

Revised Rules on Administrative Cases in the Civil Service



TABLE OF CONTENTS

| | Page |
|---|------|
| GENERAL PROVISIONS | |
| Rule 1. Applicability and Construction | 1 |
| Rule 2. Jurisdiction and Venue of Actions | 4 |
| DISCIPLINARY CASES | |
| Rule 3. Complaint | 7 |
| Rule 4. Preliminary Investigation | 8 |
| Rule 5. Formal Charge | 9 |
| Rule 6. Answer | 10 |
| Rule 7. Preventive Suspension | 10 |
| Rule 8. Formal Investigation | 13 |
| Rule 9. Decision | 17 |
| PENALTIES | |
| Rule 10. Schedule of Penalties | 17 |
| REMEDIES | |
| Rule 11. Settlement in Administrative Cases | 27 |
| Motion for Reconsideration in Disciplinary Cases | 29 |
| Rule 12. Appeal in Disciplinary Cases | 30 |
| Rule 13. Petition for Review | 32 |
| Rule 14. Removal of Administrative Penalties or Disabilities | 32 |

| | Page |
|--|------|
| CONTEMPT OF THE COMMISSION | |
| Rule 15. Procedure for Contempt | 34 |
| NON-DISCIPLINARY CASES | |
| Rule 16. Invalidation or Disapproval of Appointment | 35 |
| Rule 17. Protest | 36 |
| Rule 18. Correction of Personal Information in the Records of the Commission | 38 |
| Rule 19. Dropping from the Rolls | 40 |
| Rule 20. Extension of Service | 42 |
| Rule 21. Accreditation Service | 43 |
| Rule 22. Request to Declare Positions as Non-Career/Career | 45 |
| Rule 23. Remedies in Non-Disciplinary Cases | 46 |
| MISCELLANEOUS PROVISIONS | |
| Rule 24. Fees and Other Matters | 48 |

FOREWORD

The Civil Service Commission is the premier human resource institution of the government. Part of its constitutional mandate is to promulgate rules and procedures relating to civil service matters, including administrative discipline of civil servants. Pursuant to its stated mandate, the Commission has through the years formulated the necessary procedural guidelines that would govern the disposition of civil service cases and matters.

Essentially, the need to promulgate procedural guidelines cannot be overemphasized. They ensure a certain degree of consistency, predictability and stability, which values are integral in upholding the rule of law. Indeed, with rules and regulations properly laid down, there would be less occasion for personal whims and caprices. In other words, arbitrariness would be reduced in the decision-making process. Needless to state, the decision-makers would be guided in their course of actions, whether it be in deciding disciplinary cases involving their own workforce or in adjudicating actions involving other personnel actions.

For quite sometime, the rules of procedure governing the disposition of both disciplinary and non-disciplinary cases in the civil service have been embodied in the Uniform Rules in Administrative Cases in the Civil Service (URACCS), which the Commission promulgated in 1999 to supplant the earlier procedural guidelines. This issuance has worked well but just like any human creation, it has also its own share of flaws and shortcomings, which have manifested through the years.

Intent on addressing these infirmities, and consistent with its current thrust to achieve zero backlog of cases and the disposition of cases within forty days, the Commission has revisited the URACCS and after rigorous and painstaking review, the result is now what is in you

hand—the Revised Rules on Administrative Cases in the Civil Service (RRACCS). The Commission hopes that the RRACCS would be able to contribute to the more effective dispensation of administrative justice.

Yet, the Commission is quick to add that the RRACCS is a work in progress. Its enactment shall not mean that it would not anymore be subject to rigorous scrutiny. As a matter of fact, the Commission would indubitably welcome insights, suggestions and recommendations on how to enhance it. After all, it cherishes the continued and unremitting support of all stakeholders in this significant undertaking.

Thank you and *Mabuhay!*


FRANCISCO T. DUQUE III, MD, MSc
Chairman

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REVISED RULES ON ADMINISTRATIVE
CASES IN THE CIVIL SERVICE
(RRACCS)

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RESOLUTION

Pursuant to Section 6, Article IX-A of the 1987 Constitution, the Civil Service Commission *en banc* may promulgate its own rules concerning pleadings and practices before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights. Likewise, Section 12 (2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of 1987 (Executive Order No. 292) empowers the Civil Service Commission among others, to prescribe, amend and enforce rules and regulations to effectively carry into effect the provisions of the Civil Service Law and other pertinent laws which includes the procedure in administrative cases in the Civil Service.

NOW, THEREFORE, the Commission hereby adopts and promulgates the following rules concerning disciplinary and non-disciplinary proceedings in administrative cases in the Civil Service.

GENERAL PROVISIONS

Rule 1

APPLICABILITY AND CONSTRUCTION

Section 1. Title. – This Rules shall be known and cited as the **Revised Rules on Administrative Cases in the Civil Service (RRACCS)**.

Section 2. Coverage. – This Rules shall apply to all disciplinary and non-disciplinary administrative cases brought before the Civil Service Commission, agencies and instrumentalities of the National Government, local government units, and government-owned or controlled corporations with original charters except as may be provided by law.

Sexual harassment cases shall be primarily governed by the Administrative Rules on Sexual Harassment Cases (CSC Resolution No. 01-0940 dated May 21, 2001). This Rules shall apply suppletorily to said cases.

Section 3. Construction. – This Rules shall be liberally construed in order to promote their objective in obtaining just, speedy, and inexpensive disposition of administrative cases.

Administrative investigations shall be conducted without strict recourse to the technical rules of procedure and evidence applicable to judicial proceedings.

Section 4. Definition of Terms. – The terms hereunder shall be construed as follows:

- a. **AGENCY** refers to any bureau, office, commission, administration, board, committee, institute, corporation with original charter, whether performing governmental or proprietary function, or any other unit of the national government as well as provincial, city or municipal government.
- b. **APPOINTING OFFICER** refers to the person or body duly authorized to issue appointments in the civil service.
- c. **CIVIL SERVICE** is the generic term which refers to all men and women in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.
- d. **CIVIL SERVICE COMMISSION FIELD OFFICES (CSCFOs)** refer to the Civil Service Commission Field Offices under the direct supervision of the Civil Service Commission Regional Office, each headed by a Field Director.
- e. **CIVIL SERVICE COMMISSION REGIONAL OFFICES (CSCROs)** refer to the sixteen (16) Civil Service Commission Regional Offices and those that may be subsequently created, each headed by a Regional Director.
- * f. **COMMISSION** refers to the Civil Service Commission composed of the Chairman and two (2) Commissioners.
- See Sec 17
18 202
g. **DEPARTMENT** refers to any of the executive departments or entities having the category of a department, including the judiciary, legislative and the other constitutional commissions.
- * h. **DISCIPLINING AUTHORITY** refers to the person or body duly authorized to impose the penalty provided for by law or rules.

