

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 23

PRESCRIBING THE RULES AND PROCEDURES ON THE INVESTIGATION OF ADMINISTRATIVE DISCIPLINARY CASES AGAINST ELECTIVE LOCAL OFFICIALS OF PROVINCES, HIGHLY URBANIZED CITIES, INDEPENDENT COMPONENT CITIES, COMPONENT CITIES, AND CITIES AND MUNICIPALITIES IN METROPOLITAN MANILA.

I, FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby prescribe the rules and procedures governing investigation of administrative disciplinary cases against elective local officials of provinces, highly urbanized cities, independent component cities, component cities, and cities and municipalities in Metropolitan Manila, pursuant to Sections 60 to 66 of Republic Act No. 7160, otherwise known as the 1991 Local Government Code, in relation to Rule XIX, Articles 124 to 130 of the Implementing Rules and Regulations approved and adopted under Administrative Order No. 270, s. of 1992, and Section 9 of Executive Order No. 392, s. of 1990, as follows:

Rule 1

PRELIMINARY PROVISIONS

SECTION 1. Coverage. These rules and procedures shall apply to administrative disciplinary cases filed against (a) the governors, vice governors, and members of the sanggunian panlalawigan; (b) the mayors, vice mayors, and members of the sanggunian panlungsod of highly urbanized cities, independent component cities, and component cities; and (c) the mayors, vice mayors, and members of the sanggunian panlungsod or bayan of cities or municipalities in Metropolitan Manila.

SEC. 2. Disciplinary Authority. All Administrative complaints, duly verified, against elective local officials mentioned in the preceding Section 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.

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SEC. 3. Investigating Authority. The Secretary of the Interior and Local Government is hereby designated as the Investigating Authority. He may constitute an Investigating Committee in the Department of the Interior and Local Government (DILG) for the purpose.

Rule 2

GROUND FOR ADMINISTRATIVE DISCIPLINARY ACTION

SECTION 1. Grounds. An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

- a) Disloyalty to the Republic of the Philippines;
- b) Culpable violation of the Constitution;
- c) Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- d) Commission of any offenses involving moral turpitude or an offenses punishable by at least *prision mayor*, which is from six (6) years and one (1) day to twelve (12) years' imprisonment;
- e) Abuse of authority;
- f) Unauthorized absence for fifteen (15) consecutive working days in case of local chief executives and four (4) consecutive sessions in the case of members of the sanggunian;
- g) Application for, or acquisition of, foreign citizenship or residence of the status of an immigrant of another country; and,
- h) Such other grounds as may be provided by the Local Government Code of 1991; Republic Act No. 6713; Republic Act No. 3019; Administrative Code of 1987; Revised Penal code; and all other applicable general and special laws.

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 sworn written complaint against any elective local official enumerated under Sec. 1, Rule I hereof. It may also be initiated motu proprio by the Office of the President or any government agency duly

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authorized by law to ensure that local government units (LGUs) act within their prescribed powers and functions.

SEC. 2. Form of complaint. The complaint, accompanied by affidavits of witness or evidences in support of the charge, shall be addressed to the President. It shall be drawn in clear, simple, and concise language and in 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.

SEC. 3. Where filed. The complaint shall be filed with the Records Office, Office of the President, Malacanang, Manila. However, for cases against elective officials of LGUs concerned outside Metropolitan Manila, the complaint may be filed through the concerned Regional Director of the DILG, who shall transmit the same to the Secretary of the Interior and Local Government, within forty-eight (48) hours from receipt thereof. In this regard, the Regional Director concerned shall authenticate all the pertinent documents presented to him.

Upon receipt of the said documents, the Secretary of the Interior and Local Government shall transmit the same to the Office of the President, within within forty-eight (48) hours from receipt of the same.

A copy of the complaint shall be furnished to each of the following:

- a) the office of the Governor in the case of component cities;
- b) the Metropolitan Manila Authority in the case of cities and municipalities in Metropolitan Manila; and
- c) the DILG in all cases.

SEC. 4. Filing fee. A fee of Two Hundred Pesos (P200.00) shall be charged for every complaint filed with the Office of the President, payable to the "Cashier, Office of the President."

