



Administrative Justice

"Civil Service Law and Rules: An Overview"

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*PAGBA 1st Quarterly Seminar and Meeting
February 9, 2018 : The Mansion, Iloilo City*



ADMINISTRATIVE DISCIPLINE

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ADMINISTRATIVE DISCIPLINE

Administrative Justice, or Administrative Adjudication is the exercise by an administrative agency of judicial powers delegated to the agency by a legislative body.

The legislative power gives agencies authority to issue regulations, and the judicial power gives the agency the authority to adjudicate contested cases within its area of jurisdiction.

-Dictionary of American History

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ADMINISTRATIVE DISCIPLINE

Inherent in the nature of administrative agencies, powers of Administrative Agencies are as follows:

1. Quasi-legislative power / Power of subordinate legislation
- 2. Quasi-judicial power / Power of adjudication**
3. Determinative powers (Note: Oftentimes coined as *incidental powers*)

http://philawgov.wikia.com/wiki/Administrative_Agency



ADMINISTRATIVE DISCIPLINE

Quasi-Judicial Power

It is the power of administrative authorities to make determinations of facts in the performance of their official duties and to apply the law as they construe it to the facts so found. The exercise of this power is only incidental to the main function of administrative authorities, which is the enforcement of the law.

<https://lawphilreviewer.wordpress.com/category/administrative-law/>



ADMINISTRATIVE DISCIPLINE

Title I, Subtitle A, Chapter 3, Organization and Functions of CSC, Administrative Code of 1987, provides as follows:

(5) Render opinion and rulings on all personnel and other Civil Service matters which shall be binding on all heads of departments, offices and agencies and which may be brought to the Supreme Court on certiorari;

(11) 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 of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on certiorari by the aggrieved party within **thirty (30) days** from receipt of a copy thereof;

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ADMINISTRATIVE DISCIPLINE

Adjudicative Powers of the Commission is provided for in the Article IX, Constitution, as follows:

Section 6. Each Commission en banc may promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules, however, shall not diminish, increase, or modify substantive rights.

Section 7. Each Commission shall decide by a majority vote of all its Members, any case or matter brought before it within sixty days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the rules of the Commission or by the Commission itself. Unless otherwise provided by this Constitution or by law, any decision, order, or ruling of each Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty days from receipt of a copy thereof.

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ADMINISTRATIVE DISCIPLINE

As previously observed, under **Section 5(5) of Article VIII of the Constitution**, the rules of procedure of quasi-judicial bodies, such as the Constitutional Commissions, shall remain effective unless disapproved by the Supreme Court.

All of these provisions are intended to bolster the independence of the Commission in the discharge of the powers vested in them by the Constitution or conferred on them by law.



ADMINISTRATIVE DISCIPLINE

DEFINITION:

A part of Administrative Law which deals with administrative infractions or grounds for disciplinary actions, administrative penalties and administrative disciplinary procedure.



ADMINISTRATIVE DISCIPLINE

LEGAL BASES:

Art. XI, 1987 Constitution (Public Accountability)

Art. IX, 1987 Constitution (Civil Service)

The Revised Administrative Code of 1987 (E.O. 292)

Local Government Code

RA 6713

The Ombudsman Act

2017 Rules on Administrative Cases including Disciplinary Rules on

Sexual Harassment Cases

Supreme Court Decisions

CSC Resolutions

Other Laws dealing with administrative discipline

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ADMINISTRATIVE DISCIPLINE

LEGAL BASES:

Administrative Discipline had its genesis from the constitutional mandate which states as follows:

“Public Office is a public trust, Public Officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, Loyalty, and efficiency, act with patriotism and justice and lead modest lives” (Art. XI, Accountability of Public Officers)

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ADMINISTRATIVE DISCIPLINE

The phrase “public office is a public trust” refers to a representative government, the officers being mere agents and not rulers of the people, one where no one man or set of men has a proprietary or contractual right to an office, but where every officer accepts office pursuant to the provisions of law and holds the office as a trust for the people.



