

EXCERPT FROM THE MINUTES OF THE 25TH REGULAR SESSION OF THE 14TH SANGGUNIANG PANLALAWIGAN OF THE PROVINCE OF AURORA HELD AT THE SP SESSION HALL, PROVINCIAL CAPITOL, BALER, AURORA ON MARCH 3, 2020

PRESENT:

HON. MARIANO C. TANGSON	Acting Vice-Governor, Presiding Officer
HON. ISIDRO P. GALBAN,	Regular Member, First District
HON. JESUS V. PALMERO,	Regular Member, First District
HON. PHILIP BUTCH M. BAUTISTA,	Regular Member, First District
HON. JASON G. MARTINEZ,	Regular Member, First District
HON. JENNIFER A. ARAÑA,	Regular Member, Second District
HON. EUGENE B. CALUGTONG,	Regular Member, Second District
HON. LORDAN B. ROXAS,	Regular Member, Second District
HON. NICASIO M. SALAMERA,	Regular Member, Second District
HON. RAFAEL M. DE MAYO,	Ex-Officio Member, LnB President
HON. JOVENE MIKE B. ALPUERTO,	Ex-Officio Member, SKF President
HON. ONASIS Q. RONQUILLO,	Ex-Officio Member, PCL President
HON. MARY JANE B. DONATO,	Ex-Officio Member, IPM Rep.

ABSENT:

NONE.

RESOLUTION NO. 77
SERIES OF 2020

PRESCRIBING THE RULES AND PROCEDURES GOVERNING ADMINISTRATIVE INVESTIGATION OF DISCIPLINARY CASES FILED BEFORE THE SANGGUNIANG PANLALAWIGAN AGAINST ELECTIVE LOCAL OFFICIALS OF MUNICIPALITIES IN THE PROVINCE OF AURORA

WHEREAS, the Sangguniang Panlalawigan is vested with the powers to investigate administrative disciplinary cases against elective local officials of component municipalities in the province, pursuant to Section 60 to 66 of RA 7160 otherwise known as the Local Government Code of 1991, in relation to Rule XIX, Article 124 to 130 of its Implementing Rules and Regulations;

WHEREAS, for purposes of carrying out the provision of Section 16 of the 1987 Constitution and for fair and expeditious resolution of cases before it, with due regard to the basic rights of parties to due process, the adoption of the Rules and Procedure in the conduct of hearings and investigation, is imperative and necessary;

NOW THEREFORE, on motion duly seconded;

BE IT RESOLVED, as it is hereby resolved, to prescribe the following rules and procedures:

RULE 1
PRELIMINARY PROVISIONS

SECTION 1. TITLE – These rules shall be known as the “Rules and Procedures Governing Administrative Investigation of Disciplinary Cases Filed Before the Sangguniang Panlalawigan Against Elective Local Officials of Municipalities in the Province of Aurora”.

SECTION 2. COVERAGE – These rules and procedures shall apply to administrative disciplinary cases filed against the: (a) mayors, (b) vice-mayor, and (c) members of the sangguniang bayan of municipalities in the Province of Aurora.

SECTION 3. CONSTRUCTION – These rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, speedy and inexpensive determination of every action brought before the Sangguniang Panlalawigan.

SECTION 4. DISCIPLINING AUTHORITY – The Sangguniang Panlalawigan as a quasi-judicial body shall be the Disciplining Authority and shall act on all administrative complaints, duly verified, filed against elective local officials mentioned in the preceding section.

SECTION 5. INVESTIGATING AUTHORITY – The Investigating Authority shall be the Sangguniang Panlalawigan as a quasi-judicial body.

RULE 2
GROUNDS FOR ADMINISTRATIVE DISCIPLINARY ACTION

SECTION 1. GROUNDS – Elective local official of municipalities may be disciplined, suspended, or removed from office 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 on any offense involving moral turpitude or any offense punishable by at least prison 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 case of local chief executives and four (4) consecutive sessions in the 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

(h) Such other grounds as may be provided by the Local Government Code of 1991; Republic Act No. 6713; Republic Act No. 3019; Administrative Code of 1987; Revised Penal Code; and all other applicable general and special laws.

RULE 3 COMPLAINT

SECTION 1. HOW INITIATED – An administrative case may be initiated by (1) any private individual or (2) any government officer or employee by filing a sworn written complaint duly verified against any elective local official enumerated under Section 2, Rule 1 hereof.

SECTION 2. FORM OF COMPLAINT – The verified complaint, accompanied by affidavits of witnesses or evidences in support of the charge, shall be addressed to the Sangguniang Panlalawigan. It shall be drawn in clear, simple and concise language and in methodical manner as to apprise the respondent of the nature of the charge against him and to enable him to prepare his defense. The party filing the complaint shall be called the complainant, while the official against whom the complaint is filed shall be called the respondent.

