

**CIRCULAR NR 10-12**

**PHILIPPINE COAST  
GUARD CODE OF  
CONDUCT AND  
DISCIPLINE FOR NON-  
UNIFORMED PERSONNEL**

**22 SEPTEMBER 2012**

Department of Transportation and Communications  
PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS  
(Headquarters Philippine Coast Guard)  
139 25<sup>th</sup> Street, Port Area  
Manila

HPCG

C I R C U L A R)  
NUMBER 10-12)

22 September 2012

**PCG CODE OF CONDUCT AND DISCIPLINE FOR NON-UNIFORMED PERSONNEL**

**I. TITLE**

This Circular shall be known as the "PCG Code of Conduct and Discipline for Non-Uniformed Personnel".

**II. AUTHORITY**

Republic Act No. 9993, otherwise known as the Philippine Coast Guard Law of 2009 and its Implementing Rules and Regulations.

**III. REFERENCE**

Revised Rules on Administrative Cases in the Civil Service, December 2011.

**IV. PURPOSE**

This Circular prescribes the rules and regulations which shall govern the conduct, discipline and administrative disciplinary proceeding involving the Non-Uniformed personnel of the PCG.

**V. DEFINITION OF TERMS**

For the purpose of this Code, the following words and phrases shall be defined as:

- 1. Administrative Disciplinary Proceeding-** methods and processes before the PCG Conduct and Discipline Board that are non-litigious in nature and subject to the minimum requirements of administrative due process. The technicalities of law, procedure and evidence shall be liberally applied thereto. Administrative due process is recognized to include: a) the right to notice, be it actual or constructive, of the institution of the proceedings that may affect a person's legal right; b) reasonable opportunity to appear and defend his rights, introduce witnesses and relevant evidence in his favour; c) a board so constituted as to give him reasonable assurance of honesty and impartiality, and one of competent jurisdiction; and d) a finding or decision by that board supported by substantial evidence presented at the hearing, or at least contained in the records or disclosed to the parties affected.
- 2. Administrative Penalty-** disciplinary sanctions imposed by Disciplinary Authority upon erring personnel not resulting to imprisonment.

3. **Board-** pertains to the PCG Disciplinary Board.
4. **Code-**refers to the PCG Code of Conduct and Discipline for the Non-Uniformed personnel of the PCG.
5. **Commanding Officer-** Commanders of major service commands, commissioned vessel, CG Station, installation or Head of office of the HPCG Central staff exercise disciplinary authority over uniformed personnel assigned in their respective units;
6. **Complaint-** a sworn written statement of disciplinary infractions allegedly committed by PCG Non-Uniformed personnel, subscribed by the offended party
7. **Complaint sheet -** is the formal written instrument in which the allegations against the respondent are set forth.
8. **Convening/Appointing Authority-** refers to the Commandant, PCG who has the authority to direct the constitution and convening of PCG Disciplinary Board; likewise referred as the approving authority as to the resolution and recommendation of the PCG Disciplinary Board.
9. **Disciplinary Authority-** persons vested with authority under this Code to impose sanctions for violating the same and provide corrective measures to offenders;
10. **Grave Misconduct-** is the transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence. The misconduct is grave if it involves any of the additional elements of corruption, willful intent to violate the law, or to disregard established rules, which must be established by substantial evidence. As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of established rule, must be manifest in a charge of grave misconduct.
11. **Grave Offense-** those offenses to which this Code attaches the minimum penalty of suspension without pay of six (6) months and one (1) day up to the maximum penalty of dismissal from the PCG service.
12. **Investigation-** an inquiry, for the discovery or collection of facts concerning the matter or matters involved. Black's Law Dictionary defines the word "investigate" as "to examine and inquire into with care and accuracy; to find out by careful inquisition.
13. **Judgment on the Pleadings-** Judgment or resolution of the Board based on the respondent CG non-uniformed personnel's answer or affidavit which fails to tender an issue or otherwise admits the material allegations in the complaint or report.
14. **Less grave offense-** those offenses to which this Code attaches the penalty of **suspension without pay of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense.**
15. **Minor/Light Offense-** those offenses to which this Code attaches the penalty **reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:**

16. **Moral turpitude**- everything which is done contrary to justice, modesty, or good morals; an act of depravity in the private and social duties which a man owes his fellowmen, or to society in general.

