

ADMINISTRATIVE ORDER NO. 16
Series of 2003

CREATION OF AN INTERNAL AFFAIRS BOARD

Pursuant to the authority vested in the Office of the Ombudsman under Sections 11 and 18 of Republic Act No. 6770, otherwise known as the "Ombudsman Act of 1989," cognizant of the principle that public office is a public trust and that all public officers and employees, including the officials and employees of the Office of the Ombudsman, must at all times be accountable to the people, the Office of the Ombudsman deems it imperative to create the Internal Affairs Board and staffs to ensure the highest integrity of its officials and employees. Accordingly, the Office hereby promulgates the following rules and guidelines:

I. STATEMENT OF POLICY

- A. The Office of the Ombudsman shall inculcate among its officials and employees the faithful observance of the Code of Conduct and Ethical Standards for Public Officials and Employees, all laws, rules and regulations concerning the civil service and public accountability, and rules and regulations of the Office of the Ombudsman.
- B. The Office of the Ombudsman shall promulgate and execute programs and procedures that shall ensure the highest integrity of its officials and employees.
- C. The Office of the Ombudsman shall act on all complaints filed in any form or manner against any incumbent or former official or employee of the Office of the Ombudsman, and for this purpose, shall adopt and promulgate stringent rules that shall ensure fairness, impartiality, propriety and integrity in all its actions.

II. FUNCTIONS OF THE INTERNAL AFFAIRS BOARD AND STAFFS

The functions, duties and responsibilities of the Internal Affairs Board (IAB or Board, for brevity) and the IAB staffs are as follows:

A. INTERNAL AFFAIRS BOARD

1. The Board shall recommend to the Ombudsman policies, programs and procedures that shall ensure strict compliance by officials and employees of the Office of the Ombudsman with the Code of Conduct and Ethical Standards for Public Officials and Employees, all laws, rules and regulations concerning the civil service and public accountability, as well as rules and regulations of the Office of the Ombudsman. These policies, programs, and procedures may pertain to sustainable systems for the conduct of integrity checks, performance audit, personnel background investigations, lifestyle checks and the like.
2. The Board shall recommend to the Ombudsman the promulgation of a code of conduct and ethical standards for all officials and employees of the Office of the Ombudsman, and separate codes that shall apply to various positions, groups of positions or component units of the Office; Provided, that said codes shall form part of office rules and regulations; Provided, further, that said codes shall be consistent with the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713), and all other laws, rules and regulations concerning the civil service and public accountability.
3. The Board shall recommend to the Ombudsman the promulgation of manuals of operations that shall apply to bureaus, offices and/or component units of the Office to ensure the faithful performance of its mandated functions, duties and responsibilities, in accordance with the eight norms of conduct of public officials and employees as provided for in Section 4 of R.A. No. 6713.

4. The Board may direct any official or employee to render assistance to the IAB in the formulation of policies, programs, procedures, codes of conduct and manuals of operations.
5. The Board shall act on all complaints against any official or employee of the Office of the Ombudsman involving charge(s) allegedly committed singly or in conspiracy with any person.
6. The Board, consistent with the policies provided herein, may, with the approval of the Ombudsman, request any intelligence or investigating agency or direct any official, employee, or component unit of the Office of the Ombudsman other than the IAB Staffs, to conduct an intelligence operation or fact-finding investigation on any official or employee of the Office of the Ombudsman.

B. IAB PROGRAM STAFF (PS)

The IAB-PS, under the supervision of the IAB Chairman, shall render legal, technical and administrative assistance to the IAB in the performance of its functions mentioned in parts (II)(A)(1) to (II)(A)(4) hereof.

C. INVESTIGATING STAFF (IS)

The IAB-IS, under the supervision of the Board Chairman, shall conduct the necessary intelligence operation or fact-finding investigation, preliminary investigation and/or administrative adjudication, and shall render such other legal, technical and administrative assistance as the IAB may require in the performance of its functions set forth in parts (II)(A)(5) and (II)(A)(6) hereof.