ADMINISTRATIVE DISCIPLINE

Characteristics of Administrative Discipline:

1. Administrative Offenses do not prescribe (Floria vs. Sunga, 386 SCRA 551)
2. Flexible concept of the right to a “speedy disposition of cases” (OMBUDSMAN VS. JURADO, G.R. No. 154155 dated August 6, 2008)
3. Administrative cases are not subject to settlement (Modified by Rule 11, 2017 RACCS)
4. The withdrawal of the complainant is not a ground for the dismissal of the case
5. The complainant is a mere witness to the commission of the Offense, hence, anybody can file an administrative complaint

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ADMINISTRATIVE DISCIPLINE

No officer or employee of the government can be disciplined or removed from office except for cause and after due process.
(Art. IX-B, Sec 2, par 3, 1987 Constitution).

The phrase “for cause” refers to grounds for disciplinary actions enumerated in the Revised Administrative Code of 1987 (EO 292).

The procedure in administrative cases is governed by CSC Resolution No. 1101502 (Revised Rules On Administrative Cases in the Civil Service) with the Rules of Court being applied in suppletory character.

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ADMINISTRATIVE DISCIPLINE

Investigation and adjudication of administrative complaints against appointive local officials and employees as well as their suspension and removal shall be in accordance with the Civil Service Law and Rules and other pertinent laws. The results of such administrative investigations shall be reported to the Civil Service Commission (Sec. 84, Local Government Code).



ADMINISTRATIVE DISCIPLINE

Official Subject to Disciplinary Authority; Exceptions. – The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary (Sec.21, RA 6770, the Ombudsman Act)

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ADMINISTRATIVE DISCIPLINE

Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee even if no criminal prosecution is instituted against him (Sec. 11, par b, RA 6713, The Code of Conduct)



ADMINISTRATIVE DISCIPLINE

JURISDICTION

The authority to hear and decide cases. The power or jurisdiction to institute disciplinary actions in administrative cases is lodged only on the disciplinary authority to which such power is vested by law. Absent such legal basis the power to discipline cannot be exercised.



ADMINISTRATIVE DISCIPLINE

Heads of agencies have jurisdiction to investigate and discipline their own officials and employees, however, heads of agencies may delegate the power to investigate to their subordinates and just wait the recommendations which will be made afterwards. (Sec. 47, par 2 and 3, EO 292).

The authority that decides the case, therefore, is also clothed with the power to investigate and is deemed to have done the same even if in reality somebody else conducted it by virtue of delegation.



ADMINISTRATIVE DISCIPLINE

***Jurisprudence on Jurisdiction:**

“Jurisdiction over the subject matter of case is conferred by law and determined by the allegations in the complaint.”

(Deltaventures Resources, Inc. vs Cabato, 327 SCRA 482)

“The Court loses jurisdiction upon the finality of the decision, except to order the execution within its lifetime.”

(Lizardo, Sr. vs Montano, 332 SCRA 163).



ADMINISTRATIVE DISCIPLINE

Kinds of Jurisdiction

Original jurisdiction – Jurisdiction to take cognizance of cases which exist for the first time (i.e. complaint, petition, protests, request for favorable recommendation for executive clemency) under it are two sub-classifications:



ADMINISTRATIVE DISCIPLINE

Exclusive original jurisdiction – Original jurisdiction which cannot be exercised by another body. Example is the jurisdiction of the CSC over examination related cases, cases of sexual harassment filed against its officials and employees, requests for a favorable recommendation for executive clemency, requests for extension of service, requests to transfer venue of hearing being conducted by any of the CSC offices, and other cases which other bodies cannot legally act upon.



ADMINISTRATIVE DISCIPLINE

Concurrent original jurisdiction – Original jurisdiction which two or more bodies may exercise. This, however, cannot be exercised simultaneously as the same gives rise to the prohibited practice of forum shopping. This is subject to the rule that the assumption of one body over a case excludes other bodies that may exercise concurrent jurisdiction over the same.



ADMINISTRATIVE DISCIPLINE

Permanency of Jurisdiction – Jurisdiction once present is not lost upon the instance of the parties but continues until the case is terminated. (*Que vs. Court of Appeals, 339 SCRA 505*). In administrative cases, jurisdiction over the person complained of remains even if he resigned from the service so long as the offense was committed during his incumbency (*CSC Resolution No. 99-0298 dated January 1, 1999, Uy, Allan*).

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ADMINISTRATIVE DISCIPLINE

A public official's resignation does not render moot an administrative case that was filed prior to the official's resignation.

