


Republika ng Pilipinas
PAMBANSANG PANGASIWAAN NG PATUBIG
(National Irrigation Administration)
Lungsod ng Quezon

MC # 27, 2005

TO : DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS, DEPARTMENT MANAGERS, REGIONAL IRRIGATION /OPERATIONS/PROJECT MANAGERS, PROVINCIAL IRRIGATION OFFICERS, IRRIGATION SUPERINTENDENTS AND OTHER CONCERNED

SUBJECT : REVISED RULES AND ORGANIZATIONAL STRUCTURE OF NIA COMMITTEE ON DISCIPLINE

For your information and guidance, quoted hereunder in full is the Revised Rules of the NIA COD, to wit:

**REVISED RULES OF THE COMMITTEE ON DISCIPLINE
(Per COD Resolution 0007 Series of 2004)**

Pursuant to Memorandum Circular No. 23, Series of 2000 re Creation of NIA Committee on Discipline, the following rules are hereby promulgated to govern the conduct of business of the committee and at the same time to carry out its functions.

RULE I. PRELIMINARY PROVISIONS

Section 1. **Title** – These Rules shall be known as THE RULES OF THE COMMITTEE ON DISCIPLINE.

Section 2. **Definition of Terms** – As used in these Rules, the term:

- (a) "NIA Employees/s" shall refer to NIA employees occupying the position below Division Manager, whether or not he holds office or employment in a casual, temporary, permanent or regular capacity and contractual employees whose nature of employment is considered regular.
- (b) "NIA Official/s" are those not included in the term "NIA Employee/s."
- (c) "Respondent" refers to the person who is subject of investigation by the committee.
- (d) "Complainant" refers to the person who filed a complaint against any NIA official or employee.
- (e) Proper Disciplining Authority shall, for purposes of acting on or initiating complaints, refer to the Administrator or the Regional/Project Managers. The power to impose administrative penalties is lodged only with the Administrator.
- (f) "Committee" shall refer to the Committee on Discipline.
- (g) "Rules" shall refer to the Rules of the Committee on Discipline unless otherwise provided.

Section 3. **Meetings** – (a) The Committee shall meet at least twice a month every second and last Tuesday. The Chairman or majority of the members may, however, call a meeting as many times during the week in cases of extreme necessities to expedite the disposition of cases pending before the Committee.

- (b) The majority of the members of the Committee shall constitute a quorum to do business.

- (c) The meetings of the Committee shall be presided over by the Chairman. In his absence, the Vice Chairman of the Committee shall take over. In cases where both the Chairman and the Vice Chairman are absent, the Committee members shall select among those present to act temporarily as Chairman. Such proceedings shall be recorded in the minutes of the meeting.

Section 4. Functions and Duties – The Committee shall have the following functions and duties:

- (a) To receive process and evaluate complaints against NIA officials and employees and recommend to the Administrator the appropriate actions to be taken thereon;
- (b) To investigate violations of the Civil Service Commission Rules and Regulations and other issuances and other infractions of Agency policies by such officials and employees;
- (c) To coordinate or refer complaints to the appropriate NIA officials, department or office for expeditious resolution of the same.
- (d) To recommend to the Administrator the appropriate penalty to be imposed for said violation after an inquiry conducted for such purpose;
- (e) To recommend to the Administrator such other policies as may be deemed necessary to maintain a well-disciplined workforce;
- (f) To submit yearly report to the Administrator on its activities or any time the Administrator may require; and,
- (g) To perform such other relevant functions and duties which the Administrator may resign from time to time.

Section 5. Construction – These Rules shall be liberally construed to give effect to the speedy disposition of investigations.

RULE II. COMMITTEE EN BANC OR IN DIVISION

Section 1. Committee En Banc or Division – The Committee may sit En Banc or in division comprising of three (3) members in conducting the preliminary or formal investigation. In every case, a Hearing Officer shall be designated. If the investigation is conducted en banc, the Chairman of the Committee shall act as the Hearing Officer; if it is conducted by a Division, the Committee shall designate from among its members, preferably a member with background in Law or Civil Service Rules, to act as the Hearing Officer.

