

CSC Resolution No. 1101502 Promulgated Nov. 18, 2011



2017 Rules on Administrative Cases in the Civil Service

PAGBA 2018 4th Quarter Seminar & Meeting
November 22, 2018, Davao City

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CONSTITUTIONAL BASIS

The Civil Service Commission *en banc* may promulgate its own rules concerning pleadings and practices before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights.

(Section 6, Article IX-A, 1987 Constitution)

OVERVIEW

- ❖ General Provisions
- ❖ Jurisdiction and Venue of Actions
- ❖ Disciplinary Cases
- ❖ Penalties
- ❖ Remedies
- ❖ Contempt of the Commission
- ❖ Non-disciplinary cases
- ❖ Miscellaneous Provisions

GENERAL PROVISIONS

COVERAGE

Application of Rules to all disciplinary/non-disciplinary cases before the:

- ❖ Civil Service Commission
- ❖ Agencies of the National Government
- ❖ LGUs
- ❖ SUCs or LUCs
- ❖ GOCCs w/ original charter
- ❖ except as may be provided by law



COVERAGE

- ❖ **Agencies may promulgate their own rule provided it will not be in conflict with these 2017 RACCS**



JURISDICTION

Civil Service Commission



A. DISCIPLINARY

- ❖ Decisions of CSC ROs brought before it on petition for review;
- ❖ Complaints brought against CSC officials and employees both in the Central Office (CO) and CSC ROs.
- ❖ Complaints against officials who are **not presidential appointees** or **elective officials**:



JURISDICTION

Civil Service Commission



A. DISCIPLINARY

- ❖ Decisions of disciplining authority imposing penalties exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary brought before it on appeal;
- ❖ Decisions of disciplining authority imposing penalties **not exceeding** thirty (30) days suspension or fine equivalent to thirty (30) days salary **but violating due process**;

JURISDICTION

Civil Service Commission



A. DISCIPLINARY

- ❖ Requests for transfer of venue of hearing on cases being heard by CSCROs;
- ❖ Appeals or petitions for review from orders of preventive suspension; and
- ❖ Such other actions or requests involving issues arising out of or in connection with the foregoing enumeration.

JURISDICTION

Civil Service Commission



B. NON-DISCIPLINARY

- ❖ 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 ;

JURISDICTION

Civil Service Commission



B. NON-DISCIPLINARY

- ❖ 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.

JURISDICTION

CSC ROs

A. DISCIPLINARY –

- ❖ Cases initiated by, or brought before, the CSCROS provided that the alleged acts or omissions were committed within its jurisdiction including fraudulent acquisition of civil service eligibility (violation of RA No. 94162) and its related offenses.
- ❖ petitions to place respondent under preventive suspension in connection with cases pending before the CSC RO concerned

JURISDICTION

CSC ROs

NON-DISCIPLINARY

- ❖ Disapproval/Recall of Approval/Invalidation of appointments brought before it on appeal;
- ❖ Decisions of appointing authorities within their geographical boundaries relative to protests and other human resource actions as well as other non-disciplinary actions brought before them on appeal; and
- ❖ Requests for corrections of personal information in the records of the Commission

