



128

Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

MEMORANDUM CIRCULAR NO. 6

PROVIDING FOR THE CREATION OF THE ADMINISTRATIVE MACHINERY TO CONDUCT ADMINISTRATIVE CASES AGAINST DAR EMPLOYEES AND PROVIDING FOR THE RULES OF PROCEDURE TO GOVERN PROCEEDINGS THEREIN.

I. DAR BOARDS OF DISCIPLINE:

Pursuant to Presidential Decree No. 807, five (5) DAR BOARDS OF DISCIPLINE (BODs, for brevity) are hereby created.

Each BOD shall be composed of three (3) DAR lawyers to be designated by the Secretary of Agrarian Reform or her authorized representative.

The BOD shall have jurisdiction to hear and recommend to the Secretary action on cases involving administrative complaints against DAR employees.

II. DAR OFFICE OF THE SPECIAL PROSECUTOR

A DAR OFFICE OF THE SPECIAL PROSECUTOR (OSP, for brevity) is hereby created to be composed of DAR lawyers designated by Secretary of Agrarian Reform and such fiscals as may be detailed to DAR by the Department of Justice upon the request of the Secretary of Agrarian Reform.

III. DAR PUBLIC DEFENDER'S OFFICE

A DAR PUBLIC DEFENDER'S OFFICE (PDO, for brevity) is hereby created to be composed of DAR lawyers designated by the Secretary of Agrarian Reform.

The PDO shall conduct, as counsel de officio the defense of DAR employees who do not waive their right to counsel but cannot afford the services of a lawyer.

IV. RULES OF PROCEDURE

The following rules shall govern the investigation of administrative cases against the DAR employees before the BOD.

1. These rules shall be known as the Rules of Procedure of the BOD.

2. The BOD shall not be bound by technical rules of procedure and evidence but shall proceed to hear administrative

cases in the most expeditious manner, employing all reasonable means to ascertain the facts of every case in accordance with justice and equity.

3. Presidential Decree No. 807 and the Rules of Court shall have supplementary application to any matter, issue or incident to which no provision of these Rules specifically apply.

4. All proceedings before the BOD shall be open to the public.

5. The proceedings before the BOD shall commence upon the filing of a complaint with the BOD. Except when the complaint is initiated by the Secretary of Agrarian Reform, no complaint against a DAR employee shall be given due course unless the same is in writing and subscribed and sworn to by the complainant.

Provided, however, that if the Secretary of Agrarian Reform receives from any government agency, an official investigation report or any similar document which alleges acts committed by a DAR employee which would warrant an administrative charge against said DAR employee, she shall immediately initiate the complaint.

6. If on the basis of the complaint, a prima facie case is found not to exist, the BOD shall recommend dismissal of the case to the Secretary of Agrarian Reform or her authorized representative.

7. If a prima facie case exists, the BOD shall furnish the respondent with a copy of the complaint, together with supporting documents, if any.

8. The respondent shall be allowed not less than seventy two (72) hours after receipt of the complaint to answer the charges in writing under oath, together with supporting documents, if any, in which he shall indicate whether or not he elects a formal investigation in case his answer is not considered satisfactory.

9. If the respondent has waived formal investigation, the BOD shall resolve the case based on the pleadings or documents submitted by both complainant and the respondent. However, even if waiver of formal investigation has been made, one shall nevertheless be conducted when from the allegations of the complaint and the answer of the respondent, including the supporting documents, the merits of the case cannot be decided judiciously without conducting such an investigation.

10. The direct evidence for the complainant and the respondent shall consist of the sworn statements and documents submitted in support of the complaint or answer, without prejudice to the presentation of additional evidence deemed necessary but which was not available at the time of the filing of the complaint or answer, upon which the cross-examination by respondent and the complainant, respectively, shall be based.

11. Both the complainant and the respondent may adopt previous testimonies given by witnesses in other official proceedings. Provided, however, that the party against whom the testimony is being offered shall always have the right to cross-examine the witness before the BOD.

12. The respondent and the complainant, may avail themselves of the services of counsel, provided, however, that the counsel of a private complainant shall conduct the prosecution under the control and supervision of the OSP. They may require the attendance of witnesses and the production of documentary evidence through the compulsory process of subpoena and subpoena duces tecum. A party who cannot afford a lawyer shall be given a counsel de officio from among the DAR lawyers.

13. The BOD shall submit their findings and recommendations to the Undersecretary for Legal Affairs for review, within 30 days from termination of its investigation, who, in turn shall inform the Secretary of said findings and recommendations for her action.

This shall take effect immediately.

21 July 1989, Quezon City.


MIRIAM DEFENSOR SANTIAGO
Secretary

SCS/ess