17. **PCG Code of Conduct and Discipline**- codified rules and regulations which shall govern the conduct, discipline and administrative disciplinary proceeding involving the Non-Uniformed personnel of the PCG.

18. **PCG Disciplinary Board** - a body composed of PCG Uniformed Personnel and/or Non-Uniformed Personnel, as maybe applicable, designated to hear and decide administrative disciplinary actions filed against PCG Non-Uniformed personnel involving any offenses enumerated in this Code.

19. **PCG Non-Uniformed Personnel**- refers to all Non-Uniformed personnel of the Philippine Coast Guard.

20. **Salary**- covers the basic pay, longevity pay and collateral pay appearing in the Personnel Official Statement of Earnings and Deductions of PCG personnel.

21. **Simple Misconduct**- is the transgression of established rules that does not involve any of the additional elements of corruption, willful intent to violate the law or disregard established rules.

22. **Substantial Evidence**- that amount of evidence which a reasonable mind might accept as adequate to justify a conclusion.

23. **Summary Proceeding**- a proceeding whereby judgment or decisions of the Board are derived based on affidavits and position papers submitted to the Board without the conduct of a trial-type proceeding to achieve an expeditious and inexpensive determination of administrative disciplinary cases. The procedure under the 1991 Revised Rules on Summary Procedure may be applied suppletorily.

24. **Summary Judgment**- Judgment or resolution of the Board based on affidavits, depositions or admissions of respondent CG non-Uniformed personnel, private offended party or witnesses.

25. **Verified Report**- a report verified by a signatory who has read the report and that the allegations therein are true and correct of his personal knowledge or based on affidavits or sworn statement of witnesses and relevant documentary evidence.

## VI. DISCIPLINARY AUTHORITY

A) The Commandant, PCG being the head of the organization, exercises administrative and disciplinary control and supervision over all PCG personnel, Uniformed and Non-Uniformed, alike. The Commandant, PCG may direct the conduct of administrative investigation for disciplinary infractions at his own instance or based on verified reports (those originating from CG-2) or verified complaints of private offended party.

B) The Coast Guard Internal Affairs Service may conduct investigation on alleged disciplinary infractions of PCG Non-Uniformed personnel, at his own instance or as may be directed by the Commandant, PCG or verified complaints by private offended party.

C) The following persons exercise disciplinary authority over PCG Non-Uniformed personnel assigned within their area of responsibility and may direct the conduct of administrative investigation for disciplinary infractions, motu proprio or based on verified reports or verified complaints of private offended party and accordingly impose disciplinary sanctions based on the applicable provisions of this Code.

1) CG District Commanders exercise disciplinary authority over PCG Non-Uniformed personnel within their AOR;

2) Commanders of major service commands, commissioned vessel, CG Station, installation or Head of office of the HPCG Central staff exercise disciplinary authority over uniformed personnel assigned in their respective units;

D) The Commandant, PCG exercises original and concurrent disciplinary authority with the abovementioned PCG personnel in paragraph C.1) and 2) and may, at any instance, take cognizance and direct the CGIAS to assume and take over any ongoing administrative investigation by CG units/services concerned.

## **VII. CLASSIFICATION OF OFFENSES and PENALTIES**

Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the PCG Organization and the government service.

A) The commission of the following GRAVE OFFENSES shall be punishable by Dismissal from the PCG service as maybe determined by the PCG Disciplinary Board.

