



SEP 26 2018

Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

OPD. 13 DPWH
09. 28-2018

DEPARTMENT ORDER)
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NO. 144)
Series of 2018)

SUBJECT: Issuance of Freedom of Information (FOI) People's Manual and Re-issuance of FOI Agency Manual

In compliance with Executive Order No. 2, Series of 2016, this Department issued the FOI Agency Manual, a copy of which was circulated on March 15, 2017. Further, this Department issued Department Order (DO) No. 62, Series of 2017 designating FOI officers and constituting the Central Appeals and Review Committee (CARC).

In line with the efforts of the Department to progressively realize a full and meaningful FOI system, the FOI People's Manual and the revised FOI Agency Manual are hereby promulgated.

The FOI People's Manual shall serve as a guide for the general public in making requests for information from this Department and all offices under it. On the other hand, the FOI Agency Manual sets forth the rules, procedures, and other intra-agency guidelines to be followed by officials and employees of this Department in handling requests for information by the general public.

Existing FOI officers and CARC members shall continue to perform their functions as provided for under DO No. 62, Series of 2017. They shall act with due regard to the object, spirit, and intents of the foregoing FOI Manuals, all relevant laws, rules, and regulations, and the rights of a person which may be involved, especially those that pertain to privacy and confidentiality.

In case any FOI officer or CARC member, at any time, determines or encounters any issue or concern not covered by the FOI Manuals or other pertinent Department issuances, the said officer or member shall immediately inform the Office of the Undersecretary for Support Services regarding the matter for appropriate action, which may include proposing necessary amendments to the FOI Manuals and the promulgation of supplemental or amendatory issuances.

This Order shall take effect immediately.

MARK A. VILLAR
Secretary

[Signature]
DIMAS S. SOGUILON
Undersecretary
Officer-In-Charge

Department of Public Works and Highways
Office of the Secretary



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Department of Public Works and Highways

FOI Agency Manual

Version 2.0

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ANNEXES

- Annex A - Executive Order No. 2, Series of 2016 entitled “*Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor*”
- Annex B - Inventory of Exceptions to Executive Order No. 2, Series of 2016
- Annex C - Department Order No. 62, Series of 2017 with subject: “*Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM) , and Constitution of the Central Appeals and Review Committee (CARC).*”
- Annex D - Freedom of Information Request Form
- Annex E - Republic Act No. 10173, otherwise known as the “*Data Privacy Act of 2012*”
- Annex F - Freedom of Information Process Flowchart
- Annex G - Rules of Procedure Governing the Conduct of Proceedings Before the Freedom of Information Central Appeals and Review Committee
- Annex H - Revised Rules on Administrative Cases in the Civil Service

I. Overview

A. Background

Article II, Section 28 of the 1987 Constitution states the Government's policy on full public disclosure, *viz.*:

"Section 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest."

Consistent thereto, the people's right to be informed on matters of public concern is enshrined in Article III, Section 7 of the Constitution, *viz.*:

"Section 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as the basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

When President Rodrigo R. Duterte was elected in 2016, one of his first issuances was Executive Order (EO) No. 2, Series of (S.) 2016 entitled "*Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor*" (See **Annex "A"**). Section 16 of EO No. 2, S. 2016 provides:

"Section 16. Implementing Details. All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Order."

Accordingly, this DPWH Agency FOI Manual is created.

B. Purpose and Coverage

This Manual sets out the rules, procedures, and guidelines to be followed by DPWH officials and employees in handling FOI requests made pursuant to EO No. 2, S. 2016. It covers all FOI requests directed to the DPWH and all offices under it.

C. Persons Who May Avail

Pursuant to EO No. 2, S. 2016, every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development, subject to the provisions of this Manual.

A foreign national may request for information in so far as it is allowed under applicable laws of the Philippines, its implementing rules and regulations, or any jurisprudence interpreting

the same which shall be cited in his or her request. In processing said request, this Manual shall be applied in a suppletory manner.

D. Exceptions

Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws, or jurisprudence. See **Annex "B"** for Inventory of Exceptions to EO No. 2, S. 2016.

E. Responsible Officers

1. **FOI Receiving Officer (FRO).** The FRO is responsible for receiving all FOI requests. The FRO ensures that all FOI requests are made in the prescribed form and manner. The FRO is also responsible for maintaining communication with Requesting Parties concerning the progress of their FOI requests, including the grant or denial thereof. The collection of data for and generation of FOI-related reports and their submission to relevant authorities shall also be the responsibility of the FRO.
2. **FOI Decision Maker (FDM).** The FDM evaluates all FOI requests and decides whether to grant or to deny them, either fully or partially, based on any of the grounds enumerated in this Manual and other applicable laws, rules, and regulations.
3. **Central Appeals and Review Committee (CARC).** The CARC evaluates and reviews decisions of the FDM on FOI requests. Membership of the said body is composed of the following officials:

Chair:	The Director of the Legal Service
Vice-Chair:	The Director of the Stakeholders Relations Service
Members:	The Director of the Information Management Service
	The Assistant Director of the Bureau of Research and Standards
	Representative from the Bureau of Construction
	Representative from the Bureau of Design
	Representative from the Planning Service
	Representative from Procurement Service
	Representative from Public-Private Partnership Service
	Representative from Unified Project Management Office

For purposes of issuing a decision, the presence of the Chair or the Vice-Chair, along with six (6) other members of the CARC, shall constitute a quorum. A majority vote of the members present at the meeting is necessary to render a valid decision.

4. **Secretary.** All decisions of the CARC on the denial of FOI requests may be further appealed to the Secretary, whose decision shall be final and immediately executory.

See **Annex "C"** for Department Order No. 62, Series of 2017 with subject: *"Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM) , and Constitution of the Central Appeals and Review Committee (CARC)."*

II. Definition of Terms

- A. **Annual FOI Report.** A report prepared annually by the DPWH and filed with the PCOO containing information and statistics on the number of FOI requests and appeals received, processed, and pending.
- B. **DPWH.** The Department of Public Works and Highways.
- C. **DPWH Website.** The official website of the DPWH accessible via URL <http://www.dpwh.gov.ph>.
- D. **eFOI.** The online FOI platform accessible through URL <https://www.foi.gov.ph> which functions as an alternative avenue for the filing of FOI requests.
- E. **FOI Request.** A written request made in the prescribed manner and submitted to the DPWH asking for any information on any topic, subject to the limitations provided for under this Manual.
- F. **FOI Request Form.** The prescribed pro-forma template a person making a request pursuant to EO No. 2, S. 2016 is required to fill out and submit to the DPWH to initiate the FOI process. See **Annex "D"** for FOI Request Form.
- G. **Freedom of Information (FOI).** The policy of the Executive Branch embodied in EO No. 2, S. 2016 which recognizes the right of the people to information on matters of public concern, and adopts and implements full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in the said EO and other laws, rules, and regulations.
- H. **Frequently Requested Information.** Information released in response to an FOI request which the DPWH determines to have become or is likely to become the subject of substantially similar subsequent requests.
- I. **Full Denial.** A manner of disposition of an FOI request by which the information requested is not released based on any ground provided for under this Manual.
- J. **Information.** Any record, document, paper, report, letter, contract, minutes and transcript of official meetings, map, book, photograph, datum, research material, film, sound and video recording, magnetic or other tape, electronic datum, computer-stored datum, any other like or similar datum or material recorded, stored, or archived in whatever format, whether offline or online, which is made, received, or kept in or under the control and custody of the DPWH pursuant to laws, rules, and regulations, or in connection with the performance or transaction of official business.
- K. **Official Record.** Information produced or received by the DPWH or any of its officials and employees in an official capacity or pursuant to a public function or duty.
- L. **Open Data.** Publicly available data structured in a way that enables the same to be fully discoverable and usable by end users.

- M. Open Data Philippines Website.** The official government portal which makes accessible open government data collected from different government agencies and accessible through URL <https://www.data.gov.ph>.
- N. Partial Denial.** A manner of disposition of an FOI request by which certain portions of the requested information are not released based on any ground provided for under this Manual.
- O. Personal Information.** Any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained; or information which, when put together with other information, would directly and certainly identify an individual.
- P. PCOO.** The Presidential Communications Operations Office, the government agency under the Office of the President responsible for engaging and involving the citizenry and the mass media in order to enrich the quality of public discourse on all matters of governance and build a national consensus thereon.
- Q. Public Records.** Information required by law, rule, or regulation to be entered, kept, and made publicly available by the DPWH.
- R. Requesting Party.** The person seeking disclosure of information from the DPWH pursuant to FOI.

III. Policy of Transparency and Proactive Disclosure

- A. Access to information.** The DPWH shall ensure that every Filipino shall have access to information, official records, public records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, subject to compliance with EO No. 2, S. 2016 and other applicable laws, rules, and regulations.
- B. Publication of Information.** The DPWH shall regularly publish, disseminate, or otherwise make available to the public, primarily through the DPWH website, timely, accurate, and updated key information, including, but not limited to:
1. Essential information about the DPWH, such as its mandate, organizational structure, and decision-making processes;
 2. Enumeration and description of all frontline services rendered by the DPWH, including their process flow and turnaround time;
 3. Names and profiles of key officials, including their curriculum vitae;
 4. Work programs, development plans, investment plans, projects, performance targets and accomplishments, budgets, and revenue allotments and expenditures;
 5. Rules, regulations, orders, decisions, and other issuances;
 6. Metrics and statistics; and
 7. Opportunities for public participation in policy formulation and implementation.
- C. Record Keeping.** The DPWH shall create and maintain accurate and reasonably complete records of important information in appropriate formats, and implement a records management system that facilitates easy identification, retrieval, and communication of information to the public.

D. Accessibility of Language and Form. The DPWH shall endeavor to translate key information into major Philippine dialects and present them in popular form and through prevalent means.

IV. Protection of Privacy

A. While providing access to information, public records, and official records, the DPWH shall afford full protection to the right to privacy of individuals by:

1. Ensuring that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject-matter of the request and its disclosure is permissible under EO No. 2, S. 2016, Republic Act (RA) No. 10173, otherwise known as the “*Data Privacy Act of 2012*” herein attached as **Annex “E”**, and other applicable laws, rules, and regulations;
2. Protecting personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure thereof, which unduly exposes the concerned individual to vilification, harassment, or any other wrongful acts; and
3. Prohibiting any of its employees, officials, or directors who has access, authorized or unauthorized, to personal information in his or her custody, from disclosing the said information, except when authorized under EO No. 2, S. 2016, RA No. 10173, and other applicable laws, rules, and regulations.

Before making a request, the Requesting Party may consult a lawyer or an expert on data privacy about his or her rights and/or obligations under RA No. 10173 and its implementing rules and regulations to ensure that his or her requests may be given due course under the existing laws and/or jurisprudence.

V. Standard Procedure

(See **Annex “G”** for FOI Process Flowchart)

A. Submission of Requests

1. *Form, Content, and Attachment.* An FOI request shall be made by completely filling out the FOI Request Form which shall:
 - a. Contain the name and contact information of the Requesting Party;
 - b. Have an attached photocopy of at least one (1) of the Requesting Party’s Government-issued ID;
 - c. Describe the information being requested with reasonable particularity; and
 - d. State the reason or purpose for the request.
2. *Requests Made Through Representatives.* An FOI request may be made through a representative, provided that proof of the representative’s authority, such as a special power of attorney or a letter of authority, and a photocopy of at least one (1) of the representative’s Government-issued ID are attached to the FOI Request Form, in addition to the Requesting Party’s proof of identity, as required in Article V.A.1.b above.
3. *Requests Sent Electronically.* FOI requests may be submitted electronically through <https://www.foi.gov.ph/agencies>. A scanned copy of the FOI Request Form and the attachments as required under Article V.A.1 and 2 shall be submitted. Upon receipt, the FRO shall immediately produce a printout of the FOI Request Form and the attachments for processing.
4. *Requests by Persons Unable to Write.* In case the Requesting Party is unable to write because of illiteracy, disability, or analogous reasons, the person may seek the assistance of the

- FRO or any DPWH official or employee acting in the FRO's stead in filling out the FOI Request Form.
5. *Screening by the FRO.* Upon receipt of an FOI request, the FRO shall examine the same for compliance with the requirements set forth under Article V.A.1 and 2 of this Manual. Should the request be found to be non-compliant, the FRO shall return the request accompanied by a list of deficiencies that must be addressed.
 6. *Acceptance of Request.* If the request complies with Article V.A.1 and 2 of this Manual, the FRO shall enter the details of the same into the FOI Request Tracking System and assign it a unique tracking number. Thereafter, the FRO shall provide the Requesting Party with a receiving copy of the request, bearing the following:
 - a. Date and time of receipt;
 - b. Tracking number; and
 - c. Signature of the FRO or any authorized DPWH officer or employee.If the request was received electronically, the FRO shall send the receiving copy through the same means used for making the request.
 7. *Transmittal to the FDM.* Upon acceptance of a request, the FRO shall transmit the same to the FDM on the same day that it was received.

B. Evaluation by the FDM

1. *Denial of Requests.* Upon receipt of an FOI request, the FDM shall evaluate the same and may fully or partially deny it based on any of the following grounds:
 - a. The requested information is not in the custody of the DPWH;
 - b. The information being requested is already available on the DPWH website, the eFOI platform, the Open Data Philippines website or any other publicly accessible source;
 - c. The request is identical or substantially similar to previous requests by the requesting party;
 - d. The information being requested is protected under RA No. 10173 or other laws, rules, or regulations; or
 - e. The information being requested is included in the FOI Inventory of Exceptions.

In case of full denial, the FDM shall inform the FRO, who shall, in turn, notify the Requesting Party in writing within fifteen (15) working days from receipt of the request, clearly stating the reasons therefor.

2. *Processing of the Request.* If there are no grounds for the denial of the request, the FDM shall locate and retrieve the information and shall coordinate all efforts to do so. Requests shall be processed on a "first in, first out" basis. Once complete, the FDM shall transmit the requested information to the FRO no later than twelve (12) working days from receipt of the request, with copy furnished to the Secretary. The FRO shall transmit the requested information to the Requesting Party or notify the Requesting Party of its availability for pick up no later than fifteen (15) working days from receipt of the request.
3. *Multi-Track Processing.* The FDM shall classify FOI requests into simple or complex, and further into low or high priority, and process each classification and sub-classification accordingly.
4. *Referral to Other Government Agencies.* If the request is denied based on Article V.B.1.a above, and the government agency having custody of the requested information is known, the FRO may forward the request to the said government agency with copy furnished to the Requesting Party.

5. *Consultation with Other Government Agencies.* Whenever it appears that the requested information contains matters which may be of interest to another government agency, the DPWH shall first seek clearance from the said agency before releasing the said information.
6. *Requests for Clarification.* When, for any reason, additional information is required in order to successfully process the request, the FDM shall seek the assistance of the FRO in obtaining clarification from the Requesting Party. In seeking such clarification, the FRO shall attempt to reach the Requesting Party through the contact information provided in the FOI Request Form. Should the Requesting Party be unreachable through all of the contact information provided or otherwise fails to provide the requested clarification, the FDM shall cease further processing of the request, which shall be deemed to have been completed.
7. *Redaction of Information.* Should it appear that a portion of the requested information is covered by any ground for the denial of an FOI request, the FDM shall exclude the said portion from release, with notice to the Requesting Party upon release of the requested information.
8. *Notice of Extension of Time.* In case the processing of the request necessitates extensive search of records, involves the examination of voluminous documents, affected by fortuitous events, or otherwise involves circumstances requiring a longer processing period, the FDM shall request the FRO to notify the requesting party in writing (or electronically) of the extension, clearly stating the reasons therefor. Unless warranted by exceptional circumstances, any extension of processing time shall not exceed twenty (20) working days over the original period of fifteen (15) working days and may be allowed only once.
9. *Frequently Requested Information.* For purposes of efficiency, the FDM shall create a database of frequently requested information, which shall be kept within easy access for speedy release.

C. Appeal to the CARC

1. *Manner.* In case of partial or full denial, the Requesting Party may file a written appeal to the CARC within fifteen (15) calendar days from receipt of the notice of denial. In case of an electronic transmission of a notice of denial, it shall be presumed that the Requesting Party received the electronic notice of denial on the day appearing on the proof of delivery (i.e. the unforgeable time stamped proof of when the FDM has sent the electronic notice of denial, independent of ability of the receiving party to receive it.) The Requesting Party must acknowledge receipt of the notice of denial likewise by electronic transmission. Any acknowledgement email received after fifteen (15) calendar days from the issuance of notice denial must be substantiated by the requesting party.
2. *Period for Decision.* The CARC shall decide on the appeal within fifteen (15) calendar days from receipt thereof.

See attached **Annex "G"** for the Rules of Procedure Governing the Conduct of Proceedings Before the FOI CARC.

D. Appeal to the Secretary

1. *Manner.* The Requesting Party may further appeal the decision of the CARC to the Secretary in writing within ten (10) calendar days from receipt thereof.
2. *Period for Decision.* The Secretary shall decide on the appeal within thirty (30) working days from receipt thereof.

VI. Request Tracking System

- A. Establishment of an FOI Request Tracking System.** The DPWH shall establish a system to track the status of all FOI Requests received by it.
- B. Mandatory Use.** All DPWH officers and employees involved in the processing of FOI requests are required to use the FOI Request Tracking System in monitoring FOI transactions. They shall ensure that all relevant information is entered into the system and that all data are current.

VII. Annual FOI Report

- A. Data Gathering.** The FRO, the FDM, the CARC, and the Office of the Secretary (OSec) shall each be responsible for monitoring their respective FOI transactions using the FOI Request Tracking System and shall each generate an annual report stating the number of FOI transactions they received, resolved, or have pending.
- B. Data Consolidation.** The FRO shall be responsible for consolidating the FOI reports into a single document for filing with the PCOO. To facilitate the task, the FRO may prescribe a common format for all the reports.
- C. Filing with the PCOO.** The FRO shall ensure that the Annual FOI Report is submitted every year to the PCOO on or before the set deadline, with copy furnished to the OSec.

VIII. Fees and Costs

- A. No Request Fee:** The DPWH shall not charge any fee for accepting or processing FOI requests.
- B. Reasonable Costs of Reproduction.** The Requesting Party shall shoulder the reasonable costs of reproduction of the requested information. Upon payment, the DPWH shall issue an official receipt in favor of the Requesting Party. There is no process by which requests can be expedited upon payment of reasonable costs. All requests will be reviewed equally on a case-to-case basis and allotted the fifteen (15) working day processing period from the time of receipt.

The schedule of costs of reproduction shall be prepared by the FRO and the same shall be published in the official website of the DPWH.

- C. Exemption from Costs.** The DPWH may exempt a Requesting Party from payment of costs based on reasonable grounds such as poverty or indigence. The Requesting Party must make a written request stating the reasons to support the request for exemption. The DPWH may require the Requesting Party to provide sufficient evidence to support the ground(s) for granting such exemption from costs.

IX. Administrative Liability

A. Penalties for Non-Compliance. Failure to comply with the provisions of this Manual shall be a ground for the imposition of the following administrative penalties on the officer or employee responsible for the violation:

1. 1st Offense - Reprimand
2. 2nd Offense - Suspension for a period not exceeding thirty (30) days
3. 3rd Offense - Dismissal from service

B. Procedure. The procedure outlined in the Revised Rules on Administrative Cases in the Civil Service (See **Annex "H"**) shall be followed in prosecuting violations of this Manual.

C. Penal Provisions of Other Laws. Nothing in this Manual shall be construed to derogate from any applicable law, rule, or regulation providing for more stringent penalties.

Approved by:

MARK A. VILLAR
Secretary


DIMAS S. SOGUILON
Undersecretary
Officer-In-Charge

Department of Public Works and Highways
Office of the Secretary





MALACANAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

**OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S
CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE
POLICIES OF FULL PUBLIC DISCLOSURE AND TRANSPARENCY
IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES
THEREFOR**

WHEREAS, pursuant to Section 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law;

WHEREAS, Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern;

WHEREAS, the incorporation of this right in the Constitution is a recognition of the fundamental role of free and open exchange of information in a democracy, meant to enhance transparency and accountability in government official acts, transactions, or decisions;

WHEREAS, the Executive Branch recognizes the urgent need to operationalize these Constitutional provisions;

WHEREAS, the President, under Section 17, Article VII of the Constitution, has control over all executive departments, bureaus and offices, and the duty to ensure that the laws be faithfully executed;

WHEREAS, the Data Privacy Act of 2012 (R.A. 10173), including its Implementing Rules and Regulations, strengthens the fundamental human right of privacy and of communication while ensuring the free flow of information to promote innovation and growth;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

THE PRESIDENT OF THE PHILIPPINES

SECTION 1. Definition. For the purpose of this Executive Order, the following terms shall mean:

- (a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.
- (b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
- (c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

SECTION 2. Coverage. This order shall cover all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are enjoined to observe and be guided by this Order.

SECTION 3. Access to Information. Every Filipino shall have access to information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

SECTION 4. Exception. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence.

The Department of Justice and the Office of the Solicitor General are hereby directed to prepare an inventory of such exceptions and submit the same to the Office of the President within thirty (30) calendar days from the date of effectivity of this Order.

The Office of the President shall thereafter immediately circularize the inventory of exceptions for the guidance of all government offices and instrumentalities covered by this Order and the general public.

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as

the need to do so arises, for circularization as hereinabove stated.

SECTION 5. Availability of SALN. Subject to the provisions contained in Sections 3 and 4 of this Order, all public officials are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Order.

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President as provided in Section 4 hereof.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which has custody or control of the information, public record or official record, or of the responsible central or field officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

SECTION 7. Protection of Privacy. While providing access to information, public records, and official records, responsible officials shall afford full protection to an individual's right to privacy as follows:

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this Order or existing laws, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual whose personal information is requested to vilification, harassment, or any other wrongful acts; and
- (c) Any employee or official of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the office must not disclose that information except when authorized under this Order or pursuant to existing laws, rules or regulations.

SECTION 8. People's Freedom of Information (FOI) Manual. For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its

own People's FOI Manual, which shall include, among others, the following information:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests to obtain information;
- (b) The person or officer responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order;
- (d) The standard forms for the submission of requests and for the proper acknowledgment of such requests;
- (e) The process for the disposition of requests;
- (f) The procedure for administrative appeal of any denial of request for access to information; and
- (g) The schedule of applicable fees.

SECTION 9. Procedure. The following procedure shall govern the filing and processing of requests for access to information:

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations, or it is one of the exceptions contained in the inventory of exceptions as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties, particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title or position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with the requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases. The government office shall

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, unless exceptional circumstances warrant a longer period.

- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

SECTION 10. Fees. Government offices shall not charge any fee for accepting requests for access to information. They may, however, charge a reasonable fee to reimburse necessary costs, including actual costs of reproduction and copying of the information requested, subject to existing rules and regulations. In no case shall the applicable fees be so onerous as to defeat the purpose of this Order.

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the same government office.

SECTION 12. Notice of Denial. If the government office decides to deny the request wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request for access to information.

SECTION 13. Remedies in Case of Denial of Request for Access to Information. A person whose request for access to information has been denied may avail himself of the remedies set forth below:

- (a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order. Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a

records management system that facilitates easy identification, retrieval and communication of information to the public.

SECTION 15. Administrative Liability. Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws or regulations.

SECTION 16. Implementing Details. All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Order.

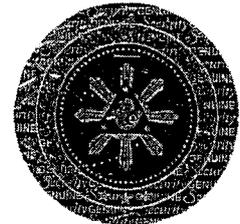
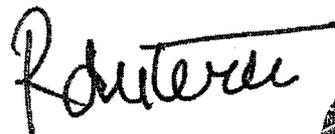
SECTION 17. Separability Clause. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

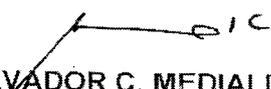
SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.

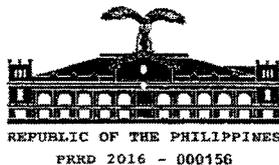
SECTION 19. Effectivity. This Order shall take effect immediately upon publication in a newspaper of general circulation.

Done, in the City of Manila, this 23rd day of July in the year of our Lord Two Thousand and Sixteen.

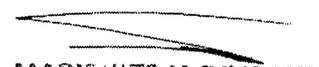
By the President:




SALVADOR C. MEDIALDEA
Executive Secretary



CERTIFIED COPY:


MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

¹ These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
2. Privileged information relating to national security, defense or international relations:
 - a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

² This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

³ *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁴ Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

⁵ *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

⁶ *Akbayan v. Aquino*, *supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
3. Information concerning law enforcement and protection of public and personal safety:
- a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸
 - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of carjacked vehicles and apprehension of the persons charged with carjacking;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

⁷ The applicability of this exception is determined by the Director General of the Intellectual Property Office and subject to the approval of the Secretary of the Department of Trade and Industry. Section 44.3 of the *Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372).

⁸ Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

⁹ *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

¹⁰ Section 3(b), Rule IV, Rules on CCESPOE.

¹¹ Section 19, *New Anti Carjacking Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

¹² Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹³ personal information or records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:¹⁸

- (1) about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) specifically established by an executive order or an act of Congress to be kept classified.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of

¹³ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁴ Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

¹⁵ Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

¹⁶ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

¹⁷ Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange).

¹⁸ Section 3(l), *Data Privacy Act of 2012*.

¹⁹ Article 26(2), *Civil Code*.

²⁰ Section 11, *Data Privacy Act of 2012*.

the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;²¹

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence,²² and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
 - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination.²⁹

²¹ Section 4, *Data Privacy Act of 2012*.

²² *An Act to Exempt the Publisher, Editor or Reporter of any Publication from Revealing the Source of Published News or Information Obtained in Confidence* (RA No. 53), as amended by RA No. 1477. May be invoked by government newspapers.

²³ Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

²⁴ Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

²⁵ Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

²⁶ Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

²⁷ Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

²⁸ Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

²⁹ Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵

³⁰ Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

³¹ Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043.

³² Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³³ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁴ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁵ Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴

³⁶ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

³⁷ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

³⁸ Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁹ Section 34, *Philippine Competition Act* (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

⁴⁰ Section 81, EO No. 226 (s. 1987), as amended.

⁴¹ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴² Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴³ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁴ Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
 - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵¹
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

⁴⁵ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁶ Section 10, *Safeguard Measures Act*.

⁴⁷ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁴⁸ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁴⁹ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁰ Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

⁵¹ Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*,⁵²
- b. Matters involved in an Investor-State mediation;⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;⁵⁹
- i. Investigation report and the supervision history of a probationer;⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*;⁶¹

⁵² Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

⁵³ Article 10, International Bar Association Rules for Investor-State Mediation.

⁵⁴ Article 237, *Labor Code*.

⁵⁵ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁵⁶ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁷ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁵⁸ Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

⁵⁹ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁰ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶¹ Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

⁶² Section 14, Civil Service Commission Resolution No. 01-0940.

⁶³ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

⁶⁴ Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

⁶⁵ Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

⁶⁶ *Senate v. Neri, supra; Senate v. Ermita, supra.*

⁶⁷ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

⁶⁸ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

⁷⁰ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷¹ Canon 21 of the *Code of Professional Responsibility.*

097.13JAWH
04.24.2017



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

20 APR 2017

DEPARTMENT)
ORDER)

NO. 62)
Series of 2017)
04.24.17

SUBJECT: Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM), and Constitution of the Central Appeals and Review Committee (CARC)

For the purpose of ensuring that the people's constitutional right to be informed on matters of public concern is realized, the President issued Executive Order (E.O.) No. 2, Series of 2016. Pursuant thereto, this Department promulgated an FOI Manual to serve as a guide in handling requests for information under the said E.O.

Towards full accomplishment of the noble objectives of E.O. No. 2, Series of 2016 and the FOI Manual, Mr. ANDRO V. SANTIAGO of the Stakeholders Relations Service is hereby designated as the FRO. Accordingly, and as provided under the FOI Manual, the FRO shall:

1. Receive all requests for information and forward the same to the appropriate office which has custody of the pertinent records;
2. Monitor all FOI requests and appeals;
3. Provide assistance and support to the public and to the Department with regard to the implementation of the FOI Manual;
4. Compile statistical information, as required;
5. Conduct the initial evaluation of requests and, thereafter, advise requesting parties whether their requests will be forwarded to the FDM for further evaluation, or denied based on relevant grounds; and
6. Exercise any and all other functions required of him under the FOI Manual.

Immediately after designation, the FRO shall take all the necessary steps to set up an FOI Receiving Office at a conspicuous location on the ground floor of the DPWH Central Office, Bonifacio Drive, Port Area, Manila. To facilitate FOI request reception, the FRO may, at his discretion, deputize personnel in the regional and district offices who shall be authorized to receive FOI requests and to forward the same to the FOI Receiving Office. The FRO may issue such policies, rules, and regulations to govern the operations of the FOI Receiving Office; provided, that the non-issuance of such policies and rules shall not be a ground for inaction on any FOI request.

To cover the costs of processing FOI requests, the FRO shall be responsible for the preparation of a schedule of fees. For this purpose, the FRO may seek inputs from any DPWH office. The FRO must ensure that the fee schedule is publicly available and posted conspicuously at the FOI Receiving Office. All payments related to FOI requests must be issued corresponding official receipts.

Likewise, Atty. JUAN V. TALLION, JR. of the Legal Service is hereby designated as the FDM who shall, among other responsibilities set forth under the FOI Manual, conduct evaluations of FOI requests, and grant or deny the same based on the grounds set forth in the FOI Manual and pertinent laws, rules, and regulations. Decisions of the FDM shall be in written form and shall clearly state the facts of requests, and the basis for the grant or denial thereof.

Also, the CARC, which shall, along with other duties provided under the FOI Manual, evaluate and review decisions of the FDM on FOI requests, as well as provide expert advice to the Secretary, is hereby constituted and shall be composed of the following:

Designation	Designee
Chair	Director ESTRELLA T. DECENA-ZALDIVAR, Legal Service
Vice-Chair	Director ELIZABETH P. PILORIN, Stakeholder Relations Service
Members	Director MA. NIEVA S. DELA PAZ, Information Management Service Assistant Director REYNALDO P. FAUSTINO, Bureau of Research and Standards Engr. MELROSE I. PAILMA, Bureau of Construction Engr. JESUS I. OBA, Bureau of Design Engr. MADELYN B. LOYOLA, Planning Service Engr. MARY GRACE N. OBJA-AN, Procurement Service Ms. MARILOU M. CAMUA, Public-Private Partnership Service Mr. JOSE A. AGUINALDO, Unified Project Management Office

The presence of the Chair or the Vice-Chair, along with six (6) members, shall constitute a quorum. The vote of a majority of those present is required to render a decision.

Within six (6) months from its constitution, the CARC shall promulgate its rules of procedure. In the interim, the CARC shall proceed with the disposition of FOI appeals following such processes as the Chair may determine, with due regard to the objects, spirit, and intents of the FOI Manual, all relevant laws, rules, and regulations, the rights of any person which may be involved, especially those pertaining to privacy and confidentiality, universally accepted practices, and such other considerations that may aid in the judicious resolution of FOI appeals.

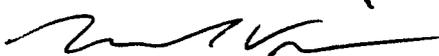
The FRO, the FDM, and the Chair of the CARC are hereby directed to coordinate with the Office of the Undersecretary for Legal Affairs and Priority Projects regarding the DPWH's participation in the eFOI platform being administered by the Presidential Communications Operations Office, transitional matters, and all other FOI concerns as may be necessary or desirable for the Department's full compliance with policies on full public disclosure.

In case any FOI officer or CARC member, at any time, determines or encounters any issue or concern not covered by the FOI Manual or other pertinent Department issuances, or any impediment which works against the progressive realization of a full and meaningful FOI culture, the said officer or member shall immediately inform the Office of the Undersecretary for Legal Affairs and Priority Projects of the matter for appropriate action, including the revision of the FOI Manual and the promulgation of supplemental or amendatory issuances.

Nothing herein shall be construed as limiting the duties and responsibilities of FOI officials to the above-mentioned functions according to the objectives of E.O. No. 2, Series of 2016, the FOI Manual, and all other pertinent laws, rules, and regulations on full public disclosure.

The foregoing FOI officials shall exercise their duties and responsibilities until their respective replacements are designated by the Secretary through the issuance of the appropriate memoranda or letters of appointment.

This Order shall take effect immediately.



MARK A. VILLAR
Secretary

Department of Public Works and Highways
Office of the Secretary



WIN7A02966



FREEDOM OF INFORMATION REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

Please read the following information carefully before proceeding with your application. Use blue or black ink. Write neatly and in BLOCK letters. Improper or incorrectly-filled out forms will not be acted upon. Tick or mark boxes with "X" where necessary. Note: (◀) denotes a MANDATORY field.

A. Requesting Party

You are required to supply your name and address for correspondence. Additional contact details will help us deal with your application and correspond with you in the manner you prefer.

1. Title (e.g. Mr, Mrs, Ms, Miss)	2. Given Name/s (including M.I.)	3. Surname
_____	◀ _____	◀ _____
4. Complete Address (Apt/House Number, Street, City/Municipality, Province)		
◀ _____		
5. Landline/Fax	6. Mobile	7. Email
_____	◀ _____	_____
8. Preferred Mode of Communication	<input type="checkbox"/> Landline <input type="checkbox"/> Mobile Number <input type="checkbox"/> Email <input type="checkbox"/> Postal Address <i>(If your request is successful, we will be sending the documents to you in this manner.)</i>	
9. Preferred Mode of Reply	<input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Postal Address <input type="checkbox"/> Pick-Up at Agency	
10. Type of ID Given (Please ensure your IDs contain your photo and signature)	<input type="checkbox"/> Passport <input type="checkbox"/> Driver's License <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID <input type="checkbox"/> School ID <input type="checkbox"/> Company ID <input type="checkbox"/> Others _____	

B. Requested Information

11. Agency - Connecting Agency (if applicable)	◀ _____	◀ _____
12. Title of Document/Record Requested (Please be as detailed as possible)	◀ _____	
13. Date or Period (DD/MM/YY)	◀ _____	
14. Purpose	◀ _____ _____ _____	
15. Document Type	◀ _____	
16. Reference Numbers (if known)	◀ _____	
17. Any other Relevant Information	◀ _____	

C. Declaration

Privacy Notice: Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2. If the Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in the Department's or Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

I declare that:

- The information provided in the form is complete and correct;
- I have read the Privacy notice;
- I have presented at least one (1) government-issued ID to establish proof of my identity

I understand that it is an offense to give misleading information about my identity, and that doing so may result in a decision to refuse to process my application.

Signature ◀ _____

Date Accomplished (DD/MM/YYYY) ◀ _____

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print name) ◀ _____

Agency - Connecting Agency (if applicable, otherwise N/A) ◀ _____

Date entered on eFOI (if applicable, otherwise N/A) ◀ _____

Proof of ID Presented (Photocopies of original should be attached) Passport Driver's License SSS ID Postal ID Voter's ID School ID Company ID Others _____

The request is recommended to be: Approved Denied
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online

Second Receiving Officer Assigned (print name) ◀ _____

Decision Maker Assigned to Application (print name) ◀ _____

Decision on Application Successful Partially Successful Denied Cost
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online Exception Which Exception? _____

Date Request Finished (DD/MM/YYYY) ◀ _____

Date Documents (if any) Sent (DD/MM/YYYY) ◀ _____

FOI Registry Accomplished Yes No

RO Signature ◀ _____

Date (DD/MM/YYYY) ◀ _____

S. No. 2965
H. No. 4115

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth
day of July, two thousand eleven.

[REPUBLIC ACT No. 10173]

AN ACT PROTECTING INDIVIDUAL PERSONAL
INFORMATION IN INFORMATION AND
COMMUNICATIONS SYSTEMS IN THE GOVERNMENT
AND THE PRIVATE SECTOR, CREATING FOR THIS
PURPOSE A NATIONAL PRIVACY COMMISSION, AND
FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known
as the "Data Privacy Act of 2012".

SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect the fundamental human right of privacy of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.

SEC. 3. *Definition of Terms.* – Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

- (a) *Commission* shall refer to the National Privacy Commission created by virtue of this Act.
- (b) *Consent of the data subject* refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic or recorded means. It may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so.
- (c) *Data subject* refers to an individual whose personal information is processed.
- (d) *Direct marketing* refers to communication by whatever means of any advertising or marketing material which is directed to particular individuals.
- (e) *Filing system* refers to any set of information relating to natural or juridical persons to the extent that, although the information is not processed by equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular person is readily accessible.
- (f) *Information and Communications System* refers to a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and

includes the computer system or other similar device by or which data is recorded, transmitted or stored and any procedure related to the recording, transmission or storage of electronic data, electronic message, or electronic document.

(g) *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

(h) *Personal information controller* refers to a person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf. The term excludes:

(1) A person or organization who performs such functions as instructed by another person or organization; and

(2) An individual who collects, holds, processes or uses personal information in connection with the individual's personal, family or household affairs.

(i) *Personal information processor* refers to any natural or juridical person qualified to act as such under this Act to whom a personal information controller may outsource the processing of personal data pertaining to a data subject.

(j) *Processing* refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.

(k) *Privileged information* refers to any and all forms of data which under the Rules of Court and other pertinent laws constitute privileged communication.

(l) *Sensitive personal information* refers to personal information:

(1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;

(2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;

(3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and

(4) Specifically established by an executive order or an act of Congress to be kept classified.

SEC. 4. *Scope.* - This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided,* That the requirements of Section 5 are complied with.

This Act does not apply to the following:

(a) Information about any individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual, including:

(1) The fact that the individual is or was an officer or employee of the government institution;

(2) The title, business address and office telephone number of the individual;

(3) The classification, salary range and responsibilities of the position held by the individual; and

(4) The name of the individual on a document prepared by the individual in the course of employment with the government;

(b) Information about an individual who is or was performing service under contract for a government institution that relates to the services performed, including the terms of the contract, and the name of the individual given in the course of the performance of those services;

(c) Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit;

(d) Personal information processed for journalistic, artistic, literary or research purposes;

(e) Information necessary in order to carry out the functions of public authority which includes the processing of personal data for the performance by the independent central monetary authority and law enforcement and regulatory agencies of their constitutionally and statutorily mandated functions. Nothing in this Act shall be construed as to have amended or repealed Republic Act No. 1405, otherwise known as the Secrecy of Bank Deposits Act; Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act; and Republic Act No. 9510, otherwise known as the Credit Information System Act (CISA);

(f) Information necessary for banks and other financial institutions under the jurisdiction of the independent central monetary authority or Bangko Sentral ng Pilipinas to comply with Republic Act No. 9510, and Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act and other applicable laws; and

(g) Personal information originally collected from residents of foreign jurisdictions in accordance with the laws of those foreign jurisdictions, including any applicable data privacy laws, which is being processed in the Philippines.

