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Republic of the Philippines
Department of Education
REGION VIII - EASTERN VISAYAS

October 22, 2025

REGIONAL MEMORANDUM

No. **1384** s. 2025

**PROPOSED AMENDMENT OF DepEd Order No. 49, s. 2006 OR THE
"REVISED RULES OF PROCEDURE OF THE DEPARTMENT OF
EDUCATION IN ADMINISTRATIVE CASES"**

To: Schools Division Superintendents
All Others Concerned

1. Attached is Memorandum No. OULLA-2025-2255 dated October 20, 2025, from the Office of the Undersecretary for Legal and Legislative Affairs, DepEd Central Office, requesting the field offices to resubmit **comments** on the attached draft amendment of the DepEd Order No. 49, s. 2006 or the Revised Rules of Procedures of the Department of Education in Administrative Cases **on or before October 27, 2025**.

2. Immediate dissemination of and compliance with this Memorandum are desired.



RONALO AL K. FIRMO, CESO IV
Asst. Regional Director
Officer-in-Charge
Office of the Regional Director

Enclosures: As stated

References: As stated

To be indicated in the Perpetual Index under the following subjects:

DO 49, s. 2006 PROPOSED AMENDMENTS

ORD-ECC



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Department of Education
REGION VIII - EASTERN VISAYAS

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Republic of the Philippines
Department of Education

OFFICE OF THE UNDERSECRETARY FOR LEGAL AND LEGISLATIVE AFFAIRS

DEPARTMENT OF EDUCATION
RECEIVED
RECORDS SECTION REGIONAL OFFICE NO. VII
DATE: 10-21-25
TRACKING #: W318 TIME: 10:26
SIGNATURE: _____

MEMORANDUM

OULLA-2025 2255

FOR : ALL REGIONAL DIRECTORS
ALL ASSISTANT REGIONAL DIRECTORS
ALL SCHOOLS DIVISION SUPERINTENDENTS
ALL ASSISTANT SCHOOLS DIVISION SUPERINTENDENTS

FROM : **ATTY. FILEMON RAY L. JAVIER**
Undersecretary for Legal and Legislative Affairs

SUBJECT : Transmittal of the Proposed Draft Amendment of DepEd Order (DO) No. 49, s. 2006 or the "*Revised Rules of Procedure of the Department of Education in Administrative Cases*" for the resubmission of Comments from the Field Offices

DATE : OCT 20 2025



In view of the current administration's directive to update and harmonize existing issuances with recent legal frameworks, the Office of the Undersecretary for Legal and Legislative Affairs pledged its commitment to complete the amendment of DepEd Order (DO) No. 49 s. 2006 within the year.

Over the past few years, this Office has gathered feedback and recommendations from various Regional and Division Offices regarding the proposed amendments. However, the progression of the draft was deferred due to administrative transitions and recent developments in relevant legal issuances.

Thus, this Office respectfully transmits the attached Proposed Draft Amendment of the DO 49, s. 2006. Notable enhancements include a clearer delineation of jurisdiction among the disciplinary authorities in the Schools Division Offices, Regional Offices, and the Central Office; the introduction of mechanisms for electronic filing; addition of special prosecutors during the formal investigation process; and the alignment of provisions with the 2025 Revised Rules on Administrative Cases in the Civil Service, among others.

To efficiently facilitate the review of the Proposed Draft Amendment of the DO 49, s. 2006, this Office requests that the Regional Offices consolidate and submit their comments, including inputs from their respective Division Offices, within **SEVEN (7) CALENDAR DAYS** from issuance hereof or **until 27 October 2025**. Kindly send your submissions via email to ls.invesdiv@deped.gov.ph.

Attached herewith is the Proposed Draft Amendment of the DO 49, s. 2006 for your reference and appropriate action.

Thank you for your continued cooperation.

oro email
10/21/25

**2025 RULES ON ADMINISTRATIVE CASES IN THE
DEPARTMENT OF EDUCATION**

**RULE I
APPLICABILITY AND CONSTRUCTION**

Section 1. Title.

These Rules shall be known and cited as the **2025 Department of Education Rules on Administrative Cases (2025 DepEd RAC)**.

Section 2. Coverage.

These Rules shall apply to all administrative cases filed against an employee or official of the Department of Education (DepEd or the Department). For avoidance of doubt, this shall not include those engaged under Contract of Service/Job Order (COS/JO) and Highly Technical Consultants (HTC).

Grievances, which refer to work-related issues that cause discontentment or dissatisfaction, are not covered by these Rules and shall be acted upon pursuant to existing grievance machineries of DepEd.

Section 3. Construction.

These Rules shall be liberally construed in order to promote a just, speedy, and inexpensive disposition of administrative cases. Administrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings, provided that administrative due process is observed. However, upon the discretion of the Disciplining Authority, the provisions of the Rules of Court, as revised, shall be applied in a suppletory manner, or by analogy, as far as practicable.

Section 4. Definition of Terms.

The terms hereunder shall be defined as follows:

- a. ACTING CAPACITY** refers to a designation in a temporary capacity that entails not only the exercise of ministerial functions attached to the position but also the exercise of discretion. A since the person designated in an acting capacity is deemed to be the incumbent of the position.
- b. ADMINISTRATIVE CASE** refers to an administrative proceeding instituted against an employee or official of the Department, for an act or omission punishable under Civil Service Laws, the Administrative Code of 1987, the Code of Conduct and Ethical Standards for Public Officials and Employees, and/or other laws pertaining to public officers and employees. This begins from the issuance of a Formal Charge until the finality of the decision as defined under Section 51 of this Rule.

- c. **BACKWAGES** refers to the compensation and other benefits that should have been earned by a government employee or official had they not been illegally dismissed, separated, or suspended from the service. It includes benefits as enumerated under Section 63 of these Rules.
- d. **CERTIFIED TRUE COPY** refers to a copy of an original document, duly authenticated by an authorized officer or representative of the issuing entity.
- e. **CHILD or CHILDREN** refers to any person below eighteen (18) years of age and those eighteen (18) years of age or over but are unable to fully take care of themselves or protect themselves from abuse, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.
- f. **COMMISSION** refers to the Civil Service Commission.
- g. **DEPARTMENT** refers to the Department of Education, which includes its Central Office and its bureaus and services, Regional Offices, Schools Division Offices, Schools, and Community Learning Centers (CLCs) under its jurisdiction.
- h. **DISCIPLINING AUTHORITY** refers to the official who has jurisdiction to hear, decide, and impose the appropriate penalty provided for by law or these Rules.
- i. **EMPLOYEE** refers to a person appointed in the Department to a position in either the first or second level and whose functions are not managerial in nature.
- j. **EXONERATION** refers to the act of the Disciplining Authority or an appellate body that relieves a person from a charge or liability. It implies clearance not only from the immediate charge or accusation, but also from suspicion or attendant denigration.
- k. **EX PARTE** refers to the act or manner of conducting a proceeding where only one party is present and without representation from or the participation of the other parties.
- l. **FORMAL INVESTIGATION** refers to a proceeding conducted to determine whether the respondent is guilty of the offense charged. This may include the process of formally receiving and evaluating, through a conference or hearing, the pleadings, affidavits, testimonies of witnesses, and other evidence of the parties, including the submission of position papers, for the resolution of the merits of an administrative case.
- m. **FORUM SHOPPING** refers to the filing of several administrative actions or complaints, either simultaneously or successively, before any other agency or tribunal having jurisdiction over the case, against the same party

involving the same essential facts, circumstances, acts, causes of action or relief, raising substantially the same issues either pending in, or already resolved adversely by some other tribunal or agency.

- n. **MOTU PROPRIO** refers to an action taken by the Disciplining Authority on its own initiative.
- o. **NEPOTISM** refers to an appointment issued in favor of a relative within the third civil degree of consanguinity or affinity by any of the following:
 - a. Appointing authority;
 - b. Recommending authority;
 - c. Chief of the bureau or office; and
 - d. Person exercising immediate supervision.

By way of exception, the following shall not be covered by the prohibition:

- a. Persons employed in a confidential capacity;
- b. Teacher ; and
- c. Physicians.

For purposes of the administrative offense of Nepotism under Section 69(A), (1) (i) of Rule 14, a **"TEACHER"** is defined as one performing actual classroom instruction.

- p. **NON-TEACHING PERSONNEL** refers to all DepEd personnel who do not fall under the definition of Teaching Personnel under these Rules.
- q. **OFFICIAL** refers to a person whose duties, not being of a clerical or manual nature, involve the exercise of discretion in the performance of the functions of the government. When used with reference to a person having authority to do a particular act or perform a particular function in the exercise of governmental power, "official" includes any government employee, agent, or body having authority to do the act or exercise that function.
- r. **OFFICER-IN-CHARGE (OIC)** refers to a designation given to a person who shall exercise limited functions and authority as a caretaker of an office while the regular incumbent is on leave of absence, official travel, or otherwise unable to perform the functions of the office. The OIC may not be deemed to possess the power to appoint employees as the same involves the exercise of discretion that is beyond the power of an OIC, unless the designation order issued by the proper appointing officer/authority expressly includes the power to issue appointments.