1. Serious Dishonesty;
2. Gross Neglect of Duty;
3. Grossly immoral conduct. A grossly immoral act is one that is so corrupt and false as to constitute a criminal act or an act so unprincipled or disgraceful as to be reprehensible to a high degree;
4. Grave Misconduct;
5. Being Notoriously Undesirable;
6. Conviction of a crime involving moral turpitude;
7. Falsification of official document;
8. Physical or mental incapacity or disability due to immoral or vicious habits;
9. Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons, or committing acts punishable under the anti-graft laws;
10. Contracting loans of money or other property from persons with whom the office of the employee has business relations;

11. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his/her official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his/her office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;
12. Nepotism; and
13. Disloyalty to the Republic of the Philippines and to the Filipino people.
14. Willful defamatory imputation of any and all circumstances which tend to damage or discredit the image and reputation of the PCG organization.

B) The following grave offenses shall be punishable by **suspension without pay of six (6) months and one (1) day to one (1) year for the first offense and dismissal from the service for the second offense:**

1. Less serious dishonesty;
2. Oppression;
3. Disgraceful and immoral conduct;
4. Inefficiency and incompetence in the performance of official duties;
5. Frequent unauthorized absences, or tardiness in reporting for duty, loafing from duty during regular office hours;
6. Refusal to perform official duty;
7. Gross Insubordination;
8. Conduct prejudicial to the best interest of the service;
9. Directly or indirectly having financial and material interest in any transaction requiring the approval of his/her office. Financial and material interest is defined as pecuniary or proprietary interest by which a person will gain or lose something;
10. Owning, controlling, managing or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by his/her office, unless expressly allowed by law;
11. Disclosing or misusing confidential or classified information officially known to him/her by reason of his/her office and not made available to the public, to further his/her private interests or give undue advantage to anyone, or to prejudice the public interest;
12. Obtaining or using any statement filed under the Code of Conduct and Ethical Standards for Public Officials and Employees for any purpose

contrary to morals or public policy or any commercial purpose other than by news and communications media for dissemination to the general public; and

13. Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his/her office, unless such recommendation or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the function of his/her office.

C) The grave offense of Inefficiency and Incompetence in the performance of official duties is punishable by **Demotion**. In this case, the guilty person shall be appointed to the next lower position to which he/she is qualified in the plantilla of the agency. In case there is no such next lower position available, he/she shall suffer **diminution in salary corresponding to the next lower salary grade**.

D) The following less grave offenses are punishable by **suspension without pay of one (1) month and one (1) day suspension to six (6) months** for the first offense; and **dismissal from the service for the second offense**:

1. Immoral Conduct. Immoral conduct is conduct that is willful, flagrant or shameless, and that shows a moral indifference to the opinion of the good and respectable members of the community.
2. Simple Neglect of Duty;
3. Simple Misconduct;
4. Discourtesy in the course of official duties;
5. Violation of existing Civil Service Law and rules of serious nature;
6. Insubordination;
7. Habitual Drunkenness;
8. Unfair discrimination in rendering public service due to party affiliation or preference;
9. Failure to file sworn statements of assets, liabilities and net worth, and disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households;
10. Failure to resign from his/her position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself/herself of his/her shareholdings or interest in private business enterprise within sixty (60) days from assumption of public office when conflict of interest arises; Provided, however, that for those who are already in the service and conflict of interest arises, the official or employee must either resign or divest himself/herself of said interest within the periods hereinabove provided, reckoned from the date when the conflict of interest had arisen; and

11. Engaging directly or indirectly in partisan political activities by one holding non-political office.

E) The less grave offense of **Simple Dishonesty** is punishable by **suspension without pay of one (1) month and one (1) day to six (6) months for the first offense; six (6) months and one (1) day to one (1) year for the second offense; and dismissal for the third offense.**

F) The following **light or minor offenses** are punishable by **reprimand for the first offense; suspension without pay of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense:**

1. Simple discourtesy in the course of official duties;
2. Improper or unauthorized solicitation of contributions from subordinate employees and by teachers or school officials from school children;
3. Violation of reasonable office rules and regulations;
4. Frequent unauthorized tardiness (Habitual Tardiness);
5. Gambling prohibited by law;
6. Refusal to render overtime service;
7. Disgraceful, immoral or dishonest conduct prior to entering the service;
8. Borrowing money by superior officers from subordinates;
9. Willful failure to pay just debts or willful failure to pay taxes due to the government;
  - a. The term "just debts" shall apply only to:
    1. Claims adjudicated by a court of law, or
    2. Claims the existence and justness of which are admitted by the debtor.
10. Lobbying for personal interest or gain in legislative halls and offices without authority;
11. Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter cases, if there is no prior authority;
12. Failure to act promptly on letters and request within fifteen (15) working days from receipt, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;
13. Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees;



14. Failure to attend to anyone who wants to avail himself/herself of the services of the office, or act promptly and expeditiously on public transactions;
15. Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict with his/her official functions; and
16. Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations.

