



Tanggapan ng Kalihim
Office of the Secretary

OCT 19 2006

DepED ORDER

No. 43, s. 2006

REVISED RULES OF PROCEDURE OF THE DEPARTMENT
OF EDUCATION IN ADMINISTRATIVE CASES

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Regional Directors
Schools Division/City Superintendents
Directors of Services, Centers and Heads of Units
Division Chiefs
All Others Concerned

1. For the information and guidance of all concerned, enclosed is a copy of the Revised Rules of Procedure of the Department of Education (DepED) in Administrative Cases.
2. Immediate dissemination of and compliance of all concerned is directed.

Franklin C. Sunga
FRANKLIN C. SUNGA
Undersecretary

Sheila, MPPD-TS, DO Revised Rules of Procedure
October 16, 2006

Encl.:

As stated

Reference: DepED Order: No. 33, s. 1999

Allotment: 1- -(D.O. 50-97)

To be indicated in the Perpetual Index
under the following subjects:

AUTHORITY
 LEGISLATIONS
 OFFICIALS
 POLICY
 RULES & REGULATIONS



Tanggapan ng Kalihim
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**REVISED RULES OF PROCEDURE OF THE DEPARTMENT OF
EDUCATION IN ADMINISTRATIVE CASES**

Section 1. Disciplining Authority - The disciplining authorities in the Department of Education shall be the Secretary and the Regional Directors in their respective regions. The Superintendents of Schools shall also be the disciplining authorities for administrative actions against non-teaching personnel in their respective school divisions. For disciplinary actions or administrative cases against officers and employees of the Department of Education at its Central Office and against Presidential appointees, namely: Assistant Superintendents, Superintendents, Assistant Regional Directors, Regional Directors, Assistant Secretaries and Undersecretaries of Education, the Secretary shall have original and exclusive jurisdiction. Decisions of the Secretary of Education over administrative cases against said Presidential appointees shall be subject to confirmation, disapproval or modification by the President of the Philippines.

Section 2. Grounds for Disciplinary Action - An administrative complaint may be filed for any of the following grounds for disciplinary action:

- a. Dishonesty
- b. Oppression
- c. Neglect of duty
- d. Misconduct
- e. Disgraceful and immoral conduct
- f. Being notoriously undesirable
- g. Discourtesy in the course of official duties
- h. Inefficiency and Incompetence in the performance of official duties

- i. 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 other persons or committing acts punishable under the anti-graft laws
- j. Conviction of a crime involving moral turpitude
- k. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children
- l. Violation of existing Civil Service Law and Rules or reasonable office regulations
- m. Falsification of official documents
- n. Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours
- o. Habitual drunkenness
- p. Gambling prohibited by law
- q. Refusal to perform official duty or render overtime service
- r. Disqualified, immoral or dishonest conduct prior to entering the service
- s. Physical or mental incapacity or disability due to immoral vicious habits
- t. Borrowing money by superior officers from subordinates or lending by subordinates to superior officers
- u. Lending money at usurious rates of interest
- v. Willful failure to pay just debts or willful failure to pay taxes due the government
- w. Contracting loans of money or other property from persons with whom the office of the employees concerned has business relations
- x. Pursuit of private-business, vocation or profession without the permission required by the Civil Service rules and regulations
- y. Insubordination

- z. Engaging directly or indirectly in partisan political activities by one holding a non political office.
 - aa. conduct prejudicial to the best interest of the service
 - bb. lobbying for personal interest or gain in legislative halls or offices without authority.
 - cc. 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
 - dd. Nepotism as defined in Section 59, Chapter 8, Subtitle A, Title I, Book V of E.O. No. 292
 - ee. Sexual Harrassment as defined and penalized under CSC Resolution No. 01-0940.

A Grievance Committee is not allowed to hear and decide administrative disciplinary cases. If a complainant charges the respondent with the commission of administrative offenses, the same shall be disposed of accordingly by the Disciplining Authority.

Section 3. Procedure in Commencing Administrative Cases - Administrative proceedings may be commenced *motu proprio* by the Secretary of Education, the Regional Director, in case of DepED Officials and teaching and non-teaching personnel, and the Schools Division Superintendents in case of non-teaching personnel within their jurisdiction. Said proceedings may also be commenced upon sworn written complaint of any other persons.

