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1.0 POLICY STATEMENT

Consistent with the John Hay Management Corporation's (JHMC) Mission and Vision, it shall promote discipline among employees in order to maintain productive, safe and pleasant working conditions.

Every employee shall at all times adhere to laws, policies, rules, and regulations as well as comply with competency/performance standards to ensure proper decorum and maintain the Company's quality management system.

Additionally, as employees of a government-owned-and-controlled corporation, employees occupy positions of public trust and thus, must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, honesty and efficiency, act with patriotism and justice.

2.0 OBJECTIVES

- 2.1. To establish a Company policy relative to employee discipline and proper decorum.
- 2.2. To apprise employees on the corresponding penalties for offenses and violations of the Code of Discipline; and,
- 2.3. To outline and clarify the procedure for disciplinary action.

3.0 IMPLEMENTING GUIDELINES

3.1. APPLICABILITY

This policy shall apply to all incumbent employees regardless of rank/level and status of employment.


3.2. PROCEDURE IN HANDLING DISCIPLINARY ACTION

- 3.2.a. Any complaint against an employee shall be filed in writing by the aggrieved party or informant with the Human Resource Services Division (HRSD). The complaint may be through a letter, an email, a report or any correspondence.

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- 3.2.b. Within five (5) days from receipt of the complaint, the HR Manager shall verify the factual antecedents and/or statements in the complaint, letter, email or report. The HR Manager may require additional documents from the complainant or informant in support of the complaint.

If there is substantial evidence to warrant disciplinary action, the HR Manager shall issue a Notice to Explain (NTE) to the concerned employee. Otherwise, the HR manager shall dismiss the complaint for lack of substantial evidence.

However, the HR Manager may moto proprio issue a Notice to Explain to an employee for violations of the policy on attendance, timekeeping, wearing of uniforms or corporate attire and wearing of identification cards without the need of any written complaint.

- 3.2.c. The concerned employee shall submit his/her written explanation/answer to the NTE:
- a. Within ten (10) calendar days from receipt of the NTE for violation/s with penalties of suspension.
 - b. Within fifteen (15) calendar days from receipt of the NTE for violation/s with penalties of termination.
- 3.2.d. The HR Manager and Legal Manager shall assess and evaluate the nature of the complaint. It shall include, but not limited to, the complaint, NTE, reply to the NTE or explanation and other available documents. The HR Manager and Legal Manager may require additional documents from the concerned employee in support of his/her defense.


A random replacement of equivalent rank shall be appointed by the Vice President and COO (VPCOO) or the President and CEO (PCEO), as the case maybe, where the HR Manager or the Legal Manager is the complainant, informant or the one allegedly involved in the complaint.

The HR Manager and Legal Manager shall submit their report within ten (10) calendar days from receipt of the reply to the NTE or explanation of the concerned employee with their recommendations either, (1) dismissing the complaint for lack of factual basis; or (2) imposing a penalty corresponding to the prescribed penalty for a specific offense as listed in Section 5.0 of the COD:

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a. For violations with penalties of suspension:

The HR Manager and Legal Manager shall submit their report to the VPCOO for approval, or to the PCEO if the VPCOO is the complainant.

The VPCOO shall assess and evaluate the report. Based on his/her assessment, he/she may adopt or modify the recommendation(s) of the HR Manager and Legal Manager.

The VPCOO shall notify the concerned employee of Management's decision within fifteen (15) days from receipt of the report.

b. For violations with penalties of termination:

The HR Manager and Legal Manager shall submit their report to the PCEO or to the VPCOO, if the PCEO is the complainant.

The PCEO shall assess and evaluate the report. Based on his/her assessment, he/she may adopt or modify the recommendation(s) of the HR Manager and Legal Manager.

However, if a thorough investigation of the matter is deemed necessary, an Investigation Committee (IC) may be convened by the PCEO to conduct such investigation, through the issuance of a Special Order (SO).

The PCEO shall notify the concerned employee of Management's decision within fifteen (15) days from receipt of the report of the HR Manager and Legal Manager or from receipt of the report of the IC as the case may be.


For penalties of termination, the concerned employee may submit a Motion for Reconsideration to the PCEO within fifteen (15) calendar days from receipt of the Management's decision.

After the PCEO has acted on the Motion for Reconsideration with finality, if there is one, the PCEO should submit a report to the Board for information.

