

**IMPLEMENTING RULES AND REGULATIONS
OF REPUBLIC ACT NO. 9406, OTHERWISE KNOWN AS AN ACT
REORGANIZING AND STRENGTHENING THE PUBLIC ATTORNEY'S
OFFICE (PAO), AMENDING FOR THE PURPOSE PERTINENT PROVISIONS
OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE
"ADMINISTRATIVE CODE OF 1987", AS AMENDED,
GRANTING SPECIAL ALLOWANCE TO PAO OFFICIALS AND LAWYERS,
AND PROVIDING FUNDS THEREFOR"**

RULE I

General Provisions

Section 1. Purpose and Coverage. - This Implementing Rules and Regulations (IRR), hereinafter called "IRR," is hereby promulgated pursuant to Section 12 of Republic Act (R.A.) No. 9406, otherwise known as "An Act Reorganizing and Strengthening the Public Attorney's Office (PAO), Amending for the Purpose Pertinent Provisions of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", as amended, Granting Special Allowance to PAO Officials and Lawyers, and Providing Funds Therefor.", for the purpose of prescribing the necessary rules and regulations for the re-organization of PAO, the revised standards for Public Attorney positions, the grant of special allowance, and to provide funds therefor.

Section 2. Definition of Terms. - For purposes of these IRR, the following terms, words, or phrases shall mean or be understood as follows:

- (a) **Authorized PAO Officials.** Shall refer to officials of the PAO who have direct supervision over PAO Lawyers, and as such are granted special allowance in accordance with Section 9 of R.A. No. 9406.
- (b) **Family Income.** Refers to the Gross Income of the litigant and that of his or her spouse, but shall not include the income of the other members of the litigant's family.
- (c) **Legal Services.** Shall refer to legal representation, assistance and counseling to be rendered by the PAO, be it judicial or non-judicial in nature, given to qualified indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases resulting in the creation of an attorney-client relationship.
- (d) **PAO Lawyers.** Shall refer to the Chief Public Attorney, Deputy Chief Public Attorneys, Regional Public Attorneys, Assistant Regional Public Attorneys, Provincial Public Attorneys, City District Public Attorneys, Municipal District Public Attorneys and Associate Public Attorneys.
- (e) **Special Allowances.** Shall refer to the additional monetary benefits granted under Section 9 of R.A. No. 9406, in addition to the basic monthly salary received by PAO Lawyers and Authorized PAO Officials.

- (f) **Special Trust Fund.** Shall refer to the amount earned and collected by PAO from the costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation, and deposited to the Bureau of the Treasury (BTr).
- (g) **Success Fees.** Shall refer to the costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation.

RULE II The Public Attorney's Office

Section 3. The Public Attorney's Office. - The PAO shall be an independent and autonomous office, but attached to the DOJ in accordance with Section 38(3), Chapter 7 of Book IV of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", as amended, for purposes of policy and program coordination.

Section 4. Mandate. - The PAO shall be the principal law office of the Government in extending free legal services to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases.

Section 5. Powers and Functions. - The PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance, and counseling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases.

Rule III Organizational Structure and Staffing

Section 6. Organizational Structure. - The PAO shall consist of the following constituent units:

- (a) Office of the Chief Public Attorney and two (2) Deputy Chief Public Attorneys.
- (b) Six (6) units in the Central Office, namely:
 - (i) Administrative Service;
 - (ii) Financial Planning and Management Service;
 - (iii) Special and Appealed Cases Service;
 - (iv) Legal Research Service;
 - (v) Field Operations and Statistics Service; and
 - (vi) Executive Support Staff.
- (c) Regional, Provincial, City and Municipal District Offices.

Section 7. The Office of the Chief Public Attorney. - The Office of the Chief Public Attorney shall include its immediate staff, the six (6) units in the Central Office, the Deputy Chief Public Attorneys, and the Regional, Provincial, City and Municipal District Offices.

