

Republic of the Philippines  
**DEPARTMENT of AGRARIAN REFORM**

MEMORANDUM CIRCULAR No. 10  
Series of 2009

**SUBJECT: Rules and Regulations on Internal Whistle Blowing and Reporting**

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In view of the government's drive to stamp out graft and corruption in the different layers of the bureaucracy and in line with the Department of Agrarian Reform's (hereinafter referred to as the "Department") commitment to uphold the highest ethical standards among its officials and employees by promoting good governance at all levels of the organization, the Department takes a proactive and catalytic role in the deterrence of any wrongdoings/misdeeds of its officials and employees in the course of performing their official duties and functions.

For this reason, the Department hereby formulates the herein internal rules and regulations (hereinafter referred to as the "Rules") with the end in view of encouraging its officials and employees to disclose any corrupt, illegal, improper or fraudulent acts of their co-officials and co-employees as well as ensuring the protection of the whistleblowers from any form of retaliation or reprisal by the management officials or by the concerned employees. Thus, these Rules shall also provide the whistleblowers with greater confidence in reporting any wrongdoing being committed by the concerned Department's officials and employees.

In the same vein, these Rules shall provide the rights of the whistleblowers and at the same time define the limitations and conditions in order to deter frivolous and false disclosures.

**ARTICLE I**  
**PRELIMINARY PROVISIONS**

**Section 1. *Statement of Policies***

- 1.1 DAR shall inculcate among its officials and employees the faithful observance of the Code of Conduct and Ethical Standards for Public Officials and Employees, all laws, rules and regulations concerning the civil service and public accountability, and rules and regulations of the Department of Agrarian Reform.
- 1.2 DAR shall promulgate and execute programs and procedures that shall ensure the highest integrity of its officials and employees.

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## Section 2. *Legal Bases*

- a) Art. IX, Section 3 of the Philippine Constitution provides that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, competence and efficiency, and act with patriotism and justice, and lead modest lives.
- b) Administrative Code of 1987
  - Book IV, Chapter 2, Section 7© provides that the Secretary shall exercise disciplinary powers over officers and employees under the Secretary in accordance with law, including their investigation and the designation of a committee or officer to conduct such investigation;
  - Book V, Rule IV, Section 32 provides that the Secretary shall have jurisdiction to investigate and decide on matters involving disciplinary action against officers and employees under their jurisdiction;
- c) Republic Act 6713 – An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees
  - Section 2 – Declaration of Policies
  - Section 4 – Norms of Conduct of Public Officials and Employees
- d) Republic Act 3019 – Anti-Graft and Corrupt Practices Act
  - Section 1 – Statement of Policy
  - Section 3 – Corrupt Practices of Public Officers
  - Section 4 – Prohibition of Private Individuals
  - Section 7 – Statement of Assets and Liabilities
  - Section 8 – Prima Facie Evidence of and Dismissal due to Unexplained Wealth
  - Section 9 – Penalties for Violations
  - Section 12 – Termination of Office
  - Section 14 - Exception
- e) Republic Act 6981 – Witness Protection and Benefit Act and its Implementing Rules and Regulations
  - Section 3 – Admission into the Program
  - Section 5 – Memorandum of Agreement with the Person to be Protected
  - Section 6 – Breach of the Memorandum of Agreement
  - Section 7 – Confidentiality of proceedings
  - Section 14 – Compelled Testimony
  - Section 15 – Perjury or Contempt
- f) Article VIII, Section 31 of DAR Memorandum Circular No. 10, series of 2007 known as the “Code of Conduct for the Officials and Employees of DAR” which provides that:

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*"Pursuant to DAR Memorandum Order No. 4, Series of 1993, as amended by DAR Memorandum Order No. 1, Series of 1997 (General Guidelines and Delegation of Authority on Disciplinary Cases), the Office of the Undersecretary for Policy, Planning and Legal Affairs through the Legal Service of the Office of the Regional Director shall serve as the channel for complaints against DAR officials and employees. The said office shall evaluate the complaints and proceed with the conduct of investigations in accordance with the Uniform Rules on Administrative Cases. "*