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3.2.e. *The IC shall be composed of the following:*

1. Vice President and COO
2. Human Resource (HR) Officer
3. Assistant Legal Manager (ALM)
4. One Department Manager (random)¹
5. One Rank and File (random)²

e.1. For Items 4 and 5, the random members shall not come from the department or division where the employee is assigned under the Table of Organization (TO).

e.2. Where the HR Officer or the ALM is the complainant, informant or the one allegedly involved in the complaint, a random replacement of equivalent rank shall be appointed.

e.3. Where the VPCOO is the complainant, informant or the one allegedly involved in the complaint, a random Department Manager shall be appointed as his/her replacement.

e.4. Request/s for inhibition with regard to membership in the IC for justifiable/valid reasons shall be subject to the approval of the PCEO or VPCOO, as the case may be, who shall likewise appoint a random replacement of equivalent rank.

3.2.f. The IC shall convene and submit its report within fifteen (15) days from receipt of the SO. Extension to submit the report may be allowed only once for a maximum of ten (10) days, subject to the approval of the PCEO or VPCOO, as the case may be.

f.1. The IC shall be governed by the following rules:

f.1.1 The IC shall act as a collegial body. Hence, the IC shall convene to conduct the investigation of a case brought to it by Management provided there is a quorum.

f.1.2 If a hearing is scheduled, the IC shall notify the concerned employee of the date, time and place of such hearing through a written notice personally served to the said


¹ A random member of the IC shall be chosen through raffle whereby the PCEO or VP-COO, as the case maybe, shall pick a name from a secured box containing the names of all eligible employees (Department Managers or Rank and File employees), to be witnessed by the LD Manager, HRSD Manager and the PCEO or VP-COO, as the case maybe.

² Ibid.

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employee. If personal service is impracticable, registered mail with return card and private courier may be done.

- f.1.3 The concerned employee may be assisted by his/her counsel and shall be given opportunity to respond to the charge, present his evidence, or rebut the evidence presented against him/her.
- f.1.4 Failure of the employee to appear during the scheduled hearing despite due notice shall be deemed a waiver on his/her right to be heard. Hence, the IC shall decide the case based on the evidence submitted for its consideration.
- f.1.5 Request for resetting of the previously scheduled hearing shall be in writing and shall be served to the IC or to the concerned employee, as the case may be, at least two (2) days before the previously scheduled hearing. Requests for resetting of previously scheduled hearing shall be allowed only once.
- f.2. Pending investigation of the case, the employee may be placed under preventive suspension³.
- f.3. Withdrawal of the complaint at any stage of the proceedings shall not preclude the IC from conducting its investigation and submitting its report.
- f.4. Notwithstanding the imposition of a penalty for violation of the Code of Discipline, the Company is not precluded from filing a criminal and/or civil case against the concerned employee.


³ The Company may place the employee concerned under preventive suspension if his/her continued service or presence in the Company would pose a serious and imminent threat to life or property of the Company or of his/her co-employees, or to temporarily remove the respondent employee from the scene of his/her misfeasance or malfeasance and to preclude the possibility of exerting undue influence or pressure on the witnesses against him or tampering of documentary evidence on file with his/her Office. (Labor Code; G.R. No. 189171, June 3, 2014)

No preventive suspension shall last longer than thirty (30) days. The Company shall thereafter reinstate the employee in his former or in a substantially equivalent position or the Company may extend the period of suspension provided that during the period of extension, the Company pays the wages and other benefits due to the employee. In such case, the employee shall not be bound to reimburse the amount paid to him during the extension if the Company decides, after completion of the hearings to dismiss the employee. (Omnibus Rules Implementing the Labor Code Sec. 9 Rule XII).

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- 3.2.g. Management’s decision through the PCEO or the VPCOO shall be final and executory.
- 3.2.h The Company reserves the right to impose a higher or lower penalty than what is specified in the List of Offenses with Penalties, if the damage caused and the aggravating and/or mitigating circumstances attending its commission is warranted.
- 3.2.i. The Company is not precluded to act on cases previously committed, provided that, the complaint was submitted for action within thirty (30) calendar days from the date of discovery or knowledge of the same.
- 3.2. j Within a two (2)-year period, progressive penalties or penalties of increasing gravity shall be imposed to successive violations of the same rule other than those which warrant immediate dismissal.

