

[PEFLGC MEMORANDUM, December 14, 1992]

RULES AND PROCEDURES ON ADMINISTRATIVE DISCIPLINARY CASES

Executive Order No. 26 dated October 7, 1992 of the President Fidel V. Ramos requires the adoption by all government agencies of certain procedures and sanctions enumerated therein not later than forty-five (45) days from the effectivity of said Executive Order E.O. 26 took effect on October 29, 1992 so the deadline for compliance therewith is on December 13, 1992. Nevertheless, adoption of said procedures and sanctions on December 17, 1992 may be considered sufficient compliance with E.O. 26.

Philguarantee has not formally formulated or adopted its Rules and Procedures on Administrative Disciplinary Cases. Thus, there is urgent need for adoption of said Rules based on the Civil Service Law and Rules, Administrative Code of 1987, other related laws and Executive Orders.

The Legal Department is proposing the formulation and/or adoption of the attached Rules and Procedures on Administrative Disciplinary Cases incorporating therein the additional procedures (period for deciding cases or incidents) and sanctions.

Adopted: 14 Dec. 1992

(SGD.) VICTOR C. MACALINCAG

Rules and Procedures on Administrative Disciplinary Cases

Rule I

SECTION 1.2 Disciplining Authority - Pursuant to Section 11 (d) of the Philguarantee Charter, the BOARD OF DIRECTORS has jurisdiction and power to investigate and decide matters involving administrative disciplinary cases against officers and employees of the Corporation. The Board hereby delegates to the President some of its power over such matters as hereinafter provided.

SECTION 1.2. Investigating Authority - The Board delegates to the Legal Department its power to conduct investigations on the aforesaid matters involving employees and officers up to the rank of Department Manager. Officers above the rank of Manager shall be investigated by the Board of Directors.

SECTION 1.3. Hearing Officer - Any lawyer of the Legal Department or qualified officer of the Corporation may be authorized and assigned by the President of the Corporation to conduct such investigation and hearing on administrative disciplinary pursuant to Civil Service Law and Rules. The rank/position of the Hearing Officer shall in all cases be equal or higher than that of the respondent.

Rule II

SECTION 2.1 Grounds for Disciplinary Cases - The grounds for disciplinary cases are those grounds enumerated in the Civil Service Law (Administrative Code of 1987, E.O. 292, Book V, Chapter 6, Section 46) and in the Code of Conduct and Ethical Standards for Public Officials and Employees, Republic Act No. 6713.

The ground/s must have been committed while still in the service.

The penalties/disciplinary measures to be imposed shall be in accordance with the Civil Service Law, the Code of Conduct and other laws.

Rule III Rights of the Respondent

SECTION 3.1 The respondent's rights under the constitution and laws shall be respected. Furthermore, 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 witness and the production of documents through the compulsory process of *subpoena* or *subpoena duces tecum*.

Rule IV Filing of Administrative Charges

SECTION 4.1 Commencement of Administrative Proceedings - An administrative Proceeding may be commenced against any officer or employee by the Corporation on its own initiative or upon the sworn written complaint of any other person.

SECTION 4.2. a) Administrative Proceedings Initiated by the Corporation - Administrative proceedings initiated by the Corporation against any officer or employee shall be referred to the Legal Department or to the Board of Directors, depending on the rank of the respondent for investigation and evaluation. If from the reports submitted or from the fact-finding investigation conducted, there exists a *prima facie* case to warrant the filing of charges, a formal specification of charges shall be prepared under the signature of the President in cases where the respondent is with the rank of Manager and below, and under the signature of the Chairman of the Board in cases where the respondent is with the rank of Senior Vice-President and above.

(b) Complaints Filed by Other Persons - Complainants filing sworn written complaints against any officer or employee shall be required to submit his sworn statement and that of his witnesses together with their documentary evidence. The Legal Department/Board of Directors shall serve copies of the complaint, sworn statement/s and documentary evidence, if any, to the respondent and shall require the respondent to answer the same in writing within five (5) days from receipt thereof. Upon receipt of respondent's written answer, the Legal Department/Board of Directors shall evaluate the complaint and supporting papers, together with the written answer and supporting documents, if any, of the respondent. Where there is obvious truth and merit in the sworn complaint and supporting papers, the Corporation shall file administrative charges under the signature of the same authorized signatories prescribed under paragraph 4.2 (a) above. If the complaint and supporting papers are without merit, the same shall be dismissed subject to the approval of the President upon recommendation of the Chief Legal Counsel in cases where the respondent is with the rank of Manager and below, and subject to the

approval of the Board of Directors in cases where respondent is with the rank of SVP and above.