**Section 3. Definition of Terms** – Some of the terms used in this Memorandum Circular are herein defined as follows:

- a) **"Whistleblower"** refers to official or employee or group of employees who makes protected disclosure of malpractice and illegal acts of officials and employees of the agency.
- b) **"Protected disclosure"** refers to the deliberate and voluntary disclosure whether written or verbal by an official or employee of the Department of an actual, suspected wrongdoing, inefficiency, ineffectiveness, misdeed and/or irregularity by any DAR official, employee, group of DAR officials and employees, or by any DAR organizational unit.
- c) **"Retaliatory Action"** pertains to negative or obstructive responses or reactions to a disclosure of misconduct or wrongdoing taken against the whistleblower and/or those officials and employees supporting him/her, or any of the whistleblower's relatives within the second civil degree either by consanguinity or affinity. It includes, but is not limited to, civil, administrative or criminal proceedings commenced or pursued against the whistleblower and/or those officials and employees supporting him, or any of the whistleblower's relative within the fourth civil degree either by consanguinity or affinity, by reason of the disclosure made under these Rules. It also includes reprisals against the whistle blower and/or those officials and employees supporting him, or any of his relatives within the fourth civil degree either by consanguinity or affinity, such as forcing or attempting to force any of them to resign, to retire and/or transfer; negative performance appraisals; faultfinding; undue criticism; alienation; blacklisting; and such other similar acts.
- d) **"Privileged Communication"** – A private statement that must be kept in confidence by the recipient for the benefit of the communicator. A conversation that takes place within the context of a protected relationship, such as that of between an attorney and a client. Such communication cannot be disclosed without the consent of the client.
- e) **Administrative Case** – one wherein an official or employee of the Department is formally investigated for an act or omission punishable as an offense under Civil Service Laws; the Administrative Code, and other laws pertaining to Public Officers and Employees.

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- f) **Person Complained of** – refers to the person who is the subject of a complaint but who is not as yet formally charged by the disciplining authority.
- g) **Respondent** – refers to the person who is formally charged by the disciplining authority.
- h) **Investigating Officer/Body** – Any official, employee or committee duly constituted and authorized to conduct the preliminary investigation for the purpose of filing the appropriate formal charges or any other appropriate actions as may be necessary.
- i) **Forum-Shopping** – refers to the filing of an administrative action or complaint before another agency or any tribunal against the same party involving the same acts.

## ARTICLE II SCOPE AND COVERAGE

**Section 4. Scope and Coverage** - These Rules shall apply to all officials and employees of the Department, including the DAR Adjudication Board (DARAB) and the Foreign Assisted Projects Office, who are either occupying third, second or first level position in a permanent, temporary, co-terminus, casual or contractual status.

**Section 5. Nature of the Disclosures** - A whistleblower may disclose or report acts or omissions that are:

- a) Contrary to laws, rules or regulations;
- b) Unreasonable, unjust, unfair, oppressive or discriminatory;
- c) Undue or improper exercise of powers and prerogatives.
- d) Fraudulent and Dishonest Conduct - Examples of such conduct include:
  - i. Forgery or alteration of documents
  - ii. Unauthorized alteration or manipulation of files
  - iii. Fraudulent financial reporting
  - iv. Pursuit of a benefit or advantage in violation of Conflict Of Interest Policy as provided in Code of Conduct for the Officials and Employees of DAR
  - v. Misappropriation or misuse of resources such as funds, supplies, or other assets
  - vi. Authorizing or receiving compensation for goods not received or services not performed
  - vii. Authorizing or receiving compensation for hours not worked
- e) Others such as but not limited to impropriety, procedural loopholes, systems weaknesses, among others.

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**ARTICLE III  
RULES**

**Section 6. *Conditions for Protected Disclosure*** – Whistleblowers shall be entitled to the benefits under these Rules, provided that all the following requisites concur:

- a) The disclosure is made voluntarily, in writing or oral;
- b) The disclosure pertains to a matter not yet the subject of a complaint already filed with, or investigated by this Department, Office of the Ombudsman or any other concerned office; unless, the disclosures are necessary for the effective and successful prosecutions, or essential for the acquisitions of material evidence not yet in its possession;
- c) The whistleblower assists and participates in proceedings commenced in connection with the subject matter of the disclosure;
- d) The whistleblower should have personal knowledge of facts and information covered by the disclosure; and
- e) The information given by the whistleblower contains sufficient particulars and, as much as possible, supported by other material evidence.

