

**[ PAGC NEW RULES OF PROCEDURE, MARCH 13,  
2002, March 13, 2002 ]**

**NEW RULES OF PROCEDURE**

**RULE I**

**General Provisions**

SECTION 1. Title of the Rules. — These Rules shall be known and cited as the New Rules of Procedure of the Presidential Anti-Graft Commission (PAGC).

SECTION 2. Basis and Construction. — These Rules promulgated pursuant to Section 17 of Executive Order No. 12, dated April 16, 2001, shall be liberally construed in order to carry out its objective of promoting accountability of public officers under Section 1 of Article XI of the Constitution.

The Commission shall use every and all reasonable means to ascertain the facts in each case or complaint speedily and objectively and without regard to technicalities of law or procedure, in all instances observing due process.

SECTION 3. Jurisdiction. — The Commission shall have the authority to investigate or hear administrative cases or complaints filed against personnel in the Executive Department of the government, namely:

(a) Presidential appointees occupying the positions of assistant regional director, or an equivalent rank, and higher, otherwise classified as Salary Grade "26" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758).

(b) Also, Presidential appointees who are members of the governing board of any instrumentality, regulatory agency, chartered institution and directors or officers appointed or nominated by the President to government-owned or controlled corporation or corporations where the government has a minority interest or who otherwise represent the interests of the government.

Likewise, the Commission shall have jurisdiction to investigate a non-presidential appointee who may have acted in conspiracy or may have been involved with a presidential appointee or ranking officer mentioned in this section.

The Commission shall have no jurisdiction over members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP).

*SECTION 4. Governing Rules.* — Proceedings on verified complaints and on written charges filed with the Commission or those referred by disciplining authorities whose investigation is taken over by the Commission pursuant to its charter, shall be governed by the Rules on Administrative Investigations under Part I hereof.

Proceedings on anonymous and unsworn complaints, motu proprio investigations and other reports shall be governed by the Rules on Fact-Finding Inquiries under Part II hereof.

*SECTION 5. Investigations: Commission En Banc and Panel of Hearing Officers.* — The investigation or hearing involving presidential appointees occupying the position of Undersecretary or higher shall be conducted by the Commission sitting en banc. The investigation or hearing involving presidential appointees occupying lower positions may be entrusted to a Commissioner or to a panel of hearing officers duly designated by the Chairman; Provided, however, that the reports or recommendations of the Commissioner or panel of hearing officers who investigated or heard the administrative case or complaint shall be deliberated upon and reviewed by the Commission en banc before submitting its report and recommendation to the President.

## **PART I**

### **Rules on Administrative Investigations**

#### **RULE II**

##### **Initiation and Evaluation of Administrative Complaints and Charges**

*SECTION 1. Administrative Charge; How Initiated.* — An administrative charge within the jurisdiction of the Commission may be initiated and prosecuted by:

- (a) written complaint under oath accompanied by affidavits of witnesses and other evidences in support of the charge(s), or
- (b) upon written charge by the disciplining authority.

Except in the case of anonymous complaint, no complaint shall be given due course unless the same is under oath.

In case where a complaint is filed not under oath, the Commission shall direct the complainant to comply with the formal requirements.

*SECTION 2. Preliminary Evaluation.* — The complaint or charge shall be assigned by the Chairman to a Commissioner and it shall be immediately referred by the Executive Director to the Director of the Investigation Office, for preliminary evaluation and recommendation to the assigned Commissioner.

The docket number of complaints or charges referred to the Investigation Office, shall, thereafter, bear and be identified as an administrative proceeding by the prefix "PAGC ADM".

*SECTION 3. Recommendation for Dismissal of the Complaint Where Prima Facie Case or Jurisdiction is not Established.* — If the subject matter of the case or the person of the respondent to be investigated is not within the jurisdiction of the Commission, the Commissioner, assigned shall submit, for adoption by the Commission, an Order dismissing the case for lack of jurisdiction, Thereafter, the

Commissioner shall advise the President in writing of such dismissal.

And if, in his opinion, no prima facie case has been established, the Commissioner assigned shall likewise submit for adoption by the Commission on a Memorandum recommending the dismissal of the case. Such recommendation shall be submitted to the Office of the President for approval.

*SECTION 4. Recommendation for Preventive Suspension.* — In proper cases, during the pendency of its investigation on the administrative case against the respondent, the Commission may recommend to the President his preventive suspension for such periods as may be allowed by law.

Where the administrative investigation against the respondent under preventive suspension is not completed within the period of suspension and the delay in the disposition of the case is due to the fault, negligence or request of the respondent, the Commission may recommend to the President the extension of the suspension for a period equivalent to the delay.

### **RULE III**

#### **Formal Complaint**

*SECTION 1. How Respondent Charged.* — Where a prima facie case is determined to have been established, the respondent shall be required, through an ORDER, to file his or her counter-affidavit/verified answer (not a Motion to Dismiss or Motion for Bill of Particulars) to the charges against him or her, furnishing him or her with copies of the complaint, the sworn statements and other documents submitted by the complainant.

Respondent is given an inextendible period of ten (10) days from receipt of the Order to file his Counter-Affidavit/verified Answer (not a Motion to Dismiss or Motion for Bill of Particulars), together with affidavits of his or her witnesses and other documents in his or her defense and proof of service on the complainant or his/her counsel.