4.0 DEFINITION OF TERMS


For purposes of consistency, the following terms are defined as they are used in 5.0

Grave Misconduct	<p>Misconduct is defined as the “transgression of some established and definite rule of action, a forbidden act, willful in character, and implies wrongful intent and not mere error in judgment.”</p> <p>For serious misconduct to be a valid ground for termination of employment, the following elements must be present:</p> <ol style="list-style-type: none"> 1. The misconduct must be serious; 2. It must relate to the performance of the employee’s duties; and, 3. Must show that the employee has become unfit to continue working for the employer; and 4. It must be performed with wrongful intent.
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Gross Neglect of Duty	<ul style="list-style-type: none"> Implies the want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It evinces a thoughtless disregard of the consequences without exerting any effort to avoid them. Denotes a flagrant and culpable refusal or unwillingness of a person to perform a duty
Simple Neglect of Duty	The failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference.
Dishonesty	<p>Dishonesty has been defined "as the 'disposition to lie, cheat, deceive, betray or defraud; untrustworthiness, lack of integrity in principle; lack of fairness and straightforwardness.</p> <ul style="list-style-type: none"> The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of <u>Serious Dishonesty</u>: <ul style="list-style-type: none"> a. The dishonest act causes serious damage and grave prejudice to the government. b. The respondent gravely abused his authority in order to commit the dishonest act. c. Where the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he/she is directly accountable and the respondent shows an intent to commit material gain, graft and corruption. d. The dishonest act exhibits moral depravity on the part of the respondent. e. The respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment. f. The dishonest act was committed several times or in various occasions. g. Other analogous circumstances. The presence of any one of the following attendant circumstances in the commission of the dishonest act would constitute the offense of <u>Less Serious Dishonesty</u>:

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	<p>a. The dishonest act caused damage and prejudice to the government which is not so serious as to qualify under the immediately preceding classification.</p> <p>b. The respondent did not take advantage of his/her position in committing the dishonest act.</p> <p>c. Other analogous circumstances.</p> <ul style="list-style-type: none"> • The presence of any of the following attendant circumstances in the commission of the dishonest act would constitute the offense of <u>Simple Dishonesty</u>: <ul style="list-style-type: none"> a. The dishonest act did not cause damage or prejudice to the government. b. The dishonest act had no direct relation to or does not involve the duties and responsibilities of the respondent. c. That the dishonest act did not result in any gain or benefit to the offender. d. Other analogous circumstances.
Moral Turpitude	Includes everything which is done contrary to justice, honesty, modesty or good morals. The inherent nature of the act is such that it is against good morals and the accepted rule of right conduct.
Oppression	<p>A demeanor committed by a public officer, who under color of his/her office, wrongfully inflicts upon any person any bodily harm, imprisonment or other injury.</p> <p>Imports an act of cruelty, unlawful exaction, domination or excessive use of authority.</p>
Disgraceful and immoral Conduct	An act which violates the basic norm of decency, morality and decorum abhorred and condemned by the society. It is that conduct which is willful, flagrant or shameless, and which shows a moral indifference to the opinions of the good respectable members of the community.

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Insubordination	For insubordination to be considered as gross, the concurrence of three (3) elements must be present: <ol style="list-style-type: none"> 1. Reasonableness and lawfulness of the order or directive; 2. Sufficiency of knowledge on the part of the employee of such order or directive; and 3. The connection of the order with the duties which the employee had been engaged to discharge.
Mitigating Circumstances	Accompanying or accessory condition, event, or fact that may be considered by the company as reducing the degree of culpability or liability of the employee who was charged with an offense.
Aggravating Circumstances	Accompanying or accessory condition, event or fact that increases the culpability or liability of the employee who was charged with an offense.
Premises	John Hay Special Economic Zone (JHSEZ) and Camp John Hay Reservation Area (JHRA)
Company Property	All buildings, facilities, equipment, vehicles, fixtures, land, or leased spaces under the custody of JHMC-BCDA.
Employee	A natural person who is hired, directly or indirectly, by a natural or juridical person to perform activities related to the business of the “hirer” who, directly or indirectly or through an agent, supervises or controls the work performance and pays the salary or wage of the “hiree”.
Offense/ Infraction	Violation of any laws, rules or regulations as prescribed in the Code of Discipline.
Preventive Suspension	The temporary removal of an employee charged for violation of company policy from his/her present status or position. This is in order to prevent the person from causing further harm or damage to the company or company personnel or from obstructing the investigative process.
Restitution	The act of returning or restoration of a specific thing or condition.

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Restricted Areas	Any specific areas within the Company premises that by virtue of policies, memoranda, and other issued orders, are declared as restricted and shall require approval from an authorized Company officer prior to access or use.
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5.0 LIST OF OFFENSES WITH PENALTIES⁴

The offenses with penalties are classified into **grave, less grave or light**, depending on their gravity or depravity and effects on government service.