Section 8. The Chief Public Attorney and Deputy Chief Public Attorneys. - The PAO shall be headed by a Chief Public Attorney. The authority and responsibility for the

exercise of the mandate of the PAO and for the discharge of its powers and functions shall be vested in the Chief Public Attorney. The Chief Public Attorney shall have the same qualifications for appointment, rank, salaries, allowances, and retirement privileges as those of the Chief State Prosecutor of the National Prosecution Service (NPS).

The Chief Public Attorney shall be assisted by two (2) Deputy Chief Public Attorneys. The Chief Public Attorney may designate one to serve as the 'Deputy Chief Public Attorney for Administration' in charge of the following: (i) Administrative Service, (ii) Financial Planning and Management Service; and (iii) Executive Support Staff. The other to serve as 'Deputy Chief Public Attorney for Operations' responsible for the remaining services: (i) Special and Appealed Cases Service, (ii) Legal Research Service; and (iii) Field Operations and Statistics Service.

In addition, one of the deputies shall be designated as Deputy Chief Public Attorney for Luzon, and the other as Deputy Chief Public Attorney for Visayas and Mindanao

The Deputy Chief Public Attorneys shall have the same qualifications for appointment, rank, salaries, allowances, and retirement privileges as those of the Assistant Chief State Prosecutor of the NPS.

Section 9. The Six (6) Units in the Central Office.. - The three (3) line services in the Central Office namely: (i) Legal Research; (ii) Field Operations and Statistics; and (iii) Special and Appealed Cases shall each be headed by a Public Attorney IV with Salary Grade (SG) – 28, and shall have the same qualifications for appointment, rank, salaries, allowances and retirement privileges as those of the State Prosecutor III of the NPS.

On the other hand, the Administrative Service as well as the Financial Planning and Management Service shall each be headed by a Director II, with SG – 26, and shall have the same qualifications for appointment, rank, salaries, allowances and retirement privileges as a Director II in other national government agencies.

The Executive Support Staff shall provide executive and administrative assistance to the Chief Public Attorney and the Deputy Chief Public Attorneys.

Section 10. The Regional, Provincial, City and Municipal District Offices. - There shall be a PAO Regional Office for each of the administrative regions in the country. The Regional Offices shall have such Provincial Offices, City District Offices and Municipal District Offices as may be necessary.

Section 11. The Regional Public Attorneys and Assistant Regional Public Attorneys. - A Regional Public Attorney shall head each of the PAO Regional Offices in the country, to be assisted by an Assistant Regional Public Attorney.

The Regional Public Attorneys and Assistant Regional Public Attorneys shall have the same qualifications for appointment, rank, salaries, allowances, and retirement privileges as those of the Regional State Prosecutors and the Assistant Regional State Prosecutors of the NPS, respectively.

Section 12. The Provincial Public Attorneys, City District Public Attorneys and the Municipal District Public Attorneys. - The Provincial Public Attorneys, City District Public Attorneys and the Municipal District Public Attorneys shall have the same qualifications for appointment, rank, salaries, allowances and retirement privileges as

those of Provincial Prosecutors and City Prosecutors, as the case may be, of the NPS, respectively.

Section 13. *Other Administrative Personnel.* - The other administrative personnel in the PAO shall have the rank and salaries equivalent to their counterparts in the NPS, if there is any, and subject to existing guidelines on position classification.

Section 14. *Staffing Modifications.* - The staffing complement necessary for the operationalization of the reorganized PAO structure shall be subject to the evaluation of the Department of Budget and Management (DBM): Provided, That any changes in the staffing pattern as a result of the PAO reorganization shall be effective only upon approval by the Secretary of Budget and Management: Provided, Further, That implementation of the DBM approved staffing shall be subject to funding availability.

Section 15. *Ratio of Public Attorney's Position to an Organized Sala.* - Subject to funding availability and the establishment of standards to be developed jointly by the DBM and PAO, there shall be a corresponding number of Public Attorney's positions at the ratio of one public attorney to an organized sala and the corresponding administrative support staff thereto.