**Section 7. *Unprotected Disclosures*** – The following shall not be deemed protected disclosure under these Rules:

- a) Disclosure made by an official or employee of the Department in connection with a matter subject of his official investigation;
- b) Disclosures which later appear to be absolutely groundless or without basis. An investigation maybe declined or discontinued if it is shown that the disclosure was made without reasonable grounds;
- c) Disclosures concerning merits of Office policy;
- d) Absolutely false and misleading disclosures; and
- e) Disclosures that are later retracted by the whistleblower for any reason. Such person shall lose the right to claim benefit or protection under these Rules for the same disclosure and his/her retraction shall be considered in determining whether or not he/she will be admitted as a whistleblower with respect to future disclosures.

A person who makes a disclosure deemed unprotected shall not enjoy any immunity, or any other right or privilege accorded under these Rules.

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**Section 8. Whistleblowing Channels** – The Department encourages its officials and employees to use internal mechanisms for reporting any malpractice corrupt activities committed by its officials and employees for the interest of the organization. However, this does not stop a whistleblower to choose his/her preferred whistleblowing channel and disclose information on wrongdoings to external channels. Only those who shall make use of the internal channels shall be covered with the protection and benefits to be accorded to the whistleblower under Section 9 hereof.

**Section 9. Rights of Whistleblowers** – The rights of the whistleblowers shall be protected as follows:

- a) Protection Against Retaliatory Actions - No administrative action shall be entertained against a whistleblower involving a protected disclosure. As far as practicable, the Department shall likewise extend support in terms of legal assistance for any retaliation and/or action commenced against the whistleblower in relation to his/her protected disclosures;
- b) Defense of Privileged Communication – A whistleblower has the defense of absolute privileged communication in any action against him arising from a protected disclosure he has made; and
- c) No Breach of Duty of Confidentiality – A whistleblower who has an obligation by way of oath, rule or practice to maintain confidentiality of information shall not be deemed to have committed a breach of such duty if he makes a protected disclosure of such information;

**Section 10. Confidentiality** – At all times during and after the protected disclosure, and throughout and after any proceeding taken thereon, the whistleblower is entitled to confidentiality as to:

- (a) His identity;
- (b) The subject matter of his disclosure; and
- (c) The person to whom such disclosure was made.

This confidentiality shall be maintained, except only in the following instances:

- a) The whistleblower consents in writing prior to the disclosure of the information;
- b) The disclosure of the information is indispensable and essential, having regard to the necessary proceedings to be taken after the disclosure; or
- c) The disclosure or referral of the information is made pursuant to an obligation under these Rules.

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The prohibition on disclosure under this Section shall apply to any official or employee of the Department who has become privy to any confidential information, whether officially or by other means.

**Section 11. *Necessity for Testimony*** – Notwithstanding the provisions in the immediately preceding Section, the whistleblower maybe compelled to testify if his testimony is necessary or indispensable to the successful prosecution of any charge arising from the protected disclosure.

**Section 12. *Protection Against Retaliatory Actions*** – A whistleblower who has made or is believed or suspected to have made protected disclosure under these Rules shall not be liable to disciplinary action for making such disclosure. No retaliatory action shall be taken against a whistleblower such as, but not limited to, discriminatory action, including those made under the guise of policy and procedural determinations designed to avoid claims of victimization; reprimand; punitive transfer; referral to a psychiatrist or counselor; undue poor performance reviews; obstruction of the investigation; withdrawal of essential resources; adverse reports; attachment of adverse notes in the personnel file; ostracism; questions and attacks on motives; accusations of disloyalty and dysfunction; public humiliation; and the denial of work necessary for promotion.

Any official or employee of the Department who refuses to follow orders to perform an act that would constitute a violation of this Section shall likewise be protected from retaliatory actions.

The protection shall commence from the time the whistleblower made the protected disclosure in an investigation or testifies in a formal proceedings, if need be, or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. This right may be extended to any member of the family of the whistleblower within the second civil degree of consanguinity or affinity.

**Section 13. *Disclosure Made By a Party to a Misconduct*** – A disclosure made by a person who is himself/herself a party to the disclosed conduct constituting misconduct or wrongdoing, whether as principal, accomplice or accessory, is deemed a protected disclosure under these Rules and such person shall be entitled to the benefits of a whistleblower, provided that:

- a) The whistleblower complies with the conditions under Section 6 hereof;
- b) The whistleblower should not appear to be the most guilty;
- c) The whistleblower has not been previously convicted by final judgment of a crime involving moral turpitude; and
- d) The whistleblower testifies in accordance with his disclosures.

