



Republic of the Philippines  
Supreme Court  
Manila

*EN BANC*

A.M. No. 21-08-09-SC

**FURTHER AMENDMENTS TO RULE 140  
OF THE RULES OF COURT**

**RESOLUTION**

**WHEREAS**, Section 1, Article XI of the 1987 Constitution states that “[p]ublic office is a public trust,” and mandates that “[p]ublic officers and employees must[,] at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives”;

**WHEREAS**, pursuant to Section 7 (3), Article VIII of the 1987 Constitution, “Member[s] of the Judiciary must be of proven competence, integrity, probity and independence”;

**WHEREAS**, under Section 6, Article VIII of the 1987 Constitution, “[t]he Supreme Court x x x [has] administrative supervision over all courts and the personnel thereof”;

**WHEREAS**, under Section 11, Article VIII of the 1987 Constitution, “[t]he Supreme Court *en banc* x x x [has] the power to discipline judges of lower courts, or order their dismissal by a vote of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon”;

**WHEREAS**, Section 5 (5), Article VIII of the 1987 Constitution vests upon the Supreme Court the power to promulgate rules concerning the pleading, practice, and procedure in all courts;

**WHEREAS**, in accordance with its constitutional authority, the Supreme Court is empowered to issue or amend the rules for the proper discharge of its administrative and disciplinary functions over all Members, officials, employees, and personnel of the Judiciary;

**WHEREAS**, the Supreme Court crafted two (2) separate body of rules to govern administrative disciplinary cases, namely: (a) Rule 140 of the Rules of Court (Rule 140), which is originally applied to Justices of the Court of Appeals, the *Sandiganbayan*, and the Court of Tax Appeals, and Judges of the lower courts; and (b) the Code of Conduct for Court Personnel (CCCP)<sup>1</sup> which is applied to all other officials, employees, and personnel of the Judiciary who are not Justices or Judges of said courts;

**WHEREAS**, Rule 140 provides for a framework of administrative discipline that, among others, includes a list of administrative offenses with their own nomenclature, classification, and corresponding penalties, while the CCCP merely incorporated the framework of offenses and penalties as provided in the Civil Service rules;

**WHEREAS**, in Resolutions dated October 2, 2018<sup>2</sup> and July 7, 2020<sup>3</sup> in A.M. No. 18-01-05-SC, the Supreme Court amended Rule 140 by, among others, expanding its coverage to govern administrative disciplinary cases against all Members (*i.e.*, Justices and Judges), officials, employees, and personnel of the entire Judiciary;

**WHEREAS**, the amendments introduced under the foregoing resolutions were silent on Rule 140's retroactive application;

**WHEREAS**, in the 2021 case of *Dela Rama v. De Leon*,<sup>4</sup> the Supreme Court *en banc* adopted a policy which provides that, "[i]n the interest of a uniform application of charges and imposition of penalties in the administrative cases involving Judiciary personnel, [it] will apply Rule 140 x x x [to pending cases] since it is the prevailing rule at present, unless the retroactive application of Rule 140 would not be favorable to the employee";<sup>5</sup>

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<sup>1</sup> A.M. No.03-06-13-SC (June 1, 2004).

<sup>2</sup> Known as "CREATING THE JUDICIAL INTEGRITY BOARD AND THE CORRUPTION PREVENTION AND INVESTIGATION OFFICE."

<sup>3</sup> Known as "ESTABLISHMENT OF THE JUDICIAL INTEGRITY BOARD (JIB) AND THE CORRUPTION PREVENTION AND INVESTIGATION OFFICE (CPIO)."

<sup>4</sup> See A.M. No. P-14-3240, March 2, 2021.

<sup>5</sup> See *id.*

**WHEREAS**, the adoption of this policy required a comparative analysis between the prevailing Civil Service rules at the time of the commission of the offense, and the provisions of Rule 140 in every case to determine the proper penalty;

**WHEREAS**, the conduct of said comparative analysis in ensuing cases highlighted the various nuances and differences in the structure of the Civil Service rules and Rule 140, among others, the latter's lack of explicit provisions on aggravating and mitigating circumstances, and parameters of penalty application in instances of multiple infractions charged in a single case, as well as for prior administrative liabilities already adjudicated;

**WHEREAS**, the lack of such provisions in Rule 140 has resulted in the inconsistent appreciation of modifying circumstances, as well as the uneven imposition of aggravated or mitigated penalties in previous cases;

**WHEREAS**, Senior Associate Justice Estela M. Perlas-Bernabe was assigned by Chief Justice Alexander G. Gesmundo to conduct a comprehensive review and revision of Rule 140, which is envisioned to institutionalize a complete, streamlined, and updated administrative disciplinary framework for the entire Judiciary that is wholly independent from the Civil Service rules, harmonizes existing jurisprudence, and is uniformly applicable to all cases, regardless of when the infractions are committed;

**NOW, THEREFORE**, acting on the recommendations of Senior Associate Justice Estela M. Perlas-Bernabe, taking into account the suggestions of the Members of the Court, the Office of the Court Administrator, and the Judicial Integrity Board, the Supreme Court, sitting *en banc*, resolves to further **AMEND** Rule 140 of the Rules of Court accordingly:

**A.M. No. 21-08-09-SC**

**Re: Further Amendments to Rule 140 of the Rules of Court**

**RULE 140**

**DISCIPLINE OF MEMBERS, OFFICIALS, EMPLOYEES,  
AND PERSONNEL OF THE JUDICIARY**

**SECTION 1. *How Instituted.* –**

(1) *Motu Proprio* Against those who are not Members of the Supreme Court. – Proceedings for the discipline of the Presiding Justices and Associate Justices of the Court of Appeals, the *Sandiganbayan*, the Court of Tax Appeals, the *Shari'ah* High Court, and Judges of the first and second

level courts, including the *Shari'ah* District or Circuit Courts, as well as the officials, employees, and personnel of said courts and the Supreme Court, including the Office of the Court Administrator, the Judicial Integrity Board, the Philippine Judicial Academy, and all other offices created pursuant to law under the Supreme Court's supervision may be instituted, *motu proprio*, by either the Supreme Court with the Judicial Integrity Board, or by the Judicial Integrity Board itself on the basis of records, documents; or newspaper or media reports; or other papers duly referred or endorsed to it for appropriate action; or on account of any criminal action filed in, or a judgment of conviction rendered by the *Sandiganbayan* or by the regular or special courts, a copy of which shall be immediately furnished to the Supreme Court and the Judicial Integrity Board.

(2) *By Complaint Against those who are not Members of the Supreme Court.* – Disciplinary proceedings against those mentioned in Section 1 (1) of this Rule may also be instituted with the Judicial Integrity Board by any interested person either by way of a verified complaint supported by affidavits of persons who have personal knowledge of the facts alleged therein or by authentic documents which may substantiate its allegations; or by way of an anonymous complaint, *provided*, that its material averments may be readily verified, and/or substantiated by competent evidence, including public records.

In every case, the written verified or anonymous complaint shall state, clearly and concisely, the imputed acts and/or omissions constituting the administrative offense/offenses listed under Sections 14 to 16 of this Rule.

If the verified or anonymous complaint is filed directly with the Supreme Court, the same shall be referred by the Supreme Court to the Judicial Integrity Board as if it was originally filed before it, reckoned from the date the Judicial Integrity Board receives the complaint.

(3) *By Complaint Against Members of the Supreme Court.* – Complaints involving graft and corruption and violations of ethical standards, including anonymous complaints, against Members of the Supreme Court shall be filed directly with the Supreme Court and shall be consequently referred to its Committee on Ethics and Ethical Standards. The said committee shall be responsible for preliminarily investigating and submitting its findings and recommendations to the Supreme Court *en banc*, in accordance with its own internal rules, which may adopt any of the procedures herein set forth.

If the complaint is filed directly with the Judicial Integrity Board, the same shall be referred by the Judicial Integrity Board to the Supreme Court as if it was originally filed before it, reckoned from the date the Supreme Court receives the complaint.

SECTION 2. *Effect of Death, Retirement, and Separation from Service to the Proceedings.* –

(1) *Circumstances Already Existing Prior to the Institution of the Proceedings.* – Disciplinary proceedings may not be instituted against a Member, official, employee, or personnel of the Judiciary who has already died, retired, or otherwise separated from service. If such proceedings have been instituted notwithstanding the foregoing circumstances, the administrative case against said Member, official, employee, or personnel of the Judiciary shall be dismissed.

(2) *Circumstances Supervening Only During the Pendency of the Proceedings.* – However, once disciplinary proceedings have already been instituted, the respondent's supervening retirement or separation from service shall not preclude or affect the continuation of the same, *provided*, that, the supervening death of the respondent during the pendency of such proceedings shall result in the dismissal of the administrative case against him or her.

SECTION 3. *Initial Action.* —

(1) *Proceedings Initiated Motu Proprio.* – In disciplinary proceedings initiated *motu proprio* by the Supreme Court or the Judicial Integrity Board, the respondent shall be served with a copy of the records, documents, newspaper or media reports, or other papers used as basis for the disciplinary action. Within ten (10) calendar days from notice, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, the respondent shall be required to file his or her verified answer or comment thereon, which may be supported by affidavits of persons who have personal knowledge of the facts alleged and/or by documents which may substantiate respondent's defenses.

(2) *Proceedings Initiated By Complaint.* – If the Judicial Integrity Board finds that the verified or anonymous complaint is sufficient in form and substance, the respondent shall be served with a copy thereof, including its attachments. Within ten (10) calendar days from notice, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, the respondent shall be required to file with the Judicial Integrity Board his or her verified answer or comment thereon, which may be supported by affidavits of persons who have personal knowledge of the facts alleged and/or by documents which may substantiate respondent's defenses.

If the verified or anonymous complaint is not sufficient in form and substance, it shall be dismissed. Moreover, if the complaint *prima facie* appears to be baseless and was filed only to harass or embarrass the respondent, or to unduly delay the release of retirement benefits in case of his or her impending compulsory retirement, the complainant shall be required to show cause why he or she should not be cited in contempt. Furthermore, if the complainant is a lawyer, he or she shall also be required to show cause why

he or she should not be administratively sanctioned as a member of the Philippine Bar and as an officer of the Court.

(3) *Consequence of Respondent's Failure to Answer or Comment* – Failure of the respondent to file his or her verified answer or comment in accordance with Section 3 (1) or (2) above shall, unless otherwise justified, result in his or her waiver to participate in the proceedings, and the investigation may proceed based on the available evidence on record.

(4) *Prohibited Pleadings*. – Motions for bill of particulars, clarification, dismissal, or quashal, and memoranda are prohibited pleadings, and as such, shall only be noted without action and attached to the records.

SECTION 4. *Administrative Case Considered as Disciplinary Actions Against Members of the Philippine Bar*. — An administrative case against any of those mentioned in Section 1 (1) of this Rule shall also be considered as a disciplinary action against him or her as a member of the Philippine Bar, *provided*, that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

If the complaint fails to include such specific statement, or if the disciplinary proceedings are instituted *motu proprio*, the respondent, in the interest of due process, must first be required to show cause in this respect before he or she is likewise disciplined as a member of the Philippine Bar as may be warranted by the circumstances of the case.