G) Penalty of Fine –The following are the guidelines for the penalty of fine:

1. Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow payment of fine in place of suspension if any of the following circumstances are present:

When the functions/nature of the office is impressed with national interest such as those involved in maintenance of peace and order, health and safety, education; or

When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and

When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.

2. The payment of penalty of fine in lieu of suspension without pay shall be available in Grave, Less Grave and Light Offenses where the penalty imposed is for six (6) months or less at the ratio of one (1) day of suspension without pay from the service to one (1) day fine; *Provided*, that in Grave Offenses where the penalty imposed is six (6) months and one (1) day suspension without pay in view of the presence of mitigating circumstance, the conversion shall only apply to the suspension without pay of six (6) months. Nonetheless, the remaining one (1) day suspension is deemed included therein.

3. The maximum period to pay the fine shall not exceed one (1) year from the time the decision/resolution becomes final and executory. The conversion of suspension into fine is final and executory and, therefore, not subject of appeal or any other similar relief.

4. The failure of the respondent to pay the fine or part thereof shall cause the reversion to the original penalty of suspension. As such, respondent shall serve the original penalty of suspension imposed, irrespective of the amount he/she has already paid.

5. Fine may be paid in equal monthly installments subject to the following schedule of payment prescribed below:

- a. Fine equivalent to one (1) month salary shall be paid within two (2) months;
- b. Fine equivalent to two (2) months salary shall be paid within four (4) months;
- c. Fine equivalent to three (3) months salary shall be paid within six (6) months;
- d. Fine equivalent to four (4) months salary shall be paid within eight (8) months;

- e. Fine equivalent to five (5) months salary shall be paid within ten (10) months; and
- f. Fine equivalent to six (6) months salary shall be paid within twelve (12) months.

6. The fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory.

H) Mitigating and Aggravating Circumstances. In the determination of the penalties to be imposed, mitigating and/or aggravating circumstances attendant to the commission of the offense shall be considered.

**VIII. CONSTITUTION OF THE PCG DISCIPLINARY BOARD**

A) Appointing Authority/Convening Authority

The Commandant, PCG shall have the power to appoint the members of the PCG Disciplinary Board and direct the convening thereof.

B) The PCG Disciplinary Board shall be composed of not less than five (5) but not more than seven (7) members as follows:

Vice Commandant for Administration	Chairman
Deputy Chief of Staff for HRM/CG-1	Vice-Chairman
Chief, Civilian Affairs	Member
Legal Officer	Law Member
Representative Civilian Supervisory / Rank and File Level	Member

C) Composition. All PCG Non-Uniformed personnel shall be competent to serve in the PCG Disciplinary Board to hear and decide administrative cases of any person or persons who may lawfully be brought before such Board.

D) When appointing the membership of the Board, the Commandant, PCG shall detail as members those PCG Non-Uniformed personnel of the Command who, in his opinion, are best qualified for the duty by reasons of seniority, geographical assignment (Manila/Cavite Area) training experience and judicial temperament. No person shall sit as member of the Board when he is the offended party or witness for or against the respondent.

The Vice Commandant for Administration shall sit as the Chairman of the PCG Disciplinary Board.

E) The Commandant, PCG shall detail as one of the members thereto a law member, who shall be an Officer of the Coast Guard Legal Service or an Officer of other PCG units/service who is a member of the Philippine bar and certified by the Commander, Coast Guard Legal Service to be qualified for such detail.

