

**DENR Memorandum Order**  
**No. 23**  
**October 28, 1994**

**SUBJECT : General Guidelines on Disciplinary Cases.**

In the interest of the service, and in order to provide expeditious resolution of disciplinary cases, the following are hereby promulgated:

**Sec. 1 Committee on Personnel Discipline**

A Committee on Personnel Discipline is hereby created immediately under the Office of the Assistant Secretary for Management Services. It shall be composed of a Chairman, a Secretary and 3 other members to be designated by the Secretary.

The Committee on Personnel Discipline shall receive all complaints involving disciplinary action against DENR personnel. They shall evaluate the same, except when it involves contract reforestation anomalies. In such case, it will be evaluated by the Special Action Unit of the National Forestation Development Office.

Results of the evaluation together with the corresponding recommendations shall then be submitted to the Assistant Secretary for Management Services.

In line with its evaluation function, the Committee or any member thereof, may conduct preliminary/fact-finding investigations. However, for expediency, the Assistant Secretary may entrust the investigation to the Regional Offices/Bureaus concerned, or to a committee specially created for the purpose.

In the performance of its evaluation function, the Committee is hereby empowered to promulgate its internal rules.

**Sec. 2 The Committee Secretariat.**

The Committee will be assisted by a Secretariat, headed by the Committee Secretary, which shall have additional duties.

- a. Monitor all disciplinary cases being handled by any DENR Offices;
- b. Ensure all orders are served by verifying the proofs of service; and
- c. Submit monthly report to the Assistant Secretary for Management Service.

Members of the secretariat shall be designated by the Assistant Secretary for Management Services.

**Sec. 3 Delegation of Authority to the Assistant Secretary for Management Services.**

The limited jurisdiction on disciplinary complaints over DENR personnel covered by the career service is delegated to the Assistant Secretary for Management Services. As such, he is authorized to:

On unverified complaints

- a. entertain an unverified complaint and ascertain whether or not it should be given due course;
- b. issue a show cause order requiring the employee complained to submit his explanation on why no administrative charge should be filed against him; and
- c. after evaluation, dismiss the complaint or recommend the issuance of a formal charge.

On verified complaints

- d. review a verified complaint and determine whether a prima facie case exists or not;
- e. order the respondent-employee to file his answer under oath; and

- f. dismiss the case, or in case prima facie case is found, recommend that formal investigations be conducted.

The Assistant Secretary shall recommend to the Secretary the following:

- a. Issuance of a formal charge against an employee;
- b. Placing an employee in a preventive suspension, in cases allowed by law;
- c. Designation of officers or creation of committees that will conduct the formal investigations;

Provided that concurring recommendation from the Assistant Secretary for Legal Services shall be made in case personnel from the Legal Services are designated to conduct the formal investigation.

- d. Issuance of Final Orders/Resolutions/Decisions disposing the administrative case.

#### **Sec. 4 Jurisdiction of Regional/Bureau Directors**

The Regional/Bureau Directors may exercise disciplinary jurisdiction over Regional/Bureau first level career and casual employees. However, they are not precluded from referring complaints to the Assistant Secretary for Management Services, who will determine the existence of a prima facie case.

#### **Sec. 5 Presidential Appointees**

The Committee may entertain complaints involving Presidential Appointees, but it will be limited to fact-finding investigation. It will then submit its recommendation to the Assistant Secretary for Management Services who may dismiss the case or indorse the results of the investigation to the Secretary for appropriate action or proper referral to the Presidential Commission Against Graft and Corruption.

**Sec. 6 Institution of the case**

In accordance with the existing civil service rules, administrative cases may be instituted by the head of the agency or by filing of verified complaint by any other person. As a policy of the Department, there is deemed an administrative case when:

- a. A formal charge against a particular employee has been issued by either the Secretary or the Regional/Bureau Directors, in cases involving Regional/Bureau first level career and casual employees; and
- b. A verified complaint with sworn statements and documentary evidence is filed by any other person.