The disciplinary action against the respondent as a member of the Philippine Bar shall be docketed as a separate administrative case but shall be jointly threshed out in, and consolidated with, the investigation of the administrative complaint against him or her as a Member, official, employee, or personnel of the Judiciary. The Judicial Integrity Board shall include its findings on said disciplinary action in the "Report" submitted to the Supreme Court pursuant to Sections 10 and 11 of this Rule.

SECTION 5. *Preventive Suspension of Respondent*. — The Supreme Court may, *motu proprio* or upon recommendation of the Judicial Integrity Board, order the preventive suspension of the respondent without pay and other monetary benefits for a period not exceeding ninety (90) calendar days, unless earlier lifted, or further extended by the Supreme Court for compelling reasons. Upon the lapse of the ninety (90)-calendar day period or any extended period of preventive suspension ordered by the Supreme Court, the respondent shall be automatically reinstated in the service, unless the delay in the disposition of the case is due to the fault or negligence of, or other causes attributable to, the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. If the

respondent is fully exonerated from any administrative liability, he or she may claim back salaries, allowances, and other economic benefits for the entire period that he or she was preventively suspended.

The preventive suspension, among others, may be issued to enable the Judicial Integrity Board to conduct an unhampered formal investigation of the disciplinary action, prevent a crisis or disharmony in various courts, or shield the public from any further damages that the continued exercise by the respondent of the functions of his office may cause, or where there is a strong likelihood of his guilt or complicity in the offense charged, or protect the image of the courts as temples of justice.

SECTION 6. *Procedure for Formal Investigation.* —

(1) *When Hearings are not Required.* — Any disciplinary action against any of those mentioned in Section 1 (1) hereof, which can already be resolved on the basis of the pleadings of the parties, or public or court records, and/or other documents or papers on record, shall be deemed submitted for the preparation and submission by the Judicial Integrity Board of its “Report” containing its findings of facts and recommendations to the Supreme Court within sixty (60) calendar days, or within such extended period granted by the Supreme Court not exceeding thirty (30) calendar days, from receipt of the said pleadings and/or records or documents. For guidance, the Judicial Integrity Board shall notify the parties that the case has been submitted for resolution without the need for any hearing.

(2) *When Hearings are Required.* — If based on the pleadings of the parties, there is a *prima facie* case against the respondent which requires actual hearings to resolve substantial factual issues raised, the Judicial Integrity Board shall set such hearings, with due notice thereof to the parties.

During such hearings, the parties may be heard by themselves and/or counsel. If after due notice, the complainant or respondent fails to appear, the investigation shall proceed *ex parte*. Furthermore, the parties may present documentary and/or object evidence, as well as testimonial evidence in the form of judicial affidavits to serve as the direct testimony of the parties and of their witnesses; after which, they may be cross-examined by the other party or parties, or through counsel, and may be examined by the Chairperson and members of the Judicial Integrity Board.

SECTION 7. *Powers of the Judicial Integrity Board During Hearings.* — The Judicial Integrity Board shall have the power to administer oaths to the parties and their witnesses, and to issue *subpoenas ad testificandum* and *duces tecum*, conduct ocular inspections and take depositions of the complainant and/or witnesses in accordance with the Rules of Court. The failure or refusal to obey or comply with the *subpoena ad testificandum* and *duces tecum* issued by the Judicial Integrity Board shall be

referred to the Supreme Court for contempt proceedings, which shall proceed independently from the administrative proceedings.

SECTION 8. *Non-Interruption and Non-Termination of the Investigation for Other Causes.* — In addition to the circumstances stated in Section 2 (2) of this Rule, the investigation conducted by the Judicial Integrity Board of disciplinary actions shall not be interrupted or terminated by reason of the desistance of the complainant, settlement, compromises, restitution, withdrawal of the disciplinary action by the complainant; failure of the complainant to prosecute the same; or by the respondent having transferred his residence to a foreign country; or by the death of the complainant, subject to the exceptional circumstances as may be determined by the Judicial Integrity Board, conformably with case law.

SECTION 9. *Delegation of Authority.* — The Judicial Integrity Board may delegate to the Office of the Court Administrator the disciplinary investigation of Judges involving less serious charges and light charges under Sections 15 and 16 of this Rule.

The Judicial Integrity Board may also delegate the conduct of disciplinary investigations and hearings of administrative cases likewise involving less serious charges and light charges against court officials and employees to the appropriate Committees or Offices which have administrative control and/or supervision over their respective officials and employees, such as the following:

- (a) Committee on Ethics in Special Concerns of the Court of Appeals, or Presiding Justice thereof, as provided for in the “Procedure in Administrative Cases” of the Court of Appeals;
- (b) Committee on Ethics of the *Sandiganbayan*;
- (c) Committee of the Court of Tax Appeals on Employee’s Rules of Discipline;
- (d) Office of the Court Administrator for the personnel of the *Shari’ah* High Court, as well as the personnel of the first and second level courts, including those of *Shari’ah* District and Circuit Courts; and
- (e) Complaints and Investigation Division (CID) of the Office of Administrative Services for personnel of the Supreme Court and offices under its supervision, including those of the Office of the Court Administrator, the Judicial Integrity Board, the Philippine Judicial Academy, and all other offices created pursuant to law under the Supreme Court’s supervision.



SECTION 10. *Termination of the Investigation.* — The Judicial Integrity Board shall terminate its investigation within ninety (90) calendar days from the date of the first hearing conducted, or within such extended period granted by the Supreme Court not exceeding thirty (30) calendar days. If the Judicial Integrity Board delegates the conduct of investigation to a Committee or Office as stated in Section 9 of this Rule, said Committee or Office shall terminate its investigation within sixty (60) calendar days from the date of delegation, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, and accordingly submit its “Report” to the latter.

SECTION 11. *Report of the Judicial Integrity Board to the Supreme Court when Hearings are Required.* — Within sixty (60) calendar days from the termination of the investigation or within an extended period granted by the Supreme Court not exceeding thirty (30) calendar days, the Judicial Integrity Board shall submit to the Supreme Court its written “Report” thereon containing its findings of facts and recommendations.

If the Judicial Integrity Board delegates the conduct of investigation to a Committee or Office pursuant to Section 9 of this Rule, and the said Committee or Office has already submitted its own “Report” to the Judicial Integrity Board, the latter shall submit its recommended action on said “Report” to the Supreme Court within thirty (30) calendar days from receipt thereof, or within an extended period granted by the Supreme Court not exceeding thirty (30) calendar days.

All “Reports” for the discipline of all members, officials, employees, and personnel of the Judiciary shall, at all times, be confidential and shall be for the exclusive use of the Supreme Court. Any undue disclosure or tampering of records shall render the responsible party liable for contempt of court, in addition to other penalties/sanctions as may be provided by law.

SECTION 12. *Action of the Supreme Court.* — The Supreme Court shall take such necessary action on the “Report” as may be warranted by the facts and the law, the Rules of Court, as well as the issuances of the Supreme Court and its Internal Rules.

A copy of the Decision or Resolution of the Supreme Court shall be attached to the official records of the respondent whether in the Office of the Court Administrator, the Office of Administrative Services in the Supreme Court, or in other similar offices in other courts. If the respondent is a lawyer, such copy shall also be furnished to the Office of the Bar Confidant, Office of the Court Administrator, and the Integrated Bar of the Philippines.

SECTION 13. *Classification of Charges.* — Administrative charges are classified as serious, less serious, or light.

SECTION 14. *Serious Charges*. — Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;
- (b) Bribery, direct and indirect, and violations of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019);
- (c) Serious dishonesty;
- (d) Gross neglect of duty in the performance or non-performance of official functions;
- (e) Knowingly rendering an unjust judgment or order;
- (f) Commission of a crime involving moral turpitude;
- (g) Falsification of official documents, including making untruthful statements in the certificates of service;
- (h) Borrowing money or property from lawyers and/or litigants in a case pending before the court;
- (i) Gross immorality;
- (j) Gross ignorance of the law or procedure;
- (k) Partisan political activities;
- (l) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service;
- (m) Sexual harassment;
- (n) Gross insubordination; and
- (o) Possession and/or use of illegal drugs or substances.

SECTION 15. *Less Serious Charges*. — Less serious charges include:

- (a) Simple misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;
- (b) Simple neglect of duty in the performance or non-performance of official functions;
- (c) Habitual absenteeism and/or tardiness;

- (d) Unauthorized practice of law;
- (e) Violation of Supreme Court rules, directives and circulars that establish an internal policy, rule of procedure, or protocol;
- (f) Receiving additional or double compensation unless specifically authorized by law; and
- (g) Simple dishonesty.

SECTION 16. *Light Charges*. — Light charges include:

- (a) Vulgar and unbecoming conduct;
- (b) Gambling in public;
- (c) Fraternizing with lawyers and litigants with pending case/cases in his or her court;
- (d) Undue delay in the submission of monthly reports; and
- (e) Willful failure to pay judgment debts or taxes due to the government.

SECTION 17. *Sanctions*. —

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:
  - (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits;
  - (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
  - (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00.
- (2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:

- (a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or
  - (b) A fine of more than ₱35,000.00 but not exceeding ₱100,000.00.
- (3) If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:
- (a) A fine of not less than ₱1,000.00 but not exceeding ₱35,000.00;
  - (b) Censure; or
  - (c) Reprimand.

SECTION 18. *Penalty in Lieu of Dismissal on Account of Supervening Resignation, Retirement, or other Modes of Separation of Service.* — If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent's supervening resignation, retirement, or other modes of separation from service except for death, he or she may be meted with the following penalties in lieu of dismissal:

- (a) Forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits; and/or
- (b) Fine as stated in Section 17 (1) (c) of this Rule.

SECTION 19. *Modifying Circumstances.* — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

- (1) Mitigating circumstances:
  - (a) First offense;
  - (b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty;
  - (c) Exemplary performance;

- (d) Humanitarian considerations; and
  - (e) Other analogous circumstances.
- (2) Aggravating Circumstances:
- (a) Finding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity;
  - (b) Length of service facilitated the commission of the offense;
  - (c) Employment of fraudulent means to conceal the offense; and
  - (d) Other analogous circumstances.

SECTION 20. *Manner of Imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

SECTION 21. *Penalty for Multiple Offenses.* — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or ₱1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as may be determined, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits.

On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

SECTION 22. *Payment of Fines.* — When the penalty imposed is a fine, the respondent shall pay it within a period not exceeding three (3) months from the time the decision or resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to the respondent. The deduction of unpaid fines from accrued leave credits, which is considered as a form of compensation, is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.

SECTION 23. *Immediately Executory Nature.* — Decisions or resolutions pronouncing the respondent's administrative liability are immediately executory in nature. The respondent, upon receipt of such decision or resolution, shall immediately serve the penalty indicated therein. In case of suspension, he or she shall formally manifest to the Court that his or her suspension has started within five (5) calendar days upon receipt of the decision or resolution.

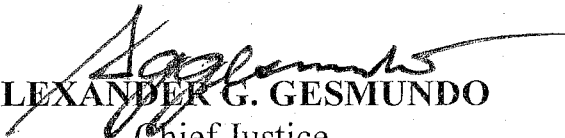
Upon completion of service of the penalty of suspension, the Presiding Justice, in case of the Court of Appeals, *Sandiganbayan* or the Court of Tax Appeals, or the Executive Judge where the respondent is assigned or stationed, in case of the first and second level courts, shall issue a certification that the penalty of suspension has been served by the respondent. The certification shall be submitted to the Supreme Court.