F) Secretariat. The members of the Secretariat shall be selected from the PCG Non-Uniformed personnel of the organization as may be recommended by the Chief, Civilian Affairs and approved by the Commandant, PCG. The Head Secretariat shall have the power to issue subpoena and subpoena duces tecum as directed by the Chairman of the PCG Disciplinary Board.

In addition to its other duties, the Head Secretariat shall also prepare and submit to the Chairman a monthly status report on the cases and activities of the Board.

G) Tenure. The duly designated and appointed members of the Board shall serve for a term of two (2) years unless sooner relieved by the Commandant, PCG. During their term of office, the Board shall conduct a regular meeting to be held once every month.

The outgoing members of the Board shall have the duty to ensure the appropriate disposition of all administrative cases forwarded to it upon the expiration of their term of office.

H) Jurisdiction of the PCG Disciplinary Board.

The Board shall have the power to hear and try the disciplinary administrative cases against PCG Non-Uniformed personnel for any violations of this Code.

I) Jurisdiction not Exclusive. The provisions of this Code conferring jurisdiction upon the PCG Disciplinary Board shall not be construed as depriving other tribunals or civil courts of concurrent jurisdiction in respect of Offenders or offenses that by statute or by law may be tried by such tribunals or courts

#### **IX. SUMMARY PROCEDURE IN ADMINISTRATIVE DISCIPLINARY CASES FORWARDED TO THE PCG DISCIPLINARY BOARD**

A) A disciplinary action maybe commenced upon endorsement by the Commandant, PCG, a verified report from PCG Units or complaint by private offended party. However, the Board shall only act upon Investigation Reports which are duly approved by the Commandant, PCG.

B) Within five (5) days from receipt of the CPCG directive, the Board shall meet and convene to evaluate the Investigation Report and discuss the possibility of simplification of issues, admissions of facts, limitations on witnesses, propriety of rendering judgment on the pleadings, summary judgment or of dismissing the action on valid grounds, or necessity of suspending the proceedings or such other matters intended to expedite the disposition of the case.

C) Upon convening, the Board shall immediately issue a directive requiring the erring PCG Non-Uniformed personnel to submit to the Board his Answer stating therein his defenses or justification, if there be any, on the finding of violation of rules and regulations or commission of any offenses under this Code allegedly committed by the respondent based on the Investigation Report. The respondent's answer shall be submitted to the Board within ten (10) days from receipt thereof.

D) Within five (5) days from receipt of the Answer or the lapse of the prescribed period to submit the Answer, the Board motu proprio shall then meet to proceed with the disposition of the administrative case and render their resolution and recommendation based on the Investigation Report, Answer of the respondent and/or available evidence.

E) The Board, in the exercise of its discretion, may conduct a summary hearing within five (5) days from the receipt of the Answer to call on the respondent or any witnesses for clarificatory questioning. On the other hand, the Board, in its discretion, may approve the request of the respondent to conduct a summary hearing to allow the latter to examine or refute the evidence against him.

At any time during the proceeding, the respondent may be assisted by a private counsel of his own choice such that during clarificatory questioning by the Board, the respondent may confer with his private counsel before answering. However, during confrontation or examination of witnesses, the respondent shall direct all his questions to the

Board. The Board upon determination of the relevance and materiality of the respondent's questions shall then propound the same to the witnesses.

The Legal Officers of the PCG are prohibited from representing the erring PCG Non-Uniformed personnel before the Board.

F) All the questions and answers by the parties summoned before the Board during the summary hearing shall be directed to the Board for determination of its materiality and relevance.

G) In the event of a summary hearing, the Board shall require the respondent to submit his position paper within five (5) days from the termination thereof. The respondent shall specify in his position paper all his available defences and grounds for exoneration. The refusal or failure of the respondent to submit his position paper when directed to shall constitute a waiver on his part to present any additional evidence and shall be cause for the Board to render its resolution and recommendation based on the pleadings or evidence gathered.

I) The failure or refusal of the respondent to appear before the Board when duly summoned thereto for clarificatory questions shall constitute a waiver on his part to present additional evidence and shall be cause for the Board to render its resolution and recommendation based on the pleadings or evidence gathered.