- * i. **FORUM-SHOPPING** refers to the filing of several administrative actions or complaint either simultaneously or successively before another agency or any tribunal having jurisdiction over the case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and all raising substantially the same issues either pending in, or already resolved adversely by, some other tribunal or agency.
- * j. **PARTY ADVERSELY AFFECTED** refers to the respondent against whom a decision in an administrative case has been rendered or to the disciplining authority in an appeal from a decision reversing or modifying the original decision.
- * k. **PERSON COMPLAINED OF** refers to the person who is the subject of a complaint but who is not yet issued a notice of charge/s or formal charge by the disciplining authority.
- l. **PERSONNEL ACTION** refers to any action denoting the movement or progress of personnel in the Civil Service which shall include appointment promotion, transfer, reinstatement, reemployment, reappointment, detail, reassignment, secondment, demotion and separation from the service.
- * m. **PROBATIONARY EMPLOYEE** refers to the employee who is required to undergo a thorough character investigation and assessment of capability to perform the duties of the position enumerated in the Position Description Form (PDF).
- * n. **RESPONDENT** refers to the person who is issued a notice of charge/s or formal charge by the disciplining authority.
- * o. **QUALIFIED NEXT-IN-RANK** refers to the employee appointed on a permanent basis to a position previously determined to be a next-in-rank to the vacancy and who meets the requirements for appointment thereto as previously determined by the appointing authority and approved by the Commission.

Rule 2

JURISDICTION AND VENUE OF ACTIONS

Section 5. Jurisdiction of the Civil Service Commission. – The Civil Service Commission shall hear and decide administrative cases instituted by or brought before it, directly or on appeal, including contested appointments and review decisions and actions of its offices and of the agencies attached to it.

Section 6. Referral of Case or Matter to the Proper Office. - In the event that an administrative case or matter is filed before the Commission or any of its Regional Offices, but jurisdiction over such case or matter properly belongs to another CSCRO or to the Commission, the same shall be forwarded to the appropriate office.

Section 7. Cases Cognizable by the Civil Service Commission. –The Civil Service Commission shall take cognizance of the following cases:

A. Disciplinary

1. Decisions of Civil Service Commission Regional Offices brought before it on appeal or petition for review;
2. Decisions of heads of agencies imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary brought before it on appeal;
3. Complaints brought against Civil Service Commission personnel;
4. Complaints against officials who are not presidential appointees;
5. Decisions of heads of agencies imposing penalties not exceeding 30 days suspension or fine equivalent thereto but violating due process;
6. Requests for transfer of venue of hearing on cases being heard by Civil Service Commission Regional Offices;
7. Appeals from the order of preventive suspension; and

8. Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.

B. Non-Disciplinary

1. Decisions of heads of agencies on personnel actions;
2. Decisions of Civil Service Commission Regional Offices;
3. Requests for favorable recommendation on petition for the removal of administrative penalties or disabilities;
4. Protests against appointments, or other personnel actions, involving non-presidential appointees;
5. Requests for Extension of Service;
6. Reassignment of public health workers and public social workers brought before it on appeal;
7. Request for correction of personal information in the records of the Commission within five (5) years before mandatory retirement; and
8. Such other analogous actions or petitions arising out of or in relation with the foregoing enumeration.

Section 8. Cases Cognizable by Regional Offices. – Except as otherwise directed by the Commission, the Civil Service Commission Regional Offices shall take cognizance of the following cases:

A. Disciplinary

1. Cases initiated by, or brought before, the Civil Service Commission Regional Offices provided that the alleged acts or omissions were committed within the jurisdiction of the Regional Office, including Civil Service examination anomalies or irregularities and/or the persons complained of are rank-and-file employees of agencies, local or national, within said geographical areas;

2. Complaints involving Civil Service Regional Office personnel who are appointees of said office; and
3. Petitions to place respondent under preventive suspension.

B. Non-Disciplinary

1. Disapproval/Recall of Approval/Invalidation of appointments brought before it on appeal;
2. Decisions of heads of agencies, except those of the department secretaries and bureau heads within their geographical boundaries relative to protests and other personnel actions and other non-disciplinary actions brought before it on appeal; and
3. Requests for accreditation of services; and
4. Requests for correction of personal information in the records of the Commission not falling under Section 7 (B) Item 7 of this Rules.

Section 9. Jurisdiction of Heads of Agencies. –The Secretaries and heads of agencies, and other instrumentalities, provinces, cities and municipalities shall have original concurrent jurisdiction with the Commission over their respective officers and employees. They shall take cognizance of complaints involving their respective personnel. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

DISCIPLINARY CASES

Rule 3

COMPLAINT

Section 10. Who May Initiate. – Administrative proceedings may be initiated by the disciplining authority *motu proprio* or upon complaint of any other person.

Section 11. Requisites of a Valid Complaint. – Except when initiated by the disciplining authority or his/her authorized representative, no complaint against a civil service official or employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant. In cases initiated by the proper disciplining authority or his/her authorized representative, a show cause order is sufficient.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint in triplicate copies shall be written in a clear, simple and concise language and in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation against him/her and to enable him/her to intelligently prepare his/her defense or answer/comment. However, should there be more than one (1) person complained of, the complainant is required to submit additional copies corresponding to the number of persons complained of.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the person/s complained of as well as his/her/their position/s and office/s;
- 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.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the above requirements.

Section 12. *When and Where to File a Complaint.* – Except when otherwise provided for by law, an administrative complaint may be filed at anytime with the Commission or any of its Regional Offices, heads of departments, agencies, provinces, cities, municipalities and other instrumentalities.

Section 13. *Withdrawal of the Complaint.* – The withdrawal of the complaint does not result in its outright dismissal nor discharge the person complained of from any administrative liability. Where there is obvious truth or merit to the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person/s complained of, the same should be given due course.

Section 14. *Action on the Complaint.* – Upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person/s complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of order requiring him/her/their comment/s.

Rule 4

PRELIMINARY INVESTIGATION

Section 15. *Preliminary Investigation; Definition.* – A Preliminary Investigation is a proceeding undertaken to determine whether a prima facie case exists to warrant the issuance of a formal charge. It involves a fact-finding investigation or an ex-parte examination of records and documents submitted by the complainant and the person/s complained of, as well as documents readily available from other government offices.

Section 16. *How conducted.* – Within five (5) days from receipt of the complaint sufficient in form and substance, the person/s complained of shall be required to submit his/her/their counter-affidavit/comment. Where the complaint is initiated by the disciplining authority, the disciplining authority or his authorized representative shall issue a show-cause memorandum directing the person/s complained of to explain why no administrative case should be filed against him/her/them. The latter's failure to submit the comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without his/her counter-affidavit/comment.

If necessary, the parties may be summoned to a conference where the investigator may propound clarificatory and other relevant questions.

For cases filed before the Commission or any of its Regional Offices, the preliminary investigation may be entrusted to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 17. *Duration of the Investigation.* – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the disciplining authority and shall be terminated within twenty (20) days thereafter.