**Rule IV
Compensation, Appointments and Vacancies**

Section 16. *Compensation.* - Pursuant to Section 16 of R.A. No. 9406, the salary grade allocation of the PAO Lawyers shall be as follows:

Position	Salary Grade	
	From	To
Chief Public Attorney	30	30
Deputy Chief Public Attorney	29	29, step 4
Public Attorney V	28	29, step 1
Public Attorney IV	27	28
Public Attorney III	26	27
Public Attorney II	25	26
Public Attorney I	24	25
Associate Public Attorney II	22	22
Associate Public Attorney I	18	18

The foregoing salary upgrading shall be effective only upon the approval of the appropriations for the purpose.

Section 17. *Appointments.* - The Chief Public Attorney shall be appointed by the President. The Deputy Chief Public Attorneys and Regional Public Attorneys shall be appointed by the President upon the recommendation of the Chief Public Attorney.

The Deputy Chief Public Attorneys, Regional Public Attorneys and the Assistant Regional Public Attorneys, the Provincial Public Attorneys, the City District Public Attorneys, and the Municipal District Public Attorneys shall preferably have served as Public Attorneys for at least five (5) years immediately prior to their appointment as such.

The other PAO Lawyers as well as the administrative and support personnel in the PAO shall be appointed by the Chief Public Attorney, in accordance with Civil Service laws, rules and regulations.

Section 18. *Removal or Suspension.* - The Chief Public Attorney, Deputy Chief Public Attorneys and Regional Public Attorneys shall not be removed or suspended, except for cause provided by law.

Section 19. *Vacancy in Office.* - In case of death, permanent incapacity, removal or resignation of the incumbent Chief Public Attorney, Deputy Chief Public Attorneys or Regional Public Attorneys or vacancy thereof, the President shall appoint a new Chief, Deputy Chief or Regional Public Attorney, or shall designate one, as the case may be, in an acting capacity until a new one shall have been appointed, Provided That the Deputy Chief or Regional Public Attorney shall be appointed/designated upon the recommendation of the Chief Public Attorney.

In case of temporary absence of the Chief Public Attorney, the latter may designate an Officer-In-Charge as caretaker of the Office.

Rule V Incumbents Affected by the Reorganization of PAO

Section 20. *Appointments.* - The PAO officials and employees affected by the reorganization provided under R.A. No. 9406 shall occupy their new positions, subject to applicable rules and regulations of the Civil Service Commission.

Section 21. *Compensation.* - Accordingly, the foregoing PAO officials and employees shall receive the salary and benefits corresponding to their duly approved appointments, subject to applicable budgetary rules and regulations.

RULE VI Free Legal Services

Section 22. *Persons Qualified for Free Legal Services.* - The PAO shall provide legal services, free of charge to indigent persons or the immediate members of their family, in all civil, criminal, labor, administrative and other quasi-judicial cases, where, after due evaluation, it is determined that the interest of justice will be served thereby. Accordingly, the PAO shall extend free legal services to an applicant who is indigent and whose case is meritorious.

Section 23. *Indigency Test.* - Taking into consideration PAO Memorandum Circular No. 18, s. 2002, as amended, and subject to such further amendments by the Chief Public Attorney, the following shall be considered indigent persons:

- (a) Those residing in Metro Manila whose family income does not exceed (₱14,000.00) Fourteen Thousand Pesos a month;
- (b) Those residing in other cities whose family income does not exceed (₱13,000.00) Thirteen Thousand Pesos a month; or

- (c) Those residing in all other places whose family income does not exceed (₱12,000.00) Twelve Thousand Pesos a month

For this purpose, ownership of land does not per se constitute a ground for the disqualification of an applicant from availing of free legal services.

Section 24. Proof of Indigency. - In order to ensure that only qualified applicants shall be extended free legal services, an applicant shall be required to submit any of the following:

- (a) Latest Income Tax Return;
- (b) Certificate of Indigency from the Department of Social Welfare and Development having jurisdiction over the residence of the applicant; or
- (c) Certificate of Indigency from the Barangay Chairman having jurisdiction over the residence of the applicant, together with an Affidavit of Indigency executed by the applicant.