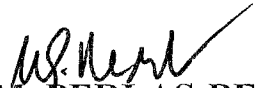
SECTION 24. *Retroactive Effect.* — All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary, without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned.


SECTION 25. *Repealing Clause.* — Any resolution, circular or administrative order issued by the Supreme Court inconsistent herewith is deemed modified or repealed.


SECTION 26. *Effectivity Clause.* — These Rules shall take effect following their publication in the Official Gazette or in two newspapers of national circulation.

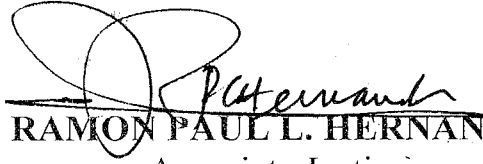
February 22, 2022

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice

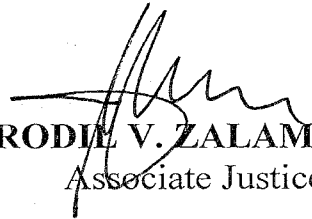
  
**MARVIC M.V.F. LEONEN**  
Associate Justice

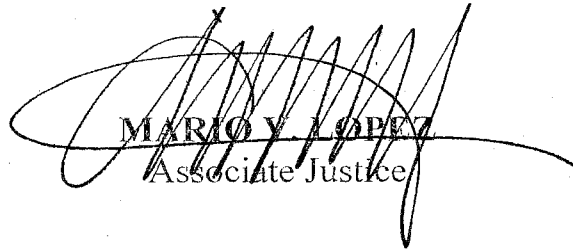
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice


On Leave  
**HENRI JEAN PAUL B. INTING**  
Associate Justice


  
**RODIL V. ZALAMEDA**  
Associate Justice

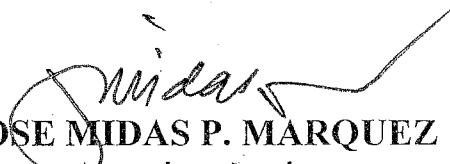
  
**MARIO Y. LOPEZ**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

A.M. No. 21-08-09-SC  
**Re: Further Amendments to Rule 140 of the Rules of Court  
(Annotated Version)**

**RULE 140**  
DISCIPLINE OF MEMBERS, OFFICIALS, EMPLOYEES,  
AND PERSONNEL OF THE JUDICIARY

SECTION 1. *How Instituted.* –

(1) *Motu Proprio Against those who are not Members of the Supreme Court.* – Proceedings for the discipline of the Presiding Justices and Associate Justices of the Court of Appeals, the *Sandiganbayan*, the Court of Tax Appeals, the *Shari'ah* High Court, and Judges of the first and second level courts, including the *Shari'ah* District or Circuit Courts, as well as the officials, employees, and personnel of said courts and the Supreme Court, including the Office of the Court Administrator, the Judicial Integrity Board, the Philippine Judicial Academy, and all other offices created pursuant to law under the Supreme Court's supervision may be instituted, *motu proprio*, by either the Supreme Court with the Judicial Integrity Board, or by the Judicial Integrity Board itself on the basis of records, documents; or newspaper or media reports; or other papers duly referred or endorsed to it for appropriate action; or on account of any criminal action filed in, or a judgment of conviction rendered by the *Sandiganbayan* or by the regular or special courts, a copy of which shall be immediately furnished to the Supreme Court and the Judicial Integrity Board.

(2) *By Complaint Against those who are not Members of the Supreme Court.* – Disciplinary proceedings against those mentioned in Section 1 (1) of this Rule may also be instituted with the Judicial Integrity Board by any interested person either by way of a verified complaint supported by affidavits of persons who have personal knowledge of the facts alleged therein or by authentic documents which may substantiate its allegations; or by way of an anonymous complaint, *provided*, that its material averments may be readily verified, and/or substantiated by competent evidence, including public records.

In every case, the written verified or anonymous complaint shall state, clearly and concisely, the imputed acts and/or omissions constituting the administrative offense/offenses listed under Sections 14 to 16 of this Rule.

If the verified or anonymous complaint is filed directly with the Supreme Court, the same shall be referred by the Supreme Court to the Judicial Integrity Board as if it was originally filed before it, reckoned from the date the Judicial Integrity Board receives the complaint.

(3) *By Complaint Against Members of the Supreme Court.* – Complaints involving graft and corruption and violations of ethical standards, including anonymous complaints, against Members of the Supreme Court



shall be filed directly with the Supreme Court and shall be consequently referred to its Committee on Ethics and Ethical Standards. The said committee shall be responsible for preliminarily investigating and submitting its findings and recommendations to the Supreme Court *en banc*, in accordance with its own internal rules, which may adopt any of the procedures herein set forth.

If the complaint is filed directly with the Judicial Integrity Board, the same shall be referred by the Judicial Integrity Board to the Supreme Court as if it was originally filed before it, reckoned from the date the Supreme Court receives the complaint.

**NOTES:** The following provisions of the old Rule 140 are consolidated in this new provision, considering that they all pertain to the institution of disciplinary proceedings, namely: (a) the old Section 1 on how to institute proceedings via a complaint; (b) the old Section 2 on the requisites of a valid complaint; (c) the old Section 4 on the instances when the Supreme Court may initiate the proceedings *motu proprio*; (d) the old Section 6 on the instances when the Judicial Integrity Board (JIB) may institute complaints on account of a criminal action or conviction against any of those mentioned in the new Section 1 (1); and (e) the old Section 7 on the referral of complaints to the JIB by the Supreme Court in instances where such complaint was lodged before the latter.

For clarity, this provision is divided into three (3) parts: *first*, the institution of proceedings *motu proprio* either by the Supreme Court or the JIB against non-Supreme Court Justices; *second*, the institution of proceedings via the filing of a complaint by any interested person against non-Supreme Court Justices; and *third*, the institution of complaints against Supreme Court Justices. Notably, the third portion recognizes that the JIB does not have jurisdiction over complaints against Supreme Court Justices, and hence, such complaints directly filed before the JIB shall be transferred to the Supreme Court, particularly its Committee on Ethics and Ethical Standards.

**SECTION 2. *Effect of Death, Retirement, and Separation from Service to the Proceedings.*** –

(1) *Circumstances Already Existing Prior to the Institution of the Proceedings.* – Disciplinary proceedings may not be instituted against a Member, official, employee, or personnel of the Judiciary who has already died, retired, or otherwise separated from service. If such proceedings have been instituted notwithstanding the foregoing circumstances, the administrative case against said Member, official, employee, or personnel of the Judiciary shall be dismissed.

(2) *Circumstances Supervening Only During the Pendency of the Proceedings.* – However, once disciplinary proceedings have already been instituted, the respondent's supervening retirement or separation from service shall not preclude or affect the continuation of the same, *provided*, that, the supervening death of the respondent during the pendency of such proceedings shall result in the dismissal of the administrative case against him or her.

**NOTES:** This is a new provision added to incorporate in Rule 140 the recent pronouncements pertaining to the Court's administrative jurisdiction over respondents who have died, retired, or otherwise separated from service. In this regard, case law

states, among others, that:

- a) “[F]or the Court to acquire jurisdiction over an administrative proceeding, the complaint must be **filed during the incumbency** of the respondent public official or employee. This is because the filing of an administrative case is predicated on the holding of a position or office in the government service. However, once jurisdiction has attached, the same is not lost by the mere fact that the public official or employee was no longer in office during the pendency of the case.” (See *Office of the Court Administrator v. Fuensalida*, A.M. No. P-15-3290, September 1, 2020, *En Banc*, emphasis supplied)
- b) “Cessation from office of respondent by **resignation** or **retirement** neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor does it render said administrative case moot.” (*Baquerfo v. Sanchez*, 495 Phil. 10 [2005], *En Banc*, emphases supplied)
- c) In contrast, the **death** of respondent before the final resolution of the case is a cause for its dismissal. “Otherwise stated, the non-dismissal of a pending administrative case in view of the death of the respondent public servant is a transgression of his or her Constitutional rights to due process and presumption of innocence.” (See *Flores-Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 15, 2020; see also *Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abul, Jr., Branch 4, Regional Trial Court, Butuan City, Agusan Del Norte*, A.M. No. RTJ-17-2486, September 8, 2020)

### SECTION 3. *Initial Action.* —

(1) *Proceedings Initiated Motu Proprio.* — In disciplinary proceedings initiated *motu proprio* by the Supreme Court or the Judicial Integrity Board, the respondent shall be served with a copy of the records, documents, newspaper or media reports, or other papers used as basis for the disciplinary action. Within ten (10) calendar days from notice, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, the respondent shall be required to file his or her verified answer or comment thereon, which may be supported by affidavits of persons who have personal knowledge of the facts alleged and/or by documents which may substantiate respondent’s defenses.

(2) *Proceedings Initiated By Complaint.* — If the Judicial Integrity Board finds that the verified or anonymous complaint is sufficient in form and substance, the respondent shall be served with a copy thereof, including its attachments. Within ten (10) calendar days from notice, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, the respondent shall be required to file with the Judicial Integrity Board his or her verified answer or comment thereon, which may be supported by affidavits of persons who have personal knowledge of the facts alleged and/or by documents which may substantiate respondent’s defenses.

If the verified or anonymous complaint is not sufficient in form and substance, it shall be dismissed. Moreover, if the complaint *prima facie* appears to be baseless and was filed only to harass or embarrass the

respondent, or to unduly delay the release of retirement benefits in case of his or her impending compulsory retirement, the complainant shall be required to show cause why he or she should not be cited in contempt. Furthermore, if the complainant is a lawyer, he or she shall also be required to show cause why he or she should not be administratively sanctioned as a member of the Philippine Bar and as an officer of the Court.

(3) *Consequence of Respondent's Failure to Answer or Comment* – Failure of the respondent to file his or her verified answer or comment in accordance with Section 3 (1) or (2) above shall, unless otherwise justified, result in his or her waiver to participate in the proceedings, and the investigation may proceed based on the available evidence on record.

(4) *Prohibited Pleadings*. – Motions for bill of particulars, clarification, dismissal, or quashal, and memoranda are prohibited pleadings, and as such, shall only be noted without action and attached to the records.

**NOTES:** The following provisions of Rule 140 are consolidated here as they all pertain to the notice of the complaint to the respondent and the consequent order for him to file a responsive pleading: (a) the old Section 3 on the JIB's initial action on the complaint; (b) the old Sections 5 and 10 both pertaining to the notice to and answer of respondent; and (c) the old Section 11 of Rule 140 on clearly baseless complaints.

Likewise, the threat of citation for indirect contempt against the person filing the baseless complaint (and disciplinary proceedings in instances where the complainant is a lawyer) should not be limited to scenarios where the respondent is nearing compulsory retirement. Rather, it should extend to all instances of baseless complaints as the filing thereof is tantamount to a mockery of judicial processes. Relatedly, the periods stated in the old Section 11 of Rule 140 are deleted because the same seem to unduly limit the determination of whether or not the filing of the complaint is merely to delay the release of retirement benefits.

Furthermore, the provision now uses "calendar days" for clarity.