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**Section 14. *Disclosure Made Before Proper Persons*** – Any disclosure-recipients to whom the information is reported shall have the following obligations:

- a) Maintain the confidentiality of the identity of the whistleblower and the subject matter of the disclosure;
- b) Undertake measures to ensure the well-being of the whistleblower;
- c) Report the disclosure in full detail to the IDC, if not reported to them directly, within a period of five (5) days from date of disclosure.

**Section 15. *Obligation to Testify*** – Any official or employee who has personal knowledge of any matter pertaining to a protected disclosure shall, if called upon, have the obligation to testify in any proceedings arising from such protected disclosure.

**Section 16. *Protection of Witnesses*** – Any official or employee who testifies in any proceedings arising from a protected disclosure shall be accorded the same protection against retaliatory actions as provided in Section 12 hereof.

**Section 17. *Recognitions for the Whistleblower*** – The Secretary may elect to accord the whistleblower commendation, acknowledgment, appreciation and/or any other form of recognition/s as may be deemed appropriate.

#### **ARTICLE IV PROCEDURES**

**Section 18. *Procedures in Reporting/ Disclosure of Information***

1. An employee may report/disclose any time with any member of the Integrity Development Committee (Central, Regional and Provincial) or to the Chief of Legal Division at the DAR Regional and Provincial Levels whom he/she is comfortable with his/her concern regarding the malpractice/s witnessed within the Department.

Alternately, to facilitate reporting of suspected violations where the reporter wishes to remain anonymous, a written statement may be submitted to one of the person listed above together with the requisite information including where and when the incident occurred, names and designation of the individuals the alleged malpractice relates to and as much other detail as can be provided. This statement must be supported with the available documentary evidences for the disclosed information and the possible contacts for verification.

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2. A prescribed reporting form (Annex A) shall be accomplished either by the whistleblower or by the disclosure-recipient for documentation purposes.
3. The Disclosure-Recipient shall ask the whistleblower if he/she is willing to sign the said report of the disclosure on malpractice/anomaly. If yes, the whistleblower shall sign the report, otherwise, the Disclosure-Officer shall let the report remained unsigned.
4. Disclosure-Recipients are required to report suspected violations or wrongdoings to the designated Compliance Officer at IDC - DARCO in full detail within a period of five (5) days from date the disclosure.

The report shall be treated with utmost confidentiality and must be promptly and properly investigated.

The flow of procedures in internal reporting of malpractices/anomaly is presented in Annex C.

**Section 19. *Evaluation of the Disclosure*** - Immediately upon receipt of the disclosure, the designated Compliance Officer at the IDC Central, Regional and Provincial Office, shall:

1. Evaluate the disclosure if the same qualifies as protected disclosure under Section 5 of these Rules.

Using Annex B (Evaluation Form), the Compliance Officer shall evaluate the disclosure according to the following criteria:

- a. Significance of the subject matter;
- b. Accuracy of the information contained in the report filed;
- c. Authorities approached and involved;
- d. Treatment, behavior and reputation of the reporter;
- e. Specific law/policy violated and the expected organizational action against the alleged offenders;
- f. Treatment, behavior and reputation of the official/employee under question; and
- g. Objective and perceived outcome of the reporter

To certify as to whether or not a report shall be considered as a protected disclosure shall be made within a period not exceeding three (3) working days from the receipt thereof.

2. Should the disclosure qualify as such, process the protected disclosure in accordance with the applicable provisions of Section 6 hereof.
3. Submit to the IDC an evaluation report, which shall contain, among others, the following:



- 3.1 A statement as to the form and substance of the complaint with the attached Annex B;
- 3.2 The identity and rank of the respondent(s); and
- 3.3 The report and recommended actions to be taken.

**Section 20. *Action on the Complaint/Disclosure***

The IDC shall approve or disapprove the report and recommended action to the disclosure:

1. If the processed disclosure is not meritorious it shall recommend for outright dismissal. The whistleblower shall be notified/advised as to the result/resolution of his/her disclosure;
2. If the disclosure is sufficient for further action as stated under Section 19, it shall be referred to the Legal Service for docketing and raffling the disclosure as complaint in accordance with the Uniform Rules on Administrative Cases (URAC). The whistleblower shall be notified and be given updates on the official action taken.