Section 18. *Investigation Report.* – Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report with recommendation and the complete records of the case to the disciplining authority.

Section 19. *Decision or Resolution After Preliminary Investigation.* – If a *prima facie* case is established during the investigation, the disciplining authority may issue either a formal charge or a notice of charge/s pursuant to Rule 5 of this Rules.

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

Rule 5

FORMAL CHARGE

Section 20. *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 a specification of charge/s, a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge/s in writing, under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 21. *Notice of Charge/s.* – In 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(s) against the person complained of to which shall be attached copies of the complaint, sworn statement and other documents submitted. The notice shall contain the charges against the person complained of with a statement that a *prima facie* case exists. It shall also include a directive to answer the charge(s) in writing, under oath in not less than seventy-two (72) hours from receipt thereof, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 22. Prohibited Pleadings. - The disciplining authority shall not entertain requests for clarification, bills of particulars, motions to dismiss or motions to quash or motions for reconsideration. If any of these pleadings are interposed by the respondent, the same shall be considered an answer and shall be evaluated as such.

Rule 6

ANSWER

Section 23. Requisites and Contents. - The answer, which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of one's case.

Section 24. Failure to File an Answer. - If the respondent fails or refuses to file his/her answer to the formal charge or notice of charge/s within the period provided in the formal charge or notice of charge/s which shall not be less than three (3) days from receipt thereof, he/she shall be considered to have waived his/her right to submit the same and the case may be decided based on available records.

Rule 7

PREVENTIVE SUSPENSION

Section 25. Preventive Suspension, nature. - Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the official or employee charged may be removed from the scene of his/her alleged misfeasance/malfeasance/nonfeasance while the same is being investigated.

Section 26. When Issued; Grounds. - Upon petition of the complainant or *motu proprio*, the proper disciplining authority may issue an order of preventive suspension upon service of the formal charge or notice of charge/s, or immediately thereafter to any subordinate officer or employee under his/her authority pending an investigation, if

A) The charge involves:

1. Dishonesty;
2. Oppression;
3. Grave Misconduct;
4. Neglect in the Performance of Duty;
5. Administrative offenses which are punishable by dismissal from the service on its second or third offense; or
6. If there are reasons to believe that the respondent is guilty of charges which would warrant his/her removal from the service.

B) An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance, malfeasance or nonfeasance to preclude the possibility of:

1. exerting undue influence or pressure on the witnesses against him/her, or
2. tampering with evidence that may be used against him/her.

C) In lieu of preventive suspension, for the same purpose, the proper disciplining authority or head of office, may reassign respondent to other unit of the agency during the formal hearings.

Section 27. 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 in the case of national agencies or sixty (60) days in the case of local government units. When the administrative case against an officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of preventive suspension, he/she 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.

Section 28. Remedies from the Order of Preventive Suspension. – The respondent may file an appeal to the Commission within fifteen (15) days from receipt thereof. Pending appeal, the same shall be executory. A motion for reconsideration from the order of preventive suspension shall not be allowed.

Section 29. Payment of Back Salaries During Preventive Suspension. – The payment of back salaries during the period of suspension shall be governed by the following:

- a. A declaration by the Commission that an order of preventive suspension is null and void on its face entitles the respondent official or employee to immediate reinstatement and payment of back salaries corresponding to the period of the unlawful preventive suspension without awaiting the outcome of the main case.

The phrase “null and void on its face” in relation to a 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 26 (A and B) of this Rule;
 - iii) The order of preventive suspension was issued without a formal charge or notice of charges;
 - iv) While lawful in the sense that it is based on the enumerated grounds, the duration of the imposed preventive suspension has exceeded the prescribed periods, in which case the payment of back salaries 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 Section 29(a), shall result in the reinstatement of the official or employee concerned. The payment of back salaries shall, however, await the final outcome of the principal

case. If the official or employee is fully exonerated of the charge/s or when the penalty imposed in the principal case is reprimand, he or she shall be paid such back salaries. Otherwise, no back salaries shall be awarded.

The phrase “full 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 “full exoneration” within the contemplation of these guidelines.

Even if the respondent official or employee be eventually found innocent of the charge/s proffered against him/her, the same shall not give rise to payment of back salaries corresponding to the period of preventive suspension in the absence of any finding of its illegality.

Rule 8

FORMAL INVESTIGATION

Section 30. Conduct of Formal Investigation; When Held. – A formal investigation shall be conducted by the disciplining authority where the merits of the case cannot be decided judiciously without conducting such investigation or when the respondent elects to have one, in which case, 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 answer. Said investigation shall be finished within thirty (30) days from the issuance of the formal charge unless the period is extended by the disciplining authority in meritorious cases.

For this purpose, the Commission may entrust the formal investigation to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 31. Submission of Position Paper/Memorandum. – At any stage of the proceedings, the parties may, based on their mutual consent, submit position paper/memorandum and submit the case for resolution without any need for further hearings.

Section 32. Pre-Hearing Conference. – At the commencement of the formal investigation, the hearing officer 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 agreement entered into during the pre-hearing conference is binding on both parties unless in the interest of justice, the hearing officer may allow a deviation from the same.

The conduct of a pre-hearing conference is mandatory. The failure of the respondent to attend the pre-hearing conference constitutes a waiver to participate in the pre-hearing conference but may still participate in the formal investigation upon appropriate motion.

Section 33. Continuous Hearing Until Terminated; Postponement. – Hearings shall be conducted on the hearing dates set by the Hearing Officer or as agreed upon during the pre-hearing conference.

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

If respondent fails or refuses to appear or is not represented by counsel during the scheduled hearings despite due notice, the investigation shall proceed and the respondent shall be deemed to have waived his/her right to present evidence in his/her favor during the said hearing.

Section 34. Preliminary Matters. – At the start of the hearing, the hearing officer shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right thereto.

Before taking the testimony of a witness, the hearing officer shall place him/her under oath and then take his/her name, address, civil status, age, and complete name and address of employment.

A sworn statement of the witness/es properly identified and affirmed shall constitute direct testimony, copy furnished the other party.

Clarificatory questions may also be asked.

Section 35. Appearance of Counsel. – Any counsel who is a member of the Bar appearing before any hearing or investigation shall manifest orally or in writing, his/her appearance for either the respondent or complainant, stating his/her full name, Roll Number, IBP receipt and complete address which should not be a P.O. box address where he/she can be served with notices and other pleadings. If the lawyer is a government employee, he/she shall be required to present an authority to practice profession which should come from the agency head or the agency head's authorized representative.

Section 36. 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;
- c. There may be rebuttal or sur-rebuttal;

When the presentation of the 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 which, 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. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 37. Objections. – All objections raised during the hearing shall be resolved by the hearing officer. 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 officer shall admit all evidence formally offered subject to the objection/s interposed against its admission.

Section 38. 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 of the case.

Section 39. 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 40. Record of Proceedings. – Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.

