



PCAB RULES OF PROCEDURE

(For Administrative Investigative Proceedings Of Contractors)

Pursuant to the provisions of RA 4566, otherwise known as the Contractors' License Law, the following Rules of Procedure governing administrative investigative proceedings before the Philippine Contractors Accreditation Board are hereby adopted and promulgated:

RULE I

TITLE AND CONSTRUCTION

SECTION 1. TITLE OF THE RULES. –

These Rules shall be known as the **“THE PCAB RULES OF PROCEDURE, FOR ADMINISTRATIVE INVESTIGATIVE PROCEEDINGS OF CONTRACTORS”**

SECTION 2. CONSTRUCTION. –

These Rules shall be construed to carry out the objectives of RA 4566 or the Contractors' License Law, and shall be strictly construed against contractors, to assist the public in obtaining just, expeditious and inexpensive resolution and settlement of their complaints against PCAB licensed contractors.

SECTION 3. SUPPLETORY APPLICATION OF THE RULES OF COURT. –

In the absence of any applicable provision in these Rules, and in order to effectuate the objectives of RA 4566, the pertinent provisions of the Rules of Court of the Philippines may, in the interest of expeditious dispensation of justice and whenever practicable and convenient, shall be applied by analogy or in a suppletory character and effect.

RULE II

DEFINITION OF TERMS

SECTION 1. DEFINITIONS. –

The terms and phrases defined in RA 4566 and its IRR, shall be given the same meanings when used herein.

RULE III
PLEADINGS, NOTICES AND APPEARANCES

SECTION 1. COMPLAINT. –

- a. A complaint or petition is a pleading alleging the cause or causes of action of the complainant or petitioner. The names and addresses of all complainants or petitioners and respondents must be stated in the complaint or petition. The facts of the case and supporting documents proving the cause of action if any, should also be included in the complaint.
- b. A party having more than one cause of action against a contractor, arising out of the same relationship, shall include all of them in one complaint or petition.

SECTION 2. ANONYMOUS AND LETTER COMPLAINTS –

Anonymous and *Letter* complaints shall be entertained only upon the presence of all the following requirements:

- a. The complaint is complete in itself
- b. There is obvious truth or merit to the allegations
- c. The allegations are supported by documentary and/or direct evidence
- d. The allegations may be verified by documents which are readily available for verification

If all the above requirements are present, PCAB shall make an investigation on the matter and require the contractor to comment on the complaint and verified documents available.

Cases arising from an anonymous and letter complaints shall be treated as cases which shall be initiated by PCAB under its investigative powers and post verification processes. The contractor shall be the respondent and PCAB shall be the complainant under its investigative and disciplining powers.

SECTION 3. CAPTION AND TITLE. –

1. In all cases filed, the party initiating the action shall be called the "Complainant" or "Petitioner", and the complained- licensed contractor the "Respondent".

2. Except for anonymous and letter complaints, the full names of all the parties, whether natural or juridical persons or entities authorized by law, shall be stated in the caption of the complaint or petition, as well as in the resolutions of the Board.

SECTION 4. FILING AND SERVICE OF PLEADINGS. –

- a. All pleadings in connection with a case shall be filed in PCAB via the Monitoring and Enforcement Division.
- b. ***Except for the initiatory pleading or complaint***, every party filing a pleading shall serve the opposing party with a copy and its supporting documents.
- c. Except for initiatory pleadings, no pleading shall be considered without proof of service to the opposing parties. Pleadings filed and simultaneously served the other party, during a scheduled hearing set before the PCAB Monitoring and Enforcement Division, shall also be considered.

SECTION 5. SERVICE OF NOTICES, RESOLUTIONS, ORDERS, DECISIONS AND OTHER OFFICE PROCESSES. –

- a. Notices and copies of resolutions, shall be served upon the parties within ten (10) business days from the issuance of the Board Resolution by email, registered mail or by private courier;
- b. In cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected as herein provided.
 - A party to a case or his counsel of record can personally seek service of the decision upon inquiry only upon a written formal request to PCAB addressed to the Monitoring and Enforcement Division.