The jurisdiction of the Court at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case.

(Andutan vs. Ombudsman, G.R. No. 164679, July 26, 2011)



ADMINISTRATIVE DISCIPLINE

Resignation is not a way out to evade administrative liability when facing administrative sanction. The resignation of a public servant does not preclude the finding of any administrative liability to which he or she shall still be answerable.

(Pagano vs. Nazarro, Jr. cited in Andutan v. Ombudsman)



ADMINISTRATIVE DISCIPLINE

*Disciplining authority may allow payment of fine in place of suspension in several circumstances including 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. (2017 RACCS)



ADMINISTRATIVE DISCIPLINE

Section 66 of the Omnibus Election Code, in considering an appointive official ipso facto resigned, merely provides for the immediate implementation of the penalty for the prohibited act of engaging in partisan political activity. This provision was not intended, and should not be used, as a defense against an administrative case for acts committed during government service.

(Esther S. Pagano vs. Juan Nazarro, Jr. et al. G.R. No. 149072, September 21, 2007)

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ADMINISTRATIVE DISCIPLINE

Cessation from office of respondent by resignation or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor does it render said administrative case moot and academic.

(Baquerfo vs. Sanchez, 495 Phil. 10 , 2005 cited in Andutan vs. Ombudsman)



ADMINISTRATIVE DISCIPLINE

Appellate Jurisdiction - Refers to the jurisdiction to take cognizance of appeals from a decision of a lower deciding authority.

Exclusive appellate jurisdiction – all decisions of agency heads on administrative cases whether disciplinary or non-disciplinary are within the exclusive appellate jurisdiction of the CSC.



ADMINISTRATIVE DISCIPLINE

The Party Adversely Affected Doctrine – Refers to the rule that in administrative cases only the respondent who was found guilty of an offense has the personality to file an appeal (Paredes vs. CSC). However, this is a procedural rule which must be invoked by the appellee otherwise, the appeal by the complainant may be given due course (Mendez vs CSC).



ADMINISTRATIVE DISCIPLINE

*The CSC is considered a party adversely affected by the decision of a higher court reversing its decision on the issue of nepotism, since the CSC is the guardian of merit and fitness in the bureaucracy
(Dacoycoy vs CSC)



ADMINISTRATIVE DISCIPLINE

In the case of *PNB vs Ricardo V. Garcia, Jr.*, September 9, 2002, the Supreme Court expressly abandoned the *Party Adversely Affected Doctrine* holding that the effort of the government to curb graft and corruption, malfeasance and misfeasance in the government will be rendered meaningless if appeal cannot be had from erroneous administrative decisions.



ADMINISTRATIVE DISCIPLINE

The complainant in an administrative case is absolutely without personality to appeal, except if he/she is the agency head, the Civil Service Commission or the same is not put in issue. (NAB vs Mamauag, 466 SCRA 624, 2005)



ADMINISTRATIVE DISCIPLINE

xxx allows the CSC to appeal in cases where the respondent is exonerated of charges. The Court did not deviate from the doctrine that the complainant, being a mere witness for the government, cannot appeal the decision rendered in the administrative case. xxx No private interest is involved in an administrative case as the offense is committed against the government.

(CSC vs Dacoycoy 306 SCRA 425)

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ADMINISTRATIVE DISCIPLINE

The right to appeal by government parties was not limited to the Civil Service Commission.

In *Pastor v. City of Pasig*, this court ruled that the City of Pasig had standing to appeal the decision of the Civil Service Commission reinstating a city employee to her former position, despite the city government having reassigned her to another unit.

(LRTA vs Salvaña, GR No. 192074, June 10, 2014)

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ADMINISTRATIVE DISCIPLINE

In *Geronga v. Varela*, this Court ruled that the Mayor of Cadiz City had the right to file a motion for reconsideration of a decision by the Civil Service Commission exonerating a city employee on the ground that "as the appointing and disciplining authority, he is a real party in interest."

In *Department of Education v. Cuanan*, this Court ruled that the Department of Education "qualified as a party adversely affected by the judgment, who can file an appeal of a judgment of exoneration in an administrative case."