Any motion to dismiss or for a bill of particulars that may be filed shall be expunged from the records, and the filing thereof shall not suspend the proceedings nor the period for the filing of the respondent's Counter Affidavit/verified Answer.

The filing or submission of reply-affidavits and/or rejoinders shall not be required or allowed except where new issues of fact or questions of law which are material and substantial in nature are raised or invoked in the counter-affidavit or subsequent pleadings and there exists a need for said issues or questions to be controverted or rebutted, clarified or explained to enable the Commission to arrive at a fair and judicious resolution of the case.

*If allowed or required by the Commission,* the period for the submission of reply affidavits or rejoinders shall not exceed five (5) days.

*SECTION 2. Failure to File Response.* — The respondent's failure to file his Counter-Affidavit/verified Answer within the ten (10) day period given him or her shall be considered a waiver of his or her right to file the same and to present evidence in

his or her behalf, and the Commissioner assigned shall recommend the appropriate action to the Commission, on the basis of the complaint and documents on record.

*SECTION 3. Action After Respondent's Response.* — If, upon evaluation of the documents submitted by both parties, it should appear either that the charge or charges have been satisfactorily traversed by the respondent in his Counter-Affidavit/verified Answer, or that the Counter-Affidavit/verified Answer does not tender a genuine issue, the Commissioner assigned shall forthwith, or after a clarificatory hearing to ascertain the authenticity and/or significance of the relevant documents, submit for adoption by the Commission the appropriate recommendation to the President.

The Commissioner assigned may, at his sole discretion, set a hearing to propound clarificatory questions to the parties or their witnesses if he or she believes that there are matters which need to be inquired into personally by him or her. In said hearing, the parties shall be afforded the opportunity to be present but without the right to examine or cross-examine. If they so desire, they may submit written questions to the Commissioner assigned who may propound such questions to the parties or witnesses concerned. Thereafter, the parties be required, to file with the Commission, within an inextendible period of five (5) days, and serve on the adverse party his verified Position Paper.

*SECTION 4. Summary Resolution After Preliminary Conference.* — Should it be determined prior to the first hearing date, that the issues can be resolved without need for setting the case for clarificatory questioning, the Commissioner assigned shall forthwith, submit, for adoption by this Commission, the appropriate recommendation to the President.

*SECTION 5. Calendar and Postponements.* — (a) Postponements shall not be allowed except in meritorious cases substantiated under oath and in no instance shall each party be granted more than one postponement of five (5) days nor shall a postponement cancel more than one (1) scheduled hearing.

*SECTION 6. Request for Subpoena.* — All requests for the issuance of subpoenas for witnesses previously named shall be made three (3) days before the scheduled hearing. Requests for the issuance of subpoenas for other witnesses shall be made at least five (5) days before the date of hearing at which they are supposed to appear.

## **RULE IV**

### **Supplementary Rules**

*SECTION 1. Supplementary Application of the Rules of Court.* — In administrative proceedings before the Commission, these Rules of Procedure promulgated by the Commission shall be primarily applied.

The Commission shall not be bound by the strict technical rules of procedure and evidence contained in the Rules of Court but may adopt, in the absence of any applicable rule herein, such modes of proceedings consistent with the requirements of fair play and due process and conducive to the just, speedy and inexpensive disposition of cases.

Where no alternative mode of procedure is so adopted, the Rules of Court may be applied in a suppletory character in instances not covered by these rules unless inconsistent with the spirit and purpose thereof.

## **PART II**

### **Rules On Fact-Finding Inquiries**

#### **RULE V**

Evaluation of Anonymous and Unsworn Complaints and Other Reports and Motu Propio Investigation

*SECTION 1. Evaluation of Complaints, etc.* — Anonymous and unsworn complaints, and similar reports or request for motu-propio investigation shall, after notation by the Chairman of the Commission, be referred by the Executive Director to the head of the Fact-Finding Office for a preliminary evaluation of the verifiability, significance and magnitude of the transactions and amounts involved.

The docket number of complaints or charges referred to the Fact-Finding Office shall, thereafter, bear and be identified as a fact-finding inquiry by the prefix "PAGC FFI"

*SECTION 2. Anonymous Complaint Against Presidential Appointee.* — An anonymous complaint against a presidential appointee in the Executive Department shall not be given due course unless there appears on its face or the supporting documents attached to the anonymous complaint a probable cause to engender a belief that the allegations may be true.

#### **RULE VI**

### **Formal Fact-Finding Inquiry**

*SECTION 1. When Formal Inquiry Initiated.* — (a) If, upon review of the Evaluation Report, the Commissioner assigned believes that the events or transactions reported are verifiable and further inquiry into the complaint or report may uncover graft or corruption or may disclose serious deficiencies in the recording, implementation, monitoring and/or control procedures in the government unit or government-owned or controlled corporation involved, for which the Commission may recommend to the President measures to eradicate the opportunities and climate favorable to the commission of graft and corruption in the unit or corporation, he or she shall submit, for the approval of the Commission, an Order so stating and directing the docketing of the complaint or report for Formal Inquiry by the Commission. Otherwise, she shall submit for the approval by the Commission, an Order terminating further proceedings on the complaint or report.

(b) In the Formal Inquiry, the Commissioner assigned, assisted by the Chief of the Fact-Finding Office, shall receive, on invitation or on subpoena, such documents and testimonies of witnesses as may be relevant and material to the inquiry, and shall call and secure the assistance of any government unit as may be necessary. A public officer identified in an anonymous or unverified complaint or report as a participant