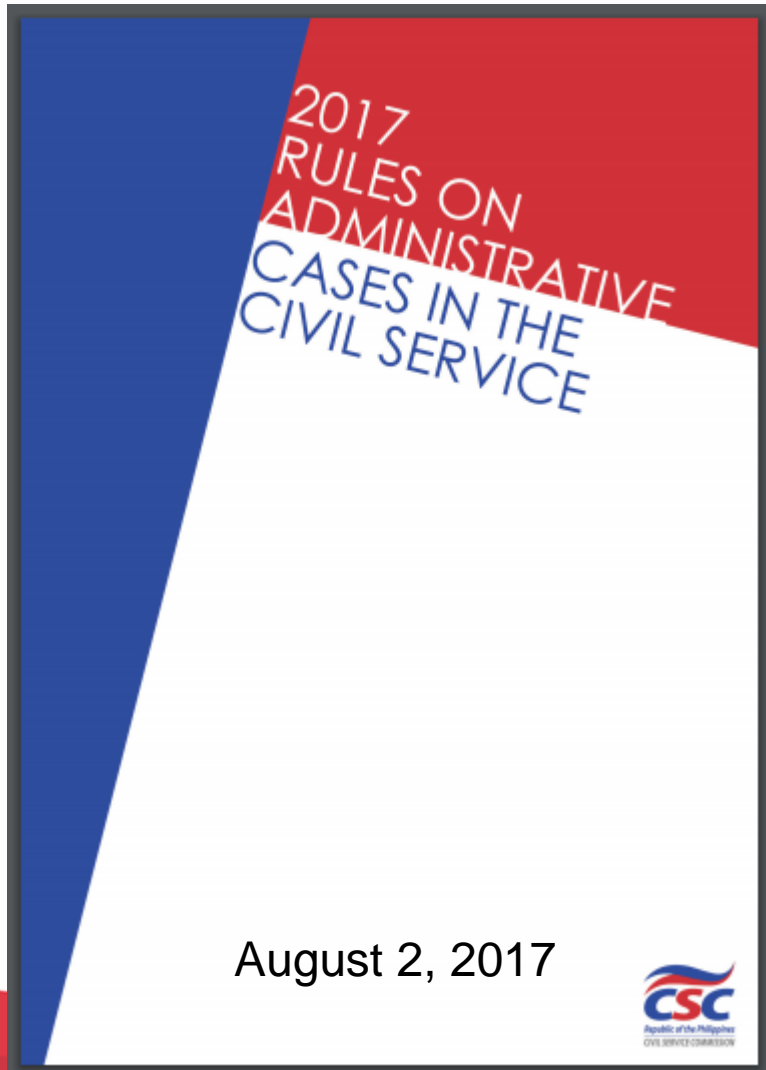


Landmark Jurisprudence on Administrative Law/Omnibus Rules on Appointments and Other Human Resource Actions

Krunimar Antonio D. Escudero III
Office for Legal Affairs

OVERVIEW



2017 OMNIBUS RULES ON APPOINTMENTS
AND OTHER HUMAN RESOURCE ACTIONS
(REVISED JULY 2018)

Re: Amendments and Additional Provisions to
CSC Resolution No. 1701009 (June 16, 2017)

X-----X

Number: 1800692

Promulgated: 03 JUL 2018

August 26, 2018

Major Amendments

- Integrated administrative offenses found in other rules
- Modes of conducting PI
- Dedicated rule on payment of backwages
- Mitigating circumstances not applicable to penalty of dismissal
- Accessory penalty of forfeiture or retirement benefits exclude terminal leave and personal contributions
- Simultaneous preventive suspension
- Psychological/developmental interventions as prerequisite to dropping from the rolls

Coverage (Rule 1, Sec. 2)

- Civil Service Commission
- Agencies and Instrumentalities of the National Government
- LGUs
- LUCs and SUCs
- GOCCs



Coverage (CESB vs CSC and PAO, G.R. No. 197762, March 7, 2017)

- the concept of a "**central personnel agency**" was considered **all-encompassing**; understood to be sufficiently broad as to include the authority to promulgate and enforce policies on personnel actions, to classify positions, and to exercise all powers and functions inherent in and incidental to human resources management
- the mandate of the CSC should therefore be read as the **comprehensive authority** to perform all functions necessary to ensure the efficient administration of the ***entire civil service, including the CES.***

Construction (Rule 1, Sec. 3)

- Liberal construction to obtain just, speedy and inexpensive disposition of cases
- Administrative investigations shall be conducted without strict recourse to technical rules of procedure and evidence applicable to judicial proceedings



NACU, and DE SAGUN vs. CSC and PEZA (G.R. No. 187752, November 23, 2010)

- It is settled that, in administrative proceedings, **technical rules of procedure and evidence are not strictly applied.** Administrative due process cannot be fully equated with due process in its strict judicial sense.
- It is, therefore, not legally objectionable or violative of due process for an administrative agency to **resolve a case based solely on position papers, affidavits, or documentary evidence submitted by the parties,** as affidavits of witnesses may take the place of their direct testimonies.

Construction (Rule 1, Sec. 3)

BUT

- Ang Tibay vs. CIR, G.R. No. L-46496, February 27, 1940. *But this assurance of a **desirable flexibility** in administrative procedure does not go far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence.*

(Consolidated Edison Co. v. National Labor Relations Board, 59 S. Ct. 206, 83 Law. ed. No. 4, Adv. Op., p. 131.)“

Also: First United vs. Valdez, NHA vs Legasto, Valdez and Adea IV, G.R. Nos. 154108 and 157505, December 10, 2010



**MIRO vs. MENDOZA, ALINGASA, MENDOZA,
(G.R. Nos. 172532 & 172544-45, November 20, 2013)**

- We additionally note that the affidavits were never identified by the complainants. All the allegations contained therein were likewise uncorroborated by evidence, other than the NBI/Progress report.
- For the **affiants' failure to identify their sworn statements**, and considering the seriousness of the charges filed, their affidavits must not be accepted at face value and should be treated as **inadmissible under the hearsay evidence rule**.

BALASBAS vs. MONAYAO (G.R. No. 190524, February 17, 2014)

- While technicalities may be dispensed with in administrative proceedings, this does not mean that the rules on proving allegations are entirely dispensed with. **Bare allegations are not enough**; these must be supported by substantial evidence at the very least.

SAUNAR vs. ERMITA AND PAGC
(G.R. No. 186502, December 13, 2017)

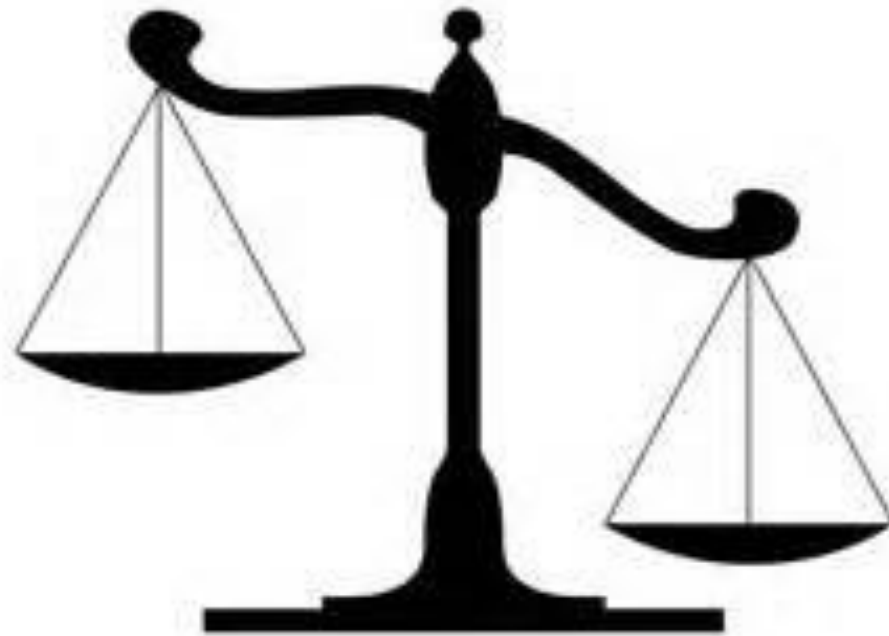
- The right to a hearing is a right which may be invoked by the parties to thresh out substantial factual issues. It becomes even more imperative when the rules itself of the administrative body provides for one. While the absence of a formal hearing does not necessarily result in the deprivation of due process, it should be acceptable only when the party does not invoke the said right or waives the same.

Jurisdiction (Rule 2)

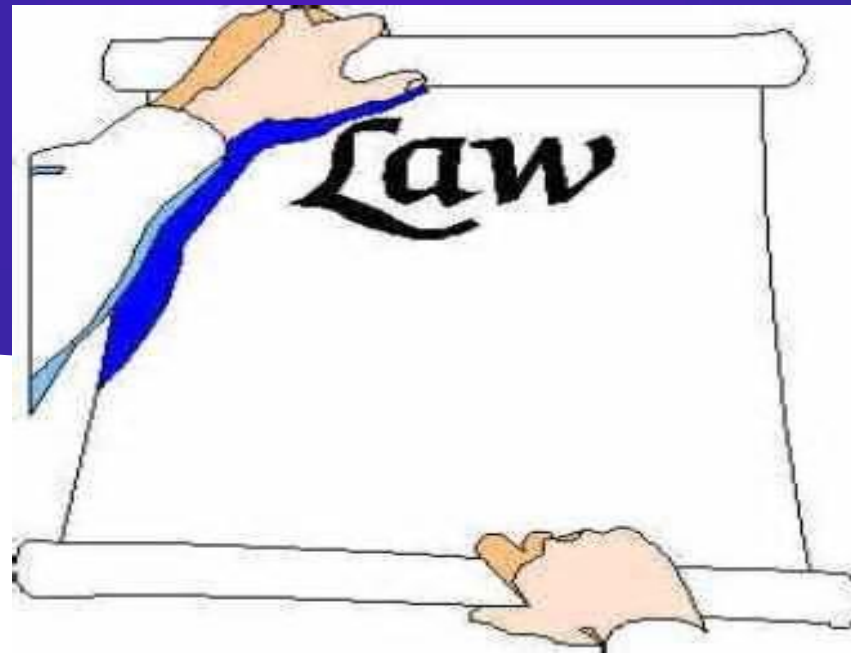
- Disciplinary
- Non-disciplinary
 - Dropping from the Rolls
 - Invalidation or Disapproval of Appointments