JURISDICTION

CSC ROs

NON-DISCIPLINARY

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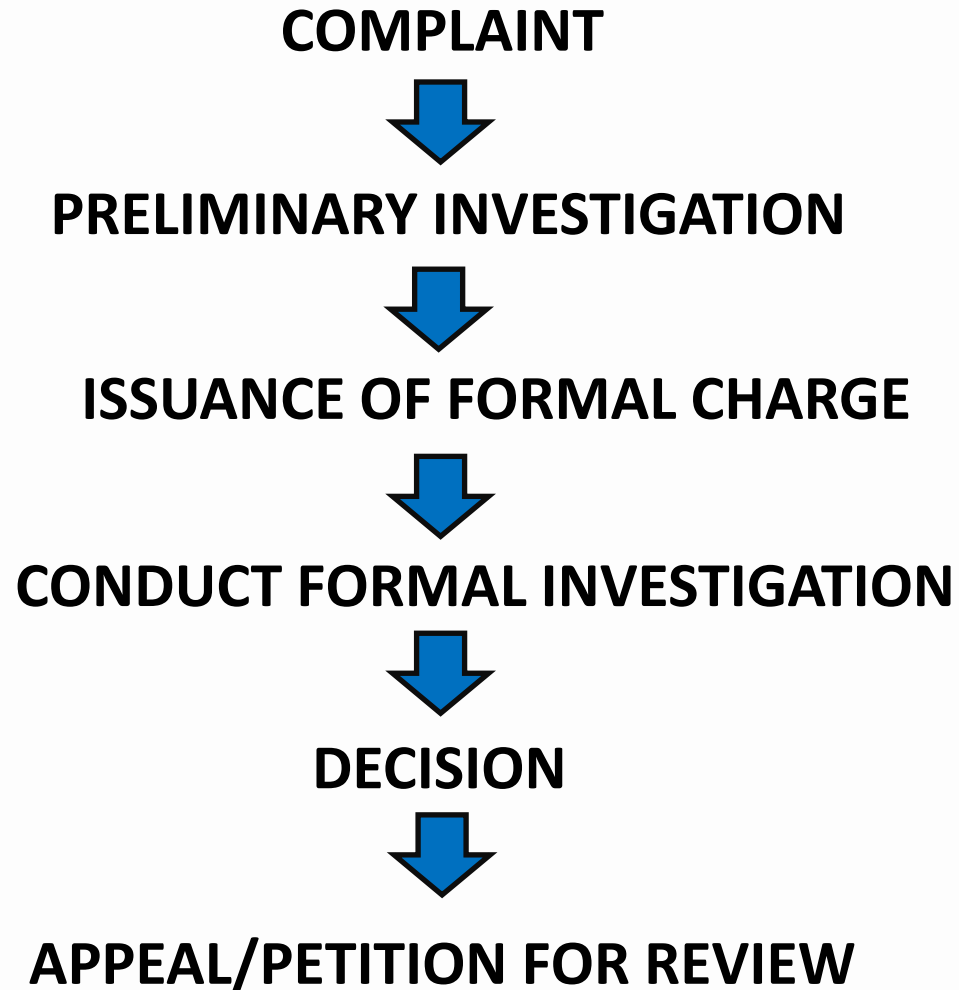
JURISDICTION

Disciplining authorities of agencies/ LGUs

- ❖ shall have original concurrent jurisdiction with the Commission over their respective officials and employees
- ❖ Finality of decisions involving 30 days or less suspension/fine
- ❖ In case of penalty of removal, executory only after confirmation by the Department Secretary.

DISCIPLINARY CASES

OUTLINE



COMPLAINT



COMPLAINT

WHO MAY INITIATE?

- ❖ Disciplining Authority *motu proprio*

- ❖ Other person



COMPLAINT

CONTENTS:

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

COMPLAINT

- ❖ In cases initiated by the proper disciplining authority or his/her authorized representative, a show cause Order is sufficient.
- ❖ The complaint shall be in triplicate copies plus additional copies corresponding to number of persons complained, if more than one.
- ❖ The absence of any of the requirements of a complaint may cause the dismissal of the complaint without prejudice to its refiling.

COMPLAINT

ANONYMOUS COMPLAINT

- ❖ No anonymous complaint should be entertained.

unless:

- unless the act complained of is of public knowledge
- or the allegations can be verified
- or supported by documentary or direct evidence.