Finally, this Section is mainly divided into four (4) paragraphs: the first describes the procedure in proceedings instituted *motu proprio* by the Supreme Court and the JIB; the second describes the procedure in proceedings instituted via a complaint; the third provides for the repercussions should respondent fail to file any responsive pleading; and the last provides for the prohibited pleadings.

**SECTION 4. *Administrative Case Considered as Disciplinary Actions Against Members of the Philippine Bar.*** — An administrative case against any of those mentioned in Section 1 (1) of this Rule shall also be considered as a disciplinary action against him or her as a member of the Philippine Bar, *provided*, that the complaint specifically states that the imputed acts or omissions therein likewise constitute a violation of the Lawyer's Oath, the Code of Professional Responsibility, the Canons of Professional Ethics, or such other forms of breaches of conduct that have been traditionally recognized as grounds for the discipline of lawyers.

If the complaint fails to include such specific statement, or if the disciplinary proceedings are instituted *motu proprio*, the respondent, in the interest of due process, must first be required to show cause in this respect before he or she is likewise disciplined as a member of the Philippine Bar as may be warranted by the circumstances of the case.

The disciplinary action against the respondent as a member of the Philippine Bar shall be docketed as a separate administrative case but shall be jointly threshed out in, and consolidated with, the investigation of the administrative complaint against him or her as a Member, official, employee, or personnel of the Judiciary. The Judicial Integrity Board shall include its findings on said disciplinary action in the "Report" submitted to the Supreme Court pursuant to Sections 10 and 11 of this Rule.

**NOTES:** The old Section 9 of Rule 140 is transferred here as the provision relates to the allegations contained in the complaint, and the appropriate action of the Judicial Integrity Board. Further, to afford due process to the respondent, a revision is introduced in that: (a) there should be an explicit statement in the complaint that the acts/omissions complained of are also grounds for disciplinary action against a respondent who is a member of the Philippine Bar; or (b) in the absence of the complaint's specific statement to said effect or in *motu proprio* proceedings, the respondent must be first required to show cause as to why he/she should not be disciplined as a member of the Philippine Bar as may be warranted by the circumstances of the case. It bears clarifying, however, that in the latter instance, the issuance of the show cause order will not *ipso facto* result in the institution of an administrative disciplinary case as a member of the Philippine Bar (AC) against a respondent-lawyer. The AC proceedings may only be instituted if the respondent-lawyer's response to show cause order is insufficient.

**SECTION 5. Preventive Suspension of Respondent.** — The Supreme Court may, *motu proprio* or upon recommendation of the Judicial Integrity Board, order the preventive suspension of the respondent without pay and other monetary benefits for a period not exceeding ninety (90) calendar days, unless earlier lifted, or further extended by the Supreme Court for compelling reasons. Upon the lapse of the ninety (90)-calendar day period or any extended period of preventive suspension ordered by the Supreme Court, the respondent shall be automatically reinstated in the service, unless the delay in the disposition of the case is due to the fault or negligence of, or other causes attributable to, the respondent, in which case, the period of delay shall not be included in the counting of the period of preventive suspension. If the respondent is fully exonerated from any administrative liability, he or she may claim back salaries, allowances, and other economic benefits for the entire period that he or she was preventively suspended.

The preventive suspension, among others, may be issued to enable the Judicial Integrity Board to conduct an unhampered formal investigation of the disciplinary action, prevent a crisis or disharmony in various courts, or shield the public from any further damages that the continued exercise by the respondent of the functions of his office may cause, or where there is a strong likelihood of his guilt or complicity in the offense charged, or protect the image of the courts as temples of justice.

**NOTES:** The following amendments are made to the old Rule 140 provision on preventive suspension:

- 1) The issuance of a preventive suspension order on account of the request of complainant is removed as it is improper.
- 2) The term “calendar days” is used for clarity.
- 3) The period of preventive suspension shall be for a period not exceeding ninety (90) calendar days, unless earlier lifted or further extended by the Supreme Court for compelling reasons.
- 4) The respondent shall be deemed automatically reinstated in the service: (a) upon the lapse of the 90-day period or any extended period of preventive suspension imposed on respondent; or (b) when the preventive suspension is earlier lifted by the Supreme Court. However, it must be pointed out that in the first instance, any period of delay in the disposition of the case which is attributable to the respondent shall not be included in the counting of the period of preventive suspension.
- 5) A clause for the recovery of back salaries, allowances, and other economic benefits in case of the respondent’s full exoneration is added. It bears clarifying that the term “full exoneration” means that there was no finding of any administrative liability on the part of respondent.

SECTION 6. *Procedure for Formal Investigation.* —

(1) *When Hearings are not Required.* — Any disciplinary action against any of those mentioned in Section 1 (1) hereof, which can already be resolved on the basis of the pleadings of the parties, or public or court records, and/or other documents or papers on record, shall be deemed submitted for the preparation and submission by the Judicial Integrity Board of its “Report” containing its findings of facts and recommendations to the Supreme Court within sixty (60) calendar days, or within such extended period granted by the Supreme Court not exceeding thirty (30) calendar days, from receipt of the said pleadings and/or records or documents. For guidance, the Judicial Integrity Board shall notify the parties that the case has been submitted for resolution without the need for any hearing.

(2) *When Hearings are Required.* — If based on the pleadings of the parties, there is a *prima facie* case against the respondent which requires actual hearings to resolve substantial factual issues raised, the Judicial Integrity Board shall set such hearings, with due notice thereof to the parties.

During such hearings, the parties may be heard by themselves and/or counsel. If after due notice, the complainant or respondent fails to appear, the investigation shall proceed *ex parte*. Furthermore, the parties may present documentary and/or object evidence, as well as testimonial evidence in the form of judicial affidavits to serve as the direct testimony of the parties and of their witnesses; after which, they may be cross-examined by the other party or parties, or through counsel, and may be examined by the Chairperson and members of the Judicial Integrity Board.

**NOTES:** Consolidated in this provision are the following provisions of the old Rule 140 which pertain to the general procedure to follow in the investigation and subsequent resolution of disciplinary proceedings: (a) the old Section 12 on the procedure for resolution of disciplinary actions; (b) the old Section 13 on the setting of the hearing and the respondent's right to counsel; and (c) the old Section 14 on the procedure during the actual hearings.

This provision is divided into two (2) main parts, namely: (1) when the resolution of the proceedings no longer require hearings; and (2) when such hearings are required.

Furthermore, it is understood that the conduct of formal investigations is already subsumed under the general umbrella of conducting hearings, and as such, reference to the former has been deleted.

Finally, the proceedings shall use judicial affidavits instead of regular affidavits, in light of the current procedure laid down in the 2019 Amendments to the Rules of Civil Procedure.

**SECTION 7. Powers of the Judicial Integrity Board During Hearings.**

— The Judicial Integrity Board shall have the power to administer oaths to the parties and their witnesses, and to issue *subpoenas ad testificandum* and *duces tecum*, conduct ocular inspections and take depositions of the complainant and/or witnesses in accordance with the Rules of Court. The failure or refusal to obey or comply with the *subpoena ad testificandum* and *duces tecum* issued by the Judicial Integrity Board shall be referred to the Supreme Court for contempt proceedings, which shall proceed independently from the administrative proceedings.

**SECTION 8. Non-Interruption and Non-Termination of the Investigation for Other Causes.** — In addition to the circumstances stated in Section 2 (2) of this Rule, the investigation conducted by the Judicial Integrity Board of disciplinary actions shall not be interrupted or terminated by reason of the desistance of the complainant, settlement, compromises, restitution, withdrawal of the disciplinary action by the complainant; failure of the complainant to prosecute the same; or by the respondent having transferred his residence to a foreign country; or by the death of the complainant, subject to the exceptional circumstances as may be determined by the Judicial Integrity Board, conformably with case law.

**NOTES:** It is made clear that the non-interruption of the proceedings shall be for circumstances other than those already stated under the new Section 2 (2) of this Rule (*i.e.*, resignation or separation of service). In this regard, the clause “subject to the exceptional circumstances, as may be determined by the Judicial Integrity Board, conformably with case law” is deemed equally applicable to all the aforementioned circumstances herein and not only to “the death of the complainant”.

It is well to reiterate, however, that death of the respondent shall remain a sufficient cause for the dismissal of the case. This is in accordance with recent case law which instructs that the supervening death of the respondent during the pendency of the proceedings shall result in the dismissal of the administrative case against him or her. (See *Flores-Concepcion v. Castañeda*, A.M. No. RTJ-15-2438, September 15, 2020; see also *Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge*

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SECTION 9. *Delegation of Authority.* — The Judicial Integrity Board may delegate to the Office of the Court Administrator the disciplinary investigation of Judges involving less serious charges and light charges under Sections 15 and 16 of this Rule.

The Judicial Integrity Board may also delegate the conduct of disciplinary investigations and hearings of administrative cases likewise involving less serious charges and light charges against court officials and employees to the appropriate Committees or Offices which have administrative control and/or supervision over their respective officials and employees, such as the following:

- (a) Committee on Ethics in Special Concerns of the Court of Appeals, or Presiding Justice thereof, as provided for in the “Procedure in Administrative Cases” of the Court of Appeals;
- (b) Committee on Ethics of the *Sandiganbayan*;
- (c) Committee of the Court of Tax Appeals on Employee’s Rules of Discipline;
- (d) Office of the Court Administrator for the personnel of the *Shari’ah* High Court, as well as the personnel of the first and second level courts, including those of *Shari’ah* District and Circuit Courts; and
- (e) Complaints and Investigation Division (CID) of the Office of Administrative Services for personnel of the Supreme Court and offices under its supervision, including those of the Office of the Court Administrator, the Judicial Integrity Board, the Philippine Judicial Academy, and all other offices created pursuant to law under the Supreme Court’s supervision.

**NOTES:** The old Section 20 of Rule 140 is transferred here because this relates to the conduct of investigation and hearings. However, the termination of the delegated power to the appropriate committee/office and its submission of report and recommendations to the JIB are deleted as they are better placed in the succeeding sections.

SECTION 10. *Termination of the Investigation.* — The Judicial Integrity Board shall terminate its investigation within ninety (90) calendar days from the date of the first hearing conducted, or within such extended period granted by the Supreme Court not exceeding thirty (30) calendar days. If the Judicial Integrity Board delegates the conduct of investigation to a Committee or Office as stated in Section 9 of this Rule, said Committee or Office shall terminate its investigation within sixty (60) calendar days from

the date of delegation, or within any extended period granted by the Judicial Integrity Board not exceeding thirty (30) calendar days, and accordingly submit its "Report" to the latter.

**NOTES:** The clause on the termination of hearings in cases of delegated conduct of investigation and hearings is transferred here. Finally: (a) the term "its commencement" is replaced with "the first hearing conducted"; and (b) the term "calendar days" is used for clarity.

**SECTION 11. *Report of the Judicial Integrity Board to the Supreme Court when Hearings are Required.*** — Within sixty (60) calendar days from the termination of the investigation or within an extended period granted by the Supreme Court not exceeding thirty (30) calendar days, the Judicial Integrity Board shall submit to the Supreme Court its written "Report" thereon containing its findings of facts and recommendations.

If the Judicial Integrity Board delegates the conduct of investigation to a Committee or Office pursuant to Section 9 of this Rule, and the said Committee or Office has already submitted its own "Report" to the Judicial Integrity Board, the latter shall submit its recommended action on said "Report" to the Supreme Court within thirty (30) calendar days from receipt thereof, or within an extended period granted by the Supreme Court not exceeding thirty (30) calendar days.

