

[DFA DEPARTMENT ORDER NO. 14-10, October 08, 2010]

**REVISED RULES AND PROCEDURE ON ADMINISTRATIVE CASES
OF THE BOARD OF FOREIGN SERVICE ADMINISTRATION**

WHEREAS, Section 50 of the Philippine Foreign Service Act of 1991 (Republic Act No. 7157) created the Board of Foreign Service Administration;

WHEREAS, Section 87 of the Philippine Foreign Service Act empowers the Secretary of Foreign Affairs to issue such rules and regulations as may be necessary to implement its provisions as well as the provisions of acts, decrees, and orders which are not inconsistent with it;

WHEREAS, by virtue of the Philippine Foreign Service Act, the Secretary of Foreign Affairs signed Department Order No. 10-04 on 06 April 2004 also known as the Rules and Procedure of the Board of Foreign Service Administration which governs the procedures in administrative investigations filed before the Board;

WHEREAS, the technical rules in administrative investigation embodied in Rule III (Disciplinary Cases) and Rule IV (Remedies) of the said Department Order, need to be updated and revised to be more responsive to the demands for speedy and orderly disposition of cases;

NOW, THEREFORE, the following shall be the rules and procedure to be followed in the handling of administrative complaints filed in the Department.

RULE I. PRINCIPLES

Section 1. Due Process. – No officer or employee of the Department shall be subjected to disciplinary action or otherwise removed or separated from the Service except for cause as provided by law and in accordance with the requirement of due process.

Due process means a reasonable opportunity for the respondent to be heard and to submit evidence in support of his/her arguments before a decision is rendered on the case.

Section 2. Rules of Procedure and Evidence. – Administrative investigations shall be conducted without strictly adhering to rules of procedure and evidence, including the Rules of Court.

In administrative cases, substantial evidence is the quantum of proof required.

Section 3. Alternative Dispute Resolution. – In the investigation of administrative cases against officers and employees of the Department, the rules embodied in this Department Order will govern without prejudice to any arrangement that the parties

may agree upon for the expeditious resolution of the case. Resort to alternative dispute resolution of the case, if appropriate, should be encouraged.

Section 4. Suspension. – Subject to Sections 24 to 26, no officer or employee of the Department facing administrative charges shall be effectively suspended or otherwise prevented from exercising his normal duties and functions unless so ordered by the appropriate disciplinary authority on grounds provided for by law or regulations.

In the interest of harnessing all the human resources in the Department, no officer or employee shall be “frozen” or “floated” or otherwise deprived of assignment, duties, or functions appropriate to his/her rank and position, except for justifiable reasons.

RULE II. JURISDICTION

Section 5. Personal Jurisdiction. – This Department Order shall apply to all officers and employees of the Department in the Home Office, the Regional Consular Offices (RCOs), and Foreign Service Posts (FSPs), whether in the career or non-career service, and holding any level of position, or possessing permanent, temporary, casual, or contractual status, including consultants and detailed or seconded personnel, under the disciplinary jurisdiction of the President of the Philippines or the Secretary of Foreign Affairs.

The Rules embodied in this Department Order shall have supplementary application to the personnel of attached agencies of the Department in the Home Office and personnel of attached services in the Foreign Service Posts.

However, with respect to locally-hired or alien employees in the Foreign Service, the head of post concerned, upon prior clearance from the Department, may separate them from the service at any time for any cause that may be deemed sufficient for the purpose, in accordance with this Department Order and the employment contract.

Honorary Consuls may be separated from the service by the Secretary at any time.

Disciplinary action may be taken against an officer or an employee by the appropriate disciplinary authority, namely:

1. The President, for all presidential appointees, upon recommendation of the Secretary;
2. The Secretary, for all those appointed by him/her or by his/her predecessors;
3. The Chair of the Board of Foreign Service Administration;
4. The Assistant Secretary of the Office of Personnel and Administrative Services (OPAS) for minor infractions;
5. The Head of Posts

Chiefs of mission who are appointed by the President as Ambassadors Extraordinary and Plenipotentiary shall not be investigated by the Board or separated from the service unless there is a written directive or approval from the President.

Section 6. Subject Matter Jurisdiction. – This Department Order shall apply to the administrative offenses outlined in Section 9.

Where the same set of facts alleged constitutes, arises from, or is connected with a felony or a crime *malum prohibitum*, the administrative investigation shall proceed independently from the criminal case, unless otherwise directed by the competent judicial or quasi-judicial authority.