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(LRTA vs Salvaña, GR No. 192074, June 10, 2014)



ADMINISTRATIVE DISCIPLINE

The ruling in National Appellate Board was applied in Montoya v. Varilla, Pleyto v. PNP-CIDG, and Ombudsman v. Liggayu.

The present rule is that a government party is a "party adversely affected" for purposes of appeal provided that the government party that has a right to appeal must be the office or agency prosecuting the case.

(LRTA vs Salvaña, GR No. 192074, June 10, 2014)

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ADMINISTRATIVE DISCIPLINE

Indeed, recent decisions showed that this Court has allowed appeals by government parties.

In *Civil Service Commission v. Yu*, this Court allowed the Civil Service Commission to appeal the Court of Appeals' decision granting the reinstatement of a government employee whose appointment had been revoked by the Commission.

(LRTA vs Salvaña, GR No. 192074, June 10, 2014)

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ADMINISTRATIVE DISCIPLINE

In *National Power Corporation v. Civil Service Commission and Tanfelix*, the National Power Corporation had previously filed an administrative complaint against one of its employees, Rodrigo Tanfelix, resulting in his dismissal from service. When the Civil Service Commission exonerated Tanfelix and the Court of Appeals affirmed the exoneration, the National Power Corporation was allowed to appeal.

(LRTA vs Salvaña, GR No. 192074, June 10, 2014)



ADMINISTRATIVE DISCIPLINE

Note: Pursuant to Rule 43 of the Rules of Court, Decisions of the Civil Service Commission are appealable to the Court of Appeals through a Petition for Review.



SPECIFIC OFFENSES

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ADMINISTRATIVE DISCIPLINE

OFFENSES AND PENALTIES

Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity and effects on the government service.



ADMINISTRATIVE DISCIPLINE

Grave offenses are those which may be punished with dismissal from the service for the first offense or the maximum of 1 year suspension for the first offense and dismissal from the service for the second offense. Examples of Grave Offenses punishable with dismissal are :

- Serious Dishonesty
- Gross Neglect of Duty
- Grave Misconduct
- Being Notoriously Undesirable



ADMINISTRATIVE DISCIPLINE

Examples of Grave Offenses punishable with dismissal are :

- Conviction of a crime involving moral turpitude
- Falsification of Official Document
- Physical or mental incapacity due to immoral or vicious habits
- Receiving for personal use of a fee, gift or other valuable thing in the course of official duties when the same is given by any person in the hope or expectation of receiving a favor or better treatment, or committing other acts punishable under the anti graft laws

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ADMINISTRATIVE DISCIPLINE

Examples of Grave Offenses punishable with dismissal are:

- Contracting loans of money or property from reasons with whom the office of the employee has business relations
- Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;
- Nepotism and Disloyalty to the Republication of the Philippines.

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ADMINISTRATIVE DISCIPLINE

Examples of Grave Offenses punishable with 6 mos. and 1 day to 1 year are:

- Less serious dishonesty
- Oppression
- Disgraceful and immoral conduct
- Inefficiency and incompetence in the performance of official duties
- Frequent unauthorized absences or tardiness
- Habitual tardiness in reporting for duty causing prejudice to the operations of the office
- Loafing from duty during regular office hours
- Refusal to perform official duty
- Gross insubordination
- Conduct prejudicial to the best interest of the service

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ADMINISTRATIVE DISCIPLINE

Examples of Grave Offenses punishable with 6 mos. and 1 day to 1 year are:

- Directly or indirectly having financial and material interest in any transaction requiring the approval of one's office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something
- 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 one's office, unless expressly allowed by law
- Disclosing or misusing confidential or classified information officially known by reason of one's office and not made available to the public, to further one's private interests or give undue advantage to anyone, or to prejudice the public interest
- Obtaining or using statement filed under RA 6713 for any purpose contrary to morals or public policy

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ADMINISTRATIVE DISCIPLINE

Examples of Grave Offenses punishable with 6 mos. and 1 day to 1 year are:

- 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; and
- Recommending any person to any position in a private enterprise which has a regular or pending official transaction with one's office, unless such recommendation or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or (3) as part of the function of one's office.