SEC. 5. *Protection Afforded to Journalists and Their Sources.* - Nothing in this Act shall be construed as to have amended or repealed the provisions of Republic Act No. 53, which affords the publishers, editors or duly accredited reporters of any newspaper, magazine or periodical of general circulation protection from being compelled to reveal the source of any news report or information appearing in said publication which was related in any confidence to such publisher, editor, or reporter.

SEC. 6. *Extraterritorial Application.* - This Act applies to an act done or practice engaged in and outside of the Philippines by an entity if:

(a) The act, practice or processing relates to personal information about a Philippine citizen or a resident;

(b) The entity has a link with the Philippines, and the entity is processing personal information in the Philippines or even if the processing is outside the Philippines as long as it is about Philippine citizens or residents such as, but not limited to, the following:

(1) A contract is entered in the Philippines;

(2) A juridical entity unincorporated in the Philippines but has central management and control in the country; and

(3) An entity that has a branch, agency, office or subsidiary in the Philippines and the parent or affiliate of the Philippine entity has access to personal information; and

(c) The entity has other links in the Philippines such as, but not limited to:

(1) The entity carries on business in the Philippines; and

(2) The personal information was collected or held by an entity in the Philippines.

CHAPTER II

THE NATIONAL PRIVACY COMMISSION

SEC. 7. *Functions of the National Privacy Commission.*
- To administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection, there is hereby created an independent body to be known as the National Privacy Commission, which shall have the following functions:

(a) Ensure compliance of personal information controllers with the provisions of this Act;

(b) Receive complaints, institute investigations, facilitate or enable settlement of complaints through the use of alternative dispute resolution processes, adjudicate, award indemnity on matters affecting any personal information, prepare reports on disposition of complaints and resolution of any investigation it initiates, and, in cases it deems appropriate, publicize any such report: *Provided*, That in resolving any complaint or investigation (except where amicable settlement is reached by the parties), the Commission shall act as a collegial body. For this purpose, the Commission may be given access to personal information that is subject of any complaint and to collect the information necessary to perform its functions under this Act;

(c) Issue cease and desist orders, impose a temporary or permanent ban on the processing of personal information, upon finding that the processing will be detrimental to national security and public interest;

(d) Compel or petition any entity, government agency or instrumentality to abide by its orders or take action on a matter affecting data privacy;

(e) Monitor the compliance of other government agencies or instrumentalities on their security and technical measures and recommend the necessary action in order to meet minimum standards for protection of personal information pursuant to this Act;

(f) Coordinate with other government agencies and the private sector on efforts to formulate and implement plans and

policies to strengthen the protection of personal information in the country;

(g) Publish on a regular basis a guide to all laws relating to data protection;

(h) Publish a compilation of agency system of records and notices, including index and other finding aids;

(i) Recommend to the Department of Justice (DOJ) the prosecution and imposition of penalties specified in Sections 25 to 29 of this Act;

(j) Review, approve, reject or require modification of privacy codes voluntarily adhered to by personal information controllers: *Provided*, That the privacy codes shall adhere to the underlying data privacy principles embodied in this Act: *Provided, further*, That such privacy codes may include private dispute resolution mechanisms for complaints against any participating personal information controller. For this purpose, the Commission shall consult with relevant regulatory agencies in the formulation and administration of privacy codes applying the standards set out in this Act, with respect to the persons, entities, business activities and business sectors that said regulatory bodies are authorized to principally regulate pursuant to the law: *Provided, finally*, That the Commission may review such privacy codes and require changes thereto for purposes of complying with this Act;

(k) Provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity or any person;

(l) Comment on the implication on data privacy of proposed national or local statutes, regulations or procedures, issue advisory opinions and interpret the provisions of this Act and other data privacy laws;

(m) Propose legislation, amendments or modifications to Philippine laws on privacy or data protection as may be necessary;

(n) Ensure proper and effective coordination with data privacy regulators in other countries and private accountability

agents, participate in international and regional initiatives for data privacy protection;

(o) Negotiate and contract with other data privacy authorities of other countries for cross-border application and implementation of respective privacy laws;

(p) Assist Philippine companies doing business abroad to respond to foreign privacy or data protection laws and regulations; and

(q) Generally perform such acts as may be necessary to facilitate cross-border enforcement of data privacy protection.

SEC. 8. *Confidentiality*. – The Commission shall ensure at all times the confidentiality of any personal information that comes to its knowledge and possession.

SEC. 9. *Organizational Structure of the Commission*. – The Commission shall be attached to the Department of Information and Communications Technology (DICT) and shall be headed by a Privacy Commissioner, who shall also act as Chairman of the Commission. The Privacy Commissioner shall be assisted by two (2) Deputy Privacy Commissioners, one to be responsible for Data Processing Systems and one to be responsible for Policies and Planning. The Privacy Commissioner and the two (2) Deputy Privacy Commissioners shall be appointed by the President of the Philippines for a term of three (3) years, and may be reappointed for another term of three (3) years. Vacancies in the Commission shall be filled in the same manner in which the original appointment was made.

The Privacy Commissioner must be at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity, and a recognized expert in the field of information technology and data privacy. The Privacy Commissioner shall enjoy the benefits, privileges and emoluments equivalent to the rank of Secretary.

The Deputy Privacy Commissioners must be recognized experts in the field of information and communications technology and data privacy. They shall enjoy the benefits,

privileges and emoluments equivalent to the rank of Undersecretary.

The Privacy Commissioner, the Deputy Commissioners, or any person acting on their behalf or under their direction, shall not be civilly liable for acts done in good faith in the performance of their duties. However, he or she shall be liable for willful or negligent acts done by him or her which are contrary to law, morals, public policy and good customs even if he or she acted under orders or instructions of superiors: *Provided*, That in case a lawsuit is filed against such official on the subject of the performance of his or her duties, where such performance is lawful, he or she shall be reimbursed by the Commission for reasonable costs of litigation.

SEC. 10. *The Secretariat.* – The Commission is hereby authorized to establish a Secretariat. Majority of the members of the Secretariat must have served for at least five (5) years in any agency of the government that is involved in the processing of personal information including, but not limited to, the following offices: Social Security System (SSS), Government Service Insurance System (GSIS), Land Transportation Office (LTO), Bureau of Internal Revenue (BIR), Philippine Health Insurance Corporation (PhilHealth), Commission on Elections (COMELEC), Department of Foreign Affairs (DFA), Department of Justice (DOJ), and Philippine Postal Corporation (Philpost).

CHAPTER III

PROCESSING OF PERSONAL INFORMATION

SEC. 11. *General Data Privacy Principles.* – The processing of personal information shall be allowed, subject to compliance with the requirements of this Act and other laws allowing disclosure of information to the public and adherence to the principles of transparency, legitimate purpose and proportionality.

Personal information must be:

(a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably

practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only;

(b) Processed fairly and lawfully;

(c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed or their further processing restricted;

(d) Adequate and not excessive in relation to the purposes for which they are collected and processed;

(e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise or defense of legal claims, or for legitimate business purposes, or as provided by law; and

(f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed: *Provided*, That personal information collected for other purposes may be processed for historical, statistical or scientific purposes, and in cases laid down in law may be stored for longer periods: *Provided, further*, That adequate safeguards are guaranteed by said laws authorizing their processing.

The personal information controller must ensure implementation of personal information processing principles set out herein.

SEC. 12. *Criteria for Lawful Processing of Personal Information.* – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

(a) The data subject has given his or her consent;

(b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;

(c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;

(d) The processing is necessary to protect vitally important interests of the data subject, including life and health;

(e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or

(f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

SEC. 13. *Sensitive Personal Information and Privileged Information.* – The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

(a) The data subject has given his or her consent, specific to the purpose prior to the processing, or in the case of privileged information, all parties to the exchange have given their consent prior to processing;

(b) The processing of the same is provided for by existing laws and regulations: *Provided*, That such regulatory enactments guarantee the protection of the sensitive personal information and the privileged information: *Provided, further*, That the consent of the data subjects are not required by law or regulation permitting the processing of the sensitive personal information or the privileged information;

(c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;

(d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: *Provided*, That such processing is only confined and related to the *bona fide* members of these organizations or their associations: *Provided, further*, That the sensitive personal information are not transferred to third parties: *Provided, finally*, That consent of the data subject was obtained prior to processing;

(e) The processing is necessary for purposes of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or

(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority.

SEC. 14. *Subcontract of Personal Information.* – A personal information controller may subcontract the processing of personal information: *Provided*, That the personal information controller shall be responsible for ensuring that proper safeguards are in place to ensure the confidentiality of the personal information processed, prevent its use for unauthorized purposes, and generally, comply with the requirements of this Act and other laws for processing of personal information. The personal information processor shall comply with all the requirements of this Act and other applicable laws.

SEC. 15. *Extension of Privileged Communication.* – Personal information controllers may invoke the principle of privileged communication over privileged information that they lawfully control or process. Subject to existing laws and regulations, any evidence gathered on privileged information is inadmissible.

CHAPTER IV
RIGHTS OF THE DATA SUBJECT

SEC. 16. *Rights of the Data Subject.* - The data subject is entitled to:

(a) Be informed whether personal information pertaining to him or her shall be, are being or have been processed;

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of the personal information controller, or at the next practical opportunity:

(1) Description of the personal information to be entered into the system;

(2) Purposes for which they are being or are to be processed;

(3) Scope and method of the personal information processing;

(4) The recipients or classes of recipients to whom they are or may be disclosed;

(5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized;

(6) The identity and contact details of the personal information controller or its representative;

(7) The period for which the information will be stored; and

(8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the Commission.

Any information supplied or declaration made to the data subject on these matters shall not be amended without prior notification of data subject: *Provided*, That the notification

under subsection (b) shall not apply should the personal information be needed pursuant to a *subpoena* or when the collection and processing are for obvious purposes, including when it is necessary for the performance of or in relation to a contract or service or when necessary or desirable in the context of an employer-employee relationship, between the collector and the data subject, or when the information is being collected and processed as a result of legal obligation;

(c) Reasonable access to, upon demand, the following:

(1) Contents of his or her personal information that were processed;

(2) Sources from which personal information were obtained;

(3) Names and addresses of recipients of the personal information;

(4) Manner by which such data were processed;

(5) Reasons for the disclosure of the personal information to recipients;

(6) Information on automated processes where the data will or likely to be made as the sole basis for any decision significantly affecting or will affect the data subject;

(7) Date when his or her personal information concerning the data subject were last accessed and modified; and

(8) The designation, or name or identity and address of the personal information controller;

(d) Dispute the inaccuracy or error in the personal information and have the personal information controller correct it immediately and accordingly, unless the request is vexatious or otherwise unreasonable. If the personal information have been corrected, the personal information controller shall ensure the accessibility of both the new and the retracted information and the simultaneous receipt of the new and the retracted information by recipients thereof: *Provided*, That the third parties who have previously received

such processed personal information shall be informed of its inaccuracy and its rectification upon reasonable request of the data subject;

(e) Suspend, withdraw or order the blocking, removal or destruction of his or her personal information from the personal information controller's filing system upon discovery and substantial proof that the personal information are incomplete, outdated, false, unlawfully obtained, used for unauthorized purposes or are no longer necessary for the purposes for which they were collected. In this case, the personal information controller may notify third parties who have previously received such processed personal information; and

(f) Be indemnified for any damages sustained due to such inaccurate, incomplete, outdated, false, unlawfully obtained or unauthorized use of personal information.

SEC. 17. *Transmissibility of Rights of the Data Subject.* – The lawful heirs and assigns of the data subject may invoke the rights of the data subject for, which he or she is an heir or assignee at any time after the death of the data subject or when the data subject is incapacitated or incapable of exercising the rights as enumerated in the immediately preceding section.

SEC. 18. *Right to Data Portability.* – The data subject shall have the right, where personal information is processed by electronic means and in a structured and commonly used format, to obtain from the personal information controller a copy of data undergoing processing in an electronic or structured format, which is commonly used and allows for further use by the data subject. The Commission may specify the electronic format referred to above, as well as the technical standards, modalities and procedures for their transfer.

SEC. 19. *Non-Applicability.* – The immediately preceding sections are not applicable if the processed personal information are used only for the needs of scientific and statistical research and, on the basis of such, no activities are carried out and no decisions are taken regarding the data subject: *Provided,* That the personal information shall be held under strict confidentiality and shall be used only for the declared purpose. Likewise, the immediately preceding sections are not applicable

to processing of personal information gathered for the purpose of investigations in relation to any criminal, administrative or tax liabilities of a data subject.

CHAPTER V

SECURITY OF PERSONAL INFORMATION

SEC. 20. *Security of Personal Information.* – (a) The personal information controller must implement reasonable and appropriate organizational, physical and technical measures intended for the protection of personal information against any accidental or unlawful destruction, alteration and disclosure, as well as against any other unlawful processing.

(b) The personal information controller shall implement reasonable and appropriate measures to protect personal information against natural dangers such as accidental loss or destruction, and human dangers such as unlawful access, fraudulent misuse, unlawful destruction, alteration and contamination.

(c) The determination of the appropriate level of security under this section must take into account the nature of the personal information to be protected, the risks represented by the processing, the size of the organization and complexity of its operations, current data privacy best practices and the cost of security implementation. Subject to guidelines as the Commission may issue from time to time, the measures implemented must include:

(1) Safeguards to protect its computer network against accidental, unlawful or unauthorized usage or interference with or hindering of their functioning or availability;

(2) A security policy with respect to the processing of personal information;

(3) A process for identifying and accessing reasonably foreseeable vulnerabilities in its computer networks, and for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach; and

(4) Regular monitoring for security breaches and a process for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach.

(d) The personal information controller must further ensure that third parties processing personal information on its behalf shall implement the security measures required by this provision.

(e) The employees, agents or representatives of a personal information controller who are involved in the processing of personal information shall operate and hold personal information under strict confidentiality if the personal information are not intended for public disclosure. This obligation shall continue even after leaving the public service, transfer to another position or upon termination of employment or contractual relations.

(f) The personal information controller shall promptly notify the Commission and affected data subjects when sensitive personal information or other information that may, under the circumstances, be used to enable identity fraud are reasonably believed to have been acquired by an unauthorized person, and the personal information controller or the Commission believes that such unauthorized acquisition is likely to give rise to a real risk of serious harm to any affected data subject. The notification shall at least describe the nature of the breach, the sensitive personal information possibly involved, and the measures taken by the entity to address the breach. Notification may be delayed only to the extent necessary to determine the scope of the breach, to prevent further disclosures, or to restore reasonable integrity to the information and communications system.

(1) In evaluating if notification is unwarranted, the Commission may take into account compliance by the personal information controller with this section and existence of good faith in the acquisition of personal information.

(2) The Commission may exempt a personal information controller from notification where, in its reasonable judgment, such notification would not be in the public interest or in the interests of the affected data subjects.

(3) The Commission may authorize postponement of notification where it may hinder the progress of a criminal investigation related to a serious breach.

CHAPTER VI

ACCOUNTABILITY FOR TRANSFER OF PERSONAL INFORMATION

SEC. 21. *Principle of Accountability.* – Each personal information controller is responsible for personal information under its control or custody, including information that have been transferred to a third party for processing, whether domestically or internationally, subject to cross-border arrangement and cooperation.

(a) The personal information controller is accountable for complying with the requirements of this Act and shall use contractual or other reasonable means to provide a comparable level of protection while the information are being processed by a third party.

(b) The personal information controller shall designate an individual or individuals who are accountable for the organization's compliance with this Act. The identity of the individual(s) so designated shall be made known to any data subject upon request.

CHAPTER VII

SECURITY OF SENSITIVE PERSONAL INFORMATION IN GOVERNMENT

SEC. 22. *Responsibility of Heads of Agencies.* – All sensitive personal information maintained by the government, its agencies and instrumentalities shall be secured, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the Commission. The head of each government agency or instrumentality shall be responsible for complying with the security requirements mentioned herein while the Commission shall monitor the compliance and may recommend the necessary action in order to satisfy the minimum standards.

SEC. 23. Requirements Relating to Access by Agency Personnel to Sensitive Personal Information. – (a) On-site and Online Access – Except as may be allowed through guidelines to be issued by the Commission, no employee of the government shall have access to sensitive personal information on government property or through online facilities unless the employee has received a security clearance from the head of the source agency.

(b) Off-site Access – Unless otherwise provided in guidelines to be issued by the Commission, sensitive personal information maintained by an agency may not be transported or accessed from a location off government property unless a request for such transportation or access is submitted and approved by the head of the agency in accordance with the following guidelines:

(1) Deadline for Approval or Disapproval – In the case of any request submitted to the head of an agency, such head of the agency shall approve or disapprove the request within two (2) business days after the date of submission of the request. In case there is no action by the head of the agency, then such request is considered disapproved;

(2) Limitation to One thousand (1,000) Records – If a request is approved, the head of the agency shall limit the access to not more than one thousand (1,000) records at a time; and

(3) Encryption – Any technology used to store, transport or access sensitive personal information for purposes of off-site access approved under this subsection shall be secured by the use of the most secure encryption standard recognized by the Commission.

The requirements of this subsection shall be implemented not later than six (6) months after the date of the enactment of this Act.

SEC. 24. Applicability to Government Contractors. – In entering into any contract that may involve accessing or requiring sensitive personal information from one thousand (1,000) or more individuals, an agency shall require a contractor and its employees to register their personal

information processing system with the Commission in accordance with this Act and to comply with the other provisions of this Act including the immediately preceding section, in the same manner as agencies and government employees comply with such requirements.

CHAPTER VIII

PENALTIES

SEC. 25. Unauthorized Processing of Personal Information and Sensitive Personal Information. – (a) The unauthorized processing of personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

(b) The unauthorized processing of personal sensitive information shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

SEC. 26. Accessing Personal Information and Sensitive Personal Information Due to Negligence. – (a) Accessing personal information due to negligence shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

(b) Accessing sensitive personal information due to negligence shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than

Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

SEC. 27. *Improper Disposal of Personal Information and Sensitive Personal Information.* – (a) The improper disposal of personal information shall be penalized by imprisonment ranging from six (6) months to two (2) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than Five hundred thousand pesos (Php500,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

b) The improper disposal of sensitive personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

SEC. 28. *Processing of Personal Information and Sensitive Personal Information for Unauthorized Purposes.* – The processing of personal information for unauthorized purposes shall be penalized by imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons processing personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

The processing of sensitive personal information for unauthorized purposes shall be penalized by imprisonment ranging from two (2) years to seven (7) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be

imposed on persons processing sensitive personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

SEC. 29. *Unauthorized Access or Intentional Breach.* – The penalty of imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who knowingly and unlawfully, or violating data confidentiality and security data systems, breaks in any way into any system where personal and sensitive personal information is stored.

SEC. 30. *Concealment of Security Breaches Involving Sensitive Personal Information.* – The penalty of imprisonment of one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who, after having knowledge of a security breach and of the obligation to notify the Commission pursuant to Section 20(f), intentionally or by omission conceals the fact of such security breach.

SEC. 31. *Malicious Disclosure.* – Any personal information controller or personal information processor or any of its officials, employees or agents, who, with malice or in bad faith, discloses unwarranted or false information relative to any personal information or personal sensitive information obtained by him or her, shall be subject to imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

SEC. 32. *Unauthorized Disclosure.* – (a) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

(b) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party sensitive personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from three (3) years to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00).

SEC. 33. *Combination or Series of Acts.* – Any combination or series of acts as defined in Sections 25 to 32 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php5,000,000.00).

SEC. 34. *Extent of Liability.* – If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

SEC. 35. *Large-Scale.* – The maximum penalty in the scale of penalties respectively provided for the preceding offenses shall be imposed when the personal information of at least one hundred (100) persons is harmed, affected or involved as the result of the abovementioned actions.

SEC. 36. *Offense Committed by Public Officer.* – When the offender or the person responsible for the offense is a public officer as defined in the Administrative Code of the Philippines in the exercise of his or her duties, an accessory penalty consisting in the disqualification to occupy public office for a

term double the term of criminal penalty imposed shall be applied.

SEC. 37. *Restitution.* – Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

CHAPTER IX

MISCELLANEOUS PROVISIONS

SEC. 38. *Interpretation.* – Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of the rights and interests of the individual about whom personal information is processed.

SEC. 39. *Implementing Rules and Regulations (IRR).* – Within ninety (90) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SEC. 40. *Reports and Information.* – The Commission shall annually report to the President and Congress on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data privacy, data protection and fair information rights and responsibilities.

SEC. 41. *Appropriations Clause.* – The Commission shall be provided with an initial appropriation of Twenty million pesos (Php20,000,000.00) to be drawn from the national government. Appropriations for the succeeding years shall be included in the General Appropriations Act. It shall likewise receive Ten million pesos (Php10,000,000.00) per year for five (5) years upon implementation of this Act drawn from the national government.

SEC. 42. *Transitory Provision.* – Existing industries, businesses and offices affected by the implementation of this Act shall be given one (1) year transitory period from the effectivity of the IRR or such other period as may be

determined by the Commission, to comply with the requirements of this Act.

In case that the DICT has not yet been created by the time the law takes full force and effect, the National Privacy Commission shall be attached to the Office of the President.

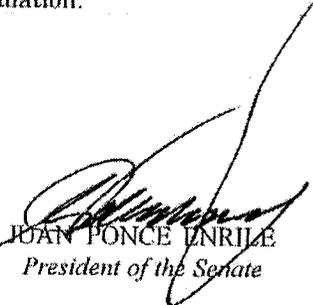
SEC. 43. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 44. *Repealing Clause.* - The provision of Section 7 of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", is hereby amended. Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

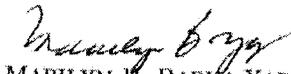
SEC. 45. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,


FELICIANO BELMONTE JR.
Speaker of the House
of Representatives


JUAN PONCE ENRILE
President of the Senate

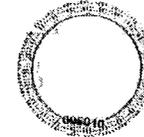
This Act which is a consolidation of Senate Bill No. 2965 and House Bill No. 4115 was finally passed by the Senate and the House of Representatives on June 6, 2012.


MARILYN B. BARUA-YAP
Secretary General
House of Representatives

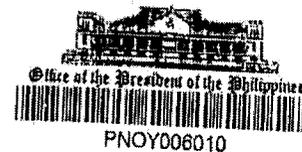

EMMA LIRIO-MEYES
Secretary of the Senate

Approved: AUG 19 2012

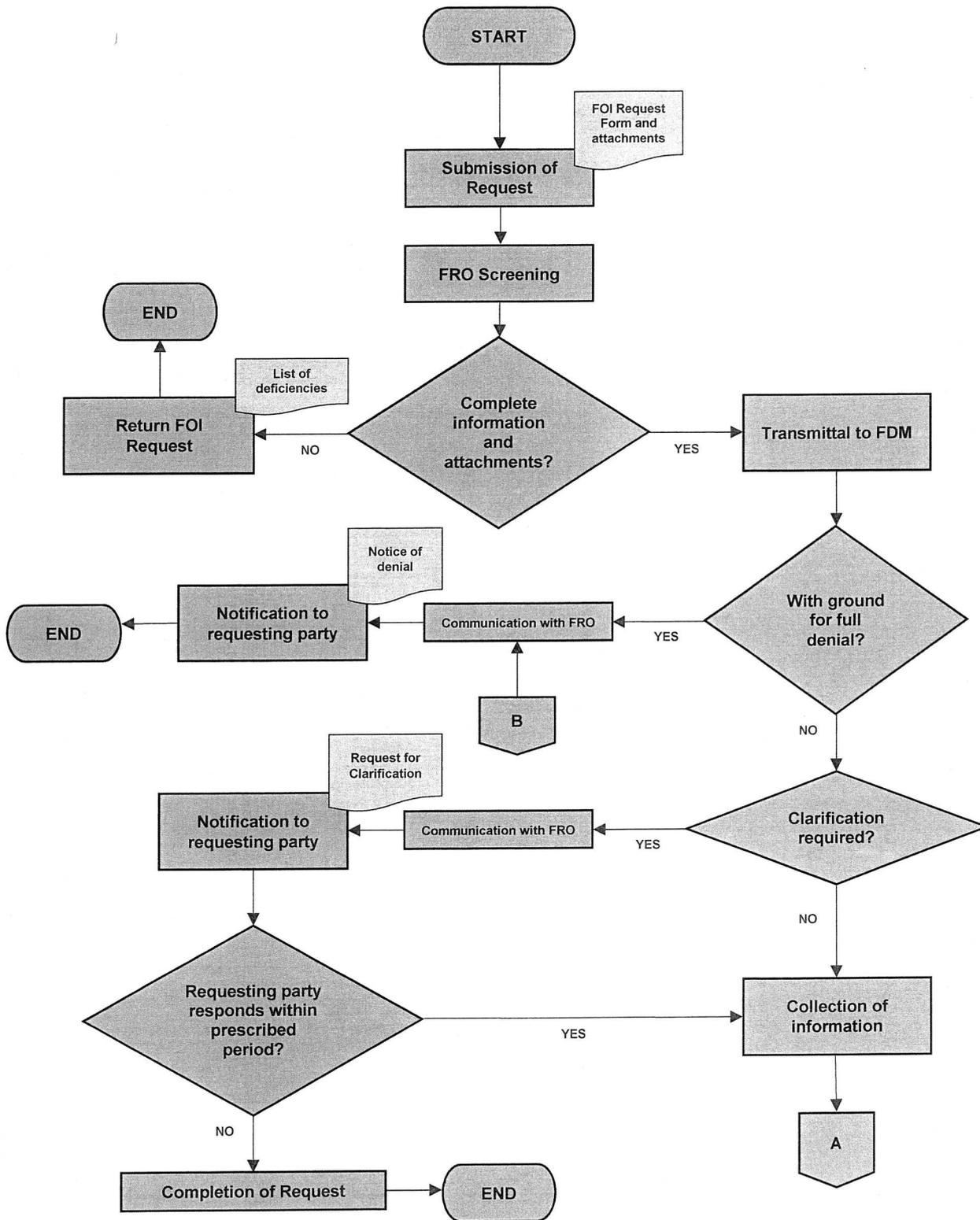

BENIGNO S. AQUINO III
President of the Philippines

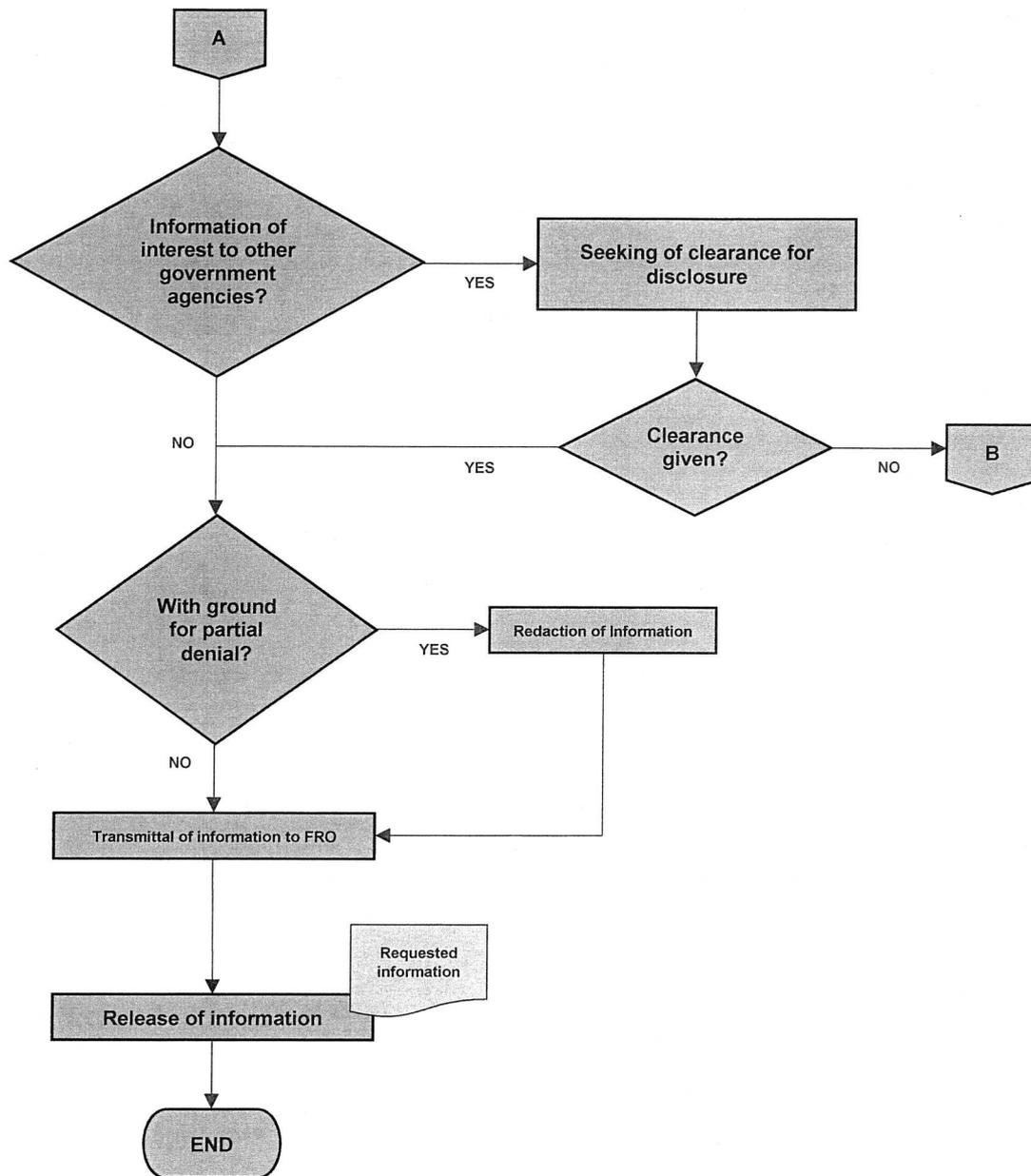


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FOI Request Flowchart







Freedom of Information
Central Appeals and Review Committee

Rules of Procedure

Ver. 1.0

PREFATORY STATEMENT

In line with the State's policy of full public disclosure laid down in Section 28, Article II of the 1987 Constitution and in recognition of the people's right to be informed on matters of public concern enshrined in Section 7, Article III of the 1987 Constitution, Executive Order (EO) No. 02, Series of (S.) 2016 was issued. Pursuant to Section 13 of the said EO, the following rules governing the conduct of proceedings before the Freedom of Information (FOI) Central Appeals and Review Committee (CARC) are hereby adopted and promulgated.

PART I – GENERAL PROVISIONS

Section 1. Title. These Rules shall be known and cited as the "CARC Rules of Procedure".

Section 2. Construction. These Rules shall be liberally construed and applied to promote the State policy of full public disclosure, to give the greatest effect to the people's constitutional right to be informed on matters of public concern, and to provide speedy and inexpensive disposition of all FOI appeals. Any doubt shall be resolved in favor of the requesting party.

Section 3. Applicability. These Rules shall apply to appeals made from any full or partial denial made by the FOI Decision Maker (FDM) of any FOI request.

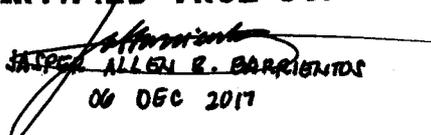
Section 4. Proper Party. An appeal to the CARC may only be made by the requesting party or by the requesting party's duly authorized representative. An appeal by any other party shall be denied due course, with proper notice.

PART II – DEFINITION OF TERMS

Section 5. Terminologies. For purposes of these Rules, the following terms shall mean:

- a. *Central Appeals and Review Committee* – The body created by the DPWH responsible for reviewing full or partial denials made by the FDM of FOI requests.
- b. *FOI Decision Maker* – The DPWH official or employee designated to decide on whether to grant FOI requests, or to deny them, either fully or in part.
- c. *FOI Inventory of Exceptions* – The list drawn up by the Office of the President setting forth all information not subject to disclosure pursuant to EO No. 02, S. 2016.
- d. *FOI Request* - A written request for disclosure of information held by the DPWH made pursuant to EO No. 02, S. 2016.
- e. *FOI Request Form* - The prescribed pro-forma template the requesting party is required to fill out and submit to the DPWH to initiate an FOI request.
- f. *Freedom of Information* – The policy of the Executive Branch embodied in EO No. 02, S. 2016 which recognizes the right of the people to information on matters of public concern, and adopts and implements full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in the said EO and other laws, rules, and regulations.

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06 DEC 2017



- g. *Full Denial* – A manner of disposition of an FOI request in which the requested information or any portion thereof are not disclosed.
- h. *Notice of Denial* – The document informing the requesting party of the full or partial denial of the FOI request and the corresponding reason(s) for such denial.
- i. *Partial Denial* – A manner of disposition of an FOI request in which certain portions of the requested information are not disclosed.
- j. *Request for Review* – A letter addressed to the CARC Chair asking for a review of the FDM’s full or partial denial of an FOI request.
- k. *Requested Information* – Any information the disclosure of which is requested pursuant to EO No. 02, S. 2016.
- l. *Requesting Party* – Any person asking for information from the DPWH pursuant to EO No. 02, S. 2016 and whose FOI request was fully or partially denied by the FDM.

PART III – GROUNDS FOR APPEAL

Section 6. Grounds. An appeal of a previously denied FOI request, in part or in full, may be filed only on the following grounds:

- a. The requested information is in the actual custody of the DPWH;
- b. The requested information is not publicly available elsewhere;
- c. The request is not identical or substantially similar to any previous request made by the requesting party which was already finally denied;
- d. The requested information is not protected under Republic Act (RA) No. 10173 (*Data Privacy Act of 2012*) or any other law, rule, or regulation; and
- e. The requested information is not included in the FOI Inventory of Exceptions.

PART IV – PROCEDURE

Section 7. Commencement of Appeal. An appeal to the CARC shall be commenced through the filing of a written request for review with the Chair within fifteen (15) days from the requesting party’s receipt of the notice of denial. In case the last day falls on a Saturday, a Sunday, or a legal holiday, the next working day shall be considered as the last day. Filing of the request for review beyond the said period shall be a ground for the denial of the appeal, unless there is clear merit appearing on the face of the request for review and the failure of the requesting party to make a timely filing is due to fraud, accident, mistake, or excusable negligence.

Section 8. Form, Contents, and Attachments of the Request for Review. The request for review shall be in writing and shall bear all the following information:

- a. The name of the requesting party;
- b. The requesting party’s residence and postal address, telephone number, mobile number, e-mail address, and other contact details;
- c. The ground(s) on which the appeal is based; and,
- d. The requesting party’s signature.

Further, the requesting party shall attach to the request for review the following:

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06 DEC 2017

- a. A photocopy of the receiving copy of the FOI Request Form and its attachments;
- b. A photocopy of the notice of denial;
- c. The representative's proof of authority, if applicable; and
- d. A photocopy of at least one (1) of the representative's Government-issued ID.

Section 9. *Assignment of Case Number.* Upon receipt of the request for review, the Chair shall assign a case number to the appeal.

Section 10. *Amendment or Completion of Requests for Review.* Should the request for review lack any of the required information or attachments, the Chair shall immediately require the requesting party in writing to amend the same or to submit the lacking attachments, or both, as the case may be. The requesting party shall be given a period of five (5) days from receipt of the directive to comply, failure to do which shall be a ground for the denial of the appeal. In case the last day falls on a Saturday, a Sunday, or a legal holiday, the next working day shall be considered as the last day.

The period for the resolution of appeals shall not run from the time the directive requiring the amendment or completion of the request for review is transmitted until the time the compliance of the requesting party is received or the period for compliance expires.

Section 11. *Examination of the Requested Information.* Upon receipt of the complete request for review or completion thereof, as the case may be, the Chair shall require the officer or employee having actual or supposed custody of the requested information to submit the same for examination. Should the ground for the FDM's denial of the FOI request be the lack of DPWH custody over the requested information, the said actual or supposed custodian shall be required to instead submit a certification to that effect. If the Chair deems it proper, the same information custodian may be required to submit a comment on the request along with the requested information or certification.

Section 12. *Constitution of Records.* Upon receipt of all documentary requirements, the Chair shall cause the constitution of the records of the appeal, to be composed of the following:

- a. Request for review;
- b. Photocopy of at least one (1) of the requesting party's Government-issued ID;
- c. Proof of the representative's authority, if applicable;
- d. Photocopy of at least one (1) of the representative's Government-issued ID, if applicable;
- e. The requested information or certification of no custody thereof, as the case may be; and
- f. Comment of the information custodian, if applicable.

The Chair shall cause the consolidation of the said documents into a single binder, properly paginated.

Section 13. *Setting for Deliberation.* Within three (3) days from the constitution of the records, the Chair shall set the appeal for deliberations to be held no later than three (3) days from notice. At least one (1) day before the date of the deliberations, the Chair shall notify the Vice Chair and all Members of the date, time, and venue of the deliberations, providing them with copies of the records.

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JASPER ALLEN B. BARRIENTOS
06 DEC 2017

[Signature]

Upon receipt of the notice for the deliberation, the Vice Chair and all Members shall immediately advise the Chair of their ability or inability to attend the said proceedings. Should it become apparent that the required quorum would not be met through a direct meeting, the deliberation may be held by teleconferencing or any other official electronic means, provided that in all cases, the decision must be reached within one (1) day and through consultative means.

Section 14. *Quorum and Voting Requirements.* The presence of the Chair or Vice Chair, along with at least six (6) of the Members shall constitute a quorum. The vote of a majority of those present in a quorum shall be required to issue a decision.

Section 15. *Deliberations and Manner of Voting.* Upon call to order, the Chair shall open the floor to suggestions from all those present on whether to grant, partially grant, or deny the appeal. Thereafter, the Chair, Vice Chair, and Members shall register their votes on the appropriate manner of disposition verbally. However, if deemed by the Chair to be appropriate, voting may be done by secret ballot.

The manner of disposition receiving the most number of votes shall be the CARC's decision. In case two (2) or more manners of disposition receive the same number of votes, the one more or most favorable to the requesting party shall be adopted as the CARC's decision.

Section 16. *Notice of Decision.* Within three (3) days from deliberations, the Chair shall cause the preparation of a notice to the requesting party. The notice shall state whether the appeal is granted, partially granted, or denied. If partially granted, the notice shall state which portions of the requested information may be disclosed and which may not. The notice shall also state the specific grounds for denying the release of the information or portion thereof.