The affirmative vote of the majority of the members of the Committee en banc and two members in a division shall be necessary to pass a resolution of the Committee en banc or division as the case may be. The Chairman or the Hearing Officer shall write the decision if the case is heard en banc or in a division, respectively.

In the event the required number of votes shall not be met, the Committee en banc shall recommend the dismissal of the case to the Administrator, while the Committee in division shall elevate the case to the Committee en banc for consideration.

Section 2. Powers of the Hearing Officer – The Chairman or the Hearing Officer shall have the power to call any employee or official to appear before the Committee to testify and to compel any employee or official possessing a relevant document to reproduce such document needed in the determination of the existence of prima facie case. He shall also exercise such powers reasonably necessary in the speedy disposition of the investigation.

RULE III. JURISDICTION

Section 1. **Jurisdiction** – The Committee shall have jurisdiction over:

- (a) Cases filed against NIA Central Office employees and officials;
- (b) Cases filed against NIA officials in the field offices.
- (c) Cases referred to it by the Committee on Discipline in the field office; and,
- (d) Cases referred to it by the Administrator.

RULE IV. COMPLAINT

Section 1. **Complaint. Who may file; Where to file** – Any NIA official or employee or any private individual may file a complaint against employees or officials of the Agency. The proper disciplining authority of the Agency may also initiate a complaint.

Complaints may be filed with the office of the Administrator or directly with the Committee on Discipline c/o The Chairman.

Section 2. **Form of Complaint** - The complaint shall be under oath and shall contain the following:

- (a) Full name and address of the complainant;
- (b) Full name and address of the person complained of as well as his position and office of employment;
- (c) A narration of the relevant and natural facts which show the acts or aversions allegedly committed by the civil servant;
- (d) Certified true copies of documentary evidence and affidavits of witnesses if any; and
- (e) Certification or statement of non-forum shopping.

In the absence of any one of the aforesaid requirements, the complaint shall not be given due course and the complainant shall be accordingly advised. However, in case of a formal charge initiated by the proper disciplining authority, item "e" above shall not be required and the same need not be under oath.

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

Section 3. **Action on the Complaint** – If the complaint complies with the form required under Section 2 hereof, the COD Chairman shall notify and require the person complained of to submit a comment under oath within three (3) days from receipt of said notice.

The COD Chairman shall assign the cases to the COD divisions, created under NIA MC 8 s. 2004 for preliminary investigation and/or appropriate action. However, a division may, upon resolution by majority vote of its members and for reasons to be stated therein, refer the preliminary investigation to the Committee en banc, which shall then act thereon by a majority vote of all its members.

Section 4. **Waiver of Formalities** – The Committee may, in a case-to-case basis, particularly in cases which involve substantial loss or damage to properties of the Agency, waive the observance of formalities prescribed under Section 2 Rule IV relative to the production of documents and notice in taking statements.

Section 5. Withdrawal of the Complaint – The withdrawal of the complaint does not result in its outright dismissal nor shall 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 complained of, the same should be given due course.

RULE V. PROCEDURES BEFORE THE COMMITTEE

Section 1. Preliminary Investigation – A preliminary investigation involves the ex-parte examination of the records and documents submitted by the complainant and the person complained of or reports from offices of the agency.

A fact-finding investigation may be conducted further or prior to the preliminary investigation for the purpose of ascertaining the truth. A preliminary investigation necessarily includes a fact-finding investigation.

In case of a complaint filed by a private person where a prima facie case is outright established from the complaint and the comment under oath submitted under Section 3, Rule IV, the concerned COD division shall immediately prepare a Notice of Formal Charge to the respondent finding a prima facie case, indicating therein the time to answer and rights to counsel and elect a formal investigation, which procedure shall also be applicable after a preliminary investigation has been completed. The disciplining authority shall sign said notice.

In cases referred to the Committee from the field offices where a fact finding investigation has been conducted, the concerned COD division shall evaluate the same, and if a prima facie case is established, a Division shall prepare a Formal Charge for the signature of the disciplining authority.