ADMINISTRATIVE DISCIPLINE

Less Grave offenses are those punishable with 1 mo. 1 day to 6 mos. For the first offense and dismissal for the second offense. Examples are:

- Simple Neglect of Duty
- Simple Misconduct
- Discourtesy in the Course of Official Duties;



ADMINISTRATIVE DISCIPLINE

Less Grave offenses are those punishable with 1 mo. 1 day to 6 mos. For the first offense and dismissal for the second offense. Examples are:

X X X

- Gross Discourtesy in the course of official duties
- Violation of CS Law and Rules of serious nature



ADMINISTRATIVE DISCIPLINE

Less Grave offenses are those punishable with 1 mo. 1 day to 6 mos. For the first offense and dismissal for the second offense.

Examples are:

X X X

- Insubordination
- Habitual Drunkenness
- Unfair discrimination in rendering public service due to party affiliation or preference
- Failure to File sworn statements of assets and liabilities



ADMINISTRATIVE DISCIPLINE

Less Grave offenses are those punishable with 1 mo. 1 day to 6 mos. For the first offense and dismissal for the second offense. Examples are:

X X X

- Failure to resign from his position in the private business where there is conflict of interest within 30 days from assumption of public office
- Engaging directly or indirectly in partisan political activities by one holding non-political office

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ADMINISTRATIVE DISCIPLINE

Light Offenses are those punishable with reprimand for the first offense, suspension of up to 30 days for the second offense and dismissal from the service for the third offense. Examples are:

- Simple Discourtesy
- Improper solicitation from subordinates or school children
- Violation of reasonable office rules and regulations



ADMINISTRATIVE DISCIPLINE

Light Offenses are those punishable with reprimand for the first offense, suspension of up 30 days for the second offense and dismissal from the service for the third offense. Examples are:

X X X

- Habitual tardiness, Gambling prohibited by law
- Refusal to render overtime service
- Immorality prior to entering the service



ADMINISTRATIVE DISCIPLINE

Light Offenses are those punishable with reprimand for the first offense, suspension of up 30 days for the second offense and dismissal from the service for the third offense. Examples are:

X X X

- Borrowing money from subordinates
- Lending money at usurious rates
- Willful failure to pay just debts or taxes due to the government



ADMINISTRATIVE DISCIPLINE

- Failure to attend to anyone who wants to avail of the services of his office
- Engaging in the Private Practice of Profession unless authorized and Pursuit of private business without the permission required by civil service rules and regulations.



ADMINISTRATIVE DISCIPLINE

Extenuating, Mitigating, Aggravating or Alternative Circumstances.

In determining the imposable penalties, some circumstances may be appreciated for the purpose of mitigating or aggravating the liability of the respondent. They are as follows:

- Physical illness
- Malice
- Time and place of offense
- Taking undue advantage of official position
- Taking undue advantage of subordinate
- Undue disclosure of confidential information



ADMINISTRATIVE DISCIPLINE

Extenuating, Mitigating, Aggravating or Alternative Circumstances.

In determining the imposable penalties, some circumstances may be appreciated for the purpose of mitigating or aggravating the liability of the respondent. They are as follows:

X X X

- Use of government property in the commission of the offense,
- Habitual Commission of the offense during office hours and within office premises,

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ADMINISTRATIVE DISCIPLINE

Extenuating, Mitigating, Aggravating or Alternative Circumstances.

In determining the imposable penalties, some circumstances may be appreciated for the purpose of mitigating or aggravating the liability of the respondent. They are as follows:

- Offense is committed during office hours and within the premises of the office or building
- Employment of fraudulent means to commit or conceal the offense
- First offense
- Education
- Length of service and other analogous circumstances



ADMINISTRATIVE DISCIPLINE

DISGRACEFUL AND IMMORAL CONDUCT

Refers to acts which violate the basic norm of decency, morality and decorum abhorred and condemned by the 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



ADMINISTRATIVE DISCIPLINE

DISHONESTY

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)



ADMINISTRATIVE DISCIPLINE

DISHONESTY

“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)



ADMINISTRATIVE DISCIPLINE

Classification of DISHONESTY

a) Serious Dishonesty -

Punishable by dismissal from the service

b) Less Serious Dishonesty -

1st offense - suspension from 6 months and 1 day to 1 year

2nd offense - dismissal from the service

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



ADMINISTRATIVE DISCIPLINE

Classification of DISHONESTY

c) Simple Dishonesty-

1st offense - suspension of 1 month and 1 day to 6 months

2nd offense – suspension of 6 months and 1 day to 1 year

3rd offense - dismissal from the service

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



ADMINISTRATIVE DISCIPLINE

The presence of any one of the following 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
- 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