- s. **PERSON COMPLAINED OF** refers to the person who is the subject of a complaint but who is not yet issued a notice of charge or formal charge by the Disciplining Authority or its authorized representative.
- t. **PRELIMINARY INVESTIGATION** refers to an inquiry or proceeding to determine whether a *prima facie* case exists to warrant the issuance of a Formal Charge.
- u. **PRIMA FACIE CASE** refers to a case where the evidence is sufficient to establish a given fact, or the group or chain of facts, constituting the party's claim or defense, and which, if not rebutted or contradicted, will remain sufficient. Such evidence, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue it supports but may be contradicted by other evidence.
- v. **RESPONDENT** refers to an employee or official of the Department who is issued a formal charge by the Disciplining Authority or its authorized representative.
- w. **SEXUAL HARASSMENT** refers to an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, regardless of motive, committed by an employee of the Department in workplaces, and/or educational or training institutions, private spaces which are open to the public, as well as in streets, public spaces, and/or online.
- x. **SUBSTANTIAL EVIDENCE** refers to such relevant evidence which a reasonable mind might accept as adequate to support a conclusion.
- y. **TEACHING PERSONNEL** refers to all persons engaged in classroom teaching, in any level of instruction, on a full-time or part-time basis, including guidance counselors, school librarians, industrial arts or vocational instructors, and all other persons performing supervisory and/or administrative functions over teaching personnel in all public schools catering to basic education, both formal and non-formal.

Division office personnel performing supervisory and/or administrative functions over teaching personnel in all public schools include but are not limited to:

- i. Chief Education Supervisors;
- ii. Public Schools District Supervisors;
- iii. Education Program Supervisors;
- iv. Senior Education Program Specialists; and
- v. Education Program Specialists.

RULE II
DISCIPLINING AUTHORITY AND JURISDICTION

Section 5. Disciplining Authority.

Subject to Section 6, Rule 2 of these Rules, the following officials are the Disciplining Authorities of the Department:

- a. Secretary or his/her duly authorized representative. However, in no case shall the duly authorized representative of the Secretary have a rank lower than an Undersecretary;
- b. Regional Directors; and
- c. Schools Division Superintendents.

Section 6. Jurisdiction of the Disciplining Authority.

A. The Secretary of the Department of Education shall have:

1. Original and concurrent jurisdiction with the Commission over all complaints and cases against officials or employees of the Central Office;
2. Original and exclusive jurisdiction over all complaints and cases against presidential appointees under its jurisdiction, such as, but not limited to:
 - i. Undersecretaries;
 - ii. Assistant Secretaries;
 - iii. Central Office Directors;
 - iv. Regional Directors;
 - v. Assistant Regional Directors;
 - vi. Schools Division Superintendents; and
 - vii. Assistant Schools Division Superintendents.

The decisions of the Secretary over administrative cases against presidential appointees shall be subject to the confirmation, modification, or reversal of the President of the Philippines.

3. Appellate jurisdiction over decisions of the Regional Directors and Schools Division Superintendents imposing penalties exceeding thirty (30) days of suspension or imposing a fine in an amount exceeding thirty (30) days salary.
4. Appellate jurisdiction over decisions of the Regional Directors and Schools Division Superintendents imposing penalties not exceeding thirty (30) days of suspension or fine in an amount not exceeding thirty (30) days salary if the issue of violation of due process is specifically set forth in the appeal, in which case the Disciplining Authority shall only resolve such issue.

5. Authority to automatically evaluate decisions of the Regional Director or Schools Division Superintendent, imposing a penalty of dismissal from service.

6. Authority to take cognizance of and assume jurisdiction over any complaint or administrative case filed before any office of DepEd against any of its employee or official at any stage, if the circumstances warrant.

B. The Regional Directors shall have:

1. Original jurisdiction over complaints and cases against all teaching personnel in their respective regions;
2. Original jurisdiction over complaints and cases against all employees of their respective Regional Offices; and
3. Original jurisdiction over complaints and cases involving non-teaching personnel in the Schools Divisions Offices within their respective regions, when conflict of interest is alleged.

C. The Schools Division Superintendents shall have original jurisdiction over complaints and cases against non-teaching personnel in their respective school divisions.

D. Additional Rules on Jurisdiction

1. If the Person Complained Of or the Respondent is serving in an Acting or Officer-in-Charge capacity during the period wherein the offense was allegedly committed, the proper Disciplining Authority is the one who has jurisdiction over the position to which the Person Complained Of or the Respondent was designated as Acting or Officer-in-Charge;
2. In case the Respondent shall assume another position during the pendency of a case against him or her, the jurisdiction over an existing administrative case against the Respondent shall remain with the Disciplining Authority handling the said case during the time that the Complaint was filed; and
3. In cases where there are two (2) or more Persons Complained Of or Respondents with different ranks involved in the same complaint/offense, the rank of the Person Complained Of or Respondent with the highest rank shall be the basis for determining the proper Disciplining Authority.

Section 7. Referral of Cases or Matters to the Proper Office.

When an administrative case or matter is filed before the Department or any of its Offices, but jurisdiction over such case or matter properly belongs to another

office or Disciplining Authority, the same shall be referred by the receiving office to the appropriate Disciplining Authority having jurisdiction over the same.

RULE III COMPLAINT

Section 8. Who May Initiate.

Administrative proceedings may be initiated either through the following:

- a. Filing of a complaint by any person; or
- b. *Motu proprio* upon issuance of an order by the Disciplining Authority or his/her duly authorized representative, pursuant to Section 12 of these Rules, who has jurisdiction over the Person Complained Of or the Respondent.

Section 9. Requisites of a Valid Complaint.

No complaint shall be given due course unless the same is in writing and subscribed and sworn to by the complainant. The complaint 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, and to enable the Person Complained Of to intelligently prepare a defense or answer/comment.

Should there be more than one Person Complained Of, the complainant must specify the actions/omissions committed by each, unless they are deemed to have acted in conspiracy.

The complaint shall contain the following:

- a. Full name, mailing address, electronic mail address of the complainant;
- b. Full name and the residence or office address of the Person Complained Of, as well as his/her position and office;
- c. A chronological narrative of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. Clearly legible duplicate original or certified true copies of documentary evidence and affidavit of the complainant's 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 same.

Section 10. When and Where to File a Complaint.

An administrative complaint may be filed any time before the proper Disciplining Authority, in accordance with Section 4 of these Rules. If a conflict of interest exists in complaints or cases under the jurisdiction of the Schools Division Superintendent, the complaint shall be filed with or referred to the Regional Director. Similarly, if a conflict of interest exists in complaints or cases under the jurisdiction of the Regional Director, the complaint shall be filed with or referred to the Secretary or his duly authorized representative.

Section 11. Withdrawal of the Complaint.

The withdrawal of the complaint does not result in its outright dismissal nor in the discharge of the Person Complained Of from any administrative liability.

Section 12. Actions on the Complaint.

The Disciplining Authority may dismiss the complaint outright if on its face the complaint is insufficient in form or the allegations stated in the complaint do not constitute an administrative offense, without prejudice to its refile upon compliance with the required form.

If the complaint is sufficient in form and substance, the Disciplining Authority shall give due course to the complaint by designating, within fifteen (15) calendar days from receipt of the complaint, the Preliminary Investigation Committee (PIC), who shall conduct a Preliminary Investigation. The designation of the members of the PIC shall be done in writing, with copies furnished to the complainant, the Persons Complained Of, and other interested parties.

No action shall be taken on an anonymous complaint unless the Disciplining Authority decides to adopt and initiate the same *motu proprio*. However, in no case shall the Disciplining Authority entertain an anonymous complaint if the acts complained of are not supported by evidence or credible allegations sufficient to establish a reasonable ground to believe that the Person Complained Of committed the offense.

Section 13. Preliminary Investigation; Definition

A preliminary investigation is a mandatory proceeding undertaken by the Disciplining Authority or his/her authorized representative to determine whether a *prima facie* case exists to warrant the issuance of a Formal Charge.

Section 14. Preliminary Investigation; How Conducted.

A Preliminary Investigation may be conducted through any of the following methods, or a combination thereof, within five (5) days from receipt by the Disciplining Authority of the complaint:

1. Issuing an Order against the Person Complained Of, which shall contain the allegations against him/her, together with a copy of the complaint and its supporting documents, if any.

The Order shall require the Person Complained Of to file his/her Counter-Affidavit together with the affidavit/s of his/her witness/es, as well as any documentary or object evidence, if any, within five (5) calendar days from the receipt of the Order. The failure of the Person Complained Of to submit a Counter-Affidavit within the prescribed period shall be considered as a waiver of the right to do so;

2. Conducting clarificatory meetings with the parties and their witnesses to discuss the merits of the case. A clarificatory meeting may be conducted in person or online. The investigator/s shall prepare the minutes of the meeting, which shall be signed by the investigator/s, the parties, and the witnesses, if any. If the clarificatory meeting is conducted online, the same shall be recorded by the investigator/s, provided that permission to record is obtained from all the attendees at the start of such recording;
3. Conducting interviews, ocular inspections, and other investigative methods to determine the merits of the case; or
4. Other similar fact-finding methods deemed appropriate by the PIC to establish the determine whether there exists a *prima facie* case against the Person Complained Of, provided these methods ensure fairness, due process, and adherence to applicable laws and rules.