J) Within seven (7) days from receipt of the position paper or the lapse of the given period to submit the same, the Board shall render its resolution and recommendation based on the pleadings or evidence gathered for submission to the Commandant, PCG.

K) Effect of Death— Death of the respondent during the pendency of the investigation terminates the administrative case and has the effect of exoneration.

#### **X. GUIDELINES FOR THE PCG DISCIPLINARY BOARD**

A) Upon receipt of the directive to hear an administrative case, the PCG Disciplinary Board shall immediately convene to discuss the internal rules to be observed by the Board during the proceedings and other matters which may be taken up thereon. The Secretariat shall ensure that minutes of the meetings or hearing of the Board are reduced into writing and signed by all the members of the Board.

B) The Board shall then fix the schedule of meetings and hearings avoiding unnecessary delays in order to facilitate the expeditious disposition of the administrative case. The Chairman of the PCG Disciplinary Board, through the Secretariat, shall immediately cause the issuance of summons for the parties involved.

C) The Chairman of the PCG Disciplinary Board shall preside over the scheduled meetings and hearings of the Board. The Chairman may designate any member of the Board to preside over the meeting or hearing.

D) A majority of the members shall constitute a quorum for the Board to convene in a meeting or hearing and the decision of the majority of the members present at a meeting or hearing at which there is a quorum shall prevail.

E) Any person called to attend the Board meeting or hearing shall be directed to take an Oath or Affirmation before the Board may propound any clarificatory questions based on the affidavits, depositions and any other available evidence.

A duly authenticated deposition may be read in evidence before the Disciplinary Board in any case, if the witness, by reason to age, sickness, body infirmity, imprisonment, or other reasonable cause is unable to appear and testify in person at the place of trial or hearing

F) Members of the PCG disciplinary Board may be challenged by the respondent for valid or just cause stated to the Board. The Board shall determine and rule on the relevancy and the validity of the challenges. The ruling of the Board on the validity of challenges shall be deemed final and not subject to appeal.

G) After careful evaluation of the Investigation Report, Answer, Position paper and any other evidence, the Chairman shall immediately call for a Board meeting to vote on the determination and disposition of the administrative case. The Chairman shall call upon each member of the Board to state his/her vote and the reasons thereto starting from the most junior member present. The Chairman shall be the last member to state his/her vote and the reasons thereto.

H) The members of the Board shall confer and discuss among themselves the determination and disposition of the administrative case based on substantial evidence gathered in the course of the proceeding in order to come up with a Resolution and recommendation as a collegial body.

I) The vote of the majority of the members present in the hearing or meeting with a quorum shall prevail. The Chairman shall endeavour to take just and possible means to come up with a final resolution of the Board in cases where the votes result to a tie.

J) The Chairman may designate any member of the Board to reduce into writing the Resolution and Recommendation of the Board. A member of the Board may affix his/her dissenting opinion to the final resolution of the Board. Each member of the Board shall thereafter affix their signature to the Resolution before submitting the same to the Commandant, PCG for approval.

K) The Secretariat of the PCG Disciplinary Board shall keep a record of the entire proceeding and a copy of the pertinent documents thereto. The original records of the proceedings shall then be forwarded to the Commandant, PCG. All records of such proceedings shall be transferred to the Office of the PCG Disciplinary Board.

L) The Secretariat shall provide the Office of the DCS for HRM, CG-1 a copy of the penalty imposed upon erring PCG personnel which shall form part of the 201 file and/or unit punishment book.

## **XI. RESOLUTION AND RECOMMENDATION OF THE PCG DISCIPLINARY BOARD**

A) Within thirty (30) days from receipt of the answer and position paper or the expiration of the period for filing the same, the Board shall issue its resolution and recommendations which contains a brief statement of the facts, rule or regulation violated or offenses committed, a discussion on the findings of the Board, evidence and basis of recommendations.

B) The resolution and recommendation of the PCG Disciplinary Board shall be subject to the approval of the Commandant, PCG.

C) The Commandant, PCG, in the exercise of his discretion, may approve, disapprove, vacate or modify the resolution and/or the recommendation of the PCG Disciplinary Board.

