- 3.

EVIDENCE

The prosecution/respondent intends to present the following witnesses to testify on matters pertinent to the claims. It also reserves the right to present other witnesses in order to substantiate the claims which may arise during the trial of the instant case.

The prosecution/respondent intends to present the following documents, to wit:

- Exhibit A –
- Exhibit B –
- Exhibit C –

WAIVER OF OBJECTIONS TO ADMISSIBILITY OF EVIDENCE

The prosecution/respondent hereby reserves/waives the right to object to the evidence that will be presented by respondent.

LAWS AND JURISPRUDENCE

The following are the pertinent laws and jurisprudence applicable in this case:

- 1.
- 2.
- 3.

TRIAL DATES

The prosecution/respondent is available at any time convenient to this Honorable Committee's calendar.

OTHERS

Other actions that may be allowed and approved by the Hearing Committee shall be availed of.

RESPECTFULLY SUBMITTED.

City of _____, _____ (date) _____.

(Name of Special Prosecutor/Counsel)

COPY FURNISHED:



Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No. _____
For: (Nature of the Complaint)

(Name of Respondent/s),
Respondent/s,

X-----X

PRE-HEARING CONFERENCE ORDER

When this case was called for Pre-Hearing, _____, as Prosecutor, and _____, representing Respondent/s _____ appeared. The Pre-Hearing Conference was conducted in _____ at _____ AM/PM.

I. STIPULATION OF FACTS BETWEEN THE PARTIES

The following are the facts stipulated by the parties and need not be proven during the trial:

- 1.
- 2.
- 3.

II. ISSUES

The parties agreed to adopt the issue offered by the Prosecution to read as:

(state the issues)



III. EXHIBITS MARKED

The following documentary exhibits are marked during the Pre-Hearing Conference:

For the Prosecution

- Exhibit A -
- Exhibit B -
- Exhibit C -

For the Respondent

- Exhibit 1 -
- Exhibit 2 -
- Exhibit 3 -

IV. WITNESSES TO BE PRESENTED

The prosecution will present the following witnesses:

- 1.
- 2.
- 3.

The defense will present the following witnesses:

- 1.
- 2.
- 3.

V. SETTING OF TRIAL DATES

Trial dates shall be on _____ at _____ AM/PM in _____.

Next hearing will be on _____ at _____ AM/PM in _____ for _____.

SO ORDERED.

City of Taguig, _____.

(Hearing Officer)

Copy furnished:

 Prosecutor
 Address

 Respondent/s
 Address

Atty. _____
 Counsel for Respondent/s
 Address

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No. _____
For: (Nature of the Complaint)

(Name of Respondent/s),
Respondent/s,

x-----x

SUBPOENA DUCES TECUM AND/OR AD TESTIFICANDUM

To: _____

By authority under Section 11, Chapter VIII of the DOST Administrative Order No. ____, s. of 2020, you are hereby required to appear before the Hearing Committee on the _____ day of _____, 20__ at _____, _____ o'clock and to bring with you the following (describe book, deed, writing, or other documents), it being necessary to use the same as testimony in the pending case.

SO ORDERED.

City of Taguig, _____.



(Hearing Officer)

Copy furnished:

Prosecutor
Address

Respondent/s
Address

Atty. _____
Counsel for Respondent/s
Address

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent,

X-----X

FORMAL INVESTIGATION REPORT

The Formal Investigation Committee, hereinafter referred to as the "Committee", pursuant to DOST Special Order No. _____, s. of _____, hereby submits its report as follows:

I. ANTECEDENT FACTS:

xxx
(Factual and Procedural aspects of the Case should be discussed)

II. ISSUES RAISED ON APPEAL:

xxx

III. LEGAL BASIS/BASES OR JURISPRUDENCE:

xxx

IV. DISCUSSION:

xxx

V. RECOMMENDATION/S:

xxx

NOW, THEREFORE, in view of the above, the Committee recommends as follows:

(State the Recommendations)

Submitted this ____ day of _____ in _____.

(Name of Chairperson)
Committee

(Member)

(Member)

(Secretariat)

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent.

x-----x

DECISION

This resolves the complaint filed against respondent _____, position, office/agency by _____ (Complainant) for violation of [cite the specific charges stated in the Formal/Notice of Charge].

I. NARRATION OF MATERIAL FACTS

On _____, respondent was served with the Formal Charge/Notice of Charge for (Nature of the Complaint). He/She was placed under preventive suspension for ___ days (*note: state if applicable*) and was required to submit his/her Answer within ten (10) days upon receipt thereof.