All "Reports" for the discipline of all members, officials, employees, and personnel of the Judiciary shall, at all times, be confidential and shall be for the exclusive use of the Supreme Court. Any undue disclosure or tampering of records shall render the responsible party liable for contempt of court, in addition to other penalties/sanctions as may be provided by law.

**NOTES:** The clause on the submission of written reports in cases of delegated conduct of investigation and hearings is transferred here. An additional provision on undue disclosure is also added to deter possible undue disclosure and tampering. Finally, the term "calendar days" is used for clarity.

**SECTION 12. *Action of the Supreme Court.*** — The Supreme Court shall take such necessary action on the "Report" as may be warranted by the facts and the law, the Rules of Court, as well as the issuances of the Supreme Court and its Internal Rules.

A copy of the Decision or Resolution of the Supreme Court shall be attached to the official records of the respondent whether in the Office of the Court Administrator, the Office of Administrative Services in the Supreme Court, or in other similar offices in other courts. If the respondent is a lawyer, such copy shall also be furnished to the Office of the Bar Confidant, Office of the Court Administrator, and the Integrated Bar of the Philippines.

**NOTES:** Additional phrases are added to clarify the offices which must be furnished with copies of the ruling of the Supreme Court.



SECTION 13. *Classification of Charges*. — Administrative charges are classified as serious, less serious, or light.

SECTION 14. *Serious Charges*. — Serious charges include:

- (a) Gross misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;

**NOTES:** It is observed that violations of either the Code of Judicial Conduct or of the Code of Conduct for Court Personnel shall be tantamount to misconduct. To constitute gross misconduct (as opposed to simple misconduct), the violation should be of serious nature; and pursuant to case law, it must involve “the elements of corruption, clear intent to violate the law or flagrant disregard of established rules that must be manifest and established by substantial evidence.” (See *Office of the Court Administrator v. Del Rosario*, A.M. No. P-20-4071, September 15, 2020)

Finally, any reference to the Civil Service Commission rules (CSC rules) should already be deleted in order to signal that the Supreme Court is already moving away from reference to CSC rules in light of the establishment of a framework of discipline for the Judiciary through this amended Rule 140. Besides, reference to CSC rules has become unnecessary because grave offenses under CSC rules which are applicable to the Judiciary are already incorporated herein, *e.g.*, gross neglect of duty.

- (b) Bribery, direct and indirect, and violations of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019);

**NOTES:** The charge for “violations of the Anti-Grant and Corrupt Practice Law” is grouped together with bribery in light of their similar nature.

- (c) Serious dishonesty;

**NOTES:** “Dishonesty has been defined as the concealment or distortion of truth, which shows lack of integrity or a disposition to defraud, cheat, deceive, or betray and an intent to violate the truth.” (*Alfornon v. Delos Santos*, 789 Phil. 462 [2016]; see also *Office of the Court Administrator v. Laranjo*, A.M. No. P-18-3859, June 4, 2019; and *Re: Samuel R. Ruñez, Jr.*, A.M. No. 2019-18-SC, January 28, 2020)

To be punishable by dismissal, the dishonesty **must be serious** as determined by the Court under the circumstances of the case. (*Office of the Court Administrator v. Acampado*, 721 Phil.12 [2013]) Similarly, in *Committee on Security and Safety, Court of Appeals v. Dianco* (760 Phil. 169 [2015]), a security guard who fixed the entries in the computer-printed liquidation report was found to have not committed serious dishonesty, considering “that he merely acted under the compulsion of a superior officer.” The Court found him liable only for less serious dishonesty, noting that his act “demonstrates an absence of bad faith and that he had no prior intent to commit any dishonest conduct.”

- (d) Gross neglect of duty in the performance or non-performance of official functions;

**NOTES:** Gross neglect of duty is added to the enumeration of serious charges. Case law states that gross neglect of duty or gross negligence “refers to negligence characterized by the want of even slight care, or by acting or omitting to act in a situation where there is a duty to act, **not inadvertently but willfully and intentionally, with a conscious indifference to the consequences**, insofar as other persons may be affected.” (*Re: Complaint of Aero Engr. Darwin A. Reci against Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Thelma, C. Bahia relative to Criminal Case No. 05-236956*, 801 Phil. 290 [2017], emphasis supplied) Gross neglect is that which, “from the gravity of the case or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare.” (*Clemente v. Bautista*, 710 Phil. 10 [2013])

This offense also covers gross inefficiency, considering that case law instructs that gross inefficiency is closely related to gross neglect, for both acts involve specific acts or omission on the part of respondent resulting in damage. (See *International School Manila v. International School Alliance of Educators and Members*, 726 Phil. 147 [2014])

Case law likewise provides that a **judge’s undue delay in resolving matters before his or her sala constitutes gross inefficiency**. (See *Tamondong v. Pasal*, A.M. No. RTJ-16-2467, October 18, 2017; *Gonzales v. Hidalgo*, 449 Phil. 336 [2003]) In this regard, it should be highlighted that the offense “undue delay in rendering a decision or order, or in transmitting the records of the case,” which is technically a form of negligence, may now be subsumed under either “gross neglect of duty” under this provision, or “simple neglect of duty” which is now part of the enumeration for less serious charges, depending on the attendant circumstances of the case.

(e) Knowingly rendering an unjust judgment or order;

**NOTES:** “Knowingly rendering an unjust judgment is both a criminal and an administrative charge. As a crime, it is punished under Article 204 of the Revised Penal Code, the elements of which are: (a) the offender is a judge; (b) he renders a judgment in a case submitted to him for decision; (c) the judgment is unjust; and (d) the judge knows that his judgment is unjust. The gist of the offense therefore is that an unjust judgment be rendered maliciously or in bad faith, that is, knowing it to be unjust.” A judgment is unjust if it is contrary to law or is not supported by the evidence, or both. (*Dela Cruz v. Concepcion*, A.M. No. RTJ-93-1062 August 25, 1994, *En Banc*)

“A judge’s mere error in the interpretation or application of the law *per se* will not warrant the imposition of an administrative sanction against him for no one is infallible. Good faith and absence of malice, corrupt motives or improper consideration are sufficient defenses that will protect a judicial officer from the charge of rendering an unjust decision.” (*Sacmar v. Reyes-Carpio*, 448 Phil. 37 [2003])

Lastly, the phrase “as determined by a competent court in an appropriate proceeding” is deleted in order to remove any confusion as to who determines the unjustness of the judgment or order. It is proposed that it is the Supreme Court which shall make such determination of unjustness, which determination may be based on the reversal of the questioned judgment by a higher court, *i.e.*, the questioned decision or order has been reversed on appeal or annulled through *certiorari*.

(f) Commission of a crime involving moral turpitude;

**NOTES:** The 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) has the counterpart offense of “Conviction of a crime involving moral turpitude.” Here, the term “conviction” is changed to “commission” because the former tends to imply

that a final conviction before the criminal courts is required before a respondent may be charged with this offense. The Court has discussed that “to sustain a finding of administrative culpability, only substantial evidence is required. The present case is an administrative case, not a criminal case, against respondent. Therefore, the quantum of proof required is only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. Evidence to support a conviction in a criminal case is not necessary, and the dismissal of the criminal case against the respondent in an administrative case is not a ground for the dismissal of the administrative case. We emphasize the well-settled rule that a criminal case is different from an administrative case and each must be disposed of according to the facts and the law applicable to each case.” (*OCA v. Lopez*, 654 Phil. 602 [2011], *En Banc*)

As such, if there is already substantial evidence to support the finding that a respondent has committed a crime involving moral turpitude, then it should be enough to find him administratively liable for this offense. Besides, the new Section 1 (1) explicitly provides that mere institution of a criminal action against a respondent is sufficient basis to institute *motu proprio* proceedings against him or her.

- (g) Falsification of official documents, including making untruthful statements in the certificates of service;

**NOTES:** “A certificate of service is an instrument essential to the fulfillment by judges of their duty to dispose of their cases speedily as mandated by the Constitution.” (*OCA v. Lopez*, 723 Phil. 526 [2013], citing *OCA v. Trocino*, 551 Phil. 258, 268 [2007]) It “is not merely a means to one’s paycheck but is an instrument by which the Court can fulfill the constitutional mandate of the people’s right to a speedy disposition of cases.” (See *Amante-Descallar v. Ramas*, A.M. No. RTJ-06-2015, December 15, 2010, citing *Bolalin v. Occiano*, 334 Phil. 178, 185 [1997]) In this regard, the Court *En Banc* has recently held that making untruthful statements in a certificate of service constitutes falsification of official document. (See *Discreet Investigation Report Relative to the Anonymous Complaint Against Presiding Judge Renante N. Bacolod*, A.M. No. MTJ-18-1914, September 15, 2020)

- (h) Borrowing money or property from lawyers and/or litigants in a case pending before the court;
- (i) Gross immorality;

**NOTES:** This charge is amended to be attuned with case law, which states that for an immoral “conduct to warrant disciplinary action, x x x [it] **must be grossly immoral**,” that is, “so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree.” (*Dela Cueva v. Omega*, 637 Phil. 14 [2010], emphasis supplied)

Immorality has been defined to include not only sexual matters but also “conduct inconsistent with rectitude, or indicative of corruption, indecency, depravity, and dissoluteness; or is willful, flagrant or shameless conduct showing moral indifference to opinions of respectable members of the community, and an inconsiderate attitude toward good order and public welfare.” (*Dela Cueva v. Omega*, supra) Despite this broad scope, jurisprudence on gross immorality often involves a judicial personnel having an illicit affair or cohabiting with a person other than his or her spouse. (See *Discreet Investigation Report Relative To The Anonymous Complaint Against Presiding Judge Renante N. Bacolod*, supra; *Anonymous Complaint v. Dagala*, 814 Phil. 103 [2017]; *Dela Cueva v. Omega*, supra)

- (j) Gross ignorance of the law or procedure;
- (k) Partisan political activities;
- (l) Grave abuse of authority, and/or prejudicial conduct that gravely besmirches or taints the reputation of the service;

**NOTES:** This charge is added to cover acts or omissions which are not strictly part of the performance of one's official functions, but nonetheless are punished as they diminish or tend to diminish the people's faith in the Judiciary.

This covers *oppression*, as well as *conduct prejudicial to the best interest of the service* under the 2017 RACCS. "Oppression is also known as grave abuse of authority, which is a misdemeanor committed by a public officer, who under color of his office, wrongfully inflict[s] upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority." (See *Ombudsman v. Caberoy*, G.R. No. 188066, October 22, 2014)

On the other hand, *conduct prejudicial to the best interest of the service* refers to acts that "tarnish the image and integrity of [a] public office" without a "direct relation to or connection with the performance of [one's] official duties." (*Office of the Ombudsman-Visayas v. Castro*, 759 Phil. 68 [2015]) **It must be noted, however, that based on existing jurisprudence, "conduct prejudicial to the best interest of the service" tends to become some sort of a blanket offense to cover all other misdeeds not falling under any specific offense already listed in the Rule. To remedy this situation, the offense is reformulated to "prejudicial conduct that gravely besmirches or taints the reputation of the service."**

- (m) Sexual harassment;

**NOTES:** This charge is included to emphasize that sexual harassment is unacceptable and not tolerated in the Judiciary.