Section 4. Form of Complaint - A complaint shall be under oath and shall be written in a clear, simple, and concise language so as to inform the person complained of, about the nature and cause of accusation against him to enable him to intelligently prepare his defense or answer.

Section 5. Content of Complaint - A complaint shall contain the following:

- a. Full name and address of the complainant
- b. Full name and address of the person complained as well as his position and office in the Department of Education

- c. A narration of the relevant and material facts which should show the acts or omissions as allegedly committed by the person
- d. Certified true copies of documentary evidence and affidavits of his witnesses if any; and
- e. Certification or statement on non-forum shopping

Section 6. When and Where to File a Complaint - Sworn written administrative complaints may be filed at any time with the School Superintendents concerned for cases against non-teaching personnel in their respective divisions or with the Regional Directors concerned for cases against teachers and against their personnel at their respective regional offices or at the Legal Division of the Central Office for cases against Presidential Appointees and employees at the Central Office. The Secretary of Education can take cognizance of any complaint or administrative case filed before any office of the Department of Education.

Section 7. Withdrawal of the Complaint - The withdrawal of the complaint does not result in its outright dismissal nor in the discharge of the person complained of from any administrative liability. Where there is obvious truth or merit to the allegations in the complaint or where there is documentary evidence that would tend to prove the guilt of the person complained of, the same should be given due course.

Section 8. Actions on the Complaint

- a. The disciplining authority concerned shall dismiss outright a complaint if on its face, there is obviously no truth or merit to the allegations therein.
- b. The Disciplining Authority shall also dismiss the complaint if the same is not in accordance with the required form and/or if it does not comply with the required content of a complaint.
- c. If the complaint is sufficient in form and substance, the disciplining authority shall give due course to the complaint by appointing within ten (10) days from receipt of the complaint an investigator(s) who shall conduct fact-finding investigation or preliminary investigation.
- d. No action shall be taken on an anonymous complaint, unless the Disciplining Authority decides to adopt the same and file it *motu proprio*.

Section 9. Fact-Finding Investigation or Preliminary Investigation

- a. Within five (5) days from receipt of the appointment of an officer(s) of the Department of Education as investigator(s) issued by the disciplining authority concerned, the designated investigator(s) shall commence the fact-finding investigation or preliminary investigation by issuing an Order requiring the person complained of to submit within three (3) days from receipt of the said Order, together with a copy of the complaint and the supporting documents thereof, a Counter-Affidavit/Comment under oath and the affidavits of the witnesses of the person complained of with supporting documents, if any. Failure of the person complained of to submit his Counter-Affidavit shall be considered as a waiver thereof.
- b. Upon receipt of the Counter-Affidavit or Comment under oath, the investigator(s) may summon the parties to a conference where the investigator(s) may propound clarificatory questions. The investigator(s) may also interview any possible witnesses.
- c. During any hearing conducted for clarificatory questions, the investigator(s) shall maintain minutes of the proceedings, which shall include the clarificatory questions propounded to the parties and their witnesses, and the answers given thereto. Said minutes which shall be signed by the parties and their counsels, if any, shall form part of the records of the case.
- d. After the termination of the hearing(s) for clarificatory questions, the investigator(s) shall make an ex parte examination of records and documents submitted by the complainant and by the person complained of as well, as the documents readily available from other government offices.
- e. A fact-finding investigation or preliminary investigation shall commence not later than five (5) days from receipt by the investigator(s) of the Order of the disciplining authority appointing him/them as investigator(s) and shall be terminated within thirty (30) days thereafter.
- f. Investigation Report – Within five (5) days from the termination of the preliminary investigation or fact-finding investigation, the investigator(s) shall submit the complete records of the case to the Disciplining Authority together with his/their investigation report which should contain his/their findings and recommendations.

- g. If a prima facie case is established during the investigation, a formal charge shall be issued by the Disciplining Authority. A *prima facie case* shall mean that there is reasonable ground to believe that the respondent is probably guilty of the charge/s against him, and should be investigated accordingly.