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ADMINISTRATIVE DISCIPLINE

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



ADMINISTRATIVE DISCIPLINE

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

- 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

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ADMINISTRATIVE DISCIPLINE

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

h) Other analogous circumstances

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



ADMINISTRATIVE DISCIPLINE

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

X X X

- 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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ADMINISTRATIVE DISCIPLINE

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

X X X

- 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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ADMINISTRATIVE DISCIPLINE

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

X X X

- 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

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ADMINISTRATIVE DISCIPLINE

The presence of any one of the following 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]

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ADMINISTRATIVE DISCIPLINE

GROSS NEGLIGENCE OF DUTY

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]



ADMINISTRATIVE DISCIPLINE

GRAVE VS. SIMPLE

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]



ADMINISTRATIVE DISCIPLINE

CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE

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

[In Re: Basa, 41 Phil. 275; In Re: Isada, 60 Phil. 915]



ADMINISTRATIVE DISCIPLINE

MORAL TURPITUDE

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]

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ADMINISTRATIVE DISCIPLINE

FALSIFICATION OF PUBLIC DOCUMENTS

Falsification as a rule is the misrepresentation of a thing, fact or condition, certifying that a thing is true when it is not, whether one has the right to make the representation or certificate. As applied to a public document, in order that said act be punishable, it is immaterial whether it has caused damage to a third person or not. This is because falsification of public documents is controlled by other principles distinct from those applicable to private documents. [U.S. vs. *BUENAVENTURA*, 1 Phil. 433]

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ADMINISTRATIVE DISCIPLINE

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

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)]

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ADMINISTRATIVE DISCIPLINE

NEPOTISM

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]



ADMINISTRATIVE DISCIPLINE

LIMITATIONS ON APPOINTMENTS

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]



ADMINISTRATIVE DISCIPLINE

DISLOYALTY TO THE REPUBLIC OF THE PHILIPPINES AND TO THE FILIPINO PEOPLE

It consists of abandonment or renunciation of one's loyalty to the government or advocating the overthrow of the Government.

[Par. 7, Section 8, Presidential Decree No. 971, July 27, 1976]



ADMINISTRATIVE DISCIPLINE

OPPRESSION

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]



ADMINISTRATIVE DISCIPLINE

INEFFICIENCY AND INCOMPETENCE IN THE PERFORMANCE OF OFFICIAL DUTY

Incompetency – has been defined as the manifest lack of adequate ability and fitness for the satisfactory performance of official duties. This has reference to any physical, moral or intellectual quality the lack of which substantially incapacitates one to perform the duties of an officer.

[Sec. 8, Pres. Decree No. 971]

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ADMINISTRATIVE DISCIPLINE

FREQUENT UNAUTHORIZED ABSENCES, OR TARDINESS IN REPORTING FOR DUTY, LOAFING OR FREQUENT UNAUTHORIZED ABSENCES FROM DUTY DURING REGULAR OFFICE HOURS

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)]

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ADMINISTRATIVE DISCIPLINE

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]



ADMINISTRATIVE DISCIPLINE

GROSS INSUBORDINATION

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]

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ADMINISTRATIVE DISCIPLINE

HABITUAL DRUNKENNESS

One who frequently and repeatedly becomes intoxicated by excessive indulgence in intoxicating liquor so as to acquire a fixed habit and an involuntary tendency to become intoxicated as often as the temptation is presented, even though he remains sober for days or even weeks at a time.

[Black's Law Dictionary, 5th Edition]

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ADMINISTRATIVE DISCIPLINE

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)]

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Memorandum Circular No. 16, s. 2010

dated August 6, 2010

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
2. Any officer or employee who incurs undertime, regardless of the number of minutes/hours, ten (10) times a month for at least two (2) consecutive months during the year shall be liable for Simple Misconduct and/or Conduct Prejudicial to the Best Interest of the Service, as the case may be.

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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.