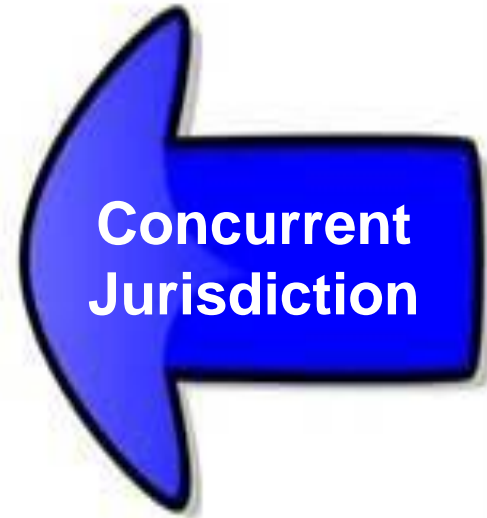
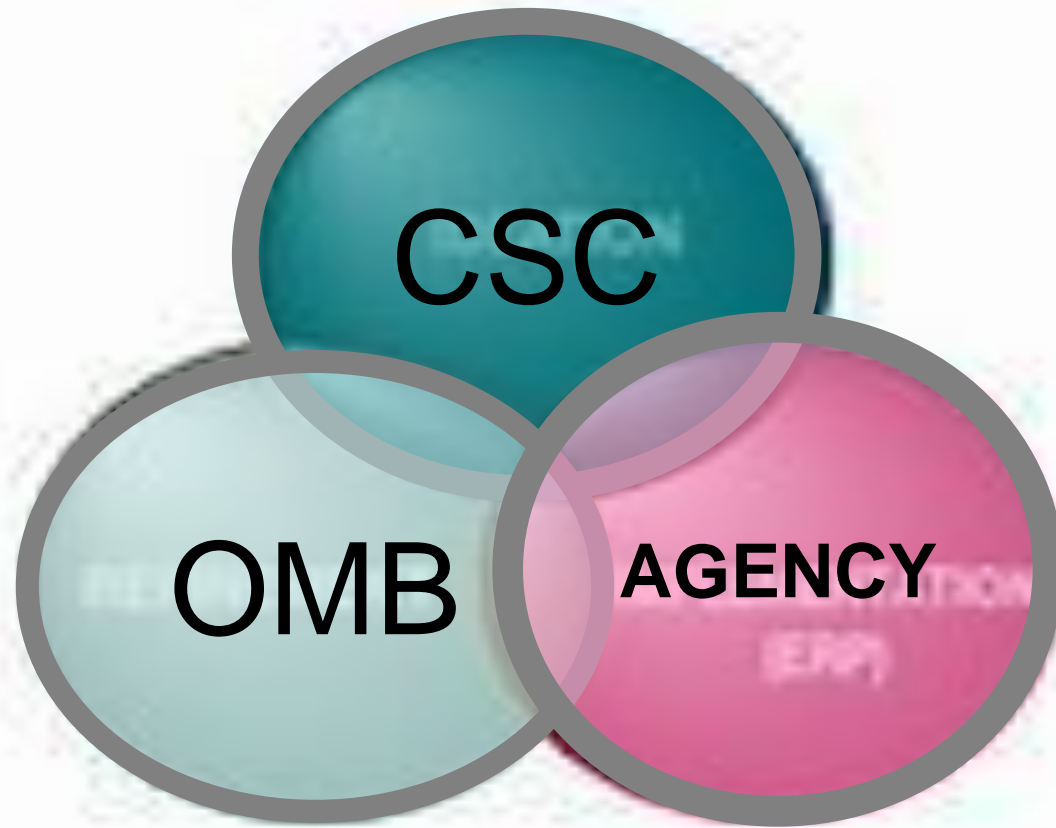


Jurisdiction is the authority to hear
and decide cases.



Jurisdiction is conferred by law. Absent such legal basis, the power to discipline cannot be exercised.





CSC vs. Sojor; G.R. No. 168766, May 22, 2008

CSC vs CA, GUEVARRA and CEZAR (G.R. No. 176162, October 9, 2012)

- ... the CSC has original concurrent jurisdiction shared with the governing body in question, in this case, the Board of Regents of PUP. This means that if the Board of Regents first takes cognizance of the complaint, then it shall exercise jurisdiction to the exclusion of the CSC.
- The Administrative Code affords the CSC the option of whether to decide the case or to deputize some other department, agency or official to conduct an investigation into the matter, thereby considerably easing the burden placed upon the CSC.

Concurrent Original Jurisdiction

Original jurisdiction which two or more bodies may exercise.

- Cannot be invoked/exercised simultaneously as the same gives rise to the prohibited practice of forum shopping.
- Subject to the rule that the cognizance of one body over the case excludes other bodies that may exercise concurrent jurisdiction over the same.

Officials	Disciplining Authorities
Presidential appointees	Office of the Ombudsman; Office of the President
Local elective officials	Office of the President; Office of the Ombudsman; local sanggunian
Members of constitutional offices	Congress through impeachment
Justices of the Supreme Court	Congress through impeachment
Judges of lower courts and other court personnel	Supreme Court
Members of Congress	Congress
Military personnel	Military Court Martial



Jurisdiction of CSC-Central Office (Rule 2, Sec. 7)

- Decisions of CSCROs
- Decisions of heads of agencies imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary brought before it on appeal
- Complaints brought against Civil Service Commission personnel
- Complaints against officials who are not presidential appointees
- Decisions of heads of agencies imposing penalties not exceeding 30 days suspension or fine equivalent thereto but violating due process



Jurisdiction of CSC-Central Office (Rule 2, Sec. 7)

- Decisions of disciplining authorities imposing penalties not exceeding thirty (30) days suspension or fine equivalent to 30 days salary but violating due process
- Requests for transfer of venue of hearing on cases being heard by CSCROs
- Appeals or petitions for review from orders of preventive suspension
- Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.



Jurisdiction of CSC-Central Office (Rule 2, Sec. 7)

- Decisions of department secretaries and bureau heads on human resource actions;
- Decisions of CSCROs;
- Requests for favorable recommendation on petition for the removal of administrative penalties or disabilities;
- Requests for extension of service excluding presidential appointees;
- Appeals from reassignment of public health workers and public social workers;
- Such other analogous actions or petitions arising out of or in relation with the foregoing enumerations.



DISCIPLINARY ACTIONS

When an officer or employee is disciplined, the object is the improvement of the public service and the preservation of the public's faith and confidence in the government

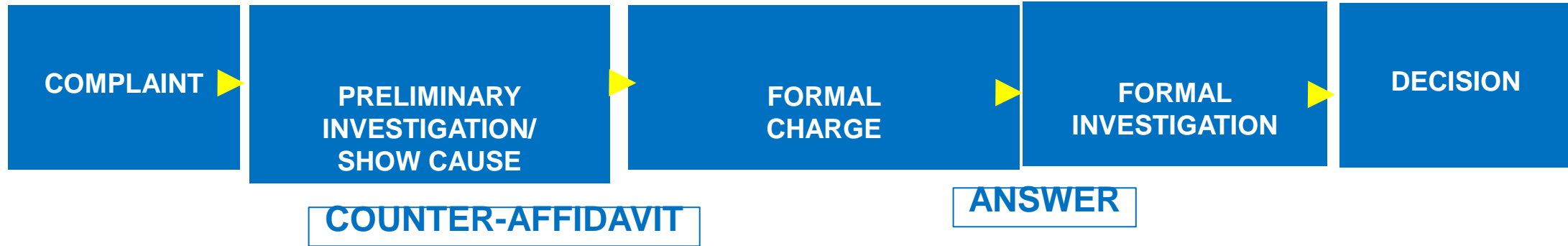
CSC v. Cortez, 430 SCRA 593 citing Bautista v. Negado, 108 Phil 283, 289

No officer or employee of the government can be disciplined or removed from office, except for cause and after due process.

Security of Tenure

Art. IX-B, Sec. 2, 1987 Constitution of the Philippines

The phrase “FOR CAUSE” refers to the grounds for disciplinary actions enumerated in the Revised Administrative Code of 1987



PROCEDURAL FLOW

HOW INITIATED

- ✓ Valid Complaint
- ✓ *Motu proprio* by the Disciplining Authority





PROCEDURAL FLOW

VALID COMPLAINT

- ✓ Written
- ✓ Subscribed
- ✓ Sworn
- ✓ ~~Triplicate copies~~, plus additional copies corresponding to the number of persons complained of

COMPLAINT

TO:	PAGE	MINUTE	SECOND
	MONTH	DAY	YEAR

WHOSE FAULT: MINE OURS
 YOURS OTHER:

DESIRED OUTCOME: LITIGATION RESTITUTION
 EXPLANATION PROMOTION CHANGE

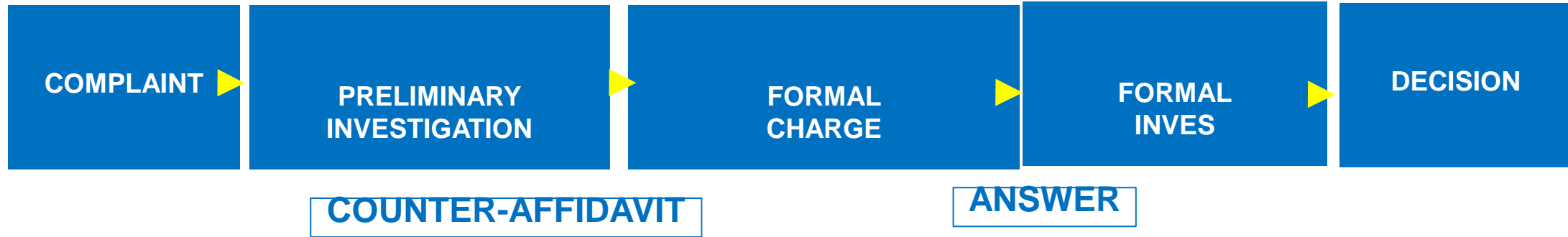
COMPLAINANT:

Contents of a Valid Complaint

- Full name and address of the complainant
- Full name and address of the person/s complained of as well as his/her/their position/s and office/s
- Narration of the relevant and material facts which shows the acts or omissions allegedly committed
- Certified true copies of documentary evidence and affidavits of his/her witnesses, if any; and
- Certification or statement of non-forum shopping



The absence of any of the requirements of a complaint may cause the dismissal of the complaint without prejudice to its refiling.



PROCEDURAL FLOW

Preliminary Investigation

- A proceeding undertaken to determine whether a **prima facie case** exists to warrant the issuance of a Formal Charge.