Decisions of the CARC shall become final and unappealable after the lapse of ten (10) days from receipt of the notice thereof.

Section 17. *Records of Proceedings.* The Vice Chair shall be responsible for the production of minutes of all deliberations or other meetings, which shall be appended to the pertinent records of appeals and shall form integral parts thereof.

PART V – REMEDIES IN CASE OF DENIAL

Section 18. *Request for Reconsideration.* Within ten (10) days from receipt of the notice of the CARC's decision, the requesting party may seek reconsideration of the full or partial denial of the appeal by writing a request for reconsideration to the Chair, who shall set the same for re-deliberation following the procedure set forth under Sections 13 to 17 above.

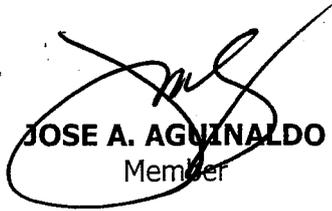
The CARC shall decide on the request for reconsideration within fifteen (15) days from receipt thereof. The request for reconsideration shall have a suspensive effect, and as such, said period shall toll the ten (10)-day period for the finality of the CARC decision.

Section 19. *Appeal to the Secretary.* In case of denial of the request for reconsideration, the requesting party may further appeal the CARC's decision to the Office of the Secretary within ten (10) days from receipt thereof under such rules of procedure which the said Office may prescribe.

Adopted 22 September 2017, Manila.

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JASPER ALLEN B. BARRIGUIDOS
06 DEC 2017


JOSE A. AGUINALDO
Member


MA. NIEWA S. DELA PAZ
Member


REYNALDO P. FAUSTINO
Member


MELROSE I. PAILMA
Member


JESUS I. OBA
Member


MADELYN B. LOYOLA
Member

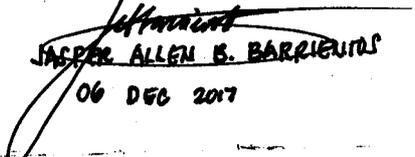

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06 DEC 2017

Revised Rules on Administrative Cases in the Civil Service



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FOREWORD

The Civil Service Commission is the premier human resource institution of the government. Part of its constitutional mandate is to promulgate rules and procedures relating to civil service matters, including administrative discipline of civil servants. Pursuant to its stated mandate, the Commission has through the years formulated the necessary procedural guidelines that would govern the disposition of civil service cases and matters.

Essentially, the need to promulgate procedural guidelines cannot be overemphasized. They ensure a certain degree of consistency, predictability and stability, which values are integral in upholding the rule of law. Indeed, with rules and regulations properly laid down, there would be less occasion for personal whims and caprices. In other words, arbitrariness would be reduced in the decision-making process. Needless to state, the decision-makers would be guided in their course of actions, whether it be in deciding disciplinary cases involving their own workforce or in adjudicating actions involving other personnel actions.

For quite sometime, the rules of procedure governing the disposition of both disciplinary and non-disciplinary cases in the civil service have been embodied in the Uniform Rules in Administrative Cases in the Civil Service (URACCS), which the Commission promulgated in 1999 to supplant the earlier procedural guidelines. This issuance has worked well but just like any human creation, it has also its own share of flaws and shortcomings, which have manifested through the years.

Intent on addressing these infirmities, and consistent with its current thrust to achieve zero backlog of cases and the disposition of cases within forty days, the Commission has revisited the URACCS and after rigorous and painstaking review, the result is now what is in you

hand—the Revised Rules on Administrative Cases in the Civil Service (RRACCS). The Commission hopes that the RRACCS would be able to contribute to the more effective dispensation of administrative justice.

Yet, the Commission is quick to add that the RRACCS is a work in progress. Its enactment shall not mean that it would not anymore be subject to rigorous scrutiny. As a matter of fact, the Commission would indubitably welcome insights, suggestions and recommendations on how to enhance it. After all, it cherishes the continued and unremitting support of all stakeholders in this significant undertaking.

Thank you and *Mabuhay!*



FRANCISCO T. DUQUE III, MD, MSc
Chairman

December 2011

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RESOLUTION

Pursuant to Section 6, Article IX-A of the 1987 Constitution, the Civil Service Commission *en banc* may promulgate its own rules concerning pleadings and practices before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights. Likewise, Section 12 (2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of 1987 (Executive Order No. 292) empowers the Civil Service Commission among others, to prescribe, amend and enforce rules and regulations to effectively carry into effect the provisions of the Civil Service Law and other pertinent laws which includes the procedure in administrative cases in the Civil Service.

NOW, THEREFORE, the Commission hereby adopts and promulgates the following rules concerning disciplinary and non-disciplinary proceedings in administrative cases in the Civil Service.

GENERAL PROVISIONS

Rule 1

APPLICABILITY AND CONSTRUCTION

Section 1. Title. – This Rules shall be known and cited as the **Revised Rules on Administrative Cases in the Civil Service (RRACCS)**.

Section 2. Coverage. – This Rules shall apply to all disciplinary and non-disciplinary administrative cases brought before the Civil Service Commission, agencies and instrumentalities of the National Government, local government units, and government-owned or controlled corporations with original charters except as may be provided by law.

Sexual harassment cases shall be primarily governed by the Administrative Rules on Sexual Harassment Cases (CSC Resolution No. 01-0940 dated May 21, 2001). This Rules shall apply suppletorily to said cases.

Section 3. Construction. – This Rules shall be liberally construed in order to promote their objective in obtaining just, speedy, and inexpensive disposition of administrative cases.

Administrative investigations shall be conducted without strict recourse to the technical rules of procedure and evidence applicable to judicial proceedings.

Section 4. Definition of Terms. – The terms hereunder shall be construed as follows:

- a. **AGENCY** refers to any bureau, office, commission, administration, board, committee, institute, corporation with original charter, whether performing governmental or proprietary function, or any other unit of the national government as well as provincial, city or municipal government.
- b. **APPOINTING OFFICER** refers to the person or body duly authorized to issue appointments in the civil service.
- c. **CIVIL SERVICE** is the generic term which refers to all men and women in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.
- d. **CIVIL SERVICE COMMISSION FIELD OFFICES (CSCFOs)** refer to the Civil Service Commission Field Offices under the direct supervision of the Civil Service Commission Regional Office, each headed by a Field Director.
- e. **CIVIL SERVICE COMMISSION REGIONAL OFFICES (CSCROs)** refer to the sixteen (16) Civil Service Commission Regional Offices and those that may be subsequently created, each headed by a Regional Director.
- f. **COMMISSION** refers to the Civil Service Commission composed of the Chairman and two (2) Commissioners.
- g. **DEPARTMENT** refers to any of the executive departments or entities having the category of a department, including the judiciary, legislative and the other constitutional commissions.

- h. **DISCIPLINING AUTHORITY** refers to the person or body duly authorized to impose the penalty provided for by law or rules.
- i. **FORUM-SHOPPING** refers to the filing of several administrative actions or complaint either simultaneously or successively before another agency or any tribunal having jurisdiction over the case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and all raising substantially the same issues either pending in, or already resolved adversely by, some other tribunal or agency.
- j. **PARTY ADVERSELY AFFECTED** refers to the respondent against whom a decision in an administrative case has been rendered or to the disciplining authority in an appeal from a decision reversing or modifying the original decision.
- k. **PERSON COMPLAINED OF** refers to the person who is the subject of a complaint but who is not yet issued a notice of charge/s or formal charge by the disciplining authority.
- l. **PERSONNEL ACTION** refers to any action denoting the movement or progress of personnel in the Civil Service which shall include appointment promotion, transfer, reinstatement, reemployment, reappointment, detail, reassignment, secondment, demotion and separation from the service.
- m. **PROBATIONARY EMPLOYEE** refers to the employee who is required to undergo a thorough character investigation and assessment of capability to perform the duties of the position enumerated in the Position Description Form (PDF).
- n. **RESPONDENT** refers to the person who is issued a notice of charge/s or formal charge by the disciplining authority.
- o. **QUALIFIED NEXT-IN-RANK** refers to the employee appointed on a permanent basis to a position previously determined to be a next-in-rank to the vacancy and who meets the requirements for appointment thereto as previously determined by the appointing authority and approved by the Commission.

Rule 2

JURISDICTION AND VENUE OF ACTIONS

Section 5. *Jurisdiction of the Civil Service Commission.* – The Civil Service Commission 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 of the agencies attached to it.

Section 6. *Referral of Case or Matter to the Proper Office.* - In the event that an administrative case or matter is filed before the Commission or any of its Regional Offices, but jurisdiction over such case or matter properly belongs to another CSCRO or to the Commission, the same shall be forwarded to the appropriate office.

Section 7. *Cases Cognizable by the Civil Service Commission.* –The Civil Service Commission shall take cognizance of the following cases:

A. Disciplinary

1. Decisions of Civil Service Commission Regional Offices brought before it on appeal or petition for review;
2. 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;
3. Complaints brought against Civil Service Commission personnel;
4. Complaints against officials who are not presidential appointees;
5. Decisions of heads of agencies imposing penalties not exceeding 30 days suspension or fine equivalent thereto but violating due process;
6. Requests for transfer of venue of hearing on cases being heard by Civil Service Commission Regional Offices;
7. Appeals from the order of preventive suspension; and

8. Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.

B. Non-Disciplinary

1. Decisions of heads of agencies on personnel actions;
2. Decisions of Civil Service Commission Regional Offices;
3. Requests for favorable recommendation on petition for the removal of administrative penalties or disabilities;
4. Protests against appointments, or other personnel actions, involving non-presidential appointees;
5. Requests for Extension of Service;
6. Reassignment of public health workers and public social workers brought before it on appeal;
7. Request for correction of personal information in the records of the Commission within five (5) years before mandatory retirement; and
8. Such other analogous actions or petitions arising out of or in relation with the foregoing enumeration.

Section 8. Cases Cognizable by Regional Offices. – Except as otherwise directed by the Commission, the Civil Service Commission Regional Offices shall take cognizance of the following cases:

A. Disciplinary

1. Cases initiated by, or brought before, the Civil Service Commission Regional Offices provided that the alleged acts or omissions were committed within the jurisdiction of the Regional Office, including Civil Service examination anomalies or irregularities and/or the persons complained of are rank-and-file employees of agencies, local or national, within said geographical areas;
2. Complaints involving Civil Service Regional Office personnel who are appointees of said office; and

3. Petitions to place respondent under preventive suspension.

B. Non-Disciplinary

1. Disapproval/Recall of Approval/Invalidation of appointments brought before it on appeal;
2. Decisions of heads of agencies, except those of the department secretaries and bureau heads within their geographical boundaries relative to protests and other personnel actions and other non-disciplinary actions brought before it on appeal; and
3. Requests for accreditation of services; and
4. Requests for correction of personal information in the records of the Commission not falling under Section 7 (B) Item 7 of this Rules.

Section 9. Jurisdiction of Heads of Agencies. –The Secretaries and heads of agencies, and other instrumentalities, provinces, cities and municipalities shall have original concurrent jurisdiction with the Commission over their respective officers and employees. They shall take cognizance of complaints involving their respective personnel. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

DISCIPLINARY CASES

Rule 3

COMPLAINT

Section 10. Who May Initiate. – Administrative proceedings may be initiated by the disciplining authority *motu proprio* or upon complaint of any other person.

Section 11. *Requisites of a Valid Complaint.* – Except when initiated by the disciplining authority or his/her authorized representative, no complaint against a civil service official or employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant. In cases initiated by the proper disciplining authority or his/her authorized representative, a show cause order is sufficient.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint in triplicate copies shall be written in a clear, simple and concise language and in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation against him/her and to enable him/her to intelligently prepare his/her defense or answer/comment. However, should there be more than one (1) person complained of, the complainant is required to submit additional copies corresponding to the number of persons complained of.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the person/s complained of as well as his/her/their position/s and office/s;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and
- e. certification or statement of non-forum shopping.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refile upon compliance with the above requirements.

Section 12. *When and Where to File a Complaint.* – Except when otherwise provided for by law, an administrative complaint may be filed at anytime with the Commission or any of its Regional Offices, heads of departments, agencies, provinces, cities, municipalities and other instrumentalities.

Section 13. *Withdrawal of the Complaint.* – The withdrawal of the complaint does not result in its outright dismissal nor discharge the person complained of from any administrative liability. Where there is obvious truth or merit to the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person/s complained of, the same should be given due course.

Section 14. *Action on the Complaint.* – Upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person/s complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of order requiring him/her/their comment/s.

Rule 4

PRELIMINARY INVESTIGATION

Section 15. *Preliminary Investigation; Definition.* – A Preliminary Investigation is a proceeding undertaken to determine whether a prima facie case exists to warrant the issuance of a formal charge. It involves a fact-finding investigation or an ex-parte examination of records and documents submitted by the complainant and the person/s complained of, as well as documents readily available from other government offices.

Section 16. *How conducted.* – Within five (5) days from receipt of the complaint sufficient in form and substance, the person/s complained of shall be required to submit his/her/their counter-affidavit/comment. Where the complaint is initiated by the disciplining authority, the disciplining authority or his authorized representative shall issue a show-cause memorandum directing the person/s complained of to explain why no administrative case should be filed against him/her/them. The latter's failure to submit the comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without his/her counter-affidavit/comment.

If necessary, the parties may be summoned to a conference where the investigator may propound clarificatory and other relevant questions.

For cases filed before the Commission or any of its Regional Offices, the preliminary investigation may be entrusted to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 17. *Duration of the Investigation.* – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the disciplining authority and shall be terminated within twenty (20) days thereafter.

Section 18. Investigation Report. – Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report with recommendation and the complete records of the case to the disciplining authority.

Section 19. Decision or Resolution After Preliminary Investigation. – If a *prima facie* case is established during the investigation, the disciplining authority may issue either a formal charge or a notice of charge/s pursuant to Rule 5 of this Rules.

In the absence of a *prima facie* case, the complaint shall be dismissed.

Rule 5

FORMAL CHARGE

Section 20. Issuance of Formal Charge; Contents. – After a finding of a *prima facie* case, the disciplining authority shall formally charge the person complained of, who shall now be called as respondent. The formal charge shall contain a specification of charge/s, a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge/s in writing, under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 21. Notice of Charge/s. – In instances where the complaint was initiated by a person other than the disciplining authority, the disciplining authority may issue a written notice of the charge(s) against the person complained of to which shall be attached copies of the complaint, sworn statement and other documents submitted. The notice shall contain the charges against the person complained of with a statement that a *prima facie* case exists. It shall also include a directive to answer the charge(s) in writing, under oath in not less than seventy-two (72) hours from receipt thereof, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 22. Prohibited Pleadings. - The disciplining authority shall not entertain requests for clarification, bills of particulars, motions to dismiss or motions to quash or motions for reconsideration. If any of these pleadings are interposed by the respondent, the same shall be considered an answer and shall be evaluated as such.

Rule 6

ANSWER

Section 23. *Requisites and Contents.* – The answer, which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of one’s case.

Section 24. *Failure to File an Answer.* – If the respondent fails or refuses to file his/her answer to the formal charge or notice of charge/s within the period provided in the formal charge or notice of charge/s which shall not be less than three (3) days from receipt thereof, he/she shall be considered to have waived his/her right to submit the same and the case may be decided based on available records.

Rule 7

PREVENTIVE SUSPENSION

Section 25. *Preventive Suspension, nature.* –Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the official or employee charged may be removed from the scene of his/her alleged misfeasance/malfeasance/nonfeasance while the same is being investigated.

Section 26. *When Issued; Grounds.* – Upon petition of the complainant or *motu proprio*, the proper disciplining authority may issue an order of preventive suspension upon service of the formal charge or notice of charge/s, or immediately thereafter to any subordinate officer or employee under his/her authority pending an investigation, if

- A) The charge involves:
1. Dishonesty;
 2. Oppression;
 3. Grave Misconduct;
 4. Neglect in the Performance of Duty;
 5. Administrative offenses which are punishable by dismissal from the service on its second or third offense; or
 6. If there are reasons to believe that the respondent is guilty of charges which would warrant his/her removal from the service.

- B) An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance, malfeasance or nonfeasance to preclude the possibility of:
1. exerting undue influence or pressure on the witnesses against him/her, or
 2. tampering with evidence that may be used against him/her.
- C) In lieu of preventive suspension, for the same purpose, the proper disciplining authority or head of office, may reassign respondent to other unit of the agency during the formal hearings.

Section 27. Duration of Preventive Suspension. – Unless otherwise provided for by law, the disciplining authority may place the respondent under preventive suspension for a maximum period of ninety (90) days in the case of national agencies or sixty (60) days in the case of local government units. When the administrative case against an officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of preventive suspension, he/she shall be automatically reinstated in the service unless the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. Any period of delay caused by motions filed by the respondent shall be added to the period of preventive suspension. Provided, that where the order of preventive suspension is for a period less than the maximum period, the disciplining authority undertakes to finish the formal investigation within the said period and is precluded from imposing another preventive suspension. Provided, further, that should the respondent be on authorized leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully exhausted.

Section 28. Remedies from the Order of Preventive Suspension. – The respondent may file an appeal to the Commission within fifteen (15) days from receipt thereof. Pending appeal, the same shall be executory. A motion for reconsideration from the order of preventive suspension shall not be allowed.

Section 29. Payment of Back Salaries During Preventive Suspension. – The payment of back salaries during the period of suspension shall be governed by the following:

- a. A declaration by the Commission that an order of preventive suspension is null and void on its face entitles the respondent official or employee to immediate reinstatement and payment of back

salaries corresponding to the period of the unlawful preventive suspension without awaiting the outcome of the main case.

The phrase “**null and void on its face**” in relation to a preventive suspension order, imports any of the following circumstances:

- i) The order was issued by one who is not authorized by law;
 - ii) The order was not premised on any of the conditions under Section 26 (A and B) of this Rule;
 - iii) The order of preventive suspension was issued without a formal charge or notice of charges;
 - iv) While lawful in the sense that it is based on the enumerated grounds, the duration of the imposed preventive suspension has exceeded the prescribed periods, in which case the payment of back salaries shall correspond to the excess period only.
- b. A declaration of invalidity of a preventive suspension order not based on any of the reasons enumerated in Section 29(a), shall result in the reinstatement of the official or employee concerned. The payment of back salaries shall, however, await the final outcome of the principal case. If the official or employee is fully exonerated of the charge/s or when the penalty imposed in the principal case is reprimand, he or she shall be paid such back salaries. Otherwise, no back salaries shall be awarded.

The phrase “full exoneration” contemplates a finding of not guilty for the offense/s charged. Downgrading of the charge to a lesser offense shall not be construed as “full exoneration” within the contemplation of these guidelines.

Even if the respondent official or employee be eventually found innocent of the charge/s proffered against him/her, the same shall not give rise to payment of back salaries corresponding to the period of preventive suspension in the absence of any finding of its illegality.

Rule 8

FORMAL INVESTIGATION

Section 30. *Conduct of Formal Investigation; When Held.* – A formal investigation shall be conducted by the disciplining authority where the merits of the case cannot be decided judiciously without conducting such investigation or when the respondent elects to have one, in which case, the investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer or upon the expiration of the period to answer. Said investigation shall be finished within thirty (30) days from the issuance of the formal charge unless the period is extended by the disciplining authority in meritorious cases.

For this purpose, the Commission may entrust the formal investigation to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 31. *Submission of Position Paper/Memorandum.* – At any stage of the proceedings, the parties may, based on their mutual consent, submit position paper/memorandum and submit the case for resolution without any need for further hearings.

Section 32. *Pre-Hearing Conference.* – At the commencement of the formal investigation, the hearing officer shall conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. Stipulation of facts;
- b. Simplification of issues;
- c. Identification and marking of evidence of the parties;
- d. Waiver of objections to admissibility of evidence;
- e. Limiting the number of witnesses, and their names;
- f. Dates of subsequent hearings; and
- g. Such other matters as may aid in the prompt and just resolution of the case.

The agreement entered into during the pre-hearing conference is binding on both parties unless in the interest of justice, the hearing officer may allow a deviation from the same.

The conduct of a pre-hearing conference is mandatory. The failure of the respondent to attend the pre-hearing conference constitutes a waiver to participate in the pre-hearing conference but may still participate in the formal investigation upon appropriate motion.

Section 33. Continuous Hearing Until Terminated; Postponement. – Hearings shall be conducted on the hearing dates set by the Hearing Officer or as agreed upon during the pre-hearing conference.

Each party may be granted one (1) postponement upon oral or written request.

If respondent fails or refuses to appear or is not represented by counsel during the scheduled hearings despite due notice, the investigation shall proceed and the respondent shall be deemed to have waived his/her right to present evidence in his/her favor during the said hearing.

Section 34. Preliminary Matters. – At the start of the hearing, the hearing officer shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right thereto.

Before taking the testimony of a witness, the hearing officer shall place him/her under oath and then take his/her name, address, civil status, age, and complete name and address of employment.

A sworn statement of the witness/es properly identified and affirmed shall constitute direct testimony, copy furnished the other party.

Clarificatory questions may also be asked.

Section 35. Appearance of Counsel. – Any counsel who is a member of the Bar appearing before any hearing or investigation shall manifest orally or in writing, his/her appearance for either the respondent or complainant, stating his/her full name, Roll Number, IBP receipt and complete address which should not be a P.O. box address where he/she can be served with notices and other pleadings. If the lawyer is a government employee, he/she shall be required to present an authority to practice profession which should come from the agency head or the agency head's authorized representative.

Section 36. Order of Hearing. – Unless the hearing officer directs otherwise, the order of hearing may be as follows:

- a. The prosecution shall present its evidence;
- b. The respondent shall present evidence in support of his/her defense;

- c. There may be rebuttal or sur-rebuttal;

When the presentation of the witnesses has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After which, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) days after the termination of the investigation. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 37. Objections. – All objections raised during the hearing shall be resolved by the hearing officer. However, objections that cannot be ruled upon by the hearing officer shall be noted with the information that the same shall be included in the memorandum of the concerned party to be ruled upon by the proper disciplining authority.

The hearing officer shall admit all evidence formally offered subject to the objection/s interposed against its admission.

Section 38. Markings. – All documentary evidence or exhibits shall be properly marked by letters (A,B,C, etc.) if presented by the prosecution and by numbers (1,2,3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 39. Issuance of Subpoena. – The hearing officer may issue *subpoena ad testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or things.

If a party desires the attendance of a witness and/or the production of documents, he/she shall make a request for the issuance of the necessary *subpoena ad testificandum* and/or *subpoena duces tecum*, at least seven (7) days before the scheduled hearing.

Section 40. Record of Proceedings. – Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.

Section 41. Filing of Pleadings. – All pleadings filed by the parties with the disciplining authority shall be copy furnished the other party with proof of service. Any pleadings sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the disciplining office.

Section 42. *Effects of the Pendency of an Administrative Case.* – Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions or from claiming maternity/paternity benefits.

For this purpose, a pending administrative case shall be construed as such when the disciplining authority has issued a formal charge or a notice of charge/s to the respondent .

Section 43. *Formal Investigation Report.* – Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the hearing officer to the disciplining authority. The complete records of the case shall be attached to the report of investigation.

The complete records shall be systematically and chronologically arranged, paged and securely bound to prevent loss. A table of contents shall be prepared.

Rule 9

DECISION

Section 44. *When Case is Decided.* – The disciplining authority shall decide the case within thirty (30) days from receipt of the Formal Investigation Report.

Section 45. *Finality of Decisions.* – A decision rendered by the disciplining authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed.

PENALTIES

Rule 10

SCHEDULE OF PENALTIES

Section 46. *Classification of Offenses.* – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

- A. The following grave offenses shall be punishable by dismissal from the service :
1. Serious Dishonesty;
 2. Gross Neglect of Duty;
 3. Grave Misconduct;
 4. Being Notoriously Undesirable;
 5. Conviction of a crime involving moral turpitude;
 6. Falsification of official document;
 7. Physical or mental incapacity or disability due to immoral or vicious habits;
 8. Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws;
 9. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
 10. 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;
 11. Nepotism; and
 12. Disloyalty to the Republic of the Philippines and to the Filipino people.

- B. The following grave offenses shall be punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense:
1. Less serious dishonesty;
 2. Oppression;
 3. Disgraceful and immoral conduct;
 4. Inefficiency and incompetence in the performance of official duties;
 5. Frequent unauthorized absences, or tardiness in reporting for duty, loafing from duty during regular office hours;
 6. Refusal to perform official duty;
 7. Gross Insubordination;
 8. Conduct prejudicial to the best interest of the service;
 9. Directly or indirectly having financial and material interest in any transaction requiring the approval of his/her office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something;
 10. 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;
 11. 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 his/her private interests or give undue advantage to anyone, or to prejudice the public interest;
 12. 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
 13. 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 or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the function of his/her office.

- C. The grave offense of Inefficiency and Incompetence in the performance of official duties is punishable by Demotion. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the agency. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary grade.
- D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense:
1. Simple Neglect of Duty;
 2. Simple Misconduct;
 3. Discourtesy in the course of official duties;
 4. Violation of existing Civil Service Law and rules of serious nature;
 5. Insubordination;
 6. Habitual Drunkenness;
 7. Unfair discrimination in rendering public service due to party affiliation or preference;
 8. Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households;
 9. Failure to resign from his/her position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself/herself of his/her shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises; Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself/herself of said interest within the periods hereinabove provided, reckoned from the date when the conflict of interest had arisen; and
 10. Engaging directly or indirectly in partisan political activities by one holding non-political office.
- E. The less grave offense of Simple Dishonesty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year for the second offense; and dismissal for the third offense.

F. The following light offenses are punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:

1. Simple discourtesy in the course of official duties;
2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
3. Violation of reasonable office rules and regulations;
4. Frequent unauthorized tardiness (Habitual Tardiness);
5. Gambling prohibited by law;
6. Refusal to render overtime service;
7. Disgraceful, immoral or dishonest conduct prior to entering the service;
8. Borrowing money by superior officers from subordinates;
9. Willful failure to pay just debts or willful failure to pay taxes due to the government;

The term "just debts" shall apply only to:

- a. Claims adjudicated by a court of law, or
 - b. Claims the existence and justness of which are admitted by the debtor.
10. Lobbying for personal interest or gain in legislative halls and offices without authority;
 11. 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;
 12. Failure to act promptly on letters and request within fifteen (15) working days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;

13. Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
14. 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;
15. 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
16. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

Section 47. *Penalty of Fine.* – The following are the guidelines for the penalty of fine:

1. Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow payment of fine in place of suspension if any of the following circumstances are present:
 - a. 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; or
 - b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and
 - c. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.
2. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day fine; Provided, that in Grave Offenses where the penalty imposed is six (6) months and one (1) day suspension in view of the presence of mitigating circumstance, the conversion

shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.

3. The maximum period to pay the fine shall not exceed one (1) year from the time the decision/resolution becomes final and executory. The conversion of suspension into fine is final and executory and, therefore, not subject of appeal or any other similar relief.
4. 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 he/she has already paid.
5. Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:
 - a. Fine equivalent to one (1) month salary shall be paid within two (2) months;
 - b. Fine equivalent to two (2) months salary shall be paid within four (4) months;
 - c. Fine equivalent to three (3) months salary shall be paid within six (6) months;
 - d. Fine equivalent to four (4) months salary shall be paid within eight (8) months;
 - e. Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
 - f. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.
6. 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.

Section 48. Mitigating and Aggravating Circumstances. – In the determination of the penalties to be imposed, mitigating and/ or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

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

In the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice may take and consider these circumstances *motu proprio*.

Section 49. Manner of Imposition. – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The **minimum** of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

Section 50. *Penalty for the Most Serious Offense.* – If the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

Section 51. *Duration and effect of administrative penalties.* – The following rules shall govern the imposition of administrative penalties:

- a. The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability.
- b. The penalty of demotion shall entail appointment to the next lower position to which respondent is qualified or diminution of salary to next lower grade if there is no such position available.
- c. The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all monetary benefits including leave credits.

- d. The penalty of fine shall be in an amount not exceeding six (6) months salary of respondent. The computation thereof shall be based on the salary rate of the respondent when the decision becomes final and executory. Fines shall be paid within a period not exceeding one (1) year reckoned also from the date when decision becomes final and executory.
- e. The penalty of reprimand shall not carry with it any accessory penalty nor result in the temporary cessation of work. In the event the penalty of reprimand was imposed on appeal as a result of modification of the penalty of suspension or dismissal from service, the respondent shall be entitled to the payment of back salaries and other benefits which would have accrued during the period of his/her suspension or dismissal.

Section 52. *Administrative Disabilities Inherent in Certain Penalties.* –

- a. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

- b. The penalty of demotion shall carry with it disqualification from promotion for one (1) year.
- c. The penalty of suspension shall carry with it disqualification from promotion corresponding to the period of suspension.
- d. The penalty of fine shall carry with it disqualification from promotion for the same period he/she was fined.
- e. The accessory penalties inherent in the penalty of suspension provided in Section 51 (c) of the Rules shall continue to apply when the penalty of fine is imposed in lieu of suspension.

Should the respondent fail to pay in full the fine within the prescribed period, he/she shall be deemed to have failed to serve the penalty imposed, hence, the disqualification for promotion shall remain in effect until such time that the fine is fully paid.

- f. The penalty of reprimand shall not carry with it any accessory penalties.
- g. A warning or admonition shall not be considered a penalty.

Section 53. *Effects of Exoneration on Certain Penalties.* –

- a. In case the penalty imposed is a fine, the same shall be refunded.
- b. In case there is demotion, he/she shall be restored to his/her former position, without loss of seniority rights. Respondent shall also be entitled to the payment of salary differentials during the period the demotion was imposed.
- c. In case the penalty imposed is suspension, he/she shall immediately be reinstated to his/her former post without loss of seniority rights and with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally suspended.
- d. In case the penalty imposed is dismissal, he/she shall immediately be reinstated without loss of seniority rights with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally dismissed.

- e. The respondent who is exonerated by final judgment shall be entitled to the leave credits for the period he/she had been out of the service.

REMEDIES

Rule 11

SETTLEMENT IN ADMINISTRATIVE CASES

Section 54. *Who may avail.* – In cases of light offenses where the act is purely personal on the part of the private complainant and the person complained of and there is no apparent injury committed to the government, settlement of offenses may be considered. Provided that settlement can no longer be applied for the second offense of the same act committed by the person complained of.

Section 55. *Guidelines.* – The following are the guidelines in the settlement of purely personal matters in administrative cases:

- a. Compromise settlement shall be allowed only for administrative light offenses where the act is purely personal between the private complainant and the person complained of and there is no apparent injury to the government;
- b. Upon filing of the complaint, the disciplining authority shall determine whether the offense is purely personal or can be the subject of settlement;

The following cases may be the subject of settlement and/or compromise:

1. Borrowing money by superior officers from subordinates;
2. Willful failure to pay just debts;
3. Simple Misconduct resulting from misunderstanding/fight between respondent and complainant provided that the act is not committed within office premises;
4. Discourtesy in the course of official duties; and
5. Other analogous circumstances/cases.

In these enumerated cases, compromise or settlement can no longer be applied for the second time the same act is committed;

The grant of back salaries and other benefits may likewise be subject of settlement and/or compromise;

- c. If the offense can be the subject of settlement, the Action Officer assigned shall order the respondent to comment and to indicate therein whether he/she is willing to submit the case for settlement;
- d. If person complained of opted for settlement, the Action Officer assigned shall issue an order requiring the appearance of parties;
- e. If settlement succeeds, a compromise agreement shall be executed between the parties and attested by the Action Officer;
- f. The compromise agreement shall be binding on the parties and shall be considered a decision on the merits which cannot be impugned unless it is shown that there was duress on its execution on any of the parties;
- g. A Decision shall be issued by the Disciplining Authority based on the Compromise Agreement;
- h. If during the settlement process, the parties failed to settle their differences, the Action Officer shall issue an order terminating the process and continue with the investigation of the case; and
- j. In case of non-compliance with the compromise agreement, the case may likewise be reopened for investigation until the final determination of the case.

MOTION FOR RECONSIDERATION IN DISCIPLINARY CASES

Section 56. *Filing.* – The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof. A motion for extension of time to file a motion for reconsideration is not allowed.

Section 57. *When deemed filed.* – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 58. Grounds. – The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 59. Limitation. – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of the first motion for reconsideration.

Section 60. Effect of Filing. – The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

Rule 12

APPEAL IN DISCIPLINARY CASES

Section 61. Filing. – Subject to Section 45 of this Rules, decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Commission within a period of fifteen (15) days from receipt thereof. In cases the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission.

All decisions of heads of agencies are immediately executory pending appeal before the Commission. The decision imposing the penalty of dismissal by disciplining authorities in departments is not immediately executory unless confirmed by the Secretary concerned. However, the Commission may take cognizance of the appeal pending confirmation of its execution by the Secretary.

Section 62. When deemed filed. – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 63. Appeal Fee. – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 64. Perfection of an Appeal. – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the disciplining authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the disciplining office;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of not more than ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refileing.

Section 65. Effect of Filing. – Except for cases requiring confirmation of the Department Secretary concerned and cases decided by the CSCROs, an appeal shall not stop the decision from being executory.

Section 66. When to Remand an Appealed Case to Agency of Origin. – If on appeal, the Commission finds that the disciplining authority violated respondent-appellant's right to due process such as the failure to issue a formal charge, the Commission shall dismiss the appealed case and order the immediate reinstatement of the respondent with payment of back salaries and other benefits. However, the dismissal of the case shall be without prejudice on the part of the disciplining authority to re-file it in accordance with law.

If a formal charge has been issued but the disciplining authority has violated respondent-appellant's right to procedural due process, the Commission shall remand the appealed case to the agency of origin for further proceedings to be conducted within three (3) calendar months from the date of receipt of the case records, unless there is delay due to the fault, negligence or petition of the respondent, or an extension is granted by the Commission on meritorious grounds. The period of delay shall be excluded in the computation of the prescribed period. Within fifteen (15) days from the termination of the proceedings, the disciplining authority shall render his/her decision.

If at the end of the three (3) month period, the disciplining authority failed to conduct further proceedings, the Commission upon motion of the respondent-appellant shall vacate and set aside the appealed decision and declare the respondent-appellant exonerated of the charge/s. If the respondent-appellant is under preventive suspension, he/she shall be immediately reinstated and shall be entitled to back salaries and other benefits.

The Commission shall evaluate requests for extension of the three (3)-month period and may grant the same on meritorious grounds guided by the principles of justice and fair play. All requests for extension shall not be for more than twenty (20) days.

For this purpose, the CSCRO Directors concerned shall monitor the implementation of the CSC Resolution remanding the case to the agency of origin and to submit a report to the Commission Proper.

Rule 13

PETITION FOR REVIEW

Section 67. *Petition for Review of CSCRO Decisions.* – A party may elevate the decision of the Civil Service Commission Regional Office dismissing the complaint for lack of a *prima facie* case or where the formal charge issued was for a lower offense, through a petition for review before the Commission within fifteen (15) days from receipt of said decision.

Section 68. For the purpose of this Rule, all appeals from the decisions of the Civil Service Commission Regional Offices to the Commission shall be denominated as a Petition for Review.

Section 69. *Petition for Review of Decisions of Agencies.* – A decision of an agency head dismissing a complaint for lack of *prima facie* case or issuance of a formal charge for a lower offense is not subject to appeal or petition for review before the Commission.

Section 70. *Petition for Review with the Court of Appeals.* – A party may elevate a decision of the Commission before the Court of Appeals by way of a petition for review under Rule 43 of the 1997 Revised Rules of Court.

Rule 14

**REMOVAL OF ADMINISTRATIVE PENALTIES
OR DISABILITIES**

Section 71. *Recommendation for Removal of Administrative Penalties or Disabilities; Requirements.* – In meritorious cases and upon recommendation of the Commission, the President may commute or remove administrative penalties or disabilities imposed upon officers or employees in disciplinary cases, subject to such terms and conditions as he/she may impose in the interest of the service.

Subject to existing guidelines, a petition for a favorable recommendation for the grant of removal of administrative penalties or disabilities may be filed by a dismissed or disciplined employee with the Commission upon submission of the following:

- a. certified true copy of the decision in the disciplinary case;
- b. favorable recommendation by the disciplining authority or head of office from which he/she was dismissed;
- c. certification from reputable members of the community where he/she resides that he/she is a good parent/family member and/or neighbor, law abiding and active member of community and civic organizations;
- d. proof of non-pendency of an appeal/petition for review relative to his/her disciplinary case before any court/tribunal; and
- e. proof of payment of filing fee.

Section 72. The following are the guidelines for the grant of favorable recommendation for the removal of administrative penalties or disabilities:

- a. Apart from compliance with the procedural requirements, the petitioner must demonstrate through specific and positive action and behavior that he/she has become a useful member of the community. Affidavits from respectable persons in the community attesting that the petitioner is a law-abiding citizen, an active member of the community and civic organizations, a good person and neighbor, and one who has the respect of the members of the community, shall be presented;
- b. A minimum of three (3) years should have lapsed, from the time of the finality of the decision dismissing the petitioner from the service, in order that the petitioner may be considered as to have truly undergone moral reformation;
- c. The petitioner seeking the removal of administrative penalties or disabilities must have recognized/accepted his/her guilt in his/her petition to show that he/she is repentant/remorseful of the consequences of his/her act, in addition to the above-mentioned requirements;
- d. Non-admission or acceptance of guilt by the petitioner will not be required when he/she has been acquitted in the criminal case which has been decided on the merits and in effect declared the innocence of the petitioner;
- e. In cases where a petitioner is above sixty-five (65) years of age, the Commission shall favorably recommend the removal of his/her administrative penalties or disabilities, provided that he/she complies with the procedural requirements and submits proof of moral reformation; and
- f. In cases where the person is found guilty of depriving the government of money or property, restitution shall be required before the Commission can favorably recommend the removal of administrative penalties or disabilities.

CONTEMPT OF THE COMMISSION

Rule 15

PROCEDURE FOR CONTEMPT

Section 73. *Contumacious/Contemptuous Acts Punishable.* – An official or employee or any person found guilty of, disobedience of or resistance to a lawful writ, process, order, decision, resolution, ruling, summons, subpoena, command or injunction of the Commission may be punished for indirect contempt.