The Preliminary Investigation shall terminate within twenty (20) calendar days from commencement of the same. This period may be extended by the Disciplining Authority in meritorious cases.

Section 15. Effect of the Retirement of the Respondent during the Preliminary Investigation.

_____The retirement of the Person Complained Of during the pendency of the Preliminary Investigation shall not automatically render the said investigation moot and academic. In such cases, if the Disciplining Authority finds that there is a *prima facie* case for an offense punishable by the forfeiture of retirement benefits, a Formal Charge may be still issued against the Person Complained Of.

Section 16. Preliminary Investigation Report.

Within five (5) days from the termination of the Preliminary Investigation, the investigator/s shall submit the Preliminary Investigation Report, together with the complete case records to the Disciplining Authority. The Preliminary Investigation Report shall contain the findings and recommendations of the investigator/s.

The Preliminary Investigation Report shall be confidential. The parties shall not be entitled to a copy thereof.

Section 17. Decision or Resolution After Preliminary Investigation.

If a *prima facie* case is established after the Preliminary Investigation, the Disciplining Authority shall issue a Formal Charge pursuant to Rule IV of these Rules.

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

**RULE IV
FORMAL CHARGE**

Section 18. Formal Charge; When Issued.

If a *prima facie* case is established after the Preliminary Investigation, the Disciplining Authority shall issue a Formal Charge against the Respondent/s. The Formal Charge shall contain a specification of the charge/s, or statements of the acts or omissions constituting the offense. It shall also include the following mandatory requirements:

- a. Brief statement of material or relevant facts, which may be accompanied by clearly legible duplicate or certified true copies of documentary evidence, and affidavits of the witnesses, if any;
- b. Directive to answer the charge in writing, under oath, in not less than three (3) calendar days but not more than ten (10) calendar days from receipt thereof;
- c. Advice for the Respondent to indicate in the answer whether or not he/she will elect a Formal Investigation;
- d. Advice that the Respondent may opt to be assisted by a counsel; and
- e. Directive for the Respondent to inform the Disciplining Authority of his or her mailing address and electronic email address where the Respondent can be served copies of any Orders.

Section 19. Prohibited Pleadings and Motions.

The Disciplining Authority shall not entertain the following pleadings and motions:

- a. Request for Clarification;
- b. Motion for Bill of Particulars;

- c. Motion to Dismiss;
- d. Motion for Extension of time to file an answer;
- e. Motion to Suspend proceedings on account of a pending court or other administrative case, in the absence of a temporary restraining order or injunctive writ; or
- f. Other similar requests or motions.

If any of these pleadings or motions is filed by the Respondent/s the same shall be noted without action and attached to the records of the case.

RULE V ANSWER

Section 20. Requisites and Contents of an Answer.

The Answer shall be in writing and under oath. It shall contain the following:

- 1. Name of the respondent/s, mailing address, and electronic mail address;
- 2. Specific defense/s;
- 3. Material facts;
- 4. Applicable laws and/or jurisprudence;
- 5. Sworn statements of the witnesses;
- 6. Legible duplicate original or certified true copies of documentary and/or object evidence, in support of the Respondent's case; and
- 7. A statement as to whether the Respondent elects a Formal Investigation or waives the right thereto.

If the Answer does not state that the Respondent elects to have a formal investigation, the case may be decided based on available records.

The Respondent may adopt, as his/her Answer, the Counter-Affidavit he/she submitted during the Preliminary Investigation by filing a Manifestation indicating the same within the period of filing an Answer.

Section 21. Action After Submission of the Answer.

When the Disciplining Authority determines that the answer is satisfactory, the case shall be dismissed. Otherwise, the investigation shall proceed.

Section 22. Failure to File an Answer.

If the Respondent fails or refuses to file an Answer to the Formal Charge within the prescribed period, he/she shall be considered to have waived his/her right to submit the same. The case shall then be decided based on available records.

RULE VI PREVENTIVE SUSPENSION

Section 23. Preventive Suspension; Nature.

Preventive suspension is not a punishment or penalty, but a measure of precaution so that the Respondent may be removed from the scene of the alleged misfeasance/malfeasance/nonfeasance while the case is being investigated.

The period within which the Respondent is placed under preventive suspension shall not be considered as part of the actual penalty of suspension imposed upon the employee found guilty.

Section 24. When issued; Grounds.

The Formal Charge issued by the Disciplining Authority or his/her representative may include a statement informing the Respondent that he/she is placed under preventive suspension if:

A. The charge as specified in the Formal Charge involves any of the following:

1. Serious Dishonesty;
2. Oppression;
3. Grave Misconduct;
4. Gross Neglect of Duty;
5. Other offenses punishable by Dismissal from the service; or
6. An administrative offense committed on its second or third instance and the penalty is Dismissal from the Service.

B. The respondent is in a position to exert undue influence or pressure on the witnesses and/or tamper with evidence such as, but not limited to, the following circumstances:

1. Respondent holds a position in the agency that could compromise the integrity and impartiality of the entire proceedings;
2. The presence of the respondent in the workplace will hamper the normal course of the investigation of the case and will pressure or unduly influence the possible witnesses who will be presented against him or her;
3. The respondent either has access to and control over the evidence, or authority over the custodian of said evidence that will be presented against him or her;
4. The respondent has employees under his or her direct supervision whom he or she could influence and utilize in his or her favor;
5. The respondent may take improper advantage of his or her authority and power in a way that deprives potential witnesses of their free will; and

6. Other analogous circumstances.

Thus, in order for a Preventive Suspension order to be valid, the following must concur: (1) the formal charge must specify any of the offenses in item (A); and (2) the appropriate circumstance or justification in item (B) must be stated and substantiated in the Preventive Suspension order.

However, the delegated authority of the authorized representative to issue preventive suspension orders should be in the form of an Office Order signed by the Disciplining Authority clearly stating such delegation.

Section 25. Alternative to Preventive Suspension.

In lieu of Preventive Suspension, the Disciplining Authority or his/her authorized representative may reassign the Respondent to another office within the Department, Region, or Division, subject to the same period provided in the immediately succeeding section.

Section 26. 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)* calendar days from the date the Respondent receives the Formal Charge indicating that he/she is placed under preventive suspension.

When the administrative case against the Respondent who is under Preventive Suspension is not finally decided by the Disciplining Authority or his/her duly authorized representative within the period of Preventive Suspension, he/she shall be automatically reinstated. If the delay in the disposition of the case is attributable to the Respondent, as determined by the Disciplining Authority, 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.

Where the Preventive Suspension is for a period less than ninety (90) days, and the Disciplining Authority has not yet finished the Formal Investigation, the Disciplining Authority is precluded from imposing another Preventive Suspension without prejudice to the continuation of the Formal Investigation.

Should the Respondent be on authorized leave, said Preventive Suspension shall be deferred or interrupted until such time that the authorized leave has been fully exhausted.

If the Respondent is serving a Preventive Suspension in another case, the duration of the second Preventive Suspension shall simultaneously run with the first Preventive Suspension without prejudice to the service of the remaining period of the second Preventive Suspension.

The Respondent who is placed under preventive suspension pending investigation is not entitled to compensation and other benefits for the duration of the preventive suspension. However, withholding of compensation should be strictly construed to be limited only to the period of preventive suspension, while the case is pending investigation.

Section 26. Remedies from the Order of Preventive Suspension.

The Respondent may file an Appeal to the Civil Service Commission within fifteen (15) calendar days from receipt of the Formal Charge indicating that Respondent has been preventively suspended or reassigned.

Pending appeal, the order shall be executory, unless a Temporary Restraining Order is issued by the Court of Appeals or the Supreme Court.

A motion for reconsideration from the order of Preventive Suspension shall not be allowed. In case such motion is filed, the same shall be noted without action and attached to the records of the case. The filing of this motion shall neither stay the execution of the order of Preventive Suspension, nor stop the running of the reglementary period to file the appeal.

Section 27. Payment of Backwages During Preventive Suspension.

The payment of backwages 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 entitles the respondent 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.

A preventive suspension is invalid if any of the following circumstances is present:

- i.) The order was issued by one who is not authorized by law;
 - ii.) The order does not comply with the requirements under Section 21 of these Rules; or
 - iii.) The order of Preventive Suspension was issued without a Formal Charge or with a defective Formal Charge.
- B. An order of Preventive Suspension that complies with Section 21, but in excess of the prescribed period, shall not result in its invalidation but shall entitle the Respondent to the payment of backwages corresponding to the excess period only;

- C. The invalidity of the Preventive Suspension shall not cause the dismissal of the case;
- D. If the Preventive Suspension order was assailed on the appeal in the main case, and the Respondent is exonerated or reprimanded only, and the Preventive Suspension was declared to be invalid, the Respondent shall be paid backwages for the duration of the Preventive Suspension. Otherwise, no backwages shall be paid for the duration of the preventive suspension; and
- E. Even if the respondent be eventually found innocent of the charge, the same shall not give rise to payment of backwages corresponding to the period of Preventive Suspension in the absence of any finding of its invalidity.

