



REPUBLIKA NG PILIPINAS
REPUBLIC OF THE PHILIPPINES
KAGAWARAN NG EDUKASYON, KULTURA AT ISPORTS
DEPARTMENT OF EDUCATION, CULTURE AND SPORTS
DECS Complex, Meinko Avenue
Pasig City, Philippines



Sama-Sama
sa DECS

Tanggapan ng Kailuhim
Office of the Secretary

March 30, 1999

DECS ORDER
No. 33, s. 1999

THE DECS RULES OF PROCEDURE

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services/Centers and Heads of Units
Schools Superintendents

1. Inclosed is a copy of the DECS Rules of Procedures as promulgated pursuant to Section 7, Chapter II, Book IV of the Administrative Code of 1987.
2. The abovementioned Administrative Code empowers the Secretary to:
 - a. promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects; and
 - b. promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for execution of the laws relative thereto.
3. The DECS Rules and Procedure is addressed to the urgent need to rationalize and systematize the conduct of the proceedings to expedite the resolution of complaints and grievances involving officials and employees of the DECS.
4. Immediate dissemination of and strict compliance with this Order is hereby directed.

Andrew Gonzalez
ANDREW GONZALEZ, FSC
Secretary

Incl.: As stated
Reference: None
Attachment: 1--(D.O. 50-97)
To be indicated in the Perpetual Index
under the following subjects:

AUTHORITY

COMMITTEES

RULES & REGULATIONS



Republic of the Philippines
DEPARTMENT OF EDUCATION, CULTURE AND SPORTS
DECS Complex, Meralco Avenue
Pasig City

THE DECS RULES OF PROCEDURE

WHEREAS, Section 7 (3), Chapter II, Book IV of the Administrative Code of 1987 empowers the Secretary to promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects;

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

WHEREAS, there is an urgent need to rationalize and systematize the conduct of the proceedings to expedite the resolution of complaints and grievances involving officials and employees of the Department of Education, Culture and Sports;

NOW, THEREFORE, I, the Secretary of the Department of Education, Culture and Sports, hereby resolve to promulgate and adopt the following Rules of Procedure.

CHAPTER I TITLE AND CONSTRUCTION

Section 1. Title of the Rules. — These Rules shall be known as the DECS Rules of Procedure.

Section 2. Construction. — These rules shall be liberally construed in order to effect an expeditious and just settlement of disputes.

Section 3. Applicability of the Rules of Court. — Administrative investigations shall be conducted without necessarily adhering to the technical rules of procedure applicable to judicial proceedings.

In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court, rules and issuances of the Civil Service Commission and prevailing jurisprudence, in the interest of expeditious and just settlement of disputes whenever practicable and convenient, may be applied by analogy or in a supplementary character and effect.

CHAPTER II GRIEVANCE PROCEDURE

Section 1. Definition of Grievance. — Grievance refers to dissatisfactions that arise in the working conditions, relationships or status among co-workers that is believed to be wrong, unfair, ignored, or dropped without due consideration.

Section 2. Definition of Grievance Procedure. — Grievance Procedure refers to a workable procedure for determining or providing the best way to remedy the specific cause or causes of the Grievance. The Grievance Procedure within the DECS shall be in accordance with this Chapter.

Section 3. When Grievance Procedure is not applicable. — When the dissatisfaction calls for disciplinary action, it shall not be considered as a Grievance. It shall be brought as an administrative disciplinary case in accordance with Chapter III.

Section 4. Proper subjects / objects of grievances. — The following may be the proper subject / object of grievances:

- a) Unsatisfactory working conditions;
- b) Improper, tedious or laborious work assignments;
- c) Faulty tools or equipment;
- d) Unsatisfactory personnel and/or work processes;
- e) Improper placement and selection of personnel;

- f) Improper appreciation of the factors relative to lay-offs, promotions, salary increases and transfers.
- g) Arbitrary exercise of discretion.
- h) Inter-personal relationships.
- i) Policies, practices and procedures which affect employees, and
- jj) Any and all matters giving rise to employee dissatisfaction.

Section 5. Oral discussion. -- A Grievance shall be presented orally in the first instance to the employee's immediate superior who shall, within three (3) days from the date of presentation, inform the employee orally of his or her decision.