Under Section 3 of A.M. No. 03-03-13-SC (*Re: Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary*), work-related sexual harassment is committed by an official or employee in the Judiciary who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter. It is committed when "the sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee." (*SAMABAHU v. Untalan*, 755 Phil. 11 [2015])

- (n) Gross insubordination; and

**NOTES:** Gross insubordination is defined as "the inexplicable and unjustified refusal to obey some order that a superior is entitled to give and have obeyed, and imports a willful or intentional disregard of the lawful and reasonable instructions of the superior." It is manifested by "brazen disrespect for and defiance towards [one's] superiors." (*Malubay v. Guevara*, A.M. No. P-18-3791, January 29, 2019, *En Banc*)

Gross insubordination is likewise considered a grave offense under Section 50 (B) (9) of the 2017 RACCS.

(o) Possession and/or use of illegal drugs or substances.

**NOTES:** Alcoholism and/or vicious habits are deleted because, by themselves, they do not warrant dismissal from service. In this regard, case law states that alcoholism or “habitual drunkenness does not necessarily warrant dismissal from the service” unless it renders the judicial personnel “physically and mentally incapacitated” to properly perform his duties. (*Caña v. Gebusion*, 385 Phil. 773 [2000]) In such instance, the judicial personnel may be dismissed from service on the ground of Gross Neglect of Duty. **If the intention is to prohibit drinking, gambling, smoking within court premises, then such prohibition can be included in a Supreme Court circular and be punishable as a less serious charge.**

Notably, the CSC rules punishes habitual drunkenness as a less grave offense, which is separate and distinct from offenses of “mere consumption of alcoholic beverage in the workplace during office hours” and “reporting for work while under the influence of alcohol.” These latter two (2) are considered simple misconduct which is also a less serious charge. (See 2017 RACCS and CSC Memorandum Circular No. 1100039, series of 2011 Re: *Policy Guidelines on the Prohibition on the Consumption of Alcoholic Beverages among Government Officials and Employees, promulgated on January 10, 2011*)

Further, “gambling in public,” which may also be considered as a vicious conduct, is considered a light offense only under Section 24 of Rule 140. In fact, both actual gambling and mere presence in gambling casinos are prohibited under the Supreme Court’s Circular No. 4 issued on August 27, 1980, which is based on Section 5 (3-b) of Presidential Decree No. 1067-B (Entitled “GRANTING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN GAMBLING CASINOS ON LAND OR WATER WITHIN THE TERRITORIAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES”), the Resolution of the Court *En Banc* in Administrative Matter No. 1544-0 dated August 21, 1980, and Paragraph 3 of the Canons of Judicial Ethics. (See *City Government of Tagbilaran v. Hontanosas, Jr.*, A.M. No. MTJ-98-1169, January 29, 2002).

SECTION 15. *Less Serious Charges.* — Less serious charges include:

(a) Simple misconduct constituting violations of the Code of Judicial Conduct or of the Code of Conduct for Court Personnel;

**NOTES:** It is observed that violations of either the Code of Judicial Conduct or of the Code of Conduct for Court Personnel shall be tantamount to misconduct. To constitute simple misconduct (as opposed to gross misconduct), the violation should not be of serious nature. Moreover, it should relate to or be connected with the performance of the official functions and duties of a public officer for it to constitute an administrative offense. Finally, case law states that “a person charged with grave misconduct may be held liable for simple misconduct if the misconduct does not involve any of the elements to qualify the misconduct as grave.” These elements are “corruption, clear intent to violate the law or flagrant disregard of established rules.” (*Office of the Ombudsman-Visayas v. Castro*, supra)

Furthermore, for the same reasons as already provided above, reference to the CSC rules has been deleted here.

- (b) Simple neglect of duty in the performance or non-performance of official functions;

**NOTES:** Simple neglect of duty means the **failure of an employee or official to give proper attention to a task expected of him or her, signifying a “disregard of a duty resulting from carelessness or indifference.”** (*Re: Complaint of Aero Engr. Darwin A. Reci against Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Thelma, C. Bahia relative to Criminal Case No. 05-236956, supra; emphasis supplied*).

Furthermore, it must be highlighted that the offense “undue delay in rendering a decision or order, or in transmitting the records of the case”, which is technically a form of negligence, may now be subsumed under either “gross neglect of duty” under the provision on serious charges, or “simple neglect of duty” under this provision, depending on the seriousness thereof, pursuant to case law on gross and simple neglect of duty.

- (c) Habitual absenteeism and/or tardiness;

**NOTES:** For consistency with “habitual tardiness,” “frequent and unjustified absences without leave” is amended to read “habitual absenteeism.” As stated in the Court’s Administrative Circular No. 14-2002, a judicial personnel is “**habitually absent** if he incurs unauthorized absences exceeding the allowable 2.5 days monthly leave credit under the leave law for at least three (3) months in a semester or at least three (3) consecutive months during the year.” (emphasis supplied)

This change in phraseology also distinguishes the charge from “absences without approved leave” for at least thirty (30) days which is a ground to drop a government employee from the rolls without need of prior notice. Notably, this procedure is not disciplinary in nature. (See Rule 20, 2017 RACCS)

- (d) Unauthorized practice of law;
- (e) Violation of Supreme Court rules, directives and circulars that establish an internal policy, rule of procedure, or protocol;

**NOTES:** The phrase “that establish an internal policy, rule of procedure, or protocol” is added to this provision, considering that the charge “Violation of Supreme Court Rules, Directives, and Circulars” should not indiscriminately apply to any and all Supreme Court issuances, lest mere restatements of general ethical principles, without more, be superfluously considered as a separate charge. It is discerned that only those rules, directives, and circulars **which establish a distinct internal policy, rule of procedure, or protocol should result into a separate offense on its own.**

- (f) Receiving additional or double compensation unless specifically authorized by law; and
- (g) Simple dishonesty.

**NOTES:** This charge is included to differentiate it from the serious charge of serious dishonesty.

As acknowledged in the CSC rules, dishonesty covers a broad spectrum of conduct ranging from serious, less serious, to simple. Criteria has been set to determine the severity of the act. The act is considered one of **simple dishonesty** when it is attended by the presence of any of the following circumstances: (1) the dishonest act did not cause damage or prejudice to the government; (2) the dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent; (3) in falsification of any official document, where the information falsified is not related to his/her employment; (4) the dishonest act did not result in any gain or benefit to the offender; and (5) other analogous circumstances. (See Senior Associate Justice Perlas-Bernabe's Concurring and Dissenting Opinion in *Madreo v. Baylon*, G.R. No. 237330, November 3, 2020, citing CSC Resolution No. 06-0538 and *Committee on Security and Safety v. Dianco*, supra).

SECTION 16. *Light Charges*. — Light charges include:

- (a) Vulgar and unbecoming conduct;
- (b) Gambling in public;
- (c) Fraternizing with lawyers and litigants with pending case/cases in his or her court;
- (d) Undue delay in the submission of monthly reports; and
- (e) Willful failure to pay judgment debts or taxes due to the government.

**NOTES:** This charge is downgraded from serious to light. "Willful failure to pay just debts or willful failure to pay taxes due to the government" is a ground for disciplinary action under Executive Order No. (EO) 292. Notably, both the implementing rules of EO 292 and the 2017 RACCS merely classify it as a light offense.

Payment of debts is personal to the judicial employee, but becomes administratively punishable when it impairs the image of the public office. The Court has held that while it is not wrong for a public employee to incur indebtedness, "caution should be taken to prevent the occurrence of dubious circumstances that might inevitably impair the image of the public office. Any act of impropriety on his part immeasurably affects the honor and dignity of the Judiciary and the people's confidence in it." (*Re: Briones*, A.M. No. 2007-11-SC [Resolution], August 10, 2007, underscoring supplied)

"Judgment debt" is suggested to refer to claims that have already been adjudicated by a court. Notably, under the 2017 RACCS, the term "just debts" refers to (a) claims adjudicated by a court of law, or (b) claims the existence and justness of which are admitted by the debtor.

Finally, the phrase "[l]ight offenses under the Civil Service Laws and Rules" is deleted to remove from Rule 140 references to the CSC rules.

SECTION 17. *Sanctions*. —

- (1) If the respondent is guilty of a serious charge, any of the following sanctions shall be imposed:

- (a) Dismissal from service, forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits;
  - (b) Suspension from office without salary and other benefits for more than six (6) months but not exceeding one (1) year; or
  - (c) A fine of more than ₱100,000.00 but not exceeding ₱200,000.00.
- (2) If the respondent is guilty of a less serious charge, any of the following sanctions shall be imposed:
- (a) Suspension from office without salary and other benefits for not less than one (1) month nor more than six (6) months; or
  - (b) A fine of more than ₱35,000.00 but not exceeding ₱100,000.00.
- (3) If the respondent is guilty of a light charge, any of the following sanctions shall be imposed:
- (a) A fine of not less than ₱1,000.00 but not exceeding ₱35,000.00;
  - (b) Censure; or
  - (c) Reprimand.

**NOTES:** The amendments to this provision are explained as follows:

(1) The imposition of any of the foregoing penalties is within the discretion of the Supreme Court, as evinced by the disjunctive word “or.” As such, if a respondent is found guilty of a serious offense, then the Supreme Court may choose which among the enumerated penalties, *i.e.*, dismissal, suspension, or fine, to impose, and so on and so forth.

(2) The periods of suspension for serious and less serious charges are increased to be more attune with the gravity of the offenses. These periods are also at par with the suspension periods under the 2017 RACCS (*i.e.*, for grave offenses - six months and one [1] day to one [1] year; for less grave offenses – one [1] month and one [1] day to six [6] months).

(3) Admonition and warning are removed from the list of penalties. This is considering that case law has settled that admonition and warning are **not penalties**, hence, should



be removed from this enumeration of sanctions. It is well to clarify, however, that this does not preclude the Supreme Court from admonishing a court personnel with warning.

A warning, in ordinary parlance, has been defined as “an act or fact of putting one on his guard against an impending danger, evil consequences or penalties” while an admonition, “refers to a gentle or friendly reproof, a mild rebuke, warning or reminder, counselling, on a fault, error or oversight, an expression of authoritative advice or warning.” (*Tobias v. Veloso*, 188 Phil. 267 [1980]; *In The Matter Of The Contempt Orders Against Lt. Gen. Jose M. Calimlim and Atty. Domingo A. Doctor, Jr.*, 584 Phil. 377 [2008]; *Samahan ng mga Progresibong Kabataaan v. Quezon City*, 815 Phil. 1067 [2017]; Section 57 (f) of the 2017 RACCS)

Finally, reprimand is defined as a “severe or formal reproof” (See <<https://www.merriam-webster.com/dictionary/reprimand>> last visited February 15, 2022]); whereas censure is defined as “an act of blaming or condemning sternly” (See <<https://www.merriam-webster.com/dictionary/censure>> last visited February 15, 2022]).

(4) The amounts of fines for serious, less serious, and light charges are adjusted in accordance with A.M. No. 21-03-17-SC, entitled “Amendments to the Fines Provided in Rule 140 of The Revised Rules of Court,” which took effect on May 31, 2021.

