



Republic of the Philippines
Province of Ilocos Norte
MUNICIPALITY OF SAN NICOLAS



OFFICE OF THE SANGGUNIANG BAYAN

EXCERPTS FROM THE THIRD REGULAR SESSION OF THE 10TH SANGGUNIANG BAYAN OF SAN NICOLAS, ILOCOS NORTE HELD AT THE MUNICIPAL SESSION HALL ON THE 22ND DAY OF JANUARY, 2018 AT 10:15 O'CLOCK IN THE MORNING.

PRESENT:

- | | |
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| Hon. Edistio P. Valdez | Vice-Mayor/Presiding Officer; |
| Hon. Angel Miguel L. Hernando | Member; |
| Hon. Domingo C. Ambrocio, Jr. | Member; |
| Hon. Ariel B. Villa | Member; |
| Hon. Efren C. Butay | Member; |
| Hon. Norberto S. Dadiz, Jr. | Member; |
| Hon. Manuel D. Coloma, Sr. | Member; |
| Hon. Orlando B. Badua | Member; |
| Hon. Jessie Julito P. Pumaras, Sr. | Member. |

ABSENT:

- | | |
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| Hon. Linda E. Badua, | Member/Liga ng mga Barangay President (On-Leave) |
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“RESOLUTION NO. 2018-92

A RESOLUTION ADOPTING THE SUBSTANTIVE AND PROCEDURAL RULES TO BE OBSERVED IN ADMINISTRATIVE CASES FILED AGAINST ELECTIVE BARANGAY OFFICIALS BEFORE THE SANGGUNIANG BAYAN OF THE MUNICIPALITY OF SAN NICOLAS, PROVINCE OF ILOCOS NORTE IN ITS CAPACITY AS A QUASI-JUDICIAL BODY PURSUANT TO SECTION 60-68 OF THE LOCAL GOVERNMENT CODE OF 1991 AND THE ESTABLISHED ISSUANCES AND JURISPRUDENCE ON THE MATTER.

WHEREAS, jurisdiction to hear and decide administrative cases against elective barangay officials has been vested by Section 61 of the Local Government Code of 1991 in the sanggunian of cities and municipalities;

WHEREAS, Section 50 (6) of RA 7160 authorizes the Sangguniang the performance of its functions;

WHEREAS, there is a need to adopt a set of rules, both substantive and procedural, with the inclusion, among others, of the provisions of R.A. 7160, it's implementing Rules and Regulations as well as judicial decisions (jurisprudence) and legal opinions of the Department of Interior and Local Government an administrative cases as a matter of due process, in order to inform and guide the parties as to the manner and conduct of proceedings in their respective cases;

WHEREFORE, on motion of Member Angel Miguel L. Hernando, duly seconded by All Members Present,

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Sangguniang Bayan to ADOPT, as it is hereby ADOPTS, the following substantive and procedural rules to be observed in administrative cases file against elective barangay officials before the Sangguniang Bayan in its capacity as a quasi-judicial body pursuant to Sections 60-68 of the Local Government Code of 1991; and the established issuances and jurisprudence on the matter.

**RULE I
TITLE AND CONSTRUCTION**

SECTION 1. Title- These rules shall be known as the 2017 Rules of Procedures of the Sangguniang Bayan of the Municipality of San Nicolas, Province of Ilocos Norte in the conduct of administrative proceedings in the exercise of its quasi-judicial functions.

SECTION 2. Construction- These rules shall be liberally constructed in order to promote public interest and to assist parties in obtaining just speedy and inexpensive determination of their pending administrative case(s) filed before the Sangguniang Bayan of San Nicolas, Ilocos Norte.

SECTION 3. Nature of Proceedings- Proceedings before the Sangguniang Bayan of San Nicolas, Ilocos Norte in the exercise of its quasi- judicial function shall be summary in nature without adhering to legal technicalities obtaining in the courts of law.