Section 10. Formal Charge – The Formal Charge shall contain a specification of charge(s), a brief statement of material or relevant facts accompanied by certified true copies of documentary evidence, if any, sworn statements covering the testimony of witnesses, if any, a directive to answer under oath the charge(s) in writing in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his answer whether or not he elects a formal investigation of the charge (s) and a notice that he is entitled to be assisted by a counsel of his choice.

Section 11. Submission of Additional Evidence - If the respondent had already submitted his Comment under oath or Counter-Affidavit during the Fact Finding Investigation or Preliminary Investigation, he shall be given the opportunity to submit additional evidence.

Section 12. Prohibited Pleadings -The Disciplining Authority shall not entertain dilatory requests for clarification, bills of particulars, or motions to suspend proceedings on account of a pending court case in the absence of a temporary restraining order or injunctive writ. If any of these pleadings are interposed by respondent, the same shall be considered as an answer and shall be evaluated as such.

Section 13. Answer – The Answer, which shall be 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 his defense(s). It shall also include a statement indicating whether or not he elects a formal investigation.

Section 14. Failure to File an Answer – If the respondent fails or refuse to file his Answer to the Formal Charge within five (5) days from receipt thereof, he shall be considered to have waived his right thereto and the Formal Investigation may commence.

Section 15. Preventive Suspension – Upon motion of the complainant or Motu Proprio, the proper Disciplining Authority may issue an Order of Preventive Suspension upon issuance of the Formal Charge immediately thereafter to any

subordinate officer or employee under his authority pending an investigation, if the charges involve:

- a. Dishonesty
- b. Oppression
- c. Grave Misconduct
- d. Neglect in the Performance of Duty; or
- e. If there are reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

Section 16. Reason for Preventive Suspension - An Order of Preventive Suspension may also be issued by the Disciplining Authority to temporarily remove the respondent from the scene of his misfeasance or malfeasance and to preclude the possibility of exerting undue influence or pressure on the witnesses against him or tampering of documentary evidence on file with his Office.

Section 17. Substitute for Preventive Suspension - In lieu of Preventive Suspension, for the same purpose, the proper disciplining authority or head of office, may reassign respondent to other units of the agency during the formal hearings.

Section 18. Duration of Preventive Suspension - When the administrative case against an officer or employee under Preventive Suspension is not finally decided by the disciplining authority within the period of ninety (90) days after the date of the Preventive Suspension, unless otherwise provided by special law, he shall be automatically reinstated in the service, provided that when the delay in the disposition of the case is due to the fault, negligence or petition of respondent, the period of delay should not be included in the counting of the ninety (90) calendar day period of Preventive Suspension. Provided further that should the respondent be on Maternity/Paternity Leave, said Preventive Suspension shall be deferred or interrupted until such time that said leave has been fully enjoyed.

Section 19. Remedies from the Order of Preventive Suspension - The respondent may file a Motion for Reconsideration with the disciplining authority or may elevate the same to the Civil Service Commission by way of an Appeal within fifteen (15) days from receipt thereof.

Section 20. Formal Investigation – Although the respondent does not request a Formal Investigation, one shall nevertheless be conducted when the allegations of the complaint and the Answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation.

Section 21. Creation of the Formal Investigation Committee - Within five (5) days from receipt of respondent's Answer, the Disciplining Authority shall issue an Order creating the Formal Investigating Committee which shall be composed of the following:

- a. When the respondent is a teacher as defined in Section 2 of Republic Act No. 4670, otherwise known as the "Magna Carta for Public School Teachers":
 1. The Schools Division Superintendent or his/her duly authorized representative, who must have at least the rank of a Division Supervisor where the teacher belongs, as Chairman;
 2. A representative of the local, or in its absence, any existing provincial or national teachers organization; and
 3. A Supervisor of the Division, the last two to be designated by the disciplining authority.

- b. When the respondent is an Assistant Schools Superintendent, Schools Superintendent, Assistant Regional Director or Regional Director or Assistant Secretary, or Undersecretary of the Department of Education:
 1. The Secretary, or his/her duly authorized representative who must have a rank equal to or higher than the rank of the respondent, as Chairman;
 2. The duly authorized representative of the Philippine Public School Teacher's Association (PPSTA) as member; and
 3. Any officer of the Department of Education with a rank equal to or higher than the rank of the respondent as member.