In the oral discussion, the following shall be observed:

- a) Both parties shall be put at ease. -- Every effort shall be exerted to make them feel at ease during the oral discussion.
- b) Both parties shall be encouraged to talk. -- The employee shall be allowed to tell or explain his or her side during the oral discussion.
- c) Privacy in discussion. -- Oral discussion shall be held in a quiet and secluded spot where the conversation cannot be interrupted or overheard.
- d) The case shall be heard fully. -- The superior shall seek to keep his or her views and opinions entirely to him/herself until after the employee has explained his or her side.
- e) A definite decision shall be reached. -- At the end of the discussion, the superior must be prepared to state his or her position clearly and accurately based on the merits of the grievance. He or she need not immediately give a definite decision, but the decision shall be rendered within three (3) days from the presentation of the complaint.

Section 6. Grievance in Writing. -- If the employee is not satisfied with the oral decision, he or she may submit his or her grievance in writing to the Grievance Committee having jurisdiction over the grievance. In case the grievant is still not satisfied with the decision, he or she may elevate the case to the Grievance Committee having appellate jurisdiction over the previous one.

Section 7. Jurisdiction of Grievance Committees. --

- a) The School Grievance Committee shall have original jurisdiction over grievances of teachers and non-teaching personnel in the school that were not orally resolved.
- b) The District Grievance Committee shall have original jurisdiction over grievances of employees in the district that were not orally resolved. It shall also have appellate jurisdiction over grievances that were not resolved in the School Grievance Committee.
- c) The Schools Division Grievance Committee shall have original jurisdiction over grievances of employees in the division that were not orally resolved. It shall also have appellate jurisdiction over grievances that were not resolved in the District Grievance Committee.

- d) The Regional Grievance Committee shall have original jurisdiction over grievances of employees in the region that were not orally resolved. It shall also have appellate jurisdiction over grievances that were not resolved in the Schools Division Grievance Committee.
- e) The Division Grievance Committee shall have original jurisdiction over grievances in the Division in the Central Office that were not orally resolved.
- f) The Bureau Grievance Committee shall have original jurisdiction over grievances in the Bureau in the Central Office that were not orally resolved, and
- g) The Agency Grievance Committee shall have original jurisdiction over grievances in the Agency that were not orally resolved.

Section 8. Decision of the Grievance Committee. — The Grievance Committee shall render its Decision within five (5) days from receipt of the grievance in writing. The Decision shall be in writing and shall contain all relevant facts and circumstances as well as the law or rule that was applied, if any.

Section 9. Final appeal to the Secretary. — The decisions of the Regional Grievance Committee, Division / Service Grievance Committee, Bureau Grievance Committee and Agency Grievance Committee shall be appealed to the Office of the Secretary through the Office of the Undersecretary for Legal Affairs. The Undersecretary for Legal Affairs within ten (10) days from receipt of the decision or resolution shall forward his or her findings and recommendations to the Secretary. The Secretary shall render the Decision and the same shall be final and executory.

Section 10. Composition of the Grievance Committee. — The different Grievance Committees shall be composed as follows:

- a) School Grievance Committee—
 - (1) The Principal or Head Teacher;
 - (2) The President of the Faculty Club; and
 - (3) A teacher who is acceptable to both parties to be appointed by the Principal or Head Teacher.
- b) District Grievance Committee—
 - (1) The District Supervisor / Chair / Coordinator or his or her designated representative;
 - (2) The Principal of the school where the grievance originated; and
 - (3) The President of the District Teachers Association or his or her designated representative.
- c) Schools Division Grievance Committee—
 - (1) The Schools Division Superintendent or his or her designated representative;
 - (2) The District Supervisor / Chair / Coordinator of the district where the grievance originated; and

- (3) The President of the Schools Division Teachers Association or his or her designated representative
- d) Regional Grievance Committee:
 - (1) The Regional Director or his or her designated representative;
 - (2) The Schools Division Superintendent of the schools division where the grievance originated; and
 - (3) The President of the Regional Teachers Association or his or her designated representative.
- e) Division / Service Grievance Committee:
 - (1) The Chief of the Division / Service or his or her designated representative;
 - (2) The President of the Employees Union; and
 - (3) A representative from the Human Resources Development Service.
- f) Bureau Grievance Committee:
 - (1) The Director or his or her designated representative;
 - (2) The President of the Employees Union; and
 - (3) A representative from the Human Resources Development Service.
- g) Agency Grievance Committee:
 - (1) The Executive Director or head of the agency or his or her representative;
 - (2) The President of the Employees Union; and
 - (3) An officer or employee in charge with human resources development.

