

[PNP MEMO CIRCULAR NO. 2007-001, March 03, 2007]

DEFINING AND DELINEATING THE JURISDICTION OF THE OFFICES INVOLVED IN THE DISPOSITION OF ADMINISTRATIVE CASES AGAINST UNIFORMED MEMBERS OF THE PNP FILED BEFORE PNP DISCIPLINARY AUTHORITIES

I. References:

- a. Section 41 (b) (3) and 42, RA No. 6975, as amended by Sections 52 and 53, RA No. 8551; and
- b. Section 26, RA 6975.

II. Purpose:

This Circular aims to define and delineate the present procedures and provide guidelines in the handling and disposition of administrative cases filed against uniformed members of the PNP with the end in view of ensuring the expeditious administration of discipline within PNP ranks by avoiding atrocious delay without ignoring, however, the basic requirements of due process.

III. Scope of Application:

This Circular shall apply to and govern the disposition and implementation of administrative complaints filed before or have been referred to the Directorate for Investigation and Detective Management (DIDM) and Regional Intelligence and Investigation Division (RIID) for preliminary investigation and, in case of probable cause warranting summary hearing, the Chief, PNP or the Regional Director or Director, NSU, as the case may be, is the Disciplinary Authority.

IV. Definition of Terms:

- a. Affidavit is a statement or declaration reduced to writing and sworn to or affirmed before an officer who has authority to administer an oath or affirmation.
- b. Affidavit of Desistance is a sworn statement executed by a complainant in a criminal or administrative case that he or she is discontinuing or disavowing the action filed by him or her for whatever reason he or she may cite. The PNP attaches no persuasive value to a desistance, especially when executed as an afterthought.

- c. Preliminary Investigation is an inquiry conducted by the DIDM or RIID to determine whether there is sufficient ground to engender a well-founded belief that an administrative offense has been committed and the respondent is probably liable thereof and should be held for a formal investigation.
- d. Probable Cause refers to the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the investigating officer, that the PNP member complained of is liable for the administrative offense for which he should be formally investigated.
- e. Summary Hearing Officer is the designated representative of the Disciplining Authority who is tasked to hear, conduct the necessary proceedings, receive and evaluate the evidence presented and prepare the appropriate report for reconsideration by the Disciplining Authority.
- f. Answer is a verified pleading in which the respondent sets forth his admissions and/or defenses to the administrative offense with which he was charged. In lieu of answer, respondent may submit a counter affidavit or a verified position paper.
- g. Subpoena is a process directed to a person requiring him to attend and to testify at the hearing or investigation of an administrative case.
- h. PNP Disciplinary Authorities refer to the PNP Regional Directors, Directors of National Support Units, and the Chief, PNP who could impose the maximum disciplinary sanction of dismissal from the police service pursuant to reference 1a above.
- i. Decision is the written disposition of a case signed by the Disciplining Authority stating clearly the findings of facts and the provisions of law, rules and regulations applicable.
- j. Substantial Evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. It is the quantum of evidence required to establish a fact in cases before administrative and quasi-judicial bodies.
- k. Motion for Reconsideration is an application submitted by the respondent to the Disciplining Authority to set aside or modify the decision based on newly discovered evidence, errors of law or irregularities committed during the hearing prejudicial to his substantial rights, lack of substantial evidence, or the penalty imposed is too harsh.
- l. Proof of Service is evidence submitted by a process server that he has furnished the parties to an administrative case, particularly the respondent, of the decision or resolution rendered by the Disciplinary Authority.
- m. Notice of Appeal is a written notification filed by the respondent with the Disciplinary Authority who rendered the adverse decision that he is elevating the case on appeal to the NAPOLCOM appellate board based on the grounds specified thereon and which shall state the material dates showing the

timeliness of the appeal.

- n. Appellate Authorities refers to the National Appellate Board when the decision appealed from was rendered by the Chief, PNP and the Regional Appellate Board when the decision appealed from was rendered by Director, Police Regional Office or Director, National Support Unit.
- o. Implementing Order is an order issued by the DPRM at the NHQ or RPHRDD at the PRO or its equivalent office in the NSU based on the final decision or resolution rendered by a PNP Disciplinary Authority or Appellate Authority implementing the administrative sanction imposed against a respondent.

