

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 195

PRESCRIBING RULES AND PROCEDURES ON INVESTIGATION OF ADMINISTRATIVE CASES/COMPLAINTS AGAINST ELECTIVE CITY AND MUNICIPAL OFFICIALS IN METROPOLITAN MANILA.

WHEREAS, Section 9 of Executive Order No. 392, dated January 9, 1990 provides that the President shall continue to exercise administrative disciplinary jurisdiction over the elective city and municipal officials in the Metropolitan Manila;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by law, do hereby promulgate the following rules and procedures to govern the investigation of administrative cases/complaints against elective city and municipal officials in Metropolitan Manila:

## Rule I

### PRELIMINARY PROVISIONS

*all* Section 1. Coverage. - These rules shall apply to all administrative complaints against elective city and municipal officials, namely mayors, vice-mayors and members of the sangguniang panlungsod and sangguniang bayan, in Metropolitan Manila. Cases against barangay captains and members of the sangguniang barangay shall be filed before the respective sanggunian of the city or municipality where the barangay is located.

Sec. 2. Disciplining Authority. - All administrative complaints against elective city and municipal officials in Metro Manila as herein provided, shall be acted upon by the President. The President, who may act through the Executive Secretary, shall hereinafter be referred to as the Disciplining Authority.

Sec. 3. Investigating Authority. - The Executive Secretary shall designate a Standing Investigating Group (SIG) composed of lawyers from the Presidential Management Staff and other common

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Staff Support Offices in the Office of the President (Proper). An administrative complaint may be investigated either by the SIG or any member or members thereof at the discretion of the Executive Secretary. The SIG or any member or members thereof assigned for the purpose shall be referred to as the Investigating Authority.

Rule 2

GROUNDS FOR DISCIPLINARY ACTION

Section 1. Grounds. - An administrative complaint may be filed against any elective city or municipal official in Metropolitan Manila on any of the following grounds committed while in office:

- (1) Disloyalty to the Republic of the Philippines;
- (2) Culpable violation of the Constitution;
- (3) Dishonesty, oppression, misconduct in office and neglect of duty;
- (4) Commission of any offense involving moral turpitude;
- (5) Abuse of authority;
- (6) Unauthorized absence for three consecutive months.

Rule 3

COMPLAINT

Section 1. How initiated. - An administrative case may be initiated by any private individual or any government officer or employee by filing a written and sworn complaint accompanied by affidavits of witnesses and/or other evidences in support of the charge. It may also be initiated motu proprio by the Office of the President.

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Sec. 2. Form of complaint. - The complaint shall be addressed to the President of the Philippines and shall be drawn in clear, simple and concise language and in a methodical manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense.

The party filing the complaint shall be called the complainant, while the official against whom the complaint is filed shall be called the respondent.

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Sec. 3. Where filed. - The complaint shall be filed with the Office of the President, thru the Executive Secretary, who shall forthwith refer it to the Investigating Authority.

Sec. 4. Evaluation and Preliminary Conference. - Upon receipt of the complaint, the same shall be evaluated by the Investigating Authority which shall determine, and if warranted, recommend to the Disciplining Authority the dismissal thereof motu proprio. If the complaint is not dismissed, as herein provided, the respondent shall be furnished with a copy of the complaint and the affidavits and other evidences submitted by the complainant, and shall be required to file his counter-affidavit and other evidences in support of his defense, within seven (7) days from receipt, copy furnished the complainant.

If, on the basis of the affidavits and other evidence submitted by the parties, the Investigating Authority finds no sufficient cause to warrant further proceedings, it/he may recommend to the Disciplining Authority the dismissal of the complaint. Otherwise, it/he shall summon the parties to a preliminary conference to consider the following matters:

1. Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record;
2. Should the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents to avoid unnecessary proof, the limitation of number of witnesses, and such other matters as may aid the prompt disposition of the case.

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After the preliminary conference, the Investigating Authority shall issue an order reciting the matters taken up therein, including the facts stipulated and the evidence/s marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties.

Sec. 5. Effect of withdrawal. - The withdrawal of the complaint by the complainant does not preclude the Investigating Authority, upon clearance from the Disciplining Authority, from proceeding with the investigation, if in its/his opinion such investigation is warranted.

#### Rule 4

### PREVENTIVE SUSPENSION

Section I. Grounds: - At any time after issues are joined, the respondent may be placed under preventive suspension by the Disciplining Authority when there is reasonable ground to

believe that the respondent has committed the act or acts complained of; when the evidence of culpability is strong; when the gravity of the offense so warrants; or when the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

Sec. 2. Duration of preventive suspension. - In all cases, preventive suspension shall not extend beyond sixty (60) days after the start of said suspension. At the expiration of sixty (60) days, the suspended official shall be reinstated in office without prejudice to the continuation of the proceedings against him until its termination. However, if the delay in the proceedings of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the time of suspension herein provided.

Sec. 3. Salary of respondent pending suspension. - The respondent official suspended from office pending an investigation of the charges against him shall receive no salary or compensation during such suspension; but, upon subsequent exoneration and reinstatement, he shall be paid full salary or compensation including such emoluments accruing during such suspension.

Rule 5

RIGHTS OF THE RESPONDENT

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Section 1. Rights of the respondent. - The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documents through the compulsory process of subpoena or subpoena duces tecum.

Rule 6

HEARING

Section 1. Who conducts hearing. - The administrative proceedings shall be conducted by the Investigating Authority.

