

**[PRC MEMORANDUM CIRCULAR NO. 99-18,
August 31, 1999]**

**GUIDELINES IN THE CONDUCT OF ADMINISTRATIVE
INVESTIGATIONS OF MARINE DECK AND MARINE ENGINEER
OFFICERS**

I. AUTHORITY

Sections 10 (i) and 24, Article VI of Republic Act No. 8544, otherwise known as the "PHILIPPINE MERCHANT MARINE OFFICERS ACT OF 1998", as implemented by Sections 36 and 37, Article IX, Resolution No. 1, series of 1999, of the Board of Marine Deck and Marine Engineer Officers, to comply with the requirements/standards of Regulation I/5 of the 1978 STCW Convention, as amended, to which the Philippines has acceded through the Instrument of Accession dated January 11, 1984.

II. OBJECTIVE

To ensure that processes and procedures are established for the impartial investigation of any reported incompetence, act or omission that may pose a direct threat to safety of life at sea or to the marine environment, or violation of Republic Act No. 8544, its implementing Rules and Regulations and providing penalties therefor.

III. COVERAGE

The impartial administrative investigation of cases against certificated marine deck and marine engineer officers shall cover, but shall not be limited to the following:

1. incompetence
2. negligence
3. act or omission, that may pose a direct threat to safety of life at sea or to the marine environment.
4. violation of the Rules and Regulations Implementing R.A. No. 8544.
5. violation of the policies of the Board.
6. violation of the Code of Ethics for Marine Officers.
7. violation of any provision of R.A. No. 8544.

8. any person who engages in the practice of merchant marine profession or represents himself as a Marine Deck or Engineer Officer without holding a valid certificate of registration and/or certificate of competency.
9. any person who represents or uses the certificate of registration and/or certificate of competency of another person.
10. any person who shall give any false or forged documents for the purpose of obtaining a certificate of registration and/or certificate of competency.
11. any person who shall use a revoked or suspended certificate of registration and/or invalid or expired professional license.
12. any person who shall assume, use or advertise the title of Marine Deck/Engineer Officer under his name, or any description to convey the impression that he is a professional marine deck/engineer officer without holding a valid certificate of registration and/or certificate of competency.

IV. DEFINITION OF TERMS

1. *Board* — shall mean the Board of Marine Deck or Marine Engineer Officers.
2. *Commission* — shall mean the Professional Regulation Commission (PRC) created under Presidential Decree No. 223.
3. *Certificate of Registration* — shall refer to the document issued to a marine officer after passing the required examination and upon compliance with all the requirements prescribed by the Board and the Commission.
4. *Certificate of Competency* — a document issued by the Board to a marine deck or marine engineer officer certifying that such marine officer has been found qualified to perform the functions of the level of responsibility involved on board the ship for which such officer has been examined and assessed and which shall attest to the authority of the marine deck or marine engineer officer to practice the Merchant Marine profession in the capacity specified therein.
5. *Endorsement Certificate* — refers to the document issued by the Commission attesting the issue of Certificate of Competency to a marine deck or marine engineer officer or attesting the recognition of a Certificate issued by other Flag States in accordance with and upon compliance of all the relevant requirements of the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.
6. *STCW Convention* — means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.
7. *Incompetence* — is lack of ability or fitness to discharge the required duty.
8. *Negligence* — signifies want of care which raises the presumption of conscious indifference to consequences or an entire disregard for and indifference to the safety and welfare of others.

9. *Summons* — shall consist of the letter-subpoena requiring appearance of the respondent at a designated time and place or letter requiring him to answer within the period therein specified, and a copy of the complaint and its enclosures.

V. POLICIES

1. The Revised Rules of Court and the Rules and Regulations Governing the Regulation and Practice of Professionals, as amended, shall be supplementary to the procedures herein.

2. The gravity of the offense committed and the weight of the evidence presented and proved during the impartial investigation shall determine the imposition of the penalties of suspension and cancellation/revocation of certificates.

