

RULES ON INVESTIGATION AND ADJUDICATION

Pursuant to the authority vested in the Presidential Anti-Graft Commission (the "Commission") under Executive Order No. 12 dated April 16, 2001, as amended by Executive Order Nos. 327 dated July 09, 2004; 531 dated May 31, 2006; 531-A dated August 23, 2006; 531-B dated December 13, 2006; 670 dated October 22, 2007; and 670-A dated April 23, 2008, the following Rules on Investigation and Adjudication of Administrative Cases are hereby prescribed and promulgated:

ARTICLE I

GENERAL PROVISIONS

Section 1. Title – These Rules shall be known as the "Presidential Anti-Graft Commission Rules on Investigation and Adjudication of Administrative Cases," and hereinafter referred to for brevity as the "Rules."

Section 2. Interpretation and Application – These Rules shall be liberally construed and applied to fairly and expeditiously promote accountability of public officers.

The Commission shall not be bound by strict technical rules of procedure and evidence, and may opt, in the absence of any applicable rule herein, to apply such modes of proceedings consistent with the requirements of fair play, administrative due process, and the efficient disposition of cases.

Section 3. Suppletory Application of Related Laws – These Rules shall primarily apply in administrative proceedings before the Commission. Where these Rules are silent, the pertinent provisions of Executive Order No. 292, Series of 1987, otherwise known as the "Administrative Code of 1987," the Rules and Regulations of the Civil Service Commission (CSC), and other related laws may be applied suppletorily, unless inconsistent with the spirit and purpose thereof.

ARTICLE II
SCOPE OF AUTHORITY

Section 1. Jurisdiction – The Commission shall, upon complaint or on its own initiative, investigate or otherwise receive, gather and evaluate information and evidence, against:

- (a) Presidential Appointees in the Executive Department occupying the position of Assistant Regional Director or an equivalent rank and higher, otherwise classified as Salary Grade 26 and higher, under Republic Act No. 6758 known as the Compensation and Position Classification Act of 1989, including Officers of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) when directed by a referral or endorsement from the President;
- (b) Presidential Appointees who are members of the governing board of any instrumentality, regulatory agency or chartered institution, and Directors or Officers who are appointed or nominated by the President to government-owned and/or controlled corporations or corporations where the government has a minority interest, or who otherwise represent the interest of the government; and –
- (c) Other public officials and private persons who act in conspiracy, collusion or connivance with any covered Presidential Appointee,

For acts and omissions constituting violations of:

- (a) Republic Act No. 3019, as amended, otherwise known as the “Anti-Graft and Corrupt Practices Act;”
- (b) Republic Act No. 1379, on the unlawful acquisition of property by a public officer or employee;

- (c) Republic Act No. 6713, otherwise known as "The Code of Conduct and Ethical Standards for Public Officials and Employees."
- (d) Republic Act No. 9485, otherwise known as "The Anti-Red Tape Act of 2007;" **and its Implementing Rules and Regulations;**
- (e) Title Seven Book Two of Act No. 3815, as amended, otherwise known as "The Revised Penal Code;"
- (f) Executive Order No. 292, series of 1987, otherwise known as "The Administrative Code of 1987," whenever acts and omissions constituting violations of any of the foregoing laws and issuances are therein defined and penalized;
- (g) Rules and Regulations duly promulgated by competent authority to implement any of the foregoing laws and issuances; and
- (h) Other laws and issuances, violations of which by Presidential Appointees are referred by the President to the Commission.

Section 2. Separation from Service – The resignation, retirement or separation from employment of any public official under investigation shall not divest the Commission of authority to pursue an investigation or proceeding to its logical conclusion and render a decision thereon.

ARTICLE III

ADMITTANCE EVALUATION AND INVESTIGATION

Section 1. Complaint; How Initiated – The Commission shall motu proprio or upon complaint or information received or obtained in any form or from any source take cognizance of and initiate the investigation of cases against covered Presidential Appointees.