Section 11. Procedure in the Grievance Committee. Each Grievance Committee shall create its own rules of procedure that is deemed most appropriate in the settlement of grievances in its respective level.

CHAPTER III ADMINISTRATIVE DISCIPLINARY CASES

Section 1. Administrative Disciplinary Case, Defined. -- An Administrative Disciplinary Case is one wherein an official or employee of the government is prosecuted for an act or omission punishable as a non-penal offense as provided for in the Civil Service Law, Administrative Code, and other laws pertaining to Public Officers and Civil Service employees. Non-penal offenses are also known as administrative offenses.

Section 2. How commenced. -- An Administrative Disciplinary Case may be commenced either by the Disciplining Authority of the DECS with a *non proprio* complaint or by any other person with an ordinary complaint filed with the Disciplining Authority.

Section 3. Disciplining Authority.—The Disciplining Authority in the DECS shall be the Secretary. Regional Directors shall also act as the Disciplining Authority in their respective regions.

The President is the Disciplining authority for presidential appointees. The Secretary is duly authorized to discipline Presidential appointees subject to the President's confirmation.

Section 4. Form of the Complaint.—An ordinary complaint shall be in writing, under oath and shall be written in a clear, simple and concise language and in a systematic manner as to apprise the civil servant concerned of the nature and cause of the accusation against him or her and to enable him or her to prepare his or her defense and answer.

Section 5. Contents of the Complaint.—An ordinary complaint shall contain the following:

- a) The full name(s) and address(es) of the complainant(s).
- b) The full name(s) and address(es) of the respondent(s), as well as his/her/their position(s) and office of employment.
- c) A narration of the relevant and material facts which shows the acts or omissions allegedly committed by the civil servant.
- d) A statement that no other administrative action or complaint against the same party involving the same acts or omissions and issues has been filed before another agency or administrative tribunal.

Section 6. Failure to comply with requirements.—An ordinary complaint which fails to comply with the requirements as to form and contents shall be dismissed.

Section 7. Attachments of complaint.—The complainant shall also submit certified true copies of documentary evidence and affidavits of his or her witnesses, if any.

Section 8. Withdrawal of the complaint.—The withdrawal of the complaint does not necessarily discharge the respondent from administrative liability. The case may still be given due course when there is an obvious truth or merit to the charges.

Section 9. Anonymous complaint.—No action shall be taken on an anonymous complaint, unless there is obvious truth or merit to the allegations thereof.

Section 10. Effect of criminal or civil cases.—The administrative disciplinary case involving the same parties, the same acts or omissions and the same issues as the criminal or civil case shall proceed independently of the criminal or civil case, if there be any.

Section 11. Effect of filing of a similar administrative disciplinary case in other fora.—The filing at an earlier time of an administrative disciplinary case in the Civil Service Commission, Commission on Elections, or in the Office of the Ombudsman.

involving the same parties, the same acts or omissions, and the same issues shall constitute forum shopping and shall cause the dismissal of the case in the DECS, unless expressly withdrawn at said forum prior to the filing of the same with the DECS.

CHAPTER IV DETERMINATION OF A PRIMA FACIE CASE

Section 1. *Prima facie case, defined.*—A *prima facie* case exists when there is a sufficient ground to engender a well-founded belief that an administrative offense has been committed and that the respondent is probably guilty thereof and should be made subject of a Formal Charge.

Section 2. *How prima facie case is determined.*—A *prima facie* case shall be determined by a fact-finding investigation and/or a preliminary investigation.

Section 3. *When made.*—A Fact-Finding or Preliminary Investigation shall commence within five (5) days from receipt of the complaint by the Disciplining Authority and shall be terminated within thirty (30) days thereafter.

Section 4. *Fact-Finding Investigation.*—Fact-finding investigation shall involve merely the *ex parte* examination of records and documents submitted by the complainant, as well as documents readily available from other government offices.

Section 5. *Preliminary Investigation.*—Preliminary investigation is an inquiry or proceeding whereby the complainant and the respondent are given the opportunity to submit their affidavits and counter-affidavits, as well as those of their witnesses. Failure of the respondent to submit his or her counter-affidavit shall be construed as a waiver thereof.

During the inquiry or proceeding, the parties and their witnesses shall be asked to affirm their signatures on said documents and the truthfulness of the statements contained therein. Under no circumstances shall cross-examination of the witnesses be allowed but the investigating officer may propound clarificatory questions.

Section 6. *Investigating Officers.*—The Disciplining Authority shall designate a competent officer(s) who shall conduct the fact finding or preliminary investigation.

Section 7. *Failure to Affirm Signature and the Contents of the Affidavit.*—Failure of any of the parties or witnesses to affirm the signature on his or her affidavit and the contents thereof during the preliminary investigation shall render such affidavit without evidentiary value.

Section 8. Issuance of Subpoena. -- The investigating officer may issue *subpoena duces tecum* for the production of documents or materials needed in the determination of the existence of a *prima facie* case.

Section 9. Record of the Proceedings. -- During the preliminary investigation, the investigating officer shall record in his or her own handwriting his or her clarificatory questions to the parties and their witnesses and the answers given thereto. Such record and other notes made by the investigating officer shall form part of the records of the case.

Section 10. Investigation Report. -- Within five (5) days from the termination of the fact-finding or preliminary investigation, the investigating officer shall submit his or her Report of Investigation and the complete records of the proceedings to the Disciplining Authority.

Section 11. Resolution after the Investigation. -- If a *prima facie* case exists, after a fact-finding investigation, a Formal Charge shall be made by the Disciplining Authority. Otherwise, either the Disciplining Authority dismisses the complaint or call for a Preliminary Investigation is ordered.

If a *prima facie* case exists after a preliminary investigation, a Formal Charge shall be made by the Disciplining Authority. Otherwise, he or she shall dismiss the case.

Section 12. Remedy of complainant after dismissal of complaint. -- If the complaint is dismissed due to lack of a *prima facie* case, the complainant may file a petition for review with the Secretary within fifteen (15) days from receipt of the order of dismissal. The Resolution of the Secretary on the petition shall be final.

CHAPTER V FORMAL CHARGE

Section 1. When made. -- After the determination of a *prima facie* case, a Formal Charge shall be made by the Disciplining Authority against the Respondent.

Section 2. Form and contents. -- The Formal Charge shall be in writing and shall contain the following:

- a) The name of the complainant(s);
- b) The name of the respondent(s);
- c) The designation of the administrative offense(s) by the statute;
- d) Acts or omissions complained of as constituting the administrative offense(s);
- e) The approximate time of the commission of the administrative offense(s); and
- f) The place wherein the administrative offense(s) was committed;
- g) The time for the respondent to submit his or her answer to the charges which shall not be later than five (5) days from the receipt of the Formal Charge.

- b) A query to the respondent whether he or she prefers to have a Formal Investigation or have the case decided on the records already available if the Answer is not found satisfactory; and
- 1) A statement informing the respondent of his or her right to the assistance of a counsel of his or her choice.

Section 3. Attachments to the Formal Charge. The investigation report, copies of the complaint, sworn statements, and other documents submitted shall be attached to the Formal Charge.

CHAPTER VI ANSWER

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

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

- a) The respondent's answer to the charges;
- b) An indication by the respondent whether or not he or she elects a Formal Investigation of the case if the Answer is found not satisfactory.

Supporting statements and documents may accompany the answer.

Section 3. Prohibited pleadings after the Formal Charge. The Disciplining Authority shall not entertain any request for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceedings. If any of these pleadings is interposed by the respondent, the same shall be considered as an answer and shall be evaluated as such.

Section 4. Evaluation of the answer. If the answer is found satisfactory, the case shall be dismissed. Otherwise, a Formal Investigation shall be held if expressly required by the respondent in his or her answer.

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

Section 5. Failing to file an Answer. If respondent fails or refuses to file his or her answer, he or she shall be considered to have waived his or her right to file an answer to the charges and the case shall be decided based on the records available.

CHAPTER VII FORMAL INVESTIGATION

Section 1. When held — The holding of a Formal Investigation shall be ordered after the respondent has filed his or her answer or after the period for filing an answer has expired.