A. GRAVE OFFENSES	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
Serious Dishonesty	Dismissal	-	-	-	-
Gross Neglect of Duty	Dismissal	-	-	-	-
Grave Misconduct	Dismissal	-	-	-	-
Conviction of a crime involving moral turpitude	Dismissal	-	-	-	-
Falsification of official document	Dismissal	-	-	-	-
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.	Dismissal	-	-	-	-

⁴ The list is a combination of offenses from 2011 Revised Rules on Administrative Cases in Civil Service (RACCS) and JHMC Old Policy that were customized for JHMC's needs/use.

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A. GRAVE OFFENSES	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
Using, selling or pushing prohibited drugs or their substitutes within JHMC premises.	Dismissal	-	-	-	-
Absence from work of five (5) consecutive working days without authorization and justifiable reason.	Dismissal	-	-	-	-
Failure to file sworn Statements of Assets, Liabilities and Net Worth (SALN).	Dismissal				
B. GRAVE OFFENSES (with lighter penalty)					
Less serious dishonesty	2-4 months suspension	Dismissal	-	-	-
Oppression	2-4 months suspension	Dismissal	-	-	-
Disgraceful and Immoral Conduct	2-4 months suspension	Dismissal	-	-	-
Gross Insubordination	2-4 months suspension	Dismissal	-	-	-

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B. GRAVE OFFENSES (with lighter penalty)	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
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.	2-4 months suspension	Dismissal	-	-	-
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.	2-4 months suspension	Dismissal	-	-	-
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 interest or give undue advantage to anyone, or to prejudice the public interest.	2-4 months suspension	Dismissal	-	-	-

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C. LESS GRAVE OFFENSES	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
Simple Neglect of Duty	10-20 days suspension	21-30 days suspension	Dismissal	-	
Simple Misconduct	10-20 days	21-30 days	Dismissal	-	
Discourtesy in the course of official duty	10-20 days	21-30 days	Dismissal	-	
Insubordination	10-20 days	21-30 days	Dismissal	-	
Unfair discrimination in rendering public service due to party affiliation or preference	10-20 days	21-30 days	Dismissal	-	
Engaging directly or indirectly in partisan political activities by one holding non-political office	10-20 days	21-30 days	Dismissal	-	
Absence from work of three (3) to four (4) consecutive working days without authorization and justifiable reason.	10-20 days	21-30 days	Dismissal	-	

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D. LIGHT OFFENSES	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
Simple discourtesy in the course of official duties	WR	3-9 days	10-20 days	21-30 days	Dismissal
Simple Dishonesty	WR	3-9 days	10-20 days	21-30 days	Dismissal
Improper or unauthorized solicitation of contributions from subordinate employees	WR	3-9 days	10-20 days	21-30 days	Dismissal
Gambling, placing or collecting bets, or participating in any game of chance within JHMC offices.	WR	3-9 days	10-20 days	21-30 days	Dismissal
Refusal to render overtime service without justifiable reason.	WR	3-9 days	10-20 days	21-30 days	Dismissal
Willful failure to pay just debts or willful failure to pay taxes due to the government. The term " just debts " shall apply only to: a. Claims adjudicated by a court of law, or b. Claims the existence and justness of which are admitted by the debtor	WR	3-9 days	10-20 days	21-30 days	Dismissal
Promoting the sale of tickets in behalf of private enterprise that are not intended for charitable or public welfare purposes and even in the latter cases, if there is no prior authority	WR	3-9 days	10-20 days	21-30 days	Dismissal

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D. LIGHT OFFENSES	PROPOSED PENALTY				
	<i>1st Offense</i>	<i>2nd Offense</i>	<i>3rd Offense</i>	<i>4th Offense</i>	<i>5th Offense</i>
Failure to process documents and complete action on documents and papers within reasonable time from preparation thereof, except otherwise provided in the rules implementing the Code of Conduct and Ethical Standards for Public Officials and Employees, Citizens Charter, or Operations Manual	WR	3-9 days	10-20 days	21-30 days	Dismissal
Engaging in private practice of his/her profession unless authorized by the Constitution, law or regulation, provided that such practice will not in conflict with his/her official functions.	WR	3-9 days	10-20 days	21-30 days	Dismissal
Drinking intoxicating drinks within JHSEZ and JHRA premises during office hours or reporting for duty intoxicated.	WR	3-9 days	10-20 days	21-30 days	Dismissal
Loafing/loitering or wasting time in any other way during regular working hours, whether at or away from assigned work place.	WR	3-9 days	10-20 days	21-30 days	Dismissal
Absence from work of one (1) to two (2) consecutive working days without authorization and justifiable reason.	WR	3-9 days	10-20 days	21-30 days	Dismissal

