



Kaagapay ng Komunidad sa Maginhawang Pamumuhay



CERTIFICATION

This is to certify that the **AMENDED RULES OF PROCEDURE ON DISCIPLINARY AND ADMINISTRATIVE CASES IN SOCIAL HOUSING FINANCE CORPORATION** has been published on 31 March 2021 in the “The Manila Times” newspaper.

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AMENDED RULES OF PROCEDURE ON DISCIPLINARY AND ADMINISTRATIVE CASES IN SOCIAL HOUSING FINANCE CORPORATION

RULE 1

APPLICABILITY AND CONSTRUCTION

Section 1. Title. – This Rules shall be known and cited as the “Amended Rules of Procedure on Administrative Cases in Social Housing Finance Corporation” (Amended Rules).

Section 2. 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 3. Definition of Terms. – The terms hereunder shall be construed as follows:

- a. AKPF refers to the Abot Kaya Pabahay Program Fund of SHFC.
- b. CMP refers to the Community Mortgage Program of SHFC.
- c. CMP-M/ HDH partner refers to a partner Local Government Unit (LGU) or Non-governmental Organization (NGO) duly accredited by SHFC.
- d. COMPLAINANT refers to any person or juridical entity that files a complaint either through a letter or formal complaint to SHFC involving an employee or officer of SHFC.
- e. DEPARTMENT refers to any of the departments of SHFC.
- f. EMPLOYEE refers to regular and probationary rank and file employees of SHFC.

- g. 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.
- h. HDH refers to the High Density Housing Program of SHFC.
- i. OFFICER refers to regular or probationary officer of SHFC which includes the Chief of Division, Managers and Vice President.
- j. RESPONDENT refers to the person who is issued a subpoena by the Investigation and Enforcement Division (IED).
- k. SHFC refers to the Social Housing Finance Corporation.

RULE 2

JURISDICTION, COMPOSITION AND POWERS

Section 4. Jurisdiction. –

- a. The Investigation and Enforcement Division (IED) of SHFC shall exercise jurisdiction over the following:
 - i. complaints in the nature of Grievance/Request for Assistance seeking redress or relief concerning an act or omission of SHFC rank and file and managerial employees including the Officer-in-Charge (OIC) Vice Presidents which do not amount to administrative offenses;
 - ii. motu proprio administrative complaints, or administrative complaints filed by any person or juridical entity involving the rank and file and managerial employees including the Officer-in-Charge (OIC) Vice Presidents of SHFC; and
 - iii. complaints against CMP-M/HDH Partner for violations and offenses committed by the CMP-M/HDH Partner as embodied in the existing SHFC Guidelines governing the accreditation of CMP-M / HDH Partner.
- b. The appropriate Board of Directors Committee shall exercise jurisdiction over the administrative complaints filed by any person or juridical entity involving the Compliance Officer, Board Secretary, Head of the Internal Audit, Vice Presidents, Senior Vice Presidents, Executive Vice President and President of SHFC;

The Board Committee shall issue its own rules of procedure in hearing the administrative complaint against the officers under its jurisdiction.

Section 5. Powers. – The Investigation and Enforcement Division (IED) is empowered to:

- a. Adopt its own rules and procedures which includes but not limited to incorporating the pertinent provisions of the Ombudsman Rules of Procedure Administrative Order No.07 as amended by Administrative Order no. 17 and such other laws and procedures that IED deems necessary.
- b. To issue subpoena duces tecum and ad testificandum to both SHFC and non-SHFC employees and officers who are parties to the case; or to issue letters-of-invitations to third persons as resource person/s for the hearings;
- c. to make findings-or-fact and recommend administrative level solutions or sanctions or both;
- d. to conduct on-site ocular inspections relevant to the case involved; and
- e. to propose policy and operational remedial measures to the SHFC management;

Section 6. Subpoena, Letters of Invitation and Internal Request for Assistance – The IED may issue the following:

- a. Subpoena *duces tecum* or *ad testificandum* to both SHFC and non-SHFC employees and officers who are parties to the case;
- b. Letters-of-invitations to third persons as resource person/s for the hearings;
- c. any order or request for assistance, comment or clarification on any issue or matter related to the pending administrative case directed to the Departments or a particular officer or employee.

The Department or persons concerned shall prioritize the subpoena or request by the IED. Failure to comply within the reglementary period provided in the subpoena is a ground for disciplinary action.

