



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT ORDER NO. D02007-03-0002⁰⁰⁵

**CREATING AN INVESTIGATION COMMITTEE ON DISCIPLINARY CASES
INVOLVING EMPLOYEES OF THE DEPARTMENT OF ENERGY**

WHEREAS Department Order No. 95-03-09 was issued on March 22, 1995 constituting an Investigation Committee on Cases of Tardiness in reporting for office work and absenteeism among employees of the Department of Energy (DOE);

WHEREAS the said Investigation Committee appears to have been dissolved after the reorganization implemented in the DOE in 2003;

WHEREAS there is a need to create another Investigation Committee with a broader mandate this time to address the various disciplinary cases involving the employees of the DOE;

WHEREFORE, pursuant to Book IV, Chapter 2, Section 7 (5) of Executive Order No. 292, known as the Administrative Code of 1987, and Section 22, Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, an Investigation Committee is hereby created to deal with various disciplinary cases involving the employees of the DOE subject to the following guidelines:

1. **Jurisdiction:** The Investigation Committee shall have jurisdiction over disciplinary cases of DOE employees in the first and second level positions in the career service as defined in Executive Order No. 292 where the penalty involved is suspension or dismissal from the service in accordance with the pertinent Civil Service Commission (CSC) circulars and guidelines.

For this purpose, the Human Resource Management Division (HRMD) of the DOE, adopting its own rules of procedure in accordance with Civil Service Laws, shall be responsible for all disciplinary cases where the penalty involved is a mere reprimand in accordance with pertinent CSC circulars and guidelines.

2. **Composition:** The Investigation Committee shall be composed of the Director for Legal Services as Chairman, the President of the DOE Employees' Association and the Chief of the Human Resource Management Division as Members.

a. **Inhibition:** Any member of the Investigation Committee may inhibit himself from participating in the hearing of the case if (a) he/she is related within the fourth degree of affinity or consanguinity to the employee being charged, (b) he/she is the subject of the investigation, or (c) if, upon the approval of the

Secretary, he/she has just or valid reasons other than relationship which will render him/her incapable of impartially deciding the case.

b. **Substitution of a Member:** In case a member of the Investigation Committee inhibits himself/herself, the following shall be followed:

- i. In the case of the Director for Legal Services, the Chief of the Legal Counseling Division shall take his place.
- ii. In the case of the President of the DOE Employees' Association, the Vice President of the said association shall take his/her place.
- iii. In the case of the Chief of the Human Resources Management Division, the Assistant Division Chief or a Section Chief, upon the designation of the Chief of the Human Resources Management Division, shall take his/her place.

Should any of the alternative members above likewise inhibit himself/herself on the grounds provided in paragraph a, the Secretary shall designate the DOE employee or officer who will sit as member of the Committee for the specific case being heard.

c. **Non-availability of a Member during Hearings:** Any member who, for a valid reason, may not be available to attend the hearings set by the Committee on a specific date may be substituted in accordance with the rules set in Section 2 (b) above; provided that the said member shall not be absent during the first hearing date and provided further that he/she shall continue to be responsible in deciding the case with the other members of the Investigation Committee.

3. **Institution of a Complaint:** All complaints involving a disciplinary action against a DOE employee must be in writing and properly sworn to before a notary public and filed with the HRMD for proper action. Should the HRMD determine that the offense involved has a corresponding penalty of suspension or dismissal, the same shall be referred to the Legal Counseling Division of the Legal Services for preliminary investigation.

The HRMD is not precluded from referring *motu proprio* a disciplinary matter to the Investigation Committee when it finds from its own records that an employee has committed a misdemeanor punishable by suspension or dismissal.

4. **Conduct of the Investigation:** In the conduct of the investigation, the following procedure shall be followed:

- a. Within three (3) days from receipt of the referral of the HRMD, 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. 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.

- b. 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.

- c. 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.
- d. 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.

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.

- e. The respondent shall file his/her Answer with the Investigation Committee after the latter's receipt of the records as referred by the Secretary.

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.

- f. Although the 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.
- g. 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 shall conduct the hearing informally with the aim of allowing all parties to air their side.

- h. 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).
- i. 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.
- j. The Investigation Committee shall perform such other functions necessary and incidental to the discharge of the responsibilities therein.

5. 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 HRMD 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.


6. The Investigation Committee shall be assisted by the secretary of the Director for Legal Services and the secretary of the Chief of the Human Resources Management Division who shall act as the Committee's secretariat.

7. 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.

8. 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.

For immediate implementation.

Fort Bonifacio, Taguig City, 06 March 2007.


RAPHAEL P.M. LOTILLA
Secretary