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D. LIGHT OFFENSES	PROPOSED PENALTY				
	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense	5 th Offense
<p>Violation of reasonable office rules and regulations such as but not limited to the following:</p> <ol style="list-style-type: none"> 1. Unauthorized entry into restricted areas or unauthorized use of such places; also, assisting another person to commit this act. 2. Failure to comply with any periodically scheduled physical/ medical examination required by the Company. 3. Creating or contributing to the creation of unclean or unsanitary conditions inside JHSEZ & JHRA premises. 4. Smoking in prohibited or restricted area(s). 5. Failure to comply with safety and security requirements that may prejudice the Company, co-employees and its guests. 6. Failure to participate in the flag raising or flag retreat ceremonies without justifiable cause (<i>at least</i> 	WR	3-9 days	10-20 days	21-30 days	Dismissal

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	POLICY ON THE CODE OF DISCIPLINE	Revision Number	1
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D. LIGHT OFFENSES	PROPOSED PENALTY				
	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense	5 th Offense
<p><i>three (3) noted or reported violations within a month).</i></p> <p>7. Getting out of the office more than five (5) minutes before the allowed log-out time for the purpose of waiting or queuing near the station where the timekeeping device is located.</p> <p>8. Leaving work assignment outside Company premises during official working hours without justifiable cause and prior permission from the Department Head or immediate supervisor.</p> <p>9. Frequent tardiness of more than fifteen (15) minutes from reporting time as defined by the Policy on Attendance) of at least four times (4x) within a two (2) payroll cut-off which is 26th to 10th and 11th to 25th of the month.</p> <p>10. Defacing any part of Company property or committing other acts of vandalism on Company property such as but not</p>					

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D. LIGHT OFFENSES	PROPOSED PENALTY				
	1 st Offense	2 nd Offense	3 rd Offense	4 th Offense	5 th Offense
<p>limited to detaching property tags, unauthorized painting or graffiti, tearing and mutilating of official posters/posted announcement/memoranda.</p> <p>11. Failure or refusal to wear official Company ID, uniform, shoes, grooming or wearing of clothes/garments which are explicitly prohibited (at least five (5) reported or noted violations in several occasions within a month).</p> <p>Prohibited clothes/garments are as follows:</p> <ul style="list-style-type: none"> • Micro mini skirts • Sleeveless under-shirt (Sando) • Shorts • Tattered pants • Skin baring tops • Slippers 					


5.1 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. The following circumstances shall be appreciated:

- Mitigating Circumstances
 - a. First Offense
 - b. Length of Service

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- c. Very satisfactorily performance for the previous evaluation period
- d. Physical Illness
- e. Good faith
- f. Rewards and recognition, if any
- g. Other analogous circumstances

- Aggravating Circumstances

- a. Malice
- b. Time and Place of offense
- c. Taking undue advantage of official position
- d. Use of government property in the commission of the offense
- e. Habituality
- f. Offense is committed during office hours and within the premises of the office or building
- g. Taking undue advantage of subordinate
- h. Other analogous circumstances

5.2 Manner of Imposition- When applicable, the imposition of the penalty may be made in accordance with the manner provided herein below⁵:


- a. The **minimum** of the penalty shall be imposed where only mitigating and no aggravating circumstances are present.
- b. The **medium** of the penalty shall be imposed where no mitigating and aggravating circumstances are present
- c. The **maximum** of the penalty shall be imposed where only aggravating and no mitigating circumstances are present.

⁵ Section 49 of the 2011 Revised Rules on Administrative Cases in Civil Service (RACCS)

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- d. Where aggravating and mitigating circumstances are present, paragraph (a) shall be applied where there are more mitigating circumstances present; paragraph (b) shall be applied when circumstances equally offset each other; and paragraph (c) shall be applied when there are more aggravating circumstances.

5.3 Penalty for the Most Serious Offense- If the respondent is found guilty of two (2) or more charges or counts, the penalty to be imposed should be that of the corresponding to the most serious charge and the rest shall be considered as aggravating circumstances⁶.

5.4 Effect of penalties- The following rules shall govern the imposition of penalties:

- a. The penalty of dismissal shall result in the permanent separation of the respondent from the service, without prejudice to criminal or civil liability
- b. Suspension of one (1) day or more shall be considered a gap in the continuity of service. During the period of suspension, the respondent shall not be entitled to all monetary benefits including leave credits.
- c. The penalty of written reprimand shall not carry with it any accessory penalty nor result in the temporary cessation of work.

⁶ Section 50 of the 2011 Revised Rules on Administrative Cases in Civil Service (RACCS)

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