

OVERSIGHT COMMITTEE
Rules of Procedures
(27 February 2008)

Pursuant to Item 1 of Office Order No. 08-116, Series of 2008 (Creation of Oversight Committee), the Oversight Committee hereby adopts this Rules of Procedure governing its internal operating procedures which shall be liberally construed in order to attain a just, speedy and inexpensive disposition of every matter or case.

RULE I
ORGANIZATION AND PROCESS

Section 1. Exercise of Powers and Functions.- The Oversight Committee shall sit *en banc* in the exercise of its adjudicative powers, functions and duties. It shall be presided by the Chairman or, in his absence, by the Member next-in-rank in attendance.

A majority of the actual Members of the Oversight Committee shall constitute a quorum for its session *en banc*. The affirmative vote of a majority of those in attendance and who are participating shall be necessary to approve any matter submitted for its consideration.

The Chairman, or in his absence the Member next-in-rank, controls the proceedings during the session or hearing. He shall rule on all motions and objections interposed therein. He may, however, yield the conduct of the proceedings to any Member who shall exercise the powers of the Chairman.

The Chairman or any Member shall mandatorily inhibit himself from participation in the proceedings of a matter or case whenever he is disqualified by reason of privity of interest, contract or relationship within the fourth degree of consanguinity or affinity.

Rule II
PROCEDURE IN GRIEVANCE/REQUEST FOR ASSISTANCE

Section 1. Grievance or request for assistance; nature of. – A grievance or request for assistance may consist of a complaint or request seeking redress or relief concerning an act or omission of an officer or employee, alleged to be unreasonable, unfair, oppressive, discriminatory, improper or inefficient, and which does not necessarily amount to an administrative, civil or criminal offense.

Section 2. By whom handled. – Grievance or request for assistance shall be acted upon by the Secretariat of the Oversight Committee for the purpose of registration and inclusion in the agenda of the meeting to be called by the Oversight Committee.

Section 3. Action thereon. – A grievance or request for assistance shall be acted upon by the Oversight Committee within reasonable time upon receipt.

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

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

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

Section 4. Procedure.-

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

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

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

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

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

Section 5.- Mediation proceedings.-

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

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

The term "mediation" shall include conciliation.

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

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

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

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

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

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

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

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

A person who discloses confidential information shall be precluded from asserting the privilege under Section 4 of this Rule to bar disclosure of the rest of the information necessary to a complete understanding of the previously disclosed information.

A person who discloses or makes representation about a mediation is precluded from asserting the privilege under Section 4, to the extent that the communication prejudices another person in the proceeding and it is necessary for the person prejudiced to respond to the representation disclosure.

f) *Exceptions to the Privilege.*-

- i.) There is no privilege against disclosure under Section 4, if mediation communication is:
 - 1.) in an agreement evidenced by a record authenticated by all the parties to the agreement;

- 2.) available to the public or that is made during a session of a mediation which is open, or is required by law to be open to the public;
- 3.) a threat or a statement of a plan to inflict bodily injury or commit a crime of violence;
- 4.) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against mediator in a proceeding; or
- 5.) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a party, non-party participant, or representative of a party based on conduct occurring during mediation.

ii.) (b) A mediator may not be compelled to provide evidence of a mediation communication or testify in such proceeding.

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

Rule III ***PROCEDURE IN ADMINISTRATIVE CASES***

Section 1. Grounds for administrative complaint.- An administrative complaint may be filed for acts or omissions which are:

- a) contrary to law or regulations;
- b) unreasonable, unfair, oppressive or discriminating;
- c) otherwise irregular, immoral or devoid of justification;
- d) such other grounds provided for under other applicable laws.

Section 2. How initiated . An administrative case may be initiated by a written complaint under oath accompanied by affidavits of witnesses, and other evidences in support of the charge. An administrative proceedings may also be ordered by Top Management initiative or on the basis of a complaint originally filed as a grievance complaint or request for assistance; Provided, that any initiatory documents previously filed shall subsequently be made under oath accompanied by affidavit of witnesses, and other evidence in support of the charge.

Section 3.Evaluation.- Upon receipt of the complaint, the same shall be evaluated to determine whether the same may be dismissed outright for any of the grounds stated here under namely:

- (1) The complainant has an adequate remedy in another judicial or quasi-judicial body;
- (2) The complaint pertains to a matter outside the jurisdiction of the Oversight Committee;
- (3) The complaint is trivial, frivolous, vexatious or made in bad faith;
- (4) The complainant has no sufficient personal interest in the subject matter of the grievance; or

- (5) The complaint was filed after one (1) year from the occurrence of the act or omission complained of.