Section 25. Merit Test. - A case shall be considered meritorious if an evaluation of the law and evidence on hand discloses that the legal services of the office will assist, or be in aid of, or in furtherance of justice, taking into consideration the interests of the party and those of society. In such cases, the PAO shall represent the party concerned. *A contrario*, a case is deemed unmeritorious if it appears, from an evaluation of the law and evidence on hand that it has no chance of success, or is intended merely to harass or injure the opposite party, or to cause oppression or wrong. In which case, the PAO must decline to accept said case.

Provided, However, That in criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven, hence, cases of defendants in criminal actions shall be deemed meritorious.

Provided, Further, That the PAO may represent an indigent client even if the cause of action is adverse to a public officer, government office, agency or instrumentality, as long as the case is meritorious. Caution, should, however, be exercised so that the office will not be exposed to charges of harassment, unfairness or haste in the filing of suits.

Section 26. Other Persons Qualified for Assistance.- The following shall likewise be qualified to avail of the free legal services of the PAO:

- (a) Immediate members of the family and relatives within the fourth (4th) civil degree of consanguinity or affinity of a PAO lawyer may avail of his or her legal services regardless of qualification under the indigency test, subject to the approval of the Chief Public Attorney upon the recommendation of the Regional Public Attorney or Service Chief, as the case may be: Provided, That the PAO lawyer concerned: (i) submits an Affidavit of Kinship; (ii) files a leave of absence on every hearing date; and (iii) submits a monthly status report on the case being handled; and
- (b) PAO personnel may also avail of the legal services of PAO Lawyers in criminal cases: Provided, That the PAO is not the adverse party.

Section 27. Immediate Legal Service. - In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.

Section 28. Exemption from Fees and Costs of the Suit. - The clients of the PAO shall be exempt from payment of docket, court fees and other fees incidental to instituting an action in court and other quasi-judicial bodies, as an original proceeding or on appeal.

**RULE VII
Authority to Administer Oaths**

Section 29. Authority to Administer Oaths. - PAO Lawyers shall have the general authority to administer oaths in connection with the performance of their official duty and shall not charge fees, unless specifically authorized by law: Provided, That notarization and preparation of commercial documents shall be strictly prohibited.

Section 30. Requirements in the Administration of Oaths. Every PAO lawyer exercising his or her authority to administer oaths shall comply with the following requirements:

- (a) The PAO lawyer concerned shall subscribe the notarized document/s using a designated format, to wit:

**NAME OF PAO LAWYER
POSITION/DESIGNATION
(Pursuant to R.A. No. 9406)**

- (b) The PAO lawyer concerned shall keep and maintain a separate record book which shall be used to register all the oaths administered indicating therein the date when oath was administered, a brief description of the document, the name of the swearing party and witnesses, if any.
- (c) The PAO lawyer concerned shall submit a monthly report of the oaths administered to the Field Operations and Statistics Service.

**RULE VIII
Special Allowances**

Section 31. Grant of Special Allowance. PAO Lawyers and Authorized PAO Officials shall be granted special allowances in such amounts to be determined by the Secretary of Budget and Management and the Chief Public Attorney, subject to the following conditions:

- (a) The total allowances granted in any one (1) year shall in no case exceed one hundred percent (100%) of the rates provided in the Salary Schedule under Executive Order No. 611 dated March 14, 2007, as implemented by National Budget Circular No. 511 dated June 18, 2007, for each of the salary grade allocation of the foregoing PAO Lawyers and Authorized PAO Officials.

For this purpose, the current salary grade allocation of said PAO Lawyers and Authorized PAO Officials shall be used as basis in determining the 100% limit on the grant of special allowance.

- (b) The special allowances shall be granted at a uniform percentage of the basic salary of the recipients, regardless of rank.
- (c) The grant of special allowances referred to herein is subject to funding availability from the sources of funds provided under Section 34, Rule X hereof.

RULE IX

Effects of Subsequent Salary Increases

Section 32. *Conversion of Special Allowance.* - The special allowances granted to PAO Lawyers and Authorized PAO officials pursuant to Section 9 of R.A. No. 9406, as implemented by this IRR, shall be considered as advance implementation of any future increase in their basic salary, as may be authorized by law. Accordingly, the fraction of the special allowance corresponding to the salary increase shall be integrated into the basic salary, whereas the residual amount shall continue to be granted as special allowance.

