

[DFA DEPARTMENT ORDER NO. 10-04, April 06, 2004]

RULES AND PROCEDURES OF THE BOARD OF FOREIGN SERVICE ADMINISTRATION

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

WHEREAS, Section 87 of said Philippine Foreign Service Act of 1991 empowers the Secretary of Foreign Affairs to issue such rules and regulations as may be necessary to implement the provisions of the Philippine Foreign Service Act as well as the provisions of acts, decrees, and orders which are not inconsistent with it;

WHEREAS, the existing rules and regulations of the Board of Foreign Service Administration embodied in Chapter I, Part C, Section 18 (Board of Foreign Service Administration) and Chapter V (Administrative Investigations) of D.O. 19A - 1995, entitled "Regulations of the Department of Foreign Affairs" need to be updated and revised to make them more responsive to the demands of the administration of the foreign service;

WHEREAS, pertinent provisions of D.O. No. 31-97, entitled " Revised DFA Merit Promotion Plan," and Civil Service Commission Resolution No. 991936 entitled "Revised Uniform Rules on Administrative Cases in the Civil Service," need to be incorporated to the existing rules and regulations of the Board of Foreign Service Administration;

NOW, THEREFORE, the following shall be the rules and procedures for the Board of Foreign Administration

Rule 1. General Provisions

SECTION 1. Title - These Rules shall be known as the **Rules and Procedures of the BFSA.**

SECTION 2. Coverage - These Rules shall apply to all officers and employees of the Department of Foreign Affairs 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 or the Secretary of Foreign Affairs. These Rules shall have suppletory application to the personnel of attached agencies of the Department of Foreign Affairs in the Home Office and personnel of attached services in the Foreign Service Posts.

However, with respect to locally-hired or alien employees, the head of post concerned may separate them from the Service at any time for any cause he may deem sufficient for the purpose, in accordance with local laws and regulations on the matter; and honorary consuls may be separated from the Service by the Secretary at any time and for any cause he may deem sufficient for the purpose.

SECTION 3. Definition of Terms - The terms hereunder shall be construed as follows:

- a. "Department" shall mean the Department of Foreign Affairs;
- b. "President" shall mean the President of the Philippines;
- c. "Secretary" shall mean the Secretary of Foreign Affairs;
- d. "Board" shall mean the Board of Foreign Service Administration;
- e. "OPAS" shall mean the Office of Personnel and Administrative Services;
- f. "OLA" shall mean the Office of Legal Affairs;
- g. "Disciplining Authority" shall refer to the President for all officers with the rank of Foreign Service Officer, Class IV, and higher; and to the Secretary for all other personnel referred to in Section 2, Rule I;
- h. "Appointing Authority" shall refer to the President for all officers with the rank of Foreign Service Officer, Class IV, and higher; and to the Secretary for all other personnel referred to in Section 2, Rule I;
- i. "Respondent" shall refer to the person who is formally charged by the disciplining authority;
- j. "Person complained of" shall refer to the person who is the subject of a complaint but who is not as yet formally charged by the Board;
- k. "Party adversely affected" shall refer to the respondent against whom a decision in a disciplinary case has been rendered;
- l. "Forum Shopping" shall refer to the filing of an administrative action or complaint before another agency or any tribunal against the same party and involving the same acts or causes of action and relief;
- m. "FSO" shall mean Foreign Service Officer;
- n. "FSSO" shall mean Foreign Service Staff Officer;
- o. "FSSE" shall mean the Foreign Service Staff Employee;
- p. "CSC" shall mean the Civil Service Commission;
- q. "Service" shall mean the Foreign Service of the Philippines, which includes all officers and employees of the Department in the Home Office, the Regional Consular Offices, and the Foreign Service Posts; and
- r. "Frozen" or "floating" shall mean the act by the Department of not giving any specific assignment or duties to its officer or staff personnel.

SECTION 4. Composition - The Board of Foreign Service Administration shall be composed of the Undersecretary of Foreign Affairs for Administration as Chairperson, with all other Department Undersecretaries, Assistant Secretaries of the principal offices in the Department, and the Director of the Foreign Service Institute as Members.

The Chairperson of the Board may invite other officials of the Department to any Board meeting as may be deemed necessary. Said officials will not be entitled to

voting rights or any other privileges accorded to regular members of the Board.

SECTION 5. Functions - the Board shall:

1. Make recommendations to the Secretary concerning:
 - a. the functions and operations of the Service;
 - b. the policies and procedures to govern the selection, assignment, promotion, discipline, and separation from the Service of chiefs of mission, career ministers, foreign service officers, foreign service staff officers, foreign service staff employees, casuals, contractuels, and other personnel of the Department, and
 - c. the policies to govern the administrative, personnel, and fiscal management of the Service;
2. Establish the standards of efficiency of service personnel;
3. Deliberate and act on administrative cases brought against officers and employees who are charged with committing offenses against the interest of public service and submit to the Secretary its findings and recommendations; and
4. Perform such other duties as may be assigned to it by law or regulation, including those that may be issued by the Secretary.