SECTION 4. Engagement of Counsels- Appearance by counsel is at the discretion of the parties who may or may not hire a lawyer for the prosecution or defense of their respective cases. Considering the time frame by which the Sanggunian is mandated to dispose of the cases before it, the appearance or non-appearance of a lawyer during the hearing shall not in any manner interrupt the flow or schedule of a pending case which shall not in any manner interrupt the flow or schedule of a pending case which fact shall be stated in open session in each initial hearing and contained in every notice or invitation to the parties for the next hearing of the case. Strict observance shall be required of this rule.

**RULE II
JURISDICTION**

Section 1. Jurisdiction over administrative cases against elective barangay officials is vested with the Sangguniang Bayan without prejudice however to the concurrent jurisdiction of the Office of the Ombudsman. Any complaint therefore, against an appointive barangay official shall not be entertained by the Sanggunian. (Section 61 RA7160) (DILG Opinion No. 19, June 24, 2002).

**RULE III
THE PARTIES**

Section 1. Parties of the Case- In any complaint filed with the Sanggunian, the person filling the same shall be called Respondent. In cases of married persons, a complaint or answer by a spouse need not be signed or counter- signed by the other spouse.

**RULE IV
COMMENCEMENT OF ACTION**

Section 1. When Action Deemed Commenced- An action deemed commenced upon filing of a verified complainant with the Sangguniang Bayan against any elected barangay official in the Municipality of San Nicolas, Ilocos Norte consisting of two (2) copies accompanied by sworn statements of witnesses and supporting documents, if any. The complainant shall specify any of the following grounds which may be relied upon, wit;

- 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 of any offense involving moral turpitude or an offense punishable by at least prison mayor. The offense involving moral turpitude must be linked to the performance of official duties of respondent and conviction by final judgment shall be a condition precedent for the filling of any administrative case involving this ground. (Palma us, Fortich, 147 SCRA 397, Mondavo vs. Silvosa, 97 Phil. 144-145, DILG Opinion No. 11, s. 2006, Feb. 20, 2006);
- e) Abuse of Authority;
- f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the Sangguniang Barangay;
- 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 in the Local Government Code of 1991;

Pendency of a case in any court of law involving any of the foregoing grounds shall not constitute as a bar to the action or proceedings before the Sanggunian.

Section 1 (a) Definition of Terms/ Offenses:

- a) **Disloyalty to the Republic of the Philippines-** Any act of omission which may be considered as a crime against Public Order defined under Chapter I, Title III of the Revised Penal Code or other acts affecting qualifications to hold public office related to renunciation of Philippine citizenship. Under the Local Government Code conviction by final judgment for violating the oath of allegiance to the Republic (Sec. 40 (c) and permanent residency in a foreign country or acquiring the right to reside abroad and continue to avail of the same (Sec. 40 (f) disqualifies one from running for elective positions in local government units.