D. IAB ADMINISTRATIVE OFFICER

The IAB Administrative Officer, under the supervision of the Board Chairman, shall render administrative assistance to the Board in the management of records, in the raffling for the selection of evaluating officers, investigators, members of investigating panels, and IAB Division team leaders and members, in the calendaring of hearings and meetings of the Board, and perform such other functions, duties and responsibilities that may be assigned to the Administrative Officer.

III. COMPOSITION OF THE INTERNAL AFFAIRS BOARD AND STAFFS

- A. The Internal Affairs Board (IAB) is hereby constituted with the following membership:
 1. The Overall Deputy Ombudsman
 2. The Special Prosecutor
 3. The Deputy Ombudsman for Luzon
 4. The Deputy Ombudsman for the Visayas
 5. The Deputy Ombudsman for Mindanao
 6. The Deputy Ombudsman for the Military

The Chairman and the Vice Chairman of the IAB shall be designated by the Ombudsman from among the members of the IAB for a term of one year. They may be redesignated at the discretion of the Ombudsman.

B. The IAB shall have its support staff composed of the following:

1. The IAB Program Staff or the IAB-PS shall be composed of the (a) Human Resource Management Officer V of the Central Office; (b) the Human Resource Management Officers of the Area/Sectoral Offices, including the Office of the Special Prosecutor; (c) the Head Executive Assistant; and (d) other officials and employees of the Office who may be recommended by the IAB for designation by the Ombudsman for a term of one year and who may be redesignated at the discretion of the Ombudsman.

The Coordinator of the IAB Program Staff (PS) shall be designated by the Ombudsman from among the members of the PS.

2. The IAB Investigating Staff or IAB-IS shall be composed of officers and employees of the Office of the Ombudsman who are of known integrity and probity, and who shall be designated by the Ombudsman to act as investigators and/or hearing officers in cases cognizable by the IAB; *Provided*, that the Ombudsman shall designate as members of the IAB-IS at least two (2) officers/employees from each of the Area/Sectoral Offices, including the Office of the Special Prosecutor; *Provided, further*, that the members of the IAB-IS shall have a term of office of one (1) year and may be redesignated at the discretion of the Ombudsman.
3. The IAB Administrative Officer shall be designated by the Ombudsman for a term of one year and may be redesignated at the discretion of the Ombudsman.

IV. PROCEDURES IN HANDLING COMPLAINTS

- A. **Form of Complaints.** The Office of the Ombudsman, through the IAB, shall act on all complaints in any form against its officials and employees, involving charge(s) allegedly committed singly or in conspiracy with any other person, filed by the public or by any official or employee of the Office, whether said complaint is made orally or in writing, signed or unsigned, verified or not verified or in any other form.
- B. **Receipt of Complaints.** All complaints against any official or employee of the Office of the Ombudsman, involving charge(s) allegedly committed singly or in conspiracy with any other person, may be addressed to:

The Chairman
Internal Affairs Board
Office of the Ombudsman
Agham Road, Quezon City

The complaint may be received by any of the component units of the Office, which shall immediately forward it to the IAB Administrative Officer.

For purposes of this Order, the component units of the Office of the Ombudsman are the Central Office, Office of the Special Prosecutor, Office of the Deputy Ombudsman for Luzon, Office of the Deputy Ombudsman for the Visayas, Office of the Deputy Ombudsman for Mindanao, and Office of the Deputy Ombudsman for the Military.

C. **Assignment of a Reference Number.** Upon receipt of the complaint by the IAB Administrative Officer, the same shall be assigned a sequential reference number and forwarded to the IAB Chairman for assignment to an investigator for the conduct of evaluation.

D. **Assignment of Complaints for Evaluation.** Upon receipt of the complaint, the Board Chairman, with the assistance of the IAB Administrative Officer, shall assign the same to a member of the IAB-IS by raffle, for the conduct of an initial evaluation thereof.

In the absence of the Board Chairman or where the Board Chairman is disqualified or has voluntarily inhibited himself from participating in the proceedings, the IAB Vice-Chairman or the IAB member designated by the Ombudsman, in that order of priority, shall act in his stead.