The flow of procedures in handling of complaints is presented in Annex D.

**ARTICLE V  
REMEDIES AND SANCTIONS**

**Section 21. *Administrative Sanctions*** – Any DAR official or employee who violates the provisions of these rules shall be administratively culpable for violation of Department's reasonable rules and regulations including but not limited to:

1. ***Violations of Confidentiality*** - Who violates the protection of confidentiality of a protected disclosure and of the confidentiality of proceedings.
2. ***Retaliatory Actions*** –Who does, causes or encourages retaliatory actions, as defined in these Rules, against a whistleblower, or persons believed or suspected to be one, and/or those officials and employees supporting him, or any of his relatives within the second civil degree by consanguinity or affinity.
3. ***Failure to Act or Report*** – Failed to report a disclosure under these Rules, or who fails to act thereon or cause an investigation thereof.
4. ***Failure or Refusal to Testify*** – Who fails or refuses to testify or to continue to testify, or who adversely varies his testimony, without just cause, in any proceeding arising from a protected disclosure.



5. *Perjurious Statements* – False and misleading disclosures or statements shall be sufficient ground for the termination of benefits of whistleblower under these Rules, including his immunity from administrative suit.

## ARTICLE VI MONITORING OF ACTION ON THE DISCLOSURE/COMPLAINT

**Section 22.** In order to monitor the effective and efficient implementation of these rules, reporting and monitoring shall be required of the concerned offices/bodies:

1. The Legal Service shall prepare quarterly reports on the number of whistleblowing cases handled and resolved as well as those cases relative to the commission of violation of these Rules. The report shall include a summary of evidence obtained in the course of the investigation; listing of any violation of any law, rule or regulation; and description of the action taken or planned as a result of the investigation such as changes in agency rules, regulations and practices, restoration of any aggrieved employees, disciplinary actions against any employee. The report shall be submitted to the IDC.
2. The Integrity Development Committee (IDC) shall review and submit to the Secretary the quarterly report which shall also be posted at the bulletin board for the information of everyone especially the whistleblowers, but information to be posted is limited only to the subject of the disclosure and status of the case.

## ARTICLE VII FINAL PROVISIONS

**Section 23. *Repealing Clause*** - All Orders, Circulars, Memoranda and other pertinent rules and regulations inconsistent herewith are hereby superseded and/or modified accordingly.

**Section 24. *Effectivity*** - This Memorandum Circular shall take effect within fifteen (15) days after its publication in the Official Gazette.

23 June 2009, Diliman, Quezon City.

  
NASSER C. PANGANDAMAN  
Secretary

Department of Agrarian Reform  
Office of the Secretary



MC - 09 - 00889

FORM 1

Report of  
DAR Official/Employee Malpractices/Anomaly

Name of Complainant:  
Designation :

Contact Information:  
1. Address:  
2. Telephone Number (s):

THIS ALLEGED MALPRACTICE RELATES TO:

Name :  
Designation:

Suspicion Acts of malpractice/ wrongdoing/corruption: (Please provide details)

Have you reported this to other venue?  
• Yes \_\_\_\_\_ Where? \_\_\_\_\_ Status? \_\_\_\_\_  
• No \_\_\_\_\_

Possible contacts for verification:

Please attach any available evidence or supporting documents for the disclosed information.

Information provided by: \_\_\_\_\_ [Optional]  
Signature (Date) [Optional]