Section 74. *How proceedings are commenced.* – Proceedings for indirect contempt may be initiated *motu proprio* by the Commission by an order requiring the respondent to show cause why he/she should not be punished for indirect contempt. A motion to cite for indirect contempt may also be filed with the Commission. In both cases proceedings shall be conducted at the Office for Legal Affairs, Civil Service Commission.

The conduct of proceedings in indirect contempt cases shall follow as far as applicable, the procedure required in the conduct of disciplinary investigation provided under this Rules, inclusive of, among others the conduct of Preliminary Investigation, Issuance of Formal Charge, Formal Investigation and Rendition of Decision.

Section 75. *Hearing.* – Upon the day set for the hearing, the Commission shall proceed to investigate the charge and consider such comment, answer, defense or testimony as the respondent may make or offer. Failure to attend the scheduled hearing and to give a satisfactory explanation in writing to the Commission will result in the waiver of the respondent to be present during the hearing.

Section 76. *Punishment, if found guilty.* – If the respondent is adjudged guilty of indirect contempt committed against the Commission, he/she may be punished by a fine of One Thousand (P1,000.00) Pesos per day for every act of indirect contempt. Each day of defiance of, or disobedience to, or non-enforcement of a final order, resolution, decision, ruling, injunction or processes, shall constitute an indirect contempt of the Commission. If the contempt consists in the violation of an injunction or omission to do an act which is still within the power of the respondent to perform, the respondent shall, in addition, be made liable for all damages as a consequence thereof. The damages shall be measured by the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct, disobedience to, defiance of a lawful order, and/or such other contumacious acts or omissions of which the contempt is being prosecuted, and the costs of the proceedings, including payment of interest on damages.

NON-DISCIPLINARY CASES

Rule 16

INVALIDATION OR DISAPPROVAL OF APPOINTMENT

Section 77. *Invalidation or Disapproval; Who May Appeal.* – Either the appointing authority or the appointee may assail the invalidation or disapproval of an appointment.

Section 78. *Where and When to File.* – Appointments invalidated or disapproved by the CSCFO may be appealed to the CSCRO while those invalidated or disapproved by the CSCRO may be appealed to the Commission within the fifteen (15) day reglementary period.

To facilitate prompt actions on invalidated or disapproved appointments, motions for reconsideration filed with the CSCFO shall be treated as an appeal to the CSCRO and a Motion for Reconsideration at the CSCRO will be treated as an appeal to the Commission and all the records thereof including the comments of the CSCFO or CSCRO shall, within ten (10) days from receipt of the latter, be forwarded to the CSCRO or the Commission as the case may be.

The action of the CSCRO concerned may be appealed to the Commission within fifteen (15) days from receipt thereof.

The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Sections 113 and 114.

RULE 17

PROTEST

Section 79. *Protest; Who may File.* – Only a qualified next-in-rank employee may file a protest against an appointment made in favor of another who does not possess the minimum qualification requirements.

Section 80. *Where to File.* – A qualified next-in-rank employee shall have the right to appeal initially to the head of agency, then to the Civil Service Commission Regional Office , and then to the Civil Service Commission Proper.

Section 81. *When to File.* – Protest may be filed within fifteen (15) days from the announcement and/or posting of appointments subject of protest.

For this purpose, all appointments or promotions shall be duly announced and/or posted in bulletin boards or at conspicuous places in the Department or Agency within thirty (30) days from issuance of the appointments.

Section 82. *Effect on the Protested Appointment.* – A protest shall not render an appointment ineffective nor bar the approval thereof, by the Civil Service Commission Field, Regional Office or the Commission, as the case may be, but the approval shall be subject to the final outcome of the protest.

Section 83. *Effect of Withdrawal of Protest.* – A protest or an appeal in this case may be withdrawn at any time as a matter of right. The withdrawal of the protest or appeal shall terminate the protest case.

Section 84. *When Deemed Filed.* – A protest is deemed filed, in case the same is sent by registered mail, on the postmark date on the envelope which shall be attached to the records of the case, and in case of personal delivery, on the date stamped by the agency or the Commission.

Section 85. *Transmittal of Records.* – In cases where the protest is filed with the Commission, the head of department or agency shall forward his/her comment and the records of the case within ten (10) days from receipt of the copy of the protest. The records shall be systematically and chronologically arranged, paged and securely bound to prevent loss and shall include the following:

- a. Statement of duties or job description of the contested position;
- b. Duly accomplished and updated personal data sheets of the parties with certified statement of service records attached;
- c. Certified copy of the protested appointment; and
- d. Comparative assessment of the qualifications of the protestant and protestee.

Section 86. *Dismissal of Protest.* – A protest shall be dismissed on any of the following grounds:

- a. The protestant is not qualified next-in-rank;

- b. The protest is not directed against a particular protestee but to “anyone who is appointed to the position” or directed to two or more protestees;
- c. The protest is not in accordance with the required form as prescribed in this Rules;
- d. No appointment has been issued;
- e. The protest is filed outside of the 15-day reglementary period as provided in Section 81 hereof;
- f. Non-payment of the filing fee; or
- g. Non-submission of a certificate of non-forum shopping.

Section 87. Finality of Decision. – Decision on a protest case shall become final after fifteen (15) days from receipt thereof and no motion for reconsideration or appeal has been filed.

Section 88. Available Remedies. –

- a. The decision of the heads of agencies other than the Department Secretaries may be appealed to the CSCRO within fifteen (15) days, and finally to the Commission.

The decision of the Department Secretaries may be appealed within the same period to the Commission.

In cases where the protest is filed within the department or agency, the protestant may file a motion for reconsideration of the adverse decision, ruling or action within fifteen (15) days from receipt with the same agency.

- b. In cases where the appeal is filed with the CSCRO, a motion for reconsideration may be filed with the same office within fifteen (15) days from the receipt of the adverse decision, and then to the Commission within the same period.

The protestant shall furnish a copy of his/her appeal to the head of agency concerned who shall submit his/her comment to the CSCRO within ten (10) days.

- c. The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Section 114.

Section 89. *Effect of Decision.* – In case the protest is finally decided against the protestee, the approval of his/her appointment shall be recalled and the appointment shall be considered disapproved. The protestee shall be reverted to his/her former position, if applicable.

Rule 18

CORRECTION OF PERSONAL INFORMATION IN THE RECORDS OF THE COMMISSION

Section 90. *When and Where to File**. – Requests for correction of personal information shall be filed before retirement or on meritorious grounds, one (1) year thereafter, with the CSCRO exercising jurisdiction, and which request shall be acted upon within fifteen (15) days from receipt. Copies of the Order or Resolution issued by the concerned CSCRO shall be submitted to the Integrated Records Management Office as the repository of all personnel records.

Section 91. *Required Documents.* – The following documents shall be submitted together with the request:

- a. Original Certificate of Live Birth duly authenticated by the Local Civil Registrar of the municipality or city where the birth was registered or recorded or the National Statistics Office, or in its absence, a court order;
- b. Personal Affidavit of Discrepancy;
- c. Affidavit of Two Disinterested Witnesses; and
- d. Photocopy of documents sought to be corrected.

A filing fee shall be paid and a receipt thereof shall be attached to the request together with a photocopy of the documents sought to be corrected.

**Refer to CSC Resolution No. 1400514 published in The Manila Times on May 27, 2014.*

Section 92. Supporting Documents. - When the submitted Certificate of Live Birth is issued on the basis of late registration, original or duly authenticated supporting documents must be submitted, in addition to the requirements enumerated in the immediately preceding section, to warrant the correction or change of information in the records of the Commission, to wit:

- a. Baptismal certificate, unless it has been lost or destroyed during a war, fire, natural calamity or any other fortuitous event, in which case, a certification issued by the proper church authority must be submitted. If the requesting party was not issued any baptismal certificate or was not baptized, an affidavit attesting to such fact must be submitted. In both cases, other authentic and reliable documents which show the information or data requested to be corrected must be also be submitted together with the request.
- b. Affidavits of Two (2) Disinterested Witnesses; and
- c. Other employment, personal or school records which support the entry reflected in the belatedly registered birth certificate and which entry is requested to be reflected in the records of the Commission as the true and correct entry.

Rule 19

DROPPING FROM THE ROLLS

Section 93. Grounds and Procedure for Dropping from the Rolls. – Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures:

- a. **Absence Without Approved Leave**
 1. An officer or employee who is continuously absent without official leave (AWOL) for at least thirty (30) working days shall be separated from the service or dropped from the rolls without prior notice. He/She shall, however, be informed of his/her separation not later than five (5) days from its effectivity which shall be sent to the address appearing on his/her 201 files or to his/her last known address;

2. If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work order shall be served on the official or employee at his/her last known address on record. Failure on his/her part to report to work within the period stated in the order shall be a valid ground to drop him/her from the rolls.
3. If it is clear under the obtaining circumstances that the official or employee concerned, has established a scheme to circumvent the rule by incurring substantial absences though less than thirty (30) working days, three (3) times in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

b. Unsatisfactory or Poor Performance

1. An official or employee who is given two (2) consecutive unsatisfactory ratings may be dropped from the rolls after due notice. Notice shall mean that the officer or employee concerned is informed in writing of his/her unsatisfactory performance for a semester and is sufficiently warned that a succeeding unsatisfactory performance shall warrant his/her separation from the service. Such notice shall be given not later than thirty (30) days from the end of the semester and shall contain sufficient information which shall enable the official or employee to prepare an explanation.
2. An official or employee, who for one evaluation period is rated poor in performance, may be dropped from the roles after due notice. Due notice shall mean that the officer or employee is informed in writing of the status of his/her performance not later than the fourth (4th) month of that rating period with sufficient warning that failure to improve his/her performance within the remaining period of the semester shall warrant his/her separation from the service. Such notice shall also contain sufficient information which shall enable the official or employee to prepare an explanation.

c. Physically Unfit

1. An officer or employee who is continuously absent for more than one (1) year by reason of illness may be declared

physically unfit to perform his/her duties and the head of office in exercise of his/her sound judgment may consequently drop him/her from the rolls.

2. An officer or employee who is intermittently absent by reason of illness for at least two hundred sixty (260) working days during a twenty four (24) – month period may also be declared physically unfit by the head of office.
3. An officer or employee who is behaving abnormally and manifests continuing mental disorder and incapacity to work as reported by his/her co-workers or immediate supervisor and confirmed by a competent physician, may likewise be dropped from the rolls.
4. For the purpose of the three (3) preceding paragraphs, notice shall be given to the officer or employee concerned containing a brief statement of the nature of his/her incapacity to work.

Section 94. *Written Notice; Who Signs.* – The written notice mentioned in the preceding paragraphs may be signed by the person exercising immediate supervision over the official or employee. However, the notice of separation shall be signed by the appropriate appointing authority or head of office.

Section 95. *Order of Separation; Immediately Executory.* – The order of separation is immediately executory pending appeal, unless the Commission, on meritorious grounds, directs otherwise.

Section 96. *Dropping From the Rolls; Non-Disciplinary in Nature.* – This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical or mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefit on the part of the official or employee or in disqualification from reemployment in the government.

Rule 20

EXTENSION OF SERVICE

Section 97. *Extension of Service. When Allowed.* – In meritorious cases, the Commission may allow the extension of service of a person who has reached the compulsory retirement age of sixty-five (65), for a period of six (6) months only

unless otherwise stated. Provided that, such extension may be for a maximum period of one (1) year for one who will complete the fifteen (15) years of service required under the GSIS Law.

Section 98. Request for Extension of Service. – A request for extension shall be made by the head of office and shall be filed with the Commission not later than three (3) months prior to date of the official/employee’s compulsory retirement.

The following documents shall be submitted to the Commission:

- a. Request for extension of service signed by the Head of Office, containing the justifications for the request;
- b. Certification that the employee subject of the request is still mentally and physically fit to perform the duties and functions of his/her position;
- c. Certified true copy of the employee’s Certificate of Live Birth;
- d. Service Record of the employee if the purpose of the extension is to complete the fifteen (15) year service requirement under the GSIS law; and
- e. Proof of payment of filing fee.

The only basis for Heads of Offices to allow an employee to continue rendering service after his/her 65th birthday is a Resolution of the Commission granting the request for extension. Absent such resolution, the salaries of the said employee shall be for the personal account of the responsible official.

Section 99. Effect of Grant of Extension of Service. – An employee on service extension shall be entitled to salaries, allowances and other remunerations, that are normally considered part and parcel of an employee’s compensation package, subject to the existing regulations on the grant thereof.

Rule 21

ACCREDITATION OF SERVICE

Section 100. Request for Accreditation of Service. – Officials and employees who rendered actual services pursuant to defective appointments or without any appointment except those who have already retired, may request the inclusion of said services in their official service record in the Commission.

Section 101. Documents to be Submitted. – In support of said request, the following documents shall be submitted to the CSC Regional Office:

- a. Updated service records prepared by the Personnel Officer/ Administrative Officer of the agency where the subject services sought to be recorded were rendered.

- b. The disapproved appointment subject of the accreditation of service and any of the following:
 1. Index of salary payments;
 2. Payroll;
 3. Vouchers;
 4. Copy of leave card;
 5. Daily Time Records or Bundy Cards;
 6. Copies of Payroll/Voucher on the payment of loyalty bonus/ overtime pay/ salary differentials;
 7. Income tax returns;
 8. Withholding tax receipts;
 9. GSIS insurance policy; or
 10. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG fund, GSIS or other institutions, or remittance records of salary/ multipurpose loan deduction, subject to verification with said institution.

- c. In the absence of the appointment subject of the accreditation of service, the following documents should be submitted in support of the request:
 1. Updated service record;
 2. Index of salary payments; and any of the following:
 - 2.1. Payroll or voucher;
 - 2.2. Copy of leave card;
 - 2.3. Daily Time Records or Bundy Cards;
 - 2.4. Copies of Payroll/Voucher on the payment of loyalty bonus/overtime pay/ salary differentials;
 - 2.5. Income tax returns;
 - 2.6. Withholding tax receipts;
 - 2.7. GSIS insurance policy; or
 - 2.8. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG

fund, GSIS or other institutions, or remittance records of salary/multipurpose loan deduction, subject to verification with said institution.

- d. An Affidavit or Certification alone issued by the Personnel Officer/Administrative Officer and the Head of the Agency that the employee concerned was employed in said agency during the period subject of the accreditation will not be sufficient to prove the rendition of services, but the same may be considered as a supporting document to corroborate any of the requirements submitted by the employee in any request for accreditation of service.

Rule 22

REQUEST TO DECLARE POSITION AS NON -CAREER/CAREER

Section 102. *Request to Declare Position as Non-Career.* – All requests to declare position as non-career shall be made by the head of the agency. No declaration shall be allowed except when the subject position is actually vacant and it is sufficiently shown that the position is primarily confidential in nature despite its initial classification as a career position.

Section 103. *Documents to be Submitted.* – In requests of this nature, the head of the agency shall submit the following documents:

- a. Letter-request signed by the head of the agency;
- b. Position Description Forms of the position/s subject of the request;
- c. Copy of the Plantilla of Positions of the agency;
- d. Certification of the head of the agency that the position/s subject of the request are actually vacant;
- e. Copy of the agency’s organizational chart; and
- f. Proof of payment of filing fee.

Section 104. *Guidelines for Conversion of Positions from Non-Career to Career.* – Requests for conversion of positions from non-career to career shall be made by the head of the agency. Incumbents of converted non-career to career can be appointed to said positions only if they are qualified and such fact should be specified in the CSC Resolution itself.

The ‘vested right’ principle should not be applied when positions are converted from non-career to career since it is contrary to the merit and fitness principle.

In request for conversion of positions from non-career to career, all documents enumerated in Section 103 hereof shall be submitted except for the certification that the position/s subject of the request is actually vacant.

Rule 23

REMEDIES IN NON-DISCIPLINARY CASES

Section 105. *Filing of a Motion for Reconsideration.* – Motion for reconsideration may be filed on appeals dismissed by the Commission.

Section 106. *When deemed filed.* – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 107. *Grounds.* – The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 108. *Limitation.* – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of first motion for reconsideration.

Section 109. *Appeal from Invalidation of Appointments and Protest.* – The appeal from invalidation of appointments and protest shall be subject to the rules stated in Rule 16 and Rule 17.

Section 110. *Appeal from Decisions on Other Personnel Actions.* – Other personnel actions, such as, but not limited to, separation from the service due to unsatisfactory conduct or want of capacity during probationary period, dropping from the rolls due to Absence Without Official Leave (AWOL), physical and mental unfitness, and unsatisfactory poor performance, protest, action on appointments, reassignment, transfer, reappointment, detail, secondment, demotion, or termination of services, may be brought to the CSCRO, by way of an appeal.

Section 111. *When and Where to File.* – A decision or ruling of an agency head may be appealed within fifteen (15) days from receipt thereof by the party adversely affected to the CSCRO and finally, to the Commission within the same period.

However, if the decision is made by the Department Secretary, the same shall be appealable to the Commission within fifteen (15) days from receipt thereof.

A motion for reconsideration may be filed with the same office which rendered the decision or ruling within fifteen (15) days from receipt thereof.

Section 112. *When deemed filed.* – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 113. *Appeal Fee.* – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 114. *Perfection of an Appeal.* – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the appointing authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the appointing authority;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refiling.

Section 115. *Effect of Decision.* – Where the Commission, on appeal, sets aside, modifies or reverses the decision whereby an employee was dropped from the rolls, he/she shall be reinstated immediately to his/her former post with payment of back salaries and other monetary benefits.

In case of illegal termination, the employee shall be reinstated with payment of back salaries. In case of disapproval, invalidation, recall and revocation of appointments, the appointee shall be restored to his/her former position without loss of seniority rights.

In case of reassignment, transfer, detail, or secondment, he/she shall be restored to his/her former position.

In case of demotion in rank, salary or status, he/she shall be restored to his/her former rank, salary, and status.

MISCELLANEOUS PROVISIONS

Rule 24

FEES AND OTHER MATTERS

Section 116. *Schedule of Fees.* – The following is the schedule of filing fees subject to revision when the need arises:

- | | | |
|----|--|-------------------------------|
| a. | Complaint | P500.00 |
| b. | Petition for Contempt | P500.00 |
| c. | Protest (Initial) | P500.00/pleading |
| d. | Appeal (Disciplinary/Non-Disciplinary) | P500.00/pleading |
| e. | Appeal from Disapproved Appointments | P500.00/for each
appointee |
| f. | Petition for Review of Administrative Cases | P500.00 |
| g. | Request for Recommendation
For Removal of Administrative Penalties or
Disabilities | P500.00/petitioner |

h.	Correction of Personal Information in CSC Records	P500.00
i.	Request for Extension of Service	P500.00
j.	Conversion of Positions	P300.00/ position
k.	Accreditation of Service	P500.00
l.	Clearance for No Pending Administrative Case	P100.00
m.	Certified True Copies of CSC Resolutions/ Authenticated Copies of Documents / Records	P10.00/page

Section 117. *Deputation by CSC of other lawyers.* – The Commission may deputize lawyers of other agencies and similar officials to conduct preliminary and formal investigation and to make the necessary report and recommendation within the period specified in Sections 17 and 43.

Section 118. *Execution of CSCRO Decisions.* – The decisions of the CSCROs shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration or an appeal with the Commission is seasonably filed, in which case the execution of the decision shall be held in abeyance.

Section 119. *Execution of the Decisions of the Commission.* – The decisions of the Commission shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance.

For this purpose, the CSCROs shall monitor and assist in the effective and immediate implementation of these decisions.

Section 120. *Effect of Pendency of Petition for Review/Certiorari with the Court.* – The filing and pendency of a petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the decision of the Commission unless the Court issues a restraining order or an injunction.

Section 121. *Non-execution of Decision.* – Any officer or employee who wilfully refuses or fails to implement the final resolution, decision, order or ruling of the Commission to the prejudice of the public service and the affected party,

may be cited in indirect contempt of the Commission and may be administratively charged with Conduct Prejudicial to the Best Interest of the Service or Neglect of Duty or be held criminally liable under Section 67 of Book V, of Executive Order No. 292 otherwise known as the Administrative Code of 1987.

Section 122. Computation of Period. – In computing any period of time prescribed by this Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday or a special non-working day, in which case the period shall run until the end of the next working day which is neither a Saturday, a Sunday nor a legal holiday.

Copies of decisions and other communications shall be served on the counsel of record if one is represented by a counsel, if he/she has none, the same shall be served to the party concerned. The period to perfect a motion for reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, as the case may be.

***Section 123. Service of Order and service of processes through private couriers.** – (a) There shall be presumptive service to a party of a Commission's Notice or Order on any of the following instances:

“1. In cases under formal investigation, if such Notice or Order appears on the record to have been mailed at least twenty (20) days prior to the scheduled date of hearing if the addressee is from within the National Capital Region, or at least thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

“In cases before the Civil Service Commission Regional Offices, if such Notice or Order appears on the record to have been mailed at least twenty (20) days prior to the scheduled date of hearing if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or at least thirty (30) days if the addressee is from outside the geographical area.

“2. In cases where an Order was issued directing a party(ies) either to comply with the requirements to perfect their action; comment/ answer on a pending action and/or transmit case records; file their respective position papers; and other analogous matters, after twenty (20) days from date of mailing, as appearing on the record

**Refer to CSC Resolution No. 1301598 published in The Manila Times on August 29, 2013*

if the addressee is from within the National Capital Region, or after thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

In cases before the Civil Service Commission Regional Offices, after twenty (20) days from date of mailing, as appearing on the record if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or after thirty (30) days if the addressee is from outside the geographical area.

“In the case of Notices or Orders mentioned in Item No. 2 hereof, after the lapse of a period of thirty (30) days from the date of the mailing as appearing on the record of the case without receipt of any compliance from the concerned party, the Commission shall proceed to act upon such case accordingly. On the other hand, if there is compliance received on an earlier period, the Commission shall proceed to act upon such case as of the date of receipt of compliance.

“(b) A party, in order to ensure timely service, may opt to avail of private couriers for the service of pleadings, motions and other submissions. Proof of service in such case shall either be a sworn certification or affidavit of service from the courier specifically referring to the date of service and the corresponding tracking number for the mail matter.

“Section 124. Reconsideration from the Commission’s action based on presumptive notice. – In the event that the Commission renders an action, decision or resolution based on presumptive notice to a party, said party may move for reconsideration thereof within fifteen (15) days from notice, subject to the following requirements:

- “1. In cases under Item 1 of the preceding section, by showing proof of actual receipt of Notice or Order which falls on a date after the scheduled hearing, together with a request for a setting and giving two (2) dates as options identified by the party in his/her motion, which shall, in no case be set later than two (2) weeks from the date of filing of the motion for reconsideration, copy furnished the opposing party.
- “2. In cases under Item II of the preceding section, by showing proof of actual receipt of Notice or Order which falls on a date after the lapse of twenty (20) days from the date of mailing as appearing in the case record if the addressee is from within the National Capital Region,

or after thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

“In cases before the Civil Service Commission Regional Offices, by showing proof of actual receipt of Notice or Order which falls on a date after the lapse of twenty (20) days from the date of mailing as appearing in the case record if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or after thirty (30) days if the addressee is from outside the geographical area.

“In both instances, the movant shall likewise include any other arguments in support of his/her motion, together with the compliance with the Notice or Order, copy furnished the opposing party.”

Section 125. Effectivity. – This Rules shall take effect after fifteen (15) days from date of publication in a newspaper of general circulation.

Section 126. Repealing Clause. – The Uniform Rules on Administrative Cases in the Civil Service as prescribed in CSC Resolution No. 99-1936 dated August 31, 1999 and circularized through CSC Memorandum Circular No. 19, s. 1999, and all other memorandum circulars, resolutions, rules or regulations inconsistent with this Rules are hereby repealed or modified accordingly.

Quezon City.

(Sgd.) **FRANCISCO T. DUQUE III, MD, MSc**
Chairman

(Sgd.) **MARY ANN Z. FERNANDEZ-MENDOZA**
Commissioner

(Sgd.) **RASOL L. MITMUG**
Commissioner

Attested by:

(Sgd.) **DOLORES B. BONIFACIO**
Director IV
Commission Secretariat and Liaison Office

**CSC Resolution No. 1101502 was published Nov. 21, 2011 in The Manila Times.*

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Department of Public Works and Highways

FOI People's Manual

Version 1.0

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- Annex B - Inventory of Exceptions to Executive Order No. 2, Series of 2016
- Annex C - Department Order No. 62, Series of 2017 with subject: *“Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM) , and Constitution of the Central Appeals and Review Committee (CARC).”*
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- Annex E - Republic Act No. 10173, otherwise known as the *“Data Privacy Act of 2012”*
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I. Overview

A. Background

The people's right to be informed on matters of public concern is enshrined in Article III, Section 7 of the 1987 Constitution, which reads as follows:

“**Section 7.** The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as the basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.”

Moreover, Article II, Section 28 of the 1987 Constitution proclaims the Government's policy of full public disclosure, to wit:

“**Section 28.** Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.”

When President Rodrigo R. Duterte was elected in 2016, one of his first issuances was Executive Order (EO) No. 2, Series of (S.) 2016 entitled “*Operationalizing in the Executive Branch the People's Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor*” (See **Annex “A”**). Section 8 of EO No. 2, S. 2016 provides:

“**Section 8.** *People's Freedom of Information (FOI) Manual.* For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its own People's FOI Manual, which shall include, among others, the following provisions:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests or obtain information;
- (b) The person or office responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order.
- (d) The standard forms for the submission of requests and for the proper acknowledgment of requests;
- (e) The process for the disposition of requests;
- (f) The procedure for the administrative appeal of any denial for access to information; and
- (g) The schedule of applicable fees.”

Accordingly, this DPWH People's FOI Manual is created.

B. Purpose and Coverage

This Manual is intended to guide the public in making FOI requests pursuant to EO No. 2, S. 2016. It covers all FOI requests directed to the DPWH and all offices under it.

C. Persons Who May Avail

Pursuant to EO No. 2, S. 2016, every Filipino shall have access to information, official records, public records and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, subject to the provisions of this Manual.

A foreign national may request for information in so far as it is allowed under applicable laws of the Philippines, its implementing rules and regulations, or any jurisprudence interpreting the same which shall be cited in his or her request. In processing said request, this Manual shall be applied in a suppletory manner.

D. Exceptions

Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws, or jurisprudence. See **Annex "B"** for Inventory of Exceptions to EO No. 2, S. 2016.

E. Responsible Officers

- 1. FOI Receiving Officer (FRO).** All FOI requests shall be submitted to the FRO. The FRO ensures that all FOI requests are made in the prescribed form and manner. The FRO is also responsible for maintaining communication with Requesting Parties concerning the progress of their FOI requests, including the grant or denial thereof.
- 2. FOI Decision Maker (FDM).** The FDM evaluates all FOI requests and decides whether to grant FOI requests or to deny them, either fully or partially, based on any of the grounds enumerated in this Manual and other applicable laws, rules, and regulations.
- 3. Central Appeals and Review Committee (CARC).** The CARC evaluates and reviews decisions of the FDM on FOI requests. Membership of the said body is comprised of the following officials:

Chair:	The Director of the Legal Service
Vice-Chair:	The Director of the Stakeholders Relations Service
Members:	The Director of the Information Management Service
	The Assistant Director of the Bureau of Research and Standards
	Representative from the Bureau of Construction
	Representative from the Bureau of Design
	Representative from the Planning Service
	Representative from Procurement Service
	Representative from Public-Private Partnership Service
	Representative from Unified Project Management Office

For purposes of issuing a decision, the presence of the Chair or the Vice-Chair, along with six (6) other members of the CARC, shall constitute a quorum. A majority vote of the members present at the meeting is necessary to render a valid decision.

4. **Secretary.** All decisions of the CARC on the denial of FOI requests may be further appealed to the Secretary, whose decision shall be final and immediately executory.

See **Annex "C"** for Department Order No. 62, Series of 2017 with subject: *"Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM) , and Constitution of the Central Appeals and Review Committee (CARC)."*

II. Definition of Terms

- A. **DPWH.** The Department of Public Works and Highways.
- B. **DPWH Website.** The official website of the DPWH accessible via URL <http://www.dpwh.gov.ph>.
- C. **eFOI.** The online FOI platform accessible through URL <https://www.foi.gov.ph> which functions as an alternative avenue for the filing of FOI requests.
- D. **FOI Request.** A written request made in the prescribed manner and submitted to the DPWH asking for any information on any topic, subject to the limitations provided for under this Manual.
- E. **FOI Request Form.** The prescribed pro-forma template a person making a request pursuant to EO No. 2, S. 2016 is required to fill out and submit to the DPWH to initiate the FOI process. See **Annex "D"** for FOI Request Form.
- F. **Freedom of Information (FOI).** The policy of the Executive Branch embodied in EO No. 2, S. 2016 which recognizes the right of the people to information on matters of public concern, and adopts and implements full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in the said EO and other laws, rules, and regulations.
- G. **Full Denial.** A manner of disposition of an FOI request by which the information requested is not released based on any ground provided for under this Manual.
- H. **Information.** Any record, document, paper, report, letter, contract, minutes and transcript of official meetings, map, book, photograph, datum, research material, film, sound and video recording, magnetic or other tape, electronic datum, computer-stored datum, any other like or similar datum or material recorded, stored, or archived in whatever format, whether offline or online, which is made, received, or kept in or under the control and custody of the DPWH pursuant to laws, rules, and regulations, or in connection with the performance or transaction of official business.
- I. **Official Record.** Information produced or received by the DPWH or any of its officials and employees in an official capacity or pursuant to a public function or duty.

- J. Open Data.** Publicly available data structured in a way that enables the same to be fully discoverable and usable by end users.
- K. Open Data Philippines Website.** The official government portal which makes accessible open government data collected from different government agencies and accessible through URL <https://www.data.gov.ph>.
- L. Partial Denial.** A manner of disposition of an FOI request by which certain portions of the requested information are not released based on any ground provided for under this Manual.
- M. Personal Information.** Any information, whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained; or information which, when put together with other information, would directly and certainly identify an individual.
- N. Public Records.** Information required by law, rule, or regulation to be entered, kept, and made publicly available by the DPWH.
- O. Requesting Party.** The person seeking disclosure of information from the DPWH pursuant to FOI.

III. Protection of Privacy

- A.** While providing access to information, public records, and official records, the DPWH shall afford full protection to the right to privacy of individuals by:
1. Ensuring that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject-matter of the request and its disclosure is permissible under EO No. 2, S. 2016, Republic Act (RA) No. 10173, otherwise known as the "*Data Privacy Act of 2012*" herein attached as **Annex "E"**, and other applicable laws, rules, and regulations;
 2. Protecting personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure thereof, which unduly exposes the concerned individual to vilification, harassment, or any other wrongful acts; and
 3. Prohibiting any of its employees, officials, or directors who has access, authorized or unauthorized, to personal information in his or her custody, from disclosing the said information, except when authorized under EO No. 2, S. 2016, RA No. 10173, and other applicable laws, rules, and regulations.

Before making a request, the Requesting Party may consult a lawyer or an expert on data privacy about his or her rights and/or obligations under RA No. 10173 and its implementing rules and regulations to ensure that his or her requests may be given due course under the existing laws and/or jurisprudence.

IV. Standard Procedure

(See Annex "G" for FOI Process Flowchart)

A. Submission of Requests.

1. *Making the Request.* To make a request, completely fill out the FOI Request Form. Make sure that:
 - a. It contains your name and contact information;
 - b. Attached to it is a photocopy of at least one (1) of your Government-issued ID;
 - c. It describes the information you are requesting for with enough details to allow retrieval; and
 - d. It states the reason or purpose for the request.
2. *Requesting Through Representatives.* You may make an FOI request through a representative, as long as you provide your representative with proof of authority, such as a special power of attorney or authorization letter. The proof of authority must be attached to the FOI Request Form, along with a photocopy of at least one (1) of the representative's Government-issued ID in addition to your own proof of identity.
3. *Sending Requests Electronically.* The official government portal in making an electronic FOI request is accessible through <https://www.foi.gov.ph/agencies>. In case of electronic transmissions from the DPWH, it shall be presumed that you have received the same on the day appearing on the proof of delivery (i.e. the unforgeable time stamped proof of when the DPWH has sent the electronic transmissions to you, independent of your ability to receive it.
4. *Requests by Persons Unable to Write.* In case you are unable to put your request into writing for whatever reason, you may seek the assistance of the FRO or any authorized DPWH official or employee in filling out the FOI Request Form.
5. *Acceptance of the Request.* Should your request not comply with any requirement, the FRO must return it to you, accompanied by a list of the deficiencies. Otherwise, the FRO will provide you with a receiving copy of your request with the following information stamped:
 - a. Date and time of receipt;
 - b. Tracking number; and
 - c. Signature of the FRO or any authorized DPWH officer or employee.

If your request was sent electronically, the FRO will provide you the requested Information through the same means that you made your request.

6. *Transmittal to the FDM.* Upon acceptance of your request, the FRO shall transmit the same to the FDM on the same day that it was received.

B. Evaluation by the FDM

1. *Denial of Requests.* The FDM may deny your request, fully or partially, based on any of the following grounds:
 - a. The information you are requesting is not in the custody of the DPWH;

- b. The information you are requesting is already available on the DPWH website, the eFOI platform, the Open Data Philippines website, or any other publicly accessible source;
- c. Your present request is identical or substantially similar to your previous requests;
- d. The information you are requesting is protected under RA No. 10173 or other laws, rules, or regulations; or
- e. The information you are requesting is included in the FOI Inventory of Exceptions.

In case of full denial, the FDM shall inform the FRO, who will, in turn, notify you in writing within fifteen (15) working days from receipt of your request, clearly stating the reasons for the denial.

2. *Processing of the Request.* If there are no grounds for the denial of your request, the FDM will collect the information you are requesting. Requests are processed on a “first in, first out” basis. Once complete, the FDM will transmit your requested information to the FDM no later than twelve (12) working days from receipt of your request, with copy furnished to the Secretary. The FRO will forward your requested information to you or notify you of its availability for pick up no later than fifteen (15) working days from receipt of your request.
3. *Referral to Other Government Agencies.* If your request is denied based on Article IV.B.1.a above, and the government agency having custody of the requested information is known, the FRO may, at his discretion, forward the request to the said government agency with copy furnished to you.
4. *Requests for Clarification.* When, for any reason, additional information is required in order to successfully process your request, the FDM, through the FRO, will contact you to make the necessary clarifications. In case the FRO is unable to reach you through all of the contact information you provided in your FOI Request Form, the FDM will stop processing your request, which will be considered completed.
5. *Redaction of Information.* Should it appear that a portion of the information you are requesting is covered by any ground for the denial of an FOI request, the FDM will exclude the said portion from release, of which you will be notified of upon the release of the information.

Notice of Extension of Time. In case the processing of your request necessitates extensive search of records, involves the examination of voluminous documents, affected by fortuitous events, or otherwise involves circumstances requiring a longer processing period, the FDM, through the FRO, will notify you in writing (or electronically) of the extension, clearly stating the reasons behind it. Any extension of processing time should not exceed twenty (20) working days over the original period of fifteen (15) working days and may be allowed only once, unless there are exceptional circumstances which may justify a longer or another extension period.

C. Appeal to the CARC

1. *Making an Appeal.* In case of partial or full denial, you may file a written appeal to the CARC within fifteen (15) days from receiving the notice of denial. In case you have received a notice of denial by email or other electronic message, you must acknowledge its receipt likewise by email or electronic message. Any acknowledgement email received by

the FDM after fifteen (15) calendar days from the issuance of a notice of denial must be supported by valid reasons. It shall be presumed that you received the electronic notice of denial on the day appearing on the proof of delivery (i.e. the unforgeable time stamped proof of when the FDM has sent the electronic notice of denial to you, independent of your ability to receive it.

2. *Period to Decide.* The CARC will decide on your appeal within fifteen (15) days from receiving it.

See attached **Annex "G"** for the Rules of Procedure governing the conduct of proceedings before the FOI CARC.

D. Appeal to the Secretary

1. *Making an Appeal.* You may further appeal the decision of the CARC to the Secretary in writing within ten (10) calendar days from receiving the CARC's decision.
2. *Period for Decision.* The Secretary will decide on the appeal within thirty (30) working days from receipt thereof.

V. Fees and Costs

- A. No Request Fee:** You will not be charged for making an FOI request.
- B. Reasonable Costs of Reproduction.** Should it be needed, you may be required to pay for the reasonable costs of reproducing the information you have requested. The payment is not intended as a charge for the processing of the FOI requests, but as compensation for the costs of paper, envelopes, or other materials the DPWH may use in providing you with the information you have requested. Upon payment, the DPWH will issue you an official receipt covering the transaction.

Exemption from Costs. If you are unable to pay for the reasonable costs of reproduction due to poverty, indigence, or similar causes, you may request for exemption from payment in writing addressed to the FRO. The DPWH may require you to provide proof of the ground(s) you are invoking to be exempted from payment.

VI. Administrative Liability

- A. Penalties for Violations.** DPWH officials and employees who fail to follow the procedures and requirements in processing FOI requests will be sanctioned, as follows:
 1. 1st Offense - Reprimand
 2. 2nd Offense - Suspension for a period not exceeding thirty (30) days
 3. 3rd Offense - Dismissal from service
- B. Procedure.** In disciplinary actions involving FOI, the procedure outlined in the Revised Rules on Administrative Cases in the Civil Service (See **Annex "H"**) will be followed.

- C. Sanctions Imposed by Other Laws.** Nothing in this Manual shall be deemed to prevent the application of more stringent sanctions for violation imposed by other laws, rules, or regulations.
- D. Concerns and Feedbacks.** Any concern or feedback regarding the conduct of an official, employee, or personnel of the DPWH in relation to the implementation of this Manual may be submitted through its official website at <http://www.dpwh.gov.ph/dpwh/contact>.

VII. Miscellaneous Provisions

- A. General Inquiries.** For follow ups and other inquiries, the Requesting Party may contact the designated FRO at +632-304-3267 or proceed with the FOI Receiving Office at G/F DPWH Central Office, Bonifacio Drive, Port Area, Manila City.
- B. Separability Clause.** If any section or part of this Manual is held unconstitutional or invalid, other sections or provisions not otherwise affected shall remain in full force and effect.
- C. Effectivity.** This Order shall take effect immediately upon publication in a newspaper of general circulation.