- c. When the respondent is an employee at the Central Office of the Department of Education, the Secretary shall have full discretion on the composition of the Formal Investigating Committee.
- d. When the respondent is a non-teaching personnel who is not one of those mentioned above, the disciplining authority concerned shall have full discretion on the composition of the Formal Investigating Committee.

Section 22. Commencement and Duration of the Formal Investigation - The Formal Investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the Order of the disciplining authority constituting the Formal Investigating Committee. Said investigation shall be finished within thirty (30) days from receipt of said Order by the Formal Investigating Committee unless the period is extended by the disciplining authority in meritorious cases.

Section 23. 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. Submission of the case for resolution based on position papers/memoranda of the parties without any need for further hearings
- b. Stipulation of Facts
- c. Simplification of Issues
- d. Waiver of Objections to admissibility of evidence
- e. Limiting the number of witnesses and their name
- f. Dates of subsequent hearings, and
- g. Such other matters as may aid in the prompt and just resolution of the case

Section 24. Appearance of Parties – It shall be the duty of the parties and their counsel/s, if any, to appear at the Pre-Hearing Conference. The non-appearance of a party may be excused only if a valid cause is shown therefore.

Section 25. Effect of Failure to Appear during the Pre-Hearing Conference – Failure of any or both parties to appear at the scheduled Pre-Hearing Conference

is not necessarily a cause for the dismissal of the case. A party who appears may be allowed to present his evidence in the absence of the adverse party who was duly notified of the Pre-Hearing Conference; however, if the absent party is able to show that there is a valid cause for his absence, he shall be afforded the opportunity to adduce his own evidence and submit interrogatories to be answered by the adverse party or his witnesses.

Section 26. Record of the Pre-Hearing Conference – The proceedings in the Pre-Hearing Conference shall be recorded. Upon termination thereof, the Formal Investigating Committee shall issue an Order which shall recite in detail the matters taken up in the conference and the agreements or admissions made by the parties as to any of the matters considered.

Section 27. Non-Litigious in Nature of the Formal Investigation Proceedings – The conduct of the Formal Investigation shall be non-litigious in nature. Subject to the requirements of due process in administrative cases, the technicalities of law, procedure and evidence shall not strictly apply thereto. The Formal Investigating Committee may avail itself of all reasonable means to ascertain speedily the facts of the case. The Committee shall take full control of the proceedings, with proper regard to the right of the parties to due process, and shall limit the presentation of evidence to matters relevant to the issue(s) before the Committee necessary for a just and speedy disposition of the case.

Section 28. Continuous Hearing Until Terminated; Postponement – The Formal Investigating Committee shall set the case for continuous trial on the dates set by the Committee or as agreed upon during the Pre-Hearing Conference. Failure of any or both parties to appear at the scheduled hearing(s) is not necessarily a cause for the dismissal of the complaint. A party who appears may be allowed to present his evidence in the absence of the adverse party who was duly notified of the hearing; however, if the absent party is able to show that there is a valid cause for his absence, he shall be afforded the opportunity to submit written interrogatories to be answered by the witness(es) presented during his absence. In case of two (2) successive, unjustified non-appearances of any party in the proceedings, it shall be the option of the party who is present to submit the case for resolution on the basis of the records of the case and the evidence so far presented.

Section 29. Adequate Time to Prepare Defense – In scheduling the hearings, the Committee shall ensure that respondent be given adequate time for the preparation of his defense.

Section 30. Affidavit of Witnesses – Only affidavits which have been identified by the affiants shall be considered as evidence. The affidavit of any witness shall constitute his direct testimony subject to written interrogatories to be submitted in advance by the proponent and to be answered by the witness before the Committee.

Section 31. Preliminary Matters – At the start of the hearing, the Formal Investigating Committee shall call the case, ask for the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If the respondent appears without the aid of a counsel, he shall be deemed to have waived his right thereto.

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

The Affidavit or Sworn Statement of the witness shall then be properly identified and affirmed. Said Affidavit or Sworn Statement shall serve as the direct testimony of the witness.

Section 32. Appearance of Counsel – Any counsel appearing before any hearing or investigation shall manifest orally or in writing his appearance as prosecutor of the case, counsel for private complainant or counsel for respondent, stating his full name, IBP receipt and exact address where he can be served with notices and other pleadings. Any pleading or appearance of counsel without complying with the above stated requirements shall not be recognized. However, the parties may chose to represent themselves without the assistance of counsel.