COMPLAINT

WHEN AND WHERE TO FILE

- ❖ CSC CO or any of its Ros
- ❖ Heads of:
 - Departments, agencies, NGA, LGUs, SUCs, LUCs and GOCCs w/ original charter
 - Except as may be provided by law

COMPLAINT



SEXUAL HARRASSMENT CASES

- ❖ Committee on Decorum and Investigation (CODI)



COMPLAINT

SH cases may be filed before the CSC if:

- ❖ the agency has no CODI;
- ❖ the disciplining authority is the subject of the complaint;
- ❖ the subject of the complaint is a CODI member;
- ❖ there is unreasonable delay in complying with the periods provided in these rules for the investigation and adjudication of a sexual harassment complaint.



COMPOSITION OF CODI

1. CODI in a work-related environment:

- **Management**
- **Accredited Union, if any**
- **Second Level employees**
- **First Level employees**

2. CODI in an educational or training institution:

- **Administration**
- **Teaching staff**
- **Non Teaching staff**
- **Student or trainees**



CODI's functions

- ❖ Receive complaints of sexual harassment;
- ❖ Investigate sexual harassment complaints including preliminary investigation
- ❖ Submit a report of its findings with the corresponding recommendation to the disciplining authority for decision;
- ❖ Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevent incidents of sexual harassment;



CODI

The head of office who fails to create a CODI shall be charged with Neglect of Duty



COMPLAINT

WITHDRAWAL OF THE COMPLAINT

- ❖ does not result in its outright dismissal nor discharge the person complained of

COMPLAINT

WITHDRAWAL OF THE COMPLAINT

“xxx The subsequent reconciliation of the parties to an administrative proceeding does not strip the court of its jurisdiction to hear the administrative case until its resolution. Atonement, in administrative cases, merely obliterates the personal injury of the parties and does not extend to erase the offense that may have been committed against the public service. The subsequent desistance by respondents does not free petitioner from liability, as the purpose of an administrative proceeding is to protect the public service based on the time-honored principle that a public office is a public trust. A complaint for malfeasance or misfeasance against a public servant of whatever rank cannot be withdrawn at any time for whatever reason by a complainant, as a withdrawal would be ‘anathema to the preservation of the faith and confidence of the citizenry in their government, its agencies and instrumentalities.’ Administrative proceedings ‘should not be made to depend on the whims and caprices of complainants who are, in a real sense, only witnesses therein.”

Encinas vs. Agustin *et al.*, G.R. No. 187317 April 11, 2013

COMPLAINT

WITHDRAWAL OF THE COMPLAINT

“xxx, administrative actions are not made to depend upon the will of every complainant who may, for one reason or another, condone a detestable act. The settled rule is that the complainant’s withdrawal of his complaint or desistance from pursuing the same, does not necessarily warrant the dismissal of the administrative case.”

**Manaois vs. Leomo, A.M. No. MTJ-03-1492,
August 26, 2003**

COMPLAINT

IMPRESCRIPTIBILITY OF ADMINISTRATIVE OFFENSE

“well-entrenched rule that administrative offenses do not prescribe. Administrative offenses by their very nature pertain to the character of public officers and employees. In disciplining public officers and employees, the object sought is not the punishment of the officer or employee but the improvement of the public service and the preservation of the public’s faith and confidence in our government.”

Office of the Ombudsman vs. Merceditas De Sahagun G.R. No. 167982 dated August 13, 2008

PRELIMINARY INVESTIGATION



PRELIMINARY INVESTIGATION



- ❖ a mandatory proceeding undertaken to determine whether a *prima facie* case exists to warrant the issuance of a formal charge/notice of charge.

PRELIMINARY INVESTIGATION



CONDUCTED IN ANY OF THE FOLLOWING MANNER

- ❖ requiring the submission of counter affidavit or comment and/or other documents from the person complained of within five (5) days from receipt of the complaint
- ❖ ex-parte evaluation of the records; or
- ❖ clarificatory meeting with the parties to discuss the merits of the case.