SECTION 3. WHERE FILED – The complaint shall be filed with the Sangguniang Panlalawigan Secretariat who shall immediately refer the same for appropriate action to the Sangguniang Panlalawigan.

RULE 4 ANSWER

SECTION 1. NOTICE – Within seven (7) days after the complaint is filed, the Sangguniang Panlalawigan as the case may be shall issue an order requiring the respondent to submit his verified answer within fifteen (15) days from receipt thereof.

SECTION 2. FORM OF ANSWER – The verified answer, accompanied by affidavits of witnesses or evidences in support of the defense, shall be addressed to the Sangguniang Panlalawigan and shall be drawn in clear, simple and concise language and in methodical manner as to traverse the charge.

SECTION 3. WHERE FILED – The answer shall be submitted to the Sangguniang Panlalawigan. A copy of the answer shall be furnished to the complainant.

SECTION 4. FAILURE TO ANSWER – Unreasonable failure of respondent to file his verified answer within fifteen (15) days from receipt of the complaint against him shall be considered as waiver of his right to present evidence in his behalf.

RULE 5 COMMENCEMENT OF THE INVESTIGATION

SECTION 1. COMMENCEMENT – Within ten (10) days from receipt of the answer, the Sangguniang Panlalawigan shall commence the investigation of the case.

SECTION 2. EVALUATION – After the filing of the answer, the Sangguniang Panlalawigan shall determine the existence of a probable cause.

Should a probable cause exists, the Sangguniang Panlalawigan shall set the case for preliminary conference and formal administrative proceedings shall thereafter be conducted. If warranted, the Sangguniang Panlalawigan may recommend to the Governor the imposition of a preventive suspension on the respondent/s.

SECTION 3. DISMISSAL MOTU PROPIO – If the Sangguniang Panlalawigan determines that there is no probable cause to warrant the institution of formal administrative proceedings, it shall cause an order for the motu proprio dismissal of the case.

SECTION 4. PRELIMINARY CONFERENCE – If the Sangguniang Panlalawigan determines that there is a probable cause to warrant the institution of a formal administrative proceedings, it shall summon the parties to a preliminary conference to consider the following:

- a) Whether the parties desire a formal investigation or are willing to submit the case for resolution on the basis of the evidence on record; and
- b) If the parties desire a formal investigation, to consider the simplification of issues, the possibility of obtaining stipulation or admission of facts and of documents, specifically affidavits and depositions, to avoid unnecessary proof, the limitation of number of witnesses, and such other matters as may aid the Sangguniang Panlalawigan in the prompt disposition of the case.

The Sangguniang Panlalawigan shall encourage the parties and their counsels to enter, at any stage of the proceedings, into Alternative Dispute Resolution (ADR).

SECTION 5. VENUE OF HEARING – All actions brought under these rules shall be commenced and heard in the place where the Sangguniang Panlalawigan of the Province of Aurora holds session.

SECTION 6. ELECTION BAN – No investigation shall be held within ninety (90) days immediately prior to any local election, and no preventive suspension shall be imposed within the said period. If preventive suspension has been imposed prior to the 90-day period immediately preceding local election, it shall be deemed automatically lifted upon the start of the aforesaid period.

RULE 6 PREVENTIVE SUSPENSION

SECTION 1. POWER TO SUSPEND – Preventive suspension maybe imposed by the Governor upon the recommendation of the Sangguniang Panlalawigan.

SECTION 2. GROUNDS – Preventive suspension may be imposed 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 other evidence.

SECTION 3. DURATION – Any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided that in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known as the time of the first suspension.

SECTION 4. EXPIRATION – Upon expiration of the preventive suspension, the suspended elective 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. However, 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 not be counted in computing the time of termination of the case.

SECTION 5. SALARY OF THE RESPONDENT PENDING PREVENTIVE SUSPENSION – The respondent official preventively suspended from office shall receive no salary or compensation during such suspension; but, upon subsequent exoneration and reinstatement, he shall be paid fully salary or compensation including such emoluments accruing during such suspension.

RULE 7 FORMAL INVESTIGATION

SECTION 1. PROCEDURAL DUE PROCESS – The respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses and the production of documents through the compulsory process of subpoena or subpoena duces tecum.

SECTION 2. WHO CONDUCTS THE HEARING – The formal administrative investigation shall be conducted by the Sangguniang Panlalawigan.

SECTION 3. FAILURE TO COMMENCE FORMAL INVESTIGATION – Unreasonable failure to commence the formal investigation within the prescribed period shall be a ground for administrative disciplinary action.