On _____, respondent filed his/her Answer to the Formal Charge/Notice of Charge. Pre-hearing conference was held on _____ and formal investigation ensued from _____ to _____. The complainant presented _____ as its witness while the respondent presented _____ as his/her witness.

Mr./Ms. _____ (Complainant's witness/es) testified that:

(state the testimonies of the complainant's witness/es)

On the other hand, _____ (respondent's witness/es) testified that:

(state the testimonies of the respondent's witness/es)

II. STATEMENT OF THE ISSUE/S

The main issue to be resolved in this complaint is whether the act of the respondent in _____ (acts allegedly committed by respondent) is an act constitutive of _____ (designation of the charges).

III. DISCUSSION

In this case, (Discussion of the facts, brief statement of allegations and defenses, pieces of evidence, and applicable laws in relation to the case).

For _____ (designation of the charges) _____ to be considered, the presence of the following attendant circumstances must be present:

(state the elements of the acts charged)

(state the application of the facts in the applicable law and jurisprudence)

IV. DISPOSITIVE PORTION

WHEREFORE, premises considered, based on the evidence and on applicable law and jurisprudence, respondent is found to have committed the administrative offense/s _____ in violation of _____. **Accordingly**, the penalty of _____ is hereby imposed against the respondent.

[NOTE: if penalty of not more than 30 days or fine in an amount exceeding 30 days' salary (See Section 2 (b), Chapter X of 2020 DOST Rules), state that the decision shall not be appealable.]

- OR -

WHEREFORE, premises considered, the administrative case for _____ filed against respondent is hereby **DISMISSED** for lack of merit.

SO ORDERED.

(Name of Disciplining Authority)
(Position)
(Agency)



Copy furnished:

Name of Special Prosecutor

Name of Respondent

Name of Counsel

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

ADMINISTRATIVE CASE No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent,

x-----x

MOTION FOR RECONSIDERATION

RESPONDENT/COMPLAINANT, most respectfully and humbly moves for the reconsideration of the Decision dated _____ of this Honorable Office, the dispositive portion of which reads:

“xxx (Insert Dispositive Portion of the Decision) xxx”

TIMELINESS

Respondent/Complainant received the said Decision on _____ and has therefore until _____. This motion for reconsideration is being filed within the required period of _____.

GROUND

Respondent/Complainant respectfully moves for the reconsideration of the assailed Decision on the grounds:

- 1.
- 2.

ARGUMENTS/DISCUSSIONS

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed that the Decision dated _____ of this Honorable Office for the above-captioned case be **RECONSIDERED** and **SET ASIDE**.

Such other reliefs and remedies as are just and equitable under the foregoing circumstances are likewise equally prayed for.



City of _____, ____ (date) ____.

Name and Signature of
Party Filing the Motion

COPY FURNISHED:

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant-Appellee,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent-Appellant

x-----x

NOTICE OF APPEAL

RESPONDENT-APPELLANT, unto the Honorable Secretary, Department of Science and Technology, most respectfully files this Notice of Appeal together with the Memorandum of Appeal from the Decision rendered by the Honorable Director, _____ (Name of Agency) _____, in the above entitled case.

A copy of the Decision was received by Respondent-Appellant on _____. Consequently, on _____ the Respondent-Appellant timely filed a Motion for Reconsideration from the said decision.

The Order dated _____, denying respondent-appellant's Motion for Reconsideration was received by Respondent-Appellant on _____. As such, Respondent-Appellant has fifteen (15) days from the said date or until _____ within which to file his/her appeal. Hence, this Appeal is filed within the reglementary period.

Respondents-Appellant appeals the said Decision on the ground that _____.

Respectfully submitted.

City of _____, _____ (date) _____.

(Name and Signature
of Party Making the Appeal)



COPY FURNISHED:

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent),
Respondent,

X-----X

REVIEW COMMITTEE REPORT ON APPEAL

The undersigned Review Committee, hereby submits its report as follows:

WHEREAS, DOST Special Order No. _____ dated _____, designated the undersigned _____ (Chairperson), _____ (Member), _____ (Member) and _____ (Secretariat) to constitute a committee tasked to review the DOST Administrative Case No. _____ for _____ against Respondent _____ upon appeal to the Office of the Secretary, hereinafter referred to as the "Committee";

WHEREAS, on _____ a Decision was issued by _____ (Disciplining Authority), the dispositive portion of which reads as follows:

(Quote Dispositive Portion of the Decision)

WHEREAS, subject of the review is the Memorandum of Appeal dated _____ from the Decision dated _____ of _____ (Disciplining Authority), resolving Respondent's Motion for Reconsideration dated _____ as follows:

(Quote Dispositive Portion of the Resolution on the Motion for Reconsideration)

ANTECEDENT FACTS

Xxx

ISSUES RAISED ON APPEAL

xxx

LEGAL BASIS/BASES

xxx

DISCUSSION

xxx

RECOMMENDATION

xxx

NOW, THEREFORE, in view of the above, the Review Committee recommends as follows:

(State the Recommendations)

Submitted this ___ day of _____ in _____.

