

# Rules and Regulations on Administrative Discipline in the Civil Service and Updates

**2<sup>nd</sup> Quarterly Seminar & Meeting (July 26-29, 2017)**  
Philippine Association for Government Budget Administration (PAGBA)  
L Fisher Hotel, Bacolod City

- ▶ Ignorance of the law excuses no one
- ▶ In order for us to know our rights and responsibilities as public servants
- ▶ To help us perform our work as supervisors better, discipline being part of the control functions of management
- ▶ To be able to know and apply the rules when we are the aggrieved or complained party

# OVERVIEW

## 1. Revised Rules on Administrative Cases in the Civil Service or RRACCS (now in the process of being enhanced)

- ▶ Coverage & Construction
- ▶ Jurisdiction and Venue of Actions
- ▶ Administrative Offenses
- ▶ Contempt of the Commission
- ▶ Miscellaneous Provisions

## 2. Updates on Recently Issued Memorandum Circulars of the CSC

- ▶ M.C 23 s of 2016 (Policy on Employment in Government Service of Filipino Citizens with Dual Citizenship) as clarified by M.C. 8 s. of 2017
- ▶ M.C.21 s of 2017 on the Accreditation of Government Service (Exemption from CSC M.C. 25 s. of 2014)
- ▶ CSC-COA-DBM Joint Circular No 1 s, of 2017 (Rules and Regulations Governing Contract of Service and Job Order)

# Coverage of the RACCS

- ▶ Civil Service Commission and its Regional Offices
- ▶ Agencies and Instrumentalities of the National Government
- ▶ LGUs
- ▶ LUCs and SUCs
- ▶ GOCCs



# Construction and Interpretation of the RRACCS

- ▶ Liberal construction to obtain just, speedy and inexpensive disposition of cases
- ▶ Administrative investigations shall be conducted without strict recourse to technical rules of procedure and evidence applicable to judicial proceedings
- ▶ Unless provided by law, rules formulated by agencies shall not be in conflict with these Rules.

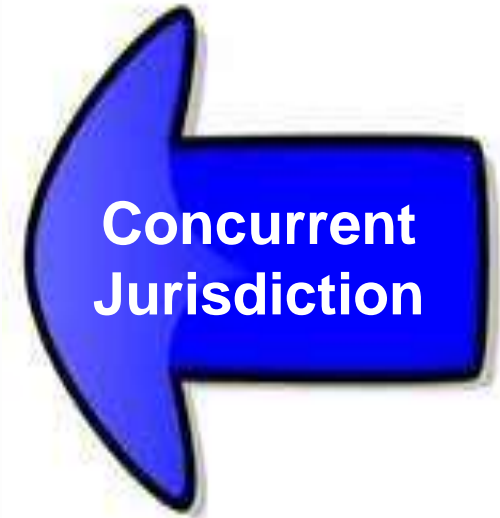
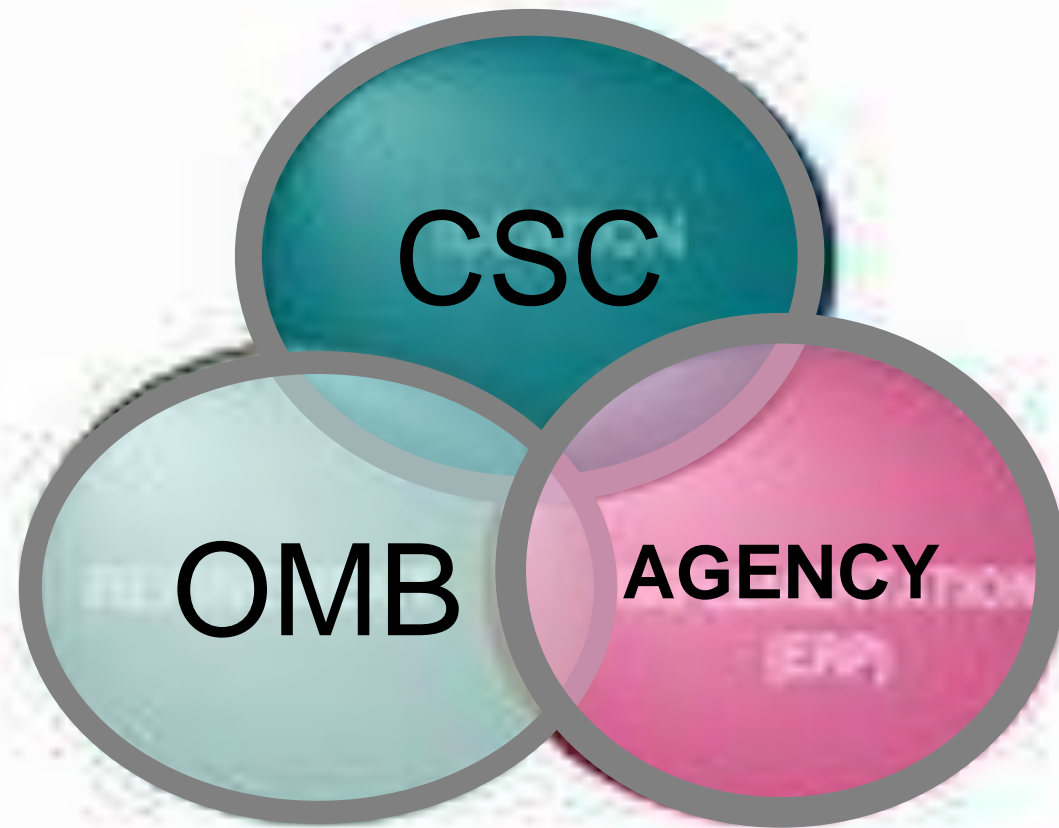
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# Jurisdiction (Rule 2)

- ▶ Jurisdiction is the authority to decide and hear cases.
- ▶ The CSC shall hear and decide administrative cases instituted by or brought before it, directly or on appeal, including contested appointments, and review decisions and actions of its offices and other government agencies.
- ▶ Disciplinary
- ▶ Non-disciplinary
  - ▶ Dropping from the Rolls
  - ▶ Invalidation or Disapproval of Appointments