Approved by:

MARK A. VILLAR
Secretary



DIMAS S. SOGUILON
Undersecretary
Officer-In-Charge

Department of Public Works and Highways
Office of the Secretary



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MALACANAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 02

**OPERATIONALIZING IN THE EXECUTIVE BRANCH THE PEOPLE'S
CONSTITUTIONAL RIGHT TO INFORMATION AND THE STATE
POLICIES OF FULL PUBLIC DISCLOSURE AND TRANSPARENCY
IN THE PUBLIC SERVICE AND PROVIDING GUIDELINES
THEREFOR**

WHEREAS, pursuant to Section 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law;

WHEREAS, Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern;

WHEREAS, the incorporation of this right in the Constitution is a recognition of the fundamental role of free and open exchange of information in a democracy, meant to enhance transparency and accountability in government official acts, transactions, or decisions;

WHEREAS, the Executive Branch recognizes the urgent need to operationalize these Constitutional provisions;

WHEREAS, the President, under Section 17, Article VII of the Constitution, has control over all executive departments, bureaus and offices, and the duty to ensure that the laws be faithfully executed;

WHEREAS, the Data Privacy Act of 2012 (R.A. 10173), including its Implementing Rules and Regulations, strengthens the fundamental human right of privacy and of communication while ensuring the free flow of information to promote innovation and growth;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

THE PRESIDENT OF THE PHILIPPINES

SECTION 1. Definition. For the purpose of this Executive Order, the following terms shall mean:

- (a) "Information" shall mean any records, documents, papers, reports, letters, contracts, minutes and transcripts of official meetings, maps, books, photographs, data, research materials, films, sound and video recordings, magnetic or other tapes, electronic data, computer-stored data, or any other like or similar data or materials recorded, stored or archived in whatever format, whether offline or online, which are made, received, or kept in or under the control and custody of any government office pursuant to law, executive order, and rules and regulations or in connection with the performance or transaction of official business by any government office.
- (b) "Official record/records" shall refer to information produced or received by a public officer or employee, or by a government office in an official capacity or pursuant to a public function or duty.
- (c) "Public record/records" shall include information required by laws, executive orders, rules, or regulations to be entered, kept and made publicly available by a government office.

SECTION 2. Coverage. This order shall cover all government offices under the Executive Branch, including but not limited to the national government and all its offices, departments, bureaus, and instrumentalities, including government-owned or -controlled corporations, and state universities and colleges. Local government units (LGUs) are enjoined to observe and be guided by this Order.

SECTION 3. Access to Information. Every Filipino shall have access to information, official records, public records, and documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development.

SECTION 4. Exception. Access to information shall be denied when the information falls under any of the exceptions enshrined in the Constitution, existing laws or jurisprudence.

The Department of Justice and the Office of the Solicitor General are hereby directed to prepare an inventory of such exceptions and submit the same to the Office of the President within thirty (30) calendar days from the date of effectivity of this Order.

The Office of the President shall thereafter immediately circularize the inventory of exceptions for the guidance of all government offices and instrumentalities covered by this Order and the general public.

Said inventory of exceptions shall periodically be updated to properly reflect any change in existing law and jurisprudence and the Department of Justice and the Office of the Solicitor General are directed to update the inventory of exceptions as

the need to do so arises, for circularization as hereinabove stated.

SECTION 5. Availability of SALN. Subject to the provisions contained in Sections 3 and 4 of this Order, all public officials are reminded of their obligation to file and make available for scrutiny their Statements of Assets, Liabilities and Net Worth (SALN) in accordance with existing laws, rules and regulations, and the spirit and letter of this Order.

SECTION 6. Application and Interpretation. There shall be a legal presumption in favor of access to information, public records and official records. No request for information shall be denied unless it clearly falls under any of the exceptions listed in the inventory or updated inventory of exceptions circularized by the Office of the President as provided in Section 4 hereof.

The determination of the applicability of any of the exceptions to the request shall be the responsibility of the Head of the Office which has custody or control of the information, public record or official record, or of the responsible central or field officer duly designated by him in writing.

In making such determination, the Head of the Office or his designated officer shall exercise reasonable diligence to ensure that no exception shall be used or availed of to deny any request for information or access to public records or official records if the denial is intended primarily and purposely to cover up a crime, wrongdoing, graft or corruption.

SECTION 7. Protection of Privacy. While providing access to information, public records, and official records, responsible officials shall afford full protection to an individual's right to privacy as follows:

- (a) Each government office per Section 2 hereof shall ensure that personal information in its custody or under its control is disclosed or released only if it is material or relevant to the subject matter of the request and its disclosure is permissible under this Order or existing laws, rules or regulations;
- (b) Each government office must protect personal information in its custody or control by making reasonable security arrangements against leaks or premature disclosure of personal information which unduly exposes the individual whose personal information is requested to vilification, harassment, or any other wrongful acts; and
- (c) Any employee or official of a government office per Section 2 hereof who has access, authorized or unauthorized, to personal information in the custody of the office must not disclose that information except when authorized under this Order or pursuant to existing laws, rules or regulations.

SECTION 8. People's Freedom of Information (FOI) Manual. For the effective implementation of this Order, every government office is directed to prepare within one hundred twenty (120) calendar days from the effectivity of this Order, its

own People's FOI Manual, which shall include, among others, the following information:

- (a) The location and contact information of the head, regional, provincial, and field offices, and other established places where the public can submit requests to obtain information;
- (b) The person or officer responsible for receiving requests for information;
- (c) The procedure for the filing and processing of the request, as provided in the succeeding Section 9 of this Order;
- (d) The standard forms for the submission of requests and for the proper acknowledgment of such requests;
- (e) The process for the disposition of requests;
- (f) The procedure for administrative appeal of any denial of request for access to information; and
- (g) The schedule of applicable fees.

SECTION 9. Procedure. The following procedure shall govern the filing and processing of requests for access to information:

- (a) Any person who requests access to information shall submit a written request to the government office concerned. The request shall state the name and contact information of the requesting party, provide valid proof of his identification or authorization, reasonably describe the information requested, and the reason for, or purpose of, the request for information: *Provided*, that no request shall be denied or refused acceptance unless the reason for the request is contrary to law, existing rules and regulations, or it is one of the exceptions contained in the inventory of exceptions as hereinabove provided.
- (b) The public official receiving the request shall provide reasonable assistance, free of charge, to enable all requesting parties, particularly those with special needs, to comply with the request requirements under this Section.
- (c) The request shall be stamped by the government office, indicating the date and time of receipt and the name, rank, title or position of the receiving public officer or employee with the corresponding signature, and a copy thereof furnished to the requesting party. Each government office shall establish a system to trace the status of all requests for information received by it.
- (d) The government office shall respond to a request fully compliant with the requirements of sub-section (a) hereof as soon as practicable but not exceeding fifteen (15) working days from the receipt thereof. The response mentioned above refers to the decision of the office concerned to grant or deny access to the information requested.
- (e) The period to respond may be extended whenever the information requested requires extensive search of the government office's records facilities, examination of voluminous records, the occurrence of fortuitous events or other analogous cases. The government office shall

notify the person making the request of such extension, setting forth the reasons for the extension. In no case shall the extension go beyond twenty (20) working days counted from the end of the original period, unless exceptional circumstances warrant a longer period.

- (f) Once a decision is made to grant the request, the person making the request shall be notified of such decision and directed to pay any applicable fees.

SECTION 10. Fees. Government offices shall not charge any fee for accepting requests for access to information. They may, however, charge a reasonable fee to reimburse necessary costs, including actual costs of reproduction and copying of the information requested, subject to existing rules and regulations. In no case shall the applicable fees be so onerous as to defeat the purpose of this Order.

SECTION 11. Identical or Substantially Similar Requests. The government office shall not be required to act upon an unreasonable subsequent identical or substantially similar request from the same requesting party whose request has already been previously granted or denied by the same government office.

SECTION 12. Notice of Denial. If the government office decides to deny the request wholly or partially, it shall, as soon as practicable and within fifteen (15) working days from the receipt of the request, notify the requesting party of the denial in writing. The notice shall clearly set forth the ground or grounds for denial and the circumstances on which the denial is based. Failure to notify the requesting party of the action taken on the request within the period herein provided shall be deemed a denial of the request for access to information.

SECTION 13. Remedies in Case of Denial of Request for Access to Information. A person whose request for access to information has been denied may avail himself of the remedies set forth below:

- (a) Denial of any request for access to information may be appealed to the person or office next higher in authority, following the procedure mentioned in Section 8 (f) of this Order. Provided, that the written appeal must be filed by the same person making the request within fifteen (15) calendar days from the notice of denial or from the lapse of the relevant period to respond to the request.
- (b) The appeal shall be decided by the person or office next higher in authority within thirty (30) working days from the filing of said written appeal. Failure of such person or office to decide within the afore-stated period shall be deemed a denial of the appeal.
- (c) Upon exhaustion of administrative appeal remedies, the requesting party may file the appropriate judicial action in accordance with the Rules of Court.

SECTION 14. Keeping of Records. Subject to existing laws, rules, and regulations, government offices shall create and/or maintain accurate and reasonably complete records of important information in appropriate formats, and implement a

records management system that facilitates easy identification, retrieval and communication of information to the public.

SECTION 15. Administrative Liability. Failure to comply with the provisions of this Order may be a ground for administrative and disciplinary sanctions against any erring public officer or employee as provided under existing laws or regulations.

SECTION 16. Implementing Details. All government offices in the Executive Branch are directed to formulate their respective implementing details taking into consideration their mandates and the nature of information in their custody or control, within one hundred twenty (120) days from the effectivity of this Order.

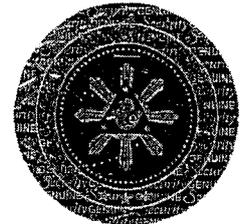
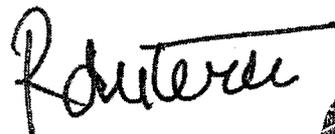
SECTION 17. Separability Clause. If any section or part of this Order is held unconstitutional or invalid, the other sections or provisions not otherwise affected shall remain in full force and effect.

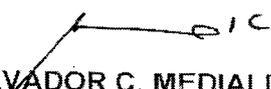
SECTION 18. Repealing Clause. All orders, rules and regulations, issuances or any part thereof inconsistent with the provisions of this Executive Order are hereby repealed, amended or modified accordingly: *Provided*, that the provisions of Memorandum Circular No. 78 (s. 1964), as amended, shall not be deemed repealed pending further review.

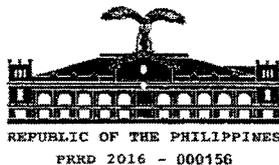
SECTION 19. Effectivity. This Order shall take effect immediately upon publication in a newspaper of general circulation.

Done, in the City of Manila, this 23rd day of July in the year of our Lord Two Thousand and Sixteen.

By the President:




SALVADOR C. MEDIALDEA
Executive Secretary



CERTIFIED COPY:


MARIANITO M. DIMAANDAL
DIRECTOR IV
MALACANANG RECORDS OFFICE

Exceptions to Right of Access to Information

For the guidance of all government offices and instrumentalities covered by EO No. 2 (s. 2016) and the general public, the following are the exceptions to the right of access to information, as recognized by the Constitution, existing laws, or jurisprudence:¹

1. Information covered by Executive privilege;
2. Privileged information relating to national security, defense or international relations;
3. Information concerning law enforcement and protection of public and personal safety;
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused;
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers;
6. Prejudicial premature disclosure;
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged;
8. Matters considered confidential under banking and finance laws, and their amendatory laws; and
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations.

¹ These exceptions only apply to governmental bodies within the control and supervision of the Executive department. Unless specifically identified, these exceptions may be invoked by all officials, officers, or employees in the Executive branch in possession of the relevant records or information.

For the implementation of the exceptions to the right of access to information, the following provide the salient details and legal bases that define the extent and application of the exceptions.

1. Information covered by Executive privilege:
 - a. Presidential conversations, correspondences, and discussions in closed-door Cabinet meetings;² and
 - b. Matters covered by deliberative process privilege, namely:
 - i. advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated; intra-agency or inter-agency recommendations or communications during the stage when common assertions are still in the process of being formulated or are in the exploratory stage; or information pertaining to the decision-making of executive officials;³ and
 - ii. information, record or document comprising drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;⁴
2. Privileged information relating to national security, defense or international relations:
 - a. Information, record, or document that must be kept secret in the interest of national defense or security;⁵
 - b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs;⁶ and

² This exception may only be invoked by the President and his close advisors. The extent of the privilege is defined by applicable jurisprudence: *Senate v. Ermita*, G.R. No. 169777, 20 April 2006, 488 SCRA 1; *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, 4 September 2008, 564 SCRA 152; *Akbayan v. Aquino*, G.R. No. 170516, 16 July 2008, 558 SCRA 468; and *Chavez v. PCGG*, G.R. No. 130716, 9 December 1998, 299 SCRA 744.

³ *Akbayan v. Aquino*, *supra*; *Chavez v. NHA*, G.R. No. 164527, 15 August 2007; and *Chavez v. PCGG*, *supra*. The privilege of invoking this exception ends when the executive agency adopts a definite proposition (*Department of Foreign Affairs v. BCA International Corp.*, G.R. No. 210858, 20 July 2016).

⁴ Section 3(d) Rule IV, *Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees* (Rules on CCESPOE). Drafts of decisions, orders, rulings, policy decisions, memoranda, and the like, such as resolutions prepared by the investigating prosecutor prior to approval for promulgation and release to parties [*Revised Manual for Prosecutors of the Department of Justice (DOJ)*] are also covered under this category of exceptions.

⁵ *Almonte v. Vasquez*, G.R. No. 95367, 23 May 1995, 244 SCRA 286; *Chavez v. PCGG*, *supra*; *Legaspi v. Civil Service Commission*, L-72119, 29 May 1987, 150 SCRA 530; *Chavez v. NHA*, *supra*; *Neri v. Senate*, *supra*; *Chavez v. Public Estates Authority*, G.R. No. 133250, 9 July 2002, 384 SCRA 152; and Section 3(a), Rule IV, Rules on CCESPOE. This exception generally includes matters classified under Memorandum Circular (MC) No. 78, as amended by MC No. 196 as "Top Secret," "Secret," "Confidential," and "Restricted."

⁶ *Akbayan v. Aquino*, *supra*; Section 3(a) Rule IV, Rules on CCESPOE. This privilege may be invoked by the Department of Foreign Affairs and other government bodies involved in diplomatic negotiations.

- c. Patent applications, the publication of which would prejudice national security and interests;⁷
3. Information concerning law enforcement and protection of public and personal safety:
- a. Investigation records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would –
 - i. interfere with enforcement proceedings;
 - ii. deprive a person of a right to a fair trial or an impartial adjudication;
 - iii. disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or
 - iv. unjustifiably disclose investigative techniques and procedures;⁸
 - b. Informer's privilege or the privilege of the Government not to disclose the identity of a person or persons who furnish information of violations of law to officers charged with the enforcement of law;⁹
 - c. When disclosure of information would put the life and safety of an individual in imminent danger;¹⁰
 - d. Any information given by informants leading to the recovery of carjacked vehicles and apprehension of the persons charged with carjacking;¹¹ and
 - e. All proceedings involving application for admission into the Witness Protection Program and the action taken thereon;¹²
4. Information deemed confidential for the protection of the privacy of persons and certain individuals such as minors, victims of crimes, or the accused. These include:

⁷ The applicability of this exception is determined by the Director General of the Intellectual Property Office and subject to the approval of the Secretary of the Department of Trade and Industry. Section 44.3 of the *Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372).

⁸ Section 3(f), Rule IV, Rules on CCESPOE; *Chavez v. PCGG, supra*. May be invoked by law enforcement agencies.

⁹ *Akbayan v. Aquino, supra*; and Section 51, *Human Security Act of 2007* (RA No. 9372). May be invoked by law enforcement agencies.

¹⁰ Section 3(b), Rule IV, Rules on CCESPOE.

¹¹ Section 19, *New Anti Carjacking Act of 2016* (RA No. 10883). May be invoked by law enforcement agencies.

¹² Section 7, *Witness Protection, Security and Benefit Act* (RA No. 6981).

- a. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy,¹³ personal information or records,¹⁴ including sensitive personal information, birth records,¹⁵ school records,¹⁶ or medical or health records;¹⁷

Sensitive personal information as defined under the *Data Privacy Act of 2012* refers to personal information:¹⁸

- (1) about an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) about an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) specifically established by an executive order or an act of Congress to be kept classified.

However, personal information may be disclosed to the extent that the requested information is shown to be a matter of public concern or interest, shall not meddle with or disturb the private life or family relations of the individual¹⁹ and is not prohibited by any law or regulation. Any disclosure of personal information shall be in accordance with the principles of transparency, legitimate purpose and proportionality.²⁰

Disclosure of personal information about any individual who is or was an officer or employee of a government institution shall be allowed, provided that such information relates to the position or functions of the individual, including: (1) the fact that the individual is or was an officer or employee of

¹³ Section 3(e), Rule IV, Rules on CCESPOE.

¹⁴ Sections 8 and 15, *Data Privacy Act of 2012* (RA No. 10173); *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual [Section 3(g), *Data Privacy Act of 2012*]; Article 26, Civil Code. May be invoked by National Privacy Commission and government personal information controllers.

¹⁵ Article 7, *The Child and Youth Welfare Code* [Presidential Decree (PD) No. 603].

¹⁶ Section 9(4), *Education Act of 1982* [Batas Pambansa (BP) Blg. 232].

¹⁷ Medical and health records are considered as sensitive personal information pursuant to Section 3(l)(2), *Data Privacy Act of 2012*; See also Department of Health-Department of Science and Technology (DOST)-Philippine Health Insurance Corporation Joint Administrative Order No. 2016-0002 (Privacy Guidelines for the Implementation of the Philippine Health Information Exchange).

¹⁸ Section 3(l), *Data Privacy Act of 2012*.

¹⁹ Article 26(2), *Civil Code*.

²⁰ Section 11, *Data Privacy Act of 2012*.

the government institution; (2) the title, business address and office telephone number of the individual; (3) the classification, salary range and responsibilities of the position held by the individual; and (4) the name of the individual on a document prepared by the individual in the course of employment with the government;²¹

- b. Source of any news report or information appearing in newspapers, magazines or periodicals of general circulation obtained in confidence,²² and
- c. Records of proceedings and processes deemed confidential by law for the privacy and/or protection of certain individuals, such as children, victims of crime, witnesses to a crime or rehabilitated drug offenders, including those pertaining to the following:
 - (1) records of child and family cases;²³
 - (2) children in conflict with the law from initial contact until final disposition of the case;²⁴
 - (3) a child who is a victim of any offense under the *Anti-Child Pornography Act of 2009*, including the name and personal circumstances of the child, or the child's immediate family, or any other information tending to establish the child's identity;²⁵
 - (4) a child witness, who is a victim of a crime, an accused of a crime, or a witness to a crime, including the name, address, telephone number, school, or other identifying information of a child or an immediate family of the child;²⁶
 - (5) cases involving violence against women and their children, including the name, address, telephone number, school, business, address, employer, or other identifying information of a victim or an immediate family member;²⁷
 - (6) trafficked persons, including their names and personal circumstances, or any other information tending to establish the identity of the trafficked person;²⁸
 - (7) names of victims of child abuse, exploitation or discrimination.²⁹

²¹ Section 4, *Data Privacy Act of 2012*.

²² *An Act to Exempt the Publisher, Editor or Reporter of any Publication from Revealing the Source of Published News or Information Obtained in Confidence* (RA No. 53), as amended by RA No. 1477. May be invoked by government newspapers.

²³ Section 12, *Family Courts Act of 1997* (RA Act No. 8369).

²⁴ Section 43, *Juvenile Justice and Welfare Act of 2006* (RA No. 9344).

²⁵ Section 13, *Anti-Child Pornography Act of 2009* (RA No. 9775).

²⁶ Section 31, A.M. No. 00-4-07-SC, *Re: Proposed Rule on Examination of a Child Witness*.

²⁷ Section 44, *Anti-Violence Against Women and their Children Act of 2004* (RA No. 9262); and *People v. Cabalquinto*, G.R. No. 167693, 19 September 2006.

²⁸ Section 7, *Anti-Trafficking in Persons Act of 2003* (RA No. 9208), as amended by RA No. 10364.

²⁹ Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act* (RA No. 7610).

- (8) disclosure which would result in undue and sensationalized publicity of any case involving a child in conflict with the law, child abuse, or violation of anti-trafficking of persons;³⁰
 - (9) records, documents and communications of proceedings involving domestic and inter-country adoptions, including the identity of the child, natural parents and adoptive parents;³¹
 - (10) names of students who committed acts of bullying or retaliation;³²
 - (11) first time minor (drug) offenders under suspended sentence who comply with applicable rules and regulations of the Dangerous Drugs Board and who are subsequently discharged; judicial and medical records of drug dependents under the voluntary submission program; and records of a drug dependent who was rehabilitated and discharged from treatment and rehabilitation centers under the compulsory submission program, or who was charged for violation of Section 15 (use of dangerous drugs) of the *Comprehensive Dangerous Drugs Act of 2002*, as amended; and³³
 - (12) identity, status and medical records of individuals with Human Immunodeficiency Virus (HIV), as well as results of HIV/Acquired Immune Deficiency Syndrome (AIDS) testing;³⁴
5. Information, documents or records known by reason of official capacity and are deemed as confidential, including those submitted or disclosed by entities to government agencies, tribunals, boards, or officers, in relation to the performance of their functions, or to inquiries or investigation conducted by them in the exercise of their administrative, regulatory or quasi-judicial powers, such as but not limited to the following:
- a. Trade secrets, intellectual property, business, commercial, financial and other proprietary information;³⁵

³⁰ Section 14, *Juvenile Justice and Welfare Act of 2006*; Section 7, *Anti-Trafficking in Persons Act of 2003*, as amended; and Section 29, *Special Protection of Children Against Abuse, Exploitation and Discrimination Act*.

³¹ Section 15, *Domestic Adoption Act of 1998* (RA No. 8552) and Section 43, IRR of RA No. 8552; Sections 6 and 16(b), *Inter-Country Adoption Act of 1995* (RA No. 8043) and Sections 53, 54 and 55 of IRR of RA No. 8043.

³² Section 3(h), *Anti-Bullying Act* (RA No. 10627).

³³ Sections 60, 64 and 67, *Comprehensive Dangerous Drugs Act of 2002* (RA No. 9165).

³⁴ Sections 2(b), 18, 30, and 32, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁵ Sections 45, 106.1, and 150.2, *The Intellectual Property Code* (RA No. 8293, as amended by RA No. 10372); Section 66.2, *Securities Regulation Code* (RA No. 8799); DOST Administrative Order No. 004-16; Section 142, *The Corporation Code* (BP Blg. 68); Section 34, *Philippine Competition Act* (RA No. 10667); Sections 23 and 27 (c), *The New Central Bank Act* (RA No. 7653); *Anti-Money Laundering Act* (RA No. 9160); Section 18, *Strategic Trade Management Act* (RA No. 10697); Sections 10 and 14, *Safeguard Measures Act* (RA No. 8800); Section 12, *Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990* (RA No. 6969); Article 290, *Revised Penal Code*; Section 10.10, Rule 10, 2012 Revised IRR of *Build-Operate-Transfer Law* (RA No. 6957); and *Revised Philippine Ports Authority Manual of Corporate Governance*.

- b. Data furnished to statistical inquiries, surveys and censuses of the Philippine Statistics Authority (PSA);³⁶
- c. Records and reports submitted to the Social Security System by the employer or member;³⁷
- d. Information gathered from HIV/AIDS contact tracing and all other related health intelligence activities;³⁸
- e. Confidential information submitted to the Philippine Competition Commission prohibited from disclosure by law, including the identity of the person who provided the information under condition of anonymity;³⁹
- f. Applications and supporting documents filed pursuant to the *Omnibus Investments Code of 1987*;⁴⁰
- g. Documents submitted through the Government Electronic Procurement System;⁴¹
- h. Information obtained from accessing any electronic key, electronic data message, or electronic document, book, register, correspondence, information or other material pursuant to any powers conferred under the *Electronic Commerce Act of 2000*;⁴²
- i. Any confidential information supplied by the contractors in mineral agreements, and financial or technical assistance agreements pursuant to the *Philippine Mining Act of 1995* and its Implementing Rules and Regulations (IRR), during the term of the project to which it relates;⁴³
- j. Information received by the Department of Tourism (DOT) in relation to the accreditation of accommodation establishments (such as hotels and resorts) and travel and tour agencies;⁴⁴

³⁶ Section 26, *Philippine Statistical Act of 2013* (RA No. 10625); and Section 4, *Commonwealth Act No. 591*. May be invoked only by the PSA.

³⁷ Section 24(c), *Social Security Act of 1997* (RA No. 1161, as amended by RA No. 8282).

³⁸ Section 29, *Philippine AIDS Prevention and Control Act of 1998* (RA No. 8504).

³⁹ Section 34, *Philippine Competition Act* (PCA), RA No. 10667 and Section 13, Rule 4 of the IRR of PCA. This exception can be invoked by the Philippine Competition Commission subject to well-defined limitations under the PCA.

⁴⁰ Section 81, EO No. 226 (s. 1987), as amended.

⁴¹ Section 9, *Government Procurement Reform Act* (RA No. 9184).

⁴² Section 32, *Electronic Commerce Act of 2000* (RA No. 8792).

⁴³ Section 94(f), *Philippine Mining Act of 1995* (RA No. 7942).

⁴⁴ Section 1, Rule IX, DOT MC No. 2010-02 (Rules and Regulations to Govern, the Accreditation of Accommodation Establishments – Hotels, Resorts and Apartment Hotels); and Section 23, DOT MC No. 2015-06 (Revised Rules and Regulations to Govern the Accreditation of Travel and Tour Agencies).

- k. The fact that a covered transaction report to the Anti-Money Laundering Council (AMLC) has been made, the contents thereof, or any information in relation thereto;⁴⁵
 - l. Information submitted to the Tariff Commission which is by nature confidential or submitted on a confidential basis;⁴⁶
 - m. Certain information and reports submitted to the Insurance Commissioner pursuant to the *Insurance Code*;⁴⁷
 - n. Information on registered cultural properties owned by private individuals;⁴⁸
 - o. Data submitted by a higher education institution to the Commission on Higher Education (CHED);⁴⁹ and
 - p. Any secret, valuable or proprietary information of a confidential character known to a public officer, or secrets of private individuals;⁵⁰
6. Information of which a premature disclosure would:
- a. in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or
 - b. be likely or significantly frustrate implementation of a proposed official action, except such department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.⁵¹
7. Records of proceedings or information from proceedings which, pursuant to law or relevant rules and regulations, are treated as confidential or privileged, including but not limited to the following:

⁴⁵ Section 9(c), *Anti-Money Laundering Act of 2001*, as amended. May be invoked by AMLC, government banks and its officers and employees.

⁴⁶ Section 10, *Safeguard Measures Act*.

⁴⁷ Section 297 in relation with Section 295 and Section 356, *The Insurance Code* (as amended by RA No. 10607).

⁴⁸ Section 14, *National Cultural Heritage Act of 2009* (RA No. 10066).

⁴⁹ CHED Memorandum Order No. 015-13, 28 May 2013.

⁵⁰ Articles 229 and 230, *Revised Penal Code*; Section 3(k), *Anti-Graft and Corrupt Practices Act* (RA No. 3019); Section 7(c), *Code of Conduct and Ethical Standards for Public Officials and Employees* (RA No. 6713); Section 7, *Exchange of Information on Tax Matters Act of 2009* (RA No. 10021); and Section 6.2, *Securities Regulation Code* (RA No. 8799).

⁵¹ Section 3(g), Rule IV, Rules on CCESPOE.

- a. Mediation and domestic or international arbitration proceedings, including records, evidence and the arbitral awards, pursuant to the *Alternative Dispute Resolution Act of 2004*,⁵²
- b. Matters involved in an Investor-State mediation;⁵³
- c. Information and statements made at conciliation proceedings under the *Labor Code*;⁵⁴
- d. Arbitration proceedings before the Construction Industry Arbitration Commission (CIAC);⁵⁵
- e. Results of examinations made by the Securities and Exchange Commission (SEC) on the operations, books and records of any corporation, and all interrogatories propounded by it and the answers thereto;⁵⁶
- f. Information related to investigations which are deemed confidential under the *Securities Regulations Code*;⁵⁷
- g. All proceedings prior to the issuance of a cease and desist order against pre-need companies by the Insurance Commission;⁵⁸
- h. Information related to the assignment of the cases to the reviewing prosecutors or the undersecretaries in cases involving violations of the *Comprehensive Dangerous Drugs Act of 2002*;⁵⁹
- i. Investigation report and the supervision history of a probationer;⁶⁰
- j. Those matters classified as confidential under the *Human Security Act of 2007*;⁶¹

⁵² Sections 9, 23 and 33, *Alternative Dispute Resolution (ADR) Act of 2004* (RA No. 9285); and DOJ Circular No. 98 (s. 2009) or the IRR of the ADR Act.

⁵³ Article 10, International Bar Association Rules for Investor-State Mediation.

⁵⁴ Article 237, *Labor Code*.

⁵⁵ Section 7.1, Rule 7, CIAC Revised Rules of Procedure Governing Construction Arbitration.

⁵⁶ Section 142, *Corporation Code*. May be invoked by the SEC and any other official authorized by law to make such examination.

⁵⁷ Sections 13.4, 15.4, 29.2 (b), and 64.2 of the *Securities Regulation Code*.

⁵⁸ Section 53(b)(1) of the *Pre-Need Code of the Philippines*. The confidentiality of the proceedings is lifted after the issuance of the cease and desist order.

⁵⁹ DOJ Department Circular No. 006-16 (No. 6), 10 February 2016.

⁶⁰ Section 17, *Probation Law of 1976* [PD No. 968 (s.1976)].

⁶¹ Sections 9, 13, 14, 29, 33 and 34, *Human Security Act of 2007* (RA No. 9372).

- k. Preliminary investigation proceedings before the committee on decorum and investigation of government agencies;⁶² and
 - l. Those information deemed confidential or privileged pursuant to pertinent rules and regulations issued by the Supreme Court, such as information on disbarment proceedings, DNA profiles and results, or those ordered by courts to be kept confidential;⁶³
8. Matters considered confidential under banking and finance laws and their amendatory laws, such as:
- a. RA No. 1405 (*Law on Secrecy of Bank Deposits*);
 - b. RA No. 6426 (*Foreign Currency Deposit Act of the Philippines*) and relevant regulations;
 - c. RA No. 8791 (*The General Banking Law of 2000*);
 - d. RA No. 9160 (*Anti-Money Laundering Act of 2001*); and
 - e. RA No. 9510 (*Credit Information System Act*);
9. Other exceptions to the right to information under laws, jurisprudence, rules and regulations, such as:
- a. Those deemed confidential pursuant to treaties, executive agreements, other international agreements, or international proceedings, such as:
 - (1) When the disclosure would prejudice legitimate commercial interest or competitive position of investor-states pursuant to investment agreements;⁶⁴
 - (2) Those deemed confidential or protected information pursuant to United Nations Commission on International Trade Law Rules on Transparency in Treaty-based Investor-State Arbitration and Arbitration Rules (UNCITRAL Transparency Rules);⁶⁵ and
 - (3) Refugee proceedings and documents under the *1951 Convention Relating to the Status of Refugees*, as implemented by DOJ Circular No. 58 (s. 2012);

⁶² Section 14, Civil Service Commission Resolution No. 01-0940.

⁶³ Section 18, Rule 139-B and Section 24, Rule 130 of the Rules of Court; and Section 11 of the Rule on DNA Evidence, A.M. No. 06-11-5-SC.

⁶⁴ Examples: Article 20 (2), ASEAN Comprehensive Investment Agreement; Article 15 (2) Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation between the ASEAN and the Republic of India; and Article 15 (2) of the Agreement on Investment under the Framework Agreement on the Comprehensive Economic Cooperation among the Government of the Member Countries of the ASEAN and the Republic of Korea.

⁶⁵ Article 7, UNCITRAL Transparency Rules.

- b. Testimony from a government official, unless pursuant to a court or legal order;⁶⁶
- c. When the purpose for the request of Statement of Assets, Liabilities and Net Worth is any of the following:
 - (1) any purpose contrary to morals or public policy; or
 - (2) any commercial purpose other than by news and communications media for dissemination to the general public;⁶⁷
- d. Lists, abstracts, summaries of information requested when such lists, abstracts or summaries are not part of the duties of the government office requested;⁶⁸
- e. Those information and proceedings deemed confidential under rules and regulations issued by relevant government agencies or as decided by the courts;⁶⁹
- f. Requested information pertains to comments and disclosures on pending cases in judicial proceedings;⁷⁰ and
- g. Attorney-client privilege existing between government lawyers and their client.⁷¹

⁶⁶ *Senate v. Neri, supra; Senate v. Ermita, supra.*

⁶⁷ Section 8(D), *Code of Conduct and Ethical Standards for Public Officials and Employees.*

⁶⁸ *Belgica v. Ochoa*, G.R. No. 208566, 19 November 2013; and *Valmonte v. Belmonte Jr.*, G.R. No. 74930, 13 February 1989, 252 Phil. 264.

⁶⁹ Examples: 2012 Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses and the Provision of CHR Assistance; Government Service Insurance System's Rules of Procedure of the Committee on Claims; National Labor Relations Commission Resolution No. 01-02, Amending Certain Provisions of the New Rules of Procedure of the National Labor Relations Commission, 08 March 2002; Department of Agrarian Reform MC No. 07-11, 19 July 2011; Department of Social Welfare and Development MC No. 021-12, 16 October 2012; and Section 42, *Investment Company Act* (RA No. 2629); When the information requested is not a matter of public concern or interest as decided in *Hilado v. Judge Amor A. Reyes*, G.R. No. 163155, 21 July 2006.

⁷⁰ *Romero v. Guerzon*, G.R. No. 211816, 18 March 2015.

⁷¹ Canon 21 of the *Code of Professional Responsibility.*

097.13JAWH
04.24.2017



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

20 APR 2017

DEPARTMENT)
ORDER)

NO. 62)
Series of 2017)

SUBJECT: Designation of the Freedom of Information (FOI) Receiving Officer (FRO) and FOI Decision Maker (FDM), and Constitution of the Central Appeals and Review Committee (CARC)

For the purpose of ensuring that the people's constitutional right to be informed on matters of public concern is realized, the President issued Executive Order (E.O.) No. 2, Series of 2016. Pursuant thereto, this Department promulgated an FOI Manual to serve as a guide in handling requests for information under the said E.O.

Towards full accomplishment of the noble objectives of E.O. No. 2, Series of 2016 and the FOI Manual, Mr. ANDRO V. SANTIAGO of the Stakeholders Relations Service is hereby designated as the FRO. Accordingly, and as provided under the FOI Manual, the FRO shall:

1. Receive all requests for information and forward the same to the appropriate office which has custody of the pertinent records;
2. Monitor all FOI requests and appeals;
3. Provide assistance and support to the public and to the Department with regard to the implementation of the FOI Manual;
4. Compile statistical information, as required;
5. Conduct the initial evaluation of requests and, thereafter, advise requesting parties whether their requests will be forwarded to the FDM for further evaluation, or denied based on relevant grounds; and
6. Exercise any and all other functions required of him under the FOI Manual.

Immediately after designation, the FRO shall take all the necessary steps to set up an FOI Receiving Office at a conspicuous location on the ground floor of the DPWH Central Office, Bonifacio Drive, Port Area, Manila. To facilitate FOI request reception, the FRO may, at his discretion, deputize personnel in the regional and district offices who shall be authorized to receive FOI requests and to forward the same to the FOI Receiving Office. The FRO may issue such policies, rules, and regulations to govern the operations of the FOI Receiving Office; provided, that the non-issuance of such policies and rules shall not be a ground for inaction on any FOI request.

To cover the costs of processing FOI requests, the FRO shall be responsible for the preparation of a schedule of fees. For this purpose, the FRO may seek inputs from any DPWH office. The FRO must ensure that the fee schedule is publicly available and posted conspicuously at the FOI Receiving Office. All payments related to FOI requests must be issued corresponding official receipts.

Likewise, Atty. JUAN V. TALLION, JR. of the Legal Service is hereby designated as the FDM who shall, among other responsibilities set forth under the FOI Manual, conduct evaluations of FOI requests, and grant or deny the same based on the grounds set forth in the FOI Manual and pertinent laws, rules, and regulations. Decisions of the FDM shall be in written form and shall clearly state the facts of requests, and the basis for the grant or denial thereof.

Also, the CARC, which shall, along with other duties provided under the FOI Manual, evaluate and review decisions of the FDM on FOI requests, as well as provide expert advice to the Secretary, is hereby constituted and shall be composed of the following:

Designation	Designee
Chair	Director ESTRELLA T. DECENA-ZALDIVAR, Legal Service
Vice-Chair	Director ELIZABETH P. PILORIN, Stakeholder Relations Service
Members	Director MA. NIEVA S. DELA PAZ, Information Management Service Assistant Director REYNALDO P. FAUSTINO, Bureau of Research and Standards Engr. MELROSE I. PAILMA, Bureau of Construction Engr. JESUS I. OBA, Bureau of Design Engr. MADELYN B. LOYOLA, Planning Service Engr. MARY GRACE N. OBJA-AN, Procurement Service Ms. MARILOU M. CAMUA, Public-Private Partnership Service Mr. JOSE A. AGUINALDO, Unified Project Management Office

The presence of the Chair or the Vice-Chair, along with six (6) members, shall constitute a quorum. The vote of a majority of those present is required to render a decision.

Within six (6) months from its constitution, the CARC shall promulgate its rules of procedure. In the interim, the CARC shall proceed with the disposition of FOI appeals following such processes as the Chair may determine, with due regard to the objects, spirit, and intents of the FOI Manual, all relevant laws, rules, and regulations, the rights of any person which may be involved, especially those pertaining to privacy and confidentiality, universally accepted practices, and such other considerations that may aid in the judicious resolution of FOI appeals.

The FRO, the FDM, and the Chair of the CARC are hereby directed to coordinate with the Office of the Undersecretary for Legal Affairs and Priority Projects regarding the DPWH's participation in the eFOI platform being administered by the Presidential Communications Operations Office, transitional matters, and all other FOI concerns as may be necessary or desirable for the Department's full compliance with policies on full public disclosure.