Sec. 2. Power of the Investigating Authority to take testimony and powers incidental thereto. - The Investigating Authority shall have the power to summon witnesses, administer oaths, take testimonies relevant to the investigation in question, and to require the production of documents under a subpoena duce tecum.

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Anyone, who, without lawful excuse, fails to appear upon summons issued under authority of the preceding paragraph or who, appearing before the Investigating Authority exercising the power therein defined, refuses to make oath, give testimony, or produce documents for inspection, when lawfully required, shall be subject to discipline as in case of contempt of court and, upon application by the Investigating Authority, shall be dealt with by the judge of the proper regional trial court in the manner provided by law.

Sec. 3. Notice of the hearing. - The parties and their witnesses shall be notified by subpoena of the scheduled hearing at least five (5) days before the date thereof, specifying the time, date and place of hearing.

Sec. 4. Request for subpoena. - If a party desires the attendance of a witness or the production of documents, he should make a request for the issuance of the necessary subpoena or subpoena duces tecum at least three (3) days before the scheduled hearing.

Sec. 5. Postponement. - Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsel and other similar cases. No postponement for a period longer than seven (7) days shall be allowed, and in no case the total number of postponements for one party be more than twenty (20) days.

Sec. 6. Stenographic record of proceedings. - The testimony of each witness and the manifestation of the parties and counsels during an investigation shall be taken in shorthand or steno-type.

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A transcript of the proceedings made by the official stenographer or steno-typist and duly certified by him shall be prima facie a correct statement of such proceedings.

Sec. 7. Order of hearing. - Unless for special reasons the Investigating Authority directs otherwise, the order of a hearing shall be as follows:

- (a) The complainant shall produce the evidence on his part;
- (b) The respondent shall then offer evidence in support of his defense;

- (c) The parties may then respectively offer rebutting evidence only, unless the Investigating Authority, for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case;

Sec. 8. Order of Examination. - The order in which a witness may be examined is as follows:

- (a) Direct examination by the proponent;
- (b) Cross examination by the opponent;
- (c) Re-direct examination by the proponent;
- (d) Re-cross examination by the opponent.

Sec. 9. Termination of investigation. - The investigation shall as much as possible be terminated within ninety (90) days reckoned from the date of the first hearing.

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Sec. 10. Memorandum. - The Investigating Authority may allow the parties to submit their respective memoranda within fifteen (15) days after the termination of the formal investigation.

## Rule 7

### EVIDENCE

Section 1. Non-technical procedure. - The investigation shall be conducted solely for the purpose of ascertaining the truth and without necessarily adhering to technical rules applicable in judicial proceedings.

Sec. 2. Material and relevant evidence. - The Investigating Authority shall accept all evidence having materiality and relevancy to the case. In case of doubt, it/he should resolve for the admission of the evidence subject to the objection interposed against the admission.

Sec. 3. Marking. - All documentary evidence or exhibits shall be properly marked by letters (A, B, C. etc.) if presented by the complainant and by numbers (1, 2, 3, etc.) if presented by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked "Folder of Exhibits" which shall also be attached to the records.

Rule 8

REPORT OF INVESTIGATING AUTHORITY AND TRANSMISSION OF RECORDS

Section I. Transmission of Record to Disciplining Authority. - The Investigating Authority shall, within thirty (30) days after receipt of the last pleading and evidence, if any, in case the respondent does not elect a formal investigation; or after the expiration of the period within which to submit the same; or after the termination of the formal investigation; or after the parties have submitted their respective Memoranda if so allowed; forward to the Disciplining Authority the entire records of the case, together with its/his findings and recommendations.

The transcript of the proceedings shall be paged consecutively and in chronological order, sewed on the left-hand side, and properly indexed, showing the page on which the testimony of each witness begins.

Sec. 2. Finality of decision. - The decision of the Disciplining Authority shall become final after the lapse of fifteen (15) days from receipt of a copy thereof by the complainant or the respondent, as the case may be, unless a motion for reconsideration is filed within such period. Only one motion for reconsideration shall be allowed.

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Rule 9

PENALTIES

Section I. Suspension or Removal. - A respondent found guilty of any of the offenses enumerated in Rule 2 hereof may be meted the penalty of suspension or removal depending on the evidence presented and the aggravating or mitigating circumstances that may be considered by the Disciplining Authority.

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The penalty of suspension shall not exceed the unexpired term of the respondent.

Sec. 2. Penalties not bar to Candidacy. - The penalty of suspension or removal shall not be a bar to the candidacy of the respondent so suspended or removed from an elective public office as long as he meets the qualifications so required for the office.

Rule 10

RECORDS

Section 1. Records confidential. - Records in administrative cases are confidential in nature and any information as to the charges or accusation or facts adduced may not be released, and such records may not be available except to the proper authorities and upon request, to the parties in interest or their authorized representatives.

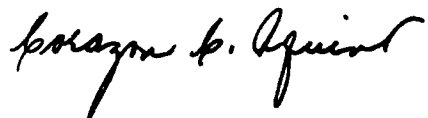
Rule 11

MISCELLANEOUS PROVISIONS

Section 1. Effects and application of relevant laws. - In all matters not provided in these rules, the Rules of Court as well as the provisions of the Civil Service laws, circulars and issuances and the Local Government Code (BP 337) shall apply in a suppletory character or by analogy.

Sec. 2. Effectivity. - These rules and procedures shall take effect fifteen (15) days from publication in a national newspaper of general circulation.

Done in the City of Manila, this 10<sup>th</sup> day of September in the year of Our Lord, nineteen hundred and ninety.



By the President

  
CATALINO MACARAIG, JR.  
Executive Secretary