- b) **Culpable violation of the Constitution** – If implies or covers acts with deliberate intent and to a certain degree of perversity so as to defy knowingly what the Constitution provides. It includes a violation serious enough to warrant betrayal of public trust such as a violation of a constitutional oath of office.
- c) **Dishonesty** – The concealment or distortion of truth in a matter of fact relevant to one’s office or connected with the performance of his duty. (Alfonso vs. Office of the President, 520 SCRA 64, 87) It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity, lack of honesty, probity, or integrity in principle; lack of fairness and straight forwardness. (Concerned Citizen vs. Gabral, Jr. 54 Phil. 209)
- d) **Oppression** – An act of cruelty, severity, unlawful exaction, domination or excessive use of authority. (Ochate vs. Deling, 105 Phil 390)
- e) **Misconduct in Office** – One that affects the performance of duties as a public officer, and not such as affects character as a private individual. (Lacson vs. Roque, 92 Phil 465)
- f) **Gross Negligence** – The want of even slight care and diligence. Such entire want of care as to raise a presumption that the person at fault is conscious of the probable consequence of his carelessness, and is indifferent, or worse, to the danger of injury to persons or property of others. Such negligence as amounts to a reckless disregard of the safety of persons or properties. (Amedo vs. Rio y Olabarrieta Inc., 95 Phil 37)
- g) **Dereliction of Duty** – It generally refers to a failure to conform to rules of one’s job, which will vary by tasks involved, it is a failure or refusal to perform an assigned duty.
- h) **Abuse of Authority** – it is a denial of justice when discretion, by virtue of one’s position has not been justly exercised. It signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right. (DILG Opinion No. 1, s. 2206, Feb. 20, 2006)
- i) **Unauthorized absence for fifteen (15) consecutive working days**, except in the case of members of the Sangguniang Panlalawigan, Sangguniang Panlungsod, Sangguniang Bayan, and Sangguniang Barangay. This ground can only be availed against a punong barangay, a mayor or governor. However, any prolonged absence of an elective local official not justified by law or regulations such as travel abroad without due notice to the council may constitute unauthorized absence. (DILG Opinion No. 24-1993)
- j) **Application for, or acquisition of foreign citizenship or residence or the status of an immigration of another country.** This ground for disqualification from running for any elective local position under Sec. 40 of LGC.

SECTION 2. Within seven (7) days after the administrative complainant is filed, the Sangguniang Bayan shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof. (Section 62 of RA 7160)

SECTION 2 (a) Verification – Verification as required in the complaint and answer shall not be considered as a jurisdictional requirement. It may be waived by the Sanggunian if it acts on the complaint or answer. (Joson vs. Torres, G.R. No. 131255, May 20, 1998)

SECTION 3. Venue – Venue of the investigation or hearing, unless otherwise specified by resolution, shall be at the Session Hall of the Sangguniang Bayan. (Section 62 of RA 7160)

SECTION 4. Motion to Dismiss. A motion to dismiss an administrative complaint in lieu of an answer is an improper pleading considering that the Sanggunian is entrusted the duty of determining whether the offense is proper for investigation. All possible grounds for dismissal of the complaint shall be considered a matter of defense which will be subject to consideration by the Sanggunian in rendering a decision. (Section 62 (d) of RA 7160, DILG Opinion No. 11, s. 2006, Feb. 20, 2006)

**RULE V
PREVENTIVE SUSPENSION**

SECTION 1. *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 respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. Provided, that, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, 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 at the time of the first suspension. (Section 63(a) (3) of RA 7160)

SECTION 1 (a) Suspension Without Hearing- A respondent may be suspended once issues are joined and before charges against him are heard as the circumstances may warrant even before giving him an opportunity to prove his innocence (Espiritu vs. Melgar, 206 SCRA 256)

SECTION 2. *After determining by way of resolution that all the elements for a preventive suspension* are present, the Sangguniang Bayan shall then recommended to the Mayor that the respondent elective barangay officials be placed under preventive suspension. It shall then be ministerial on the part of the mayor to issue an order to impose the preventive suspension of the respondent once recommended by the Sanggunian. The resolution for preventive suspension need only state that the Sanggunian has determined that all the elements under Section 63 of RA 7160 are presented for the Mayor to implement the preventive suspension (Section 63 of RA 7160) (DILG Opinion No. 61, series of 2002), citing the case of Matugas vs. Navarro, CA- G.R. SP No. 62038, November 19, 2001)

SECTION 3. Expiration of the Preventive Suspension- Upon the expiration of the preventive suspension, the suspended elective barangay official shall be 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, 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 63 of RA 7160)

SECTION 4. Salary During 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 full salary or compensation including such emoluments accruing during such suspension. (Section 64 of RA 7160)

SECTION 5. No Sanggunian or mayor's action shall be necessary for the reinstatement of the suspended barangay official following the expiration of the preventive suspension in order for the preventively suspended official to resume his duties without prejudice to the continuation of the proceedings against him (DILG Opinion No. 217, series of 1993, DILG Opinion.