RULE 3

PROCEDURE IN GRIEVANCE/REQUEST FOR ASSISTANCE

Section 7. Grievance or request for assistance; nature of. - A grievance or request for assistance may consist of a complaint or request seeking redress or relief concerning an act or omission of an officer or employee, alleged to be unreasonable, unfair, oppressive, discriminatory, improper or inefficient, and which does not necessarily amount to an administrative, civil or criminal offense.

Section 8. By whom handled. – Grievance or request for assistance shall be assigned to a lawyer of the IED who shall issue the summons, order and shall issue the appropriate recommendation with respect to the grievance matter.

Section 9. Action thereon – A grievance or request for assistance shall be acted upon by the hearing officer within reasonable time upon receipt.

a) Where the grievance or request for assistance appears to be manifestly frivolous, vexatious, or made in bad faith, or where it involves a matter purely between private parties, the same may be dismissed outright and the complainant/requesting party informed of the reasons for such dismissal;

b) Where the redress, relief or assistance sought may be acted upon by another government agency, the same may be referred to the office concerned.

c) In all other cases which the IED may take cognizance of the procedure in the following section shall be observed.

Section 10. Procedure –

a) If the grievance or request is relatively simple and/or requires immediate action, the same may be acted upon by telephone, electronic mail, videoconference or other means of communication or given personal attention by going to the office or department or employee concerned.

b) Whenever deemed necessary or advisable, a copy of the grievance or request for assistance, together with pertinent documents shall be sent to the office or department or employee concerned, copy furnished its head, if any, for the taking of immediate remedial action; or, if the relief requested may not be complied with, to submit a written explanation therefore.

c) If such explanation is found satisfactory, and/or appropriate action had already been taken on the grievance or request, the same shall be dismissed and the parties informed accordingly.

d) The hearing officer may arrange a conference between the complainant/requesting party, and the office department or employee concerned with a view to a satisfactory and expeditious resolution of the grievance/request.

e) Upon consideration of the facts or information gathered, a resolution on the grievance or request shall be made within fifteen (15) days of which the parties shall be notified and appropriate steps taken to ensure compliance herewith.

Section 11. Mediation proceedings.-

a) *Application and Interpretation.* – The provisions of this Rule shall apply in case mediation is proper as may deem necessary and appropriate by the hearing officer.

In applying and construing the provisions of this Rule, consideration must be given to the need to promote candor between the parties and the mediators through confidentiality of the mediation process, the policy of fostering prompt, economical, and amicable resolution of disputes in accordance with the principles of integrity of determination by the parties, and the policy that the decision-making authority in the mediation process rests with the parties.

The term “mediation” shall include conciliation.

b) *Mediation conference.*- In case the hearing officer determines that a mediation is necessary as warranted by the circumstances, the lawyer acting as mediator shall invite the parties to a mediation conference to explore the possibility of an amicable settlement.

In case the parties are not personally present, their representative or counsel shall be clothed with the proper special power of attorney or board resolution, as the case may be, to enter into a settlement.

Said mediation conference shall be terminated within thirty (30) days from the date of initial conference.

c) *Effect of non-appearance in mediation conference.*- Where a party fails or refuses to appear during the scheduled mediation, the party present may move for termination of mediation and continuation of the proceedings.

d) *Confidentiality of Information.*- Information obtained through mediation shall be subject to the following principles and guidelines:

- i.) Information obtained through mediation shall be privileged and confidential.
- ii.) A party, a mediator, or a non-party participant may refuse to disclose and prevent any other person from disclosing a mediation communication.
- iii.) Confidential information shall not be subject to discovery and shall be inadmissible in any adversarial proceeding whether judicial or quasi-judicial. However, evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its use in a mediation.
- iv.) In such adversarial proceeding, the following persons involved or previously involved in a mediation may not be compelled to disclose confidential information obtained during mediation: (1) the parties to the dispute; (2) the mediator or mediators; (3) the counsel of the parties; (4) the non-party participants; (5) any persons appointed as staff in connection with the mediation as secretary, stenographer, clerk or assistant; and (6) any other person who obtained or possesses confidential information by reason of his/her profession.

- v.) A mediator may not be called to testify to provide information gathered in mediation. A mediator who is wrongfully subpoenaed shall be reimbursed the full cost of his attorney's fees and related expenses.

e) *Waiver of Confidentiality.*- A privilege arising from the confidentiality of information may be waived in a record, or orally during a proceeding by the mediator/s and the mediation parties.

A privilege arising from the confidentiality of information may likewise be waived by a non-party participant if the information is provided by such non-party participant.

A person who discloses confidential information shall be precluded from asserting the privilege under Section 12 of this Rule to bar disclosure of the rest of the information necessary to a complete understanding of the previously disclosed information.