Section 41. Filing of Pleadings. – All pleadings filed by the parties with the disciplining authority shall be copy furnished the other party with proof of service. Any pleadings sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the disciplining office.

Section 42. Effects of the Pendency of an Administrative Case. – Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions 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 charge or a notice of charge/s to the respondent.

Section 43. Formal Investigation Report. – Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the hearing officer to the disciplining authority. The complete records of the case shall be attached to the report of investigation.

The complete records shall be systematically and chronologically arranged, pagged and securely bound to prevent loss. A table of contents shall be prepared.

Rule 9

DECISION

Section 44. When Case is Decided. – The disciplining authority shall decide the case within thirty (30) days from receipt of the Formal Investigation Report.

Section 45. Finality of Decisions. – A decision rendered by the disciplining authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, the same 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.

PENALTIES

Rule 10

SCHEDULE OF PENALTIES

Section 46. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or 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 :
1. Serious Dishonesty;
 2. Gross Neglect of Duty;
 3. Grave Misconduct;
 4. Being Notoriously Undesirable;

5. Conviction of a crime involving moral turpitude;
 6. Falsification of official document;
 7. Physical or mental incapacity or disability due to immoral or vicious habits;
 8. 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;
 9. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
 10. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;
 11. Nepotism; and
 12. 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:
1. Less serious dishonesty;
 2. Oppression;
 3. Disgraceful and immoral conduct;

4. Inefficiency and incompetence in the performance of official duties;
5. Frequent unauthorized absences, or tardiness in reporting for duty, loafing from duty during regular office hours;
6. Refusal to perform official duty;
7. Gross Insubordination;
8. Conduct prejudicial to the best interest of the service;
9. Directly or indirectly having financial and material interest in any transaction requiring the approval of his/her office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something;
10. 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 his/her office, unless expressly allowed by law;
11. Disclosing or misusing confidential or classified information officially known to him/her by reason of his/her office and not made available to the public, to further his/her private interests or give undue advantage to anyone, or to prejudice the public interest;
12. 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
13. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his/her office, unless such recommendation or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the function of his/her office.

- C. The grave offense of Inefficiency and Incompetence in the performance of official duties is punishable by Demotion. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the agency. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary grade.
- D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense:
1. Simple Neglect of Duty;
 2. Simple Misconduct;
 3. Discourtesy in the course of official duties;
 4. Violation of existing Civil Service Law and rules of serious nature;
 5. Insubordination;
 6. Habitual Drunkenness;
 7. Unfair discrimination in rendering public service due to party affiliation or preference;
 8. Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households;
 9. Failure to resign from his/her 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 himself/herself of his/her 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

10. 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 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:
1. Simple discourtesy in the course of official duties;
 2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
 3. Violation of reasonable office rules and regulations;
 4. Frequent unauthorized tardiness (Habitual Tardiness);
 5. Gambling prohibited by law;
 6. Refusal to render overtime service;
 7. Disgraceful, immoral or dishonest conduct prior to entering the service;
 8. Borrowing money by superior officers from subordinates;
 9. 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.

10. Lobbying for personal interest or gain in legislative halls and offices without authority;
11. Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter cases, if there is no prior authority;
12. 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;
13. 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;
14. 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;
15. Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions; and
16. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

Section 47. Penalty of Fine. – The following are the guidelines for the penalty of fine:

1. Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow payment of fine in place of suspension if any of the following circumstances are present:
 - a. 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, education; or

- b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and
 - c. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.
2. 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 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 circumstance, the conversion shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.
3. 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 is final and executory and, therefore, not subject of appeal or any other similar relief.
4. 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 he/she has already paid.
5. Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:
 - a. Fine equivalent to one (1) month salary shall be paid within two (2) months;
 - b. Fine equivalent to two (2) months salary shall be paid within four (4) months;
 - c. Fine equivalent to three (3) months salary shall be paid within six (6) months;
 - d. Fine equivalent to four (4) months salary shall be paid within eight (8) months;

- e. Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
 - f. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.
6. The 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 48. Mitigating and Aggravating Circumstances. – In the determination of the penalties to be imposed, mitigating and/ or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

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

In the appreciation thereof, the same must be invoked or pleaded by the proper party, 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 49. Manner of Imposition. – When applicable, the imposition of the penalty may 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.
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where 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.

Section 50. Penalty for the Most Serious Offense. – If the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

Section 51. Duration and effect 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 entail appointment to the next lower position to which respondent is qualified or diminution of salary to next lower grade if there is no such position available.
- 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 an 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 final and 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 shall not carry with it any accessory penalty nor 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 service, the respondent shall be entitled to the payment of back salaries and other benefits which would have accrued during the period of his/her suspension or dismissal.

Section 52. Administrative Disabilities Inherent in Certain Penalties. –

- a. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.
- 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 he/she was fined.
- e. The accessory penalties inherent in the penalty of suspension provided in Section 51 (c) of the Rules shall continue to apply when the penalty of fine is imposed in lieu of suspension.

Should the respondent fail to pay in full the fine within the prescribed period, he/she shall be deemed to have failed to serve the penalty imposed, hence, the disqualification for promotion shall remain in effect until such time that the fine is fully paid.

- f. The penalty of reprimand shall not carry with it any accessory penalties.
- g. A warning or admonition shall not be considered a penalty.

Section 53. Effects of Exoneration on Certain Penalties. –

- a. In case the penalty imposed is a fine, the same shall be refunded.
- b. In case there is demotion, he/she shall be restored to his/her former position, without loss of seniority rights. Respondent shall also be entitled to the payment of salary differentials during the period the demotion was imposed.
- c. In case the penalty imposed is suspension, he/she shall immediately be reinstated to his/her former post without loss of seniority rights and with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally suspended.
- d. In case the penalty imposed is dismissal, he/she shall immediately be reinstated without loss of seniority rights with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally dismissed.
- e. The respondent who is exonerated by final judgment shall be entitled to the leave credits for the period he/she had been out of the service.

REMEDIES

Rule 11

SETTLEMENT IN ADMINISTRATIVE CASES

Section 54. Who may avail. – 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 55. Guidelines. – The following are the guidelines in the settlement of purely personal matters in administrative cases:

- a. Compromise settlement shall be allowed only for administrative light 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 shall determine whether the offense is purely personal or can be the subject of settlement;

The following cases may be the subject of settlement and/or compromise:

1. Borrowing money by superior officers from subordinates;
2. Willful failure to pay just debts;
3. Simple Misconduct resulting from misunderstanding/fight between respondent and complainant provided that the act is not committed within office premises;
4. Discourtesy in the course of official duties; and
5. Other analogous circumstances/cases.