E. **Conduct of Evaluation.** Upon receipt of the complaint, the investigator shall evaluate the complaint and submit to the IAB Chairman, within five (5) days from receipt thereof, an evaluation report, which shall contain, among others, the following:

1. A statement as to the form and substance of the complaint;
2. The identity and rank of the respondent(s);
3. The actions recommended to be taken, which may be any of the following:
 - a. To proceed with the conduct of a preliminary investigation and/or administrative adjudication and to further recommend the issuance of preventive suspension where applicable; *Provided*, that the complaint is sufficient in form and substance; *Provided, further*, that if the complaint is not under oath, the investigator shall first require the complainant to subscribe to it under oath;
 - b. To conduct a fact-finding investigation or intelligence operations;
 - c. To dismiss the complaint outright; or
 - d. To refer the complaint to an official, bureau, board, committee or such other unit in the Office of the Ombudsman, for appropriate action, such as, but, not limited to any of the following:
 - 1) Directing the respondent and/or his immediate supervisor to immediately act on a particular matter;
 - 2) Referral of the complaint to the appropriate board, committee or office unit such as, but not limited to the Decorum and Investigation Committee (for cases pertaining to sexual harassment), or the Grievance Committee (for work-related issues giving rise to employee dissatisfaction such as interpersonal relationship and linkages, protests on appointments, non-implementation of policies, practices and procedure on economic and financial issues, as well as those affecting recruitment, promotion, transfer, retirement, termination and the like) or the public assistance unit; or
 - 3) Recommending to the authorized official non-disciplinary management action.

F. Action on the Evaluation Report

1. Where the Evaluation Report recommends the conduct of a preliminary investigation and/or administrative adjudication against any official or employee of the Office of the Ombudsman, the Chairman shall approve the same, and the case shall immediately be docketed and assigned by raffle, with the assistance of the IAB Administrative Officer, to an IAB Investigator or panel, or to the IAB, either in division or *en banc*, when proper.
2. Where the Evaluation Report recommends the conduct of a fact-finding investigation, the case shall immediately be assigned by raffle with the assistance of the IAB Administrative Officer, to an IAB-IS investigator or a panel of IAB-IS investigators, at the discretion of the IAB Chairman.
3. In case the IAB Chairman disagrees with the recommendation to conduct an intelligence operation, fact-finding investigation, preliminary investigation and/or administrative adjudication, the decision of the IAB Chairman shall prevail. The report shall be approved by the following:
 - a. The IAB Chairman, where the respondent or highest ranking respondent occupies a position belonging to the first level in the career service, or who is in the non-career service with Salary Grade 13 and below;
 - b. The IAB *en banc*, where the respondent or highest ranking respondent occupies a position belonging to the second level of the career service with Salary Grade not higher than 24, or who is in the non-career service with Salary Grade 14 to 24;
 - c. The Ombudsman, upon recommendation of the IAB, where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 or above.
4. The preventive suspension order, when proper, shall be approved in accordance with the immediately preceding section.
5. Where the evaluation report recommends any action other than the conduct of preliminary investigation and/or administrative adjudication or fact-finding investigation/intelligence operation, the approval required in part (IV)(F)(3) above should likewise be obtained.

G. Conduct of Fact-Finding Investigation or Intelligence Operation

1. Where the conduct of a fact-finding investigation or intelligence operation is found to be proper on the basis of a complaint, or at the instance of the IAB Chairman, IAB *en banc* or the Ombudsman, the IAB Chairman, with the assistance of the IAB Administrative Officer, shall assign the case by raffle to an IAB-IS investigator or to a panel of IAB-IS investigators.
2. The IAB-IS investigator or panel of IAB-IS investigators shall submit an Intelligence or Fact-Finding Report, together with his/its recommendation, to the IAB Chairman within sixty (60) days from his/its receipt of the complaint.

H. Action on the Intelligence or Fact-Finding Investigation Report

1. Where the Intelligence or Fact-Finding Report recommends the conduct of a preliminary investigation and/or administrative adjudication against an official or employee of the Office of the Ombudsman, the Chairman shall approve the same and direct the investigator or panel of IAB-IS investigators to prepare the necessary complaint. The case shall immediately be docketed and assigned by raffle, with the assistance of the IAB Administrative Officer, to another IAB investigator or panel, or to the IAB, either in division or *en banc*, when proper.

