

[**DEPED ORDER NO. 49, s. 2006, December 12, 2006**]

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

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 dated December 4, 2006.
2. This supercedes the Revised Rules of Procedure disseminated under DepED Order No. 43, s. 2006, dated October 19, 2006.
3. Immediate dissemination of and compliance of all concerned is directed.

Adopted: 12 Dec. 2006

(SGD.) FRANKLIN C. SUNGA
Undersecretary

Attachment

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.

SEC. 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. Violations 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. Disgraceful, 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 Harassment 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.

SEC. 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.

SEC. 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.

SEC. 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

SEC. 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 cases filed before any office of the Department of Education.

SEC. 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.

SEC. 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*.

SEC. 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 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 a reasonable ground to believe that the respondent is probably guilty of the charge/s against him, and should be investigated accordingly.

SEC. 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.

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

SEC. 12. Prohibited Pleadings. The Disciplining Authority shall not entertain dilatory requests for clarification, bills or 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.

SEC. 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.

SEC. 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.

SEC. 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