



REPORT
OF THE
COMMITTEE ON RULES AND ETHICS

424	BATAAN SANGGUNIANG PANLALAWIGAN RULES OF PRACTICE AND PROCEDURE ON ADMINISTRATIVE CASES.


This proposed Rules of Practice and Procedure shall govern the Sangguniang Panlalawigan's (SP) exercise of its quasi-judicial power, and shall apply to all administrative cases falling within its jurisdiction, whether as an original complaint or on appeal.

The initial draft was discussed during the committee meeting held on 19 October 2022 wherein comments and suggestions were made. The same was also reviewed by the Secretary of the SP, who will play a vital role in the exercise of the quasi-judicial power of the SP. The Committee on Justice, Human Rights and Legal Matters, through its Chair, was likewise consulted.

The Committee finds the proposed final draft of the same to be in order and believes that the promulgation of the same will greatly matter in the discharge of the SP of its quasi-judicial functions. The same, the Committee notes, will also properly guide parties to administrative cases that may be filed before the SP. A copy of the final draft is herewith.

Given the foregoing, the Committee recommends the adoption of the same as the SP's Rules of Practice and Procedure on Administrative Cases.


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**BATAAN SANGGUNIANG PANLALAWIGAN
RULES OF PRACTICE AND PROCEDURE
ON ADMINISTRATIVE CASES**

**I
PRELIMINARY PROVISIONS**

Section 1. Title. – This Rules shall be known and cited as the “Bataan Sangguniang Panlalawigan Rules of Practice and Procedure on Administrative Cases” (hereinafter referred to as the “Rules”).

Section 2. Coverage. – This Rules shall govern the Sangguniang Panlalawigan’s (SP) exercise of its quasi-judicial power, and shall apply to all administrative cases falling within its jurisdiction, whether as an original complaint or on appeal.

Section 3. Construction. – This Rules shall be liberally construed in order to promote the objective of obtaining just, speedy, and inexpensive disposition of administrative cases.

Section. 4. Effects and Application of Relevant Laws/Rules. - These Rules shall implement the Local Government Code and its Implementing Rules and Regulations. In all matters not provided for in these Rules, the Rules of Court and the 1987 Administrative Code shall apply in a suppletory character.

**II
ORIGINAL ADMINISTRATIVE COMPLAINTS**

Section 5. Grounds for Disciplinary Actions. – An administrative complaint may be filed against an elective local official of a municipality on any of the following grounds:

- a. Disloyalty to the Republic of the Philippines;
- b. Culpable violation of the Constitution;
- c. Dishonesty, oppression, misconduct in office, gross negligence, or dereliction of duty;
- d. Commission of any offense involving moral turpitude or an offense punishable by at least prision mayor which is from six (6) years and one (1) day to twelve (12) years imprisonment;
- e. Abuse of authority;
- f. Unauthorized absence for fifteen (15) consecutive working days, in the case of local chief executives and four (4) consecutive sessions in case of members of the sanggunian;
- g. Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and such other grounds as may be provided by the Code; Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees); Republic Act No. 3019, as amended (Anti-graft and Corrupt Practices Act);

Administrative Code of 1987; the Revised Penal Code, as amended, and all other applicable general and special laws.

Section 6. Form and Filing of Administrative Complaints. — A verified complaint against an elective local official of a municipality within the jurisdiction of the SP shall be filed before the SP Secretariat. The same must be written in a clear, simple and concise language and in a systematic manner as to apprise the respondent of the nature and cause of the accusation against him or her and to enable him or her to intelligently prepare his or her defense or answer/comment.

The Complaint shall be filed in three (3) legible copies unless there are more than one (1) respondent, in which case additional copies shall be filed corresponding to the number of respondents.

The complaint shall contain the following:

- a. full name and address of the complainant;
- b. full name and address of the respondent/s as well as his/her/their position/s and office/s;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- d. certified true copies of documentary evidence and affidavits of his/ her witnesses, if any; and
- e. certification of non-forum shopping.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the above requirements.

Section 7. Order to File Answer. - If the Complaint is sufficient in form and substance, within seven (7) days after the filing and referral thereof to the Committee on Justice, Human Rights and Legal Matters (hereinafter referred to as "the Committee"), the Committee, through an Order, shall require the respondent to submit his or her verified Answer within fifteen (15) days from receipt thereof. A copy of the verified complaint with the supporting documents shall be appended to the Order.