In case any FOI officer or CARC member, at any time, determines or encounters any issue or concern not covered by the FOI Manual or other pertinent Department issuances, or any impediment which works against the progressive realization of a full and meaningful FOI culture, the said officer or member shall immediately inform the Office of the Undersecretary for Legal Affairs and Priority Projects of the matter for appropriate action, including the revision of the FOI Manual and the promulgation of supplemental or amendatory issuances.

Nothing herein shall be construed as limiting the duties and responsibilities of FOI officials to the above-mentioned functions according to the objectives of E.O. No. 2, Series of 2016, the FOI Manual, and all other pertinent laws, rules, and regulations on full public disclosure.

The foregoing FOI officials shall exercise their duties and responsibilities until their respective replacements are designated by the Secretary through the issuance of the appropriate memoranda or letters of appointment.

This Order shall take effect immediately.



MARK A. VILLAR
Secretary

Department of Public Works and Highways
Office of the Secretary



WIN7A02966



FREEDOM OF INFORMATION REQUEST FORM

(Pursuant to Executive Order No. 2, s. 2016)
(as of November 2016)

Please read the following information carefully before proceeding with your application. Use blue or black ink. Write neatly and in BLOCK letters. Improper or incorrectly-filled out forms will not be acted upon. Tick or mark boxes with "X" where necessary. Note: (◀) denotes a MANDATORY field.

A. Requesting Party

You are required to supply your name and address for correspondence. Additional contact details will help us deal with your application and correspond with you in the manner you prefer.

1. Title (e.g. Mr, Mrs, Ms, Miss)	2. Given Name/s (including M.I.)	3. Surname
_____	◀ _____	◀ _____
4. Complete Address (Apt/House Number, Street, City/Municipality, Province)		
◀ _____		
5. Landline/Fax	6. Mobile	7. Email
_____	◀ _____	_____
8. Preferred Mode of Communication	<input type="checkbox"/> Landline <input type="checkbox"/> Mobile Number <input type="checkbox"/> Email <input type="checkbox"/> Postal Address <i>(If your request is successful, we will be sending the documents to you in this manner.)</i>	
9. Preferred Mode of Reply	<input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Postal Address <input type="checkbox"/> Pick-Up at Agency	
10. Type of ID Given (Please ensure your IDs contain your photo and signature)	<input type="checkbox"/> Passport <input type="checkbox"/> Driver's License <input type="checkbox"/> SSS ID <input type="checkbox"/> Postal ID <input type="checkbox"/> Voter's ID <input type="checkbox"/> School ID <input type="checkbox"/> Company ID <input type="checkbox"/> Others _____	

B. Requested Information

11. Agency - Connecting Agency (if applicable)	◀ _____	◀ _____
12. Title of Document/Record Requested (Please be as detailed as possible)	◀ _____	
13. Date or Period (DD/MM/YY)	◀ _____	
14. Purpose	◀ _____ _____ _____	
15. Document Type	◀ _____	
16. Reference Numbers (if known)	◀ _____	
17. Any other Relevant Information	◀ _____	

C. Declaration

Privacy Notice: Once deemed valid, your information from your application will be used by the agency you have applied to, to deal with your application as set out in the Freedom of Information Executive Order No. 2. If the Department or Agency gives you access to a document, and if the document contains no personal information about you, the document will be published online in the Department's or Agency's disclosure log, along with your name and the date you applied, and, if another person, company or body will use or benefit from the documents sought, the name of that person, entity or body.

I declare that:
• The information provided in the form is complete and correct;
• I have read the Privacy notice;
• I have presented at least one (1) government-issued ID to establish proof of my identity

I understand that it is an offense to give misleading information about my identity, and that doing so may result in a decision to refuse to process my application.

Signature ◀ _____

Date Accomplished (DD/MM/YYYY) ◀ _____

D. FOI Receiving Officer [INTERNAL USE ONLY]

Name (Print name) ◀ _____

Agency - Connecting Agency (if applicable, otherwise N/A) ◀ _____

Date entered on eFOI (if applicable, otherwise N/A) ◀ _____

Proof of ID Presented (Photocopies of original should be attached) Passport Driver's License SSS ID Postal ID Voter's ID School ID Company ID Others _____

The request is recommended to be: Approved Denied
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online

Second Receiving Officer Assigned (print name) ◀ _____

Decision Maker Assigned to Application (print name) ◀ _____

Decision on Application Successful Partially Successful Denied Cost
If Denied, please tick the Reason for the Denial Invalid Request Incomplete Data already available online Exception Which Exception? _____

Date Request Finished (DD/MM/YYYY) ◀ _____

Date Documents (if any) Sent (DD/MM/YYYY) ◀ _____

FOI Registry Accomplished Yes No

RO Signature ◀ _____

Date (DD/MM/YYYY) ◀ _____

S. No. 2965
H. No. 4115

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-fifth
day of July, two thousand eleven.

[REPUBLIC ACT No. 10173]

AN ACT PROTECTING INDIVIDUAL PERSONAL
INFORMATION IN INFORMATION AND
COMMUNICATIONS SYSTEMS IN THE GOVERNMENT
AND THE PRIVATE SECTOR, CREATING FOR THIS
PURPOSE A NATIONAL PRIVACY COMMISSION, AND
FOR OTHER PURPOSES

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known
as the "Data Privacy Act of 2012".

SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect the fundamental human right of privacy of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected.

SEC. 3. *Definition of Terms.* – Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

- (a) *Commission* shall refer to the National Privacy Commission created by virtue of this Act.
- (b) *Consent of the data subject* refers to any freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of personal information about and/or relating to him or her. Consent shall be evidenced by written, electronic or recorded means. It may also be given on behalf of the data subject by an agent specifically authorized by the data subject to do so.
- (c) *Data subject* refers to an individual whose personal information is processed.
- (d) *Direct marketing* refers to communication by whatever means of any advertising or marketing material which is directed to particular individuals.
- (e) *Filing system* refers to any set of information relating to natural or juridical persons to the extent that, although the information is not processed by equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular person is readily accessible.
- (f) *Information and Communications System* refers to a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and

includes the computer system or other similar device by or which data is recorded, transmitted or stored and any procedure related to the recording, transmission or storage of electronic data, electronic message, or electronic document.

(g) *Personal information* refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.

(h) *Personal information controller* refers to a person or organization who controls the collection, holding, processing or use of personal information, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf. The term excludes:

(1) A person or organization who performs such functions as instructed by another person or organization; and

(2) An individual who collects, holds, processes or uses personal information in connection with the individual's personal, family or household affairs.

(i) *Personal information processor* refers to any natural or juridical person qualified to act as such under this Act to whom a personal information controller may outsource the processing of personal data pertaining to a data subject.

(j) *Processing* refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.

(k) *Privileged information* refers to any and all forms of data which under the Rules of Court and other pertinent laws constitute privileged communication.

(l) *Sensitive personal information* refers to personal information:

(1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;

(2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;

(3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and

(4) Specifically established by an executive order or an act of Congress to be kept classified.

SEC. 4. *Scope.* - This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided,* That the requirements of Section 5 are complied with.

This Act does not apply to the following:

(a) Information about any individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual, including:

(1) The fact that the individual is or was an officer or employee of the government institution;

(2) The title, business address and office telephone number of the individual;

(3) The classification, salary range and responsibilities of the position held by the individual; and

(4) The name of the individual on a document prepared by the individual in the course of employment with the government;

(b) Information about an individual who is or was performing service under contract for a government institution that relates to the services performed, including the terms of the contract, and the name of the individual given in the course of the performance of those services;

(c) Information relating to any discretionary benefit of a financial nature such as the granting of a license or permit given by the government to an individual, including the name of the individual and the exact nature of the benefit;

(d) Personal information processed for journalistic, artistic, literary or research purposes;

(e) Information necessary in order to carry out the functions of public authority which includes the processing of personal data for the performance by the independent central monetary authority and law enforcement and regulatory agencies of their constitutionally and statutorily mandated functions. Nothing in this Act shall be construed as to have amended or repealed Republic Act No. 1405, otherwise known as the Secrecy of Bank Deposits Act; Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act; and Republic Act No. 9510, otherwise known as the Credit Information System Act (CISA);

(f) Information necessary for banks and other financial institutions under the jurisdiction of the independent central monetary authority or Bangko Sentral ng Pilipinas to comply with Republic Act No. 9510, and Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act and other applicable laws; and

(g) Personal information originally collected from residents of foreign jurisdictions in accordance with the laws of those foreign jurisdictions, including any applicable data privacy laws, which is being processed in the Philippines.

SEC. 5. *Protection Afforded to Journalists and Their Sources.* - Nothing in this Act shall be construed as to have amended or repealed the provisions of Republic Act No. 53, which affords the publishers, editors or duly accredited reporters of any newspaper, magazine or periodical of general circulation protection from being compelled to reveal the source of any news report or information appearing in said publication which was related in any confidence to such publisher, editor, or reporter.

SEC. 6. *Extraterritorial Application.* - This Act applies to an act done or practice engaged in and outside of the Philippines by an entity if:

(a) The act, practice or processing relates to personal information about a Philippine citizen or a resident;

(b) The entity has a link with the Philippines, and the entity is processing personal information in the Philippines or even if the processing is outside the Philippines as long as it is about Philippine citizens or residents such as, but not limited to, the following:

(1) A contract is entered in the Philippines;

(2) A juridical entity unincorporated in the Philippines but has central management and control in the country; and

(3) An entity that has a branch, agency, office or subsidiary in the Philippines and the parent or affiliate of the Philippine entity has access to personal information; and

(c) The entity has other links in the Philippines such as, but not limited to:

(1) The entity carries on business in the Philippines; and

(2) The personal information was collected or held by an entity in the Philippines.

CHAPTER II

THE NATIONAL PRIVACY COMMISSION

SEC. 7. *Functions of the National Privacy Commission.*
- To administer and implement the provisions of this Act, and to monitor and ensure compliance of the country with international standards set for data protection, there is hereby created an independent body to be known as the National Privacy Commission, which shall have the following functions:

(a) Ensure compliance of personal information controllers with the provisions of this Act;

(b) Receive complaints, institute investigations, facilitate or enable settlement of complaints through the use of alternative dispute resolution processes, adjudicate, award indemnity on matters affecting any personal information, prepare reports on disposition of complaints and resolution of any investigation it initiates, and, in cases it deems appropriate, publicize any such report: *Provided,* That in resolving any complaint or investigation (except where amicable settlement is reached by the parties), the Commission shall act as a collegial body. For this purpose, the Commission may be given access to personal information that is subject of any complaint and to collect the information necessary to perform its functions under this Act;

(c) Issue cease and desist orders, impose a temporary or permanent ban on the processing of personal information, upon finding that the processing will be detrimental to national security and public interest;

(d) Compel or petition any entity, government agency or instrumentality to abide by its orders or take action on a matter affecting data privacy;

(e) Monitor the compliance of other government agencies or instrumentalities on their security and technical measures and recommend the necessary action in order to meet minimum standards for protection of personal information pursuant to this Act;

(f) Coordinate with other government agencies and the private sector on efforts to formulate and implement plans and

policies to strengthen the protection of personal information in the country;

(g) Publish on a regular basis a guide to all laws relating to data protection;

(h) Publish a compilation of agency system of records and notices, including index and other finding aids;

(i) Recommend to the Department of Justice (DOJ) the prosecution and imposition of penalties specified in Sections 25 to 29 of this Act;

(j) Review, approve, reject or require modification of privacy codes voluntarily adhered to by personal information controllers: *Provided*, That the privacy codes shall adhere to the underlying data privacy principles embodied in this Act: *Provided, further*, That such privacy codes may include private dispute resolution mechanisms for complaints against any participating personal information controller. For this purpose, the Commission shall consult with relevant regulatory agencies in the formulation and administration of privacy codes applying the standards set out in this Act, with respect to the persons, entities, business activities and business sectors that said regulatory bodies are authorized to principally regulate pursuant to the law: *Provided, finally*, That the Commission may review such privacy codes and require changes thereto for purposes of complying with this Act;

(k) Provide assistance on matters relating to privacy or data protection at the request of a national or local agency, a private entity or any person;

(l) Comment on the implication on data privacy of proposed national or local statutes, regulations or procedures, issue advisory opinions and interpret the provisions of this Act and other data privacy laws;

(m) Propose legislation, amendments or modifications to Philippine laws on privacy or data protection as may be necessary;

(n) Ensure proper and effective coordination with data privacy regulators in other countries and private accountability

agents, participate in international and regional initiatives for data privacy protection;

(o) Negotiate and contract with other data privacy authorities of other countries for cross-border application and implementation of respective privacy laws;

(p) Assist Philippine companies doing business abroad to respond to foreign privacy or data protection laws and regulations; and

(q) Generally perform such acts as may be necessary to facilitate cross-border enforcement of data privacy protection.

SEC. 8. *Confidentiality*. – The Commission shall ensure at all times the confidentiality of any personal information that comes to its knowledge and possession.

SEC. 9. *Organizational Structure of the Commission*. – The Commission shall be attached to the Department of Information and Communications Technology (DICT) and shall be headed by a Privacy Commissioner, who shall also act as Chairman of the Commission. The Privacy Commissioner shall be assisted by two (2) Deputy Privacy Commissioners, one to be responsible for Data Processing Systems and one to be responsible for Policies and Planning. The Privacy Commissioner and the two (2) Deputy Privacy Commissioners shall be appointed by the President of the Philippines for a term of three (3) years, and may be reappointed for another term of three (3) years. Vacancies in the Commission shall be filled in the same manner in which the original appointment was made.

The Privacy Commissioner must be at least thirty-five (35) years of age and of good moral character, unquestionable integrity and known probity, and a recognized expert in the field of information technology and data privacy. The Privacy Commissioner shall enjoy the benefits, privileges and emoluments equivalent to the rank of Secretary.

The Deputy Privacy Commissioners must be recognized experts in the field of information and communications technology and data privacy. They shall enjoy the benefits,

privileges and emoluments equivalent to the rank of Undersecretary.

The Privacy Commissioner, the Deputy Commissioners, or any person acting on their behalf or under their direction, shall not be civilly liable for acts done in good faith in the performance of their duties. However, he or she shall be liable for willful or negligent acts done by him or her which are contrary to law, morals, public policy and good customs even if he or she acted under orders or instructions of superiors: *Provided*, That in case a lawsuit is filed against such official on the subject of the performance of his or her duties, where such performance is lawful, he or she shall be reimbursed by the Commission for reasonable costs of litigation.

SEC. 10. *The Secretariat.* – The Commission is hereby authorized to establish a Secretariat. Majority of the members of the Secretariat must have served for at least five (5) years in any agency of the government that is involved in the processing of personal information including, but not limited to, the following offices: Social Security System (SSS), Government Service Insurance System (GSIS), Land Transportation Office (LTO), Bureau of Internal Revenue (BIR), Philippine Health Insurance Corporation (PhilHealth), Commission on Elections (COMELEC), Department of Foreign Affairs (DFA), Department of Justice (DOJ), and Philippine Postal Corporation (Philpost).

CHAPTER III

PROCESSING OF PERSONAL INFORMATION

SEC. 11. *General Data Privacy Principles.* – The processing of personal information shall be allowed, subject to compliance with the requirements of this Act and other laws allowing disclosure of information to the public and adherence to the principles of transparency, legitimate purpose and proportionality.

Personal information must be:

(a) Collected for specified and legitimate purposes determined and declared before, or as soon as reasonably

practicable after collection, and later processed in a way compatible with such declared, specified and legitimate purposes only;

(b) Processed fairly and lawfully;

(c) Accurate, relevant and, where necessary for purposes for which it is to be used the processing of personal information, kept up to date; inaccurate or incomplete data must be rectified, supplemented, destroyed or their further processing restricted;

(d) Adequate and not excessive in relation to the purposes for which they are collected and processed;

(e) Retained only for as long as necessary for the fulfillment of the purposes for which the data was obtained or for the establishment, exercise or defense of legal claims, or for legitimate business purposes, or as provided by law; and

(f) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected and processed: *Provided*, That personal information collected for other purposes may be processed for historical, statistical or scientific purposes, and in cases laid down in law may be stored for longer periods: *Provided, further*, That adequate safeguards are guaranteed by said laws authorizing their processing.

The personal information controller must ensure implementation of personal information processing principles set out herein.

SEC. 12. *Criteria for Lawful Processing of Personal Information.* – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

(a) The data subject has given his or her consent;

(b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;

(c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;

(d) The processing is necessary to protect vitally important interests of the data subject, including life and health;

(e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or

(f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

SEC. 13. *Sensitive Personal Information and Privileged Information.* – The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

(a) The data subject has given his or her consent, specific to the purpose prior to the processing, or in the case of privileged information, all parties to the exchange have given their consent prior to processing;

(b) The processing of the same is provided for by existing laws and regulations: *Provided*, That such regulatory enactments guarantee the protection of the sensitive personal information and the privileged information: *Provided, further*, That the consent of the data subjects are not required by law or regulation permitting the processing of the sensitive personal information or the privileged information;

(c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;

(d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: *Provided*, That such processing is only confined and related to the *bona fide* members of these organizations or their associations: *Provided, further*, That the sensitive personal information are not transferred to third parties: *Provided, finally*, That consent of the data subject was obtained prior to processing;

(e) The processing is necessary for purposes of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or

(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority.

SEC. 14. *Subcontract of Personal Information.* – A personal information controller may subcontract the processing of personal information: *Provided*, That the personal information controller shall be responsible for ensuring that proper safeguards are in place to ensure the confidentiality of the personal information processed, prevent its use for unauthorized purposes, and generally, comply with the requirements of this Act and other laws for processing of personal information. The personal information processor shall comply with all the requirements of this Act and other applicable laws.

SEC. 15. *Extension of Privileged Communication.* – Personal information controllers may invoke the principle of privileged communication over privileged information that they lawfully control or process. Subject to existing laws and regulations, any evidence gathered on privileged information is inadmissible.

CHAPTER IV
RIGHTS OF THE DATA SUBJECT

SEC. 16. *Rights of the Data Subject.* - The data subject is entitled to:

(a) Be informed whether personal information pertaining to him or her shall be, are being or have been processed;

(b) Be furnished the information indicated hereunder before the entry of his or her personal information into the processing system of the personal information controller, or at the next practical opportunity:

(1) Description of the personal information to be entered into the system;

(2) Purposes for which they are being or are to be processed;

(3) Scope and method of the personal information processing;

(4) The recipients or classes of recipients to whom they are or may be disclosed;

(5) Methods utilized for automated access, if the same is allowed by the data subject, and the extent to which such access is authorized;

(6) The identity and contact details of the personal information controller or its representative;

(7) The period for which the information will be stored; and

(8) The existence of their rights, i.e., to access, correction, as well as the right to lodge a complaint before the Commission.

Any information supplied or declaration made to the data subject on these matters shall not be amended without prior notification of data subject: *Provided*, That the notification

under subsection (b) shall not apply should the personal information be needed pursuant to a *subpoena* or when the collection and processing are for obvious purposes, including when it is necessary for the performance of or in relation to a contract or service or when necessary or desirable in the context of an employer-employee relationship, between the collector and the data subject, or when the information is being collected and processed as a result of legal obligation;

(c) Reasonable access to, upon demand, the following:

(1) Contents of his or her personal information that were processed;

(2) Sources from which personal information were obtained;

(3) Names and addresses of recipients of the personal information;

(4) Manner by which such data were processed;

(5) Reasons for the disclosure of the personal information to recipients;

(6) Information on automated processes where the data will or likely to be made as the sole basis for any decision significantly affecting or will affect the data subject;

(7) Date when his or her personal information concerning the data subject were last accessed and modified; and

(8) The designation, or name or identity and address of the personal information controller;

(d) Dispute the inaccuracy or error in the personal information and have the personal information controller correct it immediately and accordingly, unless the request is vexatious or otherwise unreasonable. If the personal information have been corrected, the personal information controller shall ensure the accessibility of both the new and the retracted information and the simultaneous receipt of the new and the retracted information by recipients thereof: *Provided*, That the third parties who have previously received

such processed personal information shall be informed of its inaccuracy and its rectification upon reasonable request of the data subject;

(e) Suspend, withdraw or order the blocking, removal or destruction of his or her personal information from the personal information controller's filing system upon discovery and substantial proof that the personal information are incomplete, outdated, false, unlawfully obtained, used for unauthorized purposes or are no longer necessary for the purposes for which they were collected. In this case, the personal information controller may notify third parties who have previously received such processed personal information; and

(f) Be indemnified for any damages sustained due to such inaccurate, incomplete, outdated, false, unlawfully obtained or unauthorized use of personal information.

SEC. 17. *Transmissibility of Rights of the Data Subject.* – The lawful heirs and assigns of the data subject may invoke the rights of the data subject for, which he or she is an heir or assignee at any time after the death of the data subject or when the data subject is incapacitated or incapable of exercising the rights as enumerated in the immediately preceding section.

SEC. 18. *Right to Data Portability.* – The data subject shall have the right, where personal information is processed by electronic means and in a structured and commonly used format, to obtain from the personal information controller a copy of data undergoing processing in an electronic or structured format, which is commonly used and allows for further use by the data subject. The Commission may specify the electronic format referred to above, as well as the technical standards, modalities and procedures for their transfer.

SEC. 19. *Non-Applicability.* – The immediately preceding sections are not applicable if the processed personal information are used only for the needs of scientific and statistical research and, on the basis of such, no activities are carried out and no decisions are taken regarding the data subject: *Provided,* That the personal information shall be held under strict confidentiality and shall be used only for the declared purpose. Likewise, the immediately preceding sections are not applicable

to processing of personal information gathered for the purpose of investigations in relation to any criminal, administrative or tax liabilities of a data subject.

CHAPTER V

SECURITY OF PERSONAL INFORMATION

SEC. 20. *Security of Personal Information.* – (a) The personal information controller must implement reasonable and appropriate organizational, physical and technical measures intended for the protection of personal information against any accidental or unlawful destruction, alteration and disclosure, as well as against any other unlawful processing.

(b) The personal information controller shall implement reasonable and appropriate measures to protect personal information against natural dangers such as accidental loss or destruction, and human dangers such as unlawful access, fraudulent misuse, unlawful destruction, alteration and contamination.

(c) The determination of the appropriate level of security under this section must take into account the nature of the personal information to be protected, the risks represented by the processing, the size of the organization and complexity of its operations, current data privacy best practices and the cost of security implementation. Subject to guidelines as the Commission may issue from time to time, the measures implemented must include:

(1) Safeguards to protect its computer network against accidental, unlawful or unauthorized usage or interference with or hindering of their functioning or availability;

(2) A security policy with respect to the processing of personal information;

(3) A process for identifying and accessing reasonably foreseeable vulnerabilities in its computer networks, and for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach; and

(4) Regular monitoring for security breaches and a process for taking preventive, corrective and mitigating action against security incidents that can lead to a security breach.

(d) The personal information controller must further ensure that third parties processing personal information on its behalf shall implement the security measures required by this provision.

(e) The employees, agents or representatives of a personal information controller who are involved in the processing of personal information shall operate and hold personal information under strict confidentiality if the personal information are not intended for public disclosure. This obligation shall continue even after leaving the public service, transfer to another position or upon termination of employment or contractual relations.

(f) The personal information controller shall promptly notify the Commission and affected data subjects when sensitive personal information or other information that may, under the circumstances, be used to enable identity fraud are reasonably believed to have been acquired by an unauthorized person, and the personal information controller or the Commission believes that such unauthorized acquisition is likely to give rise to a real risk of serious harm to any affected data subject. The notification shall at least describe the nature of the breach, the sensitive personal information possibly involved, and the measures taken by the entity to address the breach. Notification may be delayed only to the extent necessary to determine the scope of the breach, to prevent further disclosures, or to restore reasonable integrity to the information and communications system.

(1) In evaluating if notification is unwarranted, the Commission may take into account compliance by the personal information controller with this section and existence of good faith in the acquisition of personal information.

(2) The Commission may exempt a personal information controller from notification where, in its reasonable judgment, such notification would not be in the public interest or in the interests of the affected data subjects.

(3) The Commission may authorize postponement of notification where it may hinder the progress of a criminal investigation related to a serious breach.

CHAPTER VI

ACCOUNTABILITY FOR TRANSFER OF PERSONAL INFORMATION

SEC. 21. *Principle of Accountability.* – Each personal information controller is responsible for personal information under its control or custody, including information that have been transferred to a third party for processing, whether domestically or internationally, subject to cross-border arrangement and cooperation.

(a) The personal information controller is accountable for complying with the requirements of this Act and shall use contractual or other reasonable means to provide a comparable level of protection while the information are being processed by a third party.

(b) The personal information controller shall designate an individual or individuals who are accountable for the organization's compliance with this Act. The identity of the individual(s) so designated shall be made known to any data subject upon request.

CHAPTER VII

SECURITY OF SENSITIVE PERSONAL INFORMATION IN GOVERNMENT

SEC. 22. *Responsibility of Heads of Agencies.* – All sensitive personal information maintained by the government, its agencies and instrumentalities shall be secured, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the Commission. The head of each government agency or instrumentality shall be responsible for complying with the security requirements mentioned herein while the Commission shall monitor the compliance and may recommend the necessary action in order to satisfy the minimum standards.

SEC. 23. Requirements Relating to Access by Agency Personnel to Sensitive Personal Information. – (a) On-site and Online Access – Except as may be allowed through guidelines to be issued by the Commission, no employee of the government shall have access to sensitive personal information on government property or through online facilities unless the employee has received a security clearance from the head of the source agency.

(b) Off-site Access – Unless otherwise provided in guidelines to be issued by the Commission, sensitive personal information maintained by an agency may not be transported or accessed from a location off government property unless a request for such transportation or access is submitted and approved by the head of the agency in accordance with the following guidelines:

(1) Deadline for Approval or Disapproval – In the case of any request submitted to the head of an agency, such head of the agency shall approve or disapprove the request within two (2) business days after the date of submission of the request. In case there is no action by the head of the agency, then such request is considered disapproved;

(2) Limitation to One thousand (1,000) Records – If a request is approved, the head of the agency shall limit the access to not more than one thousand (1,000) records at a time; and

(3) Encryption – Any technology used to store, transport or access sensitive personal information for purposes of off-site access approved under this subsection shall be secured by the use of the most secure encryption standard recognized by the Commission.

The requirements of this subsection shall be implemented not later than six (6) months after the date of the enactment of this Act.

SEC. 24. Applicability to Government Contractors. – In entering into any contract that may involve accessing or requiring sensitive personal information from one thousand (1,000) or more individuals, an agency shall require a contractor and its employees to register their personal

information processing system with the Commission in accordance with this Act and to comply with the other provisions of this Act including the immediately preceding section, in the same manner as agencies and government employees comply with such requirements.

CHAPTER VIII

PENALTIES

SEC. 25. Unauthorized Processing of Personal Information and Sensitive Personal Information. – (a) The unauthorized processing of personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

(b) The unauthorized processing of personal sensitive information shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who process personal information without the consent of the data subject, or without being authorized under this Act or any existing law.

SEC. 26. Accessing Personal Information and Sensitive Personal Information Due to Negligence. – (a) Accessing personal information due to negligence shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

(b) Accessing sensitive personal information due to negligence shall be penalized by imprisonment ranging from three (3) years to six (6) years and a fine of not less than

Five hundred thousand pesos (Php500,000.00) but not more than Four million pesos (Php4,000,000.00) shall be imposed on persons who, due to negligence, provided access to personal information without being authorized under this Act or any existing law.

SEC. 27. *Improper Disposal of Personal Information and Sensitive Personal Information.* – (a) The improper disposal of personal information shall be penalized by imprisonment ranging from six (6) months to two (2) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than Five hundred thousand pesos (Php500,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

b) The improper disposal of sensitive personal information shall be penalized by imprisonment ranging from one (1) year to three (3) years and a fine of not less than One hundred thousand pesos (Php100,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who knowingly or negligently dispose, discard or abandon the personal information of an individual in an area accessible to the public or has otherwise placed the personal information of an individual in its container for trash collection.

SEC. 28. *Processing of Personal Information and Sensitive Personal Information for Unauthorized Purposes.* – The processing of personal information for unauthorized purposes shall be penalized by imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons processing personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

The processing of sensitive personal information for unauthorized purposes shall be penalized by imprisonment ranging from two (2) years to seven (7) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be

imposed on persons processing sensitive personal information for purposes not authorized by the data subject, or otherwise authorized under this Act or under existing laws.

SEC. 29. *Unauthorized Access or Intentional Breach.* – The penalty of imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00) shall be imposed on persons who knowingly and unlawfully, or violating data confidentiality and security data systems, breaks in any way into any system where personal and sensitive personal information is stored.

SEC. 30. *Concealment of Security Breaches Involving Sensitive Personal Information.* – The penalty of imprisonment of one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) shall be imposed on persons who, after having knowledge of a security breach and of the obligation to notify the Commission pursuant to Section 20(f), intentionally or by omission conceals the fact of such security breach.

SEC. 31. *Malicious Disclosure.* – Any personal information controller or personal information processor or any of its officials, employees or agents, who, with malice or in bad faith, discloses unwarranted or false information relative to any personal information or personal sensitive information obtained by him or her, shall be subject to imprisonment ranging from one (1) year and six (6) months to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

SEC. 32. *Unauthorized Disclosure.* – (a) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from one (1) year to three (3) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00).

(b) Any personal information controller or personal information processor or any of its officials, employees or agents, who discloses to a third party sensitive personal information not covered by the immediately preceding section without the consent of the data subject, shall be subject to imprisonment ranging from three (3) years to five (5) years and a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than Two million pesos (Php2,000,000.00).

SEC. 33. *Combination or Series of Acts.* – Any combination or series of acts as defined in Sections 25 to 32 shall make the person subject to imprisonment ranging from three (3) years to six (6) years and a fine of not less than One million pesos (Php1,000,000.00) but not more than Five million pesos (Php5,000,000.00).

SEC. 34. *Extent of Liability.* – If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

SEC. 35. *Large-Scale.* – The maximum penalty in the scale of penalties respectively provided for the preceding offenses shall be imposed when the personal information of at least one hundred (100) persons is harmed, affected or involved as the result of the abovementioned actions.

SEC. 36. *Offense Committed by Public Officer.* – When the offender or the person responsible for the offense is a public officer as defined in the Administrative Code of the Philippines in the exercise of his or her duties, an accessory penalty consisting in the disqualification to occupy public office for a

term double the term of criminal penalty imposed shall be applied.

SEC. 37. *Restitution.* – Restitution for any aggrieved party shall be governed by the provisions of the New Civil Code.

CHAPTER IX

MISCELLANEOUS PROVISIONS

SEC. 38. *Interpretation.* – Any doubt in the interpretation of any provision of this Act shall be liberally interpreted in a manner mindful of the rights and interests of the individual about whom personal information is processed.

SEC. 39. *Implementing Rules and Regulations (IRR).* – Within ninety (90) days from the effectivity of this Act, the Commission shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SEC. 40. *Reports and Information.* – The Commission shall annually report to the President and Congress on its activities in carrying out the provisions of this Act. The Commission shall undertake whatever efforts it may determine to be necessary or appropriate to inform and educate the public of data privacy, data protection and fair information rights and responsibilities.

SEC. 41. *Appropriations Clause.* – The Commission shall be provided with an initial appropriation of Twenty million pesos (Php20,000,000.00) to be drawn from the national government. Appropriations for the succeeding years shall be included in the General Appropriations Act. It shall likewise receive Ten million pesos (Php10,000,000.00) per year for five (5) years upon implementation of this Act drawn from the national government.

SEC. 42. *Transitory Provision.* – Existing industries, businesses and offices affected by the implementation of this Act shall be given one (1) year transitory period from the effectivity of the IRR or such other period as may be

determined by the Commission, to comply with the requirements of this Act.

In case that the DICT has not yet been created by the time the law takes full force and effect, the National Privacy Commission shall be attached to the Office of the President.

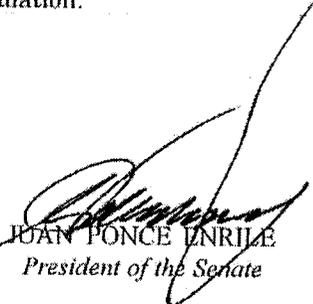
SEC. 43. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 44. *Repealing Clause.* - The provision of Section 7 of Republic Act No. 9372, otherwise known as the "Human Security Act of 2007", is hereby amended. Except as otherwise expressly provided in this Act, all other laws, decrees, executive orders, proclamations and administrative regulations or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

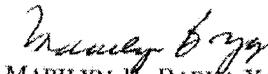
SEC. 45. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,


FELICIANO BELMONTE JR.
Speaker of the House
of Representatives


JUAN PONCE ENRILE
President of the Senate

This Act which is a consolidation of Senate Bill No. 2965 and House Bill No. 4115 was finally passed by the Senate and the House of Representatives on June 6, 2012.


MARILYN B. BARUA-YAP
Secretary General
House of Representatives

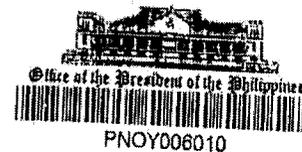

EMMA LIRIO-MEYES
Secretary of the Senate

Approved: AUG 19 2012

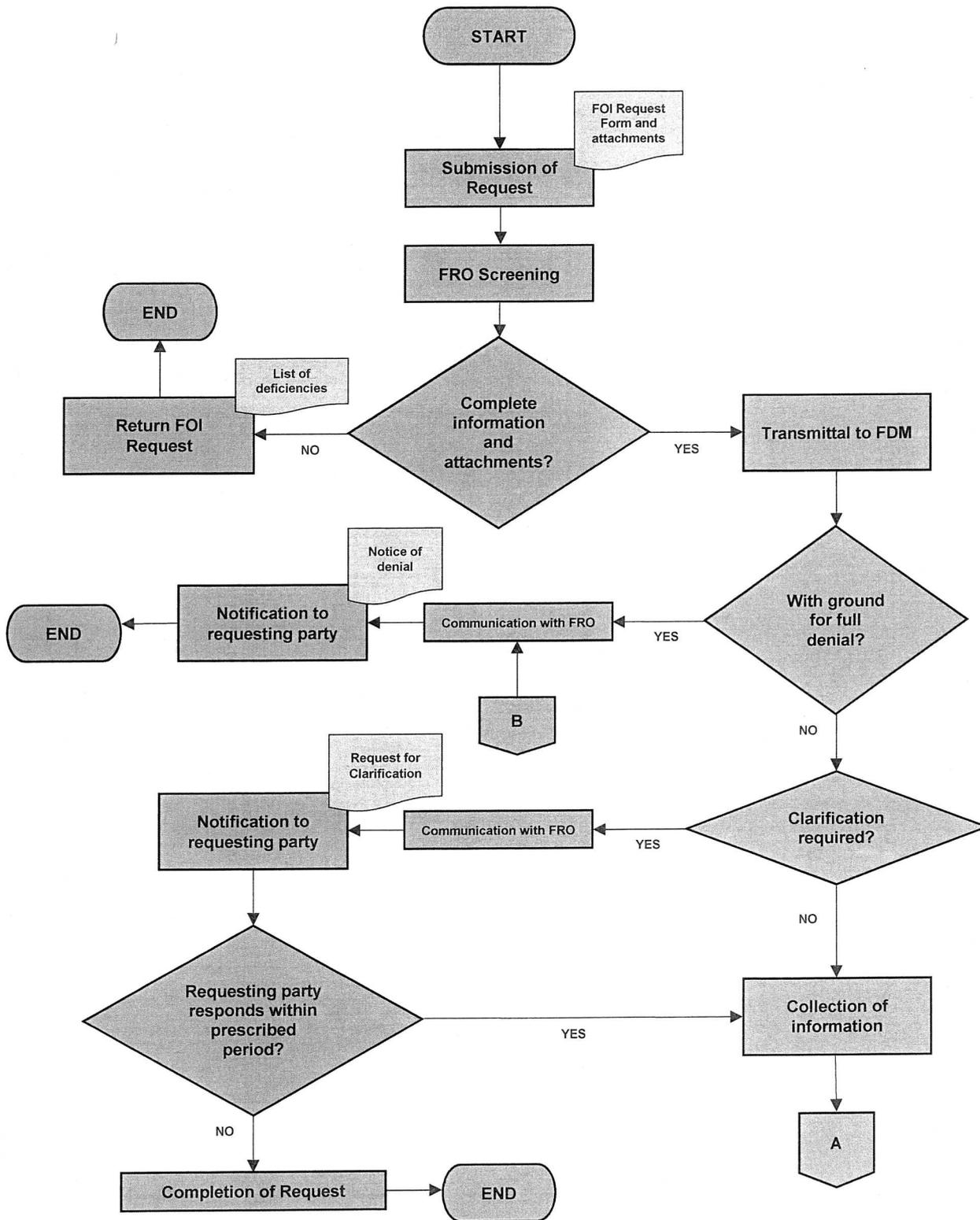

BENIGNO S. AQUINO III
President of the Philippines

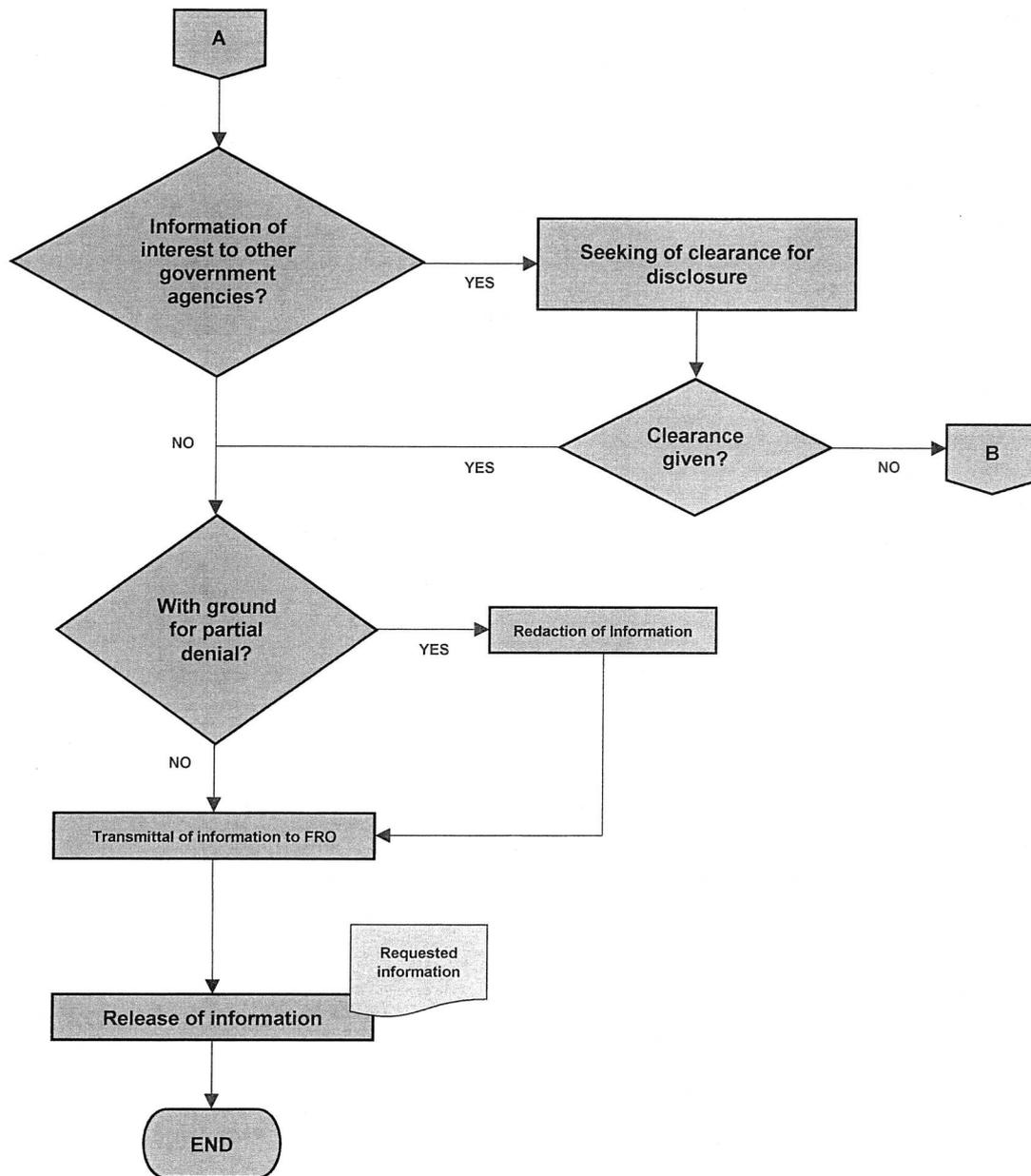


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FOI Request Flowchart







Freedom of Information
Central Appeals and Review Committee

Rules of Procedure

Ver. 1.0

PREFATORY STATEMENT

In line with the State's policy of full public disclosure laid down in Section 28, Article II of the 1987 Constitution and in recognition of the people's right to be informed on matters of public concern enshrined in Section 7, Article III of the 1987 Constitution, Executive Order (EO) No. 02, Series of (S.) 2016 was issued. Pursuant to Section 13 of the said EO, the following rules governing the conduct of proceedings before the Freedom of Information (FOI) Central Appeals and Review Committee (CARC) are hereby adopted and promulgated.

