

A copy of the order duly served shall be furnished the Sanggunian, the City Local Government Office Officer (CLGOO) and other offices of the City for their information and appropriate action.

SECTION 3. 90-day-ban. – No preventive suspension shall be imposed within ninety (90) days immediately prior to any local election. If the preventive suspension has been imposed prior to the 90-day period immediately preceding a local election, it shall be deemed automatically lifted upon the start of the aforesaid period.

SECTION 4. Automatic reinstatement. – Upon expiration of the preventive suspension, the suspended barangay official shall be deemed reinstated in office, without prejudice to the continuation of the proceedings against him, which shall be terminated within one hundred twenty (120) days from the time he was formally notified of the case against him. However, if the delay in the proceeding of the case is due to his fault, or request, other than the appeal duly filed, the duration of such delay shall not be counted in computing the time of termination of the case.

SECTION 5. Salary of respondent pending suspension. – The respondent who is preventively suspended from office shall receive no salary or compensation during such suspension; but upon subsequent exoneration and reinstatement, he shall be paid his full salary or compensation, including such emoluments accruing during such suspension.

RULE 7 PRELIMINARY CONFERENCE

SECTION 1. Preliminary Conference. – The Committee shall, within ten (10) days from referral of the complaint, or the Sanggunian shall, acting as a Committee of the Whole and within ten (10) days from finding that a prima facie case exists, summon the parties to a preliminary conference to consider the following:

- a) Whether the parties could agree on an amicable settlement;
- b) Whether the parties desire a formal investigation or are willing to submit the case for resolution upon submission of their respective position papers together with their documentary evidences;
- c) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, the limitation of the number of witnesses, dates of hearing, and such other matters as may aid the prompt disposition of the case.

SECTION 2. Amicable settlement, compromise and arbitration. – The Committee shall encourage the parties and their counsels to enter, at any stage of the proceedings, into amicable settlement, compromise or arbitration, the terms and conditions of which shall be subject to the approval of the Sanggunian.

SECTION 3. Preliminary conference order. – After the preliminary conference, the Committee shall issue an order reciting the matters taken up thereon, including the facts stipulated and evidences marked, if any. Such order shall limit the issues for hearing to

those not disposed of by agreement or admission of the parties, and shall schedule the formal investigation within ten (10) days from its issuance, unless a later date is mutually agreed by the parties concerned.

SECTION 4. *Submission for resolution/decision.* – The parties may agree to submit the case for resolution/decision based on the result of the preliminary conference without any need for further hearings.

SECTION 5. *Presence of the parties and counsel.* – The parties and their respective counsels, if represented, are required to attend the preliminary conference. In case of the absence of the complainant and his counsel, if represented, without any justifiable reason, the case shall be dismissed. In case of the absence of the respondent and his counsel, if represented, without any justifiable reason, it shall be deemed as waiver of his right to present evidence in his favor and the investigation/hearing may proceed *ex-parte*.

RULE 8 FORMAL INVESTIGATION

SECTION 1. *Procedural due process.* – The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documents through the compulsory process of *subpoena ad testificandum* and *subpoena duces tecum*.

SECTION 2. *Who conducts the hearing.* – The formal administrative investigation shall be conducted by the Committee on Laws, Rules and Privileges, or by the ad hoc committee created for such purpose. Provided, however, that the Sanggunian is not precluded from assuming the conduct of the investigation at any stage of the proceeding, if it may deem necessary.

SECTION 3. *Power to take testimony or receive evidence and issue interlocutory orders.* – The Committee or the Sanggunian is hereby authorized to take testimony or receive evidence relevant to the administrative proceedings, which authority shall include the power to administer oaths, summon witnesses, and require the production of documents by issuing a *subpoena duces tecum* pursuant to Book 1, Chapter 9, Section 37 of Presidential Executive Order No. 292 or the Administrative Code of 1987.