Section 8. Form and Filing of the Answer. – The Answer, which is in writing and under oath, shall be filed before the SP Secretariat. It shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of the respondent's defense.

The Answer shall be filed in three (3) legible copies unless there are more than one (1) complainant, in which case additional copies shall be filed corresponding to the number of complainants.

If the respondent fails or refuses to file his or her Answer to the Complaint within the period provided in the relevant Order, he or she shall be considered to have waived his or her right to submit the same and the case may be decided based on available records.

Section 9. Withdrawal of the Complaint. – The withdrawal of the Complaint does not automatically result in its outright dismissal nor absolve the respondent from any administrative liability. Where there is obvious truth or merit to the allegation in the Complaint or where there is documentary evidence that would tend to prove the guilt of the respondent, the same should be considered and given due course.

Section 10. Motion for Extension - A motion for extension to file a verified Answer may be filed only once and may be granted only on meritorious grounds.

Section 11. Pre-Hearing Conference. - Within ten (10) days after receipt of such verified Answer of the respondent, the formal investigation shall commence with the issuance of an Order calling for the conduct of a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. Mode of presentation of evidence whether trial-type or through the submission of verified position paper/memorandum;
- b. Stipulation of facts;
- c. Simplification of issues;
- d. Identification and marking of evidence of the parties;
- e. Waiver of objections to admissibility of evidence;
- f. Limiting the number of witnesses, and their names;
- g. Dates of subsequent hearings;
- h. Possibility of settlement in cases of light offenses where the act is purely personal on the part of the complainant and the respondent, and there is no apparent injury to the government; and
- i. Such other matters as may aid in the prompt and just resolution of the case.

The agreement entered into during the pre-hearing conference is binding upon both parties unless in the interest of justice, the Committee may allow a deviation from the same. The conduct of a pre-hearing conference is mandatory. The failure of the respondent to attend the pre-hearing conference constitutes a waiver to participate therein but shall not bar the same from presenting of his or her evidence moving forward.

After the conclusion of the pre-hearing conference, the Committee shall issue a pre-hearing order containing the matters discussed and agreed upon during the same, including the schedule of the trial and/or deadline for submission of position paper/memorandum.

Section 12. Trial-type Presentation of Evidence. — The respondent shall be accorded full opportunity to appear and defend himself or herself in person or by counsel, to confront and cross-examine the witnesses against him or her, and to

require the attendance of witnesses and the production of relevant documentary evidence in his or her favor through the compulsory process of subpoena or subpoena duces tecum. If respondent fails or refuses to appear during the scheduled hearings or refuse to produce the required relevant evidence, despite due notice and without justifiable grounds, the investigation shall proceed and the respondent shall be deemed to have waived his or her right to present evidence in his or her favor during the said hearing. If after being apprised of the right to counsel, respondent appears without the aid of a counsel, he or she shall be deemed to have waived his or her right thereto.

Unless the Committee directs otherwise, the order of hearing shall be as follows:

- a. The complainant shall present his or her evidence;
- b. The respondent shall present evidence in support of his or her defense;
- c. There may be rebuttal or sur-rebuttal.

When the presentation of the witnesses has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. The Committee shall admit all evidence formally offered subject to the objection/s interposed against its admission.

Section 13. Submission of Position Paper/Memorandum. – Should the respondent choose the presentation of evidence through the submission of a position paper/memorandum during the pre-hearing conference, or as may be agreed upon by the parties at any stage of the proceedings, the case shall be submitted for decision after the simultaneous submission thereof, without need of further hearing. The Committee, however, may order the conduct of a hearing to obtain clarification from the parties.

The position papers/memoranda that the parties will submit shall also contain their respective formal offer of evidence, including their documentary evidence or exhibits, and sworn statements or judicial affidavits of their witnesses, if any. All these documents 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. These shall form part of the complete records of the case.

Section. 14. Venue of Hearing. - The venue of hearing shall be at the 6F Session Hall, the Bunker, Capitol Compound, Balanga City, Bataan. Videoconferencing may be resorted to motu proprio or upon the motion of either of the parties.