Section 33. Order of Hearing – Unless the Committee directs otherwise, the Order of Hearing may be as follows:

- a. Prosecution or Private Complainant may present the witnesses whose affidavits or sworn statements shall serve as their direct testimonies. These witnesses shall identify their affidavits and certify that they were executed truthfully, voluntarily and without any promise of reward or threat of punishment. Purpose of the testimony of the witnesses must be stated.
- b. Written interrogatories in lieu of cross-examination – Upon the termination of the direct examination, the adverse party shall answer the written interrogatories submitted in advance by the adverse party,

which shall take the place of lengthy and time-consuming cross-examination. Failure to answer said interrogatories may be a ground for the Committee to disregard or exclude as evidence the affidavit of the witness subject of the interrogatory.

- c. After the conclusion of the testimony of the witness, prosecution or private complainant has to present its succeeding witnesses applying the same order of examination mentioned above.
- d. After the presentation of all its witnesses, prosecution or private complainant shall then make an oral formal offer of its documentary evidences. The purpose for which the evidences are offered must be specified, and thereafter, the adverse party may comment or object orally or in writing on prosecution's or private complainant's evidences.
- e. After the formal offer of evidence and objections or comment thereto, the Committee shall issue an Order in open court as to whether or not the Committee shall admit or reject the documentary evidences being offered.
- f. The respondent shall then present his evidence in support of his defense(s) following the same order as in the presentation of prosecution's or private complainant's evidence.

Section 34. Objections – All objections raised during the hearing shall be resolved by the Investigating Committee. However, objections that cannot be ruled upon immediately 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 Investigating Committee shall accept all evidence deemed material and relevant to the case. In case of doubt, the Committee shall allow the admission of evidence subject to the objection interposed against its admission.

Section 35. Markings – All documentary evidences or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by prosecution or private complainant and by numbers (1, 2, 3 etc.) if presented by respondent during the preliminary conference or during the hearing(s) conducted by the Formal Investigation Committee.

Section 36. Issuance of Subpoena – The Committee may issue Subpoena Ad Testificandum to compel the attendance of witnesses and Subpoena Duces Tecum for the production of documents or things.

Section 37. Records of Proceedings – Records of the proceedings during the Formal Investigation may be taken in shorthand or stenotype or made through other means of recording.

Section 38. Filing of Motions, Petitions, Appeals and Other Pleadings – Any motion, petition, appeal and other 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 therein by the office concerned.

Section 39. Effect of the Pendency of an Administrative Case – Pendency of an Administrative Case shall not disqualify respondent for promotion or from claiming maternity/paternity benefits.

Section 40. No Publicity During the Pendency of an Administrative Case Against a Teacher – No publicity shall be given to any administrative case against a teacher during the pendency of his case.

Section 41. 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 Formal Investigation Committee with 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, paged and securely bound to prevent loss. A table of contents shall be prepared. Whoever is in-charge of the transmittal of the complete records shall be held responsible for any loss or suppression of pages thereof.

The Formal Investigation Report shall not be given to the parties, and shall serve only as a guide to the Disciplining Authority, who may or may not adopt the same entirely or partially.

Section 42. Period to Render Decision – The disciplining authority shall render his Decision on the case within thirty (30) days from receipt of the Report of Investigation.

Section 43. Decision of the Secretary of Education in Administrative Cases against Presidential Appointees – Decision of the Secretary over administrative cases against Presidential Appointees shall be subject to confirmation, modification, or disapproval by the President. The final Order or Resolution of the President confirming, modifying or disapproving the decision of the Secretary in administrative cases against a Presidential Appointee shall be subject to a Motion for Reconsideration or to an appeal to the Court of Appeals under Rule 43 of the Rules of Court, within the period provided in Section 4 of the Rule 43 of the Rules of Court.

Section 44. Decision of the Secretary of Education in Administrative Cases Against Non-Presidential Appointees – Decision of the Secretary in administrative cases against non-presidential appointees whereby a penalty of suspension for not more than thirty (30) days or a fine not exceeding thirty days salary is imposed, shall be final and executory. 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 to the Civil Service Commission and no such pleading has been filed. Nevertheless, decisions appealed to the courts shall be implemented unless a temporary restraining order or writ of injunction is issued by said courts.