SECTION 4. POWER TO TAKE TESTIMONY OR RECEIVE EVIDENCE – The Sangguniang Panlalawigan shall take testimony or receive evidence relevant to the administrative proceedings, which authority shall include the power to administer oaths, summon witnesses, and require the production of documents by subpoena duces tecum.

Anyone who, without lawful excuse, fails to appear upon summons issued under the preceding paragraph or who, appearing before the Sangguniang Panlalawigan exercising the power therein defined, refuses to make oath, give testimony or produce documents for inspection, when lawfully required, shall be subject to discipline as in case of contempt of court and, upon application by the Sangguniang Panlalawigan shall be dealt with by the judge of the proper Regional Trial Court in the manner provided for under Book VII, Chapter 3, Section 13, in relation to Chapter 1, Section 2(1), of the Administrative Code of 1987.

SECTION 5. NOTICE OF HEARING – The parties and their witnesses shall be notified by subpoena of the scheduled hearing at least five (5) days before the date thereof, stating the date, time and place of the hearing.

SECTION 6. SCHEDULE OF HEARING – The Sangguniang Panlalawigan shall determine and set the date, time and place of hearing, however, the parties may through motion request for the schedule of hearing.

SECTION 7. REQUEST FOR SUBPOENA – If a party desires the attendance of a witness or the production of documents, he should make formal request for the issuance of the necessary subpoena or subpoena duces tecum at least five (5) days before the scheduled hearing.

SECTION 8. POSTPONEMENT – Postponement of investigation shall be discouraged and shall be allowed only in meritorious cases, like illness of the parties or counsels and other similar case. No postponement for a period longer than seven (7) days shall be allowed, and in no case shall the total number of postponements for one party be more than twenty (20) days.

SECTION 9. RECORDS OF PROCEEDINGS – The testimony of each witness and the manifestation of the parties and counsels during an investigation shall be recorded and transcribed by the Sangguniang Panlalawigan Secretariat. A transcript of the proceedings, duly certified by the designated staff of the Sangguniang Panlalawigan shall be prima facie a correct statement of such proceedings.

SECTION 10. ORDER OF HEARING – The order of a hearing shall be as follows:

- a) The complainant shall produce the evidence on his part;
- b) The respondent shall then offer evidence in support of his defense; and
- c) The parties may then respectively offer rebutting evidence, unless the Sangguniang Panlalawigan, for good reason and in the furtherance of justice, permits them to offer evidence upon their original case.

SECTION 11. ORDER OF EXAMINATION – The order in which a witness may be examined shall be as follows:

- a) Direct examination by the complainant;
- b) Cross examination by the respondent;
- c) Re-direct examination by the complainant; and
- d) Re-cross examination by the respondent.

SECTION 12. TERMINATION OF FORMAL INVESTIGATION – The formal investigation of the case shall be terminated by the Sangguniang Panlalawigan within ninety (90) days from the start thereof.

SECTION 13. MEMORANDA – The Sangguniang Panlalawigan may allow the parties to submit their respective memoranda, together with their respective draft resolutions and orders for its consideration, within fifteen (15) days after the termination of the formal investigation.

RULE 8 EVIDENCE

SECTION 1. RULES OF EVIDENCE – In administrative disciplinary proceedings

- a) The Sangguniang Panlalawigan may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs;
- b) Documentary evidence may be received in the term of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted; and
- c) The Sangguniang Panlalawigan may take notice of judicially cognizable facts and of generally technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

SECTION 2. MARKING – All documentary evidence or exhibit shall be properly marked by letter (A, B, C, etc.), if presented by the complainants, and by numbers (1, 2, 3, etc.), if presented by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked "Folder of Exhibits", which shall also be attached to the records.

RULE 9 DECISION

SECTION 1. RENDITION OF DECISION – Within thirty (30) days after the termination of the investigation, the Sangguniang Panlalawigan shall render a decision in writing stating clearly and distinctly the facts and reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties.

SECTION 2. FINALITY OF DECISION – The decision of the Sangguniang Panlalawigan shall immediately be final and executory upon receipt of the copy thereof by the complainant or the respondent as the case may be.

SECTION 3. MOTION FOR RECONSIDERATION – Except for meritorious cases, only one motion for reconsideration by any party shall be allowed which shall suspend the running of the 30-day reglementary period; however, a motion for reconsideration shall not stay the execution of a decision. In the event that a decision is reconsidered as to result in exoneration, the respondent shall be paid his salary and such other emoluments accruing during the period of his suspension or removal.

SECTION 4. 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 the preventive suspension during the pendency of an appeal. In the event the appeal results in exoneration, the respondent shall be paid salary and such other emoluments accruing during the pendency of the appeal.