PRELIMINARY INVESTIGATION



When the complaint is initiated by the disciplining authority, it or its authorized representative shall issue a show-cause order directing the person complained of to explain failure to submit a comment/counter-affidavit/explanation shall be considered a waiver thereof and the preliminary investigation may be completed even without the counter-affidavit

SHOW CAUSE ORDER

ORDER



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[REDACTED], and a resident of [REDACTED] is the subject of an investigation relative to his Civil Service Commission [REDACTED] Eligibility [REDACTED] Eligibility. He allegedly passed the [REDACTED] CSC [REDACTED] Examination. However, verification of corresponding examination records reveal that there were marked differences in the signatures and facial features captured in the pictures found in the Picture-Seat Plan (PSP) on file with the Commission, and in the identification Card which he presented, an indication that he did not personally take the said examination.

WHEREFORE, for the prompt and judicious disposition of the case, [REDACTED] [REDACTED], is hereby directed to submit a sworn statement within seventy two (72) hours from receipt of this Order justifying why he should not be administratively charged for having employed fraud in availing of his [REDACTED] Eligibility.

PRELIMINARY INVESTIGATION



DURATION:

- ❖ shall commence within a non-extendible period of 5 days upon receipt of the complaint;
- ❖ 20 days PI should be terminated;
- ❖ the period may be extended in meritorious cases
- ❖ Within 5 days from termination of PI, PI Reports shall be submitted
- ❖ PI report shall be treated with confidentiality



PRELIMINARY INVESTIGATION

PI REPORT:

- ❖ If *prima facie* case is established
 - recommend the issuance of formal charge

- ❖ If *prima facie* case is not established
 - recommend the dismissal of the complaint



PRIMA CASE DEFINED

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

PRELIMINARY INVESTIGATION



Lack of Preliminary Investigation, the proceedings is void

(GSIS vs. Molina G.R. No. 157383 dated August 10, 2010)

RESIGNATION



- ❖ A public official's resignation does not render moot an administrative case that was filed prior to the official's resignation.
- ❖ The jurisdiction of the Court at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case.

(Andutan vs. Ombudsman, G.R. No. 164679, July 26, 2011)

RESIGNATION



Resignation is not a way out to evade administrative liability when facing administrative sanction. The resignation of a public servant does not preclude the finding of any administrative liability to which he or she shall still be answerable.

[Pagano vs. Nazarro, Jr. cited in Andutan v. Ombudsman]

RESIGNATION



Section 66 of the Omnibus Election Code, in considering an appointive official ipso facto resigned, merely provides for the immediate implementation of the penalty for the prohibited act of engaging in partisan political activity. This provision was not intended, and should not be used, as a defense against an administrative case for acts committed during government service. (**Esther S. Pagano vs. Juan Nazarro, Jr. et al. G.R. No. 149072, September 21, 2007**)

RESIGNATION



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.

(Baquerfo vs. Sanchez, 495 Phil. 10 , 2005 cited in Andutan vs. Ombudsman)

DEATH



“The death or retirement of any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable”

**(Loyao vs Caube, A.M. No. P-02-1599,
April 30, 2003)**

DEATH



“However, if the respondent could no longer be in a position to defend himself as in case of death, the administrative case should be dismissed”

(Limliman vs. Marrero, A.M. No. RTJ-02-1739, January 22, 2003)

FORMAL CHARGE



FORMAL CHARGE



- ❖ If there is a *prima facie* case, the disciplining authority shall formally charge the person complained of.

NOTICE OF CHARGE/S



- ❖ If complaint was initiated by a person other than the disciplining authority, Disciplining Authority may issue a written notice of the charge(s) together with copies of the complaint, sworn statement and other documents submitted
- ❖ Contents of a Notice of charge basically the same as the formal charge with notice that he/she may opt to have a counsel of his choice

NOTICE OF CHARGE/S



- ❖ If the respondent receives a notice of charge with incomplete attachments
 - respondent may request for the lacking documents within 10 days from receipt of the FC/NC
 - period to answer will not run until the same is received by the respondent.