**SECTION 18. *Penalty in Lieu of Dismissal on Account of Supervening Resignation, Retirement, or other Modes of Separation of Service.*** — If the respondent is found liable for an offense which merits the imposition of the penalty of dismissal from service but the same can no longer be imposed due to the respondent's supervening resignation, retirement, or other modes of separation from service except for death, he or she may be meted with the following penalties in lieu of dismissal:

- (a) Forfeiture of all or part of the benefits as the Supreme Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however,* that the forfeiture of benefits shall in no case include accrued leave credits; and/or
- (b) Fine as stated in Section 17 (1) (c) of this Rule.

**NOTES:** This section is included to reflect the Court's practice of imposing the accessory penalties of dismissal and/or ordering the payment of fine to a respondent who had earlier resigned, retired, or separated from service. To illustrate,

In *Dela Rama v. De Leon* (A.M. No. P-14-3240, March 2, 2021), since respondent had been earlier dismissed, the Court imposed the penalty of fine in lieu of dismissal.

In *Perez v. Roxas* (A.M. No. P-16-3595, June 26, 2018), since respondent had been earlier dropped from the rolls of court employees, in lieu of dismissal, the Court imposed the accessory penalties of forfeiture of retirement and other benefits, except accrued leave credits, and perpetual disqualification from re-employment in any government agency or instrumentality, including government-owned and -controlled corporation or government financial institution.

In *Judaya v. Balbona* (A.M. No. P-06-2279, June 6, 2017), since respondent had earlier

resigned, in lieu of dismissal, the Court imposed the administrative disabilities of cancellation of civil service eligibility, forfeiture of retirement and other benefits, perpetual disqualification from re-employment in any government agency or instrumentality, including government-owned and controlled corporation or government financial institution.

In *Release of Compulsory Retirement Benefits Under R.A. No. 8291 of Mr. Isidro P. Austria, Former Supply Officer II, Philippine Judicial Academy, Supreme Court* (A.M. No. 2014-025-Ret., September 30, 2014), since respondent had reached the compulsory retirement age during the pendency of the administrative case, in lieu of dismissal, the Court imposed the accessory penalties of forfeiture of all retirement benefits, except accrued leave credits, with prejudice to re-employment in any branch or instrumentality of the government, including government-owned and government-controlled corporations, and ordered him to pay a fine equivalent to his salary for six months computed at the salary rate of his former position at the time of his resignation, to be deducted from whatever accrued leave benefits remained for him.

**SECTION 19. *Modifying Circumstances.*** — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

**NOTES:** A provision on modifying circumstances is added to incorporate jurisprudence where the Court has been considering these circumstances in determining the culpability of the erring judiciary member/personnel. Moreover, adopting its own list of mitigating circumstances in Rule 140 will enable the Court to be completely independent from referring to the CSC rules.

(1) Mitigating circumstances:

(a) First offense;

**NOTES:** In several cases, the Court considered the circumstance of being a first-time offender in mitigating the penalty of the respondent. (*Public Assistance and Corruption Prevention Office v. Paumig*, A.M. No. P-18-3882, December 4, 2018; *Re: Request of Judge Sylvia G. Jurao*, 455 Phil. 212 [2003]; *Re: Administrative Liabilities of Philja Security Personnel*, 474 Phil. 454 [2004])

It is also observed that, depending on the gravity of the offense, a first-time offender is less likely to commit another offense than repeat offenders. Thus, this circumstance may be taken into account in imposing the proper penalty.

(b) Length of service of at least ten (10) years with no previous disciplinary record where respondent was meted with an administrative penalty;

**NOTES:** In several cases, the Court considered length of service in mitigating the penalty of the respondent. (*Office of the Court Administrator v. Chavez*, 815 Phil. 41 [2017]; *Arganosa-Maniego v. Salinas*, 608 Phil. 334 [2009]; *Office of the Court Administrator v. Aguilar*, 666 Phil. 11 [2011])

Furthermore, service in the judiciary for at least ten (10) years with no previous disciplinary record may be appreciated to mitigate the liability of the respondent, since this circumstance shows the dedication of the respondent to the Judiciary.

Finally, the phrase “where respondent was meted with an administrative penalty” is added to exclude previous administrative proceedings involving respondent where he or she was merely admonished or warned, in light of case law which provides that admonition and warning are not considered as penalties. (*Tobias v. Veloso*, 188 Phil. 267 [1980]; *In The Matter Of The Contempt Orders Against Lt. Gen. Jose M. Calimlim and Atty. Domingo A. Doctor, Jr.*, 584 Phil. 377 [2008]; *Samahan ng mga Progresibong Kabataaan v. Quezon City*, 815 Phil. 1067 [2017])

(c) Exemplary performance;

**NOTES:** In several cases, the Court considered the previous receipt of awards in the performance of duties and high performance rating in mitigating the penalty of the respondent. (*Committee on Security and Safety v. Dianco*, supra and 77 Phil. 16 [2016]; *Re: Fighting Incident Between Two (2) SC Shuttle Bus Drivers*, 610 Phi. 253 [2009]; *Office of the Court Administrator v. Aguilar*, supra)

Thus, depending on the gravity of the offense, exemplary performance may be considered as mitigating circumstance to prevent the interruption of service of a respondent who excels in his/her work.

(d) Humanitarian considerations; and

**NOTES:** In several cases, the Court considered external factors, such as “workload in two branches,” “managing two court stations at the same time with a limited number of personnel,” “overloaded docket, unceasing strain caused by hearings on complex cases and lack of libraries, decent courtrooms, office equipment, supplies and other facilities,” and “health condition and close to retirement age” in mitigating the penalty of respondent. (See *Cacho v. Naya*, A.M. No. RTJ-19-2564, December 10, 2019; *Mahinay v. Daomilas, Jr.*, A.M. No. RTJ-18-2527, June 18, 2018; *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*, A.C. No. 3086, May 31, 1989; *Committee on Security and Safety, Court of Appeals v. Dianco*, supra).

“Humanitarian considerations” may also include remorse, acknowledgment of guilt, taking responsibility for the act committed, and restitution of amount. (*Office of Court Administrator v. Chavez*, supra; *Arganosa-Maniego v. Salinas*, supra; *Office of the Court Administrator v. Aguilar*, supra; *In Re: Petition for the Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon*, 255 Phil. 623 [1989]; *Rubin v. Corpus-Cabochan*, 715 Phil. 318 [2013]; see also *Public Assistance and Corruption Prevention Office v. Paumig*, A.M. No. P-18-3882, December 4, 2018, *Committee on Security and Safety, Court of Appeals v. Dianco*, supra)

By adding this as a mitigating circumstance, the Court will correct the respondent’s offense and unacceptable conduct while being fair and reasonable considering the external challenges and limitations surrounding the case. Moreover, this will prevent the interruption of service, particularly of courts that are undermanned.

(e) Other analogous circumstances.

**NOTES:** This is added to emphasize the Court’s discretion in the discipline of judicial personnel and the non-exclusive nature of this enumeration of mitigating circumstances.

(2) Aggravating Circumstances:

- (a) Finding of previous administrative liability where a penalty is imposed, regardless of nature and/or gravity;

**NOTES:** The previous commission of an offense, regardless of nature and/or gravity, may aggravate the current offense because it shows respondent's propensity to commit an offense, despite being previously punished and warned that the commission of the same or similar offense shall be dealt with more severely. (See *Office of the Court Administrator v. Indar*, 725 Phil. 164 [2014])

Further, it bears stressing that this aggravating circumstance contemplates a scenario where: (a) there has been a previous disciplinary proceeding wherein the respondent had already been adjudged administratively liable and consequently meted the appropriate penalty; **AND** (b) there is a present disciplinary proceeding wherein the same respondent was again adjudged administratively liable. This aggravating circumstance may then be appreciated in imposing the proper penalty to the respondent in the present disciplinary proceeding. Notably, it is well to point out that this circumstance does **not** apply when a respondent is found liable for separate and distinct administrative offenses in a single disciplinary proceeding (since there is yet no finding of a previous administrative liability). This latter scenario (*i.e.*, if the respondent is found liable for more than one offense arising from separate acts or omissions in a single administrative proceeding) is covered by Section 21 below.

Finally, the phrase "where a penalty is imposed" is added to exclude previous administrative proceedings involving respondent where he or she was merely admonished or warned, in light of case law which provides that admonition and warning are not considered as penalties. (*Tobias v. Veloso*, 188 Phil. 267 [1980]; *In The Matter Of The Contempt Orders Against Lt. Gen. Jose M. Calimlim and Atty. Domingo A. Doctor, Jr.*, 584 Phil. 377 [2008]; *Samahan ng mga Progresibong Kabataaan v. Quezon City*, 815 Phil. 1067 [2017])

- (b) Length of service facilitated the commission of the offense;

**NOTES:** In several cases, the Court considered this circumstance in aggravating the penalty of respondent. (See *Committee on Security and Safety v. Dianco*, supra; *CSC v. Cortez*, G.R. No. 155732, June 3, 2004)

This circumstance may be considered aggravating when the respondent's length of service earned him or her the trust and connection in the Judiciary which he or she used in his or her favor to commit the offense.

- (c) Employment of fraudulent means to conceal the offense;  
and

**NOTES:** This circumstance may aggravate the offense since this shows the respondent's deplorable mindset not only in committing the offense, but also in concealing the same.

- (d) Other analogous circumstances.

**NOTES:** This is added to emphasize the Court's discretion in the discipline of judicial personnel and the non-exclusive nature of this enumeration of aggravating circumstances.

SECTION 20. *Manner of Imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule.

If one (1) or more mitigating circumstances and no aggravating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not less than half of the minimum prescribed under this Rule.

If there are both aggravating and mitigating circumstances present, the Supreme Court may offset each other.

**NOTES:** This provision veers away from its CSC rules counterpart (see Section 54 of the 2017 RACCS) insofar as the provision proposes the setting of a cap/threshold (aggravating - not more than double; mitigating - not less than half) on the penalties of suspension or fine to be imposed when these circumstances are present; whereas the CSC rules provides for the imposition of the “minimum”, “medium”, or “maximum” of the penalty to be imposed depending on the existence of modifying circumstances (three-fold penalty framework). This is warranted in light of the fact that unlike in the CSC rules where there are definite prescribed penalties for each offense, the penalty structure in this Rule gives the Supreme Court greater leeway as to which penalty shall be imposed to an erring respondent (*e.g.*, dismissal, suspension, fine). It bears stressing that disciplinary flexibility is not only in accordance with the Supreme Court’s constitutional authority to supervise and discipline its ranks (See Sections 6 and 11, Article VIII of the Constitution), it is also practical to account for the multitude of nuances that obtain on a case-to-case basis. Thus, it is recommended that the Court adopt a simple aggravation/mitigation procedure wherein new maximum or minimum thresholds are permitted, as compared to having a more restrictive three-fold penalty framework which, by the way, originated from the more complex Revised Penal Code provisions.

To illustrate, if the three-fold penalty framework were to be followed here, the penalty of “suspension of more than 6 months but not exceeding 1 year” will be divided into 3 periods, namely: (a) the minimum, which is from 6 months and 1 day to 8 months; (b) the medium, which is from 8 months and 1 day to 10 months; and (c) the maximum, which is from 10 months and 1 day to 1 year. Thus, if a respondent is found guilty of a serious offense punishable by such penalty, the Supreme Court’s power to impose the proper penalty according to the prevailing facts of the case shall be hamstrung by these periods, in that if there are no modifying circumstances, it can only impose the medium, and so on and so forth.