SECTION 6. Board Secretariat - All administrative matters pertaining to the operations and processes of the Board shall be undertaken by a Board Secretariat composed of a Board Secretary, an Assistant Board Secretary, and Board Secretariat staff members.

The Board Secretary should be a lawyer with at least the rank of Foreign Service Officer, Class IV.

SECTION 7. Meetings - The Board shall hold regular meetings once a month on a day to be fixed by its members. In the absence of a quorum on the fixed day, the Chairperson may reschedule that regular meeting on the next convenient day where a quorum could be established.

The Chairperson may call for a Special Board Meeting whenever required by the exigencies of the service or upon the submission of a written request by 1/4 (one-fourth) of the members of the Board.

SECTION 8. Agenda - The agenda and other necessary documents for each Board meeting, whether regular or special, shall be forwarded by the Board Secretariat to the members not later than three (3) working days before the meeting.

Any member of the Board may submit or suggest in writing a topic for discussion by the Board to be included in the agenda of the meeting. Such written suggestion should be received by the Board Secretariat at least four (4) working days before the scheduled meeting.

The Chairperson of the Board shall approve the items for inclusion in the agenda, on the basis of their merit and urgency.

SECTION 9. Quorum - The presence of a simple majority (fifty percent plus one) of all of the members of the Board shall constitute a quorum to transact its business.

The presence of a quorum shall be determined before the commencement of each Board Meeting. Once a quorum has been declared, the meeting may commence and proceed regardless of whether or not the quorum is maintained throughout the meeting.

SECTION 10. Voting - The Board should, as much as possible, arrive at its decisions by consensus.

The Chairperson, however, may call for a division of the house whenever a consensus cannot be reached and the matter shall be decided with the concurrence of a simple majority of the members listed present. The Chairperson shall vote only to break a tie.

In administrative cases, a decision or recommendation for dismissal from the Service or suspension of an officer or employee shall require the concurrence of at least a simple majority of all the members listed present.

In matters other than administrative cases brought before the Board, including appointment, re-appointment, lateral entry, or promotion to the next higher rank of FSOs, such decisions or recommendations shall require the concurrence of at least a simple majority of all the members listed present.

In case a Board member is unable to attend a Board Meeting, the duly designated Acting Assistant Secretary from his office shall vote for and in behalf of the Assistant Secretary. In the absence of a designated Acting Assistant Secretary, the member may be represented by other FSOs who shall not be entitled to vote but shall be allowed to participate in the discussions.

SECTION 11. Manner of Voting - For deliberations on all cases, whether disciplinary or non-disciplinary, voting shall be viva voce, except if, upon the request of at least a majority of the members of the Board present, voting shall be done by secret ballot. A member may put on record an explanation for his or her vote.

SECTION 12. Deliberations of the Board, Confidential - All deliberations of the Board and the records of its proceedings shall be confidential, unless otherwise decided by the Chairperson or a majority of the members of the Board. The deliberations shall be recorded in shorthand, stenotype or any other means of recording. A transcript of the records, duly certified as correct by the recording officer, shall be considered prima facie record of the proceedings.

SECTION 13. Prohibitions - No member of the Board, while acting as such, shall

intervene in any way, directly or indirectly, in Board deliberations affecting himself or any relative of his within the fourth civil degree of consanguinity or affinity.

SECTION 14. Decisions and Recommendations - The recommendations of the Board shall be submitted to the Secretary in writing by the Chairman. All decisions of the Board shall be in the form of Board Resolutions.

Rule II. Promotion

SECTION 15. Promotion - The Board shall recommend to the Secretary the promotions of chiefs of mission, career ministers, and foreign service officers on the basis of such criteria to be adopted by the Board or guidelines provided by existing regulations.

SECTION 16. Notice of Promotion - For purposes of transparency, the Board shall publish, within a reasonable period prior to the promotion proceedings, a notice in the Home Office, Foreign Service Posts, and Regional Consular Offices containing the following:

- a. schedule of promotion proceedings; and
- b. names of those eligible for promotion, arranged by batch.

The notice shall include a statement giving candidates the option to submit their updated curriculum vitae (including accomplishments and other relevant information which have bearing on their promotion).

SECTION 17. Manner of Voting - The manner of voting for promotions shall be by secret ballot, unless the Board, by a vote of a simple majority of all the members present, decides otherwise.

SECTION 18. Prohibition - A member of the Board, while acting as such, shall not intervene in any way, directly or indirectly, in Board deliberations and shall not be eligible to vote for promotions affecting himself or any relative of his within the fourth civil degree of consanguinity or affinity.

Rule III. Disciplinary Cases

SECTION 19. Disciplinary Actions - In the investigation of administrative cases against officers and employees of the Department, the rules embodied in this Department Order shall be strictly observed.

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.

Disciplinary actions may be taken against an officer or an employee only by the