2. In case the IAB Chairman disagrees with the recommendation to conduct preliminary investigation and/or administrative adjudication, the decision of the Board Chairman shall prevail.

The report shall be approved by the following:

- a. The IAB Chairman, where the respondent or the highest ranking respondent occupies a position belonging to the first level in the career service, or who is in the non-career service with Salary Grade 13 and below;
 - b. The IAB *en banc*, where the respondent or the highest ranking respondent occupies a position belonging to the second level of the career service with Salary Grade not higher than 24, or who is in the non-career service with Salary Grade 14 to 24;
 - c. The Ombudsman, upon recommendation of the IAB, where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 or above.
3. The preventive suspension order, when proper, shall be approved in accordance with the immediately preceding section.
 4. Where the intelligence or fact-finding report recommends any action other than the conduct of preliminary investigation and/or administrative adjudication, the approval required in part (IV)(H)(2) above should likewise be obtained.

I. Docketing of Cases

The Board Chairman shall direct the Records Officer V of the Central Records Division to assign a Central Office docket number to the case which has been recommended for preliminary investigation and/or administrative adjudication.

J. Assignment of Cases by Raffle

1. Where the respondent or the highest ranking respondent has a Salary Grade not higher than 24, the Board Chairman, with the assistance of the IAB Administrative Officer, shall assign by raffle an IAB-IS investigator or constitute, also by raffle, an IAB-IS investigating team who shall conduct the preliminary investigation and/or administrative adjudication.
2. Where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 to 29, the IAB acting in a division of three, shall conduct the preliminary investigation and/or administrative adjudication; *Provided*, that the IAB division may avail of the assistance of the investigating staff; *Provided, further*, that the investigating staff who will assist the IAB division shall be selected by a majority vote of the members of the IAB Division.

The assignment of cases to an IAB Division shall be done in the following manner:

- a. The IAB Chairman, with the assistance of the IAB Administrative Officer, shall first draw by raffle from among the qualified members of the IAB, the Team Leader of the First Division.
- b. Thereafter, the two members of the First Division shall be drawn by raffle from among the remaining qualified IAB members.
- c. The remaining three (3) members of the IAB shall then constitute the Second Division, whose Team Leader shall be drawn by raffle conducted by the IAB Chairman, with the assistance of the IAB Administrative Officer.
- d. The Overall Deputy Ombudsman, however, shall automatically act as the Team Leader of whichever IAB Division he may belong.

- e. In no case shall the Deputy Ombudsman for the Visayas and the Deputy Ombudsman for Mindanao sit at the same time in one division.
 - f. The first case filed with the IAB shall be assigned to the IAB First Division; while the next case shall then be assigned to the IAB Second Division.
 - g. Thereafter, the IAB Chairman, with the assistance of the IAB Administrative Officer, shall conduct another round of raffle to determine the composition of the IAB Divisions which shall handle the subsequent cases filed with the IAB.
 - h. The foregoing procedure shall be repeated after every two (2) cases that are referred to the IAB for preliminary investigation and/or administrative adjudication.
 - i. Where the Team Leader or a member of a division is subsequently found to be disqualified or has voluntarily inhibited himself from participating in the proceeding, the IAB Chairman shall request the Ombudsman to designate a substitute from among the members of the other division.
 - j. The presence of at least two members of an IAB Division is required to constitute a quorum. The vote of at least two members of a Division is required to pass a resolution or validate an act of the Division.
3. Where the respondent or the highest ranking respondent is the Chairman, Vice Chairman or member of the Board, the IAB *en banc* shall conduct the preliminary investigation and/or administrative adjudication; *Provided*, that the respondent member, Vice Chairman or Chairman shall automatically be disqualified from participating in the proceeding except as respondent; *Provided, further*, that the IAB may avail of the assistance of the Investigating Staff who shall be selected by a majority vote of the IAB *en banc*.

The presence of a simple majority of the qualified IAB members shall constitute a quorum.

The vote of a simple majority of all the qualified members of the IAB shall be required to pass a resolution or decision of the IAB *en banc*; *Provided, however*, that in case of a tie or lack of quorum for two (2) scheduled sessions of the IAB at which the matter is supposed to be taken up, the matter shall be deemed automatically submitted to the Ombudsman.