Honasan vs. The Panel of Investigating Prosecutors of the DOJ

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# Jurisdiction of Bodies

## Dispensing Administrative Justice

	<b>Civil Service Commission</b>	<b>Office of the Ombudsman</b>	<b>OP</b>
<b>First level Employees</b>	<input checked="" type="checkbox"/> (Heads of agencies have concurrent jurisdiction)	<input checked="" type="checkbox"/>	
<b>Second level employees</b>	<input checked="" type="checkbox"/> (Heads of agencies have concurrent jurisdiction)	<input checked="" type="checkbox"/>	
<b>Second level/executive/managerial (non-presidential appointees)</b>	<input checked="" type="checkbox"/> (heads of agencies have concurrent jurisdiction)	<input checked="" type="checkbox"/>	
<b>Third level (presidential appointees)</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

# Jurisdiction of Bodies Dispensing Administrative Justice

	<b>Civil Service Commission</b>	<b>Office of the Ombudsman</b>	
<b>Elective</b>	x	✓	
<b>Members of the Cabinet</b>	x	✓	
<b>Members of Congress</b>	x	x	
<b>Members of Judiciary</b>	x	x	
<b>Impeachable Officers</b>	x	x	

# Jurisdiction of CSC-Central Office (Rule 2, Sec. 7); Disciplinary

- ▶ Decisions of CSCROs brought before it on petition for review
- ▶ Decisions of heads of agencies imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary brought before it on appeal
- ▶ Complaints brought against Civil Service Commission personnel
- ▶ Complaints against officials who are not presidential appointees



# Jurisdiction of CSC-Central Office (Rule 2, Sec. 7); Disciplinary

- ▶ Decisions of disciplining authorities imposing penalties not exceeding thirty (30) days suspension or fine equivalent to 30 days salary but violating due process
- ▶ Requests for transfer of venue of hearing on cases being heard by CSCROs
- ▶ Appeals or petitions for review from orders of preventive suspension
- ▶ Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.



# Jurisdiction of CSC-Central Office (Rule 2, Sec. 7); Non-disciplinary

- ▶ Decisions of department secretaries and bureau heads on human resource actions;
- ▶ Decisions of CSCROs;
- ▶ Requests for favorable recommendation on petition for the removal of administrative penalties or disabilities;
- ▶ Requests for extension of service excluding presidential appointees;
- ▶ Appeals from reassignment of public health workers and public social workers;
- ▶ Such other analogous actions or petitions arising out of or in relation with the foregoing enumerations.



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# Jurisdiction of CSCRO (Disciplinary)

- ▶ Cases initiated by or brought before it provided that acts were committed within their jurisdiction, including fraudulent acquisition of civil service eligibility and its related offenses.
- ▶ Petitions to place respondent under preventive suspension for cases pending before it.



# Jurisdiction of CSCRO (Non-disciplinary)

- ▶ Disapproval/recall of approval/invalidation of appointments brought before it on appeal
- ▶ Decisions of appointing authorities within their geographical boundaries relative to protest and other human resource actions
- ▶ Request for correction of personal information

- 
- ▶ No officer or employee in the Civil Service shall be suspended or dismissed except for cause as provided by law and after due process (Section 46, Revised Administrative Code of 1987 on the CSC).

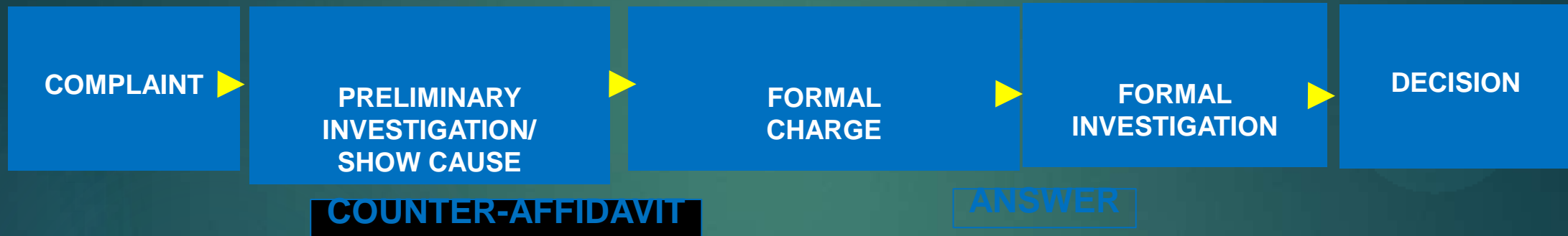


- ▶ “Suspension or dismissal for cause as provided by law” means there is a lawful reason for an employees suspension or termination such as being found liable for the offenses mentioned in the Revised Administrative Code, among others.
- ▶ “Due process” means an opportunity to be heard, an opportunity to present ones side or an opportunity to seek a reconsideration of a decision. In the Ang Tibay case the requirements of due process were enumerated.



Actual hearing is not indispensable as long as party given an opportunity to be heard.

One may be heard not only by verbal presentation but also, sometimes more eloquently through pleadings or submission of position papers.



# PROCEDURAL FLOW

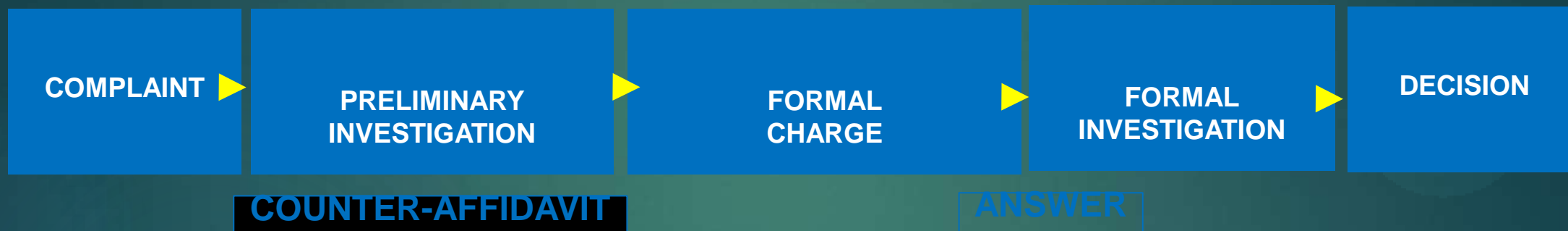
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# HOW INITIATED

- ✓ Valid Complaint
- ✓ *Motu proprio* by the Disciplining Authority




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The absence of any of the requirements of a complaint may cause the dismissal of the complaint without prejudice to its refiling.