RULE 10 PENALTIES

SECTION 1. SUSPENSION OR REMOVAL - A respondent found guilty of any of the offenses enumerated in Rule 2 hereof may be meted the penalty of suspension or removal depending on the evidence presented and the aggravating circumstances that may be considered by the Sangguniang Panlalawigan.

SECTION 2. SUSPENSION – The penalty of suspension shall not exceed the unexpired term of the respondent, or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent so suspended as long as he meets the qualifications required for the office.

When the respondent has been meted two (2) or more penalties of suspension for two (2) or more administrative offenses, such penalties shall be served successively.

SECTION 3. REMOVAL – An elective local official may be removed from office on the grounds enumerated in Rule 2 hereof by order of the proper court or the Sangguniang Panlalawigan whichever first acquire jurisdiction to the exclusion of the other.

The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.

RULE 11 ADMINISTRATIVE APPEAL

SECTION 1. WHEN AND WHERE FILED – An aggrieved party of a decision rendered by the Sangguniang Bayan may file an administrative appeal before the Sangguniang Panlalawigan within thirty (30) days from receipt of such decision.

SECTION 2. EFFECT OF NON-FILING WITHIN THE REGLEMENTARY PERIOD – If no appeal is made within thirty (30) days from receipt of the decision, the decision shall become final and executory.

SECTION 3. FORM AND CONTENTS – An administrative appeal is taken by filing a notice of appeal and shall indicate the parties to the appeal, the statement of facts, specify the judgment or final order or part thereof appealed from and the reliefs prayed for.

SECTION 4. DOCUMENTARY EVIDENCES REQUIRED – The administrative appeal shall be accompanied by a copy of the decision of the Sangguniang Bayan transcript of the proceedings and all documentary evidence presented before the Sangguniang Bayan.

No additional witnesses nor additional documentary evidence shall be entertained by the Sangguniang Panlalawigan during the consideration of the appeal.

SECTION 5. DECISION ON ADMINISTRATIVE APPEAL – The Sangguniang Panlalawigan shall render its decision within the reasonable time which decision shall be final and executory.

RULE 12 MISCELLANEOUS PROVISIONS

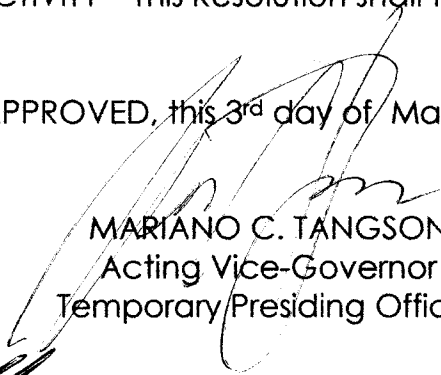
SECTION 1. EFFECTS AND APPLICATIONS OF RELEVANT LAWS – These rules implement the Local Government Code of 1991 and its Implementing Rules and Regulations approved and adopted under Administrative Order No. 270 dated

February 21, 1992; Book VI, Chapter 3, Section 10-16 of the Administrative Code of 1983; and Executive Order No. 26 dated October 7, 1992. In all matters not provided in this Resolution, the Rules of Court and the 1987 Administrative Code shall apply in a suppletory character.


SECTION 2. RECORDS CLASSIFICATION – Records in administrative disciplinary cases are classified as confidential in nature and any information as to the charges, accusation, or facts adduced may not be released, and such records may not be available, except to the proper authorities and upon written request, to the parties-in-interest or their authorized representatives on the "need-to-know" basis pursuant to Memorandum Circular No. 78, dated August 14, 1964, as amended by Memorandum Circular No. 196, dated July 19, 1968, prescribing rules governing security of classified matter in government office.

SECTION 3. EFFECTIVITY – This Resolution shall take effect immediately upon its approval.

UNANIMOUSLY APPROVED, this 3rd day of March 2020.


MARIANO C. TANGSON
Acting Vice-Governor
Temporary Presiding Officer


ISIDRO P. GALBAN
SP Member



JESUS V. PALMERO
SP Member

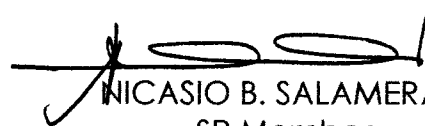

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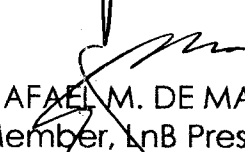

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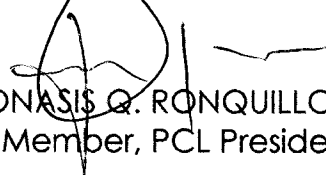

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