K. Conduct of Preliminary Investigation and Administrative Adjudication

Preliminary investigation and administrative adjudication shall be conducted within sixty (60) days from docketing of the complaint. Unless otherwise herein provided, the Rules and Regulations of the Office of the Ombudsman shall apply in all cases cognizable by the IAB. The recommended resolution or decision shall be submitted to the approving authority within thirty (30) days upon termination of the proceedings.

L. Approval of Resolutions and Decisions

- 1. Resolutions and decisions on cases where the respondent or highest ranking respondent has a Salary Grade not higher than Salary Grade 24 shall be approved by the IAB *en banc*. The provision in part (IV)(J)(3) hereof on quorum and number of votes required to pass a resolution or decision of the IAB *en banc* shall be observed.

2. Resolutions and decisions on cases where the respondent or highest ranking respondent occupies a position with Salary Grade 25 or above shall be submitted by the IAB to the Ombudsman for final action.

M. Motion for Reconsideration

A motion for reconsideration of any order, directive or decision of the Chairman, the IAB *en banc* or the Ombudsman, must be filed within five (5) days from receipt of a written notice thereof and may be entertained only on any of the following grounds:

1. New evidence has been discovered which materially affects the order, directive or decision; or
2. Serious errors of law or irregularities have been committed prejudicial to the interest of the movant.

The motion for reconsideration shall be resolved within five (5) days from filing; *Provided*, that only one motion for reconsideration shall be entertained.

Findings of fact of the Office of the Ombudsman, when supported by substantial evidence, shall be conclusive. Any order, directive or decision imposing the penalty of public censure, reprimand, suspension of not more than one month and/or forfeiture of not more than one month salary, shall be final and unappealable.

N. Disqualifications

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB Investigating Staff, shall be automatically disqualified from acting on a complaint or participating in a proceeding under the following circumstances:

1. He is a party to the complaint, either as a respondent or complainant;
2. He belongs to the same component unit as any of the parties to the case;
3. He belongs or belonged to the same component unit as any of the parties to the case during the period when the act complained of transpired;
4. He is pecuniarily interested in the case or is related to any of the parties within the sixth degree of affinity or consanguinity, or to counsel within the fourth degree, computed according to the provisions of civil law; or
5. He has, at one time or another, acted upon the matter subject of the complaint or proceeding.

For purposes of this Administrative Order, the Overall Deputy Ombudsman shall be considered part of the Central Office.

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB-IS, may, in the exercise of his sound discretion, inhibit himself from acting on a complaint or participating in a proceeding for just and valid reasons other than those mentioned above.

Where the Chairman of the IAB is disqualified or has voluntarily inhibited himself from participating in a case, the Vice-Chairman of the IAB shall act in his stead. Where the Vice Chairman of the IAB is also disqualified or has inhibited himself from participating in a case, the Ombudsman shall appoint an Acting Chairman from among the qualified members of the IAB.

V. GENERAL PROVISIONS

- A. **Separability Clause.** If any provision of this Order is held unconstitutional or invalid, other provisions not affected thereby shall remain valid and binding.
- B. **Modification Of Existing Issuances.** All issuances or provisions of any issuance of the Office of the Ombudsman which may be inconsistent with any of the provisions of this Order are hereby repealed or modified accordingly.
- C. **Action on Cases Pending upon the Effectivity of this Order.** All cases or complaints filed against or involving any official or employee of the Office of the Ombudsman, pending at any stage upon the effectivity of this Order, shall immediately be forwarded to the IAB Administrative Officer for transmittal to and for appropriate action of the IAB.
- D. **Applicability of the Rules of Court.** The provisions of the Rules of Court shall apply in a suppletory character, insofar as they are not inconsistent herewith and whenever practicable and convenient.
- E. **Effectivity.** This Order shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette or in three (3) newspapers of general circulation in the Philippines, one of which is printed in the national language, and upon the filing with the University of the Philippines Law Center of three (3) certified copies thereof.

(sgd) SIMEON V. MARCELO
Ombudsman

July 31, 2003