For purposes of filing Motions for Reconsiderations, the period shall be counted from the receipt of the decision or resolution by the counsel or representative of record.

SECTION 6. APPEARANCES. –

- a. A lawyer appearing for a party should be properly authorized for that purpose and enter his/her formal entry of appearance. In every case, he/she shall indicate in his/her pleadings and motions his/her Attorney's Roll Number, as well as his/her PTR and IBP numbers for the current year and MCLE compliance.

- b. A non-lawyer may appear in any of the proceedings before the PCAB investigating officer but should be properly authorized by the party in writing. *Provided that:* in cases where the party is a corporation, the non-lawyer must be authorized via a notarized certification issued by the board secretary and attested to by the president of the corporation stating that the bearer is authorized to represent the said corporation in said case;
- c. In case of change of address, the counsel or representative shall file a notice of such change, copy furnished the adverse party and counsel or representative, if any.
- d. Any change or withdrawal of counsel or authorized representative shall be made in accordance with the Rules of Court.

SECTION 7. AUTHORITY TO BIND PARTY -

A party's counsel or other authorized representatives of parties shall have the authority to bind their clients in all matters of procedure. They cannot however without a special power of attorney or express consent, enter into a compromise agreement with the opposing party in full or partial discharge of a client's claim.

RULE IV MONITORING AND ENFORCEMENT DIVISION

SECTION 1. ASSIGNMENT OF CASES. –

The PCAB Monitoring and Enforcement Division shall perform the investigative functions for and in behalf of the Board. All complaints and petitions filed with PCAB shall be immediately routed to the Monitoring and Enforcement Division from receipt thereof.

SECTION 2. CONSOLIDATION OF CASES AND COMPLAINTS. –

Where there are two or more cases or complaints involving the same respondent contractor/s with a common principal cause/s of action, or the same parties with different causes of action, the subsequent cases or complaints shall be consolidated with the first to avoid unnecessary costs or delay.

In case an objection is filed against the consolidation, the same shall be resolved by the Monitoring and Enforcement Division noted by the PCAB Executive Director and approved by the BOARD.

An order resolving a motion or objection to consolidation can be appealed only once via a motion for reconsideration, with a prescriptive period of ten (10) days).

SECTION 3. NATURE OF PROCEEDINGS. –

The proceedings before the PCAB Monitoring and Enforcement Division shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law, procedure and the rules obtaining in the courts of law shall not strictly apply thereto.

The investigating officer shall avail of all reasonable means to ascertain the facts of the controversy speedily, including but not limited to clarificatory hearings, witness interview, ocular inspection and examination of well-informed persons.

SECTION 4. ISSUANCE OF SUMMONS. –

Within ten (10) business days from receipt of a complaint or amended complaint, the Monitoring and Enforcement Division shall issue the required summons, attaching thereto a copy of the complaint or amended complaint and its annexes, if any.

The summons shall specify the date, time and place of the initial hearings with two (2) settings. And the instructions for filing their Answer, Explanations and Comments.

SECTION 5. PROHIBITED PLEADINGS AND MOTIONS. –

The following pleadings and motions shall not be allowed and acted upon nor elevated to the BOARD:

- i. Motion to dismiss the complaint;
- ii. Motion for a bill of particulars;
- iii. Motion for new trial;
- iv. Petition for Relief from Judgment
- v. Motion to declare respondent in default;
- vi. Such other pleadings, motions and petitions of similar nature intended to circumvent above provisions

to, an ORDER:

- i. denying a motion to dismiss;
- ii. denying a motion to inhibit;
- iii. denying a motion for issuance of writ of execution; or
- iv. denying a motion to quash writ of execution.
- v. Such other pleadings, motions and petitions of similar nature intended to circumvent above provisions.