(Name of Chairperson)
Review Committee

(Member)

(Member)

(Secretariat)



Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY
(Name of Agency)
(Address)

(Name of Complainant/DA/Agency),
Complainant,

-versus-

Administrative Case No. _____
For: (Nature of the Complaint)

(Name of Respondent/s),
Respondent/s.
x-----x

ORDER OF FINALITY

The Decision dated _____ was rendered in the above-entitled case, the dispositive portion of which reads as follows:

xxx QUOTE THE DECISION xxx

Records show that on _____, _____ received a copy of the said Decision. However, no motion for reconsideration or appeal from the said Decision has been filed by _____ during the reglementary period for filing the same.

Accordingly, notice is hereby given that the Decision stated above has become final and executory as of _____ (date when the period to file Motion/Appeal expired).

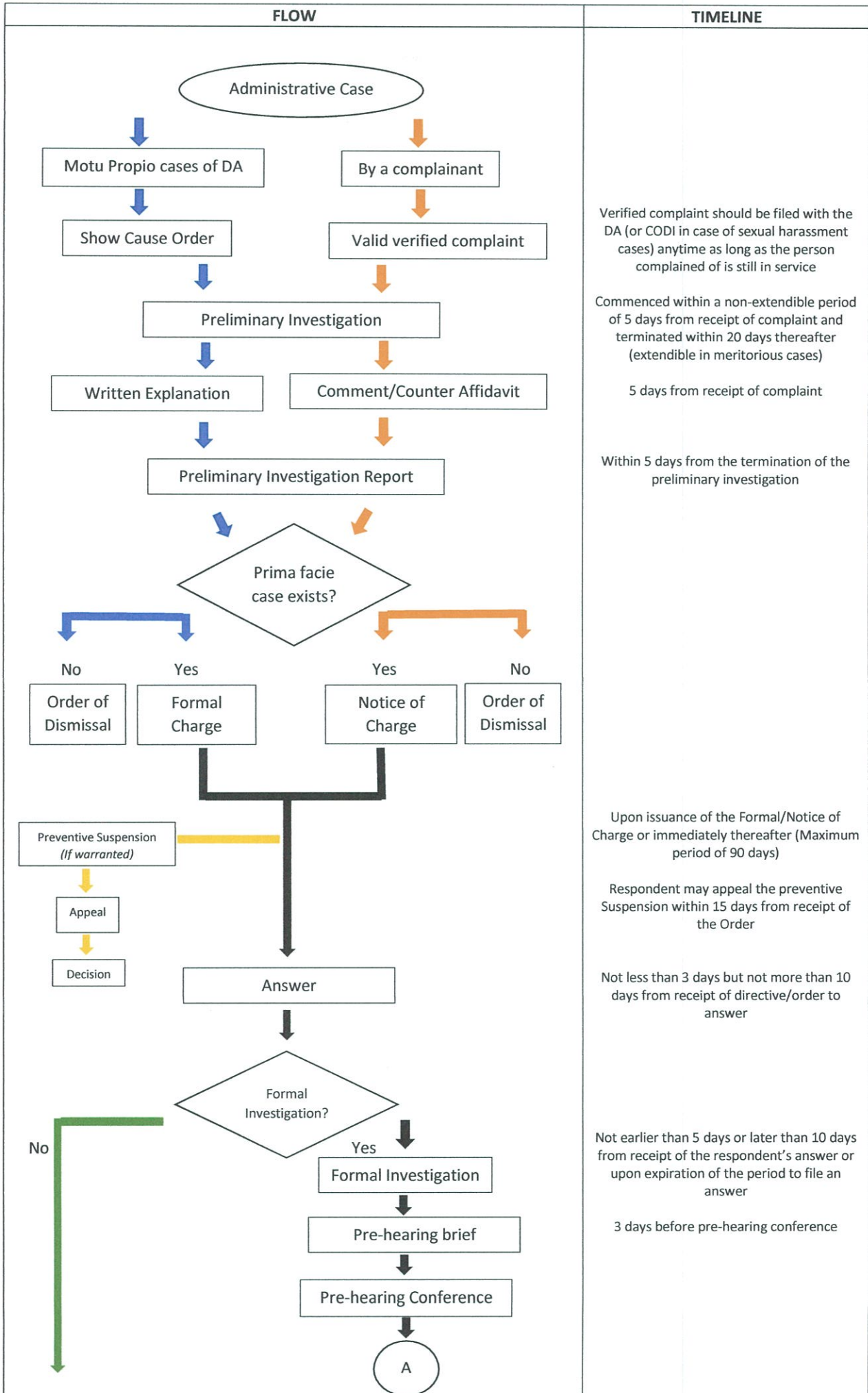
(Name of Disciplining Authority)
(Position)
(Agency)