Reported to: \_\_\_\_\_  
Signature (Date)  
\_\_\_\_\_  
Position/Designation

**FORM 2**

**EVALUATION FORM**

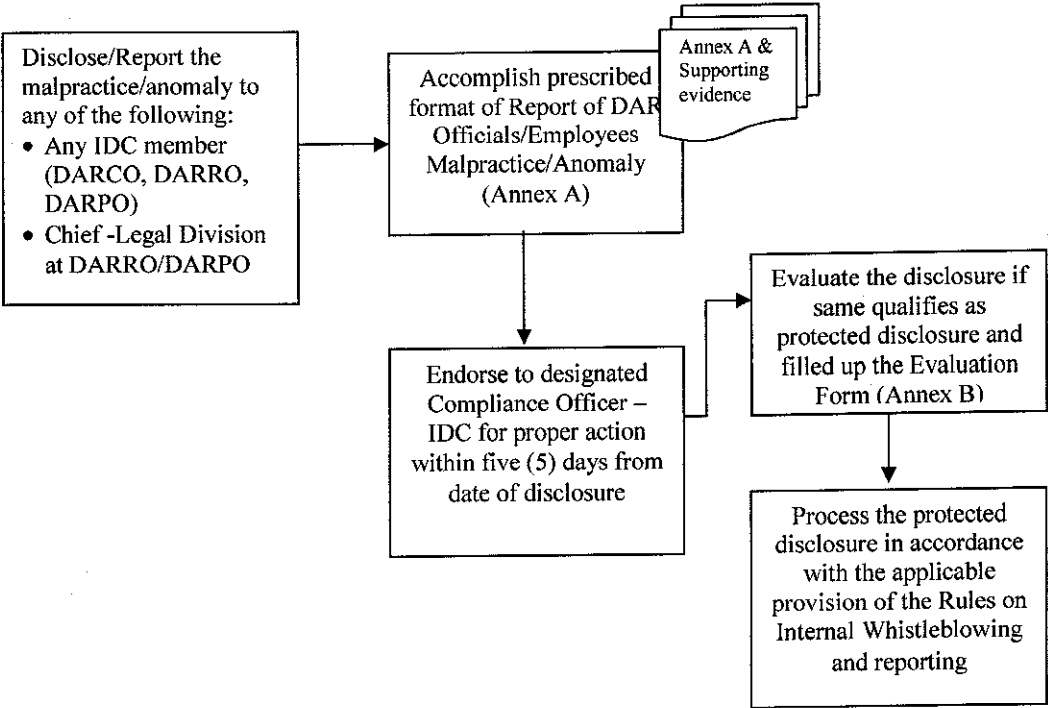
<b>CRITERIA</b>	<b>1</b>	<b>2</b>	<b>3</b>
1. Significance of the subject matter			
2. Accuracy of the information contained in the report			
3. Authorities approached and involved			
4. Treatment, behavior, and reputation of the reporter			
5. Specific law/policy violated and the expected organizational action against the alleged offender/s			
6. Treatment, behavior and reputation of the employee under question			
7. Objective and perceived outcome of the reporter			