Garcia vs. Molina

(G.R. Nos. 157383 & 174137, August 10, 2010)

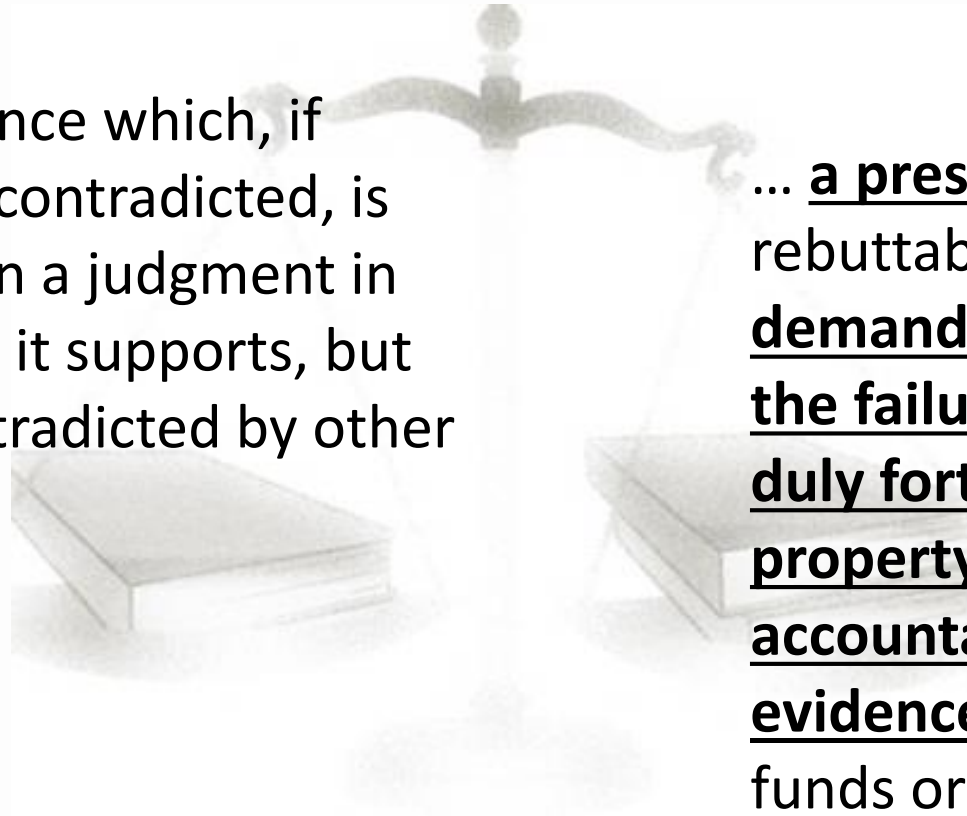
- ... upon receipt of a complaint which is sufficient in form and substance, the disciplining authority shall require the person complained of to submit a Counter-Affidavit/Comment under oath within three days from receipt. The use of the word “shall” quite obviously indicates that it is **mandatory** for the disciplining authority **to conduct a preliminary investigation** or at least respondent should be given the opportunity to comment and explain his side.

Wa-acon vs. People

(G.R. No. 164575, December 6, 2006)

Prima facie evidence

refers to the evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favour of the issue it supports, but which may be contradicted by other evidence.



... a presumption, though disputable and rebuttable, was installed that upon demand by any duly authorized officer, the failure of a public officer to have duly forthcoming any public funds or property' with which said officer is accountable should be prima facie evidence that he had put such missing funds or properties to personal use.

How Conducted (Rule 4, Sec. 19)

- Submission of comment/ counter-affidavit
(Show Cause Memo)
- Ex parte evaluation of records
 - ▶ Clarificatory meeting

Investigation Report (Rule 4, Sec 21)

- ✓ Submitted within five (5) days from the termination of the preliminary investigation
- ✓ Contains a recommendation
- ✓ Includes the complete records of the case
- ✓ Must be treated with confidentiality



MOLLANEDA vs. UMACOB
(G.R. No. 140128, June 6, 2001)

The Report remains an internal and confidential matter to be used as part - although not controlling - of the basis for the decision. Only when the party adversely affected by the decision has filed and perfected an appeal to the Civil Service Commission may all the records of the case, including the aforesaid Report be forwarded to the CSC.



PROCEDURAL FLOW

Contents of a Formal Charge



- Specification of charges
- Brief statement of the material/relevant facts
- Certified copies of documentary evidence, if any
- Directive to answer
- Advice to indicate whether formal investigation is elected
- Notice that he/she may opt to be assisted by counsel of his/her choice

Notice of Charges(Rule 5, Sec 24)

Notice of Charges

- Complaint initiated by person other than the disciplining authority
- PI is done ex parte
- Attach copies of the complaint, documentary evidence
- If incomplete attachments, respondents may request for the lacking document and the period to answer shall not run

Formal Charge, Effect of

An administrative disciplinary case is considered pending when the disciplining authority has issued a Formal Charge or a Notice of Charge to the respondent

Effect of Pendency of Admin Case

- ✓ Shall not disqualify respondent from:
 - 1) promotion and other personnel actions
 - 2) claiming maternity/paternity benefits



Is the respondent entitled to the 13th, 14th, month bonus?

DBM Guidelines

- 5.7 Those who are formally charged administrative and/or criminal cases which are still pending for resolution, shall be entitled to Mid-Year Bonus until found guilty by final and executory judgment: Provided, that:
 - 5.7.1 Those found guilty shall not be entitled to Mid-Year Bonus in the year of finality of the decision. The personnel shall refund the Mid-Year Bonus received for that year.
 - 5.7.2 If the penalty imposed is only a reprimand, the personnel concerned shall be entitled to the Mid-Year Bonus.

Preventive Suspension (Rule 7)

- ✓ Not a penalty
- ✓ Preventive/precautionary measure
- ✓ Issued simultaneously upon service of the formal charge, or immediately thereafter

Secretary of Agrarian Reform vs. Baculi (G.R. No. 201130, March 8, 2017)

- ✓ By law, Baculi should have been automatically reinstated at the end of the 90-day period of his preventive suspension because his case was not finally decided within the said period.
- ✓ Preventive suspension pending investigation is not violative of the Constitution because it is not a penalty. It is authorized by law whenever the charge involves dishonesty, oppression or grave misconduct, or neglect in the performance of duty, or whenever there are reasons to believe that the respondent is guilty of charges that would warrant removal from the service.

Grounds for Preventive Suspension

- ✓ There is a Formal Charge/ Notice of Charge
- ✓ The charge involves:
 - a) Serious Dishonesty
 - b) Oppression
 - c) Grave Misconduct
 - d) Gross Neglect of Duty
 - e) **Other offenses punishable by dismissal from the service; or**
 - f) Administrative offense committed on its second or third offense and the penalty is dismissal from the service; **and**

Grounds for Preventive Suspension

- ✓ B.) The respondent is in a position to exert undue influence or pressure on the witnesses and/or tamper with evidence.
- ✓ In order for a preventive suspension order to be valid, any of the conditions in Items A and B must be present.

Reassignment in lieu of preventive suspension



Shall the resignation or retirement of the official/employee bar the institution of an administrative case against him/her?

Pagano vs. Nazarro

(G.R. No. 149072, September 21, 2007)

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

SPECIFIC OFFENSES

Administrative Offenses & Penalties (Rule 10)

GRAVE - Dismissal;
Suspension of 6 months & 1 day to 1 year;
Demotion



LESS – Suspension of 1 month & 1 day to 6 months;
GRAVE Dismissal for 2nd offense

– Reprimand for 1st offense;
Suspension of 1 to 30 days for the 2nd offense;
Dismissal for 3rd offense

Grave Offenses punishable by Dismissal

- Serious Dishonesty
 - Being Notoriously Undesirable
 - Physical or Mental Incapacity or Disability due to Immoral or Vicious Habits
 - Nepotism
 - Disloyalty to the Republic of the Philippines and to the Filipino People
- Gross Neglect of Duty
 - Conviction of a Crime involving Moral Turpitude
 - Contracting Loans of Money or Other Property from Persons with whom the Office of the Employee has Business Relations
- Grave Misconduct
 - Falsification of Official Documents
 - Receiving for Personal Use of a Fee, Gift or Other Valuable Thing in the Course of Official Duties or in Connection therewith ...
 - Soliciting or Accepting Directly or Indirectly, Any Gift, Gratuity, Favor, Entertainment, Loan or Anything of Monetary Value ...

Grave Offenses punishable by Suspension

- Less Serious Dishonesty
 - Oppression
 - Disgraceful and Immoral Conduct
 - **Frequent unauthorized absences, or tardiness in reporting for duty, loafing from duty during office hours** **Habitual tardiness in reporting for duty causing prejudice to the operations of the office**
 - Refusal to perform official duty
- Gross Insubordination
 - Conduct prejudicial to the best interest of the service
 - Directly or indirectly having financial & material interest in any transaction requiring the approval of his/her office
 - Loafing
- Owing, controlling, managing or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by his/her office, unless expressly allowed by law

Grave Offenses punishable by Suspension

- Disclosing or misusing confidential or classified information officially known to him/her by reason of his/her office and not made available to the public to further personal interest or give undue advantage to anyone
- Obtaining or using any statement filed under the Code of Conduct and Ethical Standards for Public Officials 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
- Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his/her office, unless such recommendation/referral is mandated by law/ international agreements, or as part of the function of his/her office

Grave Offenses punishable by Demotion

- Inefficiency & Incompetence in the Performance of Official Duties



Less Grave Offenses punishable by Suspension of 1 month & 1 day to 6 months

- Habitual Drunkenness
- Failure to file SALN
- Simple Neglect of Duty
- Simple Misconduct
- Discourtesy in the Course of Official Duties
- Violation of existing Civil Service Law and Rules of Serious Nature
- Insubordination
- Failure to resign from position in the private business within 30 days from assumption of office when conflict of interest arises;
- Failure to divest shareholdings or interest in private business within 60 days from assumption to public office when conflict of interest arises
- Engaging directly or indirectly in partisan political activities by one holding non-political office
- Engaging directly or indirectly in partisan political activities by one holding non-political office
- Simple Dishonesty

Light Offenses

- Simple discourtesy in the course of official duties
 - Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children
 - Violation of reasonable office rules
 - **Habitual tardiness**
- Gambling prohibited by law
 - Disgraceful, immoral or dishonest conduct prior to entering the service
 - Borrowing money by superior officers from subordinates
 - Willful failure to pay 'just debts' or willful failure to pay taxes due to the government
- Lobbying for personal interest or gain in legislative halls and offices without authority
 - 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
 - Failure to act promptly on letters and request within 15 working days from receipt, except as other provided in RA 6713

Light Offenses

- Failure to process documents & complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in RA 6713
- Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions



- Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions; and
- Pursuit of Private Business/Vocation/Profession without the Permission Required by Civil Service Rules and Regulations

DISGRACEFUL AND IMMORAL CONDUCT

Refers to acts which violate the basic norm of decency, morality and decorum abhorred and condemned by the society. It refers to conduct which is willful, flagrant, or shameless, and which shows a moral indifference to the opinions of the good and respectable members of the community

Fabian vs. Agustin (G.R. No. 143092, February 14, 2003)

He described in one of his letters to her that their relationship is emotional, spiritual and sexual and that they lived and shared the nights together. Such moral depravity cannot be countenanced and should not remain unpunished. A public office is a public trust, which demands of those in its service the highest degree of morality. Having an affair with someone who is financially interested in the transactions being acted upon by his office, of which he is the head, is not only outrageous to the standards of decency and morality, but unmistakably prejudicial to the public service.