PART I – GENERAL PROVISIONS

Section 1. Title. These Rules shall be known and cited as the "CARC Rules of Procedure".

Section 2. Construction. These Rules shall be liberally construed and applied to promote the State policy of full public disclosure, to give the greatest effect to the people's constitutional right to be informed on matters of public concern, and to provide speedy and inexpensive disposition of all FOI appeals. Any doubt shall be resolved in favor of the requesting party.

Section 3. Applicability. These Rules shall apply to appeals made from any full or partial denial made by the FOI Decision Maker (FDM) of any FOI request.

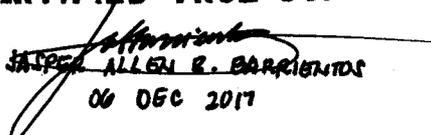
Section 4. Proper Party. An appeal to the CARC may only be made by the requesting party or by the requesting party's duly authorized representative. An appeal by any other party shall be denied due course, with proper notice.

PART II – DEFINITION OF TERMS

Section 5. Terminologies. For purposes of these Rules, the following terms shall mean:

- a. *Central Appeals and Review Committee* – The body created by the DPWH responsible for reviewing full or partial denials made by the FDM of FOI requests.
- b. *FOI Decision Maker* – The DPWH official or employee designated to decide on whether to grant FOI requests, or to deny them, either fully or in part.
- c. *FOI Inventory of Exceptions* – The list drawn up by the Office of the President setting forth all information not subject to disclosure pursuant to EO No. 02, S. 2016.
- d. *FOI Request* - A written request for disclosure of information held by the DPWH made pursuant to EO No. 02, S. 2016.
- e. *FOI Request Form* - The prescribed pro-forma template the requesting party is required to fill out and submit to the DPWH to initiate an FOI request.
- f. *Freedom of Information* – The policy of the Executive Branch embodied in EO No. 02, S. 2016 which recognizes the right of the people to information on matters of public concern, and adopts and implements full public disclosure of all its transactions involving public interest, subject to the procedures and limitations provided in the said EO and other laws, rules, and regulations.

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06 DEC 2017



- g. *Full Denial* – A manner of disposition of an FOI request in which the requested information or any portion thereof are not disclosed.
- h. *Notice of Denial* – The document informing the requesting party of the full or partial denial of the FOI request and the corresponding reason(s) for such denial.
- i. *Partial Denial* – A manner of disposition of an FOI request in which certain portions of the requested information are not disclosed.
- j. *Request for Review* – A letter addressed to the CARC Chair asking for a review of the FDM’s full or partial denial of an FOI request.
- k. *Requested Information* – Any information the disclosure of which is requested pursuant to EO No. 02, S. 2016.
- l. *Requesting Party* – Any person asking for information from the DPWH pursuant to EO No. 02, S. 2016 and whose FOI request was fully or partially denied by the FDM.

PART III – GROUNDS FOR APPEAL

Section 6. Grounds. An appeal of a previously denied FOI request, in part or in full, may be filed only on the following grounds:

- a. The requested information is in the actual custody of the DPWH;
- b. The requested information is not publicly available elsewhere;
- c. The request is not identical or substantially similar to any previous request made by the requesting party which was already finally denied;
- d. The requested information is not protected under Republic Act (RA) No. 10173 (*Data Privacy Act of 2012*) or any other law, rule, or regulation; and
- e. The requested information is not included in the FOI Inventory of Exceptions.

PART IV – PROCEDURE

Section 7. Commencement of Appeal. An appeal to the CARC shall be commenced through the filing of a written request for review with the Chair within fifteen (15) days from the requesting party’s receipt of the notice of denial. In case the last day falls on a Saturday, a Sunday, or a legal holiday, the next working day shall be considered as the last day. Filing of the request for review beyond the said period shall be a ground for the denial of the appeal, unless there is clear merit appearing on the face of the request for review and the failure of the requesting party to make a timely filing is due to fraud, accident, mistake, or excusable negligence.

Section 8. Form, Contents, and Attachments of the Request for Review. The request for review shall be in writing and shall bear all the following information:

- a. The name of the requesting party;
- b. The requesting party’s residence and postal address, telephone number, mobile number, e-mail address, and other contact details;
- c. The ground(s) on which the appeal is based; and,
- d. The requesting party’s signature.

Further, the requesting party shall attach to the request for review the following:

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06 DEC 2017

- a. A photocopy of the receiving copy of the FOI Request Form and its attachments;
- b. A photocopy of the notice of denial;
- c. The representative's proof of authority, if applicable; and
- d. A photocopy of at least one (1) of the representative's Government-issued ID.

Section 9. *Assignment of Case Number.* Upon receipt of the request for review, the Chair shall assign a case number to the appeal.

Section 10. *Amendment or Completion of Requests for Review.* Should the request for review lack any of the required information or attachments, the Chair shall immediately require the requesting party in writing to amend the same or to submit the lacking attachments, or both, as the case may be. The requesting party shall be given a period of five (5) days from receipt of the directive to comply, failure to do which shall be a ground for the denial of the appeal. In case the last day falls on a Saturday, a Sunday, or a legal holiday, the next working day shall be considered as the last day.

The period for the resolution of appeals shall not run from the time the directive requiring the amendment or completion of the request for review is transmitted until the time the compliance of the requesting party is received or the period for compliance expires.

Section 11. *Examination of the Requested Information.* Upon receipt of the complete request for review or completion thereof, as the case may be, the Chair shall require the officer or employee having actual or supposed custody of the requested information to submit the same for examination. Should the ground for the FDM's denial of the FOI request be the lack of DPWH custody over the requested information, the said actual or supposed custodian shall be required to instead submit a certification to that effect. If the Chair deems it proper, the same information custodian may be required to submit a comment on the request along with the requested information or certification.

Section 12. *Constitution of Records.* Upon receipt of all documentary requirements, the Chair shall cause the constitution of the records of the appeal, to be composed of the following:

- a. Request for review;
- b. Photocopy of at least one (1) of the requesting party's Government-issued ID;
- c. Proof of the representative's authority, if applicable;
- d. Photocopy of at least one (1) of the representative's Government-issued ID, if applicable;
- e. The requested information or certification of no custody thereof, as the case may be; and
- f. Comment of the information custodian, if applicable.

The Chair shall cause the consolidation of the said documents into a single binder, properly paginated.

Section 13. *Setting for Deliberation.* Within three (3) days from the constitution of the records, the Chair shall set the appeal for deliberations to be held no later than three (3) days from notice. At least one (1) day before the date of the deliberations, the Chair shall notify the Vice Chair and all Members of the date, time, and venue of the deliberations, providing them with copies of the records.

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JASPER ALLEN B. BARRIENTOS
06 DEC 2017

[Signature]

Upon receipt of the notice for the deliberation, the Vice Chair and all Members shall immediately advise the Chair of their ability or inability to attend the said proceedings. Should it become apparent that the required quorum would not be met through a direct meeting, the deliberation may be held by teleconferencing or any other official electronic means, provided that in all cases, the decision must be reached within one (1) day and through consultative means.

Section 14. *Quorum and Voting Requirements.* The presence of the Chair or Vice Chair, along with at least six (6) of the Members shall constitute a quorum. The vote of a majority of those present in a quorum shall be required to issue a decision.

Section 15. *Deliberations and Manner of Voting.* Upon call to order, the Chair shall open the floor to suggestions from all those present on whether to grant, partially grant, or deny the appeal. Thereafter, the Chair, Vice Chair, and Members shall register their votes on the appropriate manner of disposition verbally. However, if deemed by the Chair to be appropriate, voting may be done by secret ballot.

The manner of disposition receiving the most number of votes shall be the CARC's decision. In case two (2) or more manners of disposition receive the same number of votes, the one more or most favorable to the requesting party shall be adopted as the CARC's decision.

Section 16. *Notice of Decision.* Within three (3) days from deliberations, the Chair shall cause the preparation of a notice to the requesting party. The notice shall state whether the appeal is granted, partially granted, or denied. If partially granted, the notice shall state which portions of the requested information may be disclosed and which may not. The notice shall also state the specific grounds for denying the release of the information or portion thereof.

Decisions of the CARC shall become final and unappealable after the lapse of ten (10) days from receipt of the notice thereof.

Section 17. *Records of Proceedings.* The Vice Chair shall be responsible for the production of minutes of all deliberations or other meetings, which shall be appended to the pertinent records of appeals and shall form integral parts thereof.

PART V – REMEDIES IN CASE OF DENIAL

Section 18. *Request for Reconsideration.* Within ten (10) days from receipt of the notice of the CARC's decision, the requesting party may seek reconsideration of the full or partial denial of the appeal by writing a request for reconsideration to the Chair, who shall set the same for re-deliberation following the procedure set forth under Sections 13 to 17 above.

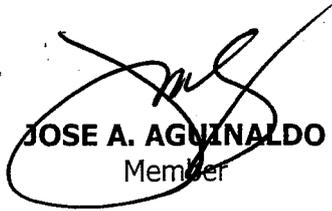
The CARC shall decide on the request for reconsideration within fifteen (15) days from receipt thereof. The request for reconsideration shall have a suspensive effect, and as such, said period shall toll the ten (10)-day period for the finality of the CARC decision.

Section 19. *Appeal to the Secretary.* In case of denial of the request for reconsideration, the requesting party may further appeal the CARC's decision to the Office of the Secretary within ten (10) days from receipt thereof under such rules of procedure which the said Office may prescribe.

Adopted 22 September 2017, Manila.

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JASPER ALLEN B. BARRIGUIDOS
06 DEC 2017


JOSE A. AGUINALDO
Member


MA. NIEWA S. DELA PAZ
Member


REYNALDO P. FAUSTINO
Member


MELROSE I. PAILMA
Member


JESUS I. OBA
Member


MADELYN B. LOYOLA
Member

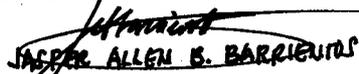

MARY GRACE N. OBJA-AN
Member


MARILOU M. CAMUA
Member


ELIZABETH P. PILORIN
Vice-Chair


ESTRELLA T. DECENA-ZALDIVAR
Chair

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JASPER ALLEN B. BARRIENTOS

06 DEC 2017

Revised Rules on Administrative Cases in the Civil Service



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FOREWORD

The Civil Service Commission is the premier human resource institution of the government. Part of its constitutional mandate is to promulgate rules and procedures relating to civil service matters, including administrative discipline of civil servants. Pursuant to its stated mandate, the Commission has through the years formulated the necessary procedural guidelines that would govern the disposition of civil service cases and matters.

Essentially, the need to promulgate procedural guidelines cannot be overemphasized. They ensure a certain degree of consistency, predictability and stability, which values are integral in upholding the rule of law. Indeed, with rules and regulations properly laid down, there would be less occasion for personal whims and caprices. In other words, arbitrariness would be reduced in the decision-making process. Needless to state, the decision-makers would be guided in their course of actions, whether it be in deciding disciplinary cases involving their own workforce or in adjudicating actions involving other personnel actions.

For quite sometime, the rules of procedure governing the disposition of both disciplinary and non-disciplinary cases in the civil service have been embodied in the Uniform Rules in Administrative Cases in the Civil Service (URACCS), which the Commission promulgated in 1999 to supplant the earlier procedural guidelines. This issuance has worked well but just like any human creation, it has also its own share of flaws and shortcomings, which have manifested through the years.

Intent on addressing these infirmities, and consistent with its current thrust to achieve zero backlog of cases and the disposition of cases within forty days, the Commission has revisited the URACCS and after rigorous and painstaking review, the result is now what is in you

hand—the Revised Rules on Administrative Cases in the Civil Service (RRACCS). The Commission hopes that the RRACCS would be able to contribute to the more effective dispensation of administrative justice.

Yet, the Commission is quick to add that the RRACCS is a work in progress. Its enactment shall not mean that it would not anymore be subject to rigorous scrutiny. As a matter of fact, the Commission would indubitably welcome insights, suggestions and recommendations on how to enhance it. After all, it cherishes the continued and unremitting support of all stakeholders in this significant undertaking.

Thank you and *Mabuhay!*



FRANCISCO T. DUQUE III, MD, MSc
Chairman

December 2011

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RESOLUTION

Pursuant to Section 6, Article IX-A of the 1987 Constitution, the Civil Service Commission *en banc* may promulgate its own rules concerning pleadings and practices before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights. Likewise, Section 12 (2), Chapter 3, Title I, Subtitle (A), Book V of the Administrative Code of 1987 (Executive Order No. 292) empowers the Civil Service Commission among others, to prescribe, amend and enforce rules and regulations to effectively carry into effect the provisions of the Civil Service Law and other pertinent laws which includes the procedure in administrative cases in the Civil Service.

NOW, THEREFORE, the Commission hereby adopts and promulgates the following rules concerning disciplinary and non-disciplinary proceedings in administrative cases in the Civil Service.

GENERAL PROVISIONS

Rule 1

APPLICABILITY AND CONSTRUCTION

Section 1. Title. – This Rules shall be known and cited as the **Revised Rules on Administrative Cases in the Civil Service (RRACCS)**.

Section 2. Coverage. – This Rules shall apply to all disciplinary and non-disciplinary administrative cases brought before the Civil Service Commission, agencies and instrumentalities of the National Government, local government units, and government-owned or controlled corporations with original charters except as may be provided by law.

Sexual harassment cases shall be primarily governed by the Administrative Rules on Sexual Harassment Cases (CSC Resolution No. 01-0940 dated May 21, 2001). This Rules shall apply suppletorily to said cases.

Section 3. Construction. – This Rules shall be liberally construed in order to promote their objective in obtaining just, speedy, and inexpensive disposition of administrative cases.

Administrative investigations shall be conducted without strict recourse to the technical rules of procedure and evidence applicable to judicial proceedings.

Section 4. Definition of Terms. – The terms hereunder shall be construed as follows:

- a. **AGENCY** refers to any bureau, office, commission, administration, board, committee, institute, corporation with original charter, whether performing governmental or proprietary function, or any other unit of the national government as well as provincial, city or municipal government.
- b. **APPOINTING OFFICER** refers to the person or body duly authorized to issue appointments in the civil service.
- c. **CIVIL SERVICE** is the generic term which refers to all men and women in all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.
- d. **CIVIL SERVICE COMMISSION FIELD OFFICES (CSCFOs)** refer to the Civil Service Commission Field Offices under the direct supervision of the Civil Service Commission Regional Office, each headed by a Field Director.
- e. **CIVIL SERVICE COMMISSION REGIONAL OFFICES (CSCROs)** refer to the sixteen (16) Civil Service Commission Regional Offices and those that may be subsequently created, each headed by a Regional Director.
- f. **COMMISSION** refers to the Civil Service Commission composed of the Chairman and two (2) Commissioners.
- g. **DEPARTMENT** refers to any of the executive departments or entities having the category of a department, including the judiciary, legislative and the other constitutional commissions.

- h. **DISCIPLINING AUTHORITY** refers to the person or body duly authorized to impose the penalty provided for by law or rules.
- i. **FORUM-SHOPPING** refers to the filing of several administrative actions or complaint either simultaneously or successively before another agency or any tribunal having jurisdiction over the case against the same party involving the same essential facts, circumstances, acts, causes of action or relief, and all raising substantially the same issues either pending in, or already resolved adversely by, some other tribunal or agency.
- j. **PARTY ADVERSELY AFFECTED** refers to the respondent against whom a decision in an administrative case has been rendered or to the disciplining authority in an appeal from a decision reversing or modifying the original decision.
- k. **PERSON COMPLAINED OF** refers to the person who is the subject of a complaint but who is not yet issued a notice of charge/s or formal charge by the disciplining authority.
- l. **PERSONNEL ACTION** refers to any action denoting the movement or progress of personnel in the Civil Service which shall include appointment promotion, transfer, reinstatement, reemployment, reappointment, detail, reassignment, secondment, demotion and separation from the service.
- m. **PROBATIONARY EMPLOYEE** refers to the employee who is required to undergo a thorough character investigation and assessment of capability to perform the duties of the position enumerated in the Position Description Form (PDF).
- n. **RESPONDENT** refers to the person who is issued a notice of charge/s or formal charge by the disciplining authority.
- o. **QUALIFIED NEXT-IN-RANK** refers to the employee appointed on a permanent basis to a position previously determined to be a next-in-rank to the vacancy and who meets the requirements for appointment thereto as previously determined by the appointing authority and approved by the Commission.

Rule 2

JURISDICTION AND VENUE OF ACTIONS

Section 5. *Jurisdiction of the Civil Service Commission.* – The Civil Service Commission 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 of the agencies attached to it.

Section 6. *Referral of Case or Matter to the Proper Office.* - In the event that an administrative case or matter is filed before the Commission or any of its Regional Offices, but jurisdiction over such case or matter properly belongs to another CSCRO or to the Commission, the same shall be forwarded to the appropriate office.

Section 7. *Cases Cognizable by the Civil Service Commission.* –The Civil Service Commission shall take cognizance of the following cases:

A. Disciplinary

1. Decisions of Civil Service Commission Regional Offices brought before it on appeal or petition for review;
2. 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;
3. Complaints brought against Civil Service Commission personnel;
4. Complaints against officials who are not presidential appointees;
5. Decisions of heads of agencies imposing penalties not exceeding 30 days suspension or fine equivalent thereto but violating due process;
6. Requests for transfer of venue of hearing on cases being heard by Civil Service Commission Regional Offices;
7. Appeals from the order of preventive suspension; and

8. Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.

B. Non-Disciplinary

1. Decisions of heads of agencies on personnel actions;
2. Decisions of Civil Service Commission Regional Offices;
3. Requests for favorable recommendation on petition for the removal of administrative penalties or disabilities;
4. Protests against appointments, or other personnel actions, involving non-presidential appointees;
5. Requests for Extension of Service;
6. Reassignment of public health workers and public social workers brought before it on appeal;
7. Request for correction of personal information in the records of the Commission within five (5) years before mandatory retirement; and
8. Such other analogous actions or petitions arising out of or in relation with the foregoing enumeration.

Section 8. Cases Cognizable by Regional Offices. – Except as otherwise directed by the Commission, the Civil Service Commission Regional Offices shall take cognizance of the following cases:

A. Disciplinary

1. Cases initiated by, or brought before, the Civil Service Commission Regional Offices provided that the alleged acts or omissions were committed within the jurisdiction of the Regional Office, including Civil Service examination anomalies or irregularities and/or the persons complained of are rank-and-file employees of agencies, local or national, within said geographical areas;
2. Complaints involving Civil Service Regional Office personnel who are appointees of said office; and

3. Petitions to place respondent under preventive suspension.

B. Non-Disciplinary

1. Disapproval/Recall of Approval/Invalidation of appointments brought before it on appeal;
2. Decisions of heads of agencies, except those of the department secretaries and bureau heads within their geographical boundaries relative to protests and other personnel actions and other non-disciplinary actions brought before it on appeal; and
3. Requests for accreditation of services; and
4. Requests for correction of personal information in the records of the Commission not falling under Section 7 (B) Item 7 of this Rules.

Section 9. Jurisdiction of Heads of Agencies. –The Secretaries and heads of agencies, and other instrumentalities, provinces, cities and municipalities shall have original concurrent jurisdiction with the Commission over their respective officers and employees. They shall take cognizance of complaints involving their respective personnel. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty (30) days or fine in an amount not exceeding thirty (30) days salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

DISCIPLINARY CASES

Rule 3

COMPLAINT

Section 10. Who May Initiate. – Administrative proceedings may be initiated by the disciplining authority *motu proprio* or upon complaint of any other person.

Section 11. *Requisites of a Valid Complaint.* – Except when initiated by the disciplining authority or his/her authorized representative, no complaint against a civil service official or employee shall be given due course unless the same is in writing, subscribed and sworn to by the complainant. In cases initiated by the proper disciplining authority or his/her authorized representative, a show cause order is sufficient.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

The complaint in triplicate copies shall be written in a clear, simple and concise language and in a systematic manner as to apprise the person complained of, of the nature and cause of the accusation against him/her and to enable him/her to intelligently prepare his/her defense or answer/comment. However, should there be more than one (1) person complained of, the complainant is required to submit additional copies corresponding to the number of persons complained of.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the person/s complained of as well as his/her/their position/s and office/s;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and
- e. certification or statement of non-forum shopping.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refile upon compliance with the above requirements.

Section 12. *When and Where to File a Complaint.* – Except when otherwise provided for by law, an administrative complaint may be filed at anytime with the Commission or any of its Regional Offices, heads of departments, agencies, provinces, cities, municipalities and other instrumentalities.

Section 13. *Withdrawal of the Complaint.* – The withdrawal of the complaint does not result in its outright dismissal nor discharge the person complained of from any administrative liability. Where there is obvious truth or merit to the allegation in the complaint or where there is documentary evidence that would tend to prove the guilt of the person/s complained of, the same should be given due course.

Section 14. *Action on the Complaint.* – Upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person/s complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of order requiring him/her/their comment/s.

Rule 4

PRELIMINARY INVESTIGATION

Section 15. *Preliminary Investigation; Definition.* – A Preliminary Investigation is a proceeding undertaken to determine whether a prima facie case exists to warrant the issuance of a formal charge. It involves a fact-finding investigation or an ex-parte examination of records and documents submitted by the complainant and the person/s complained of, as well as documents readily available from other government offices.

Section 16. *How conducted.* – Within five (5) days from receipt of the complaint sufficient in form and substance, the person/s complained of shall be required to submit his/her/their counter-affidavit/comment. Where the complaint is initiated by the disciplining authority, the disciplining authority or his authorized representative shall issue a show-cause memorandum directing the person/s complained of to explain why no administrative case should be filed against him/her/them. The latter's failure to submit the comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without his/her counter-affidavit/comment.

If necessary, the parties may be summoned to a conference where the investigator may propound clarificatory and other relevant questions.

For cases filed before the Commission or any of its Regional Offices, the preliminary investigation may be entrusted to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 17. *Duration of the Investigation.* – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the disciplining authority and shall be terminated within twenty (20) days thereafter.

Section 18. Investigation Report. – Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Investigation Report with recommendation and the complete records of the case to the disciplining authority.

Section 19. Decision or Resolution After Preliminary Investigation. – If a *prima facie* case is established during the investigation, the disciplining authority may issue either a formal charge or a notice of charge/s pursuant to Rule 5 of this Rules.

In the absence of a *prima facie* case, the complaint shall be dismissed.

Rule 5

FORMAL CHARGE

Section 20. Issuance of Formal Charge; Contents. – After a finding of a *prima facie* case, the disciplining authority shall formally charge the person complained of, who shall now be called as respondent. The formal charge shall contain a specification of charge/s, a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge/s in writing, under oath in not less than seventy-two (72) hours from receipt thereof, an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 21. Notice of Charge/s. – In instances where the complaint was initiated by a person other than the disciplining authority, the disciplining authority may issue a written notice of the charge(s) against the person complained of to which shall be attached copies of the complaint, sworn statement and other documents submitted. The notice shall contain the charges against the person complained of with a statement that a *prima facie* case exists. It shall also include a directive to answer the charge(s) in writing, under oath in not less than seventy-two (72) hours from receipt thereof, and a notice that he/she may opt to be assisted by a counsel of his/her choice.

Section 22. Prohibited Pleadings. - The disciplining authority shall not entertain requests for clarification, bills of particulars, motions to dismiss or motions to quash or motions for reconsideration. If any of these pleadings are interposed by the respondent, the same shall be considered an answer and shall be evaluated as such.

Rule 6

ANSWER

Section 23. *Requisites and Contents.* – The answer, which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of one’s case.

Section 24. *Failure to File an Answer.* – If the respondent fails or refuses to file his/her answer to the formal charge or notice of charge/s within the period provided in the formal charge or notice of charge/s which shall not be less than three (3) days from receipt thereof, he/she shall be considered to have waived his/her right to submit the same and the case may be decided based on available records.

Rule 7

PREVENTIVE SUSPENSION

Section 25. *Preventive Suspension, nature.* –Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the official or employee charged may be removed from the scene of his/her alleged misfeasance/malfeasance/nonfeasance while the same is being investigated.

Section 26. *When Issued; Grounds.* – Upon petition of the complainant or *motu proprio*, the proper disciplining authority may issue an order of preventive suspension upon service of the formal charge or notice of charge/s, or immediately thereafter to any subordinate officer or employee under his/her authority pending an investigation, if

- A) The charge involves:
1. Dishonesty;
 2. Oppression;
 3. Grave Misconduct;
 4. Neglect in the Performance of Duty;
 5. Administrative offenses which are punishable by dismissal from the service on its second or third offense; or
 6. If there are reasons to believe that the respondent is guilty of charges which would warrant his/her removal from the service.

- B) An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance, malfeasance or nonfeasance to preclude the possibility of:
1. exerting undue influence or pressure on the witnesses against him/her, or
 2. tampering with evidence that may be used against him/her.
- C) In lieu of preventive suspension, for the same purpose, the proper disciplining authority or head of office, may reassign respondent to other unit of the agency during the formal hearings.

Section 27. *Duration of Preventive Suspension.* – Unless otherwise provided for by law, the disciplining authority may place the respondent under preventive suspension for a maximum period of ninety (90) days in the case of national agencies or sixty (60) days in the case of local government units. When the administrative case against an officer or employee under preventive suspension is not finally decided by the disciplining authority within the period of preventive suspension, he/she shall be automatically reinstated in the service unless the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. Any period of delay caused by motions filed by the respondent shall be added to the period of preventive suspension. Provided, that where the order of preventive suspension is for a period less than the maximum period, the disciplining authority undertakes to finish the formal investigation within the said period and is precluded from imposing another preventive suspension. Provided, further, that should the respondent be on authorized leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully exhausted.

Section 28. *Remedies from the Order of Preventive Suspension.* – The respondent may file an appeal to the Commission within fifteen (15) days from receipt thereof. Pending appeal, the same shall be executory. A motion for reconsideration from the order of preventive suspension shall not be allowed.

Section 29. *Payment of Back Salaries During Preventive Suspension.* – The payment of back salaries during the period of suspension shall be governed by the following:

- a. A declaration by the Commission that an order of preventive suspension is null and void on its face entitles the respondent official or employee to immediate reinstatement and payment of back

salaries corresponding to the period of the unlawful preventive suspension without awaiting the outcome of the main case.

The phrase “**null and void on its face**” in relation to a preventive suspension order, imports any of the following circumstances:

- i) The order was issued by one who is not authorized by law;
 - ii) The order was not premised on any of the conditions under Section 26 (A and B) of this Rule;
 - iii) The order of preventive suspension was issued without a formal charge or notice of charges;
 - iv) While lawful in the sense that it is based on the enumerated grounds, the duration of the imposed preventive suspension has exceeded the prescribed periods, in which case the payment of back salaries shall correspond to the excess period only.
- b. A declaration of invalidity of a preventive suspension order not based on any of the reasons enumerated in Section 29(a), shall result in the reinstatement of the official or employee concerned. The payment of back salaries shall, however, await the final outcome of the principal case. If the official or employee is fully exonerated of the charge/s or when the penalty imposed in the principal case is reprimand, he or she shall be paid such back salaries. Otherwise, no back salaries shall be awarded.

The phrase “full exoneration” contemplates a finding of not guilty for the offense/s charged. Downgrading of the charge to a lesser offense shall not be construed as “full exoneration” within the contemplation of these guidelines.

Even if the respondent official or employee be eventually found innocent of the charge/s proffered against him/her, the same shall not give rise to payment of back salaries corresponding to the period of preventive suspension in the absence of any finding of its illegality.

Rule 8

FORMAL INVESTIGATION

Section 30. *Conduct of Formal Investigation; When Held.* – A formal investigation shall be conducted by the disciplining authority where the merits of the case cannot be decided judiciously without conducting such investigation or when the respondent elects to have one, in which case, the investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer or upon the expiration of the period to answer. Said investigation shall be finished within thirty (30) days from the issuance of the formal charge unless the period is extended by the disciplining authority in meritorious cases.

For this purpose, the Commission may entrust the formal investigation to lawyers of other agencies pursuant to Section 117 of this Rules.

Section 31. *Submission of Position Paper/Memorandum.* – At any stage of the proceedings, the parties may, based on their mutual consent, submit position paper/memorandum and submit the case for resolution without any need for further hearings.

Section 32. *Pre-Hearing Conference.* – At the commencement of the formal investigation, the hearing officer shall conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. Stipulation of facts;
- b. Simplification of issues;
- c. Identification and marking of evidence of the parties;
- d. Waiver of objections to admissibility of evidence;
- e. Limiting the number of witnesses, and their names;
- f. Dates of subsequent hearings; and
- g. Such other matters as may aid in the prompt and just resolution of the case.

The agreement entered into during the pre-hearing conference is binding on both parties unless in the interest of justice, the hearing officer may allow a deviation from the same.

The conduct of a pre-hearing conference is mandatory. The failure of the respondent to attend the pre-hearing conference constitutes a waiver to participate in the pre-hearing conference but may still participate in the formal investigation upon appropriate motion.

Section 33. Continuous Hearing Until Terminated; Postponement. – Hearings shall be conducted on the hearing dates set by the Hearing Officer or as agreed upon during the pre-hearing conference.

Each party may be granted one (1) postponement upon oral or written request.

If respondent fails or refuses to appear or is not represented by counsel during the scheduled hearings despite due notice, the investigation shall proceed and the respondent shall be deemed to have waived his/her right to present evidence in his/her favor during the said hearing.

Section 34. Preliminary Matters. – At the start of the hearing, the hearing officer shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right thereto.

Before taking the testimony of a witness, the hearing officer shall place him/her under oath and then take his/her name, address, civil status, age, and complete name and address of employment.

A sworn statement of the witness/es properly identified and affirmed shall constitute direct testimony, copy furnished the other party.

Clarificatory questions may also be asked.

Section 35. Appearance of Counsel. – Any counsel who is a member of the Bar appearing before any hearing or investigation shall manifest orally or in writing, his/her appearance for either the respondent or complainant, stating his/her full name, Roll Number, IBP receipt and complete address which should not be a P.O. box address where he/she can be served with notices and other pleadings. If the lawyer is a government employee, he/she shall be required to present an authority to practice profession which should come from the agency head or the agency head's authorized representative.

Section 36. Order of Hearing. – Unless the hearing officer directs otherwise, the order of hearing may be as follows:

- a. The prosecution shall present its evidence;
- b. The respondent shall present evidence in support of his/her defense;

- c. There may be rebuttal or sur-rebuttal;

When the presentation of the witnesses has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After which, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) days after the termination of the investigation. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 37. Objections. – All objections raised during the hearing shall be resolved by the hearing officer. However, objections that cannot be ruled upon by the hearing officer shall be noted with the information that the same shall be included in the memorandum of the concerned party to be ruled upon by the proper disciplining authority.

The hearing officer shall admit all evidence formally offered subject to the objection/s interposed against its admission.

Section 38. Markings. – All documentary evidence or exhibits shall be properly marked by letters (A,B,C, etc.) if presented by the prosecution and by numbers (1,2,3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 39. Issuance of Subpoena. – The hearing officer may issue *subpoena ad testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or things.

If a party desires the attendance of a witness and/or the production of documents, he/she shall make a request for the issuance of the necessary *subpoena ad testificandum* and/or *subpoena duces tecum*, at least seven (7) days before the scheduled hearing.

Section 40. Record of Proceedings. – Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.

Section 41. Filing of Pleadings. – All pleadings filed by the parties with the disciplining authority shall be copy furnished the other party with proof of service. Any pleadings sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the disciplining office.

Section 42. *Effects of the Pendency of an Administrative Case.* – Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions or from claiming maternity/paternity benefits.

For this purpose, a pending administrative case shall be construed as such when the disciplining authority has issued a formal charge or a notice of charge/s to the respondent .

Section 43. *Formal Investigation Report.* – Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the hearing officer to the disciplining authority. The complete records of the case shall be attached to the report of investigation.

The complete records shall be systematically and chronologically arranged, paged and securely bound to prevent loss. A table of contents shall be prepared.

Rule 9

DECISION

Section 44. *When Case is Decided.* – The disciplining authority shall decide the case within thirty (30) days from receipt of the Formal Investigation Report.

Section 45. *Finality of Decisions.* – A decision rendered by the disciplining authority whereby a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days' salary is imposed, shall be final, executory and not appealable unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days' salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no such pleading has been filed.

PENALTIES

Rule 10

SCHEDULE OF PENALTIES

Section 46. *Classification of Offenses.* – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

- A. The following grave offenses shall be punishable by dismissal from the service :
1. Serious Dishonesty;
 2. Gross Neglect of Duty;
 3. Grave Misconduct;
 4. Being Notoriously Undesirable;
 5. Conviction of a crime involving moral turpitude;
 6. Falsification of official document;
 7. Physical or mental incapacity or disability due to immoral or vicious habits;
 8. Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws;
 9. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
 10. 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;
 11. Nepotism; and
 12. Disloyalty to the Republic of the Philippines and to the Filipino people.

- B. The following grave offenses shall be punishable by suspension of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense:
1. Less serious dishonesty;
 2. Oppression;
 3. Disgraceful and immoral conduct;
 4. Inefficiency and incompetence in the performance of official duties;
 5. Frequent unauthorized absences, or tardiness in reporting for duty, loafing from duty during regular office hours;
 6. Refusal to perform official duty;
 7. Gross Insubordination;
 8. Conduct prejudicial to the best interest of the service;
 9. Directly or indirectly having financial and material interest in any transaction requiring the approval of his/her office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something;
 10. 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;
 11. 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 his/her private interests or give undue advantage to anyone, or to prejudice the public interest;
 12. 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
 13. 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 or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the function of his/her office.

- C. The grave offense of Inefficiency and Incompetence in the performance of official duties is punishable by Demotion. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the agency. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary grade.
- D. The following less grave offenses are punishable by suspension of one (1) month and one (1) day suspension to six (6) months for the first offense; and dismissal from the service for the second offense:
1. Simple Neglect of Duty;
 2. Simple Misconduct;
 3. Discourtesy in the course of official duties;
 4. Violation of existing Civil Service Law and rules of serious nature;
 5. Insubordination;
 6. Habitual Drunkenness;
 7. Unfair discrimination in rendering public service due to party affiliation or preference;
 8. Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households;
 9. Failure to resign from his/her position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself/herself of his/her shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises; Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself/herself of said interest within the periods hereinabove provided, reckoned from the date when the conflict of interest had arisen; and
 10. Engaging directly or indirectly in partisan political activities by one holding non-political office.
- E. The less grave offense of Simple Dishonesty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year for the second offense; and dismissal for the third offense.

F. The following light offenses are punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:

1. Simple discourtesy in the course of official duties;
2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
3. Violation of reasonable office rules and regulations;
4. Frequent unauthorized tardiness (Habitual Tardiness);
5. Gambling prohibited by law;
6. Refusal to render overtime service;
7. Disgraceful, immoral or dishonest conduct prior to entering the service;
8. Borrowing money by superior officers from subordinates;
9. Willful failure to pay just debts or willful failure to pay taxes due to the government;

The term "just debts" shall apply only to:

- a. Claims adjudicated by a court of law, or
 - b. Claims the existence and justness of which are admitted by the debtor.
10. Lobbying for personal interest or gain in legislative halls and offices without authority;
 11. 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;
 12. Failure to act promptly on letters and request within fifteen (15) working days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;

13. Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
14. 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;
15. 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
16. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

Section 47. *Penalty of Fine.* – The following are the guidelines for the penalty of fine:

1. Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow payment of fine in place of suspension if any of the following circumstances are present:
 - a. 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; or
 - b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and
 - c. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.
2. The payment of penalty of fine in lieu of suspension shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension from the service to one (1) day fine; Provided, that in Grave Offenses where the penalty imposed is six (6) months and one (1) day suspension in view of the presence of mitigating circumstance, the conversion

shall only apply to the suspension of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.