For this purpose, clippings, reproductions, recordings or transcriptions of media reports, telephone calls, personal conversations, electronically sent or digitally conveyed messages and other forms of complaint or information, except verified, anonymously written, or signed complaints, or those referred by the President or any disciplining authority, shall be endorsed in writing by anybody from within or without the Commission to be deemed filed as a complaint.

The Management Information System (MIS) Unit shall record the complaint and transmit the same to the Complaints and Investigation Unit (CIU), which shall docket the same and conduct an evaluation to determine whether the complaint falls within the scope of the authority of the Commission, as provided in Article II of these Rules.

Section 2. Evaluation – If upon evaluation it is established that the complaint falls within the scope of authority of the Commission, the CIU shall within five (5) days from receipt of the recorded complaint, initiate a Fact-Finding Investigation.

Otherwise, within the same period of five (5) days, the CIU shall complete the evaluation and submit a report with the appropriate recommendation to the Commission.

Should the Commission approve a recommendation for the dismissal of the complaint for being beyond the scope of its authority, the necessary Order shall be issued accordingly within fifteen (15) days from receipt of the Evaluation Report. In addition, the Commission may, through the Executive Director, refer or endorse the dismissed complaint to the competent government agency or disciplining authority for appropriate action in accordance with Article VI Section 2 hereof, and the complainant, if known, shall be informed of the action taken.

Should the recommendation for dismissal be disapproved, the Commission shall within the same period of fifteen (15) days, remand the complaint to the CIU for Fact-Finding Investigation.

Section 3. Fact-Finding Investigation – For purposes of a Fact-Finding Investigation, the Head of the CIU shall designate a panel of investigators to conduct the same, using every and all reasonable means to speedily and objectively ascertain facts without strict adherence to

technicalities of law or procedure, but in all instances respecting the rights of persons and observing due process. The Fact-Finding Investigation shall be completed within a period of thirty (30) days from the time the complaint was docketed for the purpose.

Section 4. Determination of Facts – A Fact-Finding Investigation includes, but is not limited to, examination of documents submitted by the complainant, witnesses and the person complained of, gathering of documentary evidence including documents readily available from other government offices and agencies, and interview of witnesses, for the purpose of determining the existence of a *prima facie* case.

For this purpose, and only insofar as a Fact-Finding Investigation is being conducted, the Commission hereby expressly delegates to the Head of the CIU, the power to administer oaths, and subpoena government officers, employees and records. The CIU, through its panel of investigators, may likewise conduct clarificatory conferences/hearings, require the complainant, witnesses and the person complained of to submit affidavits, and enlist the aid and support of any law enforcement agency for assistance, whether for acquisition of documents and objects pertinent to the investigation or to participate in the investigation itself.

Section 5. Investigation Report – Within fifteen (15) days from the conclusion of the Fact-Finding Investigation, the panel of investigators shall submit its Investigation Report with the appropriate recommendation to the Head of the CIU.

If a *prima facie* case is established, in that there is probable cause to engender a belief that the allegations in the complaint may be true unless the contradictory evidence is produced, the Head of the CIU shall file the appropriate Formal Charge with the Commission.

On the other hand, if a *prima facie* case cannot be established, the Head of the CIU shall recommend to the Commission the dismissal of the complaint, within the same period of fifteen (15) days. If the Commission approves the said recommendation, the Commission shall issue the appropriate Order within fifteen (15) days from receipt of the Investigation Report. In addition, the Commission, through the Executive Director, may refer the dismissed complaint to the competent government agency or disciplining authority for appropriate action in accordance with Article VI, Section 2 of these Rules, and the

complainant, if known, shall be informed of the action taken. If the Commission disapproves the recommendation, the case shall be returned by the Commission within fifteen (15) days from receipt of the Investigation Report, to the Head of the CIU for reinvestigation stating the reasons therefor, and the Head of the CIU shall immediately designate a different panel of investigators to undertake Fact-Finding Investigation in accordance with this Article.