DISHONESTY

Has been defined as a form of conduct which connotes untrustworthiness and lack of integrity, a disposition to lie, cheat deceive, betray.”

[BALAGSO, Teodoro Jr. L., et al., CSC Resolution No. +99-1085, May 21, 1999 citing BRIONES, Rolando A., CSC Res. 97-3740 dated August 28, 1997]

DISHONESTY

“The concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive or betray and an intent to violate the truth.”

[Section 1, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]

Classification of DISHONESTY

- a) Serious Dishonesty-
Punishable by dismissal from the service

- b) Less Serious Dishonesty-

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

2nd offense - dismissal from the service

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

Classification of DISHONESTY

c) Simple Dishonesty-

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

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

3rd offense - dismissal from the service

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

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

- a) The dishonest act caused serious damage and grave prejudice to the Government
- b) The respondent gravely abused his authority in order to commit the dishonest act

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

X X X

- c) Where the respondent is an **accountable officer**, the dishonest act directly involves property, accountable forms or money for which he is directly accountable and the respondent shows an intent to commit material gain, graft and corruption

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

X X X

- d) The dishonest act exhibits **moral depravity** on the part of the respondent
- e) The respondent employed fraud and/or **falsification of official documents** in the commission of the dishonest act related to his/her employment

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

X X X

- f) The dishonest act was committed **several times** or in various occasions
- g) The dishonest act involves a **Civil Service examination** irregularity or **fake Civil Service eligibility** such as, but not limited to, impersonation, cheating and use of crib sheets

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

X X X

h) Other analogous circumstances

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

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

- a) The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification
- b) The respondent did not take advantage of his/her position in committing the dishonest act
- c) Other analogous circumstances

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

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

- a) The dishonest act did not cause damage or prejudice to the government
- b) The dishonest act has no direct relation to or does not involve the duties and responsibilities of the respondent
- c) In falsification of any official document, where the information falsified is not related to his/her employment

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

X X X

- d) That the dishonest act did not result in any gain or benefit to the offender
- e) Other analogous circumstances

[Section 5, RULES ON ADMINISTRATIVE OFFENSE OF DISHONESTY, CSC Resolution No. 06-0538, April 4, 2006]

Fajardo vs. Corral (G.R. No. 212641, July 5, 2017)

Clearly, Fajardo's acts constitute **serious dishonesty for her dishonest act deals with money on her account**; and that her failure to account for the shortage showed an intent to commit material gain, graft and corruption. **Evidence of misappropriation of the missing funds is not required because the existence of shortage of funds and the failure to satisfactorily explain the same would suffice.**

GROSS NEGLIGENCE OF DUTY

Negligence is want of care required by the circumstances. It is a relative or comparative, not an absolute term, and its application depends upon the situation of the parties, and the degree of care and vigilance which the circumstances reasonably impose

[US vs. JUANILLO, 23 Phil. 212]

See: Ombudsman vs. De Leon G.R. No. 154083, February 27, 2013

OMB vs. Delos Reyes (G.R. No. 208976, October 13, 2014)

It is undisputed that as Chief of the Marketing and On-Line Division of the COD, respondent was **accountable for the vault and the lotto proceeds placed inside it.** As the Division Chief, respondent had the duty to monitor, check, and reconcile the reports of the daily lotto proceeds. It is true that it was not his job to personally deposit the lotto proceeds with the bank, as this fell under Driz's responsibility. However, it was incumbent upon respondent to ensure that the **lotto proceeds deposited in the bank correspond to the reports submitted to him and that the proceeds are deposited promptly.**

Misconduct: GRAVE VS. SIMPLE

In Grave Misconduct, as distinguished from Simple Misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rules, must be manifest.”

[LANDRITO vs. CSC, 223 SCRA 564

Citing In Re: Impeachment of Horilleno, 43 Phil. 212 [1922]

Misconduct

- **To be considered misconduct in office transgression must have been done while in the performance of duties**
- Largo vs CA, CSC, NPC and Olandesca, G.R. No. 177244, November 20, 2007 citing Manuel vs Calimag, Milanese vs. De Guzman, Amosco vs Magro, Apiag vs Cantero
- Ganzon vs. Arlos, G.R. No. 174321, October 22, 2013

Conduct Prejudicial to the Best Interest of the Service

- There is no concrete description of what specific acts constitute the grave offense of Conduct Prejudicial to the Best Interest of the Service.
- The Supreme Court has considered the following acts or omissions, inter alia, as Conduct Prejudicial to the Best Interest of the Service: **misappropriation of public funds, abandonment of office, failure to report back to work without prior notice, failure to safe keep public records and property, making false entries in public documents and falsification of court orders.**

Conduct Prejudicial to the Best Interest of the Service

- **Largo**, the Section Chief of the NPC who entered the quarters of another employee, threatened to kill him, and who fired his gun twice during the course of the altercation
- **Alday vs. Cruz**, a Regional Trial Court judge of Makati City who pointed his gun at the complainants while shouting “*Putang ina ninyo, anong gusto ninyong mangyari?*,” A.M. No. RTJ-00-1530, March 14, 2001
- **Marcelino vs. Singson**, a Metropolitan Trial Court judge of Quezon City who boxed and poked a gun at the complainant was ordered to pay a fine of PhP 1000.00 A.M. No. MTJ-94-962, April 24, 1995

Conduct Prejudicial to the Best Interest of the Service

“Having an affair with someone who is financially interested in the transactions being acted upon by his office, of which he is the head, is not only outrageous to the standards of decency and morality, but unmistakably prejudicial to the public service.”

(Fabian vs. Agustin, 397 SCRA 401)

BEING NOTORIOUSLY UNDESIRABLE

This offense is based mainly on the general reputation of an employee for being difficult to work with, due to his/her quarrelsome attitude and/or repeated infractions of office rules. The focus in this offense is the totality of his conduct in office and not his liability for the individual acts.”

[LAGUILLES, Cesar P., CSC Resolution No. 99-0026, January 6, 1999]

ATTY. RECTO-SAMBAJON vs. PAO
(G.R. No. 197745, September 6, 2017)

- In the administrative offense of Being Notoriously Undesirable, a two-fold test is employed, to wit: (1) whether it is ***common knowledge or generally known*** as universally believed to be true or manifest to the world that the employee committed the acts imputed against him; and (2) whether he had contracted the habit for any of the enumerated misdemeanors.

CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE

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

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

MORAL TURPITUDE

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

“It (moral turpitude) implies something immoral in itself, regardless of the fact that it is punishable by law or not. It is not the prohibition by statute that fixes moral turpitude but the nature of the act itself.”

[ROBREDILLO, Mario, CSC Resolution No. 00-0657, March 10, 2000 citing DELA TORRE vs. COMELEC, 258 SCRA 483]

FALSIFICATION OF PUBLIC DOCUMENTS

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

[U.S. vs. BUENAVENTURA, 1 Phil. 433]

{Pagaduan vs CSC and Salvador, G.R. No. 206379, November 19, 2014}

FALSIFICATION OF PUBLIC DOCUMENTS as Crime Involving Moral Turpitude

De Jesus-Paras vs. Vailoces (1961) a lawyer was disbarred on the ground of conviction of a crime involving moral turpitude, after having found that the said lawyer was convicted of the crime of falsification of public documents. (also Avanceña, 1967; Pactolin G.R. No. 161455, May 20, 2008)

**Pagaduan vs. CSC and Salvador
(G.R. No. 206379, November 19, 2014)**

Considering that **the principal act punished in the crime of falsification of public document is the violation of the public faith and the destruction of truth** as therein solemnly proclaimed, the elements of the administrative offense of conviction of a **crime involving moral turpitude clearly exist** in this case. The Court does not have to look beyond what is simply apparent from the surrounding circumstances.

NEPOTISM

All appointments in the national, provincial, city and municipal governments or in any branch or instrumentality thereof, including government-owned and controlled corporations, made in favor of a relative {within the third degree} of the appointing or recommending authority, or of the chief of the bureau or office, or of the persons exercising immediate supervision over him, are hereby prohibited.

[DEBULGADO vs. CIVIL SERVICE COMMISSION, 238 SCRA 184]

LIMITATIONS ON APPOINTMENTS

No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing and recommending authority.

[Section 79, Local Government Code of 1991]

CSC vs. CORTES
(G.R. No. 200103, April 23, 2014)

- Respondent Cortes' appointment as IO V in the CHR by the Commission En Banc, where his father is a member, is covered by the prohibition. Commissioner's abstention from voting did not cure the nepotistic character of the appointment. His mere presence during the deliberation for the appointment of IO V created an impression of influence and cast doubt on the impartiality and neutrality of the Commission En Banc.

OPPRESSION

The Commission has defined oppression as an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.

[CSC Resolution No. 95-2125, March 21, 1995]

OMBUDSMAN vs. CABEROY (G.R. No. 188066, October 22, 2014)

- Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority.

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

An officer or employee shall be considered habitually absent if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the Leave Law for at least three (3) months in a semester or at least three (3) consecutive months during the year.

[Section 22 (q), Rule XIV, Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987)]

GROSS INSUBORDINATION

Is a deliberate and willful refusal to comply with a lawful request or order of a higher authority. It involves disregard of proper authority and a refusal to obey that authority, a willful disrespect of it.”