The following is a non-exhaustive list of felonies and crimes mala prohibita which may provide separate cause of action for administrative investigation:

- a. Applicable felonies outlined in Book II, Title VII, of Act No. 3815, otherwise known as the Revised Penal Code of the Philippines, as amended;
- b. The Anti-Graft and Corrupt Practices Act (Republic Act No. 3019, as amended);
- c. The Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713, as amended);
- d. The Forfeiture of Unexplained Wealth Act (Republic Act No. 1379, as amended);
- e. The Philippine Passport Act (Republic Act No. 8239);
- f. The Civil Service Decree (Presidential Decree No. 807, as amended);
- g. The Government Auditing Code (Presidential Decree No. 1445, as amended); and
- h. The Omnibus Election Code (Batas Pambansa Blg. 881, as amended).

RULE III. OFFENSES AND PENALTIES

Section 7. Classification of Penalties and their Resulting Disabilities. – The following are the penalties that may be imposed for administrative offenses:

- 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. It carries with it the cancellation of eligibility for retirement benefits and, unless otherwise provided in the decision, the perpetual disqualification for reemployment in the government service.
- b. 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. Suspension carries with it disqualification from promotion corresponding to the period of suspension.
- c. The penalty of **reprimand** shall not carry with it any accessory penalty nor result in the temporary cessation of work.

A warning or admonition shall not be considered a penalty.

For any penalty, bar from taking any Civil Service examination may also be considered an accessory penalty.

Section 8. Effect of Exoneration on Certain Penalties. – In case the penalty imposed is dismissal or suspension, exoneration by final judgment shall lead to immediate reinstatement to the previous item or former post, without loss of seniority rights and with payment of back salaries.

The respondent who is exonerated shall be entitled to the leave credits corresponding to the period he/she had been out of the service. Mandatory leave benefits shall not be charged against the respondent's leave credits.

Section 9. 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 corresponding penalties:

1. Disloyalty to the Republic of the Philippines and to the Filipino people:
1st offense – Dismissal
2. Grave misconduct: 1st offense – Dismissal
3. Gross neglect of duty: 1st offense – Dismissal
4. Dishonesty: 1st offense – Dismissal
5. Being notoriously undesirable: 1st offense – Dismissal
6. Falsification of official document: 1st offense – Dismissal
7. Conviction of a crime involving moral turpitude: 1st offense – Dismissal
8. Engaging directly or indirectly in partisan political activities: 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. Soliciting or accepting directly or indirectly any gift, gratuity, favor, entertainment, loan, or anything of monetary value in the course of official duties: 1st offense – Dismissal
11. Contracting loans of money or other property from persons with whom the office of the employee has business relations: 1st offense – Dismissal
12. Physical or mental incapacity or disability due to moral or vicious habits: 1st offense – Dismissal
13. Nepotism: 1st offense – Dismissal
14. Oppression: 1st offense – Suspension (6 months, 1 day to 1 year);
2nd offense – Dismissal
15. Gross violation of Civil Service laws, the Foreign Service Act, and reasonable Department rules and regulations: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
16. Refusal to perform official duty: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
17. Refusal of Assignment or Recall Order: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
18. Gross insubordination: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
19. Inefficiency and incompetence in the performance of official duties: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
20. Frequent unauthorized absences, tardiness in reporting for duty, or loafing during regular office hours: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal
21. Directly or indirectly having financial and material interest in any transaction requiring the approval of the office. Financial and material interest is defined as pecuniary or propriety interest by which a person

will gain or lose something: 1st offense – Suspension (6 months, 1 day to 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 the office, unless expressly allowed by law: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal

23. Disclosing or misusing confidential or classified information officially known by reason of the office and not made available to the public, to further private interests or give undue advantage to anyone to prejudice the public interest: 1st offense – Suspension (6 months, 1 day to 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 (6 months, 1 day to 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 the office, unless such recommendation or referral is mandated by (a) law, (b) international agreement, commitment or obligation, or (c) as part of the function of the office: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal

26. "Unsatisfactory" rating for three (3) consecutive years: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal

27. Disgraceful and immoral conduct: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal

28. Conduct prejudicial to the best interest of the Service: 1st offense – Suspension (6 months, 1 day to 1 year); 2nd offense – Dismissal

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

1. Simple misconduct: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

2. Simple neglect of duty: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

3. Gross discourtesy in the course of official duties: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

4. Violation of Civil Service laws, the Foreign Service Act, and reasonable Department rules and regulations: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

5. Insubordination: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

6. Habitual drunkenness: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

7. Unfair discrimination in rendering public service due to party affiliation or preference: 1st offense – Suspension (1 month, 1 day to 6 months); 2nd offense – Dismissal

8. Failure to file sworn statements of assets, liabilities and net worth, and to disclose business interests and financial connections including those of their spouses and unmarried children under eighteen (18) years of age