3. The complaint must set forth distinctly and clearly the name and address of the complainant/s and the respondent, his rank/grade/level with the certificate number and date of issuance, or the licensure examination he has applied for or taken, the particular provision of R.A. No. 8544, its Implementing Rules and Regulations or the Code of Ethics he has violated, the ultimate facts constitutive of the charge, offense or cause of action complained of, and the disciplinary action prayed for, and must be accompanied by the affidavit of the complainant's witnesses or by any documentary evidences, if any, which shall be filed in such number as there are respondents plus two (2) copies for the Board's file.

4. The affidavits required to be submitted under these Rules shall state only facts of direct personal knowledge of the affiants which are admissible in evidence, and shall show their competence to testify to the matters stated therein. A violation of the foregoing requirements shall be a ground for expunging the inadmissible affidavit, or portion thereof, from the record.

5. Any complaint may be withdrawn by the complainant in writing and under the oath. The Board shall forthwith dismiss the case unless the Board, in the interest of the public and for the protection of the standards of the profession, shall deem it necessary to prosecute the case notwithstanding the withdrawal by the complainant.

6. Service of summons on the respondent vests upon the Board the power to hear and decide the case even if the respondent should subsequently leave the Philippines.

7. Personal service shall be considered complete upon actual delivery. Service by ordinary mail shall be complete upon the expiration of ten days after mailing unless the Board provides otherwise. Service by registered mail shall be complete upon actual receipt by the addressee, but if he fails to claim his mail from the post office within five days from the date of first notice of the postmaster, service shall take effect at the expiration of such time.

8. The respondent shall be entitled to be represented by a counsel or be heard in person, to have a speedy and public trial, to confront and to cross-examine witnesses against him, and to all other rights guaranteed by the Constitution.

9. Hearing or investigation of administrative cases may be presided by at least one

Board Member with the assistance of one PRC Attorney.

10. The rules on evidence shall be applicable in these investigations but technical errors in the admission of the evidence which do not prejudice the substantive rights of either party shall not vitiate the proceedings.

11. Any member of the Board or hearing officer of the Commission shall have the power to exclude from the hearing room any person who, during the hearing, conducts himself in a disorderly manner or disrupts the proceedings.

12. All motions shall be made in writing except motions for continuance made in the presence of the adverse party, or those made in the course of hearing.

13. Motions for continuance shall be served by the movant upon all parties concerned, at least three (3) days before the scheduled hearing sought to be postponed.

14. No motion shall be acted upon by the Board, without proof of service thereof, except when the Board is satisfied that the rights of the adverse party or parties are not affected.

15. No postponement shall last more than ten (10) days, and each shall be entitled to two (2) postponements without a fine. For every meritorious postponement thereafter, a fine of fifty (P50.00) pesos and for every unmeritorious postponement, a fine of One Hundred (P100.00) pesos shall be imposed upon the movant.

The Board through a Board Member and/or the hearing officer (PRC Attorney) shall determine what is meritorious or unmeritorious postponement.

16. If the complainant does not appear at the time and place designated in the summons, subpoena or subsequent order, the Board may dismiss the complaint for lack of interest or failure to prosecute unless the Board, in the interest of the public and for the protection of the standards of the profession, shall deem it necessary to prosecute the case notwithstanding the withdrawal by the complainant.

17. If the respondent does not appear at the time and place designated in the summons, subpoena, or in a subsequent order, he may be declared as in default. Thereafter, the Board shall allow the complainant to adduce evidence ex-parte and accordingly, render its decision in accordance with the facts alleged and proved.

18. The filing or the pendency of a criminal and/or civil case in the courts or an administrative case in another quasi-judicial body against the marine officer involving the same facts as in the administrative case filed or to be filed before the Board shall neither suspend nor bar the proceedings of the latter case. The Board shall proceed independently with the investigation of the case and shall render therein its decision without awaiting for the final decision of the courts or quasi-judicial body.

19. No motion for reconsideration shall be entertained unless it be for the following cause or causes, which in all probability may affect the substantive rights of the aggrieved party: