

**[ ADMINISTRATIVE ORDER NO. 23, December 17, 1992 ]**

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

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

**Rule 1  
PRELIMINARY PROVISIONS**

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

**SEC. 2. Disciplinary Authority.** All Administrative complaints, duly verified, against elective local officials mentioned in the preceding Section shall be acted upon by the President. The President, who may act through the Executive Secretary, shall hereinafter be referred to as the Disciplining Authority.

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

**Rule 2  
GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION**

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

- a) Disloyalty to the Republic of the Philippines;
- b) Culpable violation of the Constitution;

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

### **Rule 3 COMPLAINT**

**SECTION 1. How initiated.** An administrative case may be initiated by any private individual or any government officer or employee by filing a sworn written complaint against any elective local official enumerated under Sec. 1, Rule I hereof. It may also be initiated *motu proprio* by the Office of the President or any government agency duly authorized by law to ensure that local government units (LGUs) act within their prescribed powers and functions.

**SEC. 2. Form of Complaint.** The complaint, accompanied by affidavits of witness or evidences in support of the charge, shall be addressed to the President. It shall be drawn in clear, simple, and concise language and in methodical manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense. The party filing the complaint shall be called the complainant, while the official against whom the complaint is filed shall be called the respondent.

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

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

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

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

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

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

#### **Rule 4 ANSWER**

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

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

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

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

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

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

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

#### **Rule 5 PRELIMINARY INVESTIGATION**

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

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

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

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

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

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

The Investigating Authority shall encourage the parties and their counsels to enter, at any stage of the proceedings, into amicable settlement, compromise and arbitration, the terms and conditions of which shall be subject to the approval of the Disciplining Authority.

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

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

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

## **Rule 6**

### **PREVENTIVE SUSPENSION**

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

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

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

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

**SEC. 3. Grounds.** Preventive suspension may be imposed at any time after the issues are joined, that is, after respondent has answered the complaint, when the evidence of guilt is strong and, given the gravity of the offense, there is a great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

**SEC. 4. Duration.** Any single preventive suspension of local elective officials shall not extend beyond sixty (60) days; provided that, in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

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

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

## **Rule 7**

### **FORMAL INVESTIGATION**

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