In these enumerated cases, compromise or settlement can no longer be applied for the second time the same act is committed;

The grant of back salaries and other benefits may likewise be subject of settlement and/or compromise;

- c. If the offense can be the subject of settlement, the Action Officer assigned shall order the respondent to comment and to indicate therein whether he/she is willing to submit the case for settlement;
- d. If person complained of opted for settlement, the Action Officer assigned 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 Action Officer;
- f. The compromise agreement shall be binding on the parties and shall be considered a decision on the merits which cannot be impugned unless it is shown that there was duress on its execution on any of the parties;
- g. A Decision shall be issued by the Disciplining Authority based on the Compromise Agreement;
- h. If during the settlement process, the parties failed to settle their differences, the Action Officer shall issue an order terminating the process and continue with the investigation of the case; and

- j. In case of non-compliance with the compromise agreement, the case may likewise be reopened for investigation until the final determination of the case.

MOTION FOR RECONSIDERATION IN DISCIPLINARY CASES

Section 56. 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. A motion for extension of time to file a motion for reconsideration is not allowed.

Section 57. When deemed filed. – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope 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 58. 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
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 59. Limitation. – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of the first motion for reconsideration.

Section 60. 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.

APPEAL IN DISCIPLINARY CASES

Section 61. Filing. – Subject to Section 45 of this Rules, decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Commission within a period of fifteen (15) days from receipt thereof. In cases the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission.

All decisions of heads of agencies are immediately executory pending appeal before the Commission. The decision imposing the penalty of dismissal by disciplining authorities in departments is not immediately executory unless confirmed by the Secretary concerned. However, the Commission may take cognizance of the appeal pending confirmation of its execution by the Secretary.

Section 62. When deemed filed. – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope 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 63. Appeal Fee. – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 64. Perfection of an Appeal. – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal 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, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the disciplining office;

- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

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

Section 65. Effect of Filing. – Except for cases requiring confirmation of the Department Secretary concerned and cases decided by the CSCROs, an appeal shall not stop the decision from being executory.

Section 66. When to Remand an Appealed Case to Agency of Origin. – If on appeal, the Commission finds that the disciplining authority violated respondent-appellant's right to due process such as the failure to issue a formal charge, the Commission shall dismiss the appealed case and order the immediate reinstatement of the respondent with payment of back salaries 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.

If a formal charge has been issued but the disciplining authority has violated respondent-appellant's right to procedural due process, the Commission shall remand the appealed case to the agency of origin for further proceedings to be conducted within three (3) calendar months from the date of receipt of the case records, unless there is delay due to the fault, negligence or petition of the respondent, or an extension is granted by the Commission on meritorious grounds. The period of delay shall be excluded in the computation of the prescribed period. Within fifteen (15) days from the termination of the proceedings, the disciplining authority shall render his/her decision.

If at the end of the three (3) month period, the disciplining authority failed to conduct further proceedings, the Commission upon motion of the respondent-appellant shall vacate and set aside the appealed decision and declare the respondent-appellant exonerated of the charge/s. If the respondent-appellant is under preventive suspension, he/she shall be immediately reinstated and shall be entitled to back salaries and other benefits.

The Commission shall evaluate requests for extension of the three (3)-month period and may grant the same on meritorious grounds guided by the principles of justice and fair play. All requests for extension shall not be for more than twenty (20) days.

For this purpose, the CSCRO Directors concerned shall monitor the implementation of the CSC Resolution remanding the case to the agency of origin and to submit a report to the Commission Proper.

Rule 13

PETITION FOR REVIEW

Section 67. *Petition for Review of CSCRO Decisions.* – A party may elevate the decision of the Civil Service Commission Regional Office dismissing the complaint for lack of a *prima facie* case or where the formal charge issued was for a lower offense, through a petition for review before the Commission within fifteen (15) days from receipt of said decision.

Section 68. For the purpose of this Rule, all appeals from the decisions of the Civil Service Commission Regional Offices to the Commission shall be denominated as a Petition for Review.

Section 69. *Petition for Review of Decisions of Agencies.* – A decision of an agency head 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 70. *Petition for Review with the Court of Appeals.* – A party may elevate a decision of the Commission before the Court of Appeals by way of a petition for review under Rule 43 of the 1997 Revised Rules of Court.

Rule 14

REMOVAL OF ADMINISTRATIVE PENALTIES OR DISABILITIES

Section 71. *Recommendation for Removal of Administrative Penalties or Disabilities; Requirements.* – In meritorious cases and upon recommendation of the Commission, the President may commute or remove administrative penalties or disabilities imposed upon officers or employees in disciplinary cases, subject to such terms and conditions as he/she may impose in the interest of the service.

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

- a. certified true copy of the decision in the disciplinary case;
- b. favorable recommendation by the disciplining authority or head of office from which he/she was dismissed;
- c. 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 his/her disciplinary case before any court/tribunal; and
- e. proof of payment of filing fee.

Section 72. 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 procedural requirements, the petitioner must demonstrate through specific and positive action and behavior that he/she has become a useful member of the community. Affidavits from respectable persons in the community attesting that the petitioner is a law-abiding citizen, an active member of the community and civic organizations, a good person and neighbor, and one who has the respect of the members of the community, shall be presented;
- b. A minimum of three (3) years should have lapsed, from the time of the finality of the decision dismissing the petitioner from the service, in order that the petitioner 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. Non-admission or acceptance of guilt by the petitioner will not be required when he/she has been acquitted in the criminal case which has been decided on the merits and in effect declared the innocence of the petitioner;
- e. In cases where a petitioner is above sixty-five (65) years of age, the Commission shall favorably recommend the removal of his/her administrative penalties or disabilities, provided that he/she complies with the procedural requirements and submits proof of moral reformation; and
- f. 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.

CONTEMPT OF THE COMMISSION

Rule 15

PROCEDURE FOR CONTEMPT

Section 73. Contumacious/Contemptuous Acts Punishable. – An official or employee or any person found guilty of, disobedience of or resistance to a lawful writ, process, order, decision, resolution, ruling, summons, subpoena, command or injunction of the Commission may be punished for indirect contempt.

Section 74. How proceedings are commenced. – Proceedings for indirect contempt may be initiated motu proprio by the Commission by an order requiring the respondent to show cause why he/she should not be punished for indirect contempt. A motion to cite for indirect contempt may also be filed with the Commission. In both cases proceedings shall be conducted at the Office for Legal Affairs, Civil Service Commission.

The conduct of proceedings in indirect contempt cases shall follow as far as applicable, the procedure required in the conduct of disciplinary investigation provided under this Rules, inclusive of, among others the conduct of Preliminary Investigation, Issuance of Formal Charge, Formal Investigation and Rendition of Decision.

Section 75. Hearing. – Upon the day set for the hearing, the Commission shall proceed to investigate the charge and consider such comment, answer, defense or testimony as the respondent may make or offer. Failure to attend the scheduled hearing and to give a satisfactory explanation in writing to the Commission will result in the waiver of the respondent to be present during the hearing.