Rule V Notice and Answer

SECTION 5.1. Charges Filed by the Corporation - The Legal Department/Board of Directors shall serve copies of the charges in the form hereto attached as Annex "A"*, sworn statements and documentary evidence, if any, to the respondent by personal delivery or registered mail and shall require the respondent to answer the same in writing, under oath, within five (5) days from receipt thereof. The order to answer shall also state that the respondent has a right to avail of the services of the counsel in the preparation of his answer or defense and that he shall be entitled to a formal investigation, if he so elects.

SECTION 5.2 Complaint Filed by other Persons - In case there is doubt as to the truth of merit of the complaint against the respondent, the Legal Department/Board of Directors shall give written notice to the respondent in the form hereto attached as Annex "B"* to which shall be attached copies of complaint, sworn statements and other documents submitted by the complainant.

SECTION 5.3. Sworn Answer - The respondent shall be required to file his sworn written answer together with his affidavits and other documentary evidence within five (5) days from receipt of notice of charge/s

Rule 6 When Hearing Necessary

SECTION 6.1 When Hearing is Necessary - A hearing shall be conducted in the following cases:

- a. when the respondent requests in writing for a hearing;
- b. although the respondent does not request for a hearing;
- (i) in case of complaints filed by other parties, when from the allegations of the complaint and respondent's answer, including supporting documents, the merits of the case cannot be decided judiciously without conducting such hearing;
- (ii) in case of charges filed by the Corporation, when respondent's answer creates serious doubts.

SECTION 6.2. Notice of Hearing - The Haring Officer shall notify the respondent and the complainant, if any, and their respective witnesses/es and counsel, of the date, time and place of hearing which shall be conducted within five (5) days from receipt of respondent's answer.

SECTION 6.3 Procedure for Charges Filed by the Corporation - The Haring Officer shall state the Corporation's evidence against the respondent. In case the evidence for the Corporation includes affidavits, cross-examination of the affiants by the respondent shall be allowed.

The respondent shall then present his evidence supporting his defense. In case the evidence for the respondent includes affidavits, the Hearing Officer may call upon the affiants to answer such question as he may propound.

SECTION 6.4. Hearing Procedure for Complaints Filed by the Corporation/Other Persons - The hearing shall be conducted only for the purposes of ascertaining the truth and without necessarily adhering to technical rules applicable in judicial proceedings.

The direct evidence for the Corporation or complainant and the respondent shall consist of the sworn statements and documents submitted in support of the complaint or answer, as the case may be, without prejudice to the presentation of additional evidence deemed necessary but was unavailable at the time of the filing of the complaint or answer, upon which the cross-examination, by the respondent and the complainant, respectively, shall be based. Following cross-examination, there may be redirect and re-cross examinations after which the case shall be deemed submitted for decision.

SECTION 6.5. Postponement; Failure to Attend Hearing - When the respondent or counsel fails to attend without justifiable reasons (like illness of parties or counsel) a scheduled hearing despite due notice, the hearing may proceed without his presence at the discretion of the Hearing Officer.

Postponement of hearing shall be discouraged but may, however in meritorious cases, be granted for a period not longer than three (3) days and not exceeding five (5) postponement for one (1) party.

SECTION 6.6. Termination of Hearing - The formal hearing shall be finished within thirty (30) days from the filing of the charges, unless the period is extended by the Hearing Officer in meritorious cases. The parties must be notified of the Termination of Hearing.

SECTION 6.7 Record of Proceedings - The proceedings may be taken in shorthand, directly typewritten or recorded on voice tape. A transcript of the proceedings made by the official stenographer or typist and duly certified by him shall be *prima facie* a correct statement of such proceedings.

SECTION 6.8. Compromise and Arbitration - To expedite administrative proceedings and obviate expensive litigations, the Corporation encourages the parties and their counsels to enter into amicable settlement, compromise and arbitration in accordance with Section 10, Chapter 3, Book VII of the Administrative Code of 1987.

SECTION 6.9. Preliminary Conference - The Hearing Officer may summon the parties and their counsel to a Preliminary Conference to consider the following matters:

- a. whether the parties desire a formal investigation or are willing to submit the case for resolution on the bases of the evidence on record;
- b. should the parties desire a formal investigation, to consider:
 1. The possibility of an amicable settlement or of a submission to arbitration;
 2. The simplification of the issues;