SECTION 6. The Sanggunian shall exercise its best collective judgment in the matter of preventive suspension considering that abuse of the same is a ground for abuse of authority. (Section 63 (d) of RA 7160)

**RULE VI
INVESTIGATION/HEARING**

SECTION 1. Investigation of the case shall commence within ten (10) days after an answer is filed. However, no investigation or hearing shall be held within ninety (90) days immediately prior to any local election and no preventive suspension shall be imposed prior to the 90 days period immediately preceding a local election, it shall be deemed automatically lifted upon the start of aforesaid period. (Section 62 (c) of RA 7160)

SECTION 2. Failure to file an Answer- Default may be declared against respondent who fails to file an answer which failure shall at most be considered a waiver thereof. The investigation shall proceed with the respondent entitled to his rights under the next Section.

SECTION 3. Rights of the Respondent- the respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum (Section 65 of RA 7160)

SECTION 4. Adoption and Affirmation of Statement- Upon the first hearing of the case, the Complaint and respondent, including their witness, if any shall be summarily asked to identify their sworn statements, affirm the same as the truth of their own personal knowledge, and to adopt their sworn statements as their direct testimonies.

SECTION 5. The Hearing of Any Administrative Case- The hearing or investigation of any administrative case shall be in a plenary session presided over by the regular presiding officer or the chairman committee on laws, or special investigating committee as may be designated by the body. All members of the Sanggunian, acting as jurors, may propound questions relative to the case against any of the parties during the hearing or the investigation addressing said questions to the parties through the chair.

The Sanggunian may likewise delegate the preliminary hearing of the case to the Committee on Laws or Special Investigating Committee for purposes similar to a pre-trial. Upon termination of the preliminary conference, the Committee shall render a report and recommendation to the Sanggunian in plenary.

In such case the Sanggunian may adopt the recommendation of the Committee or call the parties and their witnesses for clarificatory questions. In case of the latter only the Sanggunian members shall propound questions to the parties and/or their witnesses' subject of the clarification. Questions by the Sanggunian members shall afford the parties opportunity to explain or amplify their respective positions for clarification.

SECTION 6. Memorandum/ Position paper- The filing of a Memorandum or Position Paper following the conclusion of the investigation shall be optional. A period not exceeding ten (10) day may be granted to the parties for the filing of simultaneous memorandum which time shall be dedicated from the thirty (30) day period for the Sanggunian to render a decision with the express consent of both parties.

SECTION 7. Documentary Evidence- In case any of the parties attach a document as evidence in support of their case, the Sanggunian or its committee investigating/hearing the case may, as warranted, have the document being presented, verified, or authenticated through the author of the same or the person in custodial authority of the document.

SECTION 8. Postponement- No motion for postponement unless for justification reasons in the collective judgment of the Sanggunian, shall be entertained. Whenever granted the same shall be deducted from the period of the investigation and always with the express consent of the both parties.

RULE VII DECISION

SECTION 1. Form and Notice of Decision- the investigation of the case shall be terminated within ninety (90) days from the start thereof. Within thirty (30) days after the end of the investigation, the Sanggunian shall render a decision in writing stating clearly and distinctly the facts and the reason for such decision. Copies of the said decision shall immediately be furnished the respondent and all interested parties. (Section 66 of RA 7160)

SECTION 2. Decision By Way of Resolution- Decision by way of resolution by the Sanggunian shall be arrived at in executive session. Voting following deliberation shall be nominal vote or by secret ballot as the body desires upon motion duly approved. The body may assign the writing of the decision/resolution of the case after determining the verdict in consultation, to a ponente member of the Sanggunin. The ponente may seek the assistance of any lawyer-member of the Sanggunian.