In contrast, applying the proposed framework of aggravation/mitigation, a respondent, who for instance, is found guilty of the serious charge of gross misconduct may be penalized as follows:

If the Supreme Court opts to impose the penalty of dismissal, then this provision will be of no effect since it only contemplates instances wherein the imposable penalty is suspension or fine.

If the Supreme Court opts to impose the penalty of suspension or fine:

(a) If there are no modifying circumstances present, then respondent will be meted with the penalty of suspension for a period of more than 6 months but not exceeding 1 year, or a fine amounting to more than ₱100,000.00 but not

exceeding ₱200,000.00, as the case may be.

(b) If at least one (1) aggravating circumstance is present, *e.g.*, “previous commission of an offense, regardless of nature and/or gravity,” then the Supreme Court may increase the period or amount of the imposable penalties to up to double of the maximum prescribed under this Rule. This means that Supreme Court is now permitted to penalize the respondent under a higher threshold *i.e.*, impose an increased period of suspension for up to 2 years, or an increased fine in an amount up to ₱400,000.00.

(c) If at least one (1) mitigating circumstance is present, *e.g.*, “humanitarian considerations,” then the Supreme Court may decrease the period or amount of the imposable penalties to up to half of the minimum prescribed under this Rule. This means that Supreme Court is now permitted to penalize the respondent under a lower threshold, *i.e.*, impose a decreased period of suspension for not less than 3 months, or a decreased fine in an amount not less than ₱50,000.00.

(d) If there are aggravating and mitigating circumstances present, the Supreme Court may, in its discretion, offset the same. For instance:

(i) If one (1) aggravating circumstance, namely “previous commission of an offense, regardless of nature and/or gravity,” and one (1) mitigating circumstance, namely “humanitarian considerations,” are present, then the Supreme Court may offset the same, thereby leaving no other modifying circumstances present. Hence, scenario (a) as illustrated above will apply.

(ii) If two (2) aggravating circumstances, namely “previous commission of an offense, regardless of nature and/or gravity” and “employment of fraudulent means to conceal the offense”, and one (1) mitigating circumstance, namely “humanitarian considerations,” are present, then the Supreme Court may offset the same, thereby leaving one (1) aggravating circumstance still subsisting. Hence, scenario (b) as illustrated above will apply.

(iii) If one (1) aggravating circumstance, namely “previous commission of an offense, regardless of nature and/or gravity”, and two (2) mitigating circumstances, namely “humanitarian considerations” and “exemplary performance” are present, then the Supreme Court may offset the same, thereby leaving one (1) mitigating circumstance still subsisting. Hence, scenario (c) as illustrated above will apply.

Overall, the consideration of modifying circumstances, the extent of offsetting, and the imposition of penalties within the new permissible thresholds are mere operative frameworks which are left to the discretion of the Court to apply on a case-to case basis.

**SECTION 21. *Penalty for Multiple Offenses.*** — If the respondent is found liable for more than one (1) offense arising from separate acts or omissions in a single administrative proceeding, the Court shall impose separate penalties for each offense. Should the aggregate of the imposed penalties exceed five (5) years of suspension or ₱1,000,000.00 in fines, the respondent may, in the discretion of the Supreme Court, be meted with the penalty of dismissal from service, forfeiture of all or part of the benefits as

may be determined, and disqualification from reinstatement or appointment to any public office, including government-owned or -controlled corporations. *Provided, however*, that the forfeiture of benefits shall in no case include accrued leave credits.

On the other hand, if a single act/omission constitutes more than one (1) offense, the respondent shall still be found liable for all such offenses, but shall, nonetheless, only be meted with the appropriate penalty for the most serious offense.

**NOTES:** This provision is explained as follows:

(1) The first paragraph adopts the rule in *Boston Finance and Investment Corporation v. Gonzalez* (A.M. No. RTJ-18-2520, October 9, 2018, *En Banc*) imposing separate penalties for each offense. It is submitted that this rule is more in keeping with the high standards of judicial conduct, than merely considering the less serious offenses as aggravating circumstances as provided in the 2017 RACCS. It also places a threshold on the impossible suspension periods or fines when multiple offenses are involved. If the threshold is reached, the respondent may be meted with dismissal from service with all of its accessory penalties, at the discretion of the Supreme Court.

This means that the rule on multiple offenses under the 2017 RACCS will no longer apply to judicial personnel. For reference, Section 55 of the 2017 RACCS states that a person found liable for “two (2) or more different offenses, the penalty to be imposed should be that corresponding to the most serious offense and the rest shall be considered as aggravating circumstances.”

To illustrate the first paragraph, suppose in a single disciplinary proceeding, respondent was found to have committed three (3) separate acts constituting the serious charge of gross misconduct and was found administratively liable for three (3) counts of the said charge.

The Supreme Court may, in its discretion:

- (a) Impose the penalty of dismissal for the first count, and thereafter, impose the penalty of fine for the other two (2) counts;
- (b) Impose the penalty of suspension for the first count, and thereafter impose the penalty of fine for the other two (2) counts, or vice-versa; or
- (c) Impose the penalty of suspension or fine for all three (3) counts.

Suppose, further, that instead of three (3) counts of gross misconduct, respondent was found administratively liable for 10 counts. If the Supreme Court opts to impose purely suspension or purely fine for all counts, then the aggregate period of suspension or amount of fine will surely breach the threshold provided in this provision. Under this scenario, the SC may, in lieu of the imposition of the aggregate period of suspension or amount of fine, impose on respondent the penalty of dismissal instead.

(2) The second paragraph recognizes that certain acts or omissions may constitute multiple offenses. In this regard, the respondent must be pronounced liable for all such offenses, but only a singular penalty shall be imposed on him or her. This is in keeping with the notion that one act/omission must only give rise to one penalty.

To illustrate, suppose a respondent’s singular act constitutes two (2) distinct offenses,

namely: (1) gross misconduct, which is a serious charge; and (2) unauthorized practice of law, which is a less serious charge. In this instance, the Supreme Court shall pronounce his administrative liability for both offenses, but shall only impose the penalty for gross misconduct, as it is the graver offense.

(3) At this point, **it must be emphasized that this provision applies only in instances where the finding of administrative liability for multiple offenses has been done in a single disciplinary proceeding.** In contrast, if there has been a previous finding of administrative liability against respondent for which he was already penalized, then this provision will not apply should the same respondent be found administratively liable in a succeeding disciplinary proceeding. In this latter instance, the previous administrative liability will be deemed an aggravating circumstance, pursuant to Section 19 (2) (a).

SECTION 22. *Payment of Fines.* — When the penalty imposed is a fine, the respondent shall pay it within a period not exceeding three (3) months from the time the decision or resolution is promulgated. If unpaid, such amount may be deducted from the salaries and benefits, including accrued leave credits, due to the respondent. The deduction of unpaid fines from accrued leave credits, which is considered as a form of compensation, is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.

**NOTES:** In *Flores v. Interino* (A.M. No. P-18-3873, January 11, 2021), the Court imposed a fine on respondent because he could no longer serve the penalty of suspension previously meted on him. The Court ordered the amount of the fine (*i.e.*, prevailing rate on her last day of work) to be “deducted from her accrued leave credits, if any, or paid directly to the Court if she does not have sufficient leave credits to cover the amount of the fine.”

To avoid confusion with the subsisting prohibition of forfeiting accrued leave credits, the provision also makes clear that the deduction of unpaid fines from accrued leave credits is considered as a form of compensation which is not tantamount to the imposition of the accessory penalty of forfeiture covered under the provisions of this Rule.

SECTION 23. *Immediately Executory Nature.* — Decisions or resolutions pronouncing the respondent’s administrative liability are immediately executory in nature. The respondent, upon receipt of such decision or resolution, shall immediately serve the penalty indicated therein. In case of suspension, he or she shall formally manifest to the Court that his or her suspension has started within five (5) calendar days upon receipt of the decision or resolution.

Upon completion of service of the penalty of suspension, the Presiding Justice, in case of the Court of Appeals, *Sandiganbayan* or the Court of Tax Appeals, or the Executive Judge where the respondent is assigned or stationed, in case of the first and second level courts, shall issue a certification that the penalty of suspension has been served by the respondent. The certification shall be submitted to the Supreme Court.



**NOTES:** This provision is to avoid the problem that the Court faced in the past regarding the service of the penalty of suspension in disciplinary cases of lawyers. Before, whenever the decision imposing a penalty of suspension is rendered by the Court, there were no guidelines on how the respondent shall inform the Court when he or she served the suspension. There were instances when a respondent would still be able to delay the service of the penalty of suspension due to his or her belated reporting.

In this provision, it is clarified that the penalty – whether dismissal from service, suspension or payment of a fine – is immediately executory upon receipt of the decision or resolution so that it will be clear when the penalty shall be served by the respondent. In case of suspension, the respondent must also inform the Court of the date of receipt so that the JIB/OCA can also monitor the proper computation of the service of the penalty of suspension.

Upon completion of service of the penalty of suspension, there must be a certification that the said penalty was indeed served. It shall be the Presiding Justice, in case of the Court of Appeals, Sandiganbayan or the Court of Tax Appeals, or the Executive Judge where the respondent is assigned or stationed, in case of the first and second level courts, who shall certify to the completion of the service of suspension. In case it is the Executive Judge who is subject of suspension, there will be an OIC Executive Judge during the period of suspension, hence, that OIC Executive Judge shall be the one to certify the completion of service of suspension by that original Executive Judge. The provision is to ensure that the respondent indeed and definitely served his or her penalty of suspension. At the same, the Supreme Court will be fully informed of the service of suspension.

SECTION 24. *Retroactive Effect.* — All the foregoing provisions shall be applied to all pending and future administrative cases involving the discipline of Members, officials, employees, and personnel of the Judiciary, without prejudice to the internal rules of the Committee on Ethics and Ethical Standards of the Supreme Court insofar as complaints against Members of the Supreme Court are concerned.

**NOTES:** Jurisprudence provides that, as a rule, all laws are prospective in application unless the contrary is expressly provided, or unless the law is procedural or curative in nature. (*Eastern Mediterranean Maritime Ltd. v. Surio*, G.R. No. 154213, August 23, 2012; Article 4 of the Civil Code) By expressly stating that these new provisions will apply to “all pending and future administrative cases,” the Court effectively abandons the ruling in *Dela Rama v. De Leon* (A.M. No. P-14-3240, March 23, 2021) (*i.e.*, “if the application of Rule 140, as amended, would be prejudicial to the employee, then the framework of rules prevailing at the time of the commission of the offense should apply.”) It bears noting that no vested rights are impaired by increasing the impossible periods of suspension or by making Rule 140 applicable to court personnel. Moreover, the Court may, in its discretion, make the necessary changes in this regard pursuant to its constitutional power to exercise administrative supervision and to discipline justices and judges of the lower courts, as well as all court personnel. (Sections 6 and 11, Article VIII of the Constitution)

SECTION 25. *Repealing Clause.* — Any resolution, circular or administrative order issued by the Supreme Court inconsistent herewith is deemed modified or repealed.

SECTION 26. *Effectivity Clause.* — These Rules shall take effect following their publication in the Official Gazette or in two newspapers of national circulation.