Section 2. Investigating Committee. — The Formal Investigation shall commence after the Investigating Committee has been duly constituted. The Investigating Committee shall be composed as follows; in accordance with Rep. Act No. 4670, otherwise known as the Magna Carta of Public School Teachers:

- a. When the respondent is an elementary or secondary school teacher, head teacher, principal, district supervisor / chair / coordinator or Education Supervisor I:
 - (1) The schools division superintendent or his or her duly authorized representative, as chairperson;
 - (2) The duly authorized representative of the school, district, or division teacher's organization, as member; and
 - (3) The division supervisor for elementary or secondary education where the respondent belongs, as member.
- b. When the respondent is an Assistant Schools Division Superintendent, Schools Division Superintendent or Education Supervisor II:
 - (1) The Regional Director or his or her duly authorized representative, as chairperson;
 - (2) The duly authorized representative of the division teacher's organization, as member; and
 - (3) The Regional supervisor for elementary or secondary education where the respondent belongs, as member.
- c. When the respondent is the Assistant Regional Director or Regional Director:
 - (1) The Secretary or his or her duly authorized representative, as chairperson;
 - (2) The duly authorized representative of the Philippine Public School Teacher's Association (PPSTA), as member; and
 - (3) Any Regional director or other high ranking DECS Central Office official or consultant, as member.
- d. When the respondent is a DECS employee or official not enumerated above — The Disciplining Authority shall have full discretion as to the composition of the Investigating Committee.

The Investigating Committee shall deliberate collectively and not individually.

Section 3. Appointment of a Special Prosecutor:—In *motu proprio* cases, the Disciplining Authority shall appoint a special prosecutor who shall represent the Department or its Regional Office before the Investigating Committee.

Section 4. Effect of non-compliance of the requirements of Rep. Act No. 4670.—When the Investigating Committee is constituted not in accordance with Rep. Act No. 4670, the proceedings of the Formal Investigation and all proceedings and actions subsequent to it shall be void.

Section 5. Pre-hearing conference.—At the commencement of the Formal Investigation, the Investigating Committee, in the exercise of its discretion, may direct the parties to appear for a pre-hearing conference to consider and agree on any of the following:

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

Section 6. Minutes of Pre-Hearing Conference.—After the pre-hearing conference, the Investigating Committee shall prepare the minutes which shall contain a summary of the agreements of the parties, including the facts stipulated.

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

In case of disobedience, the Investigating Committee may invoke the aid of the Regional Trial Court within whose jurisdiction the contested case being heard falls. The Court may punish the contumacy or refusal as contempt.

Section 8. Continuous hearing until terminated; postponement.—Hearings shall be conducted on the hearing dates set by the Investigating Officer or as agreed upon during the pre-hearing conference. Postponements shall not be allowed except in meritorious cases. *Provided, however*, that a party shall not be granted more than two (2) postponements.

The parties and their counsel and witnesses, if any, shall be given a notice of at least five (5) days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice.

If the respondent fails or refuses to appear during the scheduled hearing, the investigation shall proceed *ex parte* and the respondent is deemed to have waived his

of her right to be present and to submit evidence in his or her favor during those hearings.

Section 9. Preliminary matters.—At the start of the hearing, the Investigating Committee shall note the appearances of the parties and shall proceed with the reception of evidence for the prosecution.

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

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

Section 10. Appearance of Counsel.—Any counsel appearing before any hearing or investigation conducted the Investigating Committee or by any of its office shall manifest orally or in writing his or her appearance for a party, stating his or her name and exact address at which he or she may be served with copies of denials and other communications. Any pleading signed by him or her without complying with the above stated requirements shall not be recognized. Neither shall he or she be allowed to prosecute or defend a case.

Section 11. Order of Hearing.—Unless the Investigating Committee directs otherwise, the order of hearing shall be as follows:

- a) The complainant shall produce his or her evidence subject to the pre-hearing agreement.
- b) The respondent shall then offer evidence in support of his or her defense subject to the pre-hearing agreement.
- c) Cross-examination by either party, when proper and allowed by the Investigating Committee.
- d) Following cross-examination, there may be redirect and re-cross examination.
- e) When the presentation of evidence has been concluded, the parties may be given time to submit their respective memoranda which in no case shall be beyond five (5) days after the termination of the investigation.

Section 12. Rules of evidence.—During the Formal Investigation:

- a) The Investigating Committee may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs.
- b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted.
- c) The Investigating Committee may take notice of judicially cognizable facts and of generally cognizable technical or scientific facts within its specialized knowledge.

The parties shall be notified and afforded an opportunity to contest the facts so noticed.

- d) A fact may be established, including the guilt of the respondent when proven by substantial evidence. Substantial evidence means that amount of evidence that a reasonable mind might accept as adequate to justify a conclusion.