SECTION 3. Decisions of the Sanggunian in administrative cases shall not require the approval of the Mayor (Sec.66 RA 7160 and DILG Opinion No. 19, series of 2002 January 24, 2002)

SECTION 4. In case the Sanggunian has referred the case to a Committee to conduct the investigation and said investigation has been terminated, the committee shall recommend the appropriate penalty based on its finding for Sanggunian deliberation prior to the rendition of judgment. In case of failure of the Sanggunian to render a decision within thirty (30) days after the end of the investigation, the Committee recommended penalty by way of resolution shall be considered as the decision of the Sangguniang Panglungsod. (Art 130(60 IRR RA 7160)(DILG Opinion No. 61 series of 2002 April 29, 2002)

SECTION 5. Determination as To Implemented of Decision. The determination as what manner should its decision is implemented lies within the sound judgment and discretion of the Sanggunian as an incident to its quasi-judicial function expressly conferred by Section 61 (b) of the Local Government Code of 1991 (DILG Opinion No. 55, series of 2000)

SECTION 6. Executive Approval Not Required- As regards the implementation of the Sanggunian decision on the administrative case, there is no need for the approval of the Local Chief Executive for its execution (DILG Opinion No. 55 series of 1997), Subject to appeal within thirty (30) days, the decision of the Sanggunian, is executor (Section 61 © of RA 7160)

SECTION 7. Personal Service of the Decision- It shall be the duty of the Sanggunian to immediately personally served upon the respondent and/or interested parties a copy of the decision/resolution without delay, in order for the parties to protect their interest and for the respondent to file an appeal or apply for any appropriate relief before the decision becomes final (Section 66 RA 7160, DILG Opinion No. 19 series of 2002, Jan. 24, 2002 citing Reyes vs. COMELEC and de Castro (253 SCRA 514)

SECTION 8. Decision Served Not Subject to Reopening- Except as may be provided by the Internal Rules of Procedure, a decision of the Sanggunian duly promulgated by way of resolution and served upon the parties may not reopened as the same has become final and executor (Section 61 of RA 7160, DILG Opinion No. 19 series of 2002, Jan. 24, 2002)

SECTION 9. Motion For Reconsideration- Considering that decision of the Sanggunian in administrative cases takes the form of a resolution in plenary session, only members of the Sanggunian who voted in the affirmative may move for a reconsideration of any vote or decision. No Motion for reconsideration shall be allowed from the parties.

SECTION 10. Pending Cases Overtaken By Local Election- Considering that decision of the Sanggunian in administrative cases is a collective undertaking which must be addressed by the members as a collegial body, the following shall be observed in case of unfinished cases overtaken by a local election, to wit:

- a. If a formal investigation has not been terminated at the expiration of the term the Sanggunian originally hearing the case in the sense that presentation of evidences has not yet been concluded, the hearing shall be continued by the new set of Sanggunian officers;
- b. In case hearing or investigation has been concluded and the case is submitted for decision and no decision has been rendered by the outgoing members of the Sanggunian, the new set of Sangguniang, the new set of Sanggunian members shall decide the case on the basis of existing records. (DILG Opinion No. 44 series of 2002, citing People vs. Gerano, G.R. No. 115035-36 Feb. 1996 (suppletary application);

In case a decision has already been reached by the Sanggunian but the outgoing members of the Sanggunian but no promulgation has been made by way of resolution, the new set of Sanggunian members shall promulgate the decision; (DILG Opinion No. 44 series of 2002, Jan. 22, 2002 citing Malinao vs. Reyes 255 SCRA)

Section 11. Finality of Decision; Appeals- Decisions of the Sanggunian shall be final and executor (Sec. 61 © despite the right of appeal within thirty (30) days to SanggunianG Panlalawigan or Office of the President as the case maybe (Don et.al vs. Lacs(G.R. No. 1708010, August 7, 2007)