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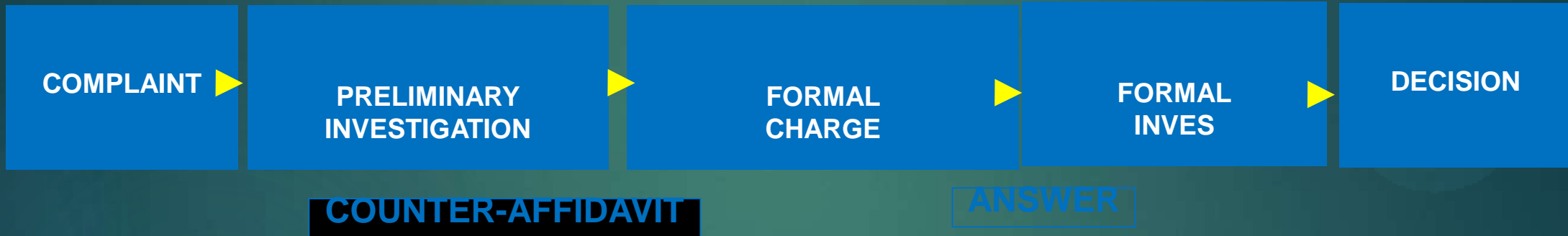
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In sexual harassment cases, the complaint shall be filed with the CODI.

If filed with the CSC, it shall be remanded to the agency where the offender is employed.

CSC may take cognizance if :

- a. agency has no CODI
- b. disciplining authority is the subject of complaint
- c. subject of complaint is a CODI member
- d. there is unreasonable delay in complying with the periods provided in these Rules for more than 30 days without justification.



# PROCEDURAL FLOW

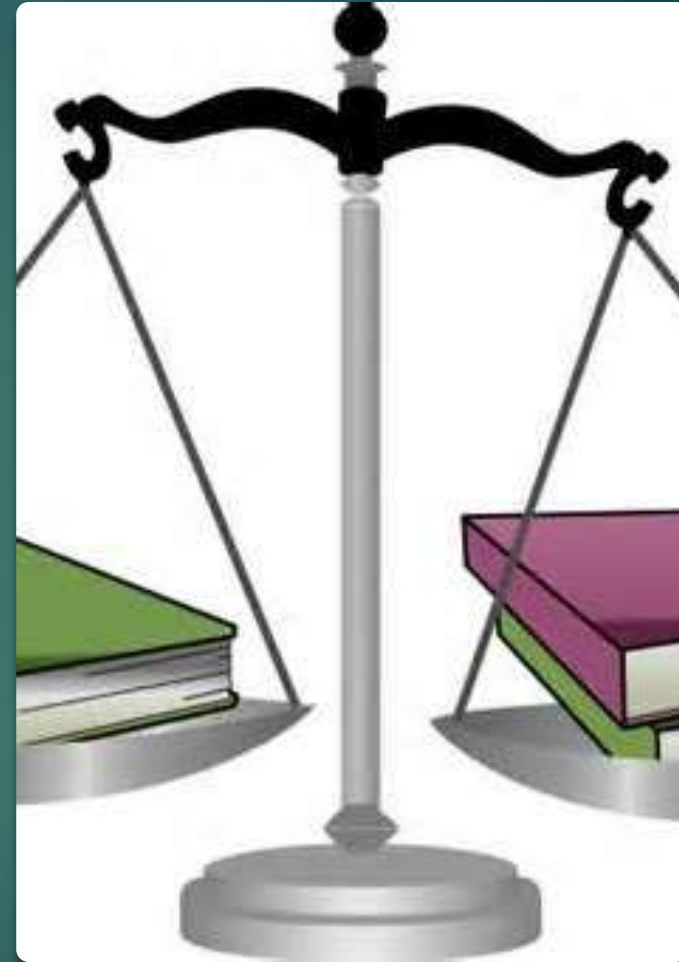


# Preliminary Investigation

- ▶ A mandatory proceeding undertaken to determine whether a **prima facie case** exists to warrant the issuance of a Formal Charge( *Garcia vs Molina*).

# Prima facie case

is that amount of evidence which would be sufficient to counter-balance the general presumption of innocence, and warrant a conviction, if not contradicted and overcome by other evidence



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# How Preliminary Investigation is Conducted

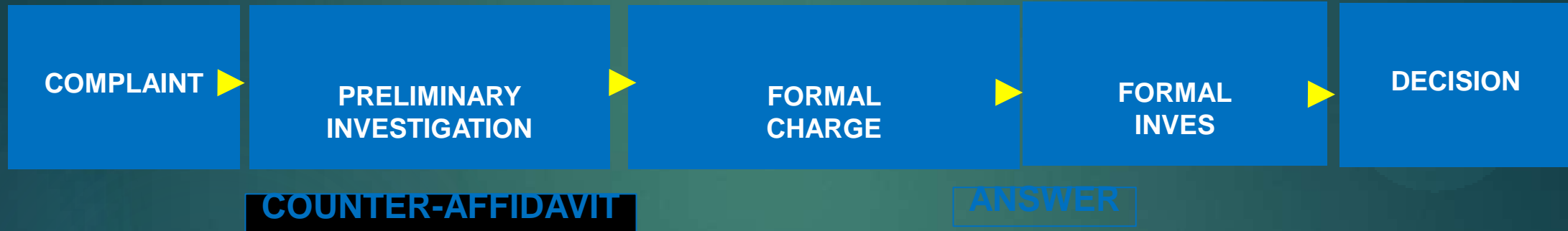
- ▶ Submission of comment/ counter-affidavit  
**(also known as Show Cause Memorandum)**
- ▶ Ex parte evaluation of records
- ▶ Clarificatory meeting

# Initiated *Motu Proprio*

In cases initiated by the proper disciplining authority or his/her authorized representative, a **Show Cause Order** shall be issued (and shall be sufficient without any need for a complaint).

# Investigation Report

- ✓ Submitted within five (5) days from the termination of the preliminary investigation
- ✓ Contains a recommendation
- ✓ Includes the complete records of the case
- ✓ Must be treated with confidentiality



# PROCEDURAL FLOW


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# Contents of a Formal Charge

- Specification of charges
- Brief statement of the material/relevant facts
- Certified copies of documentary evidence, if any
- Directive to answer in not less than 3 days but not more than 10 days
- Advice to indicate whether formal investigation is elected
- Notice that he/she may opt to be assisted by counsel of his/her choice



When is an administrative case pending?