A person who discloses or makes representation about a mediation is precluded from asserting the privilege under Section 12, to the extent that the communication prejudices another person in the proceeding and it is necessary for the person prejudiced to respond to the representation disclosure.

f) *Exceptions to the Privilege.*-

- i.) There is no privilege against disclosure under Section 12, if mediation communication is:
- 1.) in an agreement evidenced by a record authenticated by all the parties to the agreement.
 - 2.) available to the public or that is made during a session of a mediation which is open, or is required by law to be open to the public;
 - 3.) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
 - 4.) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against mediator in a proceeding; or
 - 5.) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a party, non-party participant or representative of a party based on conduct occurring during mediation.
- ii.) A mediator may not be compelled to provide evidence of a mediation communication or testify in such proceeding.

g) *Compromise Agreement.*- If an amicable settlement is reached, a judgment shall be rendered based on the compromise agreement duly signed by the parties, or their duly authorized representatives.

RULE 4

PROCEDURE IN ADMINISTRATIVE CASES

Section 12. Administrative case, nature thereof- refers to case arising from a complaint filed by any person or juridical entity against any employee or officer of SHFC involving offenses in the immediately succeeding paragraph. It may also involve administrative cases filed and/or initiated by the IED motu proprio or referred by the Board of Directors or other departments of SHFC.

Section 13. Classification of Offenses and penalties. –An administrative complaint may be filed against employees and officers for the following offenses with corresponding penalties classified into grave, less grave or light, depending on the gravity or depravity and effects on the government service:

I. Grave Offenses

A. The following 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 SHFC. In case there is no such next lower position available, he/she shall suffer diminution in salary corresponding to the next lower salary grade.

II. Less Grave Offenses

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. Unfair discrimination in rendering public service due to party affiliation or preference;
5. 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
6. 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.

III. Light Offenses

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. Disgraceful, immoral or dishonest conduct prior to entering the service;
3. 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.
4. Lobbying for personal interest or gain in legislative halls and offices without authority;
5. 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;
6. 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 except upon justifiable reasons;
7. 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;

8. 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;
9. 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
10. Pursuit of private business, vocation or profession without the permission from SHFC and/or that is in conflict with his/her duties and responsibilities with SHFC; or in conflict with the interest of SHFC.

However, for specific offenses punishable under an existing office order, the penalty provided therein shall prevail.

IV. Other offenses

G. Other offenses not cited in the foregoing but are grounds for administrative complaint before the Office of the Ombudsman which are:

1. contrary to law or regulations;
2. unreasonable, unfair, oppressive or discriminatory;
3. inconsistent with the general course of SHFC's functions through in accordance with law;
4. otherwise irregular, immoral or devoid of justification; and
5. such other grounds analogous to the foregoing.

The IED shall either prescribe the penalty or refer the matter to the Office of the Ombudsman for formal investigation.

Section 14. Who May Initiate. – Administrative proceedings may be initiated by the IED motu proprio or upon filing of a complaint filed by any person or juridical entity.

Section 15. Requisites of a Valid Complaint. – For non-motu proprio cases, no complaint against an employee or officer shall be given due course unless the same is in writing, subscribed and sworn to by the complainant.

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.

Section 16. 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. copies of documentary evidence and affidavits of his/ her witnesses, if any; and

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

Section 17. When and Where to File a Complaint. – An administrative complaint may be filed at any time with the IED.

Section 18. Evaluation – Upon receipt of the complaint by the assigned hearing officer for complaints under the jurisdiction of the IED, the complaint shall be evaluated to determine whether the same may be dismissed outright for any of the grounds stated hereunder namely the:

- a. complainant has an adequate remedy in another judicial or quasi-judicial body;
- b. Complaint pertains to a matter outside the jurisdiction of the IED;
- c. Complaint is trivial, frivolous, vexatious or made in bad faith; or
- d. Complainant has no sufficient personal interest in the subject matter of the grievance;

Section 19. 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 20. Action on the Complaint. – Upon receipt of a complaint which is sufficient in form and substance, the hearing officer shall issue a Subpoena indicating that a complaint was filed against the Respondent, accompanied by a copy of the complaint /fact finding report and documentary evidence, if any. It shall also contain a directive to file an answer to the complaint /requiring the person/s complained of to submit a Counter-Affidavit/Comment under oath within ten (10) days from receipt of the subpoena.

Section 21. Reply – The complainant may file Reply-Affidavits within ten (10) days from receipt of the of the respondent. The respondent shall be furnished with a copy of the Reply. For the case initiated by the IED or the Compliance Officer, submission of the Reply is not necessary.