**Where:** 1- Relevant/Excellent  
 2 – Moderately Relevant/Moderate  
 3 – Irrelevant/ Poor

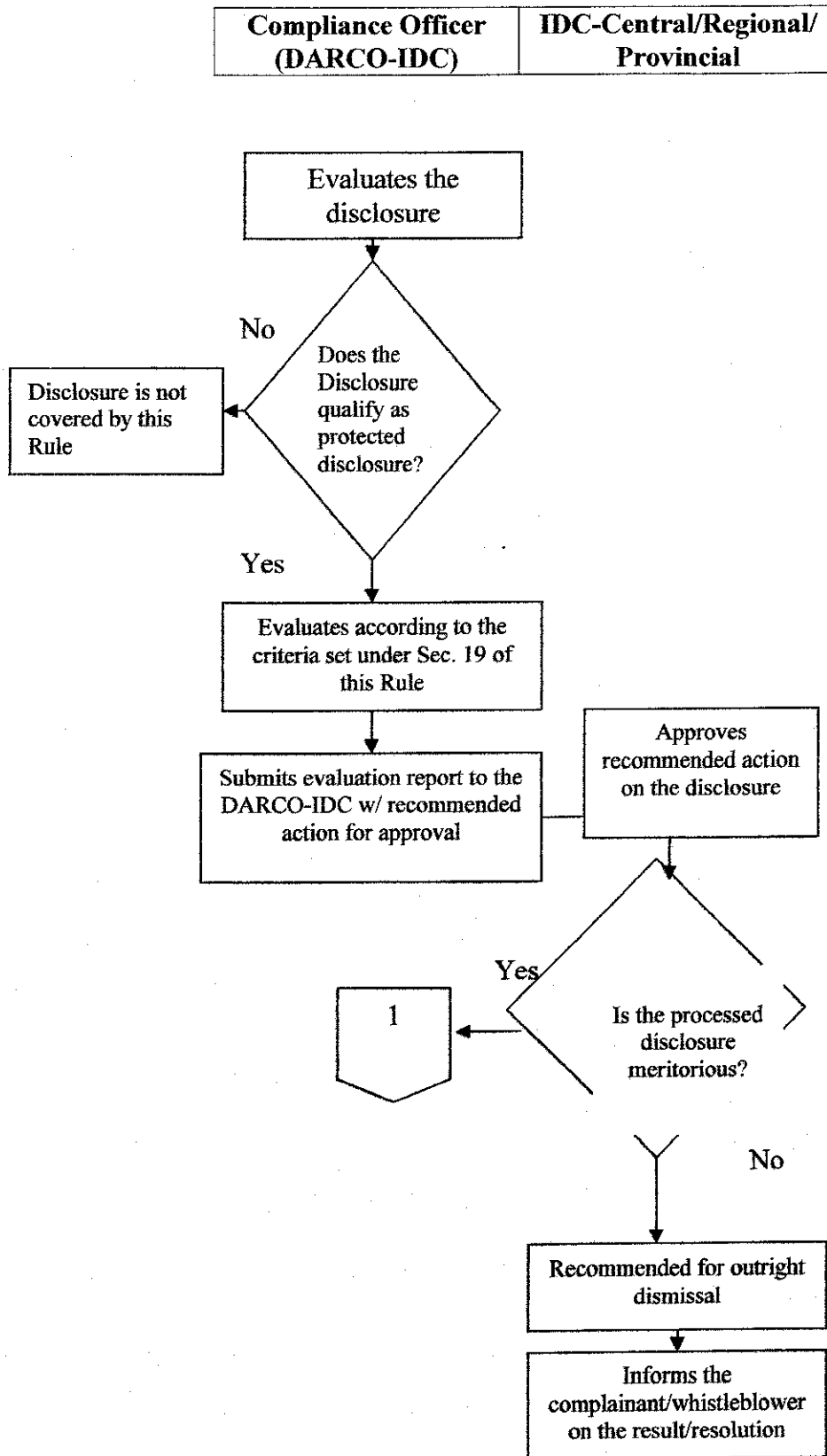
**Remarks:**

Flow of Procedures in Internal Reporting

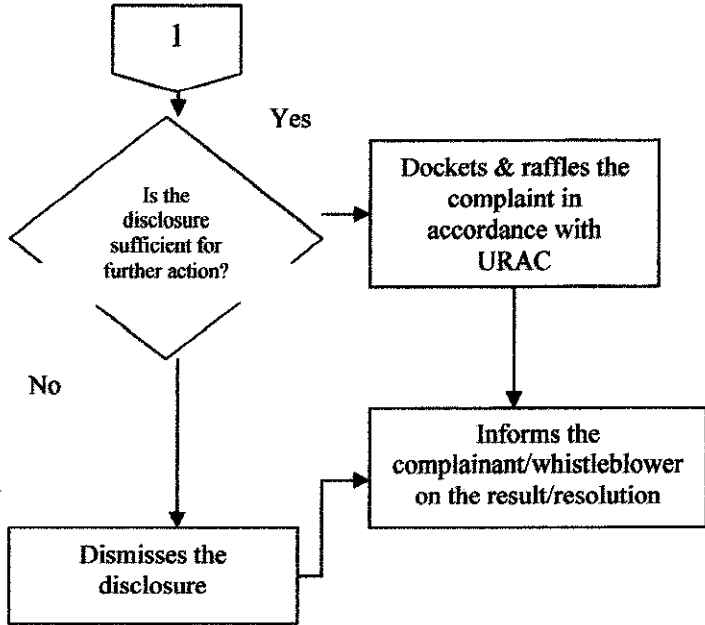
<b>Whistleblower</b>	<b>Disclosure-Recipient</b>	<b>Compliance Officer (IDC-DARCO)</b>
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**Flow of Procedures in Handling of Complaints**



<b>IDC –Central/ Regional/Provincial</b>	<b>Legal Service</b>	<b>Secretary</b>
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Republic of the Philippines  
**DEPARTMENT of AGRARIAN REFORM**

**CERTIFICATION**

This is to certify that Memorandum Circular No. 10, Series of 2009 entitled **“RULES AND REGULATIONS ON INTERNAL WHISTLE BLOWING AND REPORTING”** is published today, Thursday, 25 June 2009 at Philippine Star and Malaya newspapers.

Issued this 25<sup>th</sup> day of June 2009 for whatever purpose it may serve.

  
**NORMA L. PADIGOS**  
Director III, Public Affairs Staff