During the preliminary investigation, if one is conducted, additional affidavits and/or counter-affidavits may be required to be submitted. Failure to submit the documents shall be considered as a waiver thereof. Thereafter, if necessary, the parties may be summoned to a conference where the Hearing Officer may propound clarificatory and other relevant questions.

Upon receipt of said additional documents and/or termination of conference for the purpose of asking clarificatory questions, the Committee en banc or a division thereof, as the case may be, may now determine whether or not a prima facie case exist. If a prima facie case is found not to exist, the Committee en banc or a division thereof, shall prepare a resolution, which shall be signed by the disciplining authority, dismissing the case. If a prima facie case exists, the Committee or a division thereof, shall prepare a formal charge in accordance with Section 4 hereof. The disciplining authority shall sign the formal charge. For complaints filed in private capacity Section 1 paragraph 2 hereof shall apply.

Section 2. Duration of Investigation – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Committee and shall be terminated within fifteen (15) days thereafter.

Section 3. Decision or Resolution After Preliminary Investigation – If a prima facie case is established during the investigation, the Committee or concerned Division shall issue a formal charge or Notice of Formal Charge. A formal investigation shall follow.

Section 4. Formal Charge – After a finding a prima facie case, the disciplining authority shall formally charge the person complained of. 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 answer whether or not he elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice.

If the respondent has submitted his comment and counter-affidavits during the preliminary investigation, he shall be given the opportunity to submit additional evidence.

Section 5. Conduct of Formal Investigation – Although the respondent does not request a formal investigation, the Committee shall nevertheless conduct one where from the allegations of the complaint and the answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation.

The investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer. Said investigation shall be finished within thirty (30) days from the issuance of the formal charge or the receipt of the answer unless the Committee in meritorious cases extends the period.

Section 6. Pre-Hearing Conference – At the commencement of the formal investigation, the Hearing Officer may 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 issuance;
- (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, speedy and just resolution of the case.

The parties may submit position paper/memoranda and submit the case for resolution based on the result of the pre-hearing conference without any need for further hearings.

Section 7. 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.

Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (5) days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice. A party shall be granted only three (3) postponements upon oral or written requests. A fourth postponement may be granted only upon written request and subject to the discretion of the Hearing Officer.

If the respondent fails or refuses to appear during the scheduled hearings despite due notice, the investigation shall proceed *ex parte* and the respondent is deemed to have waived his right to be present and to submit evidence in his favor during those hearings.

Section 8. 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 the evidence for the complainant.

If the respondent appears without the aid of counsel, he shall be deemed to have waived his right thereto.

Before taking the testimony of a witness, the Hearing Officer shall place him under oath and then take his name, address, civil status, age, and place of employment.

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

Clarificatory questions may also be asked .

Section 9. Appearance of Counsel – Any counsel appearing before any hearing or investigation shall manifest orally or in writing, his appearance for either the respondent or complainant, stating his full name, IBP receipt and exact address where he can be served with notices and other pleadings. Any pleading or appearance of a counsel without complying with the above stated requirements shall not be recognized.

Section 10. Order of Hearing – Unless the Hearing Officer directs otherwise, the order of hearing may be as follows:

- (a) The prosecution shall present its evidence subject to the pre-hearing agreement;
- (b) Cross examination by the party;
- (c) There may be redirect and re-cross examination;
- (d) The respondent shall then offer evidence in support of his defense following the same order;
- (e) Rebuttal and surrebuttal, if any.

When the presentation of evidence has been concluded, the parties shall formally offer their evidence either orally or in writing. After which, both parties maybe 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 11. Objections – the Hearing Officer shall resolve all objections raised during the hearing. 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 Committee.

The Hearing Officer shall accept all evidence deemed material and relevant to the case. In case of doubt, he shall allow the admission of evidence subject to the objection interposed against its admission.

Section 12. 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.