Copy furnished:

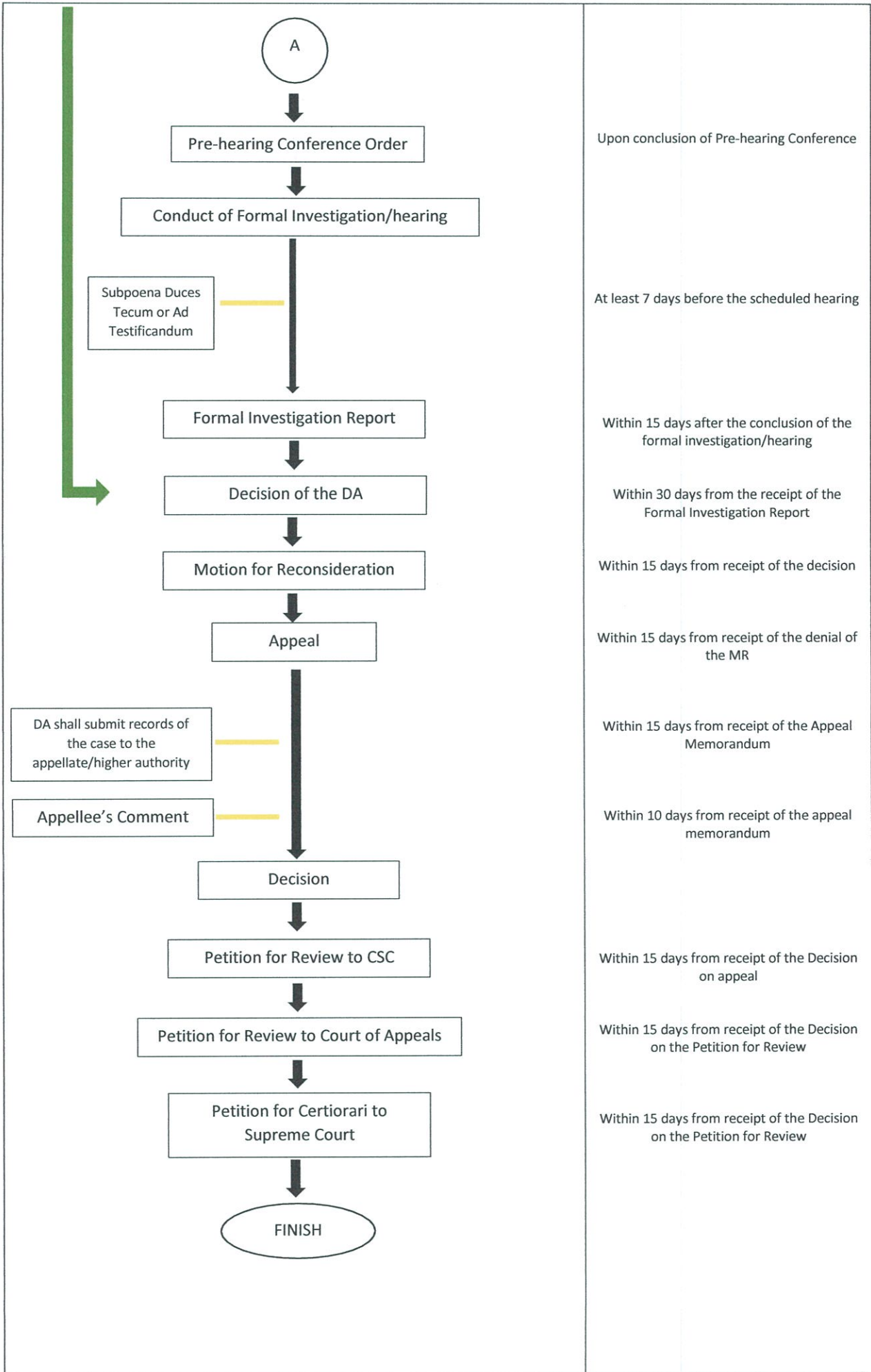
(Name of Respondent)
(Address)

(Name of Counsel)
(Address)

201 File in HR/Personnel



JTB



JTP