The portion of the special allowance which has been integrated into the basic salary shall be funded from the regular agency appropriations. Conversely, the balance of the special allowance that has not yet been integrated into the basic salary shall continue to be granted and funded as provided under Section 34, Rule X hereof.

Section 33. *Reduction in the Ceiling of Special Allowance.* - The maximum limit of 100 % of the rates provided in the Salary Schedule under Executive Order No. 611, as implemented by National Budget Circular No. 511, referred to under Section 31 (a), Rule VIII hereof, shall be reduced by such percentage or amount corresponding to the portion of the special allowance which has been integrated into the basic salary.

RULE X

Funding Source

Section 34. *Sources of Funds.* - The amounts necessary to implement the grant of special allowance provided under Section 9 of R.A. No. 9406 shall be funded from the Special Trust Fund (STF) herein created.

Section 35. *Creation of a Special Trust Fund.* - The amounts collected from the costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation, collectively referred to as Success Fees shall be deposited to the BTr as a STF. The Chief Public Attorney shall administer the STF which shall be used exclusively for the payment of the special allowances to PAO Lawyers and Authorized PAO Officials. For this purpose, the PAO shall immediately initiate the creation of an account for the STF with the BTr.

Section 36. *Releases from the Special Trust Fund.* - Releases from the STF shall be made on a quarterly basis upon the request of PAO: Provided, That every request shall be supported with a certification from the BTr as to the total amount actually

deposited as of said date: Provided, Further, That any and all releases from the STF shall be strictly in accordance with existing budgetary policies and other pertinent rules and regulations.

Payment of special allowances out of the STF is subject to the submission of quarterly reports to the DBM on the list of beneficiaries with the corresponding amount of special allowances granted, and the usual budgeting, accounting and auditing rules and regulations.

RULE XI Franking Privilege

Section 37. *Franking Privilege.* - The PAO may transmit through ordinary mail and/or registered mail with return card, free of charge, all official communications and papers directly connected with the conduct of its duties, functions and/or its exercise of administrative supervision over its personnel

Section 38. *Form.* - The envelope or wrapper of the privileged mail matter shall bear on the left upper corner 'Public Attorney's Office' together with its address and on the right upper corner, the word 'Private or unauthorized use to avoid payment of postage is penalized by fine or imprisonment or both. For this purpose, the PAO shall provide a standard mailing envelope and rubber stamp.

RULE XII Local Government Support

Section 39. *Local Government Support.* - Local Government Units, subject to their capabilities, may extend financial and other support in the form of honoraria, free office space, equipment, furniture, stationery, and manpower to the PAO.

RULE XIII Liability of Erring Officials and Employees

Section 40. *Liability for Unauthorized or Unlawful Acts.* - Officials or employees who have authorized or caused the doing of any act, including the creation of offices, appointment of individuals, grant of special allowances and such other benefits, use and release of funds, contrary to or in violation of the rules and regulations provided herein, including officials or employees who took part thereon, shall be held responsible and liable for such action: Provided, That commencement of any action against the erring officials or employees shall be without prejudice to the refund of any unlawful, unauthorized or excess payment received by any official or employee, as a result of such unlawful or unauthorized act.

RULE XIV
Final Provisions

Section 41. *Resolution of Issues.* - Any question, issue or conflict arising from the implementation of this IRR, including situations not covered by the provisions herein shall be jointly resolved by the DBM and PAO.

Section 42. *Separability Clause* - If any provision in this IRR, or application of such provision to any circumstance, is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 43. *Effectivity.* – This IRR shall take effect fifteen (15) calendar days after its complete publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Done this 14th day of July 2008, in the City of Manila

ROLANDO G. ANDAYA, JR.
Secretary
Department of Budget and Management

PERSIDA V. RUEDA-ACOSTA
Chief Public Attorney
Public Attorney's Office