1. The decision of the Commandant, PCG confirming the resolution and recommendations of the PCG Conduct and Discipline shall be deemed final and executory. The said decision shall put an end to the administrative proceeding.
2. The Commandant, PCG may vacate the resolution and/or the recommendation of the Board and /or impose lesser or greater administrative disciplinary sanctions which he may deem appropriate.

D) The Commandant, PCG may at his discretion forward the Resolution of the PCG Disciplinary Board to the Coast Guard Legal Service for Comment before rendering decision on said Resolution. The Coast Guard Legal Service shall submit its Comment to the Commandant, PCG within seven (7) days from receipt thereof.

## **XII. APPROVING/CONFIRMING AUTHORITY**

A) The Commandant, PCG shall have the authority to approve and confirm the resolution and recommendations of the PCG Disciplinary Board to dismiss or separate from the PCG service an erring PCG Non-Uniformed personnel.

B) The CPCG approved Resolution of the PCG Disciplinary Board shall be immediately executory pending appeal before the Commission. An appeal shall not interrupt the execution of the administrative sanctions imposed.

C) Service of Sanctions. The erring PCG Non-Uniformed personnel shall immediately serve the administrative sanction pending appeal until the CPCG approved Resolution appealed from is amended, mitigated or vacated by the Commandant, PCG.

## **XIII. MOTION FOR RECONSIDERATION**

A) Within fifteen (15) days from receipt of the Resolution of the disciplining authority, the PCG non-uniformed personnel who deemed himself aggrieved thereof may file a Motion for Reconsideration with the same disciplining authority on the ground of insufficiency of evidence or that the Resolution and/or recommendation of the disciplining authority is contrary to law.

B) The Motion for Reconsideration shall be resolved by the disciplining authority within fifteen (15) days from receipt thereof.

C) No second motion for reconsideration shall be allowed.

## **XIV. APPEAL**

A) The CPCG approved Resolution of the PCG Disciplinary Board may be appealed within fifteen (15) days from receipt thereof by the respondent. Any appeal made beyond the prescriptive period stated herein shall not be entertained.

B) The notice of appeal shall be filed with the Office of the Commandant, PCG. The notice of appeal shall specifically state the date of the Resolution and recommendations appealed from and the date of receipt thereof. Failure to do so may cause the dismissal of the appeal. It shall also specifically set forth clearly the grounds relied upon.

C) The Coast Guard Legal Service as directed by the Commandant, PCG shall review all cases forwarded to it on appeal. The review of the case by the Coast Guard Legal

Service shall be submitted to the Commandant, PCG within fifteen (15) days from receipt thereof.

#### **XV. ACTION BY DISCIPLINARY AUTHORITIES**

A) Preventive Suspension. Preventive suspension is not a penalty. It is designed merely as a measure of precaution so that the official or employee charged may be removed from the scene of his/her alleged misfeasance/malfeasance/nonfeasance while the same is being investigated. The proper disciplining authority may preventively suspend any non-Uniformed personnel under his authority pending an investigation, if the charge against such personnel involves dishonesty, oppression or grave misconduct or neglect in the performance of duty or if there are strong reasons to believe that the respondent is administratively liable which would warrant his dismissal from the service.

The period within which a non-uniformed personnel is preventively suspended which shall not exceed ninety (90) days, shall not be considered part of the actual penalty of suspension imposed on an employee.

B) In lieu of preventive suspension, the disciplining authority, at his option, may seek the relief and re-assignment of the respondent to other units of the organization during the conduct of the administrative proceeding.

#### **XVI. DISCIPLINARY POWERS OF COMMANDING OFFICERS**

A) Commanders of major service commands, commissioned vessel, CG Station, installation or Head of office of the HPCG Central staff exercise disciplinary authority over uniformed personnel assigned in their respective units, may, for minor/light offenses, impose disciplinary punishments upon PCG Non-Uniformed personnel of his unit/office without the intervention of the PCG Disciplinary Board.

