



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT ORDER NO. DO 2012-04-0007

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**REVISED RULES OF PROCEDURE IN THE CONDUCT OF PERSONNEL
DISCIPLINARY INVESTIGATION OF THE DEPARTMENT OF ENERGY**

WHEREAS, pursuant to Book IV, Chapter 2, Section 7 (5) of Executive Order No. 292, otherwise known as the Administrative Code and Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, the Department of Energy (DOE) issued Department Order No. DO2007-03-0002 issued on 06 March 2007 entitled "Creating an Investigation Committee on Disciplinary Cases Involving Employees of the Department of Energy" created the DOE Investigation Committee;

WHEREAS, the Civil Service Commission (CSC) issued the Revised Rules on Administrative Cases in the Civil Service (RRACS) on 09 December 2011 to promote the just, speedy and inexpensive disposition of administrative cases;

WHEREAS, there is a need to update Department Order No. DO2007-03-0002 to harmonize it with the RRACS;

NOW, THEREFORE, for and in consideration of the aforementioned premises, the Revised Rules of Procedures in the Conduct of Personnel Disciplinary Investigation of DOE is hereby issued:

**RULE I.
INVESTIGATION COMMITTEE**

SECTION 1. Jurisdiction. The Investigation Committee shall exercise jurisdiction over the investigation of disciplinary cases involving DOE employees in the first and second level positions in the career service as defined under Executive Order No. 292.

SECTION 2. Functions. The Investigation Committee shall perform the functions herein provided and such other functions necessary and incidental to the discharge of the responsibilities.

SECTION 3. Reorganization of the Investigation Committee. The Investigation Committee created under DO2007-03-0002 is hereby reorganized to be composed of:

Chairperson & Presiding Officer	:	Director of Legal Services
Members	:	Director of Administrative Services
		President of the DOE's Employee' Association
		Chief, Human Resource Management Division
		Immediate Supervisor*

*of the employee who is subject of the complaint up to Director level

SECTION 4. Disqualification of Investigation Committee Members. Any member of the Investigation Committee shall be disqualified from participating in the investigation/hearing of the case if:

- 4.1 He/she is related within the fourth degree of affinity or consanguinity to the employee being charged;
- 4.2 He/she is the subject of the investigation;
- 4.3 He/she is the complainant; or
- 4.4 Upon the approval by the Secretary for just or valid reason other than relationship which will render him/her incapable of impartially deciding the case.

SECTION 5. Substitution of Investigation Committee Member. In case a member of the Investigation Committee is disqualified, the following substitution shall be followed:

- 5.1 In the case of the Director for Legal Services, the Chief of the Legal Counseling Division shall take his/her place.
- 5.2 In the case of the Director for Administrative Services, any Director III as may be designated by the Secretary;
- 5.3 In the case of the President of the DOE Employees' Association, the Vice-President of the said association shall take his/her place.
- 5.4 In the case of the Chief of the Human Resource Management Division, the Assistant Division Chief or a Section Chief, upon the designation of the Chief of the Human Resource Management Division, shall take his/her place; or
- 5.5 In case of the Immediate Supervisor, the next higher supervisor up to Director level.

Should any of the alternative members be likewise disqualified on the grounds provided in Section 4, the Secretary shall designate the DOE employee or officer who will sit as member of the Committee for the specific case being heard.

SECTION 6. Quorum and Voting. A majority of the members of the Investigating Committee shall constitute a quorum to conduct business, and the concurrence or approval of at least the majority of the quorum shall be necessary for its decisions, orders or any other actions to be valid and binding.

SECTION 7. Committee Secretariat. The Investigation Committee shall be assisted by a Committee Secretariat composed of a staff from the Legal Services as may be designated by the Legal Services Director and the secretary of the Chief of the Human Resource Management Division.

RULE II. PROCEDURES

SECTION 8. Institution of Complaint: All complaints involving disciplinary action against a DOE employee must be in writing and properly sworn to under oath and filed with the Legal Services.

SECTION 9. Conduct of Investigation: In the conduct of the investigation, the following procedures shall be followed:

9.1 Within three (3) days from receipt of the complaint, the Chief of the Legal Counseling Division shall direct the person-complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of notice a copy of which shall be furnished the complainant who may file his/her reply-affidavit. For this purpose, the Chief of the Legal Counseling Division, or any lawyer in his/her Division which he/she will designate, shall be the investigating officer of the case.