Rule VII

FORMAL INVESTIGATION

Section 28. Formal Investigation; Nature.

The Formal Investigation shall be non-litigious in nature. Subject to the requirements of due process in administrative cases, the technicalities of law, procedure, and evidence shall not strictly apply thereto.

The Disciplining Authority or its designated Formal Investigation Committee shall take full control of the proceedings, with proper regard to the right of the parties to due process and may avail itself of all reasonable means to ascertain speedily the facts of the case.

Section 29. Formal Investigation; When conducted.

A Formal Investigation shall be conducted *motu proprio* when the charges against the Respondent and his/her Answer, including the supporting documents, show that the merits of the case cannot be decided judiciously without conducting such investigation, or when the Respondent elects to have one, in which case, such Formal Investigation shall be held not earlier than five (5) calendar days nor later than ten (10) calendar days from receipt of the Respondent's Answer.

The Formal Investigation shall be terminated within thirty (30) calendar days from issuance of the Formal Charge, unless the period is extended by the Disciplining Authority or its authorized representative in meritorious cases.

Section 30. Creation of the Formal Investigation Committee.

Upon issuance of the Formal Charge, the Disciplining Authority, if found to be warranted, shall issue an Order creating a Formal Investigation Committee which shall be composed of the following:

1. When the Respondent is part of the Department's Teaching Personnel:

- a. The Schools Division Superintendent or his/her duly authorized representative, who must have at least the rank of an education supervisor where the Respondent belongs, as Chairman;
- b. An authorized representative of the local teachers' organization, or in its absence, an authorized representative of any existing local, provincial, or national teachers' organization, as the case may be; and
- c. An education supervisor of the division, including public schools district supervisor.

The last two (2) shall be designated by the Disciplining Authority.

2. When the Respondent is a presidential appointee or an Officer-in-Charge holding a third-level position designated by the Secretary:
 - a. The Secretary, or his/her duly authorized representative who must have a rank equal to or higher than the rank of the Respondent, as Chairman;
 - b. The duly authorized representative of the Association of DepEd Directors, Inc. or the Philippine Association of Schools Superintendents, Inc., whichever is applicable; and
 - c. Any officer of the Department with a rank equal to or higher than the rank of the Respondent.
3. When the Respondent is not covered by the provisions above, the Disciplining Authority concerned shall have full discretion on the composition of the Formal Investigation Committee.

Section 31. Formal Investigation Committee Secretariat.

The Formal Investigation Committee may be assisted by a Secretariat, the members of which shall be designated by the Formal Investigation Committee. Secretariats shall be created in the Central, Regional, and Schools Division Offices to monitor and provide assistance to the Formal Investigation Committee. The functions of the Secretariat shall include the following:

1. Maintaining case records in the course of the Formal Investigation;
2. Facilitating the scheduling of hearings and preparing notices therefor;
3. Preparing transcripts or recordings of the hearings and meetings as may be necessary;

4. Providing the necessary documents to the Formal Investigation Committee;
5. Ensuring that notices, resolutions, and orders approved by the Formal Investigation Committee are issued to the concerned parties and offices;
6. Monitoring emails, the calendar of hearings, and the filing dates; and
7. Performing other tasks and functions to assist the Formal Investigation Committee in the conduct of the Formal Investigation.

The functions of the members of the Secretariats shall be in addition to their existing office functions, without additional compensation.

Section 32. Representation by a Special Prosecutor.

The Undersecretary for Legal and Legislative Affairs, Assistant Regional Director, or Assistant Schools Division Superintendent, as the case may be, shall designate one (1) or more lawyers from their respective offices as Special Prosecutor/s to represent the Department in the Formal Investigation.

Section 33. Entry of Appearance of Counsel.

Any counsel appearing before the Formal Investigation Committee must be a member of the Integrated Bar of the Philippines (IBP) and shall file a written entry of appearance, stating the following: (1) full name, (2) complete address, which should not be a P.O. box address, where notices and other pleadings may be served, (3) e-mail address, (4) contact number, (5) Professional Tax Receipt (PTR) number, (6) Roll of Attorney's number, (7) Mandatory Continuing Legal Education compliance, and (8) IBP dues receipt number or lifetime membership.

A lawyer working in the government, regardless of the type of engagement, is prohibited from representing a Respondent in a pending administrative case covered by these Rules.

Section 34. Pre-Hearing Conference. Notice; Brief.

At the commencement of the Formal Investigation, the Formal Investigation Committee shall issue a notice for the conduct of a Pre-Hearing Conference where the parties appear to consider and agree on any of the following:

- a. Stipulation of facts;
- b. Simplification of issue/s;
- c. Identification and marking of exhibits;
- d. Limitation on the number and identification of witness/s;

- e. Dates of subsequent hearings;
- f. Submission of position papers instead of undergoing formal trial type proceedings; and
- g. Such other matters that may aid in the just and prompt resolution of the case.

Further, during the Pre-Hearing Conference, the Parties, at the option of the Formal Investigation Committee, may orally present their comments to motions of the other party, if any. The Formal Investigation Committee may orally resolve the motions and/or issue resolutions to the same.

The Notice of Pre-Hearing Conference shall contain a directive for the parties to submit their respective Pre-Hearing Conference Briefs, at least three (3) calendar days before the date of the Pre-Hearing Conference, copy furnishing the other party thereof.

Section 35. Non-appearance at the Pre-Hearing Conference.

The conduct of the Pre-Hearing Conference is mandatory. When any party fails to attend the Pre-Hearing Conference despite due notice, the Formal Investigation Committee may, *motu proprio* or upon motion of the present party, cause the submission of the case for decision based on records.

If there is no such motion or when the motion is denied, the present party may be allowed to present evidence *ex parte*, and the absent party shall be deemed to have waived the right to present evidence. The absent party, however, may still participate in the hearing, if allowed by the Formal Investigation Committee, upon proper motion based on meritorious grounds.

A counsel who appears on behalf of an absent party must also present written authority to represent the absent party for purposes of the Pre-Hearing Conference. Failure to submit the written authority to the Formal Investigation Committee shall be equivalent to non-appearance in the Pre-Hearing Conference.

Section 36. Filing and Service of Pre-Hearing Conference Brief.

The parties shall file before the Formal Investigation Committee and serve on the adverse party or counsel their respective Pre-Hearing Conference Briefs, in such a way as to ensure receipt thereof, three (3) calendar days before the scheduled Pre-Hearing Conference.

The failure of a Party to file his/her Pre-Hearing Conference Brief shall have the same effect as non-appearance at the Pre-Hearing Conference.

Section 37. Pre-Hearing Conference Order.

The agreement/s entered into by the parties during the Pre-Hearing Conference shall be embodied in a Pre-Hearing Conference Order. The Pre-Hearing Conference Order shall be binding on both parties, unless in the interest of justice, the Formal Investigation Committee allows deviation from the same.

Section 38. Continuous Hearing Until Terminated; Postponement.

Should the Formal Investigation Committee opt to conduct hearings, the same shall be conducted on the dates set by the Formal Investigation Committee or as agreed upon during the Pre-Hearing Conference, within the period allowed for the conduct of a Formal Investigation, unless the period is extended by the Disciplining Authority or its authorized representative in meritorious cases.

If the party who must present evidence fails or refuses to appear during a particular hearing despite due notice, the investigation shall proceed and the absent party shall be deemed to have waived the right to present such evidence, unless otherwise allowed by the Formal Investigation Committee upon motion based on meritorious grounds.

Failure of the opposing party to appear during the hearing shall be deemed as a waiver of the right to object to such evidence offered or matter raised therein.

Each party may be granted one (1) postponement upon oral or written motion, as may be allowed by the hearing officer. If the motion for postponement is granted, the party who caused the postponement must ensure that the presentation of its evidence is terminated on the remaining dates previously agreed upon.

Section 39 . Preliminary Matters.

At the start of the hearing, the Formal Investigation Committee shall note the appearances of the parties.

If, after being apprised of the right to counsel, the Respondent appears without the aid of a counsel, they shall be deemed to have waived the right thereto and the Formal Investigation Committee shall note said waiver in the records of the case.

The examination of witnesses presented in a hearing shall be open to the public, except in cases requiring confidentiality, or when the interests of morality, decency, or the protection of parties, so require.

Before taking the testimony, a member of the Formal Investigation Committee, who is authorized by law to administer oath, shall place the witness under oath and then take his or her name, address, civil status, age, and complete name and address of employment. In the absence thereof, the Formal Investigation Committee shall seek the assistance of any person authorized by law to administer oath.

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

Section 40. Objections.

All objections raised during the hearing shall be resolved by the Formal Investigation Committee. However, objections that cannot immediately be ruled upon by the Formal Investigation Committee shall be noted and incorporated into the position paper/memorandum of the concerned party to be ruled upon by the Disciplining Authority at the proper time.