B) A cause of action in administrative disciplinary proceeding is an act or omission which violates the Command policy on the conduct and discipline of PCG Non-Uniformed personnel prescribed herein. At the instance of a private offended party, a disciplinary action maybe commenced against a PCG Non-Uniformed personnel through a complaint which is the sworn written statement of disciplinary infractions allegedly committed by PCG Non-Uniformed personnel. The complaint shall be duly subscribed to by the private offended party and shall contain the following:

1. Full name and address of the complainant;
2. Full name and address of the PCG Non-Uniformed personnel complained of and present CG assignment;
3. A brief narration of the acts or omissions of PCG Non-Uniformed personnel which constitutes disciplinary infractions;
4. Documentary evidence and affidavits of witnesses, if any; and
5. Certification of Non-Forum Shopping. Forum shopping is defined as an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for *certiorari*.

The complainant or offended party shall be deemed a witness against the erring PCG Non-Uniformed personnel upon commencement of the administrative case.

The withdrawal of the complaint by the offended party does not automatically result in its outright dismissal or exoneration of the PCG Non-Uniformed personnel complained of from any administrative disciplinary liability.

No anonymous complaint shall be entertained unless supported by relevant documentary or direct evidence, in which case the person complained of maybe required to comment.

C) Upon receipt of verified reports and/or complaints, the Commanding Officer shall require the PCG Non-Uniformed personnel complained of to submit a Counter-Affidavit/Comment under oath within ten (10) days from receipt thereof. The disciplining authority may designate an Investigating Officer to obtain the sworn statement of the respondent and submit a report based on available evidence.

D) The disciplining authority, at his own instance, shall proceed with the disposition of the administrative case on the basis of the report/complaint and available evidence upon failure or refusal to answer by the respondent within the given time.

E) Any Commanding Officer/Head of office may impose the following disciplinary punishment, as appropriate:

1. Admonition
2. Reprimand
3. Suspension for one (1) day to one (1) month without pay

F) The imposition and enforcement of disciplinary punishment under authority of this Title for any act or omission shall be final and executor.

G) The imposition of disciplinary punishment under this Title shall not be a bar to trial by the PCG Disciplinary Board for an offense growing out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be shown by the respondent and when so shown shall be considered by the Board in determining the measure of punishment to the adjudged in the event of a finding of administrative liability.

H) The PCG Non-Uniformed personnel adversely affected by the Resolution of the Commanding Officer in this Title may file an appeal when the issue raised is violation of due process.

## **XVII. LIMITATIONS UPON PROSECUTIONS**

No person subject to this Code shall be tried or punished by the PCG Disciplinary Board for any offense committed more than two years from the date of the discovery of the offense provided that the absence of the respondent from the jurisdiction of the philippines shall interrupt the running of the period prescribed herein.

The filing of injunction (temporary restraining order) cases with the regular courts or tribunal or any other delay in bringing an administrative action to the PCG Disciplinary Board caused by the respondent shall be excluded in computing the period of limitations.

The filing of Injunction (restraining order) cases with the regular courts or other tribunal.



**XVIII. OTHER LEGAL ACTIONS**

The Command may further employ or pursue such other civil and criminal actions as provided for under existing laws.

**XIX. BUDGET ALLOCATION**

The Command through the DCS of HRM, CG-1 shall allocate funds to defray the necessary expenses of the PCG Disciplinary Board.

**XX. REPEALING CLAUSE**

All rules and/or regulations or portion thereof inconsistent with the provisions of this circular, are hereby repealed or modified accordingly.

**XXI. SEPARABILITY CLAUSE**

If, for any reason a provision, or part hereof shall be declared illegal; the validity of the other provisions shall not be affected by such declaration.

**XXII. EFFECTIVITY**

This Circular shall take effect fifteen (15) days after its publication by the Coast Guard Adjutant.

**BY COMMAND OF VICE ADMIRAL TAN, PCG:**

**OFFICIAL:**

**AARON T RECONQUISTA  
COMMO                      PCG  
Chief of Coast Guard Staff**

  
**ALGIER D RICAFRETE  
LCDR                      PCG  
Coast Guard Adjutant**

*10/16/12  
A.*