Section 15. Period of Formal Investigation. — Regardless of whether the formal investigation was conducted through trial-type presentation of evidence or through the submission of position papers/memoranda and clarificatory hearing/s, the formal investigation shall be terminated within ninety (90) days from the start thereof barring unforeseen or unavoidable reasons. Delays caused by the parties shall not be included in the computation of this 90-day period.

No investigation shall be held within ninety (90) days immediately prior to any local elections.

Section 16. Issuance of Subpoena. – The SP in the exercise of its quasi-judicial power and function may issue a subpoena ad testificandum to compel the attendance of witnesses and subpoena duces tecum for the production of documents or things. If a party desires the attendance of a witness and/or the production of documents, he or she shall make a request for the issuance of the necessary subpoena ad testificandum and/or subpoena duces tecum, at least seven (7) days before the scheduled hearing.

Section 17. Filing of Pleadings. – All pleadings filed by the parties with the SP Secretariat shall be copy furnished the other party with proof of service. Any pleadings sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the SP secretariat.

When the circumstances warrant, upon order, the Committee may require the filing of pleadings only through personal service. Alternative modes of filing, for example, via e-mail, may also be utilized.

Section 18. Preventive Suspension. – The preventive suspension of the respondent may be imposed by the governor upon the recommendation of the SP at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and evidence.

Any single preventive suspension of an elective local official shall not extend beyond sixty (60) days. In the event that several administrative cases are filed against an elective local official, he cannot be placed under preventive suspension for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

Upon expiration of the preventive suspension, the suspended elective local 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. If the delay in the proceedings of the case is due to his fault, neglect, or request, other than the appeal duly filed, the duration of such delay shall be counted in computing the time of termination of the case.

Section. 19. Penalties. – A respondent found guilty of the offense charged may be censured, reprimanded, suspended, or removed from office depending on the gravity of the offense.

The penalty of suspension shall not exceed the unexpired term of the respondent, or a period of six (6) months for every administrative offense, or shall said penalty be

a bar to the candidacy of the respondent so suspended as long as he or she meets the qualifications required for the office.

Any elective official may be removed or dismissed from office only upon the proper order of the court.

Section 20. Decision - Within thirty (30) days after the end of the investigation, the SP upon the recommendation of the Committee shall render a written decision stating clearly and distinctly the facts and reasons for such decision. Copies of decision shall be immediately furnished the complainant, respondent and all interested parties.

Section 21. Administrative Appeals and Finality of Decision. — The decision of the SP in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the Office of the President. If no appeal is made within thirty (30) days from receipt of the decision, the decision shall become final and executory.

Section 22. Execution Pending Appeal. — An appeal shall not prevent a decision from becoming final or executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal. In the event the appeal results in an exoneration, he shall be paid his salary and such other emoluments accruing during the pendency of the appeal.

III

APPEAL IN ADMINISTRATIVE COMPLAINTS

Section 23. Administrative Appeals. - Decisions and resolutions in administrative cases before the Sangguniang Panlungsod and Sangguniang Bayan may, within thirty (30) days from receipt thereof, be appealed to the SP. If no appeal is made within thirty (30) days from receipt of the decision or resolution, the same shall become final and executory.

Section 24. When Deemed Filed. — An appeal sent by registered mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case. In case of personal delivery, it is deemed filed on the date stamped thereon by the SP secretariat.

Section 25. Perfection of an Appeal. — To perfect an appeal, the appellant shall file three (3) copies of an Appeal Memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision appealed from, and certified copies of the documents or evidence in support of the appeal.

The Appeal Memorandum shall be filed with the SP secretariat, copy furnished the Sanggunian that rendered the decision appealed from. It shall be accompanied with proof of service of a copy of the same to the Sanggunian of origin.

When the appellant fails to comply with any of the above requirements within the reglementary period, the Committee shall direct compliance within a period of not more than ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause the dismissal of the appeal with prejudice to its refiling.

Section 26. Opposition/Comment to the Appeal Memorandum. - Upon referral of the appeal to the Committee, and after determination that the Appeal Memorandum is sufficient in form and substance, the Committee shall order the Appellee to file his or her opposition or comment to the Appeal Memorandum.

Section 27. Submission of the Records of the Case. - The Committee shall also issue an Order to the Sanggunian of origin for the same to submit certified true copies of the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with or without its comments, within fifteen (15) days from receipt.