Section 13. Request for Subpoena – If a party desires the attendance of a witness or the production of documents, he shall make a request to the Hearing Officer for the issuance of the necessary **subpoena ad testificandum** and/or subpoena **duces tecum**, at least three (3) days before the scheduled hearing.

Section 14. 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.

Section 15. Records of Proceedings – Records of the proceedings during the formal investigation may be taken in shorthand or stenotype or any other means of recording.

Section 16. Filing of Motions, Petitions, Appeals and Other Pleadings – Any motion, petition, appeal and other pleadings sent by 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 Secretariat of the Committee.

Section 17. Effect of the Pendency of Case Before the Committee – The pendency of a case before the Committee shall not disqualify respondent for promotion or from claiming maternity/paternity benefits.

For this purpose, a pending case before the Committee shall be construed as follows:

- (a) When the disciplining authority has issued a formal charge; or
- (b) In case of a complaint filed by a private person, a prima facie case is found to exist by the disciplining authority.

Section 18. Decision after Formal Investigation – Within fifteen (15) days after the conclusion of the formal investigation, the Committee en banc or a division thereof, as the case may be, shall prepare a decision containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as recommendations. If the formal investigation has been conducted by the Committee en banc, the decision shall be submitted to the Administrator. If a division has conducted the formal investigation, the decision shall be submitted to the COD Chairman, for the proper endorsement to the Administrator. It is understood that said decision is only recommendatory, unless approved by the Administrator in accordance with Rule V Section 19 hereof.

The complete records of the case shall be forwarded to the Administrator with said decision.

The complete records shall be systematically and chronologically arranged, paged and securely bound to prevent loss. A table of contents shall be prepared. The Secretariat shall be in-charge of the transmittal of the complete records.

Section 19. When case is Decided – A case is decided when the Administrator approves, within thirty (30) days from receipt thereof, the decision submitted under Rule V Section 18 hereof.

RULE VI. REMEDIES

Section 1. Filing of Motion for Reconsideration – The party adversely affected by the decision may file a motion for reconsideration with the Administrator within fifteen days from receipt thereof.

Section 2. When deemed filed – A motion for reconsideration sent by 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 Office of the Administrator.

Section 3. Grounds for Motion for Reconsideration – 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, or
- (d) The Committee acted with grave abuse of discretion.

Section 4. Limitation – Only one motion for reconsideration shall be entertained.

Section 5. 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 considered.

Section 6. Filing of Appeals – The parties may appeal the decision of the Administrator to the proper authorities as prescribed by law in the administrative cases. After which, the appeal shall be governed by the rules of the appellate court, tribunal or body as the case may be.

RULE VII. PENALTIES

Section 1. Penalties – The Committee hereby adopts the penalties provided for under Section 52, Rule IV of CSC Resolution No. 991936, S. of 1999 re Revised Uniform Rules on Administrative Cases in the Civil Service.

RULE VIII. THE SECRETARIAT

Section 1. Secretariat; Record of Proceedings; - (a) A Secretariat, to be appointed by the Administrator, comprising of at least five (5) members including the Head, is hereby created and shall be tasked to record the proceedings. All documents and affidavits shall be taken care of by the Secretariat. Such record and other documents shall form part of the case.

(b) The Secretariat shall receive all complaints for recording, indexing, custody and scheduling the same for consideration of the Committee.

(c) In the event the investigation is conducted by a division of three (3) members, the Committee, through the Committee Chairman, may appoint from other sectors a member of the Secretariat.

RULE IX. MISCELLANEOUS PROVISIONS

Section 1. Separability Clause – If any part of these Rules shall be inconsistent with any circular, issuance, rules or laws of the Civil Service Commission especially the procedural aspect, the latter shall govern with these Rules to be taken as complementary in nature thereof.

Section 2. Effectivity – These Rules shall take effect immediately.

To ensure the speedy disposition of cases, enclosed is the Organizational Structure of the NIA COD.

For strict compliance.

Be guided accordingly.

April 5, 2005


PROCESO T. DOMINGO
Administrator

**NIA COMMITTEE ON DISCIPLINE (COD)
ORGANIZATIONAL STRUCTURE**