Section 13. Objections --- All objections raised during the hearing shall be resolved by the Investigating Committee.

The Investigating Committee shall accept all evidence direct material and relevant to the case. In case of doubt, it should allow the admission of evidence subject to the objection interposed against its admission.

Section 14. Markings --- All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and by numbers (1, 2, 3, etc.) if presented by the respondent. These shall form part of the complete records of the case and shall be systematically and chronologically bound.

Section 15. Testimonies and Records of Proceedings --- The sworn affidavits or statements of the parties or their witnesses shall constitute their direct testimonies. Other evidences submitted shall form part of their direct evidence.

Section 16. Submission of Memoranda --- Parties may submit their respective memoranda within five (5) days from termination of the hearing. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 17. Report of Investigation --- Within fifteen (15) days after the conclusion of the Formal Investigation a report containing a narration of the material facts established during the investigation as well as the recommendation, shall be submitted to the Disciplining Authority by the Investigating Committee. The complete records of the case shall also be attached to the Report of Investigation.

CHAPTER VIII. PREVENTIVE SUSPENSION

Section 1. When applicable --- The Disciplining Authority may preventively suspend the respondent pending Formal Investigation if the officer or employee is charged with:

- 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 or her removal from the service.

Section 2. When issued. When effective. --The Order of Preventive Suspension shall be issued by the Disciplining Authority not earlier than the issuance of the Formal Charge. The Order shall take effect upon receipt of the respondent thereof.

Section 3. Ninety-day period. --When the Administrative Disciplinary Case against the respondent under preventive suspension is not finally decided by the Disciplinary Authority within the period of ninety (90) calendar days after the date of the effectivity of his or her preventive suspension, he or she shall be automatically reinstated in the service. *Provided, however,* that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay should not be included in the counting of the ninety (90) calendar-day period of preventive suspension.

Section 4. Simultaneous service. --When the respondent is subject of more than one Administrative Disciplinary Cases wherein more than one Order of Preventive Suspension has been issued, he or she shall simultaneously serve them if the cases arose from a single act or transaction or series of transactions.

Section 5. Nature. --Preventive suspension is not a punishment or penalty for misconduct in office but is considered to be a preventive measure.

The period within which a public officer or employee charged is placed under preventive suspension shall not be considered part of the actual penalty of suspension imposed upon the respondent found guilty.

Section 6. Purpose. --The purpose of preventive suspension is to prevent the respondent from using his or her position and the powers and prerogative of his or her office to influence potential witnesses or tamper with records which may be vital in the prosecution of the case against him or her.

CHAPTER IX. DECISION.

Section 1. Decision, defined. --The term Decision means the adjudication by the Disciplining Authority that the respondent is guilty or not guilty of the Administrative Offense charged, and the imposition of the penalty provided for by law on him or her.

Section 2. Form and contents. --The Decision shall be in writing, personally and directly prepared by the Disciplining Authority and signed by him or her, and shall contain clearly and distinctly a statement of the facts proved or admitted by the respondent and the legal bases upon which the Decision is based.

Section 3. When rendered. --The Disciplining Authority shall render the Decision within thirty (30) days from the submission of the report of the Formal Investigation.

The parties shall be notified of the Decision personally or by registered mail addressed to their counsel of record, if any, or to them.

Section 4. Finality of decision. -- The Decision shall become final and executory fifteen (15) days after the receipt of the copy thereof by the respondent unless within that period a Motion for Reconsideration or an Administrative Appeal has been perfected.

Section 5. When Decision of Regional Director is final. -- The Decision of the Regional Director shall be final when the penalty imposed is any of the following:

- a) reprimand;
- b) suspension without pay for not more than five (5) days; or
- c) fine equivalent to not more than five (5) days' salary.

When the penalty imposed is suspension for a period of more than five (5) days but not more than six months or fine equivalent to the salary for a period of more than five (5) days, the Decision shall be appealable to the Secretary.

Section 6. When the Decision of the Regional Director is subject to confirmation by the Secretary. -- The Decision of the Regional Director shall not be final unless confirmed by the Secretary when the penalty imposed is any of the following:

- a) suspension without pay for more than six (6) months;
- b) demotion;
- c) forced resignation; or
- d) dismissal.