Section 28. Clarificatory Hearing. - After the submission of the Opposition/Comment of the appellee and the receipt of the records of the case from the Sanggunian of origin, the Committee may order the conduct of clarificatory hearings wherein questions may be propounded to the parties.

Section 29. Submission for Decision. - After the conduct of clarificatory hearings or should the same be deemed unnecessary by the Committee, the same shall issue an Order declaring the appeal to be already submitted for decision.

Section 30. Decision. - Within sixty (60) days after the submission of the appeal for decision, the SP upon the recommendation of the Committee shall render a written decision stating clearly and distinctly the facts and reasons for such decision. Copies of decision shall be immediately furnished the appellant, appellee and all interested parties.

IV
ADMINISTRATIVE COMPLAINTS INVOLVING
SK FEDERATION OFFICERS

Section 31. Grounds for Disciplinary Actions. - An SK Federation President who is an ex-officio member of the Sangguniang Bayan or Sangguniang Panlungsod may be disciplined, suspended, or removed from office, after due notice and hearing, on any of the following grounds:

- a. Abuse of Authority;
- b. Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor (6 years and 1 day to 12 years) imprisonment;
- c. Failure to perform official duties and function as Federation Officer;

- d. Commission of any violations cited in the respective IRP of the concerned Federation;
- e. Failure to conduct regular Federation session or meeting as specified in the respective IRP of the Federation, without a justifiable cause;
- f. Failure to hold regular meeting with the LYDC for at least once in every quarter without a justifiable cause; and
- g. Such other grounds as may be provided under the Local Government Code of 1991, JMC No. 2017-01 and all other applicable general and special laws.

Section 32. Form and Filing of Administrative Complaints. — A complaint against an SK Federation President who is an ex-officio member of the Sangguniang Bayan or Sangguniang Panlungsod within the jurisdiction of the SP shall be initiated only by any officer or member of the concerned federation. For this purpose a verified complaint shall be filed before the SP secretariat in three (3) legible copies. The same shall be written in a clear, simple and concise language and in a systematic manner as to apprise the respondent, of the nature and cause of the accusation against him or her and to enable him or her to intelligently prepare his or her defense or answer/comment.

The complaint shall contain the following:

- a. full name and address of the complainant/s as well as his or her or their position/s and office/s;
- b. full name and address of the respondent as well as his or her position and office;
- c. a narration of the relevant and material facts which shows the acts or omissions allegedly committed; and
- d. certified true copies of documentary evidence and affidavits of his or her witnesses, if any.

The absence of any of the aforementioned requirements may cause the dismissal of the complaint without prejudice to its refiling upon compliance with the above requirements.

Section 33. Answer of the Respondent. — If the Complaint is sufficient in form and substance, within seven (7) days after the filing and referral thereof to the Committee, the same, through an Order, shall require the respondent to submit his or her verified Answer within fifteen (15) days from receipt thereof.

The Answer, which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of the respondent's defense.

If the respondent fails or refuses to file his or her Answer to the Complaint within the period provided in the relevant Order, he or she shall be considered to have waived his or her right to submit the same and the case may be decided based on available records.

Section 34. Non-appearance of Parties. - Non-appearance of the complainant, without justifiable cause, shall result in the dismissal of the complaint. On the other hand, non-appearance of the respondent, without justifiable cause, shall constitute a waiver of his or her right to present his or her side.

Section 35. Applicability of Rules in Original Administrative Cases. - The rules as provided hereinabove in Sections 9 to 18, 21 and 22 shall be applicable to administrative cases involving SK Federation Officers.

Section 36. Suspension and Removal From Office. - The respondent, after due process, may be suspended for not more than six (6) months, or removed from the office of the concerned Federation, by a majority vote of all the members of the SP.

The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every offense, nor shall said penalty be a bar to the candidacy of the respondents so suspended to any elective SK office. The penalty of removal from office shall be considered a bar to the candidacy of the respondent to any elective SK office.

Section 37. Decision. - Within thirty (30) days after the end of the investigation, the SP upon the recommendation of the Committee shall render a written decision stating clearly and distinctly the facts and reasons for such decision. Copies of decision shall be immediately furnished the complainant, respondent and all interested parties.