Pauper complaints duly certified as such in accordance with the Rules of Court shall be exempted from the payment of the filing fee.



Rule 4**ANSWER**

SECTION 1. Notice. Within seven (7) days after the complaint is filed, the Disciplining Authority shall issue an order requiring the respondent to submit his verified answer within fifteen (15) days from his receipt thereof. In the case of complaints filed through the DILG Regional Office, the said order shall be coursed through the Secretary of the Interior and Local Government.

SEC. 2. Form of answer. The answer, accompanied by affidavits of witnesses or evidences in support of the defense, shall be addressed to the President and shall be drawn in clear, simple, and concise language and in methodical manner as to traverse the charge.

SEC. 3 Where filed. The answer shall be submitted to the Records Office, Office of the President, Manila. However, for cases against elective officials of LGUs concerned outside Metropolitan Manila, the answer may be submitted through the concerned Regional Director of the DILG, who shall transmit the same to the Secretary of the Interior and Local Government, within forty-eight (48) hours from receipt thereof. In this regard, the Regional Director concerned shall authenticate all the pertinent documents presented to him.

Upon receipt of the above documents, the Secretary of the Interior and Local Government shall transmit the same to the Office of the President, within within forty-eight (48) hours from receipt of the same.

A copy of the answer shall be furnished to each of the following:

- a) the complainant;
- b) the office of the Governor in the case of component cities;
- c) the Metropolitan Manila Authority in the case of cities and municipalities in Metropolitan Manila; and
- d) the DILG in all cases.

SEC. 4. Failure to answer. Unreasonable failure of respondent to file his verified answer within fifteen (15) days from receipt of the complaint against him shall be considered as waiver of his right to present evidence in his behalf.



Rule 5

PRELIMINARY INVESTIGATION

SECTION 1. Commencement. Within forty-eight (48) hours from receipt of the answer, the Disciplining Authority shall refer the complaint and answer, together with their attachments and other relevant papers, to the Investigating Authority who shall commence the investigation of the case within ten (10) days from receipt of the same.

SEC. 2. Failure to commence preliminary investigation. Unreasonable failure to commence the preliminary investigation within the prescribed period by the person or persons assigned to investigate shall be a ground for administrative disciplinary action.

SEC. 3. Evaluation. Within twenty (20) days from receipt of the complaint and answer, the Investigating Authority shall determine whether there is a *prima facie* case to warrant the institution of formal administrative proceedings.

SEC. 4. Dismissal *motu proprio*. If the Investigating Authority determines that there is no *prima facie* case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, submit its recommendation to the Disciplining Authority for the *motu proprio* dismissal of the case, together with the recommended decision, resolution, and order.

SEC. 5. Preliminary conference. If the Investigating Authority determines that there is *prima facie* case to warrant the institution of formal administrative proceedings, it shall, within the same period prescribed under the preceding Section, summon the parties to a preliminary conference to consider the following:

- a) Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record: and
- b) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, 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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The Investigating Authority shall encourage the parties and their counsels to enter, at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall be subject to the approval of the Disciplining Authority.

After the preliminary conference, the Investigating Authority shall issue an order reciting the matters taken up thereon, including the facts stipulated and the evidences marked, if any. Such order shall limit the issues for hearing to those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed in writing by the parties concerned.

SEC. 6. Venue of hearing. When the respondent is an elective official of a province or highly urbanized city, the preliminary investigation as contemplated in this Rule shall be conducted in the place where he renders or holds office. For all other local elective officials, the venue shall be the place where the sanggunian concerned is located.

SEC. 7. 90-day ban. No preliminary investigation shall be imposed within ninety (90) days immediately prior to any local election.

Rule 6

PREVENTIVE SUSPENSION

SECTION 1. Power to suspend. Preventive suspension may be imposed by the Disciplining Authority in cases where the respondent is an elective official of the following LGUs:

- a) provinces;
- b) highly urbanized cities;
- c) independent component cities; and
- d) cities or municipalities in Metropolitan Manila.

The governor shall, upon the direct order of the Disciplining Authority, preventively suspend an elective official of a component city, who is under formal administrative investigation by the Office of the President.

