



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

OFFICE OF THE SANGGUNIANG BAYAN

EXCERPTS FROM THE MINUTES OF THE FIRST REGULAR SESSION OF THE 12TH SANGGUNIANG BAYAN OF THE MUNICIPALITY OF SAN NICOLAS, ILOCOS NORTE HELD AT THE MUNICIPAL SESSION HALL ON THE 3RD DAY OF JULY, 2023 AT 10:30 O'CLOCK IN THE MORNING.

PRESENT:

Hon. Napoleon L. Hernando	Vice-Mayor/Presiding Officer;
Hon. Luciano R. Caraang	Member;
Hon. Moera Joy N. Galing-Luna	Member;
Hon. Erico R. Ruiz, Jr.	Member;
Hon. Chona P. Hernandez	Member;
Hon. Jessie Julito P. Pumaras, Sr.	Member;
Hon. Norberto S. Dadiz, Jr.	Member;
Hon. Juanito P. Ulep, Jr.	Member;
Hon. Cesar R. Agustin	Member;
Hon. Jorge Cesar T. Palafox	Member/Liga ng mga Barangay President;
Hon. Inno Ma. Angelo Paulo O. Hernando	Member/PPSK President.

ABSENT:

None.

“RESOLUTION NO. 2023-200

A RESOLUTION ADOPTING RESOLUTION NO. 2020-225 OF THE 11TH SANGGUNIANG BAYAN ENTITLED, “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, its implementing Rules and Regulations as well as judicial decisions (jurisprudence) and legal opinions of the Department of Interior and Local Government on 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 Luciano R. Caraang, duly seconded by All Members Present,

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Sangguniang Bayan to ADOPT, as it hereby ADOPTS, the following substantive and procedural rules to be observed in administrative cases filed against any 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 2020 Rules of Procedures of the 11th 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 construed 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 strictly 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 in a particular hearing shall not in any manner interrupt the flow or schedule of a pending case which fact shall be stated in open session in each scheduled hearing and contained in every notice or invitation to the parties for the next setting. Strict observance of this rule shall be required.

**RULE II
JURISDICTION**

SECTION 1. Original Jurisdiction over administrative cases against any erring elective barangay official is vested with the Sangguniang Bayan without prejudice however to the concurrent jurisdiction of the Office of the Ombudsman. Should the same complaint had been earlier filed at the Office of the Ombudsman, said complaint shall no longer be entertained by the Sanggunian. In such a case, the Sanggunian shall *motu proprio* dismiss the case on the ground of forum shopping.

**RULE III
THE PARTIES**

Section 1. Parties to the Case- In any complaint filed with the Sanggunian, the person filing the same shall be called "Complainant" and the erring elective official shall be named "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 is deemed commenced upon filing of a verified complaint with the Sangguniang Bayan against any erring elected barangay official in the Municipality of San Nicolas, Ilocos Norte, consisting of two (2) copies accompanied by the proof of payment of the appropriate docket fees and the sworn statements of witnesses and supporting documents, if any.





SECTION 2. Grounds for Disciplinary Action. The complainant shall specify any of the following grounds which may be relied upon, to 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* which is from six (6) years and one (1) day to twelve (12) years imprisonment. 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;
- e) Abuse of Authority;
- f) Unauthorized absence for fifteen (15) consecutive working days, for erring Punong Barangays and four (4) consecutive sessions in 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; RA 6713; RA 3019; Administrative Code of 1987; the Revised Penal Code and all other applicable general and special laws.

SECTION 3. The 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 4. The office of the Department of Interior and Local Government shall be furnished copies of the complaint and all other succeeding pleadings therefrom.

SECTION 5. 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. 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.
- d) **Oppression** – An act of cruelty, severity, unlawful exaction, domination or excessive use of authority.
- e) **Misconduct in Office** – One which must have direct relation to and be connected with the performance of official duties amounting either to maladministration or willful, intentional neglect and failure to discharge the duties of the office.

- f) **Gross Negligence** – The want of even slight care and diligence in the performance of official duties 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 that amounts to a reckless disregard of the safety of persons or properties.
- 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.
- i) **Unauthorized absence for fifteen (15) consecutive working days in the case of local chief executives and four (4) consecutive sessions in case of members of the sangguniang barangay** - refers to any prolonged absence of any elective barangay official which is not justified by law or regulations without due notice to the council.
- 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 6. Within seven (7) days after the administrative complaint is filed, the Sangguniang Bayan shall require the respondent to submit his verified answer within fifteen (15) days from receipt.

SECTION 7. 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.

SECTION 8. Venue – Venue of the investigation or hearing, unless otherwise specified by resolution, shall be at the Session Hall of the Sangguniang Bayan.

SECTION 9. Motion to Dismiss. A motion to dismiss an administrative complaint in lieu of an answer is not allowed. All possible grounds for the dismissal of the complaint shall be incorporated in the answer and shall be considered by the Sanggunian in rendering a decision.