[SOBREPEÑA, Carmelita G., CSC Resolution No. 001288, May 30, 2000 citing HARVEY, Tammang A., CSC Resolution No. 98-2225 August 21, 1998]

**DOH vs. Aquintey, et.al.
(G.R. No. 204766, March 6, 2017)**

respondents' **deliberate refusal to obey** Dr. Janairo is not prompted by confusion or by what they claim as their belief in good faith, but by their personal preference or bias in favor of Dr. De Leon and against Dr. Janairo. Thus, respondents' defiance of the successive memoranda and office orders of Dr. Janairo clearly constitutes gross insubordination as it was a **continuing intentional refusal to obey a direct order which is reasonable and was given by and with proper authority.**

HABITUAL DRUNKENNESS

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

[Black's Law Dictionary, 5th Edition]

WILLFUL FAILURE TO PAY JUST DEBTS

“Just debts” shall apply only to:

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

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

The Penalty of Fine (Rule 10, Sec 52)

Payment of fine in place of suspension may be allowed if any of the following is present:



Ratio: 1 day
suspension
to 1 day
salary fine

Suspension of
six months or
less

When the functions/nature of the office is impressed with **national interest** such as those involved in maintenance of peace and order, health and safety, education

When the **respondent is actually discharging frontline** functions or those directly dealing with the public and the human resource complement of the office is insufficient to perform such function;

When the respondent committed the offense without utilizing or abusing the powers of his/her position or office;
or

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.

The Penalty of Fine (Rule 10, Sec 52)



The **conversion** of suspension into fine shall render the decision **final and executory** and, therefore, not subject of appeal or any other similar relief.

The **failure** of the respondent to pay the fine or part thereof shall cause the **reversion to the original penalty** of suspension. As such, respondent shall serve the original penalty of suspension imposed, irrespective of the amount already paid.

The fine shall be **paid to the agency imposing the same**, computed on the basis of respondent's salary at the time the decision becomes final and executory

Campol vs. Balao-As and Sianen (G.R. No. 197632, November 28, 2016)

■ ■ ■ while his illegal termination was still pending, Campol obtained another job as an administrative aide in the Public Attorney's Office (PAO). SC ruled that Campol's PAO earning should not be deducted from the award of full backwages:

“Any income he may have obtained during the litigation of the case shall not be deducted from this amount. This is consistent with our ruling that an employee illegally dismissed has the right to live and to find employment elsewhere during the pendency of the case.”

NPC DAMA vs. NPC

(G.R. No. 156208, November 21, 2017)

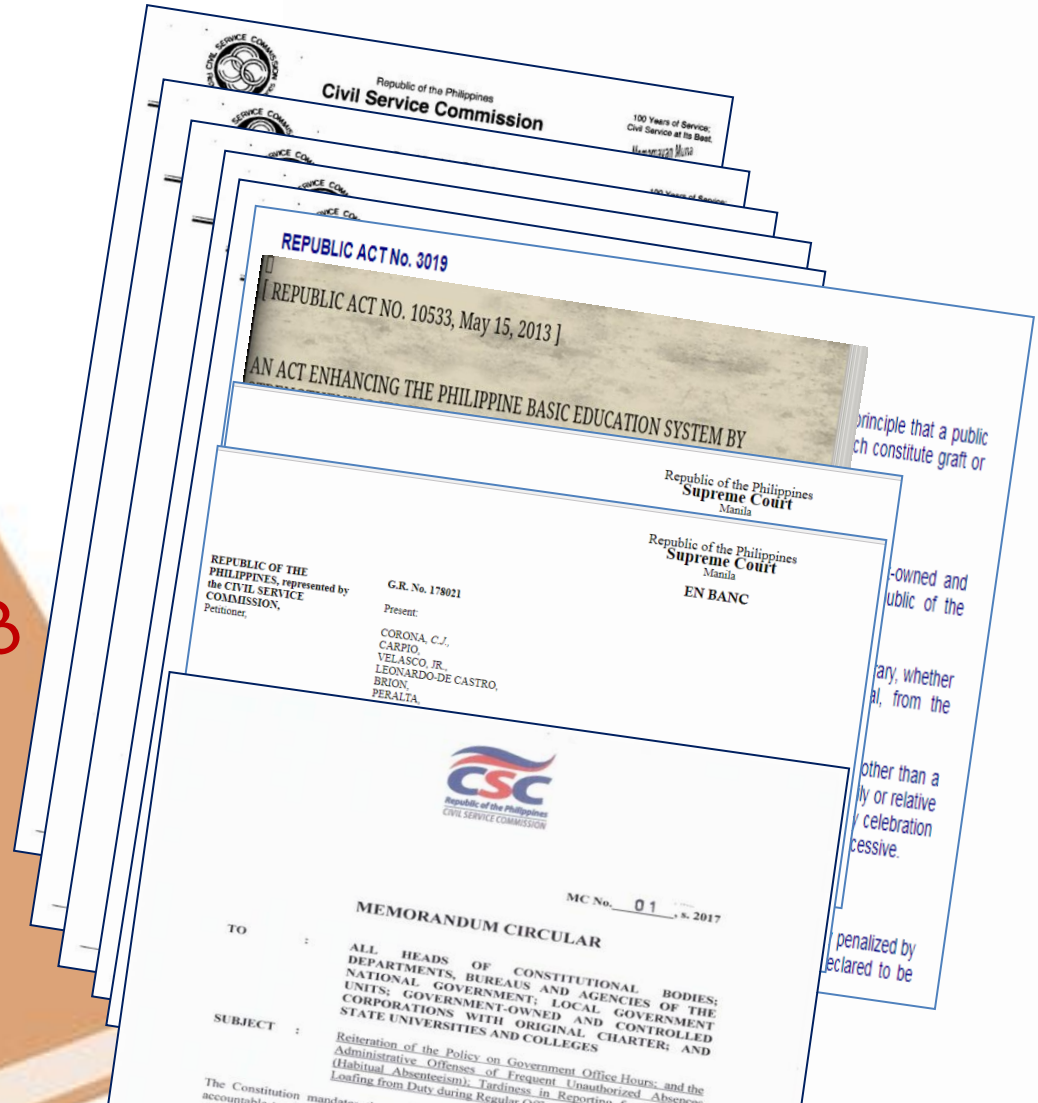
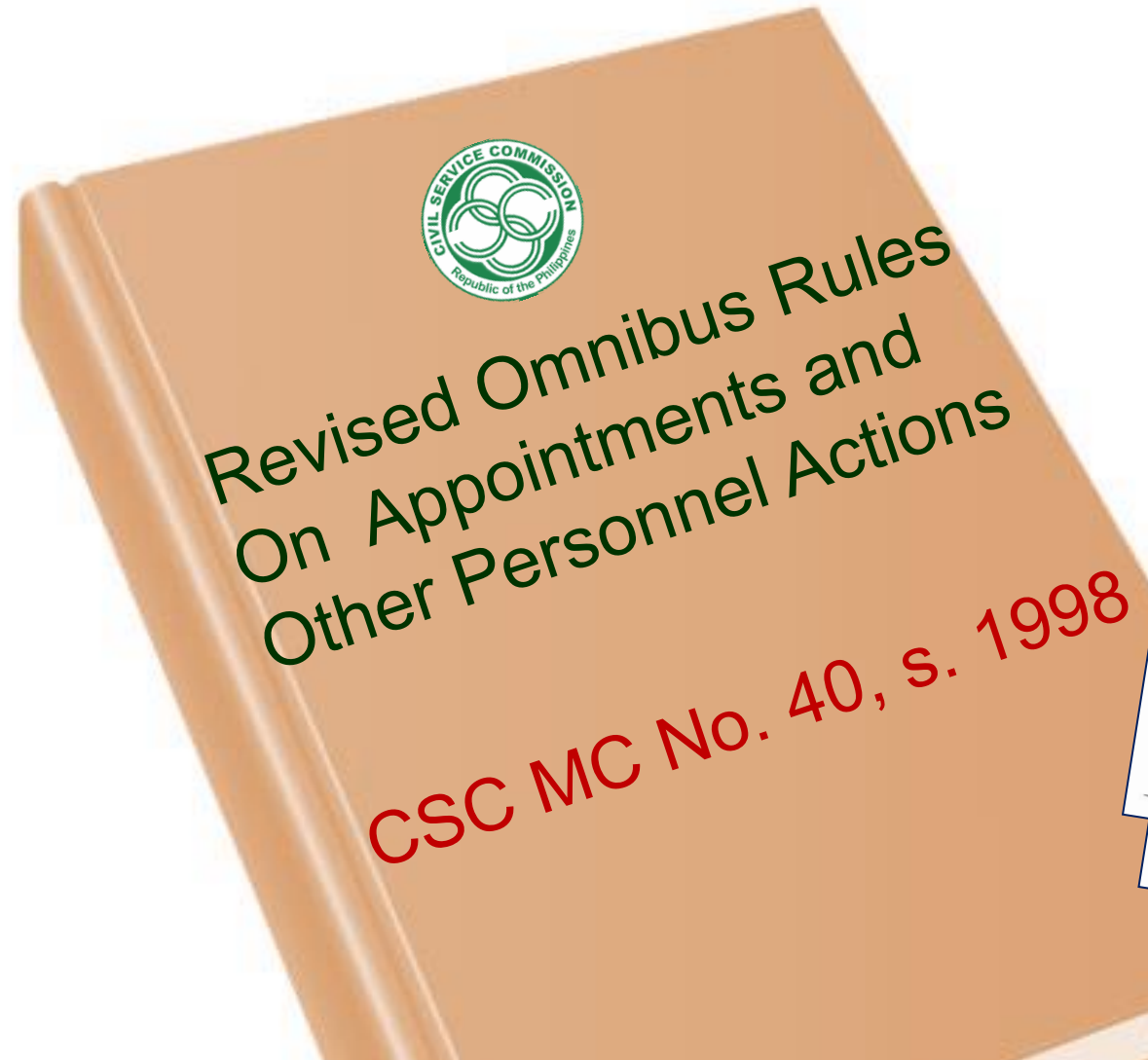
... the award of full back wages in favor of an illegally dismissed civil service employee who was subsequently employed in another govt agency violates the constitutional prohibitions against double office-holding and double compensation in the civil service.

SC ruled that petitioners who were subsequently rehired by the NPC, absorbed by PSALM or Transco, or transferred or employed by other government agencies, **are not entitled to back wages**. To award back wages even to those who remained employed as a direct result of the 2003 reorganization amounts to unjust enrichment and damage to the government.

On the other hand, **petitioners who were neither rehired** by the NPC or absorbed by PSALM or Transco pursuant to the 2003 reorganization and **subsequently employed in the private sector** shall be entitled to full back wages (applying *Bustamante and Equitable Banking Corporation*).