SEC. 2. 90-day ban. No preventive suspension shall be imposed within ninety (90) days immediately prior to any local election. If the preventive suspension has been imposed prior to the 90-day period immediately preceding a local election, it shall be deemed automatically lifted upon the start of aforesaid period.

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SEC. 3. Grounds. Preventive suspension may be imposed at any time after the issues are joined, that is, after respondent has answered the complaint, when the evidence of guilt is strong and, given the gravity of the offense, there is a great probability that 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. 4. Duration. Any single preventive suspension of local elective officials shall not extend beyond sixty (60) days; provided that, in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

SEC. 5. Automatic reinstatement. Upon expiration of the preventive suspension, the suspended elective official shall be deemed reinstated in office without prejudice to the continuation of the proceedings against him, which shall be terminated within one hundred twenty (120) days from the time he was formally notified of the case against him. However, if the delay in the proceeding of the case is due to his fault, or request, other than the appeal duly filed, the duration of such delay shall not be counted in computing the time of termination of the case.

SEC. 6. Salary of respondent pending suspension. The respondent, who is preventively suspended from office, shall receive no salary or compensation during such suspension; but, upon subsequent exoneration and reinstatement, he shall be paid his full salary or compensation, including such emoluments accruing during such suspension.

Rule 7

FORMAL INVESTIGATION

SECTION 1. Procedural due process. 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*.

SEC. 2. Who conducts the hearing. The formal administrative investigation shall be conducted by the Investigating Authority.

SEC. 3. Failure to commence formal investigation. Unreasonable failure to commence the formal investigation within the prescribed period in the preliminary conference

order by the person or persons assigned to investigate shall be a ground for administrative disciplinary action.

SEC. 4. Power to take testimony or receive evidence. The Investigating Authority is hereby authorized to take testimony or receive evidence relevant to the administrative proceedings, which authority shall include the power to administer oaths, summon witnesses, and require the production of documents by *subpoena duces tecum* pursuant to Book 1, Chapter 9, Section 37 of the Administrative Code of 1987.

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 for under Book VII, Chapter 3, Section 13, in relation to Chapter 1, Section 2 (1), of the Administrative Code of 1987.

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

SEC. 6. Venue of hearing. When the respondent is an elective official of a province or highly urbanized city, the formal investigation as contemplated in this Rule shall be conducted in the place where he renders or holds office. For all other local elective officials, the venue shall be the place where the sanggunian concerned is located.

SEC. 7. Request for subpoena. If a party desires the attendance of a witness or the production of documents, he should make formally request for the issuance of the necessary *subpoena* or *subpoena duces tecum* at least three (3) days before the scheduled hearing.

SEC. 8. Postponement. Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsels and other similar case. No postponement for a period longer than seven (7) days shall be allowed, and in no case shall the total number of postponements for one party be more than twenty (20) days.

SEC. 9. 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 stenotype. A transcript of the proceedings

made by the official stenographer or stenotypist and duly certified by him shall be *prima facie* a correct statement of such proceedings.

SEC. 10. Order of hearing. Unless otherwise directed by the Investigating Authority, the order of a hearing shall be as follows:

- a) The complaint shall produce the evidence on his part;
- b) The respondent shall then offer evidence in support of his defense; and
- c) The parties may then respectively offer rebutting evidence, unless the Investigating Authority, for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case.

SEC. 11. Order of Examination. The order in which a witness may be examined shall be as follows:

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

SEC. 12. Termination of formal investigation. The formal investigation of the case shall be terminated by the Investigating Authority within ninety (90) days from the start thereof. Unreasonable failure to complete the formal investigation after the said period by the person or persons assigned to investigate shall be a ground for disciplinary action.

SEC. 13. Memoranda. The Investigating Authority may allow the parties to submit their respective memoranda, together with their respective draft resolutions and orders for the consideration of the Investigating Authority, within fifteen (15) days after the termination of the formal investigation.