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

Section 41. Markings.

All documentary or object 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 records of the case.

Section 42. Order of Hearing; Order of Examination of Individual Witness; One-Day Examination of Witness Rule.

In cases where the parties opt for a formal trial type proceeding, the hearings shall be limited to the contents of the Pre-Hearing Conference Order. Unless the Formal Investigation Committee directs otherwise, the order of the hearing shall be as follows:

1. The prosecution shall present its evidence;
2. The Respondent shall present his/her evidence; and
3. The prosecution and the Respondent may present rebuttal and sur-rebuttal evidence, respectively.

The order of the examination of individual witnesses shall be as follows:

1. Direct examination by the proponent;
2. Cross-examination by the opponent;
3. Re-direct examination by the proponent; and
4. Re-cross examination by the opponent.

The One-Day Examination of Witness Rule, which requires that a witness be fully examined in one (1) day only, shall be strictly adhered to. However, the Formal Investigation Committee may, at its discretion, extend the direct and/or cross examination for justifiable reasons.

Section 43. Issuance of Subpoena.

The Formal Investigation Committee may issue a *subpoena ad testificandum* to compel the attendance of witnesses to testify and a *subpoena duces tecum* for the production of documents or objects under their control.

A request for the issuance of a *subpoena ad testificandum* and/or a *subpoena duces tecum* shall be made at least seven (7) working days before the scheduled hearing.

Section 44. Virtual Hearing

The Disciplining Authority or its authorized representative, or the Formal Investigation Committee, on its own initiative, may conduct, with due notice to the parties, virtual hearings. Subject to the approval of the Formal Investigation Committee, the parties may also request the conduct of a virtual hearing for meritorious reasons.

Section 45. Record of Proceedings.

Records of the proceedings during the Formal Investigation may be taken in shorthand, stenotype, or any other means of recording, as may be found suitable by the Formal Investigation Committee.

Such official records of the proceeding shall form part of the records of the case.

Any unauthorized reproduction, publication, or posting in social media platforms or public domains of any copy of the official record is strictly prohibited. Any violation thereof may be a ground to hold the responsible person liable.

Either party may request a copy of the recording from the Formal Investigation Committee subject to the payment of reasonable fees. No other copy of the records may be considered an official record.

Section 46. Submission of Position Paper or Memorandum.

The Formal Investigation Committee may require the submission of position papers in the following instances:

- a. When the case may be decided based on available records under these Rules, provided that no new evidence will be presented by either party;
or

- b. Upon the mutual consent of the parties, in case of a conduct of formal investigation, at any stage of the proceedings.

The position paper or memorandum shall be submitted within ten (10) days reckoned from the receipt of the order to submit the same or in case of mutual agreement, from the date of such agreement as entered in the records, unless the period is extended in meritorious cases.

Section 47. Filing and Service of Pleadings, Motions, and Other Papers.

Unless a specific mode is required by the Formal Investigation Committee, all pleadings, motions, and other papers shall be filed and served by the parties personally, by registered mail, private courier, electronic mail, or other electronic means, with proof of filing and service. Non-compliance shall constitute grounds for the refusal of the filing or for treating such submission as not filed.

The filing and service of any pleading or motion may be done electronically using the email address provided by the Formal Investigation Committee during the Pre-Hearing Conference.

Section 48. Proof of Filing or Service.

If filing or service of pleadings and other submissions is done personally, proof of filing shall consist of the written or stamped acknowledgment of the receiving office. Proof of personal service, on the other hand, shall consist of a written admission by the party served, the official return of the server, or the affidavit of the party serving, which must state the date, place, and manner of service.

If by registered mail, proof of filing or service shall consist of a duly accomplished Registry Return Receipt prescribed by the Philippine Postal Corporation, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee, in addition to the affidavit of the person mailing stating deposit of the mail in the post office/courier service addressed to the party or to the party's counsel.

If by courier service, proof of filing or service shall consist of the courier's official receipt or document tracking number and the affidavit mentioned in the preceding paragraph.

If by electronic mail, the proof of filing or service shall be governed by the applicable rules on electronic filing and service.

Section 49. Formal Investigation Report.

Within fifteen (15) calendar days from the termination of the Formal Investigation, the Formal Investigation Committee shall submit to the Disciplining Authority a Formal Investigation 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 as to the disposition of the case. The complete records of the case shall be attached to the Formal Investigation Report.

The complete records with Table of Contents shall be systematically and chronologically arranged, paged, and securely bound to prevent loss.

In Sexual Harassment cases or those involving minors, fictitious initials shall be used in the decisions instead of the real name of the victim-complainant or the minor/s. Any other information which tends to establish their identities, their immediate family, or household members, shall not be disclosed. However, the victim-complainant, who is not a minor, in a sexual harassment case may waive anonymity through an express request, in which case, this paragraph shall not apply.

The Formal Investigation Report and its attachments shall be treated with confidentiality. The same shall not be given to the parties and shall serve only as a guide to the Disciplining Authority, who may or may not adopt the same entirely or partially.

Section 50. Effects of the Pendency of an Administrative Case.

Except as otherwise provided by law, the pendency of an administrative case shall not disqualify the Respondent from promotion, and other human resource actions, and/or from enjoying leave, monetary, and other fringe benefits.

For this purpose, an administrative case is pending if the Disciplining Authority has issued a Formal Charge against the Respondent and the administrative proceedings have not been terminated.

The release of the retirement benefits of a person with a pending case shall be governed by Republic Act No. 10154, otherwise known as "An Act Requiring All Concerned Government Agencies to Ensure the Early Release of the Retirement Pay, Pensions, Gratuities and Other Benefits of Retiring Government Employees," and its Implementing Rules and Regulations.

RULE VIII DECISION

Section 51. When Case is Decided.

The Disciplining Authority shall decide the case within thirty (30) calendar days from receipt of the Formal Investigation Report and the complete records of the case, or from the date the same is submitted for decision based on the complaint, answer and other available records pursuant to Section 46 of these Rules, unless the period is extended by the Disciplining Authority in meritorious cases.

Section 52. Service of Decisions.

The Records Officer or other authorized personnel shall serve copies of the Decision to the parties within five (5) calendar days from the receipt thereof, either personally, by registered mail, private courier, or electronic mail and shall submit proof of service thereof to the Disciplining Authority, which shall form part of the records of the case. However, any requests for service through private courier should be accompanied by the requesting party's payment of the cost.

For purposes of filing a Motion for Reconsideration or an Appeal, the period will be reckoned from the earliest date the party and/or his/her counsel received the Decision, regardless of the means of service.

Section 53. Finality and Execution of Decisions.

A Decision rendered by the Disciplining Authority whereby a penalty of reprimand or suspension for not more than thirty (30) calendar days or a fine in an amount not exceeding the Respondent's thirty (30)-day salary is imposed shall be final and executory unless a Motion for Reconsideration is seasonably filed before the Disciplining Authority pursuant to Section 54 of these Rules. In such cases, the Respondent cannot file an Appeal or Petition for Review, except when the issue raised pertains to a violation of due process pursuant to Section 59 of these Rules. In this regard, when the issue is not a violation of due process, the Respondent may file a Petition for *Certiorari* pursuant to Rule 65 of the Rules of Court, as amended, before the appropriate court.

If the penalty imposed is suspension exceeding thirty (30) calendar days or a fine in an amount exceeding the Respondent's thirty (30)-day 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 motion or Appeal has been filed.

A Decision imposing the penalty of Dismissal from the Service by a Schools Division Superintendent or a Regional Director, as the case may be, shall be subject to the confirmation, modification, or reversal of the Secretary. The confirmation, modification, or reversal of the Secretary shall become final after fifteen (15) calendar days from receipt thereof by the Respondent, unless a Motion for Reconsideration before the Secretary or an Appeal before the Commission is seasonably filed pursuant to Rules IX and X of these Rules, respectively.

In cases involving presidential appointees, a Decision of the Secretary imposing a penalty against a presidential appointee is not executory, unless confirmed or modified by the President. The available remedies and the finality of the approval, confirmation, or reversal of the Decision shall be governed by the rules of procedure of the Office of the President.

REMEDIES

RULE IX MOTION FOR RECONSIDERATION

Section 54. Filing of a Motion for Reconsideration.

The party adversely affected by the Decision, imposing a penalty other than a dismissal, may file a Motion for Reconsideration with the Disciplining Authority which rendered the same within fifteen (15) calendar days from receipt thereof, with proof of service to the opposing party.

For Decisions of the Disciplining Authority which imposes the penalty of dismissal, a Motion for Reconsideration may be filed with the Secretary within the same period.

Only one (1) Motion for Reconsideration shall be entertained. If a second Motion for Reconsideration is filed, the finality of the Decision shall be reckoned from the denial of the first Motion for Reconsideration.

A Motion for Extension of time to file a Motion for Reconsideration is not allowed.

Section 55. When deemed filed.

In case of personal filing, the Motion for Reconsideration is deemed filed on the date stamped thereon by the concerned records office.