Section 6. Lifestyle and Asset Consistency Checks. – Even when not expressly prayed for in the complaint and except in complaints for violations of Section 5 (a) of Republic Act No. 6713 and Sections 204, 205, 206, 207, 208, 209, 234, 235, 236, 238, 239, 240, 241, 242, 243 and 245 of Title Seven Book Two of the Revised Penal Code, Lifestyle and Asset Consistency Checks shall form part of all investigations and shall, when warranted by the result, be the subject of a separate Formal Charge.

ARTICLE IV

ADMINISTRATIVE ADJUDICATION

Section 1. Formal Charge – The Formal Charge shall narrate the ultimate facts constituting an offense, specifying the law, issuance, rule or regulation violated and accompanied by certified true copies of testamentary and/or documentary evidence substantiating the same. Upon filing of the Formal Charge, the complaint shall be docketed as an Administrative Case for purposes of adjudication.

Section 2. Hearing Officer – The Commission may designate one of its Commissioners as Hearing Officer to receive documentary, testimonial and other evidence. The Hearing Officer, shall have the power to administer oaths and affirmations, receive testimonies and documents submitted in the course of the hearing, issue subpoenas duces tecum and subpoenas ad testificandum, mark exhibits, grant continuances, rule on motions, objections and other questions of procedure, and to issue interlocutory orders.

Section 3. Summons – Upon the filing of the Formal Charge, the corresponding summons to the respondent, accompanied by a copy of the Formal Charge, the complaint, if any, and the affidavits and other evidence in support of the Formal Charge, shall forthwith be issued. The summons shall:

- (a) Direct the respondent to file an answer within fifteen (15) days from receipt thereof; and
- (b) Notify the respondent that unless an answer is filed within the reglementary period, the Commission shall proceed with the hearing *ex parte* or consider the case as submitted for decision based on available evidence.

The complainant, if any, shall be furnished a copy of the summons and any answer submitted in response thereto.

Section 4. Preventive Suspension – Upon application of the Head of the CIU, the Commission may issue an Order of Preventive Suspension against covered Presidential Appointees when circumstances of the case warrant the same, as when:

- (a) The offense charged is punishable by removal from the service; or
- (b) The respondent's continued stay in office would prejudice the fair investigation of the complaint and/or determination of the case.

The preventive suspension shall continue until the case is terminated by the Commission, but in no case shall exceed ninety (90) days; except when the delay is due to the fault, negligence or petition of the respondent, in which case, the period of such delay shall not be counted in computing the period of suspension.

The Order of Preventive Suspension shall take effect immediately upon receipt thereof by the respondent, unless set aside or modified by the President of the Philippines.

Section 5. Answer – The Answer shall be under oath and accompanied by supporting affidavits and documentary evidence, if any, copy furnished all co-respondents.

No Motion to Dismiss or Motion for Bill of Particulars shall be entertained.

A Motion for Extension of Time within which to file the Answer and/or the supporting evidence may be filed and granted only once and only for sufficient cause.

Section 6. Failure to Answer – The failure of the respondent to file an Answer within the reglementary period shall be deemed a waiver of the right to be heard and to adduce evidence.

The Commission or the Hearing Officer, as the case may be, shall then proceed to hear the case *ex parte* or consider the case as submitted for resolution based on available evidence.

Section 7. Clarificatory Hearings and Position Papers – After the filing of the Answer, the Commission may, at its discretion, conduct Clarificatory Hearings, in which case, subpoenas may be issued for the purpose. Should a Clarificatory Hearing be conducted, all parties relevant to the case shall be notified at least five (5) days before the date thereof. Failure of a party to appear at the hearing is not necessarily a cause for the dismissal of the complaint. A party who appears may be allowed to present evidence, even in the absence of the adverse party who was duly notified of the hearing.