An administrative disciplinary case is considered pending when the disciplining authority has issued a Formal Charge or a Notice of Charge to the respondent

The release of retirement benefits of a person with a pending case shall be governed by RA 10154.



# Effect of Pendency of Admin Case

- ✓ Shall not disqualify respondent from:
  - 1) promotion and other personnel actions
  - 2) claiming maternity/paternity benefits

# Preventive Suspension

- ✓ Not a penalty
- ✓ Preventive/precautionary measure
- ✓ Issued simultaneously upon service of the formal charge, or immediately thereafter
- ✓ Max of 90 days for NGAs and 60 days for LGUs

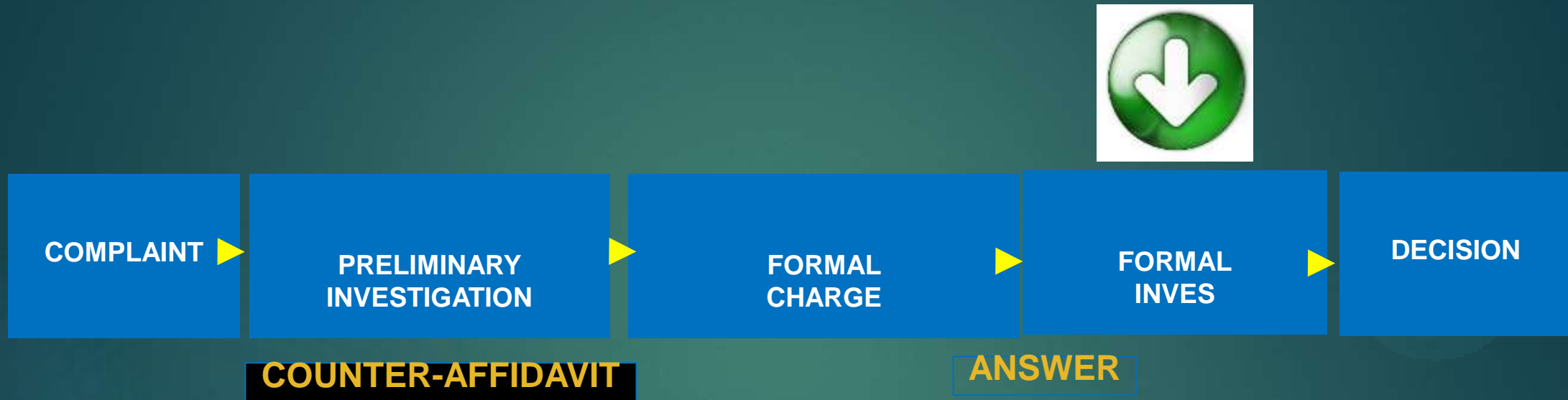
# Grounds for Preventive Suspension

- ✓ There is a Formal Charge/ Notice of Charge
- ✓ The charge involves:
  - a) Serious Dishonesty
  - b) Oppression
  - c) Grave Misconduct
  - d) Gross Neglect of Duty
  - e) Other offenses punishable by dismissal from the service; or
  - f) Administrative offense committed on its second or third offense and the penalty is dismissal from the service; **and**

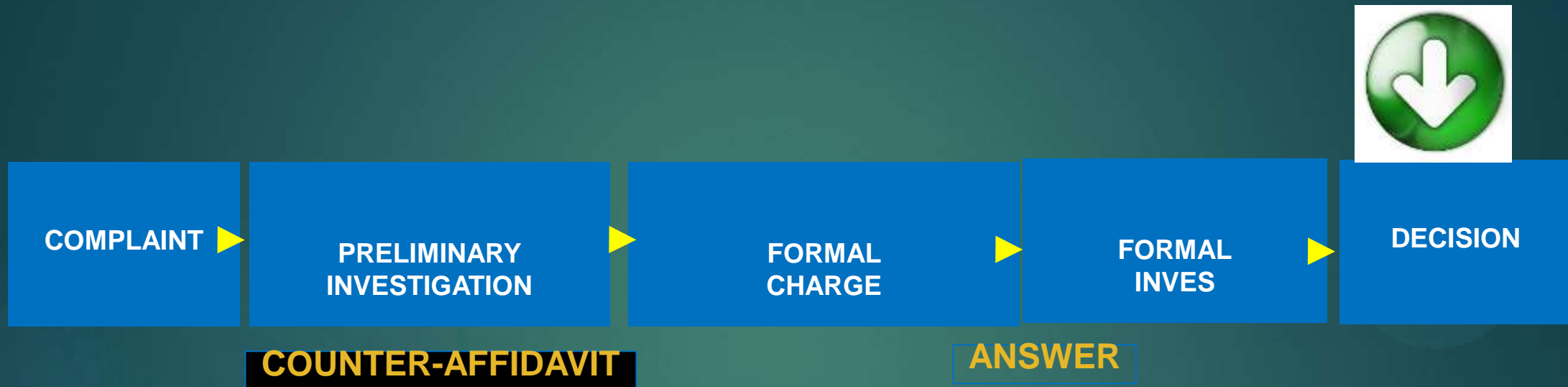
# Grounds for Preventive Suspension

B.) The respondents is in a position to exert undue influence or pressure on the witnesses and/or tamper with evidence.


- ✓ In order for a preventive suspension order to be valid, any of the conditions in Items A and B must be present. It is invalid when conditions mentioned are not present, issued by one who is not authorized or when there is no formal charge.



# PROCEDURAL FLOW



# PROCEDURAL FLOW




Shall the resignation or retirement of the official/employee bar the institution of an administrative case against him/her?

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At the time the petitioner filed her certificate of candidacy, she was already notified by the provincial treasurer that she needed to explain why no administrative charge should be filed against her.

(Pagano vs. Nazaro, G.R. No. 149072, September 21, 2007)



# The Andutan case

Ombudsman vs. Andutan, Jr. G.R.  
No. 164679 dated July 27, 2011

Andutan, Dep. Dir. of DOF, resigned pursuant to the directive of the Executive Secretary to all non-career officials (or those occupying political positions) to vacate their positions effective July 1, 1998.