Section 45. Decision of the Secretary of Education in Administrative Cases Against Presidential Appointees – Decision of the Secretary of Education over administrative cases against Presidential Appointees shall be subject to confirmation, modification, or disapproval by the President. The final Order or Resolution of the President confirming, modifying or disapproving the decision of the Secretary in administrative cases against a Presidential Appointee shall be subject to a Motion for Reconsideration or to an appeal to the Court of Appeals under Rule 43 of the Rules of Court, within the period provided in Section 4 of the Rule 43 of the Rules of Court.

Section 46. Decision of the Regional Director Where Penalty is Removal – Decision of the Regional Director which imposes a penalty of removal shall be subject to confirmation, modification or disapproval by the Secretary of Education. Decision as confirmed, modified or disapproved shall be subject to a Motion for Reconsideration of the Secretary of Education or to an Appeal to the Civil Service Commission.

Section 47. Decision of the Regional Director Where Penalty is Suspension or Fine – A decision rendered by the Regional Director 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 and executory. However, if the penalty imposed is suspension exceeding thirty (30) days or fine in an amount exceeding thirty 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. Nevertheless, decisions appealed to the courts shall be implemented unless a temporary restraining order or writ of injunction is issued by said courts.

Section 48. Filing of Motion for Reconsideration – 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.

Section 49. Grounds for Motion for Reconsideration – 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.
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 50. Limitation – Only one Motion for Reconsideration shall be entertained.

Section 51. Effect of Filing – The filing of a Motion for Reconsideration within the reglementary period of fifteen (15) days from receipt of the decision shall not stay the execution of the decision sought to be reconsidered.

Section 52. Filing of Appeals – Decisions of the Regional Directors imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days' salary, may be appealed to the Secretary of Education within a period of fifteen (15) days from receipt thereof. Then, from the Secretary of Education, the same may be finally appealed to the Civil Service Commission. Pending appeal, the same shall be executory, except where the penalty is removal in which case the same shall be executory only after confirmation by the Secretary concerned.

Section 53. Appeal Fee – The appellant shall pay an appeal fee of Three Hundred Pesos (P300.00) and a copy of the receipt thereof shall be attached to the appeal.

Section 54. Perfection of an Appeal – To perfect an appeal, the appellant shall within fifteen (15) days from receipt of the decision submit to the disciplining authority concerned the following:

- a. Notice of appeal which shall specifically state the date of the decision appealed from and the date of receipt thereof;
- b. Three (3) copies of 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;
- c. Proof of service of a copy of the appeal memorandum to the disciplining office;
- d. Proof of payment of the appeal fee; and
- e. A statement or certificate of non-forum shopping.

Failure to comply with any of the above requirements within the reglementary period shall be construed as failure to perfect an appeal and shall cause its dismissal.

Section 55. Effect of Filing – An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal, in the event he wins the appeal.

Section 56. When Case is Remanded for Violation of Respondent's Right to Due Process – If the case on appeal with the Commission Proper is remanded to the proper disciplining authority for further investigation, the said disciplining authority shall finish the investigation within sixty (60) days from the date of receipt of the records from the Commission, unless the investigation is delayed due to the fault, negligence or petition of the respondent, or an extension is granted by the Commission Proper in meritorious cases. The period of delay shall not be included in the computation of the prescribed period.

Within thirty (30) days from the termination of the investigation, the Disciplining Authority shall render its decision. If at the end of said period, the disciplining authority fails to decide the case, the Commission Proper may set aside the appealed decision and declare respondent exonerated of the charge. If the respondent is under preventive suspension, he shall be immediately reinstated.

For this purpose, the Director shall monitor the implementation of the CSC Resolution remanding the case to the proper disciplining authority for further investigation and to submit a report to the Commission Proper.

Section 57. Petition for Review – A complainant may elevate the decision of the Civil Service Regional Office dismissing a complaint for lack of a prima facie case before the Commission Proper through a Petition for Review within fifteen (15) days from the receipt of said decision.

Section 58. 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.