FORMAL CHARGE



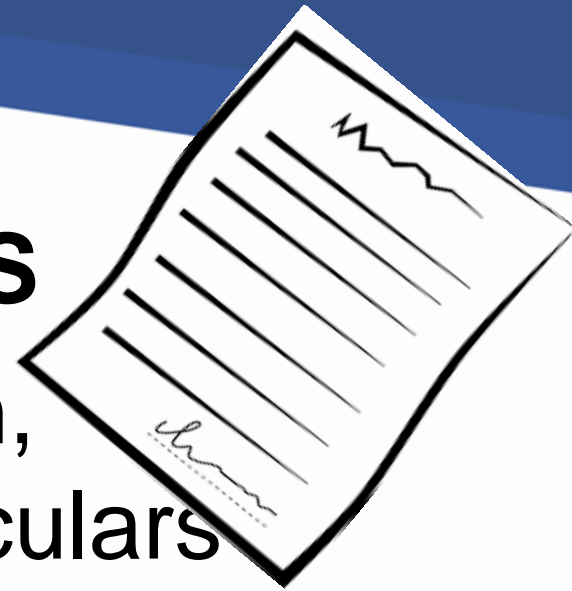
CONTENTS

- ❖ specification of charge/s
- ❖ brief statement of material or relevant facts which may be accompanied by certified true copies of the documentary evidence
- ❖ sworn statements covering the testimony of witnesses,
- ❖ a directive to answer the charge/s in writing, under oath in **not less than 3 days but not more than 10 days from receipt**
- ❖ Advice indicate in his/her answer whether he/she elects a formal investigation of the charge/s
- ❖ a notice that he/she may opt to be assisted by a counsel of his/her choice.

FORMAL CHARGE

PROHIBITED PLEADINGS

- ❖ motion for clarification,
- ❖ motion for bill of particulars
- ❖ motion to dismiss
- ❖ motion to quash
- ❖ motion for reconsideration



If filed, the same shall be noted without action and attached to the records of the case.

FORMAL CHARGE

FAILURE TO FILE AN ANSWER



- ❖ Respondent shall be considered to have waived his/her right to submit the same.
- ❖ The case may be decided based on available records.

FORMAL CHARGE



LACK OF FC

- “Without a formal charge and proper investigation on the charges imputed on the respondent, the respondent did not get the chance to sufficiently defend herself; and more importantly, the petitioner, the CSC and the courts could not have had the chance to reasonably ascertain the truth which the CSC rules aim to accomplish. xxx Respondent should have been given the opportunity to prove her defenses against the charge of insubordination and present evidence to refute petitioner’s claim that her reassignment was reasonable, necessary and not impelled by improper considerations.”
- **Salva vs. Valle G.R. No. 193773, April 2, 2013**

The Commission, after the conduct of a preliminary investigation, finds a *prima facie* case against XXX, _____, _____, for Serious Dishonesty, committed, as follows:

1. That during the conduct of the Police Officer I (PO I) Examination on _____, at _____, **XXX**, conspiring and confederating with another person, caused and allowed the latter to take said examination for and on his behalf. The impersonator placed his own picture on the Picture-Seat Plan (PSP), an official document, and indicated therein pertinent data that matched the personal circumstances of **XXX**, more particularly, the latter's name, sex and date of birth, and affixed on the same document a signature which purported to be that of **XXX**;
2. That the impersonator passed the examination, and thereupon, a Police Officer I Certificate of Eligibility with a rating of _____% was issued in the name of **XXX**;
3. That on November 26, 2012, **XXX** requested authentication of his PO I Certificate of Eligibility at the Integrated Records Management Office (IRMO), this Commission;
4. Upon validation, IRMO found discrepancies in his examination records and ID cards presented, and thus referred the matter to the Office for Legal Affairs (OLA), this Commission, for further investigation;

5. That a comparison between the photograph of xxx found in the Picture-Seat Plan (PSP) of aforesaid examination *vis-à-vis* **XXX**'s ID Cards, showed conspicuous dissimilarities, an indication that the photograph and the signature on the PSP do not belong to **XXX**; and

6. That on February 15, 2013, OLA issued a Show Cause Order against **XXX** directing him to submit his sworn statement within seventy two (72) hours from receipt to show cause why he should not be held administratively liable for an offense but he did not reply.