**September 1, 1999:**

Andutan was criminally and administratively charged in connection with alleged anomalies in the illegal transfer of Tax Credit Certificates to Steel Asia

Ombudsman vs. Andutan, Jr., G.R. No. 164679 dated July 27, 2011

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**July 30, 2001:**

Ombudsman found Andutan guilty of Gross Neglect of Duty and imposed the accessory penalty of forfeiture of all leaves, retirement and other benefits and privileges, and perpetual disqualification from reinstatement and/or reemployment the government.

Ombudsman vs. Andutan, Jr., G.R. No. 164679 dated July 27, 2011



## ISSUE:

Did Andutan's resignation divest the Ombudsman of its right to institute an administrative complaint against him?

Ombudsman vs. Andutan, Jr., G.R. No. 164679 dated July 27, 2011

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**YES.**

“xxx, the Ombudsman can no longer institute an administrative case against Andutan because the latter was not a public servant at the time the case was filed.”

There is a three- fold liability rule

Ombudsman vs. Andutan, Jr., G.R. No. 164679 dated July 27, 2011

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# Scenario

Incident



Formal Charge has  
been issued


Resignation/  
Retirement



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Shall the resignation or retirement of the official/employee render the administrative case against him/her moot?

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# The Largo Case

Largo, after being humiliated  
by co-employee at a birthday  
party, went to the latter's  
quarters and shouted  
invectives

Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007









While conversing with co-employee's wife, a dog barked.

Frightened, Largo fired two shots, scaring the wife, children and in-laws of co-employee.

Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007



**December 17, 1997:**  
The co-employee filed a  
complaint against Largo

Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007

**January 1, 1998:**  
Largo retired from the  
government service



Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007

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**March 19, 1998:**  
Investigation on Largo's  
case proceeded



Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007

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## ISSUE:

Will Largo's retirement render moot the resolution of the administrative case against him?

Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007

**NO.**

“The settled rule in this jurisdiction is that cessation from office by reason of resignation, death, or retirement does not warrant the dismissal of the administrative case filed against a public officer while he or she was still in the service, or render the said case academic. **The jurisdiction attaches at the time of the filing of the administrative complaint** and is not lost by the mere fact that respondent public official had ceased to be in office during the pendency of his case.”

Largo vs. Court of Appeals, et al.  
G.R. No. 177244, November 20, 2007

# Administrative Offenses & Penalties (Rule 10)



# Grave Offenses punishable by Dismissal

- Serious Dishonesty
- Being Notoriously Undesirable
- Physical or Mental Incapacity or Disability due to Immoral or Vicious Habits
- Nepotism
- Disloyalty to the Republic of the Philippines and to the Filipino People
- Gross Neglect of Duty
- Conviction of a Crime involving Moral Turpitude
- Contracting Loans of Money or Other Property from Persons with whom the Office of the Employee has Business Relations
- Grave Misconduct
- Falsification of Official Documents
- Receiving for Personal Use of a Fee, Gift or Other Valuable Thing in the Course of Official Duties or in Connection therewith ...
- Soliciting or Accepting Directly or Indirectly, Any Gift, Gratuity, Favor, Entertainment, Loan or Anything of Monetary Value ...

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# Grave Offenses punishable by Suspension

- Less Serious Dishonesty
- Oppression
- Disgraceful and Immoral Conduct
- **Frequent unauthorized absences**, ~~or tardiness in reporting for duty, loafing from duty during office hours~~ **Habitual tardiness in reporting for duty causing prejudice to the operations of the office**
- Refusal to perform official duty
- Gross Insubordination
- Conduct prejudicial to the best interest of the service
- Directly or indirectly having financial & material interest in any transaction requiring the approval of his/her office
- **Loafing**
- 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 his/her office, unless expressly allowed by law

# Grave Offenses punishable by Suspension

- Disclosing or misusing confidential or classified information officially known to him/her by reason of his/her office and not made available to the public to further personal interest or give undue advantage to anyone
- Obtaining or using any statement filed under the Code of Conduct and Ethical Standards for Public Officials 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
- Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his/her office, unless such recommendation/referral is mandated by law/ international agreements, or as part of the function of his/her office

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# Less Grave Offenses punishable by Suspension of 1 month & 1 day to 6 months

- Habitual Drunkenness
- Failure to file SALN
- Simple Neglect of Duty
- Simple Misconduct
- Discourtesy in the Course of Official Duties
- Violation of existing Civil Service Law and Rules of Serious Nature
- Insubordination
- Failure to resign from position in the private business within 30 days from assumption of office when conflict of interest arises; failure to divest shareholdings or interest in private business within 60 days from assumption to public office when conflict of interest arises
- Engaging directly or indirectly in partisan political activities by one holding non-political office
- Simple Dishonesty

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# Light Offenses

- Simple discourtesy in the course of official duties
- Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children
- Violation of reasonable office rules
- **Habitual tardiness**
- Gambling prohibited by law
- Disgraceful, immoral or dishonest conduct prior to entering the service
- Borrowing money by superior officers from subordinates
- Willful failure to pay 'just debts' or willful failure to pay taxes due to the government
- Lobbying for personal interest or gain in legislative halls and offices without authority
- 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
- Failure to act promptly on letters and request within 15 working days from receipt, except as other provided in RA 6713

# Light Offenses

- Failure to process documents & complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in RA 6713
- Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions

- Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions; and
- Pursuit of Private Business/Vocation/Profession without the Permission Required by Civil Service Rules and

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# SPECIFIC OFFENSES

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## DISGRACEFUL AND IMMORAL CONDUCT<sup>63</sup>

-Refers to acts which violate the basic norm of decency, morality and decorum abhorred and condemned by society. It refers to conduct which is willful, flagrant, or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community

-MC 15 s 2010

# DISHONESTY

64

Has been defined as a form of conduct which connotes untrustworthiness and lack of integrity, a disposition to lie, cheat deceive, betray.”

[BALAGSO, Teodoro Jr. L., et al., CSC Resolution No. +99-1085, May 21, 1999 citing BRIONES, Rolando A., CSC Res. 97-3740 dated August 28, 1997]



# **DISHONESTY**

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“The concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and an intent to violate the truth.”