9.2 Within ten (10) days from receipt of the Counter-Affidavit/Comment by the person-complained of, the Investigating officer shall determine if a *prima facie* case exists to warrant the issuance of a formal charge.

In determining whether a *prima facie* case exists against the person complained of, the investigating officer may summon the parties to a conference where he/she may propound clarificatory questions. The said officer may also conduct a fact-finding investigation further or prior to the preliminary investigation; Provided that such conference and fact-finding investigation must be conducted and terminated within the 10-day period provided above.

9.3 Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit his/her Investigation Report and the complete records of the case together with his/her recommendation to the Secretary for the latter's consideration.

SECTION 10. Formal Charge. If a *prima facie* case is established during the preliminary investigation, a formal charge shall be issued by the Secretary and the case, together with the records, shall be referred to the Investigation Committee for formal investigation.

SECTION 11. Formal Charge, Contents. The formal charge shall contain a specification of charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath within five (5) days from receipt thereof, an advice for the respondent to indicate in his answer whether or not he/she elects a formal investigation of the charge(s), and a notice that he is entitled to be assisted by a counsel of his choice.

SECTION 12. Answer to Formal Charge. The respondent shall file his/her Answer to the charges with the Investigation Committee not later than five (5) days from receipt of the Formal Charge, copy furnished the complainant. If the respondent has submitted his/her Counter-Affidavit/Comment during the preliminary investigation, he/she shall be given the opportunity to submit additional evidence.

No requests for clarification, bills of particulars, or motions to dismiss which are obviously designed to delay the administrative proceedings shall be entertained by the Investigation Committee.

SECTION 13. Formal Investigation. In the event respondent does not request a formal investigation, one shall nevertheless be conducted by the Investigation Committee where from the allegations of the complaint and the answer of the respondent, including the supporting documents of both parties, the merits of the case cannot be decided judiciously without conducting such investigation.

SECTION 14. Hearings. Within three (3) days from receipt of the answer of the respondent, the Investigation Committee shall issue summons and notify in writing all parties, including witnesses it deems appropriate to be included, of the hearing date set by the Committee, which hearing date shall not be more than ten (10) days from receipt of the answer of the respondent.

The Investigation Committee may call another hearing on the matter, if necessary, provided that subsequent hearings shall not be scheduled more than fifteen (15) days from the last hearing and provided further that the total number of hearings set shall not be more than three (3).

SECTION 15. Conduct of Hearings. The Investigation Committee shall conduct the investigation informally only for the purpose of ascertaining the truth and without necessarily adhering to technical rules applicable in judicial proceedings.

SECTION 16. Recommendation. Upon the conclusion of its investigation, the Investigation Committee shall make its recommendations to the Secretary within fifteen (15) days from the last hearing conducted.

SECTION 17. Disposition of Disciplinary Cases. Every disciplinary case brought to the Investigation Committee should be concluded, i.e. the proper penalty must have been meted out, not later than one hundred twenty (120) days from the date of issuance of the formal charge.

For this purpose, the Human Resource Management Division shall be responsible in ensuring that the penalty recommended by the Investigation Committee and approved by the Secretary is meted out within the period provided above.

RULE III MISCELLANEOUS PROVISIONS

SECTION 18. Funding. All expenses to be incurred and all emoluments to which the Investigation Committee is entitled shall be sourced from funds available to the DOE subject to the usual government accounting and auditing requirements.

SECTION 19. Separability Clause. If for any reason or reasons, any part of this Department Order be declared unconstitutional or invalid, no other parts or provisions hereof shall be affected thereby.

SECTION 20. Repealing Clause. Department Order No. DO2007-03-0002 and all other circulars, orders or issuances inconsistent herewith are hereby repealed or modified accordingly.

SECTION 21. Effectivity. This Department Order shall take effect immediately and shall remain in effect unless revoked or modified accordingly.

Fort Bonifacio, Taguig City, APR 03 2012.



JOSE RENE D. ALMENDRAS

Secretary