In case of filing through registered mail or private courier service, a Motion for Reconsideration shall be deemed filed on the date stamped on the envelope, courier pack, or registry receipt, which shall be attached to the records of the case. In such cases, a scanned copy of the Motion for Reconsideration with the registry or courier receipt shall be sent to the email address indicated for such purpose in the subject Decision. The scanned copy of the Motion for Reconsideration must be submitted within twenty-four (24) hours from the completion of the filing via registered mail or courier service.

In case of filing via electronic means, the filing of Motion for Reconsideration shall be governed by the applicable rules on electronic filing.

Section 56. Grounds for Motion for Reconsideration.

The Motion for Reconsideration shall be based only on any of the following grounds which should be specifically indicated in the Motion for Reconsideration:

- a. Newly discovered evidence which could not have been discovered prior to the termination of the Formal Investigation by the exercise of due diligence,

- and which is of such character as would probably change the result of the Formal Investigation;
- b. The Decision is not supported by the evidence on record; or
 - c. Errors of law or irregularities prejudicial to the interest of the movant have been committed.

If the movant fails to specify the grounds for which he/she is filing his/her Motion for Reconsideration, the same may be denied.

Section 57. Effect of Filing of Motion for Reconsideration; Denial.

The filing of a Motion for Reconsideration within the reglementary period shall stay the execution of the Decision sought to be reconsidered.

The remedy from the denial of a Motion for Reconsideration is an Appeal pursuant to Rule X of these Rules.

Section 58. Resolution on Motion for Reconsideration.

The Disciplining Authority shall, as far as practicable, resolve the Motion for Reconsideration within thirty (30) days from the date it is submitted for resolution.

RULE X APPEAL

Section 59. Who may file; When and where to file.

Only the party adversely affected by a Decision may file an Appeal within fifteen (15) days from receipt of the Decision or the Resolution denying the Motion for Reconsideration if such has been filed. The Appeal of the Decision or Resolution of the Disciplining Authority is dependent on the penalty imposed and is governed by the following rules:

I. Decision of the Schools Division Superintendent:

- a. Penalty imposed is reprimand or suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary.** The aggrieved party may file an Appeal before the Regional Director or before the Commission only when the issue raised is violation of due process;
- b. Penalty imposed is suspension exceeding thirty (30) days suspension or a fine in an amount exceeding thirty (30) days salary.** The aggrieved party may either:
 - i. File an Appeal before the Secretary, in which case, the Assailed Decision shall not be executory. Thereafter, the Decision of the Secretary may be appealed to the Commission; or

- ii. File an Appeal directly with the Commission, in which case, the Assailed Decision shall be executory.

c. *Penalty imposed is dismissal from service.* The Decision of the Schools Division Superintendent shall be subject to the confirmation, modification, or reversal of the Secretary. Once confirmed, modified, or reversed, the aggrieved party may appeal the Decision of the Secretary to the Commission, in which case the Secretary's Decision shall be executory.

II. Decision of the Regional Director

- a. ***Penalty imposed is reprimand or suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary.*** The aggrieved party may file an Appeal before the Secretary or before the Commission only when the issue raised is violation of due process;
- b. ***Penalty imposed is suspension exceeding thirty (30) days suspension or a fine in an amount exceeding thirty (30) days salary.*** The aggrieved party may either:
 - i. File an Appeal before the Secretary, in which case, the Assailed Decision shall not be executory. Thereafter, the Decision of the Secretary may be appealed to the Commission; or
 - ii. File an Appeal directly with the Commission, in which case, the Assailed Decision shall be executory.
- c. ***Penalty imposed is dismissal from service.*** The Decision of the Regional Director shall be subject to the confirmation, modification, or reversal of the Secretary. Once confirmed, modified, or reversed, the aggrieved party may appeal the Decision of the Secretary to the Commission, in which case the Secretary's Decision shall be executory.

III. Decision of Secretary or his/her authorized representative:

a. *For non-presidential appointees:*

- i. ***Penalty imposed is reprimand or suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary.*** The aggrieved party may file an Appeal before the Commission only when the issue raised is violation of due process.
- ii. ***Penalty imposed is suspension exceeding thirty (30) days suspension or a fine in an amount exceeding thirty (30) days salary.*** The aggrieved party may file an Appeal or Petition for Review before the Commission, in which case the Assailed Decision of the Secretary shall be executory.

- iii. **Penalty imposed is dismissal from service.** The Respondent may file an Appeal directly with the Commission, in which case the Assailed Decision of the Secretary shall be executory.

b. For presidential appointees. A Decision of the Secretary imposing a penalty against a presidential appointee shall be subject to the confirmation, modification, or reversal of the President. The aggrieved party may appeal the Decision, Resolution, or Order of the President confirming, modifying, or reversing the Decision of the Secretary against a presidential appointee to the Court of Appeals under Rule 43 of the Rules of Court.

Section 60. When deemed filed.

If an Appeal is filed through personal delivery, the same shall be deemed filed on the date stamped thereon by the proper receiving office.

If an Appeal is filed through registered mail or through a private courier service, the same is deemed filed on the date stamped on the envelope or the courier pack. The envelope with the date stamp shall be attached to the records of the case. In such cases, a scanned copy of the Appeal with the registry or courier receipt shall be sent to the email address of the Disciplining Authority indicated for such purpose in the subject Decision. The scanned copy of the Appeal must be submitted within twenty-four (24) hours from the completion of the filing via registered mail or courier service.

If an Appeal is filed through personal delivery, the same shall be deemed filed on the date stamped thereon by the proper receiving office.

If an Appeal is filed via electronic means, the same shall be governed by the applicable rules on electronic filing and service.

Section 61. Perfection of an Appeal.

To perfect an Appeal, the appellant shall submit two (2) copies of the Memorandum of Appeal to the appropriate tribunal containing the following:

1. The material dates showing the timeliness of the appeal;
2. A concise statement of the facts and issues involved and the grounds relied upon;
3. Certified True Copies of the assailed decision, resolution, or order;
4. Certified True Copies of documents or evidence relevant to the case;
5. Verification and Certification of Non-Forum Shopping;
6. Proof of service of a copy of the Appeal Memorandum to the adverse party and the Disciplining Authority that rendered the Decision being appealed; and
7. Proof of payment of the Appeal Fee in the amount of Five Hundred Pesos (PhP 500.00) and Research Fee of Ten Pesos (PhP 10.00).

If the appellant fails to comply with any of the above requirements upon the filing of the Appeal, the Regional Director or the Secretary or his/her authorized representative, as the case may be, shall direct compliance with the foregoing within a period of ten (10) days from receipt of the Order therefor.

Failure to comply with such Order shall be construed as failure to perfect an appeal and shall cause its dismissal with prejudice to its refiling.

The filing of a Notice to Appeal without an attached Memorandum of Appeal shall not toll the period to appeal.

If a party resorts to forum shopping on appeal, the same shall be dismissed with prejudice.

The Disciplining Authority shall submit its comment together with the records of the case, to the appellate Disciplining Authority the certified true copies of the Decision, Resolution or Order, and the complete records of the case, which shall be systematically and chronologically arranged, paginated, and securely bound to prevent loss, within fifteen (15) calendar days from receipt of the Order issued by the appellate Disciplining Authority.

Section 62. Effect of Filing.

The filing of an Appeal before the Secretary shall stay the execution of the assailed Decision. However, the filing of an Appeal before the Commission shall not stay the execution of the assailed Decision, Resolution, or Order.

RULE XI PAYMENT OF BACKWAGES AND OTHER SIMILAR BENEFITS

Section 63. Who are Entitled.

Backwages and similar benefits shall be paid to the following Respondents:

- a. An illegally dismissed or suspended Respondent who is exonerated of the charge or whose penalty is downgraded to reprimand and ordered reinstated in the service;
- b. An employee who was found to be guilty of an offense punishable with a penalty less than what was initially imposed;
- c. An employee whose dismissal from the service is prematurely executed by the Disciplining Authority; and
- d. A respondent placed under Preventive Suspension whose Order of Suspension was declared by the Commission as invalid.

Section 64. What are Included.

Subject to the guidelines provided by the Commission, the following are included in the scope of backwages:

- a. Salaries from the time the official or employee was illegally dismissed or suspended up to the time of actual reinstatement;
- b. Representation and Transportation Allowance as provided under existing rules;
- c. Personnel Economic Relief Allowance (PERA)/Additional Compensation Allowance (ACA);
- d. Restoration of leave credits;
- e. Loyalty award;
- f. Anniversary bonus;
- g. 13th month pay, 14th month pay, and cash gift;
- h. Uniform/Clothing Allowance;
- i. Performance-Based Bonus; and
- j. Other similar benefits given to regular employees, except laundry allowance and hazard pay.

Section 65. Guidelines on the Payment of Backwages.