Section 22. Rejoinder- The Respondent may submit a Rejoinder within ten (10) days from receipt of the Reply of the Complainant. The complainant shall be furnished with a copy of the rejoinder.

Section 23. Actions on the basis of affidavits - If, on the basis of the affidavits and other evidence submitted by the parties, the hearing officer finds no sufficient cause to warrant further proceedings, the complaint may be dismissed. However, in the event that a probable cause exists as shown in the affidavits submitted, the hearing officer shall submit a resolution and Formal Charge; and recommend the case for further proceedings before the Enforcement Committee.

Section 24. Prohibited Pleadings. - The hearing officer 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 a responsive pleading and shall be evaluated as such.

RULE 5

PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE

Section 25. Submission of Position Paper/Memorandum. The Parties shall submit a Position Paper depending on the nature of the administrative case as follows:

- a. When the penalty for the act complained of is not dismissal from employment for employees or not disaccreditation for CMP-P/HDH Partners, administrative hearings shall not be conducted. The parties shall submit position paper/memorandum within fifteen (15) days from receipt of the Order of the Enforcement Committee requiring for their submission. Thereafter, the case will be submitted for resolution.
- b. An administrative hearing shall be conducted by the Enforcement Committee when the IED hearing officer finds a probable cause in the complaint filed pursuant to Section 23 and the penalty for the act complained of is dismissal from employment or disaccreditation for CMP-P/HDH Partners.

Nevertheless, for cases with a penalty for dismissal of employees or disaccreditation of CMP-M/HDH-Partners, the parties may, based on their mutual consent and agreement during the preliminary conference, elect to submit a position paper/memorandum to the Enforcement Committee and thereafter submit the case for resolution without any need of formal administrative hearings.

Section 26. Formal Administrative Hearing – In the event that the parties in Section 25 (b) above did not elect the submission of the position paper, the parties shall be notified at least five (5) days from the date of the administrative hearing.

Section 27. Preliminary Conference- In case Enforcement Committee continues with the proceedings, it shall summon the parties to a preliminary conference to consider whether:

- a. the parties desire a formal administrative hearing; or
- b. the parties are willing to submit position paper /memoranda and submit the case for resolution on the basis of the evidence on record and such other evidence they present at such conference;

In the event that the parties chose (a) above, the parties shall 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 preliminary hearing conference is binding on both parties unless in the interest of justice, the Enforcement Committee 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 28. Continuous Hearing Until Terminated; Postponement. – Hearings shall be conducted on the hearing dates set by the Enforcement Committee 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 29. Preliminary Matters, Administrative Hearing. – At the start of the administrative hearing, the Enforcement Committee 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, the parties appear 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 Enforcement Committee 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 30. Appearance of Counsel. – Any counsel who is a member of the Bar appearing before the 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 31. Representation – For cases initiated or referred to the IED, the hearing officer or any lawyer from the IED shall present the evidence against the Respondent before the Enforcement Committee. For complainants filed by a third party, the complainants or their counsel shall present his/her evidence during the administrative hearing before the Enforcement Committee.

Section 32. Order of Hearing. – Unless the Enforcement Committee directs otherwise, the order of hearing may be as follows:

- a. The complainant 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 subject to objections orally made during the hearing. After which, both parties may be given time to submit their respective memorandum which in no case shall be beyond fifteen (15) days after the termination of the investigation. Failure to submit the same within the given period shall be considered a waiver thereof.

Section 33. Objections. – All objections raised during the hearing shall be resolved by the Enforcement Committee.

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

Section 34. Markings. – All documentary evidence or exhibits shall be properly marked by letters (A,B,C, etc.) if presented by the complainant and by numbers (1,2,3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 35. Issuance of Subpoena. – The Enforcement Committee 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 36. Record of Proceedings. – Records of the proceedings during the formal investigation may be taken by any other means of recording.

Section 37. Filing of Pleadings. – All pleadings filed by the parties with the Enforcement Committee 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 38. 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 IED has issued a formal charge to the respondent and the case is referred to the Enforcement Committee.

Section 39. Resolution/ Decision. – Within thirty (30) days after the submission of the position paper in Section 25(a), or after the conclusion of the administrative hearing in Section 32, a resolution /decision containing a narration of the material facts established during the hearing, the findings and the evidence supporting said findings, shall be issued by the Enforcement Committee.