Section 59. Recommendation for an Executive Clemency – 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 may impose in the interest of the service.

For this purpose, a petition for a favorable recommendation for the grant of executive clemency may be filed by a dismissed or disciplined employee with the Commission Proper upon submission of the following:

- a. certified true copy of the decision in the disciplinary case with a favorable recommendation by the disciplining authority;
- b. certification from reputable members of the community where he resides to the effect that he has become a useful member thereof;
- c. proof of non-pendency of an appeal/petition for review relative to his disciplinary case before any court/tribunal; and
- d. proof of payments of Three Hundred (P300.00) Pesos.

Section 60. 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 are grave offenses with their corresponding penalties:

1. Dishonesty : 1st offense – Dismissal
2. Gross Neglect of Duty : 1st offense – Dismissal
3. Grave Misconduct : 1st offense – Dismissal
4. Being Notoriously Undesirable : 1st offense – Dismissal
5. Conviction of a crime involving moral turpitude : 1st offense – Dismissal
6. Falsification of official document : 1st offense – Dismissal
7. Physical or mental incapacity or disability due to immoral or vicious habits : 1st offense – Dismissal
8. Engaging directly or indirectly in partisan political activities by one holding non-political office : 1st offense – Dismissal
9. 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 : 1st offense – Dismissal
10. Contracting loans of money or other property from persons with whom the office of the employee has business relations : 1st offense – Dismissal
11. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his 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 : 1st offense – Dismissal

12. Nepotism : 1st offense – Dismissal
13. Disloyalty to the Republic of the Philippines and to the Filipino people : 1st offense – Dismissal
14. Oppression : 1st offense – Suspension (6 mos. 1 day to 1 year); 2nd offense – Dismissal
15. Disgraceful and immoral conduct : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
16. Inefficiency and incompetence in the performance of official duties : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
17. Frequent unauthorized absences, or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
18. Refusal to perform official duty : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
19. Gross insubordination : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
20. Conduct prejudicial to the best interest of the service : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
21. Directly or indirectly having financial and material interest in any transaction requiring the approval of his office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
22. 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 office, unless expressly-allowed by law : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal

23. Disclosing or misusing confidential or classified information officially known to him by reason of his office and not made available to the public, to further his private interests or give undue advantage to anyone, or to prejudice the public interest :
1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal
24. 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 :
1st offense – Suspension for six (6) months and one (1) day to One (1) year; 2nd offense – Dismissal
25. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his 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 office : 1st offense – Suspension for six (6) months and one (1) day to one (1) year; 2nd offense – Dismissal

B. The following are less grave offenses with the corresponding penalties:

1. Simple Neglect of Duty : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
2. Simple Misconduct : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
3. Gross Discourtesy in the course of official duties : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
4. Violation of existing Civil Service Law and rules of serious nature : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
5. Insubordination : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal

6. Habitual Drunkenness : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
7. Unfair discrimination in rendering public service due to party affiliation or preference : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
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 : 1st offense – Suspension for one (1) month and one (1) day to six (6) months; 2nd offense – Dismissal
9. Failure to resign from his 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 of his 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 of said interest within the periods herein above; provided, reckoned from the date when the conflict of interest had arisen : 1st offense – Suspension for one (1) and (1) day to six (6) months; 2nd offense – Dismissal

C. The following are Light Offenses with Corresponding Penalties:

1. Discourtesy in the course of official duties : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
3. Violation of reasonable office rules and regulations : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal

4. Frequent unauthorized tardiness (Habitual Tardiness) : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
5. Gambling prohibited by law : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
6. Refusal to render overtime service : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
7. Disgraceful, immoral or dishonest conduct prior to entering the service : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
8. Borrowing money by superior officers from subordinates : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
9. Lending money at usurious rates of interest : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
10. Willful failure to pay just debts or willful failure to pay taxes due to the government : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal

The term "just debts" shall apply only to:

1. Claims adjudicated by a court of law, or
 2. Claims the existence and justness of which are admitted by the debtor.
11. Lobbying for personal interest or gain in legislative halls and offices without authority : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
 12. 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 : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal

13. Failure to act promptly on letters and request within fifteen (15) days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
14. 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 : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
15. Failure to attend to anyone who wants to avail himself of the services of the office, or act promptly and expeditiously on public transactions : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
16. Engaging in private practice of his profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his official functions : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal
17. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations : 1st offense – Reprimand; 2nd offense – Suspension for one (1) to thirty (30) days; 3rd offense – Dismissal

Sexual harassment which is also classified into grave, less grave and light offenses, punished under CSC Resolution No. 01-0940, may be prosecuted apart from related offenses punished under the preceding section.