The foregoing facts and circumstances constitute Serious Dishonesty. Possession of spurious eligibility is detrimental to the integrity of the civil service examination and an affront to the merit and fitness principle espoused by the government.

WHEREFORE, XXX is hereby **FORMALLY CHARGED** of Serious Dishonesty. He is directed to submit his Answer under oath with his own evidence, if there be any, within seventy two (72) hours from receipt hereof. No request for clarification, bill of particulars, motion to dismiss, motion to quash or motion for reconsideration shall be entertained. Should **XXX** file any of said pleadings, the same shall be treated as his Answer and shall be evaluated as such. Failure on his part to submit an Answer within the reglementary period shall be deemed waiver thereof and formal investigation may commence.

XXX is moreover advised of his right to be assisted by a counsel of his own choice. Further, he is advised to indicate in his Answer whether he elects a formal investigation of the charges.

ANSWER TO THE FC/NC

- ❖ writing and under oath,
- ❖ shall be specific and shall contain material facts and applicable laws, if any, including original or certified copies of documentary evidence,
- ❖ sworn statements covering testimonies of witnesses, if there be any, in support of one's case.

ANSWER TO THE FC/NC

- ❖ If the answer is satisfactory
 - dismissed the case

- ❖ If the answer is not satisfactory
 - Investigation shall proceed

EFFECTS OF PENDENCY OF AN ADMINISTRATIVE CASE

Pendency of an administrative case shall not disqualify respondent from promotion and other personnel actions or from claiming maternity/paternity benefits.

Exemption: PNP under RA No. 9708

PREVENTIVE SUSPENSION



PREVENTIVE SUSPENSION

NATURE

- ❖ not a penalty
- ❖ a measure of precaution so that the official or employee charged may be removed from the scene of his/her alleged misfeasance/ malfeasance/ nonfeasance while the same is being investigated

PREVENTIVE SUSPENSION

May be issued:

- ❖ after issuance of FC
- ❖ upon motion or *motu proprio* by DA

PREVENTIVE SUSPENSION

GROUND FOR ISSUANCE

- ❖ Dishonesty;
- ❖ Oppression;
- ❖ Grave Misconduct;
- ❖ Neglect in the Performance of Duty;
- ❖ Other offenses punishable by dismissal from the service
- ❖ Administrative offenses committed on its second or third instance and the penalty is dismissal from the service

PREVENTIVE SUSPENSION

DURATION OF PS

- ❖ 90 days – National Agencies/GOCCs/SUCs/LUCs
 - ❖ 60 days – Local Government Units
-
- Any period of delay caused by motions filed by the respondent shall be added to the period of preventive suspension.
 - Provided, that where the order of preventive suspension is for a period less than the maximum period, the disciplining authority undertakes to finish the formal investigation within the said period and is precluded from imposing another preventive suspension.

PREVENTIVE SUSPENSION

DURATION OF PS

- ❖ should the respondent be on authorized leave, said PS shall be deferred or interrupted until such time that said leave has been fully exhausted.
- ❖ if the respondent is placed under 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.