During a Clarificatory Hearing, the Commission or the Hearing Officer, as the case may be, shall ask clarificatory questions to further elicit facts or information. The parties shall be afforded the opportunity to be present and shall be allowed the assistance of counsel, but without the right to examine or cross-examine the party/witness being questioned. The parties may be allowed to raise clarificatory questions and elicit answers from the opposing party/witness, which shall be coured through the Commission or the Hearing Officer, as the case may be, for determination of whether or not the proposed questions are necessary and relevant. In such cases, the Commission or the Hearing Officer, as the case may be, shall ask the question in such manner and phrasing as may be deemed appropriate.

The parties may also be directed to file their respective verified position papers.

Section 8. Termination of Administrative Adjudication – If the Commission finds no necessity for further proceedings, on the basis of the pleadings, affidavits and/or verified Position Papers and other evidence filed by the parties, as well as the Clarificatory Hearings, if any, an Order declaring the case submitted for decision shall be issued. The case shall also be deemed submitted for decision upon the expiration of the period for filing the appropriate final pleading required of the parties, which in no case shall exceed thirty (30) days.

Section 9. Rendition of Recommendatory Decision – Within fifteen (15) days from the date the case is submitted for resolution, the Commission *en banc* shall render a Decision setting forth the factual and legal bases for the same, and whenever applicable, recommend to the President the imposition of the appropriate penalties provided by law.

Whenever the decision of the Commission recommends the imposition of penalties or punitive sanctions, it shall immediately be submitted to the President for appropriate action.

The Commission, through the Head of the CIU, may also file the appropriate criminal charge or complaint against the erring public officer or employee before the appropriate bodies, courts or tribunals.

Section 10. Effect of the Pendency of an Administrative Case – The pendency of an administrative case shall not disqualify the respondent from being promoted or claiming maternity or paternity benefits.

For this purpose, an administrative case is commenced upon the issuance of a Formal Charge.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 1. Non-Compliance with Summons and Subpoenas – Any unreasonable delay or unjustified failure or refusal of a public officer or employee in the Executive Branch to comply with the summons or subpoenas issued by the Commission shall constitute a ground for administrative disciplinary action, which shall be heard and adjudicated by the Commission separately from the investigation or administrative case relative to which the summons or subpoenas were issued.

Section 2. Referral to Other Government Units – Whenever the Commission deems it warranted and necessary, it may refer or endorse complaints or cases to the Office of the Ombudsman or any other office, commission, or agency of the government, including government-owned and/or controlled corporations, for appropriate actions.

Section 3. Public Disclosures – The Commission and its personnel shall not disclose or make public any record or information on any investigation pending the President's action on its decision thereon, when such disclosure would deprive the respondent of the right to a fair and impartial disposition of the case. Only the Chairperson may disclose any information to the public, provided that any such disclosure shall be balanced, fair and accurate.

The Commission shall pursue the necessary course of action under existing laws against any person who, by any form of public disclosure, causes injury to the rights of others or adversely affects the fair conduct of the investigation or the administrative case.

ARTICLE VI

APPLICABILITY AND EFFECTIVITY

Section 1. Repealing Clause – The Guidelines on Investigations of the Presidential Anti-Graft Commission dated 13 April 2007, and other issuances or policies of the Commission inconsistent with any provision hereof are hereby repealed or amended accordingly.

Section 2. Applicability – These Rules shall apply to all investigations pending before the Commission as of effectivity hereof; provided, however, that the right of the respondent to be heard fairly and expeditiously shall not be abridged by such application.

Section 3. Separability Clause – If any provision of these Rules, or application of such provision to any circumstance, is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and binding.

Section 4. Effectivity - These Rules shall take effect immediately after due publication.

Approved at Quezon City, Philippines on 10 June 2008.

(Signed)

DR. CONSTANCIA P. DE GUZMAN

Secretary

(Signed)

ATTY. JAIME D. JACOB
Commissioner

(Signed)

TERESITA D. BALTAZAR
Commissioner