[Section 1, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]

# Classification of DISHONESTY

66

a) Serious Dishonesty-  
*Punishable by dismissal from the service*

b) Less Serious Dishonesty-

*1<sup>st</sup> offense - suspension from 6 months and  
day to 1 year*

1

*2<sup>nd</sup> offense - dismissal from the service*

**[Section 2, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC  
Resolution No. 06-0538, April 4, 2006]**

# Classification of DISHONESTY

67

c) Simple Dishonesty-

*1<sup>st</sup> offense - suspension of 1 month  
and 1 day to 6 months*

*2<sup>nd</sup> offense – suspension of 6 months and 1 day to 1 year*

*3<sup>rd</sup> offense - dismissal from the service*

**[Section 2, RULES ON ADMINISTRATIVE OFFENSE OF  
DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]**

The presence of any one of the following<sup>68</sup> attendant circumstances in the commission of the dishonest act would constitute the offense of SERIOUS DISHONESTY:

- a) The dishonest act caused serious damage and grave prejudice to the Government
- b) The respondent gravely abused his authority in order to commit the dishonest act

The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of <sup>69</sup> SERIOUS DISHONESTY:

X X X

- c) Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption

The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of SERIOUS DISHONESTY:

X X X

- d) The dishonest act exhibits moral depravity on the part of the respondent
- e) The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment

The presence of any one of the following attendant circumstances in the commission of the 71 dishonest act would constitute the offense of SERIOUS DISHONESTY:

X X X

- f) The dishonest act was committed several times or in various occasions
- g) The dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to, impersonation, cheating and use of crib sheets

The presence of any one of the following attendant circumstances in the commission of the 72 dishonest act would constitute the offense of SERIOUS DISHONESTY:

X X X

h) Other analogous circumstances

[Section 3, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]



The presence of any one of the following attendant<sup>73</sup> circumstances in the commission of the dishonest act would constitute the offense of LESS SERIOUS DISHONESTY:

- a) The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification
- b) The respondent did not take advantage of his/her position in committing the dishonest act
- c) Other analogous circumstances

[Section 4, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC  
Resolution No. 06-0538, April 4, 2006]

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The presence of any one of the following attendant<sup>74</sup> circumstances in the commission of the dishonest act would constitute the offense of SIMPLE DISHONESTY:

- a) The dishonest act did not cause damage or prejudice to the government
- b) The dishonest act has no direct relation to or does not involve the duties and responsibilities of the respondent
- c) In falsification of any official document, where the information falsified is not related to his/her employment

The presence of any one of the following 75 attendant circumstances in the commission of the dishonest act would constitute the offense of SIMPLE DISHONESTY:

x x x

- d) That the dishonest act did not result in any gain or benefit to the offender
- e) Other analogous circumstances

[Section 5, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]

## Misconduct: GRAVE VS. SIMPLE

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In Grave Misconduct, as distinguished from Simple Misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rules, must be manifest.”

[LANDRITO vs. CSC, 223 SCRA 564

Citing In Re: Impeachment of Horilleno, 43 Phil. 212 [1922]

# Misconduct

- ▶ **Misconduct is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by a public officer.**
- ▶ **To be considered misconduct in office transgression must have been done while in the performance of duties**
- ▶ **Largo vs CA, CSC, NPC and Olandesca, G.R. No. 177244, November 20, 2007 citing Manuel vs Calimag, Milanés vs. De Guzman, Amosco vs Magro, Apiag vs Cantero**
- ▶ **Ganzon vs. Arlos, G.R. No. 174321, October 22, 2013**

# Nota bene:

- ▶ Nera vs Garcia, 106 Phil 1031; Bernardo vs CA, GR No. 124261, May 27, 2004; Remalona vs. CSC, 414 Phil 590

If a government officer employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well x x x.

# GROSS NEGLIGENCE OF DUTY

79

Negligence is want of care required by the circumstances. It is a relative or comparative, not an absolute term, and its application depends upon the situation of the parties, and the degree of care and vigilance which the circumstances reasonably impose

[US vs. JUANILLO, 23 Phil. 212]

See: Ombudsman vs. De Leon G.R. No. 154083, February 27, 2013

# Conduct Prejudicial to the Best

## Interest of the Service

- ▶ Acts which may not be connected with ones office but which tarnished the image of public office. In another case, this refers to acts which deprive the government of a committed service.
- ▶ The Supreme Court has considered the following acts or omissions, inter alia, as Conduct Prejudicial to the Best Interest of the Service: misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to safe keep public records and property, making false entries in public documents and falsification of court orders.
- ▶ **Largo**, the Section Chief of the NPC who entered the quarters of another employee, threatened to kill him, and who fired his gun twice during the course of the altercation



**BEING NOTORIOUSLY UNDESIRABLE**

81

This offense is based mainly on the general reputation of an employee for being difficult to work with, due to his/her quarrelsome attitude and/or repeated infractions of office rules. The focus in this offense is the totality of his conduct in office and not his liability for the individual acts.”

[LAGUILLES, Cesar P., CSC Resolution  
0026, January 6, 1999]

No. 99-

# MORAL TURPITUDE

82

Everything which is done contrary to justice, honesty, modesty or good morals.

“It (moral turpitude) implies something immoral in itself, regardless of the fact that it is punishable by law or not. It is not the prohibition by statute that fixes moral turpitude but the nature of the act itself.”

[ROBREDILLO, Mario, CSC Resolution No. 00-0657, March 10, 2000 citing DELA TORRE vs. COMELEC, 258 SCRA 483]

## **ENGAGING DIRECTLY OR INDIRECTLY IN PARTISAN POLITICAL ACTIVITIES BY ONE HOLDING NON-POLITICAL OFFICE**

83

The term “election campaign” or ‘partisan political activity’ refers to an act designed to promote the election or defeat of a particular candidate or candidates to a public office.

[BUGTONG, Diosdado, CSC Res. No. 97-0807, January 28, 1997 citing Section 79 of the Omnibus Election Code of the Philippines (Batas Pambansa Bilang 881)]

# NEPOTISM

84

All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned and controlled corporations, made in favor of a relative {within the third degree} of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.

[DEBULGADO vs. CIVIL SERVICE COMMISSION, 238 SCRA 184]

## LIMITATIONS ON APPOINTMENTS

85

No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing and recommending authority.

[Section 79, Local Government Code of 1991]

# OPPRESSION

86

The Commission has defined oppression as an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.