Section 7. When the Decision of the Secretary shall be final. -- The Decision of the Secretary shall be final and unappealable when the penalty imposed is any of the following:

- a) suspension for not more than thirty (30) days; or
- b) fine at an amount not exceeding the salary of thirty (30) days.

CHAPTER X MOTION FOR RECONSIDERATION

Section 1. When made. -- The respondent may move for the reconsideration of the Decision of the Disciplinary Authority during the reglementary period for filing an Administrative Appeal.

Section 2. Effect of filing. -- The filing of a motion for reconsideration shall suspend the reglementary period for filing an administrative appeal. In case the said motion is denied, the respondent shall have the remainder of the period for Administrative Appeal, reckoned from the receipt of the Resolution of denial.

Section 3. Grounds for Motion for Reconsideration. — The motion for reconsideration shall be based only 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 evidence on record; or
- c) Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Only one motion for reconsideration shall be entertained.

CHAPTER XI ADMINISTRATIVE APPEAL

Section 1. Who may appeal. — Only the respondent has the personality to appeal a Decision. An appeal made by any other person shall be dismissed.

Section 2. Where to appeal. — Decisions rendered by the Regional Director shall be appealed to the Secretary. Decisions rendered by the Secretary shall be appealed to the Civil Service Commission.

Section 3. How appeal is perfected. — To perfect an appeal, the appellant shall submit the following:

- a) Notice of appeal which shall specifically state the date of the Decision appealed from and the date of receipt thereof;
- b) Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the Decision, Resolution or Order appealed from, to be submitted within ten (10) days from the date of filing of the notice of appeal; and
- c) Proof of payment of appeal fee in the amount of one hundred pesos (P100.00).

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

Section 4. Service of copies of the Appeal and Other Pleadings to the Appellee. — The appellant shall serve to the appellee copies of his or her notice of appeal and appeal memorandum, as well as such other motions or pleadings, and he or she shall submit to the appellate agency proof of service thereof. The appellee shall submit to the appellant, within ten (10) days from receipt thereof, his or her comments or objections to the appeal or pleadings of the appellant, within ten (10) days from receipt thereof. Failure of the appellee to submit his or her comments or objections shall be construed as a waiver thereof.

Section 5. Effect of filing an appeal. — The appeal shall stay the Decision appealed from unless otherwise provided by law. The appellate agency may direct execution pending appeal, as it may deem just, considering the nature and circumstances of the case.

Section 6. Action on the appeal. — The appellate agency shall review the records of the proceedings and may, on its own initiative or upon motion, receive additional evidence.

Section 7. Finality of Decision of Appellate Agency. — The Decision of the appellate agency shall become final and executory fifteen (15) days after the receipt by the parties of a copy thereof unless a motion for reconsideration was timely filed.

Section 8. Motion for Reconsideration. — The respondent may move for a reconsideration of the Resolution of the appellate agency in accordance with Chapter X.

CHAPTER XII JUDICIAL REVIEW

Section 1. Petition for Review with the Court of Appeals. — A final judgment or order by the Civil Service Commission may be appealed to the Court of Appeals by a verified petition for review fifteen (15) days from notice of the said final order or judgment. The proceedings shall be governed by the Rules of Court.

The Decision of the Civil Service Commission shall continue to be executory unless a temporary restraining order or a writ of injunction is issued by the Court of Appeals.

Section 2. Petition for Certiorari with the Supreme Court. — A final judgment or order by the Court of Appeals may be elevated to the Supreme Court through a petition for certiorari in accordance with the Rules of Court.

CHAPTER XIII EXECUTIVE CLEMENCY

Section 1. When granted. — In meritorious cases and upon recommendation of the Secretary, the President may commute or remove administrative penalties and disabilities.

CHAPTER XIV MISCELLANEOUS PROVISIONS

Section 1. Filing of Pleadings, Motions for Reconsiderations, Appeals and Other Documents. — Any pleading, motion, appeal and other similar documents when sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the record of the case and in case of personal delivery, the date stamped by the receiving office.

Section 2. *Computation of Period.*—In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, a Sunday or a legal holiday.

CHAPTER XV FINAL PROVISIONS

Section 1. *Repealing clause.*—All DECS Orders, Memorandum Orders and Circulars inconsistent with these rules are hereby repealed.

Section 2. *Effectivity.*—These rules shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Section 3. *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, March 25, 1996

Andrew Gonzalez
ANDREW GONZALEZ, ESC
Secretary