SECTION 6. NON-APPEARANCE OF PARTIES. –

- a. The non-appearance of the complainant or petitioner during the settings for hearing scheduled in the summons, despite due notice thereof, shall be a ground for the dismissal of the case without prejudice.
- b. In case of non-appearance by the respondent during the scheduled hearings despite being duly served with summons, he/she shall be considered to have waived his/her right to file its answer and explanation. In such cases, the Monitoring and Enforcement Division shall immediately terminate the proceedings and the Board shall thereupon render its Resolution/Decision on the basis of the evidence on record.

SECTION 7. DETERMINATION OF NECESSITY OF HEARING OR CLARIFICATORY CONFERENCE. –

Immediately after the submission by the parties of their pleadings, the investigation officer shall *motu proprio*, determine whether there is a need for a hearing or clarificatory conference.

At this stage, the investigating officer may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 8. NON-APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS AND CLARIFICATORY CONFERENCES.

- a. The parties and their counsels appearing before the investigating officer of the Monitoring and Enforcement Division shall be prepared for continuous hearing or clarificatory conference. No postponement or motions for continuance shall be allowed, ***except upon meritorious grounds.***
- b. In case of non-appearance of any of the parties during the hearing or clarificatory conference despite due notice, proceedings shall be conducted ex-parte. Thereafter, the case shall be deemed submitted for decision.

SECTION 9. SUBMISSION OF THE CASE FOR DECISION. –

Upon the submission by the parties of their pleadings or replies, or the lapse of the period to submit the same, the case shall be deemed submitted for decision.

SECTION 10. FINALITY OF THE DECISION

If no Motion for Reconsideration is filed within the time provided under this rules, the decision or order of the Board shall become final and executory after ten (10) calendar days from receipt thereof by the counsel or authorized representative or the parties if not assisted by counsel or representative.

SECTION 11. REVIVAL AND RE-OPENING OR RE-FILING OF DISMISSED CASE and LIFTING OF WAIVER. –

A party may file a motion to revive or re-open a case dismissed without prejudice, within ten (10) calendar days from receipt of notice of the order dismissing the same; otherwise, the only remedy shall be to re-file the case.

RULE V EXECUTION OF DECISION/RESOLUTION

SECTION 1. EXECUTION UPON FINALITY OF DECISION OR ORDER.

- a. Upon finality to the resolution or decision as the case may be, the same shall be executed immediately.
- b. Notwithstanding a Motion for Reconsideration, resolutions involving suspension or revocation of licenses shall be immediately executed and the contractor and necessary government agencies shall be informed accordingly. The same resolution and decision shall be reflected in the records of PCAB including the PCAB website.
- c. If a motion for reconsideration is duly perfected and finally resolved, the resolution thereof shall thereafter be immediately executory.

RULE VI ADMINISTRATIVE SANCTIONS

Section 1. IMPOSITION OF PENALTIES.

The Board by authority of RA 4566 may, after hearing, impose the following administrative penalties and fines.

- Revocation and cancellation of license
- Downgrading of license
- Suspension of license
- Blacklisting of Contractor from entering into Govt. Projects

- Fines shall not be less than Five Hundred Pesos (P500.00) nor more than Five Thousand Pesos (P5,000.00) to ensure compliance with decisions, orders or awards.
- Filing of Criminal Action
- Suspension and Blacklisting as STE or AMO

RULE VII EFFECTIVITY

SECTION 1. EFFECTIVITY. -

These Rules shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation.

(signed)
PERICLES P. DAKAY
Chairman

(signed)
ARTHUR N. ESCALANTE
Member

(signed)
FILOMENO H. CASTILLO, Jr.
Member


Attested:



(signed)
HERBERT DG. MATIENZO
Executive Director



(signed)
SERGIE T. RETOME
Board Secretary

CONSTRUCTION INDUSTRY AUTHORITY OF THE PHILIPPINES | PHILIPPINE CONTRACTORS ACCREDITATION BOARD

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