RULE V PREVENTIVE SUSPENSION

SECTION 1. Imposition of Preventive Suspension. *Preventive suspension* may be imposed, *motu proprio* or upon motion of a party after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

SECTION 2. No single preventive suspension of a barangay elective official shall extend beyond sixty (60) days. In the event that several administrative cases are filed against him, 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 3. *Duty of the Mayor.* After determining by way of resolution that all the elements for a preventive suspension are present, the Sangguniang Bayan shall then recommend to the Mayor that the respondent elective barangay officials be placed under preventive suspension. Once recommended by the Sanggunian, it shall be then ministerial on the part of the mayor to issue an order imposing the preventive suspension of the respondent. The resolution for preventive suspension need only state that the Sanggunian has determined the existence of all the elements under Section 63 of RA 7160 for the Mayor to implement the preventive suspension.

SECTION 4. *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, 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 be counted in computing the time of termination of the case.

SECTION 5. *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 6. 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. The reinstatement to office of the respondent shall be without prejudice to the continuation of the proceedings against him.

SECTION 7. 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.

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-day period immediately preceding a local election, it shall be deemed automatically lifted upon the start of aforesaid period.

SECTION 2. *Failure to file an Answer/ Order of Default-* Default may be declared against respondent who fails to file an answer within fifteen (15) days from receipt of the complaint. Unreasonable failure of the respondent to file his verified answer shall be considered as a waiver of his rights to present evidence in his behalf. The Verified Answer shall be accompanied with the affidavits of the respondent's witness/ witnesses and documentary evidence, if any.

SECTION 3. *Rights of An Answering Respondent-* The respondent who files his answer within the reglementary period 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 ad testificandum* or *subpoena duces tecum*.

SECTION 4. Adoption and Affirmation of Statement- Upon the first hearing of the case, the Complaint and respondent, including their witness or witnesses, 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.

SECTION 6. The Sanggunian may likewise delegate the initial hearing or preliminary conference 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.

SECTION 7. 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 8. Memorandum/ Position paper- The filing of a Memorandum or Position Paper following the conclusion of the investigation shall be optional. In such a case, a period not exceeding ten (10) days may be granted to the parties for the filing of simultaneous memorandum which time shall be deducted from the thirty (30) day period for the Sanggunian to render a decision and all times must be with the express consent of both parties.

SECTION 9. 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 10. Postponement- No motion for postponement unless for justifiable 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 shall always be with the express consent of 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 including the DILG.

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 Sanggunian. The *ponente* may seek the assistance of any lawyer-member of the Sanggunian, if there is any.

SECTION 3. 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 findings which will be subject to 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 Sanggunian.

SECTION 4. *Implementation 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.

SECTION 5. *Executive Approval Not Required-* Decisions of the Sanggunian in administrative cases, as well its implementation, shall not require the approval of the Mayor. Without prejudice to the right of appeal of either party, the decision of the Sanggunian is immediately executory.

SECTION 6. *Personal Service of the Decision-* It shall be the duty of the Sanggunian to immediately personally serve 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 8. *Decision Served Not Subject to Reopening-* Except as may be provided by the Internal Rules of Procedure, decision of the Sanggunian duly promulgated by way of resolution and served upon the parties may not be reopened for the same ground and the same relief as it has already become final or executory.

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 of 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 Sanggunian members shall decide the case on the basis of existing records. In such a case, the new Sanggunian shall decide the case within 30 days from assumption of office;

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 within thirty (30) days from its assumption of office.

Section 11. Finality of Decision - Decisions of the Sanggunian shall be immediately executory and shall become final unless the aggrieved party files a timely appeal within thirty (30) days from receipt of the decision.

**RULES VIII
PENALTIES**

SECTION 1. After due notice and hearing, an elective barangay official may be censured, reprimanded, suspended, or removed from office on any of the grounds provided in Section 1, Rule IV hereof.

SECTION 2. 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 3. 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. The Sanggunian may order implementation either thru its own serving process or thru the local/ municipal DILG.

SECTION 4. An elective barangay official may be removed from office on the grounds enumerated in Section 1, Rule IV hereof by order of the proper court or the disciplining authority whichever first acquires jurisdiction to the exclusion of the other.

SECTION 5. The penalty of removal from office as a result of an administrative decision shall be a bar to the candidacy of the respondent for any elective position.

**RULE IX
APPEAL**

SECTION 1. Administrative Appeals- An appeal may be filed by the aggrieved party within thirty (30) days from the receipt of the decision to the Sanggunian Panlalawigan which, has the power to reverse, alter, modify or amend a decision by the Sanggunian.

SECTION 2. Execution Pending Appeal- An appeal will not prevent a decision from becoming immediately executory. The respondent who has been meted the penalty of suspension 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.

**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 APPROVED.”

Voting on the foregoing resolution was as follows:

- AYES : Members Caraang, Galing-Luna, Ruiz, Jr., Hernandez, Pumaras, Sr., Dadiz, Jr., Ulep, Jr., Agustin, Palafox and Hernando, I.
- NAYS : None.
- ABSTAINED : None.

I hereby attest to the correctness of the foregoing resolution.


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

CERTIFIED TRUE AND CORRECT:


NAPOLEON L. HERNANDO
 Vice-Mayor/Presiding Officer

APPROVED:


ANGEL MIGUEL L. HERNANDO
 Municipal Mayor

Approved on: July 3, 2023