Section 4. Administrative adjudication; how conducted.-

a) If the complaint is not dismissed for any of the cause enumerated in the immediately preceding paragraph, the respondent shall be furnished with copy of the affidavits and other evidences submitted by the complainant, and shall be ordered to file his counter-affidavits and other evidences in support of his defense within ten (10) days from receipt thereof, together with proof of service of the same on the complaint who may file reply affidavits within ten (10) days from receipt of the counter-affidavits of the respondent.

b) If, on the basis of the affidavits and other evidence submitted by the parties, the Oversight Committee finds no sufficient cause to warrant further proceedings, the complaint may be dismissed. Otherwise, it shall summon the parties to a preliminary conference to consider the following matters:

- 1) Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record and such other evidences they present at such conference;
- 2) Should the parties desire a formal investigation then to determine the nature of the charge, stipulation of facts, a definition of the issues identification and marking of exhibits, limitation of witnesses, and such other matters as would expedite the proceedings;

c) After the preliminary conference, the Oversight Committee shall issue an order reciting the matters taken up during the conference, including the facts stipulated, the evidence marked and, the issues involved. The contents of this order may not be deviated from unless amended to prevent manifest injustice.

d) Should a hearing be conducted, the parties shall be notified at least five (5) days before the date thereof. Failure of any or both of the parties to appear at the hearing is not necessarily a cause for the dismissal of the complaint. A party who appears may be allowed to present his evidence in the absence of the adverse party who was duly notified of the hearing;

e) Only witnesses who have submitted affidavits served on the adverse party at least (5) days before the date of his being presented as a witness may be allowed to testify at the hearing. The affidavit of any witness shall constitute his direct testimony, subject to cross-examination, re-direct examination and re-cross-examination;

f) The parties shall be allowed the assistance of counsel and the right to the production of evidence thru the compulsory process of *subpoena* and *subpoena duces tecum*;

Section 5. Rendition of decision.- Not later than thirty (30) days after the termination of the hearing, the Oversight Committee shall submit to the Top Management a Resolution/ Decision containing its findings and recommendation. Copy thereof shall be served upon the parties.

Section 6. Finality of decision.- Where the respondent is absolved of the charge, and in the case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, [or a fine equivalent to one month salary], the decision shall be final and unappealable. In all other cases, the decision shall become final after the expiration of ten (10) days from receipt thereof by the respondent, unless a motion for reconsideration shall have been filed by him.

Section 7. Motion for reconsideration or reinvestigation; Grounds.- Whenever allowable, a motion for reconsideration or reinvestigation may only be entertained if filed within (10) days from receipt of the decision by the respondent on any of the following grounds:

- a) New evidence had been discovered which materially affects the order, directive or decision.
- b) Errors of facts or law or irregularities have been committed prejudicial to the interest of the movant.

Only one motion for reconsideration or reinvestigation shall be allowed, and the Oversight Committee shall resolve the same within five (5) days from receipt thereof.

Section 8. Preventive suspension.- Pending investigation, the respondent may be preventively suspended without pay for a period of not more than six (6) months if, in the judgment of the Oversight Committee, the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or gross misconduct, or neglect in the performance of duty; or (b) the charge would warrant removal from the service; or (c) the respondents continued stay in office may prejudice the case filed against him.

If the administrative investigation is not terminated within the period the respondent is suspended, the respondent shall be automatically reinstated unless the delay in the disposition of the case is due to the fault, negligence, or any cause attributable to the respondent, in which case the period of such delay shall not be counted in computing the period of suspension.

Section 9. Penalties.- In administrative proceedings conducted under these Rules, the Oversight Committee may recommend a penalty ranging from reprimand to suspension without pay for one year to dismissal. However, where the act or omission constitute an injury to person or damage to property or both, the Oversight Committee, in addition to the above-mentioned penalties, may recommend a graver penalty taking into consideration the circumstances of each case.

Section 10. This is without prejudice to the referral of the matter to the appropriate government agency for commencement of any civil or criminal action.

Adopted this 28th day of February 2008.

VP ERNESTO R. LEYNES
Chairman

ATTY. JOSE D. MELGAREJO
Member

MS. LOURDES P. PANALIGAN
Member