Section 76. Punishment, if found guilty. – If the respondent is adjudged guilty of indirect contempt committed against the Commission, he/she may be punished by a fine of One Thousand (P1,000.00) Pesos per day for every act of indirect contempt. Each day of defiance of, or disobedience to, or non-enforcement of a final order, resolution, decision, ruling, injunction or processes, shall constitute an indirect contempt of the Commission. If the contempt consists in the violation of an injunction or omission to do an act which is still within the power of the respondent to perform, the respondent shall, in addition, be made liable for all damages as a consequence thereof. The damages shall be measured by the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct, disobedience to, defiance of a lawful order, and/or such other contumacious acts or omissions of which the contempt is being prosecuted, and the costs of the proceedings, including payment of interest on damages.

NON-DISCIPLINARY CASES

Rule 16

INVALIDATION OR DISAPPROVAL OF APPOINTMENT

Section 77. Invalidation or Disapproval; Who May Appeal. – Either the appointing authority or the appointee may assail the invalidation or disapproval of an appointment.

Section 78. Where and When to File. – Appointments invalidated or disapproved by the CSCFO may be appealed to the CSCRO while those invalidated or disapproved by the CSCRO may be appealed to the Commission within the fifteen (15) day reglementary period.

To facilitate prompt actions on invalidated or disapproved appointments, motions for reconsideration filed with the CSCFO shall be treated as an appeal to the CSCRO and a Motion for Reconsideration at the CSCRO will be treated as an appeal to the Commission and all the records thereof including the comments of the CSCFO or CSCRO shall, within ten (10) days from receipt of the latter, be forwarded to the CSCRO or the Commission as the case may be.

The action of the CSCRO concerned may be appealed to the Commission within fifteen (15) days from receipt thereof.

The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Sections 113 and 114.

RULE 17

PROTEST

Section 79. Protest; Who may File. – Only a qualified next-in-rank employee may file a protest against an appointment made in favor of another who does not possess the minimum qualification requirements.

Section 80. Where to File. – A qualified next-in-rank employee shall have the right to appeal initially to the head of agency, then to the Civil Service Commission Regional Office, and then to the Civil Service Commission Proper.

Section 81. When to File. – Protest may be filed within fifteen (15) days from the announcement and/or posting of appointments subject of protest.

For this purpose, all appointments or promotions shall be duly announced and/or posted in bulletin boards or at conspicuous places in the Department or Agency within thirty (30) days from issuance of the appointments.

Section 82. Effect on the Protested Appointment. – A protest shall not render an appointment ineffective nor bar the approval thereof, by the Civil Service Commission Field, Regional Office or the Commission, as the case may be, but the approval shall be subject to the final outcome of the protest.

Section 83. Effect of Withdrawal of Protest. – A protest or an appeal in this case may be withdrawn at any time as a matter of right. The withdrawal of the protest or appeal shall terminate the protest case.

Section 84. When Deemed Filed. – A protest is deemed filed, in case the same is sent by registered mail, on the postmark date on the envelope which shall be attached to the records of the case, and in case of personal delivery, on the date stamped by the agency or the Commission.

Section 85. Transmittal of Records. – In cases where the protest is filed with the Commission, the head of department or agency shall forward his/her comment and the records of the case within ten (10) days from receipt of the copy of the protest. The records shall be systematically and chronologically arranged, paged and securely bound to prevent loss and shall include the following:

- a. Statement of duties or job description of the contested position;
- b. Duly accomplished and updated personal data sheets of the parties with certified statement of service records attached;
- c. Certified copy of the protested appointment; and
- d. Comparative assessment of the qualifications of the protestant and protestee.

Section 86. Dismissal of Protest. – A protest shall be dismissed on any of the following grounds:

- a. The protestant is not qualified next-in-rank;
- b. The protest is not directed against a particular protestee but to "anyone who is appointed to the position" or directed to two or more protestees;
- c. The protest is not in accordance with the required form as prescribed in this Rules;
- d. No appointment has been issued;
- e. The protest is filed outside of the 15-day reglementary period as provided in Section 81 hereof;
- f. Non-payment of the filing fee; or
- g. Non-submission of a certificate of non-forum shopping.

Section 87. Finality of Decision. – Decision on a protest case shall become final after fifteen (15) days from receipt thereof and no motion for reconsideration or appeal has been filed.

Section 88. Available Remedies. –

- a. The decision of the heads of agencies other than the Department Secretaries may be appealed to the CSCRO within fifteen (15) days, and finally to the Commission.

The decision of the Department Secretaries may be appealed within the same period to the Commission.

In cases where the protest is filed within the department or agency, the protestant may file a motion for reconsideration of the adverse decision, ruling or action within fifteen (15) days from receipt with the same agency.

- b. In cases where the appeal is filed with the CSCRO, a motion for reconsideration may be filed with the same office within fifteen (15) days from the receipt of the adverse decision, and then to the Commission within the same period.

The protestant shall furnish a copy of his/her appeal to the head of agency concerned who shall submit his/her comment to the CSCRO within ten (10) days.

- c. The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Section 114.

Section 89. Effect of Decision. – In case the protest is finally decided against the protestee, the approval of his/her appointment shall be recalled and the appointment shall be considered disapproved. The protestee shall be reverted to his/her former position, if applicable.

Rule 18

**CORRECTION OF PERSONAL INFORMATION IN
THE RECORDS OF THE COMMISSION**

Section 90. When and Where to File. – All requests for correction of personal information made within five (5) years before mandatory retirement shall be submitted to the Commission for evaluation and decision. All requests for correction of personal information should be filed not later than one (1) year before the applicant's expected date of retirement.

All other requests made earlier than five (5) years from mandatory retirement shall be submitted to the CSCRO with jurisdiction and shall be acted upon within fifteen (15) days from receipt of the requests. Copies of the Order or Decision shall be submitted by the CSCRO concerned, to the Civil Service Commission through the Commission Secretariat and Liaison Office.

Section 91. Required Documents. – The following documents shall be submitted together with the request:

- a. Original Certificate of Live Birth duly authenticated by the Local Civil Registrar of the municipality or city where the birth was registered or recorded or the National Statistics Office, or in its absence, a court order;
- b. Personal Affidavit of Discrepancy;
- c. Affidavit of Two Disinterested Witnesses; and
- d. Photocopy of documents sought to be corrected.

A filing fee shall be paid and a receipt thereof shall be attached to the request together with a photocopy of the documents sought to be corrected.

Section 92. Supporting Documents. – When the submitted Certificate of Live Birth is issued on the basis of late registration, original or duly authenticated supporting documents must be submitted, in addition to the requirements enumerated in the immediately preceding section, to warrant the correction or change of information in the records of the Commission, to wit:

- a. Baptismal certificate, unless it has been lost or destroyed during a war, fire, natural calamity or any other fortuitous event, in which case, a certification issued by the proper church authority must be submitted. If the requesting party was not issued any baptismal certificate or was not baptized, an affidavit attesting to such fact must be submitted. In both cases, other authentic and reliable documents which show the information or data requested to be corrected must be also be submitted together with the request.
- b. Affidavits of Two (2) Disinterested Witnesses; and
- c. Other employment, personal or school records which support the entry reflected in the belatedly registered birth certificate and which entry is requested to be reflected in the records of the Commission as the true and correct entry.