V. Procedures:

- a. Complaints or official reports against PNP uniformed personnel whether filed directly with the Disciplinary Authority or with the DIDM at the NHQ, the RADIN at the PRO or its equivalent office in the NSU, or at any other offices outside the PNP which were subsequently referred to the PNP for appropriate action shall undergo a preliminary investigation by the DIDM, RADIN or its equivalent office in the NSU as the case may be.
- b. The preliminary investigation shall be conducted in accordance with existing rules and regulations promulgated by the NAPOLCOM. If probable cause is wanting, the DIDM, RADIN or its equivalent office in the NSU, as the case may be, shall prepare a report of investigation addressed to the Disciplinary Authority concerned with a recommendation that the complaint or report shall be dropped and closed for lack of probable cause.
- c. If probable cause is established warranting the conduct of a formal investigation, the recommendation that the PNP member respondent should be subjected to summary hearing shall be approved by the Disciplinary Authority except in cases where the respondents are Presidential appointees, in which case the President's approval must first be secured. After approval, the complete records of the case shall be forwarded to the DPRM or the RPHRDD or its equivalent office in the NSU for the designation of the SHO and the issuance of appropriate order.
- d. Once order is issued, the complete records of the case shall be transmitted to the SHO for summary hearing. The summary hearing shall be completed for a period of not more than sixty (60) days from receipt of the complete records of the case. The SHO shall return the complete records of the case, along with the documents submitted by the parties concerned during the summary hearing, his report of summary hearing and the draft decision to the DPRM, the RPHRDD or its equivalent office in the NSU.
- e. Upon receipt of the report of summary hearing and the complete records of the case from the SHO, the DPRM or the RPHRDD or its equivalent office in the NSU shall, after recording and corrections of the draft decision, submit these papers to the Disciplinary Authority concerned for consideration or may refer them to the NHQ or PRO Legal Service or the NSU Legal Officer for appropriate

action. In the event that the DPRM, the RPHRDD or its equivalent office in the NSU, or the Legal Service or Legal Officer shall disagree with the findings and recommendation of the SHO, the factual grounds and legal reasons thereof must be so clearly stated.

- f. The DPRM or the RPHRDD or its equivalent office in the NSU shall implement the decision by furnishing the parties concerned with an authenticated copy thereof and shall require them to sign a proof of service. The proof of service shall form part of the record and it shall serve as the best evidence to determine whether a motion for reconsideration or appeal has been perfected within the reglementary period.
- g. In case the penalty imposed is dismissal from the police service, it shall be implemented immediately regardless of whether the respondent has perfected a motion for reconsideration or appeal. Other penalties, like demotion or suspension, shall only be implemented upon the finality of the decision or denial of the motion for reconsideration.
- h. Motions for reconsideration shall be forwarded to the DPRM, the RPHRDD or its equivalent office in the NSU for appropriate action. The DPRM, RPHRDD or its equivalent office in the NSU could, on their own, resolve the motion or endorse the same to the designated SHO for resolution. Thereafter, the resolution shall be referred to the Disciplinary Authority who rendered the decision, along with the records of the case, for consideration. The parties concerned shall be furnished with authenticated copies of the resolution personally or by registered mail.
- i. Appeals from decisions of PNP Disciplinary Authorities where the penalty imposed are dismissal from the police service or one (1) rank demotion shall be filed with the NAPOLCOM Appellate Board, i.e., National Appellate Board in case the decision appealed from was rendered by the Chief, PNP or Regional Appellate Board in case the decision was rendered by RD, PRO or D, NSU, within ten (10) days from receipt of a copy of the decision by filing a notice of appeal with the Disciplinary Authority who rendered the decision.
- j. In the event that an appeal has been filed on time, the DPRM, RPHRDD or its equivalent office in the NSU, as the case may be, shall immediately transmit the complete records of the case to the NAPOLCOM, appellate board. In case the appeal was not filed within the period adverted to above, the complete records of the case shall still be transmitted with the information that the appeal was filed late as shown in the proof of service.
- k. Implementing orders of decisions issued by the DPRM, RPHRDD or its equivalent office in the NSU shall be widely disseminated by furnishing the following offices with a copy thereof: DIDM, LS, Finance Service, Computer Service and the respondent's unit assignment. In case the RD, PRO or D, NSU is the Disciplinary Authority, the DPRM and the offices herein mentioned shall also be furnished with a copy of the implementing order for record purposes.
- l. It shall be the responsibility of the chief of office or unit where the respondent is assigned to see to it that the sanction imposed is immediately carried out upon receipt of the implementing order. In case of dismissal, the issued FA,