ADMINISTRATIVE DISCIPLINE

WILLFUL FAILURE TO PAY JUST DEBTS

“Just debts” shall apply only to:

1. Claims adjudicated by a court of law, or
2. Claims the existence and justness of which are admitted by the debtor.

[Section 22. Rule XIV, Omnibus Rules Implementing Book V of Executive Order 292 (Administrative Code of 1987)]

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LAW AND RULES ON SEXUAL HARASSMENT

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ADMINISTRATIVE DISCIPLINE

Definition:

The term Sexual Harassment has varying definitions depending on what type of case will be instituted. If the case is criminal in nature, the definition under RA 7877 applies, thus, all elements thereof must be present for purposes of conviction. On the other hand, the administrative offense of sexual harassment is defined under the Administrative Disciplinary Rules on Sexual Harassment cases promulgated by the Civil Service Commission (CSC Resolution No. 01-0940) which conspicuously deviated from the stringent requirements of RA 7877 insofar as the elements of the offense are concerned.

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ADMINISTRATIVE DISCIPLINE

Sexual Harassment as a criminal offense is defined as a work, education or training related act committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor or any person who, ***having authority, influence or moral ascendancy*** over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said act.

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ADMINISTRATIVE DISCIPLINE

Sexual Harassment as an administrative offense is defined as an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by a government employee or official in a work related, training or education related environment of the person complained of.



ADMINISTRATIVE DISCIPLINE

Note that the two definitions are substantially the same except that in the administrative sexual harassment cases the element of moral ascendancy, influence or authority on the part of the offender is not present.



ADMINISTRATIVE DISCIPLINE

II. Forms of commission

Section 5. The following are illustrative forms of sexual harassment:

(a) Physical

- i. Malicious Touching;
- ii. Overt sexual advances;
- iii. Gestures with lewd insinuation.

(b) Verbal, such as but not limited to, requests or demands for sexual favors, and lurid remarks;

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ADMINISTRATIVE DISCIPLINE

II. Forms of commission

Section 5. The following are illustrative forms of sexual harassment:

X X X

(c) Use of objects, pictures or graphics, letters or writing notes with sexual underpinnings;

(d) Other forms analogous to the foregoing.

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ADMINISTRATIVE DISCIPLINE

III. Persons Liable

Section 6. Any government official or employee, regardless of sex, is liable for sexual harassment when he/she:

- (a) directly participates in the execution of any act of sexual harassment as defined by these Rules;
- (b) induces or directs another or others to commit sexual harassment as defined by these Rules;

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ADMINISTRATIVE DISCIPLINE

III. Persons Liable

Section 6. Any government official or employee, regardless of sex, is liable for sexual harassment when he/she:

X X X

(c) cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished; or

(d) cooperates in the commission of sexual harassment by another through previous or simultaneous acts

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ADMINISTRATIVE DISCIPLINE

IV. Committee on Decorum and Investigation

Section 7. A Committee on Decorum and Investigation (CODI) shall be created in all national or local agencies of the government, state colleges and universities, including government-owned or controlled corporations with original charters. The Committee shall perform the following functions:

- (a) Receive complaints of sexual harassment;
- (b) Investigate sexual harassment complaints in accordance with the prescribed procedure;

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ADMINISTRATIVE DISCIPLINE

IV. Committee on Decorum and Investigation

Section 7.

X X X

- (c) Submit a report of its findings with the corresponding recommendation to the disciplining authority for decision;
- (d) Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevent incidents of sexual harassment;

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ADMINISTRATIVE DISCIPLINE

Localized Committees on Decorum and Investigation established in the regional or field offices, as the case may be, of the agency or institution shall have the same functions as stated above and shall submit the report of investigation with its recommendation directly to the disciplining authority.

When a member of the Committee is the complainant or the person complained of in a sexual harassment case, he/she shall be disqualified from being a member of the Committee
*or the complaint may be filed directly with the Civil Service Commission

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ADMINISTRATIVE DISCIPLINE

VII. Classification of Acts of Sexual Harassment (Grave, Less Grave and Light)

Section 53. *Sexual harassment is classified as grave, less grave and light offenses.*

- A. Grave Offenses shall include, but are not limited to:
1. unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast);



ADMINISTRATIVE DISCIPLINE

VII. Classification of Acts of Sexual Harassment (Grave, Less Grave and Light)

Section 53. *Sexual harassment is classified as grave, less grave and light offenses.*

X X X

2. sexual assault;
3. malicious touching;



ADMINISTRATIVE DISCIPLINE

VII. Classification of Acts of Sexual Harassment (Grave, Less Grave and Light)

Section 53. *Sexual harassment is classified as grave, less grave and light offenses.*

4. requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance, and

5. other analogous cases.



ADMINISTRATIVE DISCIPLINE

B. Less Grave Offenses shall include, but are not limited to:

1. unwanted touching or brushing against a victim's body;
2. pinching not falling under grave offenses;



ADMINISTRATIVE DISCIPLINE

**B. Less Grave Offenses shall include,
but are not limited to:**

3. derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person;



ADMINISTRATIVE DISCIPLINE

**B. Less Grave Offenses shall include,
but are not limited to:**

X X X

- 4. verbal abuse with sexual overtones; and
- 5. other analogous cases.



ADMINISTRATIVE DISCIPLINE

C. The following shall be considered Light Offenses;

1. surreptitiously looking at a person's private part or worn undergarments;
2. making sexist statements and uttering smutty jokes or sending these through text, electronic mail including but not limited to social media platform, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advise, when they are by their nature clearly embarrassing, offensive or vulgar;

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ADMINISTRATIVE DISCIPLINE

C. The following shall be considered Light Offenses;

X X X

3. malicious leering or ogling;
4. the display of sexually offensive pictures, materials or graffiti;
5. unwelcome inquiries or comments about a person's sex life;

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ADMINISTRATIVE DISCIPLINE

C. The following shall be considered Light Offenses;

X X X

6. unwelcome sexual flirtation, advances, propositions;
7. making offensive hand or body gestures at an employee;



ADMINISTRATIVE DISCIPLINE

C. The following shall be considered Light Offenses;

X X X

8. persistent unwanted attention with sexual overtones;
9. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver;
and
10. other analogous cases.



ADMINISTRATIVE DISCIPLINE

VIII. Administrative Liabilities

Section 54. The head of office who fails to act within fifteen (15) days from receipt of any complaint for sexual harassment properly filed against any employee in that office shall be charged with Neglect of Duty.



ADMINISTRATIVE DISCIPLINE

VIII. Administrative Liabilities

Section 55. Any person who is found guilty of sexual harassment shall, after the investigation, be meted the penalty corresponding to the gravity and seriousness of the offense.



ADMINISTRATIVE DISCIPLINE

VIII. Administrative Liabilities

Section 56. The penalties for light, less grave, and grave offenses are as follows:

A. For light offenses:

1st offense – Reprimand

2nd offense – Fine or suspension not exceeding thirty (30) days

3rd offense – Dismissal

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ADMINISTRATIVE DISCIPLINE

VIII. Administrative Liabilities

Section 56. The penalties for light, less grave, and grave offenses are as follows:

X X X

B. For less grave offenses:

1st offense – Fine or suspension of not less than thirty (30) days and not exceeding six (6) months

2nd offense – Dismissal



ADMINISTRATIVE DISCIPLINE

VIII. Administrative Liabilities

Section 56. The penalties for light, less grave, and grave offenses are as follows:

X X X

C. For grave offenses: Dismissal



ADMINISTRATIVE DISCIPLINE

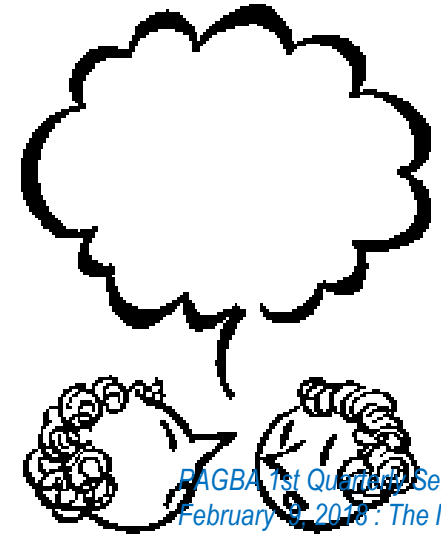
VIII. Administrative Liabilities

Section 57. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.



Thank you!

Q&A



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