[CSC Resolution No. 95-2125, March 21, 1995]

# Fixing under RA 9485

- ▶ Fixer is defined as any individual whether or not officially involved in the operation of a government office or agency who has access to people working therein, and whether or not in collusion with them, facilitates speedy completion of transactions for pecuniary gain or any advantage or consideration.
- ▶ Fixing and or collusion with fixers in consideration of economic and/or other gain or advantage. Punishable by dismissal from the service.
- ▶ Criminal liability is a penalty of imprisonment not exceeding six years or a fine not less than 20,000 but not more than 200,000 or both.

# Cheating in Civil Service Examinations (RA 9416)

- ▶ Refers to impersonation, use of codigo, tampering of examination records, collusion between examinee and examination personnel, unauthorized possession, use, reproduction of any examination materials by an individual or by a review center.
- ▶ Upon conviction shall suffer the penalty of imprisonment of not less than 6 years and 1 day but not more than 12 years and a fine of not less than 50,000 pesos.
- ▶ Administrative penalty is dismissal from the service for serious dishonesty and grave misconduct. Non government employees found administratively liable shall be perpetually barred from entering the service and from taking any government examination.



# Unliquidated Cash Advance (CSC Resolution No. 1200103)

- ▶ Failure of an accountable officer to render an account in full within the periods prescribed and after formal demand shall constitute the administrative offense of Gross neglect of duty punishable by dismissal from the service.
- ▶ Full liquidation/ settlement outside the given periods shall constitute the offense of Simple Neglect of Duty punishable by suspension of 1 month and 1 day to 6 months for the first offense.

## Periods pursuant to Section 5.1 of COA Circular No. 97-002:

- ▶ 1. Salaries, Wages, etc. – within 5 calendar days after every 15<sup>th</sup> day or at end of the month corresponding to a particular pay period or whichever is the regular day for paying salaries.
- ▶ Petty Operating expenses and Field Operating Expenses – within 20 calendar days after the end of the year, subject to replenishment as frequently as necessary during the year.
- ▶ Official travel – within 60 calendar days after the return of the official or employee (foreign travel), or within 30 calendar days for local travel.

# MC 13 s of 2017 (Guidelines in the Mandatory Random Drug Test for Public Officials and Employees and for Other Purpose)

- ▶ Within 6 mos from effectivity, a mandatory, random drug test will be conducted as a condition for retention in government.
- ▶ Subsequent tests shall be periodically conducted in an interval not to exceed 2 years.
- ▶ Classification into: experimenter, Occasional User, chronic user/drug dependent with corresponding interventions.
- ▶ Section VII pertains to administrative liabilities of Grave Misconduct if no certificate of completion is obtained, refusal to undergo treatment or if caught in the act of using or peddling drugs; or Gross Insubordination if official or employee refuses without any valid reason to submit himself/herself for drug testing.

- ▶ Guidelines shall not cover contract of service or job order. However, the agencies shall reflect a drug use policy clause in their contract.
- ▶ Military, police, law enforcement agencies are not covered.

- ▶ Experimenter- outpatient, guidance counselling for 6 months
- ▶ Occasional User- outpatient, guidance counselling and monthly drug testing for 6 mos which shall be at the personal expense of employee
- ▶ Chronic User/ Drug dependent- mandatory treatment and rehabilitation for a minimum of 6 months.

## FREQUENT UNAUTHORIZED ABSENCES

94

An officer or employee shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year.

[Section 22 (q), Rule XIV, Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987)]

## **REFUSAL TO PERFORM OFFICIAL DUTY**

“Any act, conduct of officer or tribunal under a duty to perform, signifying intention not to perform...”

[Word & Phrases, Volume 36-A, Copyright, 1962]

# GROSS INSUBORDINATION

96

Is a deliberate and willful refusal to comply with a lawful request or order of a higher authority. It involves disregard of proper authority and a refusal to obey that authority, a willful disrespect of it.”

[SOBREPEÑA, Carmelita G., CSC Resolution No. 001288, May 30, 2000 citing HARVEY, Tammang A., CSC Resolution No. 98-2225 August 21, 1998]



## **FREQUENT UNAUTHORIZED TARDINESS (HABITUAL TARDINESS)**

An employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year.

[Section 22. (q) Rule XIV, Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987)]

# Memorandum Circular No. 16, s. 2010 dated August 6, 2010

98

1. Any officer or employee who incurs undertime, regardless of the number of minutes/hours, ten (10) times a month for at least two months in a semester shall be liable for Simple Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, as the case may be; and

## Memorandum Circular No. 17, s. 2010 dated August 6, 2010

1. Any officer or employee who is absent in the morning is considered to be tardy and is subject to the provisions on habitual tardiness; and
2. Any officer or employee who is absent in the afternoon is considered to have incurred undertime, subject to the provisions on undertime

# M.C. 17 s 2009

- ▶ Absolute prohibition of smoking in premises of government offices providing health, education and/ or social welfare and development.
- ▶ Smoking shall be prohibited in areas anywhere in or on government premises except open spaces designated as “smoking area”.
- ▶ “smoking areas shall be an open space, not located within 10 meters from where people pass; only one designated smoking area.
- ▶ Smoking is prohibited in government vehicles.
- ▶ Any violation shall be a ground for disciplinary action.
- ▶ Issued pursuant to RA9211 (Tobacco Regulation Act of 2003)

# The Penalty of Fine

Payment of fine in place of suspension may be allowed if any of the following is present:



Ratio: 1 day  
suspension  
to 1 day  
salary fine

Suspension  
of six months  
or less

When the functions/nature of the office is impressed with national interest such as those involved in maintenance of peace and order, health and safety, education

When the respondent is actually discharging frontline functions or those directly dealing with the public and the human resource complement of the office is insufficient to perform such function;

When the respondent committed the offense without utilizing or abusing the powers of his/her position or office; or

When the respondent has already retired or otherwise separated from government service and the penalty of suspension could not be served anymore, the fine may be sourced from the accumulated leave credits or whatever benefits due the respondent.

# The Penalty of Fine

The conversion of suspension into fine shall render the decision final and executory and, therefore, not subject of appeal or any other similar relief.

The failure of the respondent to pay the fine or part thereof shall cause the reversion to the original penalty of suspension. As such, respondent shall serve the original penalty of suspension imposed, irrespective of the amount already paid.

The fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory

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# Mitigating/Aggravating Circumstances

- Factors considered in the determination of the penalties to be imposed
- Must be invoked/pleaded

- a. Physical illness;
- b. Malice;
- c. Time and place of offense;
- d. Taking undue advantage of official position;
- e. Taking undue advantage of subordinate;
- f. Undue disclosure of confidential information;
- g. Use of government property in the commission of the offense;
- h. Habituality;
- i. Offense is committed during office hours and within the premises of the office or building;
- j. Employment of fraudulent means to commit or conceal the offense;
- k. First offense;
- l. Education;
- m. Length of service; or
- n. Other analogous circumstances.

# Manner of Imposition

Minimum Period  
Only (more)  
mitigating and  
no aggravating



Medium Period  
No mitigating  
and no  
aggravating  
(offsetting)



Maximum Period  
Only (more)  
aggravating and  
no mitigating





# Multiple Offenses

- ▶ 2 or more **different offenses**, penalty for the most serious offense is imposed, remaining is applied as aggravating
- ▶ 2 or more **counts of same offense**, penalty shall be maximum regardless of mitigating circumstance



# Duration and Effect of Penalties

## Dismissal

Permanent separation from the service

## Demotion

Diminution of salary to next salary grade

## Suspension

Temporary cessation of work for a period not exceeding one year

## Fine

Payment of an amount not exceeding 6 mos salary


## Reprimand

Official rebuke

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May a government employee, dismissed from the service for cause, be allowed to recover the personal contributions he paid to the Government Service Insurance System (GSIS)?

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YES.

*“ xxx the GSIS laws are in the nature of social legislation, to be liberally construed in favor of the government employees. The money subject of the instant request consists of personal contributions made by the employee, premiums paid in anticipation of benefits expected upon retirement. The occurrence of a contingency, i.e., his dismissal from the service prior to reaching retirement age, should not deprive him of the money that belongs to him from the outset. To allow forfeiture of these personal contributions in favor of the GSIS would condone undue enrichment.”*

Lledo vs. Lledo

A.M. No. P-95-1167, February 9, 2010



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# Administrative disabilities inherent in certain penalties (Section 57)

**Dismissal** - cancellation of eligibility, forfeiture of retirement benefits (except terminal and personal contributions), perpetual disqualification from holding public office and bar from taking civil service examinations.

**Demotion** - disqualification from promotion for one year

**Suspension** - disqualification from promotion corresponding to the period of suspension.

**Fine** - disqualification from promotion for the same period the respondent is fined.

**Reprimand** shall not carry with it any accessory penalties.

A **warning or admonition** shall not be considered a penalty.

Dismissal is an  
indivisible penalty

**Not  
susceptible  
to mitigation**



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# Contempt of the Commission

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# Contemptuous Acts

disobedience of or resistance to a lawful writ, process, order, decision, resolution, ruling, summons, subpoena, command or injunction of the Commission

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# Contempt

fine of Php 1,000.00 per day for every act of indirect contempt

and/or

*suspension for one (1) month up to a maximum period of six (6) months (proposed new provision)*

shall not bar the filing of another indirect contempt case of contempt continues after serving penalty.



# Effects of Exoneration (Section 58)

**Fine** - refund

**Demotion** –reversion to former position; payment of salary differentials

**Suspension/Dismissal** – reinstatement; payment of back wages and all benefits; restoration of leave credits; deductions for withholding tax, GSIS premiums others contributions; based on SG when dismissed or suspended *including salary increases; RATA(proposed new provision)*

An illegally dismissed or suspended employee who is exonerated or penalty downgraded to reprimand is entitled to payment of backwages and other benefits from time of illegal termination up to actual reinstatement.



# Updates On Recent CSC Memorandum Circulars


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## CSC-COA-DBM Joint Circular No.1 s of 2017

Hiring under contract of service shall be limited to consultants, learning service providers, and/or other technical experts to undertake special project or job within a specific period. The project or job is not part of the regular functions of the agency, or the expertise is not available in the agency, or it is impractical or more expensive for the government agency to directly undertake the service provided by the individual or institutional contractor.




HIRING OF JOB ORDER WORKERS SHALL BE LIMITED TO EMERGENCY OR INTERMITTENT WORK, SUCH AS CLEARING OF DEBRIS ON THE ROADS, CANALS, WATERWAYS, ETC. AFTER NATURAL/ MAN-MADE DISASTERS/OCCURRENCES; OTHER TRADES AND CRAFTS, AND MANUAL TASKS SUCH AS CARPENTRY, PLUMBING, PAINTING, ELECTRICAL, AND THE LIKE WHICH ARE NOT PART OF THE REGULAR FUNCTIONS OF THE AGENCY.

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Contract of service and job order workers should not be designated to positions exercising control or supervision over regular and career employees.

The services of the contract of service and job order workers are not covered by Civil Service law and rules thus, not creditable as government service.



They do not enjoy the benefits enjoyed by government employees, such as leave, PERA, RATA and thirteenth month pay.

Individuals hired through contract of service shall be paid the prevailing market rates, subject to the provisions of RA 9184 and its Implementing Rules and Regulations.





Creation of permanent positions may be considered for regular functions, while hiring of casual or contractual personnel may be considered for projects and activities that are temporary in nature, subject to approval of the oversight agencies concerned' and to existing budgeting and accounting rules and regulations.



Individuals hired through job order shall be paid wages equivalent to the daily wage/salary of comparable positions in government and a premium of up to 20% of such wage/salary.


# M.C No 23 s of 2016

A person with dual citizenship shall not be appointed in government unless he/she renounces his/her citizenship pursuant to RA 9225 (Citizen Retention and Re-acquisition Act).

Right to be appointed to public office cannot be exercised by those who are candidates for or are occupying any public office in the country of which they are naturalized citizens.

Incumbent government employees who have dual citizenship shall be given 6 months to renounce it and to take their oath of allegiance to the Philippines. Otherwise, appointment will be cancelled.

M.C. 8 s 2017 clarified that only natural-born Filipino citizens who were naturalized in another country and later on reacquired their Filipino citizenship need to renounce their foreign citizenship in order to hold public office.



Those who are born to Filipino parents in another State are not required to renounce in order to hold public office in the Philippines.

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# MC 21 series of 2017

Requests for accreditation of service as government service are allowed only up to last working day of 2014 except former government employees who are affected by E.O. 366 who have until December 31, 2017 to submit their request for accreditation of service.





# THANK YOU!

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