Rule 19

DROPPING FROM THE ROLLS

Section 93. *Grounds and Procedure for Dropping from the Rolls.* – Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures:

a. **Absence Without Approved Leave**

1. An officer or employee who is continuously absent without official leave (AWOL) for at least thirty (30) working days shall be separated from the service or dropped from the rolls without prior notice. He/She shall, however, be informed of his/her separation not later than five (5) days from its effectivity which shall be sent to the address appearing on his/her 201 files or to his/her last known address;
2. If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work order shall be served on the official or employee at his/her last known address on record. Failure on his/her part to report to work within the period stated in the order shall be a valid ground to drop him/her from the rolls.
3. If it is clear under the obtaining circumstances that the official or employee concerned, has established a scheme to circumvent the rule by incurring substantial absences though less than thirty (30) working days, three (3) times in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

b. **Unsatisfactory or Poor Performance**

1. An official or employee who is given two (2) consecutive unsatisfactory ratings may be dropped from the rolls after due notice. Notice shall mean that the officer or employee concerned is informed in writing of his/her unsatisfactory performance for a semester and is sufficiently warned that

a succeeding unsatisfactory performance shall warrant his/her separation from the service. Such notice shall be given not later than thirty (30) days from the end of the semester and shall contain sufficient information which shall enable the official or employee to prepare an explanation.

2. An official or employee, who for one evaluation period is rated poor in performance, may be dropped from the rolls after due notice. Due notice shall mean that the officer or employee is informed in writing of the status of his/her performance not later than the fourth (4th) month of that rating period with sufficient warning that failure to improve his/her performance within the remaining period of the semester shall warrant his/her separation from the service. Such notice shall also contain sufficient information which shall enable the official or employee to prepare an explanation.

c. **Physically Unfit**

1. An officer or employee who is continuously absent for more than one (1) year by reason of illness may be declared physically unfit to perform his/her duties and the head of office in exercise of his/her sound judgment may consequently drop him/her from the rolls.
2. An officer or employee who is intermittently absent by reason of illness for at least two hundred sixty (260) working days during a twenty four (24) – month period may also be declared physically unfit by the head of office.
3. An officer or employee who is behaving abnormally and manifests continuing mental disorder and incapacity to work as reported by his/her co-workers or immediate supervisor and confirmed by a competent physician, may likewise be dropped from the rolls.
4. For the purpose of the three (3) preceding paragraphs, notice shall be given to the officer or employee concerned containing a brief statement of the nature of his/her incapacity to work.

Section 94. *Written Notice; Who Signs.* – The written notice mentioned in the preceding paragraphs may be signed by the person exercising immediate supervision over the official or employee. However, the notice of separation shall be signed by the appropriate appointing authority or head of office.

Section 95. Order of Separation; Immediately Executory. – The order of separation is immediately executory pending appeal, unless the Commission, on meritorious grounds, directs otherwise.

Section 96. Dropping From the Rolls; Non-Disciplinary in Nature. – This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical or mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefit on the part of the official or employee or in disqualification from reemployment in the government.

Rule 20

EXTENSION OF SERVICE

Section 97. Extension of Service. When Allowed. – In meritorious cases, the Commission may allow the extension of service of a person who has reached the compulsory retirement age of sixty-five (65), for a period of six (6) months only unless otherwise stated. Provided that, such extension may be for a maximum period of one (1) year for one who will complete the fifteen (15) years of service required under the GSIS Law.

Section 98. Request for Extension of Service. – A request for extension shall be made by the head of office and shall be filed with the Commission not later than three (3) months prior to date of the official/employee's compulsory retirement.

The following documents shall be submitted to the Commission:

- a. Request for extension of service signed by the Head of Office, containing the justifications for the request;
- b. Certification that the employee subject of the request is still mentally and physically fit to perform the duties and functions of his/her position;
- c. Certified true copy of the employee's Certificate of Live Birth;
- d. Service Record of the employee if the purpose of the extension is to complete the fifteen (15) year service requirement under the GSIS law; and
- e. Proof of payment of filing fee.

The only basis for Heads of Offices to allow an employee to continue rendering service after his/her 65th birthday is a Resolution of the Commission granting the request for extension. Absent such resolution, the salaries of the said employee shall be for the personal account of the responsible official.

Section 99. Effect of Grant of Extension of Service. – An employee on service extension shall be entitled to salaries, allowances and other remunerations, that are normally considered part and parcel of an employee's compensation package, subject to the existing regulations on the grant thereof.

Rule 21

ACCREDITATION OF SERVICE

Section 100. Request for Accreditation of Service. – Officials and employees who rendered actual services pursuant to defective appointments or without any appointment except those who have already retired, may request the inclusion of said services in their official service record in the Commission.

Section 101. Documents to be Submitted. – In support of said request, the following documents shall be submitted to the CSC Regional Office:

- a. Updated service records prepared by the Personnel Officer/ Administrative Officer of the agency where the subject services sought to be recorded were rendered.
- b. The disapproved appointment subject of the accreditation of service and any of the following:
 1. Index of salary payments;
 2. Payroll;
 3. Vouchers;
 4. Copy of leave card;
 5. Daily Time Records or Bundy Cards;
 6. Copies of Payroll/Voucher on the payment of loyalty bonus/ overtime pay/ salary differentials;
 7. Income tax returns;
 8. Withholding tax receipts;
 9. GSIS insurance policy; or

REQUEST TO DECLARE POSITION AS NON-CAREER/CAREER

10. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG fund, GSIS or other institutions, or remittance records of salary/multipurpose loan deduction, subject to verification with said institution.
- c. In the absence of the appointment subject of the accreditation of service, the following documents should be submitted in support of the request:
1. Updated service record;
 2. Index of salary payments; and any of the following:
 - 2.1. Payroll or voucher;
 - 2.2. Copy of leave card;
 - 2.3. Daily Time Records or Bundy Cards;
 - 2.4. Copies of Payroll/Voucher on the payment of loyalty bonus/overtime pay/ salary differentials;
 - 2.5. Income tax returns;
 - 2.6. Withholding tax receipts;
 - 2.7. GSIS insurance policy; or
 - 2.8. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG fund, GSIS or other institutions, or remittance records of salary/multipurpose loan deduction, subject to verification with said institution.
- d. An Affidavit or Certification alone issued by the Personnel Officer / Administrative Officer and the Head of the Agency that the employee concerned was employed in said agency during the period subject of the accreditation will not be sufficient to prove the rendition of services, but the same may be considered as a supporting document to corroborate any of the requirements submitted by the employee in any request for accreditation of service.