2017 Omnibus Rules on Appointments and Other Human Resource Actions

19 years ago...





merit-based appointment

PAGBA 2019 4th Quarter Seminar
November 6-9, 2019
Bohol Tropics, Tagbilaran City

RULE I

General Policies on Appointments

Sec. 3. Any action denoting the **movement or progress** of human resource in the civil service such as promotion, transfer, reappointment, reinstatement, reemployment, reclassification, detail, reassignment, secondment, demotion and separation shall be known as **human resource action.**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

- **Permanent appointment** – an appointment issued to a person who meets all **QS requirements of the position.**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Temporary appointment – issued to an appointee who meets the education, experience, and training requirements except eligibility

- *A temporary appointment may only be issued in the absence of an applicant who meets all the qualification requirements of the position as certified by the appointing officer/authority.*
- **Shall not to exceed 12 months** and may only be **renewed once**

CSC vs. Pililla

(G.R. No. 190147, March 5, 2013)

- A permanent appointment is issued to a person who meets all the requirements for the position to which he is being appointed/promoted, including the appropriate eligibility prescribed, in accordance with the provisions of law, rules and standards promulgated in pursuance thereof, while a temporary appointment may be extended to a person who possesses all the requirements for the position except the appropriate civil service eligibility and for a limited period not exceeding twelve months or until a qualified civil service eligible becomes available.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

RECKONING PERIOD

- In line with the prospective character of the rule, for purposes of disallowing more than one (1) renewal, it should not include appointments issued prior to the 2017 ORAOHRA. **Pelonio's prior temporary appointments cannot be the subject of the provision under the 2017 ORAOHRA.**
- Reckoning date shall start from her temporary appointment issued on September 1, 2017, if any. Therefrom, she may still be allowed one (1) more temporary appointment to the same position. Granted the petition of Pelonio.

Pelonio, Lalaine D., Decision No. 180478, Sept. 5, 2018

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Temporary appointment shall be disapproved/invalidated if the deficiency of the appointee is any or combination of the **education, training, or experience requirement**, except to positions that are:

- ✓ hard to fill
- ✓ provided by special law (medical officer/specialist positions, special science teachers, police officers, and faculty positions)
- ✓ other meritorious cases as may be determined by the Commission

✗ A temporary appointment to a position which involves practice of profession may be issued to a person who lacks the required experience or training but only in the absence of an applicant who meets all the qualification requirements of the position as certified by the appointing officer/authority.

Temporary appointment issued to a person who meets all the requirements of the position shall be disapproved/invalidated.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Temporary appointment

When there are no available qualified faculty in the region, place or locality, as certified by the appointing officer/authority, temporary appointments may be issued until the required Master's degree is met/complied with.

The renewal of temporary appointment shall be limited to five (5) times only reckoned from the effectivity of CSC Memorandum Circular No. 25, s. 2017.

Applicable only in the absence of qualified faculty (professor).

RULE IV
Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Substitute appointment - issued when regular incumbent is:

- temporarily unable to perform
- on an approved leave of absence
- under suspension
- on a scholarship grant or on secondment.

This is effective only until the return of the incumbent.

A substitute appointment is allowed only if the leave of absence of the incumbent is at least three (3) months, except in the case of teachers.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Substitute appointment –

A position whose duties involve practice of a profession covered by bar/board or special laws shall require the appropriate license.

The substitute appointee shall be entitled to the salaries and benefits attached to the position except for those benefits requiring longer period of service for the availment thereof.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Coterminous appointment - appointment issued to a person **whose tenure is limited** to a period specified by law.

- Coterminous with the appointing officer/authority
- Coterminous with the head of the organizational unit where assigned

Must meet the education, experience, and training requirements of the position

Eligibility is not required except for positions involving practice of profession or requiring licenses

RULE IV
**Employment Status, Nature of Appointment and Other Human Resource
Actions**

Coterminous appointment

- Nicolas, former Provincial Administrator, Prov. Govt of Quirino, files an appeal on the CSC RO No. II decision disapproving her re-appointment as Provincial Administrator under coterminous status for **failure to meet the required eligibility of the position.**
- Nicolas meets the experience, education and training requirements of the position but this does not exempt her from meeting the qualification standard for said position.
- CSC MC No. 12, s.2011 provides that 'Appointment to ***Administrator, Legal Officer and Information Officer*** position in municipalities, cities and ***provinces***, xx, **shall comply with the QS** and concurrence by the concerned Sanggunian, otherwise will be disapproved.

Nicolas, Elizabeth S., Decision No. 150038, Jan. 28, 2015

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Coterminous appointment

Rule VIII. Qualification Standards

Section 38. Appointees to primarily confidential/personal staff positions are exempt from the QS requirements, except those whose duties involve the **practice of a profession** regulated by the Philippine Bar/Board laws and/or require licenses xxx, and those specifically **required by a special law**, such as the positions of Provincial/City/Municipal Administrator, Information Officer and Legal Officer required under specific provisions of the 1991 LGC

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

- Coterminous (primarily confidential in nature)

Exempt from qualification requirements except for positions involving practice of profession or requiring licenses.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

- **Coterminous with the Lifespan of the Agency**
- Based on the agency's Staffing Pattern as approved by the DBM or the GCG.
- Need not be renewed annually.
- The lifespan of the agency shall be indicated on the appointment. However, if the performance of the appointee is below Satisfactory, the appointing officer/authority may terminate the services of, or replace the appointee after giving the latter a notice of at least thirty (30) days prior to the date of termination of the appointment.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

- *Coterminous with the Lifespan of the Agency*
- ***Must meet the education, experience and training requirements of the positions as proposed by the respective Agency Heads and approved by the Commission.***
- ***Eligibility is not required for coterminous appointment, except those whose duties involve the practice of a profession regulated by the Philippines Bar/Board or special laws and/or require licenses.***

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Contractual appointment - special contract to undertake local or foreign-assisted projects or a specific work or job requiring special or technical skills not available in the employing agency

- **Limited to 1 year, may be renewed every year depending on performance**
- **Must meet education, training and experience proposed by agency heads and approved by CSC**
- **Eligibility not required except for positions involving practice of profession or requiring licenses**
- ***Includes appointments to positions that are co-existent with the duration of a particular project based on the agency's Staffing Pattern as approved by the DBM or the GCG.***
- **Entitled to the same benefits enjoyed by regular employees**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Employment Status

Casual appointment for essential and necessary services where there are not enough regular staff to meet the demands of the service and for emergency cases and intermittent period

- **Must meet education, training and experience proposed by agency heads and approved by CSC**
- **Eligibility not required except for positions involving practice of profession or requiring licenses**
- **In no case shall casual appointment be issued to fill a vacant plantilla position**
- **Entitled to the same benefits enjoyed by regular employees**
- ***Reappointment (renewal) of casual appointments to the same position shall be submitted to the CSC for notation only, without the need for approval/validation. However, reappointment to another position shall be submitted for approval/validation by the CSC FO concerned.***

RULE IV
Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Original appointment

the **initial entry** into the **career or non-career service subject to probationary period** under Rule V of the 2017 Omnibus Rules on Appointments and Other Human Resource Actions

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Promotion

the **advancement** of a **career employee** from one position to another with an increase in duties and responsibilities and usually accompanied by increase in salary

- upward movement from the non-career service to the career service and vice versa shall not be considered as a promotion but as reappointment
- promotion to another agency (promoted employee will be required to notify the head of agency *at least* 30 days prior to assumption to the position).
- special promotions exempted from qualification requirements but subject to validation

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

The pendency of an administrative case against any employee shall not be a bar to promotion.

An employee who has been found guilty of an administrative offense and imposed the penalty of demotion, suspension or fine shall be disqualified for promotion for the same period of suspension or fine.

In the case of demotion, the period of disqualification for promotion shall be within one (1) year.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Transfer

- the movement of employee from one position to another which is of equivalent rank, level or salary without gap in the service *requires:*
 - Written Notice of transfer = *at least* 30 days prior to effectivity date
 - Written Notice of acceptance – 30 days from receipt of notice

⌘ No notice of acceptance – deemed approved after lapse of 30 days from receipt of written notice

⌘ Failure to transfer on specified date - employee deemed resigned. May be reappointed or reemployed subject to the usual hiring process

Rosales vs. Mijares (G.R. No. 154095, November 17, 2004)

... the request by an employee to transfer to another office must be such that he intended to surrender his permanent office. Also, a **transfer** **connotes an absolute relinquishment of an office in exchange for another office**. This means that when an employee receives the approved request to transfer, said employee has fully relinquished his/her office, for which reason, the originating agency can already declare the position as vacant.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Reemployment

- the appointment of a person who has been previously appointed to a position in the government service but was **separated** therefrom as a result of reduction in force, reorganization, retirement, voluntary resignation, or any non-disciplinary action such as dropping from the rolls and other modes of separation.
- **presupposes a gap in service**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Reappointment the issuance of an appointment as a result of reorganization, devolution, salary standardization, re-nationalization, recategorization, rationalization or similar events, including the following:

- The issuance of appointment from temporary to permanent, career to non-career or vice versa, non-career to another non-career
- The renewal of temporary, contractual and casual appointment upon the expiration of the appointment or subsequent appointment of substitute teachers
- Personal or coterminous staff of elective officials, who shall continue to serve in a coterminous capacity
- ***NO GAP IN SERVICE***

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Reinstatement

- to comparable positions – restoration of a person as a result of a decision, to career position from which he/she has, through no delinquency or misconduct, been separated but **subject position already abolished**; issuance of appointment required
- to the same position/item – no need for issuance of appointment

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Demotion - movement of an employee from a higher position to a lower position where he/she qualifies, if a lower position is available. It entails reduction in duties, responsibilities, status or rank, which may or may not involve a reduction in salary.

- **Due to reorganization/rationalization (REAPPOINTMENT)** – salary of the higher position
- **Voluntary demotion** - same step of the salary grade of the previous position
- **Demotion as a result of a disciplinary action** – adjustment of the salary of an employee to the next lower salary grade *with the same salary step*.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

Nature of Appointment

Reclassification

- includes downgrading or upgrading when there is a substantial change in regular duties and responsibilities of the position
- not subject to QS; vested right

Reclassification of position ***requires the issuance of an appointment*** but the same is ministerial on the part of the appointing officer/authority.