Anyone who, without lawful excuse, fails to appear upon summons issued under authority of the preceding paragraph or who, appearing before the Committee or Sanggunian exercising the power herein defined, refuses to make oath, give testimony or produce documents for inspection, when lawfully required, shall be subject to discipline as in case of contempt of court and, upon application by the Committee or Sanggunian, shall be dealt with by the judge of the proper Regional Trial Court in the manner provided for under Book II, Chapter I, Section 2 (1), of the Administrative Code of 1987.

The Committee is also authorized to issue interlocutory orders.

SECTION 4. Notice of hearing. – The parties and their witnesses shall be notified of the scheduled hearing at least five (5) days before the date thereof, stating the date, time and place of the hearing.

SECTION 5. Venue of hearing. – The formal investigation as contemplated in this Rule shall be conducted in the session hall of the Sanggunian.

SECTION 6. Request for subpoena. – If a party desires the attendance of a witness or the production of documents, he should formally request for the issue of the necessary subpoena or *subpoena duces tecum* at least three (3) days before the scheduled hearing.

SECTION 7. Postponement. – No postponement shall be allowed unless for meritorious grounds, which is no case be more than once during the entire proceeding.

SECTION 8. Stenographic record of proceeding. – The testimony of each witness and the manifestation of the parties and counsels during an investigation shall be taken in shorthand or stenotype, tape-recorded or any other mode of recording. A transcript of the proceedings made by the official stenographer, and duly certified by him, shall be *prima facie* a correct statement of such proceedings. The parties may request copies of the transcripts upon payment of the required fees.

SECTION 9. Order of hearing. – The order of the hearing shall be as follows:

- a) The complainant shall produce the evidence on his part;
- b) The respondent shall offer evidence in support of his defense; and
- c) The parties may respectively offer rebutting evidence unless the Committee or Sanggunian for good reasons and in the furtherance of justice, permits them to offer evidence upon their original case.

SECTION 10. Order of Examination. – The order in which a witness may be examined shall be as follows:

- a) Direct examination by the proponent;
- b) Cross-examination by the opponent; and
- c) Re-direct examination by the proponent; and
- d) Re-cross examination by the opponent.

The affidavit of the witness shall constitute his direct testimony but the same must be identified and affirmed by him before his cross-examination.

The parties are required to furnish each other copies of the affidavits of their respective witnesses at least five (5) days before the scheduled hearing, unless said affidavits are attached to the complaint and the answer.

SECTION 11. Termination of formal investigation. – The formal investigation of the case shall be terminated by the Committee or Sanggunian within ninety (90) days from the start thereof, unless there are justifiable grounds for extension.

SECTION 12. Memorandum. – Within fifteen (15) days after the termination of the formal investigation, the parties may submit their respective memoranda, stating clearly and

distinctly the facts and the law upon which they are based, serving each other a copy thereof. These requirements shall likewise apply to motions or applications other than the final decisions.

SECTION 13. 90-day ban. – No formal investigation shall be conducted within ninety (90) days immediately preceding any local election.

RULE 9 EVIDENCE

SECTION 1. Rules of Evidence. – In administrative disciplinary proceedings.

- a) The Committee or Sanggunian may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs. A fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion;
- b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original is in the official custody of a public officer, a certified copy thereof may be accepted;
- c) The Committee or Sanggunian may take notice of judicially cognizable facts and generally technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded and opportunity to contest the facts so noticed.

SECTION 2. Marking. – All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.), if presented by the complainant, and by numbers (1, 2, 3, etc.), if presented by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked "Folder of Exhibits", which shall be attached to the records.

SECTION 3. Offer of evidence/exhibits. – Testimony of a witness must be offered at the time the witness is called to testify. Documentary and object evidence shall after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the Committee or Sanggunian to be done in writing. The purpose for which the evidence is offered must be specified.

SECTION 4. Objection. – Objection to evidence offered orally must be made immediately after the offer is made. Objection to a question propounded in the course of the oral examination of the witness shall be made as soon as the grounds therefore shall become reasonably apparent, otherwise, the same shall be considered admitted.

An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the Committee or Sanggunian. In any case, the grounds for the objections must be specified. All objections raised during the hearing shall be resolved by the Committee or Sanggunian.