Section 102. Request to Declare Position as Non-Career. – All requests to declare position as non-career shall be made by the head of the agency. No declaration shall be allowed except when the subject position is actually vacant and it is sufficiently shown that the position is primarily confidential in nature despite its initial classification as a career position.

Section 103. Documents to be Submitted. – In requests of this nature, the head of the agency shall submit the following documents:

- a. Letter-request signed by the head of the agency;
- b. Position Description Forms of the position/s subject of the request;
- c. Copy of the Plantilla of Positions of the agency;
- d. Certification of the head of the agency that the position/s subject of the request are actually vacant;
- e. Copy of the agency's organizational chart; and
- f. Proof of payment of filing fee.

Section 104. Guidelines for Conversion of Positions from Non-Career to Career. – Requests for conversion of positions from non-career to career shall be made by the head of the agency. Incumbents of converted non-career to career can be appointed to said positions only if they are qualified and such fact should be specified in the CSC Resolution itself.

The 'vested right' principle should not be applied when positions are converted from non-career to career since it is contrary to the merit and fitness principle.

In request for conversion of positions from non-career to career, all documents enumerated in Section 103 hereof shall be submitted except for the certification that the position/s subject of the request is actually vacant.

REMEDIES IN NON-DISCIPLINARY CASES

Section 105. *Filing of a Motion for Reconsideration.* – Motion for reconsideration may be filed on appeals dismissed by the Commission.

Section 106. *When deemed filed.* – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope 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 107. *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
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 108. *Limitation.* – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of first motion for reconsideration.

Section 109. *Appeal from Invalidation of Appointments and Protest.* – The appeal from invalidation of appointments and protest shall be subject to the rules stated in Rule 16 and Rule 17.

Section 110. *Appeal from Decisions on Other Personnel Actions.* – Other personnel actions, such as, but not limited to, separation from the service due to unsatisfactory conduct or want of capacity during probationary period, dropping from the rolls due to Absence Without Official Leave (AWOL), physical and mental unfitness, and unsatisfactory poor performance, protest, action on appointments, reassignment, transfer, reappointment, detail, secondment, demotion, or termination of services, may be brought to the CSCRO, by way of an appeal.

Section 111. *When and Where to File.* – A decision or ruling of an agency head may be appealed within fifteen (15) days from receipt thereof by the party adversely affected to the CSCRO and finally, to the Commission within the same period.

However, if the decision is made by the Department Secretary, the same shall be appealable to the Commission within fifteen (15) days from receipt thereof.

A motion for reconsideration may be filed with the same office which rendered the decision or ruling within fifteen (15) days from receipt thereof.

Section 112. *When deemed filed.* – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope 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 113. *Appeal Fee.* – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 114. *Perfection of an Appeal.* – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the appointing 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, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the appointing authority;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of ten (10) days from receipt thereof, with a warning that failure to comply shall be

construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refiling.

Section 115. Effect of Decision. – Where the Commission, on appeal, sets aside, modifies or reverses the decision whereby an employee was dropped from the rolls, he/she shall be reinstated immediately to his/her former post with payment of back salaries and other monetary benefits.

In case of illegal termination, the employee shall be reinstated with payment of back salaries. In case of disapproval, invalidation, recall and revocation of appointments, the appointee shall be restored to his/her former position without loss of seniority rights.

In case of reassignment, transfer, detail, or secondment, he/she shall be restored to his/her former position.

In case of demotion in rank, salary or status, he/she shall be restored to his/her former rank, salary, and status.

MISCELLANEOUS PROVISIONS

Rule 24

FEES AND OTHER MATTERS

Section 116. Schedule of Fees. – The following is the schedule of filing fees subject to revision when the need arises:

| | | |
|----|---|-------------------------------|
| a. | Complaint | P500.00 |
| b. | Petition for Contempt | P500.00 |
| c. | Protest (Initial) | P500.00/pleading |
| d. | Appeal (Disciplinary/Non-Disciplinary) | P500.00/pleading |
| e. | Appeal from Disapproved Appointments | P500.00/for each appointee |
| f. | Petition for Review of Administrative Cases | P500.00 |

| | | |
|----|---|--------------------|
| g. | Request for Recommendation For Removal of Administrative Penalties or Disabilities | P500.00/petitioner |
| h. | Correction of Personal Information in CSC Records | P500.00 |
| i. | Request for Extension of Service | P500.00 |
| j. | Conversion of Positions | P300.00/ position |
| k. | Accreditation of Service | P500.00 |
| l. | Clearance for No Pending Administrative Case | P100.00 |
| m. | Certified True Copies of CSC Resolutions/ Authenticated Copies of Documents / Records | P10.00/page |

Section 117. Deputation by CSC of other lawyers. – The Commission may deputize lawyers of other agencies and similar officials to conduct preliminary and formal investigation and to make the necessary report and recommendation within the period specified in Sections 17 and 43.

Section 118. Execution of CSCRO Decisions. – The decisions of the CSCROs shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration or an appeal with the Commission is seasonably filed, in which case the execution of the decision shall be held in abeyance.

Section 119. Execution of the Decisions of the Commission. – The decisions of the Commission shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance.

For this purpose, the CSCROs shall monitor and assist in the effective and immediate implementation of these decisions.

Section 120. 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 Commission unless the Court issues a restraining order or an injunction.

Section 121. Non-execution of Decision. – Any officer or employee who wilfully refuses or fails to implement the final resolution, decision, order or ruling of the Commission to the prejudice of the public service and the affected party, may be cited in indirect contempt of the Commission and may be administratively charged with Conduct Prejudicial to the Best Interest of the Service or Neglect of Duty or be held criminally liable under Section 67 of Book V, of Executive Order No. 292 otherwise known as the Administrative Code of 1987.

Section 122. Computation of Period. – In computing any period of time prescribed by this 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 which is neither a Saturday, a Sunday nor a legal holiday.

Copies of decisions and other communications shall be served on the counsel of record if one is represented by a counsel, if he/she has none, the same shall be served to the party concerned. The period to perfect a motion for reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, as the case may be.

Section 123. Effectivity. – This Rules shall take effect after fifteen (15) days from date of publication in a newspaper of general circulation.

Section 124. Repealing Clause. – The Uniform Rules on Administrative Cases in the Civil Service as prescribed in CSC Resolution No. 99-1936 dated August 31, 1999 and circularized through CSC Memorandum Circular No. 19, s. 1999, and all other memorandum circulars, resolutions, rules or regulations inconsistent with this Rules are hereby repealed or modified accordingly.

Quezon City.

(Sgd.) FRANCISCO T. DUQUE III, MD, MSc
Chairman

(Sgd.) MARY ANN Z. FERNANDEZ-MENDOZA
Commissioner

(Sgd.) RASOL L. MITMUG
Commissioner

Attested by:

(Sgd.) DOLORES B. BONIFACIO
Director IV
Commission Secretariat and Liaison Office

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