In LGUs, ***no reclassification shall be allowed*** except when the position is actually vacant

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions

HR movements not requiring issuance of appointment expanded to include

- **Change in item number**
- **Salary adjustment - NOSA**
- **Step increment - NOSI**
- **Reinstatement to the same position/item**
- **Demotion as a result of a disciplinary action**
- **Positions marked as coterminous with the incumbent**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Other Human Resource Actions

Reassignment

movement across the organizational structure **without a reduction in rank, status, or salary**; requires issuance of an Office Order by the appointing officer

- Reassignment of employees with station-specific place of work **within the geographical location of the agency** shall be allowed only for a maximum period of one (1) year

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Geographical location – area **within the jurisdiction of an agency.**

- NGAs, GOCCs, SUCS – central to regional office, main campus to satellite campus provided that the office of reassignment is existing in the organizational structure of the agency
- LGUs – area within the locality of an LGU where an employee may be reassigned from the Provincial/City/Municipal Hall to other areas within the locality provided that the reassignment is existing in the organizational structure of the LGU

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Station Specific Appointment

An appointment is considered station-specific when:

- the particular office or station where the position is located is **specifically indicated on the face of the appointment paper**
- the **position title already specifies the station**, such as Human Resource Management Officer, Accountant, Budget Officer, Assessor, Social Welfare and Development Officer, and such other positions with organizational unit/station-specific function.
- *The reassigned employee who is **restored to his/her original post/assignment pursuant to the decision of the Commission shall not be reassigned within one (1) year reckoned from the date of restoration to the original post/assignment.** Otherwise, the appointing officer/authority or the authorized official who caused the subsequent reassignment within 1 year from the date of restoration may be cited for indirect contempt by the Commission as provided in Rule 16 of the 2017 RACCS.*

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Appointment is **not** station specific

- One-year maximum period of reassignment within the geographical location of the agency shall not apply
- Employee concerned may request for a recall of the reassignment citing his/her reasons why he/she wants to go back to his/her original station
- Reassignment may also be revoked or recalled by the appointing officer/authority or be declared not valid by the Civil Service Commission or a competent court, on appeal

**Can you question your
reassignment before the
regular courts?**

EJERA VS. MERTO AND VERGARA (G.R. NO. 163109, JANUARY 22, 2014)

The reassignment of the petitioner was a “personnel” and “Civil Service” matter to be properly addressed in accordance with the rules and guidelines prescribed by the CSC. Her **resort to judicial intervention could not take the place of the grievance procedure then available to her.** Her having shrouded her complaint in the RTC with language that presented a legal issue against the assailed office order of Merto did not excuse her **premature resort to judicial action.**

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Detail

temporary movement of an employee **from one department or agency to another** which does not involve a reduction in rank, status or salary.

- provide limit to period of detail to a **maximum of 3 years** (Section 5, Item b (3))
- detail without consent shall be allowed only for a period of one (1) year
- require that detail be covered by an agreement that such will not result in reduction in rank, status or salary (Section 5, Item b (4))

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Detail

The employee may appeal the detail order within 15 days upon receipt to the Commission or CSCRO with jurisdiction if he/she believes there is no justification for the detail. **Pending appeal, the detail order shall be executory** unless otherwise ordered by the Commission.

The decision of the said CSCRO may be further appealed to the Commission within 15 days from receipt.

CSC vs. Pacheo (G.R. No. 178021, January 25, 2012)

The principal distinctions between a detail and reassignment lie in the **place where the employee is to be moved and in its effectivity pending appeal** with the CSC. Based on the definition, a **detail requires a movement from one agency to another while a reassignment requires a movement within the same agency**. Moreover, pending appeal with the CSC, an order to **detail is immediately executory**, whereas a **reassignment order does not become immediately effective**.

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Designation

- Imposition of additional and/or higher duties to be performed by a public official/employee which is temporary and can be terminated anytime at the pleasure of the appointing officer/authority

- perform the duties of another position on concurrent capacity or on full-time basis;
- designation in an acting capacity or as Officer-in-Charge (OIC)

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Designation

Designees can only be designated to positions within the level they are currently occupying. Employees holding **first level positions can not be designated to perform the duties of second level positions** except in meritorious cases as determined by the CSC Regional Office upon request for exemption by the agency concerned, such as organizational set-up, calamity, and due to exigency of the service.

Whether a first level position holder, who was designated to perform the duties pertaining to second level positions, be credited as valid experience for purposes of promotion.

CSC vs. Rebong (G.R. No. 215932, June 30, 2019)

- *CSC MC No. 06-05 does not even provide for the consequences of designating a first level position holder to second level positions. **Nowhere in the said Circular is it provided that such service would not be credited in the employee's favor for purposes of promotion.** CSC's petition is denied for lack of merit.*

RULE IV

Employment Status, Nature of Appointment and Other Human Resource Actions



Designation

- designation in an **acting capacity** - ministerial functions attached to the position but also the exercise of discretion since the person designated is deemed to be the incumbent of the position
- officials designated as **officer-in-charge** - enjoy limited powers which are confined to functions of administration and ensuring that the office continues its usual activities

RULE V

Probationary Period



Probationary period - period of actual service following the issuance of a permanent appointment wherein the appointee undergoes a **thorough character investigation** and **assessment of capability** to perform the duties of the position enumerated in the Position Description Form (PDF).

RULE V

Probationary Period



Reasons for Termination of a Probationary Appointee

- Unsatisfactory performance or want of capacity
- Failure of the appointee to observe propriety in his/her acts, behavior and human/public relations
- Habitual tardiness or absenteeism
- Critical factors based on SPMS
- Unsatisfactory Conduct or Behavior
- Neglect of Duty
- Insubordination

Daza vs. Lugo

(G.R. No. 168999, April 30, 2008)

Civil Service Rules on probationary period for permanent appointment require a notice of termination of service within ten (10) days immediately after it was proven that they have **demonstrated unsatisfactory conduct** or **want of capacity** during the probationary period. Such notice shall state, among others, the reasons for such termination and shall be supported by at least two of the following: a) Performance Evaluation Report; b) Report of immediate supervisor (rater) on work related critical and unusual incidents on unsatisfactory conduct, or c) Other valid documents to support the notice.

RULE VI

Effectivity and Submission of Appointments



If the appointee has taken his/her oath of office and assumed the duties of the position, **he/she shall be entitled to receive his/her salary at once without awaiting the approval/validation of his/her appointment by the Commission. The appointment shall remain effective until disapproved/invalidated by the Commission.**

RULE VI

Effectivity and Submission of Appointments



If the appointee is not allowed to assume office despite his/her receipt of the appointment, or submission thereof to the Commission for approval, the official/s or employee/s **who caused the non-assumption** of the appointee **shall be held administratively liable therefor.**

RULE VI

Effectivity and Submission of Appointments



Section 18. In the case of local government units, the appointment issued by the appointing officer/authority to a department head position requires the concurrence of the majority of all the members of the local sanggunian. *The appointing officer/authority shall submit the appointment to the local sanggunian for concurrence within seven (7) calendar days upon issuance, otherwise, the appointment shall be considered ineffective.*

If the sanggunian does not act on the appointment within fifteen (15) calendar days from the date of its submission, said appointment shall be deemed concurred.

Obiasca vs. Basallote

(G.R. No. 176707, February 17, 2010)

It is incorrect to interpret Section 9(h) of Presidential Decree (PD) 807 as requiring that an appointment must be submitted by the appointing authority to the CSC within 30 days from issuance, otherwise, the appointment would become ineffective. Such interpretation fails to appreciate the relevant part of Section 9(h) which states that an **appointment shall take effect immediately upon issue by the appointing authority if the appointee assumes his duties immediately and shall remain effective until it is disapproved by the [CSC].**

RULE VI

Effectivity and Submission of Appointments



Services rendered without an appointment

- **Not credited as government service**
- **Not recognized by the Commission**
- **Payment of salaries and other benefits = personal liability of the person who made him/her assume office**

RULE VII

Publication and Posting of Vacant Positions



Vacant positions in the career service, *including vacant executive/managerial positions in the second level that are authorized to be filled, together with their corresponding qualification standards and plantilla item numbers*, shall be published and posted **in three (3) conspicuous places for a period of at least ten (10) calendar days for NGAs, SUCs and GOCCs** with original charters in accordance with the provisions of **RA No. 7041** and its implementing guidelines, and **not less than fifteen (15) calendar days for local government units** pursuant to Section 80(a), Title Three, Book I of **RA No. 7160**.

RULE VII

Publication and Posting of Vacant Positions



Effect of Incorrect Information in the Publication

Any incorrect information in the publication of vacant positions, i.e. item number, position title, qualification standards shall be a *ground for the disapproval/invalidation of appointments*

RULE VII

Publication and Posting of Vacant Positions



Positions Exempt From Publication and Posting

- a. Primarily confidential;
- b. Policy-determining;
- c. Highly technical which includes the faculty and academic staff of state/local colleges and universities, and scientific and technical positions in scientific and research institutions with established merit systems;

RULE VII

Publication and Posting of Vacant Positions



Positions Exempt From Publication and Posting

- d. Coterminous with that of the appointing officer/authority, including other non-career positions such as contractual and casual as identified under Section 9, Subtitle A, Title I, Book V of EO No. 292;
- e. Reappointment (change of status to permanent) of those appointed on temporary status for Category II positions under CSC MC No. 11, s. 1996 , as amended; or

RULE VII

Publication and Posting of Vacant Positions



Positions Exempt From Publication and Posting

- f. *Reappointment (renewal) of those appointed on temporary status for Medical Officer/Specialist positions pursuant to PD No. 1424, Further Amending RA No. 1243, As Amended by RA No. 2251, otherwise known as the “Hospital Residency Law”;*
- g. Those to be filled by existing regular employees in the agency in case of reorganization/rationalization; provided, the approved staffing pattern is posted in the agency bulletin boards and other conspicuous places in its central and regional/field offices.

RULE VII

Publication and Posting of Vacant Positions



Validity of Publication

- **Valid until filled** up but not to extend beyond nine (9) months from date of publication
- Should no appointment be issued within the 9-month period, the agency has to cause the re-publication and re-posting of the vacant position.

Sales, et.al. vs. Carreon (G.R. No. 60791, February 13, 2007)

It is State policy that **opportunities for government employment shall be open to all qualified citizens** and employees shall be selected on the basis of fitness to perform the duties and assume the responsibilities of the positions. It was precisely in order to **ensure transparency and equal opportunity in the recruitment and hiring of government personnel**, that Republic Act No. 7041 was enacted.

RULE VIII

Qualification Standards



Qualification Standards

The qualification standards are the **minimum and basic requirements for positions in the government in terms of education, training, experience, Civil Service eligibility, physical fitness and other qualities** required for successful performance of the duties of the position. These shall serve as the **basic guide in the selection of the employees and in the evaluation of appointments to all positions in the government.**

RULE VIII

Qualification Standards



QS by Special Law

- QS for certain positions prescribed by a special law shall prevail
- QS for department head and assistant department head positions (mandatory or optional) in LGUs, considered as executive/managerial positions and for newly-created department head and assistant department head positions shall be equivalent or comparable to those prescribed by RA No. 7160

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board



Role of the HRMPSB

- **HRMPSB** *The HRMPSB shall assist the appointing officer/authority in the judicious and objective selection of candidates for appointment in the agency in accordance with the approved Agency Merit Selection Plan (MSP).*

The HRMPSB shall be primarily responsible for the judicious and objective selection of candidates for appointment in the agency in accordance with the approved Agency MSP and shall recommend to the appointing officer/authority the top five (5) ranking candidates deemed most qualified for appointment to the vacant position.