3. The maximum period to pay the fine shall not exceed one (1) year from the time the decision/resolution becomes final and executory. The conversion of suspension into fine is final and executory and, therefore, not subject of appeal or any other similar relief.
4. 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 he/she has already paid.
5. Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:
 - a. Fine equivalent to one (1) month salary shall be paid within two (2) months;
 - b. Fine equivalent to two (2) months salary shall be paid within four (4) months;
 - c. Fine equivalent to three (3) months salary shall be paid within six (6) months;
 - d. Fine equivalent to four (4) months salary shall be paid within eight (8) months;
 - e. Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
 - f. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.
6. 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.

Section 48. *Mitigating and Aggravating Circumstances.* – In the determination of the penalties to be imposed, mitigating and/ or aggravating circumstances attendant to the commission of the offense shall be considered.

The following circumstances shall be appreciated:

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

In the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances will not be considered in the imposition of the proper penalty. The disciplining authority, however, in the interest of substantial justice may take and consider these circumstances *motu proprio*.

Section 49. Manner of Imposition. – When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below:

- a. The **minimum** of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present.
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.
- d. Where aggravating and mitigating circumstances are present, paragraph [a] shall be applied where there are more mitigating circumstances present; paragraph [b] shall be applied when the circumstances equally offset each other; and paragraph [c] shall be applied when there are more aggravating circumstances.

Section 50. *Penalty for the Most Serious Offense.* – If the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

Section 51. *Duration and effect of administrative penalties.* – The following rules shall govern the imposition of administrative penalties:

- a. The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability.
- b. The penalty of demotion shall entail appointment to the next lower position to which respondent is qualified or diminution of salary to next lower grade if there is no such position available.
- c. The penalty of suspension shall result in the temporary cessation of work for a period not exceeding one (1) year.

Suspension of one day or more shall be considered a gap in the continuity of service. During the period of suspension, respondent shall not be entitled to all monetary benefits including leave credits.

- d. The penalty of fine shall be in an amount not exceeding six (6) months salary of respondent. The computation thereof shall be based on the salary rate of the respondent when the decision becomes final and executory. Fines shall be paid within a period not exceeding one (1) year reckoned also from the date when decision becomes final and executory.
- e. The penalty of reprimand shall not carry with it any accessory penalty nor result in the temporary cessation of work. In the event the penalty of reprimand was imposed on appeal as a result of modification of the penalty of suspension or dismissal from service, the respondent shall be entitled to the payment of back salaries and other benefits which would have accrued during the period of his/her suspension or dismissal.

Section 52. *Administrative Disabilities Inherent in Certain Penalties.* –

- a. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of retirement benefits, perpetual disqualification from holding public office and bar from taking civil service examinations.

- b. The penalty of demotion shall carry with it disqualification from promotion for one (1) year.
- c. The penalty of suspension shall carry with it disqualification from promotion corresponding to the period of suspension.
- d. The penalty of fine shall carry with it disqualification from promotion for the same period he/she was fined.
- e. The accessory penalties inherent in the penalty of suspension provided in Section 51 (c) of the Rules shall continue to apply when the penalty of fine is imposed in lieu of suspension.

Should the respondent fail to pay in full the fine within the prescribed period, he/she shall be deemed to have failed to serve the penalty imposed, hence, the disqualification for promotion shall remain in effect until such time that the fine is fully paid.

- f. The penalty of reprimand shall not carry with it any accessory penalties.
- g. A warning or admonition shall not be considered a penalty.

Section 53. *Effects of Exoneration on Certain Penalties.* –

- a. In case the penalty imposed is a fine, the same shall be refunded.
- b. In case there is demotion, he/she shall be restored to his/her former position, without loss of seniority rights. Respondent shall also be entitled to the payment of salary differentials during the period the demotion was imposed.
- c. In case the penalty imposed is suspension, he/she shall immediately be reinstated to his/her former post without loss of seniority rights and with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally suspended.
- d. In case the penalty imposed is dismissal, he/she shall immediately be reinstated without loss of seniority rights with payment of back salaries and all benefits which would have accrued as if he/she has not been illegally dismissed.

- e. The respondent who is exonerated by final judgment shall be entitled to the leave credits for the period he/she had been out of the service.

REMEDIES

Rule 11

SETTLEMENT IN ADMINISTRATIVE CASES

Section 54. *Who may avail.* – In cases of light offenses where the act is purely personal on the part of the private complainant and the person complained of and there is no apparent injury committed to the government, settlement of offenses may be considered. Provided that settlement can no longer be applied for the second offense of the same act committed by the person complained of.

Section 55. *Guidelines.* – The following are the guidelines in the settlement of purely personal matters in administrative cases:

- a. Compromise settlement shall be allowed only for administrative light offenses where the act is purely personal between the private complainant and the person complained of and there is no apparent injury to the government;
- b. Upon filing of the complaint, the disciplining authority shall determine whether the offense is purely personal or can be the subject of settlement;

The following cases may be the subject of settlement and/or compromise:

1. Borrowing money by superior officers from subordinates;
2. Willful failure to pay just debts;
3. Simple Misconduct resulting from misunderstanding/fight between respondent and complainant provided that the act is not committed within office premises;
4. Discourtesy in the course of official duties; and
5. Other analogous circumstances/cases.

In these enumerated cases, compromise or settlement can no longer be applied for the second time the same act is committed;

The grant of back salaries and other benefits may likewise be subject of settlement and/or compromise;

- c. If the offense can be the subject of settlement, the Action Officer assigned shall order the respondent to comment and to indicate therein whether he/she is willing to submit the case for settlement;
- d. If person complained of opted for settlement, the Action Officer assigned shall issue an order requiring the appearance of parties;
- e. If settlement succeeds, a compromise agreement shall be executed between the parties and attested by the Action Officer;
- f. The compromise agreement shall be binding on the parties and shall be considered a decision on the merits which cannot be impugned unless it is shown that there was duress on its execution on any of the parties;
- g. A Decision shall be issued by the Disciplining Authority based on the Compromise Agreement;
- h. If during the settlement process, the parties failed to settle their differences, the Action Officer shall issue an order terminating the process and continue with the investigation of the case; and
- j. In case of non-compliance with the compromise agreement, the case may likewise be reopened for investigation until the final determination of the case.

MOTION FOR RECONSIDERATION IN DISCIPLINARY CASES

Section 56. *Filing.* – The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof. A motion for extension of time to file a motion for reconsideration is not allowed.

Section 57. *When deemed filed.* – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 58. Grounds. – The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 59. Limitation. – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of the first motion for reconsideration.

Section 60. Effect of Filing. – The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

Rule 12

APPEAL IN DISCIPLINARY CASES

Section 61. Filing. – Subject to Section 45 of this Rules, decisions of heads of departments, agencies, provinces, cities, municipalities and other instrumentalities imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Commission within a period of fifteen (15) days from receipt thereof. In cases the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department head and then finally to the Commission.

All decisions of heads of agencies are immediately executory pending appeal before the Commission. The decision imposing the penalty of dismissal by disciplining authorities in departments is not immediately executory unless confirmed by the Secretary concerned. However, the Commission may take cognizance of the appeal pending confirmation of its execution by the Secretary.

Section 62. When deemed filed. – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 63. Appeal Fee. – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 64. Perfection of an Appeal. – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the disciplining authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the disciplining office;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of not more than ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refileing.

Section 65. Effect of Filing. – Except for cases requiring confirmation of the Department Secretary concerned and cases decided by the CSCROs, an appeal shall not stop the decision from being executory.

Section 66. When to Remand an Appealed Case to Agency of Origin. – If on appeal, the Commission finds that the disciplining authority violated respondent-appellant's right to due process such as the failure to issue a formal charge, the Commission shall dismiss the appealed case and order the immediate reinstatement of the respondent with payment of back salaries and other benefits. However, the dismissal of the case shall be without prejudice on the part of the disciplining authority to re-file it in accordance with law.

If a formal charge has been issued but the disciplining authority has violated respondent-appellant's right to procedural due process, the Commission shall remand the appealed case to the agency of origin for further proceedings to be conducted within three (3) calendar months from the date of receipt of the case records, unless there is delay due to the fault, negligence or petition of the respondent, or an extension is granted by the Commission on meritorious grounds. The period of delay shall be excluded in the computation of the prescribed period. Within fifteen (15) days from the termination of the proceedings, the disciplining authority shall render his/her decision.

If at the end of the three (3) month period, the disciplining authority failed to conduct further proceedings, the Commission upon motion of the respondent-appellant shall vacate and set aside the appealed decision and declare the respondent-appellant exonerated of the charge/s. If the respondent-appellant is under preventive suspension, he/she shall be immediately reinstated and shall be entitled to back salaries and other benefits.

The Commission shall evaluate requests for extension of the three (3)-month period and may grant the same on meritorious grounds guided by the principles of justice and fair play. All requests for extension shall not be for more than twenty (20) days.

For this purpose, the CSCRO Directors concerned shall monitor the implementation of the CSC Resolution remanding the case to the agency of origin and to submit a report to the Commission Proper.

Rule 13

PETITION FOR REVIEW

Section 67. *Petition for Review of CSCRO Decisions.* – A party may elevate the decision of the Civil Service Commission Regional Office dismissing the complaint for lack of a *prima facie* case or where the formal charge issued was for a lower offense, through a petition for review before the Commission within fifteen (15) days from receipt of said decision.

Section 68. For the purpose of this Rule, all appeals from the decisions of the Civil Service Commission Regional Offices to the Commission shall be denominated as a Petition for Review.

Section 69. *Petition for Review of Decisions of Agencies.* – A decision of an agency head dismissing a complaint for lack of *prima facie* case or issuance of a formal charge for a lower offense is not subject to appeal or petition for review before the Commission.

Section 70. *Petition for Review with the Court of Appeals.* – A party may elevate a decision of the Commission before the Court of Appeals by way of a petition for review under Rule 43 of the 1997 Revised Rules of Court.

Rule 14

REMOVAL OF ADMINISTRATIVE PENALTIES OR DISABILITIES

Section 71. *Recommendation for Removal of Administrative Penalties or Disabilities; Requirements.* – In meritorious cases and upon recommendation of the Commission, the President may commute or remove administrative penalties or disabilities imposed upon officers or employees in disciplinary cases, subject to such terms and conditions as he/she may impose in the interest of the service.

Subject to existing guidelines, a petition for a favorable recommendation for the grant of removal of administrative penalties or disabilities may be filed by a dismissed or disciplined employee with the Commission upon submission of the following:

- a. certified true copy of the decision in the disciplinary case;
- b. favorable recommendation by the disciplining authority or head of office from which he/she was dismissed;
- c. certification from reputable members of the community where he/she resides that he/she is a good parent/family member and/or neighbor, law abiding and active member of community and civic organizations;
- d. proof of non-pendency of an appeal/petition for review relative to his/her disciplinary case before any court/tribunal; and
- e. proof of payment of filing fee.

Section 72. The following are the guidelines for the grant of favorable recommendation for the removal of administrative penalties or disabilities:

- a. Apart from compliance with the procedural requirements, the petitioner must demonstrate through specific and positive action and behavior that he/she has become a useful member of the community. Affidavits from respectable persons in the community attesting that the petitioner is a law-abiding citizen, an active member of the community and civic organizations, a good person and neighbor, and one who has the respect of the members of the community, shall be presented;
- b. A minimum of three (3) years should have lapsed, from the time of the finality of the decision dismissing the petitioner from the service, in order that the petitioner may be considered as to have truly undergone moral reformation;
- c. The petitioner seeking the removal of administrative penalties or disabilities must have recognized/accepted his/her guilt in his/her petition to show that he/she is repentant/remorseful of the consequences of his/her act, in addition to the above-mentioned requirements;
- d. Non-admission or acceptance of guilt by the petitioner will not be required when he/she has been acquitted in the criminal case which has been decided on the merits and in effect declared the innocence of the petitioner;
- e. In cases where a petitioner is above sixty-five (65) years of age, the Commission shall favorably recommend the removal of his/her administrative penalties or disabilities, provided that he/she complies with the procedural requirements and submits proof of moral reformation; and
- f. In cases where the person is found guilty of depriving the government of money or property, restitution shall be required before the Commission can favorably recommend the removal of administrative penalties or disabilities.

CONTEMPT OF THE COMMISSION

Rule 15

PROCEDURE FOR CONTEMPT

Section 73. *Contumacious/Contemptuous Acts Punishable.* – An official or employee or any person found guilty of, disobedience of or resistance to a lawful writ, process, order, decision, resolution, ruling, summons, subpoena, command or injunction of the Commission may be punished for indirect contempt.

Section 74. *How proceedings are commenced.* – Proceedings for indirect contempt may be initiated *motu proprio* by the Commission by an order requiring the respondent to show cause why he/she should not be punished for indirect contempt. A motion to cite for indirect contempt may also be filed with the Commission. In both cases proceedings shall be conducted at the Office for Legal Affairs, Civil Service Commission.

The conduct of proceedings in indirect contempt cases shall follow as far as applicable, the procedure required in the conduct of disciplinary investigation provided under this Rules, inclusive of, among others the conduct of Preliminary Investigation, Issuance of Formal Charge, Formal Investigation and Rendition of Decision.

Section 75. *Hearing.* – Upon the day set for the hearing, the Commission shall proceed to investigate the charge and consider such comment, answer, defense or testimony as the respondent may make or offer. Failure to attend the scheduled hearing and to give a satisfactory explanation in writing to the Commission will result in the waiver of the respondent to be present during the hearing.

Section 76. *Punishment, if found guilty.* – If the respondent is adjudged guilty of indirect contempt committed against the Commission, he/she may be punished by a fine of One Thousand (P1,000.00) Pesos per day for every act of indirect contempt. Each day of defiance of, or disobedience to, or non-enforcement of a final order, resolution, decision, ruling, injunction or processes, shall constitute an indirect contempt of the Commission. If the contempt consists in the violation of an injunction or omission to do an act which is still within the power of the respondent to perform, the respondent shall, in addition, be made liable for all damages as a consequence thereof. The damages shall be measured by the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct, disobedience to, defiance of a lawful order, and/or such other contumacious acts or omissions of which the contempt is being prosecuted, and the costs of the proceedings, including payment of interest on damages.

NON-DISCIPLINARY CASES

Rule 16

INVALIDATION OR DISAPPROVAL OF APPOINTMENT

Section 77. *Invalidation or Disapproval; Who May Appeal.* – Either the appointing authority or the appointee may assail the invalidation or disapproval of an appointment.

Section 78. *Where and When to File.* – Appointments invalidated or disapproved by the CSCFO may be appealed to the CSCRO while those invalidated or disapproved by the CSCRO may be appealed to the Commission within the fifteen (15) day reglementary period.

To facilitate prompt actions on invalidated or disapproved appointments, motions for reconsideration filed with the CSCFO shall be treated as an appeal to the CSCRO and a Motion for Reconsideration at the CSCRO will be treated as an appeal to the Commission and all the records thereof including the comments of the CSCFO or CSCRO shall, within ten (10) days from receipt of the latter, be forwarded to the CSCRO or the Commission as the case may be.

The action of the CSCRO concerned may be appealed to the Commission within fifteen (15) days from receipt thereof.

The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Sections 113 and 114.

RULE 17

PROTEST

Section 79. *Protest; Who may File.* – Only a qualified next-in-rank employee may file a protest against an appointment made in favor of another who does not possess the minimum qualification requirements.

Section 80. *Where to File.* – A qualified next-in-rank employee shall have the right to appeal initially to the head of agency, then to the Civil Service Commission Regional Office , and then to the Civil Service Commission Proper.

Section 81. *When to File.* – Protest may be filed within fifteen (15) days from the announcement and/or posting of appointments subject of protest.

For this purpose, all appointments or promotions shall be duly announced and/or posted in bulletin boards or at conspicuous places in the Department or Agency within thirty (30) days from issuance of the appointments.

Section 82. *Effect on the Protested Appointment.* – A protest shall not render an appointment ineffective nor bar the approval thereof, by the Civil Service Commission Field, Regional Office or the Commission, as the case may be, but the approval shall be subject to the final outcome of the protest.

Section 83. *Effect of Withdrawal of Protest.* – A protest or an appeal in this case may be withdrawn at any time as a matter of right. The withdrawal of the protest or appeal shall terminate the protest case.

Section 84. *When Deemed Filed.* – A protest is deemed filed, in case the same is sent by registered mail, on the postmark date on the envelope which shall be attached to the records of the case, and in case of personal delivery, on the date stamped by the agency or the Commission.

Section 85. *Transmittal of Records.* – In cases where the protest is filed with the Commission, the head of department or agency shall forward his/her comment and the records of the case within ten (10) days from receipt of the copy of the protest. The records shall be systematically and chronologically arranged, paged and securely bound to prevent loss and shall include the following:

- a. Statement of duties or job description of the contested position;
- b. Duly accomplished and updated personal data sheets of the parties with certified statement of service records attached;
- c. Certified copy of the protested appointment; and
- d. Comparative assessment of the qualifications of the protestant and protestee.

Section 86. *Dismissal of Protest.* – A protest shall be dismissed on any of the following grounds:

- a. The protestant is not qualified next-in-rank;

- b. The protest is not directed against a particular protestee but to “anyone who is appointed to the position” or directed to two or more protestees;
- c. The protest is not in accordance with the required form as prescribed in this Rules;
- d. No appointment has been issued;
- e. The protest is filed outside of the 15-day reglementary period as provided in Section 81 hereof;
- f. Non-payment of the filing fee; or
- g. Non-submission of a certificate of non-forum shopping.

Section 87. Finality of Decision. – Decision on a protest case shall become final after fifteen (15) days from receipt thereof and no motion for reconsideration or appeal has been filed.

Section 88. Available Remedies. –

- a. The decision of the heads of agencies other than the Department Secretaries may be appealed to the CSCRO within fifteen (15) days, and finally to the Commission.

The decision of the Department Secretaries may be appealed within the same period to the Commission.

In cases where the protest is filed within the department or agency, the protestant may file a motion for reconsideration of the adverse decision, ruling or action within fifteen (15) days from receipt with the same agency.

- b. In cases where the appeal is filed with the CSCRO, a motion for reconsideration may be filed with the same office within fifteen (15) days from the receipt of the adverse decision, and then to the Commission within the same period.

The protestant shall furnish a copy of his/her appeal to the head of agency concerned who shall submit his/her comment to the CSCRO within ten (10) days.

- c. The appeal filed before the CSCROs and the Commission shall comply with the requirements for the perfection of an appeal enumerated in Section 114.

Section 89. *Effect of Decision.* – In case the protest is finally decided against the protestee, the approval of his/her appointment shall be recalled and the appointment shall be considered disapproved. The protestee shall be reverted to his/her former position, if applicable.

Rule 18

CORRECTION OF PERSONAL INFORMATION IN THE RECORDS OF THE COMMISSION

Section 90. *When and Where to File**. – Requests for correction of personal information shall be filed before retirement or on meritorious grounds, one (1) year thereafter, with the CSCRO exercising jurisdiction, and which request shall be acted upon within fifteen (15) days from receipt. Copies of the Order or Resolution issued by the concerned CSCRO shall be submitted to the Integrated Records Management Office as the repository of all personnel records.

Section 91. *Required Documents.* – The following documents shall be submitted together with the request:

- a. Original Certificate of Live Birth duly authenticated by the Local Civil Registrar of the municipality or city where the birth was registered or recorded or the National Statistics Office, or in its absence, a court order;
- b. Personal Affidavit of Discrepancy;
- c. Affidavit of Two Disinterested Witnesses; and
- d. Photocopy of documents sought to be corrected.

A filing fee shall be paid and a receipt thereof shall be attached to the request together with a photocopy of the documents sought to be corrected.

**Refer to CSC Resolution No. 1400514 published in The Manila Times on May 27, 2014.*

Section 92. Supporting Documents. - When the submitted Certificate of Live Birth is issued on the basis of late registration, original or duly authenticated supporting documents must be submitted, in addition to the requirements enumerated in the immediately preceding section, to warrant the correction or change of information in the records of the Commission, to wit:

- a. Baptismal certificate, unless it has been lost or destroyed during a war, fire, natural calamity or any other fortuitous event, in which case, a certification issued by the proper church authority must be submitted. If the requesting party was not issued any baptismal certificate or was not baptized, an affidavit attesting to such fact must be submitted. In both cases, other authentic and reliable documents which show the information or data requested to be corrected must be also be submitted together with the request.
- b. Affidavits of Two (2) Disinterested Witnesses; and
- c. Other employment, personal or school records which support the entry reflected in the belatedly registered birth certificate and which entry is requested to be reflected in the records of the Commission as the true and correct entry.

Rule 19

DROPPING FROM THE ROLLS

Section 93. Grounds and Procedure for Dropping from the Rolls. – Officers and employees who are either habitually absent or have unsatisfactory or poor performance or have shown to be physically and mentally unfit to perform their duties may be dropped from the rolls subject to the following procedures:

- a. **Absence Without Approved Leave**
 1. An officer or employee who is continuously absent without official leave (AWOL) for at least thirty (30) working days shall be separated from the service or dropped from the rolls without prior notice. He/She shall, however, be informed of his/her separation not later than five (5) days from its effectivity which shall be sent to the address appearing on his/her 201 files or to his/her last known address;

2. If the number of unauthorized absences incurred is less than thirty (30) working days, a written Return-to-Work order shall be served on the official or employee at his/her last known address on record. Failure on his/her part to report to work within the period stated in the order shall be a valid ground to drop him/her from the rolls.
3. If it is clear under the obtaining circumstances that the official or employee concerned, has established a scheme to circumvent the rule by incurring substantial absences though less than thirty (30) working days, three (3) times in a semester, such that a pattern is already apparent, dropping from the rolls without notice may likewise be justified.

b. Unsatisfactory or Poor Performance

1. An official or employee who is given two (2) consecutive unsatisfactory ratings may be dropped from the rolls after due notice. Notice shall mean that the officer or employee concerned is informed in writing of his/her unsatisfactory performance for a semester and is sufficiently warned that a succeeding unsatisfactory performance shall warrant his/her separation from the service. Such notice shall be given not later than thirty (30) days from the end of the semester and shall contain sufficient information which shall enable the official or employee to prepare an explanation.
2. An official or employee, who for one evaluation period is rated poor in performance, may be dropped from the roles after due notice. Due notice shall mean that the officer or employee is informed in writing of the status of his/her performance not later than the fourth (4th) month of that rating period with sufficient warning that failure to improve his/her performance within the remaining period of the semester shall warrant his/her separation from the service. Such notice shall also contain sufficient information which shall enable the official or employee to prepare an explanation.

c. Physically Unfit

1. An officer or employee who is continuously absent for more than one (1) year by reason of illness may be declared

physically unfit to perform his/her duties and the head of office in exercise of his/her sound judgment may consequently drop him/her from the rolls.

2. An officer or employee who is intermittently absent by reason of illness for at least two hundred sixty (260) working days during a twenty four (24) – month period may also be declared physically unfit by the head of office.
3. An officer or employee who is behaving abnormally and manifests continuing mental disorder and incapacity to work as reported by his/her co-workers or immediate supervisor and confirmed by a competent physician, may likewise be dropped from the rolls.
4. For the purpose of the three (3) preceding paragraphs, notice shall be given to the officer or employee concerned containing a brief statement of the nature of his/her incapacity to work.

Section 94. *Written Notice; Who Signs.* – The written notice mentioned in the preceding paragraphs may be signed by the person exercising immediate supervision over the official or employee. However, the notice of separation shall be signed by the appropriate appointing authority or head of office.

Section 95. *Order of Separation; Immediately Executory.* – The order of separation is immediately executory pending appeal, unless the Commission, on meritorious grounds, directs otherwise.

Section 96. *Dropping From the Rolls; Non-Disciplinary in Nature.* – This mode of separation from the service for unauthorized absences or unsatisfactory or poor performance or physical or mental incapacity is non-disciplinary in nature and shall not result in the forfeiture of any benefit on the part of the official or employee or in disqualification from reemployment in the government.

Rule 20

EXTENSION OF SERVICE

Section 97. *Extension of Service. When Allowed.* – In meritorious cases, the Commission may allow the extension of service of a person who has reached the compulsory retirement age of sixty-five (65), for a period of six (6) months only

unless otherwise stated. Provided that, such extension may be for a maximum period of one (1) year for one who will complete the fifteen (15) years of service required under the GSIS Law.

Section 98. Request for Extension of Service. – A request for extension shall be made by the head of office and shall be filed with the Commission not later than three (3) months prior to date of the official/employee’s compulsory retirement.

The following documents shall be submitted to the Commission:

- a. Request for extension of service signed by the Head of Office, containing the justifications for the request;
- b. Certification that the employee subject of the request is still mentally and physically fit to perform the duties and functions of his/her position;
- c. Certified true copy of the employee’s Certificate of Live Birth;
- d. Service Record of the employee if the purpose of the extension is to complete the fifteen (15) year service requirement under the GSIS law; and
- e. Proof of payment of filing fee.

The only basis for Heads of Offices to allow an employee to continue rendering service after his/her 65th birthday is a Resolution of the Commission granting the request for extension. Absent such resolution, the salaries of the said employee shall be for the personal account of the responsible official.

Section 99. Effect of Grant of Extension of Service. – An employee on service extension shall be entitled to salaries, allowances and other remunerations, that are normally considered part and parcel of an employee’s compensation package, subject to the existing regulations on the grant thereof.

Rule 21

ACCREDITATION OF SERVICE

Section 100. Request for Accreditation of Service. – Officials and employees who rendered actual services pursuant to defective appointments or without any appointment except those who have already retired, may request the inclusion of said services in their official service record in the Commission.

Section 101. Documents to be Submitted. – In support of said request, the following documents shall be submitted to the CSC Regional Office:

- a. Updated service records prepared by the Personnel Officer/ Administrative Officer of the agency where the subject services sought to be recorded were rendered.

- b. The disapproved appointment subject of the accreditation of service and any of the following:
 1. Index of salary payments;
 2. Payroll;
 3. Vouchers;
 4. Copy of leave card;
 5. Daily Time Records or Bundy Cards;
 6. Copies of Payroll/Voucher on the payment of loyalty bonus/ overtime pay/ salary differentials;
 7. Income tax returns;
 8. Withholding tax receipts;
 9. GSIS insurance policy; or
 10. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG fund, GSIS or other institutions, or remittance records of salary/ multipurpose loan deduction, subject to verification with said institution.

- c. In the absence of the appointment subject of the accreditation of service, the following documents should be submitted in support of the request:
 1. Updated service record;
 2. Index of salary payments; and any of the following:
 - 2.1. Payroll or voucher;
 - 2.2. Copy of leave card;
 - 2.3. Daily Time Records or Bundy Cards;
 - 2.4. Copies of Payroll/Voucher on the payment of loyalty bonus/overtime pay/ salary differentials;
 - 2.5. Income tax returns;
 - 2.6. Withholding tax receipts;
 - 2.7. GSIS insurance policy; or
 - 2.8. Remittance records of contributions made either by the employees or by the employer to the PAG-IBIG

fund, GSIS or other institutions, or remittance records of salary/multipurpose loan deduction, subject to verification with said institution.

- d. An Affidavit or Certification alone issued by the Personnel Officer/Administrative Officer and the Head of the Agency that the employee concerned was employed in said agency during the period subject of the accreditation will not be sufficient to prove the rendition of services, but the same may be considered as a supporting document to corroborate any of the requirements submitted by the employee in any request for accreditation of service.

Rule 22

REQUEST TO DECLARE POSITION AS NON -CAREER/CAREER

Section 102. *Request to Declare Position as Non-Career.* – All requests to declare position as non-career shall be made by the head of the agency. No declaration shall be allowed except when the subject position is actually vacant and it is sufficiently shown that the position is primarily confidential in nature despite its initial classification as a career position.

Section 103. *Documents to be Submitted.* – In requests of this nature, the head of the agency shall submit the following documents:

- a. Letter-request signed by the head of the agency;
- b. Position Description Forms of the position/s subject of the request;
- c. Copy of the Plantilla of Positions of the agency;
- d. Certification of the head of the agency that the position/s subject of the request are actually vacant;
- e. Copy of the agency’s organizational chart; and
- f. Proof of payment of filing fee.

Section 104. *Guidelines for Conversion of Positions from Non-Career to Career.* – Requests for conversion of positions from non-career to career shall be made by the head of the agency. Incumbents of converted non-career to career can be appointed to said positions only if they are qualified and such fact should be specified in the CSC Resolution itself.

The ‘vested right’ principle should not be applied when positions are converted from non-career to career since it is contrary to the merit and fitness principle.

In request for conversion of positions from non-career to career, all documents enumerated in Section 103 hereof shall be submitted except for the certification that the position/s subject of the request is actually vacant.

Rule 23

REMEDIES IN NON-DISCIPLINARY CASES

Section 105. *Filing of a Motion for Reconsideration.* – Motion for reconsideration may be filed on appeals dismissed by the Commission.

Section 106. *When deemed filed.* – A motion for reconsideration sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 107. *Grounds.* – The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 108. *Limitation.* – Only one motion for reconsideration shall be entertained. If a second motion for reconsideration is filed notwithstanding its proscription under this Rules, the finality of action shall be reckoned from the denial of first motion for reconsideration.

Section 109. *Appeal from Invalidation of Appointments and Protest.* – The appeal from invalidation of appointments and protest shall be subject to the rules stated in Rule 16 and Rule 17.

Section 110. *Appeal from Decisions on Other Personnel Actions.* – Other personnel actions, such as, but not limited to, separation from the service due to unsatisfactory conduct or want of capacity during probationary period, dropping from the rolls due to Absence Without Official Leave (AWOL), physical and mental unfitness, and unsatisfactory poor performance, protest, action on appointments, reassignment, transfer, reappointment, detail, secondment, demotion, or termination of services, may be brought to the CSCRO, by way of an appeal.

Section 111. *When and Where to File.* – A decision or ruling of an agency head may be appealed within fifteen (15) days from receipt thereof by the party adversely affected to the CSCRO and finally, to the Commission within the same period.

However, if the decision is made by the Department Secretary, the same shall be appealable to the Commission within fifteen (15) days from receipt thereof.

A motion for reconsideration may be filed with the same office which rendered the decision or ruling within fifteen (15) days from receipt thereof.

Section 112. *When deemed filed.* – An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the proper office.

Section 113. *Appeal Fee.* – The appellant shall pay an appeal fee and a copy of the official receipt thereof shall be attached to the appeal.

Section 114. *Perfection of an Appeal.* – To perfect an appeal, the appellant shall submit three (3) copies of the following documents:

- a. Appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence. The appeal memorandum shall be filed with the appellate authority, copy furnished the appointing authority. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days from receipt, to the appellate authority.
- b. Proof of service of a copy of the appeal memorandum to the appointing authority;
- c. Proof of payment of the appeal fee; and
- d. A statement or certificate of non-forum shopping.

When an appellant fails to comply with any of the above requirements within the reglementary period, the Commission shall direct compliance within a period of ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refiling.

Section 115. *Effect of Decision.* – Where the Commission, on appeal, sets aside, modifies or reverses the decision whereby an employee was dropped from the rolls, he/she shall be reinstated immediately to his/her former post with payment of back salaries and other monetary benefits.

In case of illegal termination, the employee shall be reinstated with payment of back salaries. In case of disapproval, invalidation, recall and revocation of appointments, the appointee shall be restored to his/her former position without loss of seniority rights.

In case of reassignment, transfer, detail, or secondment, he/she shall be restored to his/her former position.

In case of demotion in rank, salary or status, he/she shall be restored to his/her former rank, salary, and status.

MISCELLANEOUS PROVISIONS

Rule 24

FEES AND OTHER MATTERS

Section 116. *Schedule of Fees.* – The following is the schedule of filing fees subject to revision when the need arises:

- | | | |
|----|--|-------------------------------|
| a. | Complaint | P500.00 |
| b. | Petition for Contempt | P500.00 |
| c. | Protest (Initial) | P500.00/pleading |
| d. | Appeal (Disciplinary/Non-Disciplinary) | P500.00/pleading |
| e. | Appeal from Disapproved Appointments | P500.00/for each
appointee |
| f. | Petition for Review of Administrative Cases | P500.00 |
| g. | Request for Recommendation
For Removal of Administrative Penalties or
Disabilities | P500.00/petitioner |

h.	Correction of Personal Information in CSC Records	P500.00
i.	Request for Extension of Service	P500.00
j.	Conversion of Positions	P300.00/ position
k.	Accreditation of Service	P500.00
l.	Clearance for No Pending Administrative Case	P100.00
m.	Certified True Copies of CSC Resolutions/ Authenticated Copies of Documents / Records	P10.00/page

Section 117. *Deputation by CSC of other lawyers.* – The Commission may deputize lawyers of other agencies and similar officials to conduct preliminary and formal investigation and to make the necessary report and recommendation within the period specified in Sections 17 and 43.

Section 118. *Execution of CSCRO Decisions.* – The decisions of the CSCROs shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration or an appeal with the Commission is seasonably filed, in which case the execution of the decision shall be held in abeyance.

Section 119. *Execution of the Decisions of the Commission.* – The decisions of the Commission shall be immediately executory after fifteen (15) days from receipt thereof, unless a motion for reconsideration is seasonably filed, in which case the execution of the decision shall be held in abeyance.

For this purpose, the CSCROs shall monitor and assist in the effective and immediate implementation of these decisions.

Section 120. *Effect of Pendency of Petition for Review/Certiorari with the Court.* – The filing and pendency of a petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the decision of the Commission unless the Court issues a restraining order or an injunction.

Section 121. *Non-execution of Decision.* – Any officer or employee who wilfully refuses or fails to implement the final resolution, decision, order or ruling of the Commission to the prejudice of the public service and the affected party,

may be cited in indirect contempt of the Commission and may be administratively charged with Conduct Prejudicial to the Best Interest of the Service or Neglect of Duty or be held criminally liable under Section 67 of Book V, of Executive Order No. 292 otherwise known as the Administrative Code of 1987.

Section 122. Computation of Period. – In computing any period of time prescribed by this Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday or a special non-working day, in which case the period shall run until the end of the next working day which is neither a Saturday, a Sunday nor a legal holiday.

Copies of decisions and other communications shall be served on the counsel of record if one is represented by a counsel, if he/she has none, the same shall be served to the party concerned. The period to perfect a motion for reconsideration or an appeal shall be reckoned from the date of receipt of counsel or party, as the case may be.

***Section 123. Service of Order and service of processes through private couriers.** – (a) There shall be presumptive service to a party of a Commission's Notice or Order on any of the following instances:

“1. In cases under formal investigation, if such Notice or Order appears on the record to have been mailed at least twenty (20) days prior to the scheduled date of hearing if the addressee is from within the National Capital Region, or at least thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

“In cases before the Civil Service Commission Regional Offices, if such Notice or Order appears on the record to have been mailed at least twenty (20) days prior to the scheduled date of hearing if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or at least thirty (30) days if the addressee is from outside the geographical area.

“2. In cases where an Order was issued directing a party(ies) either to comply with the requirements to perfect their action; comment/ answer on a pending action and/or transmit case records; file their respective position papers; and other analogous matters, after twenty (20) days from date of mailing, as appearing on the record

**Refer to CSC Resolution No. 1301598 published in The Manila Times on August 29, 2013*

if the addressee is from within the National Capital Region, or after thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

In cases before the Civil Service Commission Regional Offices, after twenty (20) days from date of mailing, as appearing on the record if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or after thirty (30) days if the addressee is from outside the geographical area.

“In the case of Notices or Orders mentioned in Item No. 2 hereof, after the lapse of a period of thirty (30) days from the date of the mailing as appearing on the record of the case without receipt of any compliance from the concerned party, the Commission shall proceed to act upon such case accordingly. On the other hand, if there is compliance received on an earlier period, the Commission shall proceed to act upon such case as of the date of receipt of compliance.

“(b) A party, in order to ensure timely service, may opt to avail of private couriers for the service of pleadings, motions and other submissions. Proof of service in such case shall either be a sworn certification or affidavit of service from the courier specifically referring to the date of service and the corresponding tracking number for the mail matter.

“Section 124. Reconsideration from the Commission’s action based on presumptive notice. – In the event that the Commission renders an action, decision or resolution based on presumptive notice to a party, said party may move for reconsideration thereof within fifteen (15) days from notice, subject to the following requirements:

- “1. In cases under Item 1 of the preceding section, by showing proof of actual receipt of Notice or Order which falls on a date after the scheduled hearing, together with a request for a setting and giving two (2) dates as options identified by the party in his/her motion, which shall, in no case be set later than two (2) weeks from the date of filing of the motion for reconsideration, copy furnished the opposing party.
- “2. In cases under Item II of the preceding section, by showing proof of actual receipt of Notice or Order which falls on a date after the lapse of twenty (20) days from the date of mailing as appearing in the case record if the addressee is from within the National Capital Region,

or after thirty (30) days if the addressee is from outside the National Capital Region, for cases before the Commission Proper.

“In cases before the Civil Service Commission Regional Offices, by showing proof of actual receipt of Notice or Order which falls on a date after the lapse of twenty (20) days from the date of mailing as appearing in the case record if the addressee is from within the geographical area of the Regional Office which exercises jurisdiction, or after thirty (30) days if the addressee is from outside the geographical area.

“In both instances, the movant shall likewise include any other arguments in support of his/her motion, together with the compliance with the Notice or Order, copy furnished the opposing party.”

Section 125. Effectivity. – This Rules shall take effect after fifteen (15) days from date of publication in a newspaper of general circulation.

Section 126. Repealing Clause. – The Uniform Rules on Administrative Cases in the Civil Service as prescribed in CSC Resolution No. 99-1936 dated August 31, 1999 and circularized through CSC Memorandum Circular No. 19, s. 1999, and all other memorandum circulars, resolutions, rules or regulations inconsistent with this Rules are hereby repealed or modified accordingly.

Quezon City.

(Sgd.) **FRANCISCO T. DUQUE III, MD, MSc**
Chairman

(Sgd.) **MARY ANN Z. FERNANDEZ-MENDOZA**
Commissioner

(Sgd.) **RASOL L. MITMUG**
Commissioner

Attested by:

(Sgd.) **DOLORES B. BONIFACIO**
Director IV
Commission Secretariat and Liaison Office

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