RULE 6

COMPLAINT AGAINST CMP-M/ HDH PARTNER

Section 40. Complaint against CMP-M/ HDH Registered Partner or Applicant. – The procedure and penalties contained in existing circulars and its implementing rules and regulations shall strictly be observed. In the absence thereof, this Rule shall apply suppletorily.

RULE 7

PREVENTIVE SUSPENSION

Section 41. 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 42. When Issued; Grounds. – Upon petition of the complainant or motu proprio, the IED may issue an order of preventive suspension upon service of the subpoena, to the respondent 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 Enforcement Committee or the Office of the President, may reassign the respondent to other unit of the agency during the formal administrative hearings.

Section 43. Duration of Preventive Suspension. – the IED or the Enforcement Committee may place the respondent under preventive suspension for a period not exceeding thirty (30) days. When the administrative case against is not finally decided within the thirty (30) days, the IED or the Enforcement Committee may extend the preventive suspension for another thirty (30) days. However, the respondent shall be automatically reinstated in the payroll during the extended period 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.

The maximum period of the preventive suspension including the extension thereof shall be sixty (60) days. There shall be no further extension of the preventive suspension.

Section 44. Payment of Back Salaries During Preventive Suspension. – The employee or officer shall be entitled to the payment of back salaries during the period of suspension in the following circumstances:

- a. During the extension of the preventive suspension for another thirty (30) days as provided in Section 43;
- b. After the final outcome of the case and 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.

Section 45. Preventive Suspension for Registered CMP-M/HDH Partner. - Once a letter request to explain or a Subpoena is issued, the said letter shall carry with it a notice to the concerned CMP-M that the same is being placed on preventive suspension for a period of sixty (60) calendar days (for minor offenses) or ninety (90) calendar days (for major offenses) depending on the gravity of the offense from receipt of the letter.

RULE 8

GUIDELINES ON THE APPLICATION OF THE PENALTIES

Section 46. 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 IED or the Enforcement Committee, however, in the interest of substantial justice may take and consider these circumstances motu proprio.

Section 47. 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 48. 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 49. 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.

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 50. Effects of Exoneration on Certain Penalties. –

a. 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.

b. 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.

RULE 9

DECISION

Section 51. When Case is Decided. – The Enforcement Committee shall decide the case within thirty (30) days from termination of the administrative hearing in Section 32 and submission of the position paper in Section 25(a).

Section 52. Finality of Decisions. – A decision rendered by the Enforcement Committee shall be final and executory unless a Motion for Reconsideration is filed.

RULE 10

MOTION FOR RECONSIDERATION

Section 53. Filing. – The party adversely affected by the decision may file a motion for reconsideration with the Enforcement Committee within fifteen (15) days from receipt thereof. A motion for extension of time to file a motion for reconsideration is not allowed.

Section 54. 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 55. 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 56. 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 57. 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. Upon denial of the motion for reconsideration by the Enforcement Committee, its decision shall become final and executory.

RULE 11

APPEAL

Section 58. Filing. – The party adversely affected by the decision may file a Memorandum of Appeal with the Board of Directors through the Office of the Board Secretary within fifteen (15) days from receipt of the denial of the Motion for Reconsideration by the Enforcement Committee. A motion for extension of time to file an appeal is not allowed.

Section 59. 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 60. Grounds. – The appeal shall only be based on fraud, accident, mistake, or excusable negligence which ordinary prudence could not have guarded against and by reason of which such adverse party has been impaired in his rights.

Section 61. Filing of Appeal Briefs- The Office of the Board Secretary shall refer the appeal to the appropriate Board of Directors Committee. The Board Committee shall Order the parties to file their respective Briefs within fifteen (15) days from receipt thereof.

Section 62. Decision on Appeal . The Board Committee shall decide the case within sixty (60) days from receipt of the Appeal Briefs of the respective parties.

Section 63. **Finality of Decisions.** – A decision rendered by the Board Committee shall be final, executory and not appealable. A Motion for Reconsideration is not allowed.

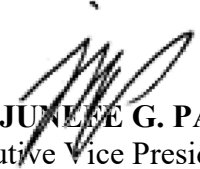
RULE 12 OTHER MATTERS

Section 64. Repealing Clause – These Amended Rules repeal the previous Oversight Committee Rules of Procedure and hereby amends the 2016 Rules of Procedure on Administrative Cases in SHFC. Any provision inconsistent with the foregoing provisions shall be deemed revoked or repealed.

Section 65. Effectivity. – These Amended Rules shall be effective fifteen (15) days after publication in a newspaper of general circulation and filing with the UP Law Center.

Approved By:


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ATTY. JUNLEE G. PAYOT
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Date.: 24 March 2021