**Sec. 7 Anonymous complaints**

In accordance with the existing civil service rules, an unverified complaint shall not be given due course unless there is obvious truth and merit to such complaints. As a policy, the Department will adhere to the said rule subject to the following requirements;

- a. Allegations are serious in nature; and
- b. These allegations can easily be verified.

For the purpose of this order an anonymous complaint given due course by the disciplining authority shall be deemed to have been instituted by the Department.

**Sec. 8 Preliminary Investigation**

In instances where the administrative case will be deemed initiated by the Secretary or the Regional/Bureau Directors, there must first be a preliminary investigation conducted to determine whether a prima facie case exists against an employee. Only then may a formal charge be issued.

In instances where the administrative case was instituted by a private individual, through a verified complaint, the Assistant Secretary for Management

Services shall determine whether a prima facie case exists after the employee complained has filed his answer or after sufficient time has lapsed, if the employee fails to file one.

If no prima facie case was found then the case shall be dismissed. If a prima facie case exists, the formal investigation shall take place.

#### **Sec. 9 Preventive Suspension**

In instances, allowed by law, such as the offenses involving dishonesty, oppression or grave misconduct, neglect in the performance of official duties, or if there are reasons to believe that the respondent is guilty of charges which would warrant dismissal from the service, the disciplining authority may put an employee under the preventive suspension. However, for uniformity, the imposition of preventive suspension may only be one in the following manner:

- a. Simultaneous to the issuance of a formal charge; or
- b. In cases of a verified complaint, after the finding of a prima facie case

#### **Sec. 10 Formal Investigation**

Formal investigations shall be conducted for the purpose of ascertaining the truth without necessarily adhering to the technical rules applicable in judicial proceedings. In all cases, the Department will be treated as a complainant.

The results of all formal investigations shall be submitted to the Assistant Secretary for Management Services, who shall make the final recommendation to the Secretary.

#### **Sec. 11 Compulsory Production of Evidence**

Consistent with the aim of ascertaining the truth, and pursuant to the civil service rule on compulsory production of documents and attendance of witness, the Assistant Secretary for Management Services, the Committee on Personnel Discipline, or the investigating officer or committee, in the performance of the function laid down by this Order, may ask assistance from any employee of the Department.

This may take the form of subpoena duces tecum or ad testificandum.

### **Sec. 12 Quantum of Evidence Required**

Decisions rendered in the disciplinary cases should be based on the substantial evidence rule, or based on relevant evidence which a reasonable mind might accept as adequate to support a conclusion.

### **Sec. 13 Appeals**

The decision of the Assistant Secretary dismissing a verified complaint may be appealed to the Secretary within fifteen (15) days from notice.

The decision of the Regional/Bureau Directors involving first level and ~ casual personnel may be appealed to the Secretary through the Assistant Secretary for Management, within the same period.

### **Sec. 14 Incorporation clause**

Procedural rules of the Civil Service Commission not inconsistent with this Order and the policy of expeditious resolution of disciplinary cases, are deemed incorporated with this Memorandum Order.

### **Sec. 15 Transitory Provisions**

The Committee created by Special Order No. 792 (1994) shall be transformed into the Committee on Personnel Discipline created by this Memorandum Order. Committee members shall discharge their functions until new members are designated by the Secretary.

The Committee created under Special Order No. 271 (1994) shall continue to pursue cases pending in their possession, subject to these rules and the monitoring of the Committee on Personnel Discipline Secretariat.

**Sec. 16 Posting**

For guidance of all, a copy of this Order shall be posted on every DENR office.

**Sec. 17 Repealing Clause**

Memorandum Circular No. 3, Special Order Nos. 792, 792-A and 865 all series of 1994, and other related Orders, in so far as they are not consistent with this Order, are hereby repealed accordingly.

**Sec. 18 Other Matters**

Nothing in this order should be construed as to preclude the Secretary from directly exercising his disciplinary authority, nor limit his discretion in the exercise of said authority.

**Sec. 19 Effectivity**

This Order shall take effect immediately.

**ANGEL C. ALCALA**  
**Secretary**