In the exercise of their appealed to said offices, has the power to reverse, alter, modify or amend a decision by the Sanggunian or a component city or municipality as the case may be. (Sec. 67 (a and b) RA 6170) It can even order the stay of execution pending appeal. (DILG Opinion No. 44, s. 2000, May 23, 2000)

**RULES VIII
PENALTIES**

SECTION 1. 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 suspended as long as he meets the qualifications required for the office. (Section 66 (b) RA 7160)

SECTION 2. In case of the imposition of suspension as a penalty, either by an adopted committee resolution or a decision of the Sanggunian following deliberation in plenary, the same shall be immediately executed in accordance with its sound judgment and discretion as an incident to its quasi-judicial function (DILG opinion No. 14, s. 2002, Jan. 17, 2002) The Sanggunian may order implementation either thru its own serving process or thru DILG Regional or Local (DILG Opinion No. 1, s. 2013, Jan. 8, 2013). No approval however of the Local Chief Executive shall be necessary or required for the implementation of the Sanggunian decision (Reyes vs. COMELEC and de Castro (254 SCRA 514)

SECTION 3. The penalty of removal from office as a result of an administrative shall by considered a bar to the candidacy of the respondent for any elective position (Section 66 (c) RA 7160)

**RULE IX
APPEAL**

SECTION 1. Administrative Appeals- An appeal may be filed by the respondent within thirty (30) days from the receipt of the decision to the Sanggunian Panlalawigan or Office of the President as case maybe (for Provinces, Independent components City or Highly-Urbanized City) whose decision shall be final and executory and may not be a subject of Temporary Restraining Order (TRO) or Writ of Preliminary Injunction (WPI) (Section 67; Section 68 (b) RA 7160)(Lapid vs. Court of Appeals (G.R. No. 142261, June 29, 2000 and Calingin vs. Court of Appeals, (G.R. No. 154616 July 12, 2004.) (Don vs. Lasca, G.R. No. 170810, Aug. 7, 2007)

SECTION 2. Execution Pending Appeal- An appeal not prevent a decision from becoming final and executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event he wins such appeal. In the event the appeal results in exoneration, he shall be paid his salary and such other emolument’s during the pendency of the appeal (Section 68 RA 7160)

**RULE X
MAINTENANCE OF DOCKET BOOKS**

SECTION 1. The Sanggunian shall keep a docket for administrative cases where all complaints shall be properly entered and given their corresponding number in the order of receipt. The docket shall likewise contain in chronological order every pleading, notice, order, resolution and other incidents of the case in summary form from receipt of the complaint to the service of decision.

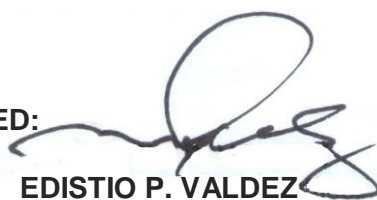
RESOLVED FINALLY to furnish copies of this resolution to all parties in administrative cases filed before the Sanggunian.

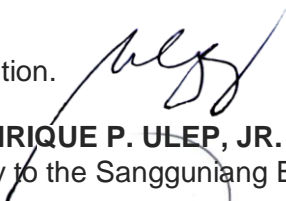
UNANIMOUSLY CARRIED’.

Voting on the foregoing ordinance was as follows:

- AYES : Members Hernando, Ambrocio, Jr., Villa, Butay, Dadiz, Jr., Coloma, Sr., Badua, O. and Pumaras, Sr.
- NAYS : None.
- ABSTAINED : None.

I hereby certify to the correctness of the foregoing resolution.

ATTESTED: 
EDISTIO P. VALDEZ
 Vice-Mayor/Presiding Officer


ENRIQUE P. ULEP, JR.
 Secretary to the Sangguniang Bayan I

APPROVED:

ALFREDO P. VALDEZ, JR., M.D.
 Municipal Mayor

Approved on: January 29, 2018