PREVENTIVE SUSPENSION

OVERLAPPING PS

1st PS

(90 days)

January

February

March

February

March

April

2nd PS

(90 days)



PREVENTIVE SUSPENSION

❖ ALTERNATIVE TO PS

In lieu of PS, the proper disciplining authority may reassign respondent to another unit of the agency subject to the same period

PREVENTIVE SUSPENSION

REMEDY FROM THE ORDER PS

- ❖ Appeal to the Commission within fifteen (15) days from receipt thereof.
- Pending appeal, the same shall be executory.
- A motion for reconsideration from the order of PS shall not be allowed

PREVENTIVE SUSPENSION

REMEDY FROM THE ORDER PS

- ❖ If the PS is imposed by the CSC the same is executory unless a Temporary Restraining Order is issued by the Court of Appeal or the Supreme Court



PREVENTIVE SUSPENSION

“Null and void on its face”

- The order was issued by one who is not authorized by law;
- The order was not premised on any of the grounds when a preventive suspension could be issued;
- The order of preventive suspension was issued without a formal charge or notice of charges;
- The duration of the imposed preventive suspension has exceeded the prescribed periods, in which case the payment of back salaries shall correspond to the excess period only.

PREVENTIVE SUSPENSION

If PS is found to be unlawful/invalid.

- ❖ Payment of Back Salaries During Preventive Suspension

Invalidity = Reinstatement +
backwages

w/o awaiting on the
outcome of main case

PREVENTIVE SUSPENSION

The term "exoneration" contemplates a finding of not guilty for the offense/s charged. Downgrading of the charge to a lesser offense shall not be construed as "exoneration"

PREVENTIVE SUSPENSION

Even if the respondents be eventually found innocent of the charge against them, the same shall not give rise to payment of back wages corresponding to the period of preventive suspension in the absence of any finding of its illegality'

FORMAL INVESTIGATION



FORMAL INVESTIGATION

❖ shall be conducted:

- where the merits of the case cannot be decided judiciously without conducting FI
- when respondent elects to have one

FORMAL INVESTIGATION

❖ DURATION:

- shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the answer or upon the expiration of the period to answer.
- should be finished within thirty (30) days from the issuance of the formal charge unless the period is extended by the disciplining authority in meritorious cases.

FORMAL INVESTIGATION

- ❖ Submission of Position Paper/Memorandum.
 - any stage of the proceedings
 - upon mutual consent of parties
 - considered submitted for decision

FORMAL INVESTIGATION

❖ Pre-hearing Conference

- Mandatory
- Failure to attend constitutes waiver to participate in the conference but may still participate upon appropriate motion


FORMAL INVESTIGATION

Pre-Hearing Conference

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

FORMAL INVESTIGATION

Pre-Hearing Conference

- ❖ agreement entered into during the pre-hearing conference shall be embodied in a pre-hearing order and is binding on both parties
 - in the interest of justice, the hearing officer may allow a deviation from the same.
- ❖ parties may file their respective pre-hearing briefs, copy furnished the adverse party, before the date of the pre-hearing conference.
- ❖  designated prosecutor or the hearing officer who fails to appear, without justifiable reason, at the pre-hearing conference may be liable for Neglect of Duty.

FORMAL INVESTIGATION

Continuous Hearing Until Terminated; Postponement

- ❖ Hearings shall be conducted on the hearing dates set by the hearing officer or as agreed upon during the prehearing conference.
- ❖ Each party may be granted one (1) postponement upon oral or written request.
- ❖ respondents failure or refusal to appear or not represented by counsel during a particular hearing despite due notice, the investigation shall proceed and the respondents shall be deemed to have waived the right to present evidence.

FORMAL INVESTIGATION

Use of Judicial Affidavit

The use of Judicial Affidavit may also be adopted in place of the direct testimonies of witnesses. The adoption of the Judicial Affidavit Rule is without prejudice to clarificatory questions that may be asked during the hearing.



FORMAL INVESTIGATION

PRIVATE PROSECUTOR

private prosecutor may be allowed to appear provided that the public prosecutor shall have direct control and supervision over the private prosecutor at all times



DECISION



DECISION

SUBSTANTIAL EVIDENCE

“...amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion”

(Section 5, Rule 133 of Rules of Court)