The following are the guidelines on the payment of backwages and other similar benefits to an illegally dismissed or suspended employee:

- a. The payment of backwages shall be computed based on the rate of corresponding to the salary grade, job grade, pay grade, or pay level of the Respondent at the time of dismissal or suspension, including the increases in salary, allowances and other emoluments that may occur during the period the Respondent was prevented from rendering service.
- b. An illegally dismissed or suspended Respondent is entitled to the payment of the benefits mentioned in Section 64 (a) from the time of illegal termination or suspension up to actual reinstatement. In cases of demotion, the respondent shall be entitled to the payment of the difference between the salary, allowances, and other emoluments actually received and those which he or she would have received had the demotion not occurred.
- c. For entitlement to RATA, subject to existing rules and regulations, the requirement of actual performance of duty of an illegally dismissed or suspended employee is dispensed with since it is unreasonable to expect or demand performance of functions when the circumstances prevent one from doing so.

The Personal Economic Relief Assistance / Agency Cost Adjustment shall be paid to the Respondent, whether occupying regular, contractual, casual, or appointive positions.

- d. The restoration of leave credits shall be subject to annual deductions of five (5) days forced leave/mandatory leave as required under the Omnibus Rules on Leave.

For purposes of Loyalty Award given to all officials/employees in the government who may have rendered at least ten (10) years of continuous and

satisfactory service in the government pursuant to CSC MC 6, s. 2002, the period during which the Respondent was illegally dismissed or suspended should not be considered as a gap in the service. The same should be included in the computation of the Respondent's length of service.

- e. Anniversary bonus shall be given during milestone years. A milestone year refers to the fifteenth (15th) anniversary and every fifth (5th) year thereafter. Respondents who have been illegally dismissed or suspended during the milestone years shall be entitled to the payment of anniversary bonus.
- f. The thirteenth (13th) and fourteenth (14th) month pay plus cash gift under existing laws or as provided in the General Appropriation Act shall be granted to each qualified official or employee which is equivalent to one (1) month basic salary each.
- g. Uniform or clothing allowance refers to the amount granted per year to each qualified official or employee as provided in the General Appropriations Act.
- h. Bonuses based on performance shall be given based on the rating of the employee prior to one's illegal dismissal or suspension from the service.

Section 66. Allowable Deductions.

The payment of backwages shall be subject to withholding tax, GSIS premium, PhilHealth, and HDMF fund contributions, and other monthly dues or deductions, if any.

The payment of thirteenth (13th) or fourteenth (14th) month pay, cash gift, anniversary bonus and other additional bonus given by the Department which exceeds the ceiling tax exemption shall be subject to withholding tax.

RULE XII

REMOVAL OF ADMINISTRATIVE PENALTIES OR DISABILITIES

Section 67. Recommendation for Removal of Administrative Penalties or Disabilities.

In meritorious cases, the Commission, in cases of non-presidential appointees, and the Secretary, in cases of presidential appointees, may favorably indorse to the President the commutation or removal of administrative penalties or disabilities imposed upon an official or employee, subject to such terms and conditions as the President may impose in the interest of the service.

For this purpose, a petition for favorable recommendation for the grant of executive clemency may be filed by a disciplined official or employee with the Secretary or Commission, as applicable, upon submission of the following:

1. Certified true copy of the Decision with a favorable recommendation by the Disciplining Authority, if the Decision was rendered by a Regional Director or a Schools Division Superintendent;
2. An affidavit or certification under oath from reputable members of the community where the petitioner resides stating, in particular, the deeds and actions of the petitioner evidencing that he or she is a good parent or family member and/or neighbor, law-abiding and an active member of community and civic organizations. The submission of affidavits and sworn certifications from at least two (2) individuals is deemed sufficient for this purpose. For purposes of the grant, the affidavit or sworn certification from a relative within the fourth (4th) degree of affinity or consanguinity of the petitioner will not be considered by the Commission or the Secretary;
3. Proof of non-pendency of an appeal or petition for review in relation to the disciplinary case before any court or tribunal;
4. Proof of payment of Three Hundred (300) Pesos; and
5. Clearance or Certificate of No Pending Case or of Non-Conviction of Any Offense obtained within six months from the date of filing of the request or petition which can be secured from the local Barangay, National Bureau of Investigation, and Philippine National Police.

Section 68. Effects on the Removal of Administrative Penalties or Disabilities.

Subject to existing laws and regulations, the grant of the request shall result in the restoration of the subject employee's privilege to be employed in the government service, unless the President specifically orders otherwise.

Restoration of civil service eligibility shall not apply to those who were found guilty of any form of examination irregularity.

Section 69. Guidelines. 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 requirements, the petitioner must demonstrate through specific and positive action and behavior that he or she has become a useful member of the community;
- b. A minimum of five (5) years should have elapsed 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 expressly state in the petition recognition and acceptance of his or her guilt and show that he or she is repentant and remorseful of the consequences of his or her act;
- d. The petitioner should furnish a copy of his or her petition to the disciplining authority or head office from which he or she was dismissed. The latter shall have fifteen (15) days from the receipt of the order from the Commission to comment on the petition;
- e. In cases where a petitioner is past the age of retirement, the Commission may favorably recommend the removal of his or her administrative penalties or

- disabilities, provided that he or she complies with the requirements and submit proof of moral reformation;
- 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; and
 - g. The grant of the favorable recommendation from the Commission for the removal of administrative penalties or disabilities can only be availed of once.

ADMINISTRATIVE OFFENSES AND PENALTIES

RULE XIII SCHEDULE OF PENALTIES

Section 70. 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, which determine their corresponding imposable penalties.

A. Grave Offenses

1. The first instance of the following grave offenses shall be punishable by dismissal from the service:
 - a. Being notoriously undesirable;
 - b. Contracting loans of money or other property from persons with whom the office of the employee has business relations;
 - c. Conviction of a crime involving moral turpitude;
 - d. Disloyalty to the Republic of the Philippines and to the Filipino people;
 - e. Falsification of official document;
 - f. Grave misconduct;
 - g. Grave sexual harassment;
 - h. Gross neglect of duty;
 - i. Nepotism;
 - j. Physical or mental disorder or disability due to immoral or vicious habits;

- k. 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;
- l. Serious dishonesty; and
- m. Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of one's office.

The propriety or impropriety of the foregoing shall be determined by the value of what was solicited or accepted, kinship, or relationship between giver and receiver and the motivation therefor. A thing of monetary value is one which is evidently or manifestly excessive by its very nature.

- 2. 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:
 - a. Conduct prejudicial to the best interest of the service;
 - b. Directly or indirectly having financial and material interest in any transaction requiring the approval of one's office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something;
 - c. Disclosing or misusing confidential or classified information officially known by reason of one's office and not made available to the public, to further one's private interests or give undue advantage to anyone, or to prejudice the public interest;
 - d. Disgraceful and immoral conduct;
 - e. Frequent Unauthorized Absences (habitual absenteeism);

Under these Rules, a person shall be considered habitually absent after incurring unauthorized absences exceeding the allowable 2.5 days monthly leave credit for at least three (3) months in a semester or at least three (3) consecutive months during the year;

- f. Gross insubordination;
- g. Habitual tardiness in reporting for duty causing prejudice to the operations of the office;

Under these Rules, an employee shall be considered habitually tardy after incurring tardiness, regardless of the number of minutes, ten (10) times a month for at least two (2) months in a semester or at least two (2) consecutive months during the year;

- h. Inefficiency and incompetence in the performance of official duties, which, in the alternative, may be punished by demotion;
- i. Less serious dishonesty;
- j. Loafing from duty during regular office hours;

Under these Rules, loafing refers to frequent unauthorized absences from duty during regular work hours despite entering attendance in the office;

- k. Obtaining or using any statement filed under the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) 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;
- l. Oppression;
- m. Owning, controlling, managing, or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised, or licensed by one's office, unless expressly allowed by law;
- n. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with one's office, unless such recommendation or referral is mandated by (a) law, or (2) international agreements, commitment, or obligation; or (3) as part of the function of one's office; and
- o. Refusal to perform official duty.

B. Less Grave Offenses

Unless otherwise stated, the following less grave offenses are punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and *Dismissal* from the Service for the second offense:

- a. Discourtesy in the course of official duties;
- b. Engaging directly or indirectly in partisan political activities by one holding a non-political office;
- c. Failure to file sworn statements of assets, liabilities and net worth;
- d. Failure to resign from one's position in the private business enterprise within thirty (30) calendar days from assumption of public office when conflict of interest arises, and/or failure to divest oneself of one's shareholdings or interest in private business enterprise within sixty (60) calendar days from assumption of public office when conflict of interest arises; provided, however, that for those who are already in the service when 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;
- e. Habitual drunkenness;
- f. Insubordination;
- g. Less grave sexual harassment;
- h. Simple dishonesty, which shall be punishable by suspension of six (6) months and one (1) day to one (1) year for the second offense; and dismissal for the third offense;
- i. Simple misconduct;
- j. Simple neglect of duty;
- k. Unfair discrimination in rendering public service due to party affiliation or preference; and
- l. Violation of existing civil service laws and rules of serious nature.