Rule 8

EVIDENCE

SECTION 1. Rules of evidence. In administrative disciplinary proceedings -

- a) The Investigating Authority may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs;

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- b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted; and
- c) The Investigating Authority may take notice of judicially cognizable facts and of generally technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

SEC. 2. Marking. All documentary evidence or exhibits shall be properly marked by letter (A, B, C, etc.), if presented by the complainants, 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 9

REPORT OF INVESTIGATING AUTHORITY AND TRANSMISSION OF RECORDS

SECTION 1. Transmission of Records to Disciplining Authority. The Investigating Authority shall forward to the Disciplining Authority its findings and recommendations, together with the following:

- a) the draft decision, resolution and order;
- b) the complete records with each page consecutively numbered and initialed by the custodian of the records;
- c) a summary of proceedings thereon from the filing of the complaint to the transmittal of the records in chronological order indicating the action taken on the incidents involved; and
- d) a list of all pleadings, motions, manifestations, annexes, exhibits, and other papers or documents filed by the contending parties, as well as the corresponding orders or resolutions.

Such documents shall be forwarded to the Disciplining Authority within twenty (20) days -

- a) from receipt of the last pleading and evidence, if any, in case the respondent does not elect a formal investigation;
- b) after the expiration of the period within which to submit the same; or after the termination of the formal investigation; or
- c) after the parties have submitted their respective Memoranda if so allowed.

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. Records classification. Records in administrative disciplinary cases are classified as confidential in nature and any information as to the charges, 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 on the "need-to-know" basis pursuant to Memorandum Circular No. 78 dated August 14, 1964, as amended by Memorandum Circular No. 196 dated July 19, 1968, prescribing rules governing security of classified matter in government offices.

Rule 10

DECISION

SECTION 1. Rendition of decision. Within thirty (30) days after receipt of the report of the Investigating Authority and the transmittal of records, the Disciplining Authority shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties.

SEC. 2. Finality of decision. The decision of the Disciplining Authority shall become final and executory after the lapse of thirty (30) 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 the said such period. Save in exceptionally meritorious cases, only one motion for reconsideration by any one party shall be allowed, which shall suspend the running of the 30-day reglementary period.

SEC. 3. Execution pending appeal. An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal. In the event the appeal results in an exoneration, the respondent shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

Rule 11

PENALTIES

SECTION 1. 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.

SEC. 2. Suspension. The penalty of suspension shall not exceed the unexpired term of the respondent, or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office.

SEC. 3. Removal. An elective local official may be removed from office on the grounds enumerated in Rule 2 hereof by order of the proper court or the Disciplining Authority whichever first acquires jurisdiction to the exclusion of the other.

The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.

Rule 12

EXECUTIVE CLEMENCY

SECTION 1. Removal of administrative penalties or disabilities. In meritorious cases, the President may, after his decision has become final and executory, commute or remove administrative penalties or disabilities imposed upon elective local officials in administrative disciplinary cases, subject to such terms and conditions as he may impose in the interest of the service.

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Rule 13

MISCELLANEOUS PROVISIONS

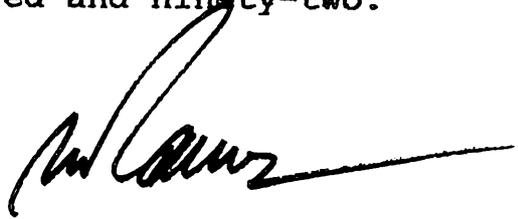
SECTION 1. Effects and application of relevant laws. This Administrative Order implements the Local Government Code of 1991 and its Implementing Rules and Regulations approved and adopted under Administrative Order No. 270 dated February 21, 1992; Book VI, Chapter 3, Sections 10-16 of the Administrative Code of 1983; and Executive Order No. 26 dated October 7, 1992. In all matters not provided in this Administrative Order, the Rules of Court and the 1987 Administrative Code shall apply in a suppletory character.

SEC. 2 Repeal. Administrative Order No. 195 dated September 10, 1990, as amended by Administrative Order No. 239 dated September 27, 1991, is hereby repealed.

SEC. 3. Effectivity. This Administrative Order shall take effect fifteen (15) days from publication in the Official Gazette.

Done in the City of Manila, this 17th day of December, in the year of Our Lord, nineteen hundred and ninety-two.

By the President:




EDELMIRO A. AMANTE, SR.
Executive Secretary