Section 61. Extenuating, Mitigating, Aggravating, or Alternative Circumstances – In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

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

Nevertheless, in the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances shall not be considered in the imposition of the proper penalty. The Commission, however, in the interest of substantial justice may take and consider these circumstances.

Section 62. 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 63. Penalty for the Most Serious Offense – If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

Section 64. Duration and Effect of Administrative Penalties – The following rules shall govern in the imposition of administrative penalties:

- a. The penalty of dismissal shall result in the permanent separation of the respondent from the service, with or without prejudice to criminal or civil liability.
- b. The penalty of transfer shall carry with it the sanction that failure on the part of the respondent to seek transfer to another office within a period of not less than ninety (90) days, he shall be considered resigned. The penalty of transfer may be imposed with a condition that the respondent shall be barred from holding a position involving property or money responsibility.
- c. The penalty of demotion shall include reduction in rank, or salary, or both.
- d. 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 money benefits including leave credits.

- e. 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.
- f. The penalty of reprimand or censure shall not carry with it any accessory penalty nor result in the temporary cessation of work.

Preventive suspension, which is not considered a penalty, shall not be considered as a gap in the continuity of the service if the respondent is later exonerated of the charge/s against him.

Section 65. Administrative Disabilities/Accessories to Administrative Penalties

- a. Cancellation of eligibility
- b. Forfeiture of retirement benefits
- c. Disqualification for reinstatement or reemployment
- d. Disqualification for promotion
- e. Bar from taking any Civil Service examination

Section 66. Administrative Disabilities Inherent in Certain Penalties

- a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.
- b. The penalty of demotion shall carry with it disqualification for promotion for a period of six (6) months from the date respondent reports to the new position or station.
- c. The penalty of demotion shall carry with it disqualification for promotion at the rate of two (2) months for every step or one month for every range of salary by which he was demoted to be computed from the date respondent reports to the new position or station.
- d. The penalty of suspension shall carry with it disqualification for promotion corresponding to the period of suspension.
- e. The penalty of fine shall carry with it disqualification for promotion for a period twice the number of days he was suspended.
- f. The penalty of 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.
- g. The following are the guidelines for the payment of fine:
 - 1. Fine shall be paid within a period not exceeding one year reckoned from the date the decision/resolution becomes final and executory.

2. Fine may be paid in equal monthly instalments 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;
 - f. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.
3. Should the respondent fail to pay in full the fine within the prescribed period, he 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.
 - h. The penalty of reprimand shall not carry with it any of the accessory penalties.
 - i. A warning or admonition shall not be considered a penalty.

Section 67. Effect of Exoneration on Certain Penalties

- a. In case the penalty imposed is a fine, the same shall be refunded.
- b. In case the penalty imposed is demotion, the exonerated employee shall be restored to his former position without loss of seniority rights with payment of salary differentials.
- c. In case the penalty imposed is transfer, he shall immediately be restored to his former post unless he decides otherwise. In case there

is demotion in rank, salary or status, he shall be restored to his former rank, salary or status.

- d. In case the penalty imposed is suspension, he shall immediately be reinstated to his former post without loss of seniority rights with payment of back salaries.
- e. In case the penalty imposed is dismissal, he shall immediately be reinstated without loss of seniority rights with payment of back salaries.

Mandatory leave benefits shall not be charged against the respondent's leave credits.

The respondent who is exonerated by final judgment shall be entitled to the leave credits for the period he had been out of the service.

Section 68. Repealing Clause – All DECS Orders, Memoranda and Circulars inconsistent with these rules are hereby repealed.

Section 69. Effectivity – These rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Section 70. Filing with the UP Law Center – Three certified copies of these rules shall be filed with the University of the Philippines Law Center on the date of publication.

Pasig City, October 10, 2006


JESLI A. LAPUS
Secretary *DECS*