C. Light Offenses

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:

- a. Borrowing money by superior officers from subordinates;
- b. Disgraceful, immoral, or dishonest conduct prior to entering the service;
- c. Engaging in private practice of one's profession unless authorized by the Constitution, law, or regulation, or the head of the office where the employee or official is assigned, and provided that such practice will not conflict with one's official functions;
- d. Illegal gambling;
- e. Habitual tardiness;
- f. Improper or unauthorized solicitation of contributions from subordinate employees, and in the case of teachers or school officials from school children;
- g. Lending money at usurious interest rates;
- h. Light sexual harassment;
- i. Lobbying for personal interest or gain in legislative halls and offices without authority;
- j. 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;
- k. Pursuit of private business, vocation, or profession without the permission required by civil service rules and regulations;
- l. Unjustified refusal to render overtime service;
- m. Simple discourtesy in the course of official duties;
- n. Violation of reasonable office rules and regulations; and
- o. Willful failure to pay just debts or taxes due to the government.

Under these Rules, the term "just debts" refers only to claims adjudicated by a court of law, or those due and demandable in accordance with law.

Section 71. Penalty of Fine.

The following are the guidelines for the penalty of fine:

1. The Disciplining Authority, *motu proprio* or upon written request of the Respondent, may allow payment of fine in place of suspension if any of the following circumstances is present:
 - a. 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;
 - b. When the Respondent committed the offense without utilizing or abusing the powers of his/her position or office; or
 - c. When the Respondent has already retired or otherwise separated from government service and the penalty of suspension could not be served anymore, the fine may be sourced from the accumulated leave credits or whatever benefits due the Respondent.
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 salary 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 or resolution becomes final and executory.
4. Where the conversion of suspension into fine is granted upon request of the respondent, the conversion shall render the decision final and executory and, therefore, not subject to appeal or any other similar relief.
5. The failure of the Respondent to pay the fine or part thereof shall cause the reversion to the original penalty of suspension. As such, the Respondent shall serve the original penalty of suspension imposed, irrespective of the amount he/she has already paid.
6. Unless reverted to suspension in accordance with the immediately preceding paragraph, the penalty of fine as converted shall not result in a gap in the service.
7. Fines 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.
8. The fine shall be computed on the basis of the Respondent's salary at the time the decision becomes final and executory.

Section 72. Mitigating, Aggravating, and Alternative Circumstances.

Except for offenses punishable by dismissal from the service, the following may be appreciated as either mitigating or aggravating circumstances in the determination of the penalties to be imposed:

A. Mitigating Circumstances

The following are mitigating circumstances:

1. Awards and commendations;
2. First offense;
3. Good faith;
4. Lack of malice;
5. Physical illness; and
6. Other analogous circumstances.

B. Aggravating Circumstances

The following are aggravating circumstances

1. Employment of fraudulent means to commit or conceal the offense;
2. Presence of malice;
3. Taking undue advantage of official position;
4. Taking undue advantage of a subordinate;
5. Undue disclosure of confidential information;
6. Use of government property in the commission of the offense;
7. Habituality; and
8. Offense is committed during office hours and within the premises of the office or building.

C. Alternative Circumstances

The following may be appreciated as either mitigating or aggravating circumstances according to the nature and effects of the offense and other attendant conditions:

1. Education;
2. Intoxication;
3. Time and place of offense;
4. Length of service in the government;
5. Time and place of offense; and
6. Other analogous circumstances.

In the appreciation thereof, the modifying circumstances 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 consider mitigating circumstances *motu proprio*.

Section 73. Manner of Imposition.

When applicable, the imposition of the penalty may be made in accordance with the manner provided 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.

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.

Dismissal, being an indivisible penalty, may neither be mitigated nor aggravated, unless allowed by law.

The following divisible penalties shall have their medium range of penalty:

- a) Suspension ranging from (1) one month and (1) one day to (6) six months shall have (3) three months as its medium penalty; and
- b) Penalty of suspension ranging from (6) six months and (1) one day to (1) one year shall have (9) nine months as its medium penalty.

Section 74. Penalty for Multiple Offenses.

If the Respondent is found guilty of (2) two or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense, and the rest shall be considered as aggravating circumstances.

In case the Respondent is found guilty of two (2) or more counts of the same offense, the penalty shall be imposed in the maximum regardless of the presence of any mitigating circumstance.

Section 75. 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 result in diminution of salary corresponding to the next lower salary grade with the same salary step.
- 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, the Respondent shall not be entitled to any monetary benefit, including leave credits.

- d. The penalty of fine shall be in an amount not exceeding six (6) months salary of the 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 the Decision becomes final and executory.
- e. The penalty of reprimand is an official rebuke against a person's behavior, which does not carry any accessory penalty or 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 backwages and other benefits which would have accrued during the period of the suspension or dismissal.

Section 76. Administrative Disabilities Inherent in Certain Penalties.

The following rules shall govern in the imposition of accessory penalties:

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

Terminal leave benefits and personal contributions to the Government Service Insurance System, Retirement and Benefits Administration Service, or other equivalent retirement benefits system shall not be subject to forfeiture.

- b. The penalty of demotion shall carry with it disqualification from promotion for one (1) year, reckoned from the date of effectivity of such demotion.
- 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 period of suspension corresponding to the fine.

Should the respondent fail to pay the fine in full, the disqualification for promotion shall remain in effect until such time that the fine is fully paid.

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

Section 77. Effects of Exoneration on Certain Penalties.

The following rules shall govern when the Respondent is exonerated on appeal:

- a. In case the penalty imposed is a fine, the same shall be refunded.
- b. In case of demotion, the Respondent shall be entitled to the restoration of former salary grade with the same salary step and payment of salary differentials during the period the demotion was imposed.
- c. In case the penalty imposed is suspension, the Respondent shall immediately be reinstated to his/her former post without loss of seniority rights and with payments of backwages and all benefits which would have accrued as if the Respondent had not been legally suspended.
- d. In case the penalty imposed is dismissal, the Respondent shall immediately be reinstated without loss of seniority rights and with

payment of backwages and all benefits which would have accrued as if the Respondent had not been illegally dismissed.

- e. The Respondent who is exonerated on Appeal shall be entitled to the leave credits for the period the Respondent had been out of the service.

RULE XIV MISCELLANEOUS PROVISIONS

Section 78. Effect of Pendency of Petition for Review/Certiorari with the Courts.

The filing and pendency of a Petition for Review or *Certiorari* before the appropriate court shall not stop the execution of a Decision, unless a restraining or injunction order is issued.

Section 79. Non-execution of Decision.

Without prejudice to any other action available under the law, any officer or employee who willfully refuses or fails to implement the final and executory Resolution, Decision, Order, or Ruling of the Department may be administratively charged with conduct Prejudicial to the Best Interest of the Service or Neglect of Duty and may be held criminally liable under Section 67 of Book V, of Executive Order No. 292, otherwise known as the Administrative Code of 1987.

Section 80. Computation of Periods.

In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it is a Saturday, a Sunday or a holiday, in which case, the period shall run until the end of the next working day.

Copies of decisions and other communications shall be served to the counsel of record if a party is represented by a counsel. However, a party represented by a counsel is not precluded from securing or being served a copy of the said decisions or communications. The period to perfect a Motion for Reconsideration or an Appeal shall be reckoned from the date of receipt of a party or counsel, whichever is earlier.

Section 81. Effect of Termination, Retirement or Death of the Respondent.

A pending administrative case should not be dismissed solely due to the retirement, resignation, or dismissal from the service of the Respondent, if the alleged offense is punishable by any of the following:

- a. Fine;
- b. Cancellation of civil service eligibility;
- c. Disqualification from holding a public office;
- d. Bar from taking civil service examinations; or
- e. Forfeiture of retirement benefits.

The death of the Respondent during the pendency of the administrative case shall cause the dismissal of the said case.

Section 82. Monitoring and Evaluation

The Office of the Undersecretary for Legal and Legislative Affairs (OULLA) as well as the Legal Units of the Regional and Schools Division Offices, shall continue to monitor and evaluate the implementation of these Rules.

OULLA shall conduct information dissemination of these Rules upon its approval. Said Office shall also regularly conduct continuous capacity-building programs for personnel under its supervision and for those tasked with conducting investigations. In addition, a sustained information campaign on legal processes shall be implemented to promote institutional understanding and adherence.

Section 83. Repealing Clause.

Department Order No. 49, s. 2006, otherwise known as the "Revised Rules of Procedures of the Administrative Cases in the Department of Education" is hereby repealed. All other orders, resolutions, rules, or regulations issued by the Department inconsistent with these Rules are hereby repealed or modified accordingly.

Section 84. Application to Pending Cases or Investigations

These Rules shall apply to pending cases or investigations with the disciplining authorities and appellate bodies insofar as they are practical, applicable, or beneficial to the Respondent. However, the offenses and penalties reclassified under these Rules shall have a retroactive effect insofar as they are favorable to the Respondent.

Section 85. Separability Clause.

If any portion of these Rules is declared unconstitutional or invalid by competent authority, the other provisions not otherwise affected shall remain in full force and effect.

Section 86. Effectivity.

These Rules shall take effect after fifteen (15) days from the date of its publication in the Official Gazette or in a newspaper of general circulation and submission of a certified copy thereof with the University of the Philippines Law Center.