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board



Role of the HRMO in the HRMPSB

- MEMBER of the HRMPSB. ***Shall not act as HRMPSB Secretariat.***
- ***HRMO Office/Unit shall perform secretariat and technical support function to the HRMPSB.***
- ***Agency head shall designate an employee from other units to act as Secretariat in case it has only 1 HRMO***
- *The highest official in-charge of the human resource management shall be the official directly supervising the human resource management of the agency, e.g., Assistant Secretary/Director for Administration/Human Resource for National Government Agencies.*
- ***The HRMO is the officer/official in-charge of the recruitment, selection, and placement***

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board



Agency head

- Assess the merits of the HRMPSB recommendation for appointment
- Exercise sound discretion
- Select from among the top five ranking applicants deemed most qualified for appointment
- may appoint an applicant who is ranked higher than those next-in-rank to the vacant position based on the assessment of qualifications/competence evidenced by the comparative ranking

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board

HRMPSB Membership

- Agency head shall, as far as practicable, ensure equal representation of men and women for all levels of positions
- Membership can be modified, provided it conforms with the prescribed composition; cannot be minimized
- Change in composition should be reported to CSC
- *For LGUs, the HRMPSB shall be chaired by the local chief executive or his/her authorized representative, and its members shall be determined by resolution of the sanggunian concerned. A copy of which should also be furnished the CSC RO and CSC FO.*

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board

Ratings Considered for Promotion

- *At least Very Satisfactory performance rating in the last rating period prior to the assessment or screening for promotion or transfer.*
- *The performance rating of at least Very Satisfactory (VS) in the last rating period shall not be required for promotion from first to second level entry positions.*
- *The performance rating prior to the reclassification of the position shall be considered as performance rating in the reclassified position for purposes of promotion.*

Filling up of vacancies resulting from promotion

- Not to be filled until the promotional appointments have been approved/validated by the CSC, except in meritorious cases as may be authorized by the Commission

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board

3 Salary Grade Limitation for Promotion

As a general rule

- An employee may be promoted to a position which is not more than 3 salary, pay or job grades higher than the employee's present position

The limitation apply only to promotion within the agency.

The prohibition shall not apply in the following cases:

- Transfer incidental to promotion provided that the appointee is subjected to deep selection
- Reappointment involving promotion from non-career to career provided that the appointee was subjected to deep selection
- Reappointment from career to non-career position
- Reemployment
- Reclassification of position

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board

Appointments issued in violation of the 3-salary grade rule shall be disapproved/invalidated, except:

- The position occupied by the person is next-in-rank to the vacant position as identified in the MSP and SRP of the agency
- The vacant position is a lone or entrance position
- The vacant position is hard to fill
- The vacant position is unique and highly specialized
- The candidates passed through a deep selection process, taking into account superior qualifications
- The vacant position belongs to the closed career system

RULE IX

Agency Merit Selection Plan and Human Resource Merit Promotion and Selection Board

Appointments issued in violation of the 3-salary grade rule shall be disapproved/invalidated, except:

Other Meritorious Cases

- Appointee is a lone applicant who meets all the requirements of the position and passed through a deep selection process
- Qualified next-in-rank waived their right in writing
- The next in rank position is vacant
- Next in rank employee/s is/are not qualified
- Qualified next-in-rank did not apply

RULE X

Certain Modes of Separation – Documents Required for Record Purposes

Resignation

Complete and operative resignation

(DTI vs. Singun, G.R. No. 149356, March 14, 2008)

- Written intention to relinquish;
- Acceptance by the appointing authority/ officer;
and
- Written notice of such acceptance duly served to
the official or employee concerned.

RULE X

Certain Modes of Separation – Documents Required for Record Purposes

Resignation

- Complete and operative resignation not acted after the lapse of 30-day period (*DTI vs. Singun*)
- Revocable until accepted
- Restoration to former position not automatic in case of withdrawal once resignation is deemed complete and operative
- Proof of notice of the acceptance of resignation to the employee to be submitted

RULE X

Certain Modes of Separation – Documents Required for Record Purposes

Resignation

- An official or employee under investigation, except those prohibited by law, may be allowed to resign pending decision of his/her case without prejudice to the continuation of the proceedings until finally terminated.
- Section 12, R.A. No. 3019 (Anti-Graft and Corrupt Practices Act):

“Section 12. Termination of office. No public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery.”

HR Actions in the 2017 Rules on Administrative Cases in the Civil Service*

- Invalidation or Disapproval of Appointment
- Protest and Revocation of Appointment
- Dropping from the Rolls

*The 2017 RACCS was published in The Philippine Star on August 2, 2017

Amendments

- Introduced psychological and developmental interventions as prerequisites for Dropping from the Rolls
- Clarified when an appointee is considered a de facto official or employee in case of disapproved/invalidated appointment and its effects
- Included a provision that Judicial Affidavit Rule may be adopted in place of direct testimonies of witnesses without prejudice to clarificatory questions that may be asked.
- Introduced the Presumptive Notice Rule

Amendments

- Changed of jurisdiction of Correction of Personal Information (COPI) from the CSC Central Office (CO) to Regional Offices (ROs)
- Removal of the affidavit of two (2) disinterested witnesses for correction of personal information in the records of the Commission but not in the case of late registration of birth certificates.

➤ Invalidation or Disapproval of Appointment (Rule 17)

- Qualification of appointee shall be reckoned from the time of the issuance of appointment
- Appointing authority/Appointee may assail the invalidation/disapproval
- Appointee is considered *de facto* officer if no violation of civil service law
- Not government service; salaries shall be borne by appointing authority
- Vacancies from promotion may be filled up only after the promotional appointment is validated/approved

➤ Invalidation or Disapproval of Appointment (Rule 17)

- Qualification of appointee shall be reckoned from the time of the issuance of appointment
- Appointee is considered *de facto* officer if no violation of civil service law
- Otherwise, Not government service; salaries shall be borne by appointing authority

➤ Protest and Revocation of Appointments (Rule 18)

Who may File?

Section 89. Protest; Who May File. Only a qualified next-in-rank official or employee may file a protest against an appointment made in favor of another who does not possess the minimum qualification requirements.

➤ Protest and Revocation of Appointments (Rule 18)

Qualified next-in-rank

refers to an employee appointed on a permanent basis to a position previously determined to be a next-in-rank to the vacancy and who meets the requirements for appointment thereto as previously determined by the appointing authority and approved by the Commission.

➤ Protest and Revocation of Appointments (Rule 18)

Only appointments/promotions may be subject of protest

“The CSC, xxx declared that only appointments/promotions and not designation can be the subject of a protest. Designation, being temporary in nature, does not amount to the issuance of an appointment, but is a mere imposition of additional duties.”

Tapispisan vs. CA, CSC; G.R. No. 157950, June 8, 2005

➤ Protest and Revocation of Appointments (Rule 18)

➤ Where to File?

Head of Agency > CSCRO > Commission Proper

➤ When to file?

Within 15 days from the announcement/posting of appointments made

➤ Protest and Revocation of Appointments (Rule 18)

Dismissal of Protest

Section 96. Dismissal of Protest. A protest shall be dismissed on any of the following grounds:

- a. The protestant is not qualified next-in-rank;
- b. The protest is not directed against a particular protestee but to “anyone who is appointed to the position” or directed to two or more protestees;
- c. No appointment has been issued; or
- d. The protest is filed outside of the fifteen (15) -day reglementary period.

➤ Protest and Revocation of Appointments (Rule 18)

Can an appointment, initially approved/validated, still be revoked?

*Protest and Revocation of Appointments

➤ Debulgado vs. CSC, G.R. No. 111471, September 26, 1994

“The Commission is empowered to take appropriate action on all appointments and other personnel actions, e.g., promotions. Such power includes the authority to **recall an appointment initially approved** in disregard of applicable provisions of Civil Service law and regulations.”

➤ Protest and Revocation of Appointments (Rule 18)

Recall of Approval/Validation of Appointment

The Commission, or any of its CSC RO or CSC FO, **motu proprio or upon petition by any person**, may initiate the recall of approval/validation of an appointment of an official or employee who does not meet the requisite qualification standards of the position or on the ground that the appointment was issued in violation of existing civil service laws, rules, and regulations.

Section 99, 2017 RACCS

➤ Dropping from the Rolls (Rule 20)

- Absent without approved leave
- Unsatisfactory performance
- Poor performance
- Physically unfit
- Mentally unfit

➤ Dropping from the Rolls (Rule 20)

■ Absent without approved leave

At least 30 days	Less than 30 days
<ul style="list-style-type: none">-No prior notice required-Notice of separation sent to last known address-Shall take effect immediately	<ul style="list-style-type: none">-Return-to-Work order must be sent to last known address on record-Failure to report on the stated period (not less than 3 days) shall be valid ground to drop from the rolls
<p>AWOL for less than 30 days but 3 times in a semester and pattern is already apparent, dropping from the rolls without prior notice is justified</p>	

➤ Dropping from the Rolls (Rule 20)

■ Unsatisfactory or Poor Performance

Unsatisfactory	Poor
<ul style="list-style-type: none">-Unsatisfactory rating for two consecutive rating periods-Sufficiently notified when the first unsatisfactory rating was obtained-Developmental intervention required	<ul style="list-style-type: none">-Poor performance in one rating period- Warned of poor performance within the first 3 months of a rating period-Developmental intervention required

➤ Dropping from the Rolls (Rule 20)

■ Physical Unfitness/Mental Disorder

Physical Unfitness	Mental Disorder
<ul style="list-style-type: none">-Continuously absent for more than 1 year by reason of illness-Intermittently absent by reason of illness for at least 260 working days during a 24-month period	<ul style="list-style-type: none">-Behaving abnormally for an extended period- Reported by co-worker or immediate supervisor-Confirmed by licensed psychiatrist-Human resource and psychological interventions are required

➤ Dropping from the Rolls (Rule 20)

- Must be exercised within 30 days from the time a ground for dropping from the rolls arises
- Written notices must be signed by the highest HRMO upon recommendation of the supervisor
- Notice of separation shall be signed by the appointing authority
- Order of separation is immediately executory, not subject to MR; Appeal shall be filed directly to the Commission Proper

Thank you



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PAGBA 2019 4th Quarter Seminar

November 6-9, 2019

Bohol Tropics, Tagbilaran City