



Republic of the Philippines
Professional Regulation Commission
Manila



PROFESSIONAL REGULATION COMMISSION

Memorandum Order No. 34

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TO : **PROFESSIONAL REGULATORY BOARDS (BOARDS)**
OFFICE OF LEGAL SERVICE (CENTRAL OFFICE)
INFORMATION COMMUNICATION AND TECHNOLOGY SERVICE (ICTS)
PRC REGIONAL OFFICES

SUBJECT : **INTERIM GUIDELINES ON THE CONDUCT OF HEARINGS AND ADMINISTRATIVE PROCEEDINGS VIA VIDEOCONFERENCING, AND OTHER PROCESSES INCIDENTAL THERETO**

This Memorandum Order is hereby issued to prescribe the interim guidelines on the conduct of hearings and administrative proceedings via videoconferencing, and other processes incidental thereto.

I. LEGAL BASES

1. Presidential Proclamation No. 1021 (s. 2020) extending the period of the State of Calamity throughout the Philippines due to Coronavirus Disease 2019 (COVID-19) declared under Proclamation No. 929 (s. 2020);
2. Republic Act No. 11494 or the "Bayanihan to Recover as One Act" providing for COVID-19 response and recovery interventions and providing mechanisms to accelerate the recovery and bolster the resiliency of the Philippine economy, providing funds therefor, and for other purposes;
3. Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines with Amendments as of December 14, 2020;
4. Commission Resolution No. 1033 (A) (s. 2017) or the "Revised Rules and Regulations in Administrative Investigations" (2017 PRC Rules) authorizing the Commission to suspend the application of the Rules in order to best serve the public interest, and in the interest of justice and general welfare, to apply such suitable, fair and reasonable procedure to improve delivery of public service and to assist the parties in obtaining a just and speedy determination of cases. (Section 3, par 2, Rule I);
5. Commission Memorandum Order No. 24 (s. 2020) or the "Post Enhanced/Local Community Quarantine Interim Guidelines"; and
6. Commission Memorandum Order No. 32 (s. 2020) or the "Guidelines on the Filing of Pleadings and Conduct of Hearings and other Legal Proceedings Affected by the Community Quarantine";
7. 2019 Amendments to the 1997 Rules of Civil Procedure, A.M. No. 19-10-20-SC;
8. 2019 Amendments to the 1989 Revised Rules on Evidence, A.M. No. 19-08-15-SC;

II. PURPOSES

1. To provide specific rules to be observed in the conduct of administrative investigations, hearings, and other legal proceedings, including all processes incidental thereto, that are affected by the community quarantine and thereafter.
2. To prescribe precautionary and preventive measures as well as response mechanisms to protect the Commission officers/personnel and its clientele against the threat of COVID-19, without compromising the delivery of legal services to the public.

3. To temporarily modify and/or supplement its existing rules and regulations in consideration of health and safety protocols while recognizing the need to fully develop and migrate to automated processes in order to deliver the Commission's legal services more conveniently and efficiently.

III. SPECIFIC GUIDELINES

A. TO WHAT CASES APPLICABLE

As a general rule, hearings shall continue to be conducted face-to-face, unless all parties file a written motion/manifestation containing their express consent to the conduct of online hearings and conferences.

Additional exceptions to face-to-face hearings are the following: 1) When on the scheduled date of hearing, the Board Member, Hearing Officer, or Conciliator/Mediator, counsel, witness, or party called to the hearing is 60 years old and above, pregnant, or has underlying conditions or comorbidity at risk of COVID19 exacerbation; and/or 2) When, due to distant locations of either party or the witness/es scheduled to testify, and by reason of travel restrictions imposed by the different local governments in relation to COVID19, he or she cannot secure the permits necessary for travel.

Online hearings and conferences may include all stages of the administrative proceedings, whether newly-filed or pending, as well as all incidents related thereto.

B. THE OFFICIAL PLATFORM FOR VIDEO CONFERENCE HEARINGS

Hearings via video conferencing shall be conducted through the Microsoft Teams application provided by the Information Communication and Technology Service (ICTS).

C. CONSENT TO HEARINGS VIA VIDEO CONFERENCING

To avail of the services of our online facilities, both parties are required to file their respective written motions/manifestations for the conduct of hearings via video conferencing. The written motion/manifestation must include the respective email addresses and office/business contact numbers of the parties. Only the email addresses contained in the written motion/manifestation shall be included in the official emails sent by the Office of the Legal Service Hearing and Investigation Division (OLS HID) or the PRC Regional Office where the case is pending.

Should there be any change or correction in any of the foregoing details, the party must file a subsequent written motion/manifestation reflecting the same within five (5) calendar days from such change, with notice served to all other parties.

D. ELECTRONIC NOTICE OF HEARINGS VIA VIDEO CONFERENCING

1. For the security of all parties concerned, electronic notices of the hearings shall be sent only through hearing.notices@prc.gov.ph or such other email address that the OLS HID or the PRC Regional Offices may create and to the email addresses provided by the parties in their respective written motions/manifestations. No other email addresses shall be used. A physical copy of the notice shall likewise be sent to the parties.
2. Electronic notices shall be sent via email at least one (1) month ahead of the scheduled hearing and shall contain the following details:
 - a. The time and date of the hearing, and
 - b. A reminder that all details and information used to gain access to the proceedings shall be treated with strict confidentiality, as any unauthorized sharing of said details will be dealt with accordingly; and

- c. A reminder that within three (3) days prior to the scheduled hearing, the official link to the videoconferencing hearing shall be sent to the parties via the official email of the OLS HID.
3. Proof of issuance of these notices and the corresponding acknowledgement of receipt by the party or his/her counsel shall be properly printed, recorded, and attached to the records of the case.

In the event that no acknowledgement is received by the OLS HID or the PRC Regional Office where the case is pending, there shall be presumptive notice to a party of a hearing if the physical copy of the notice appears on the records to have been mailed at least twenty (20) calendar days prior to the scheduled hearing if the addressee is from within the same region of the PRC Central Office or the PRC Regional Office where the case is pending, or at least thirty (30) calendar days if the addressee is from outside the region of the PRC Central Office or the PRC Regional Office where the case is pending.

4. Considering the limitations in the scheduling of hearings, no re-setting shall be allowed, except for valid causes and justifiable reasons, which must be contained in a Motion to Allow Re-Setting of Hearing, filed with the OLS HID or the PRC Regional Office where the case is pending and furnished to the adverse party at least five (5) days prior to the online hearing sought to be postponed. Failure of any party to go online during the scheduled hearing shall be considered as failure to attend the said hearing.
5. Consistent with the 2017 PRC Rules, the absence of the complainant during the online pre-trial conference shall warrant the dismissal of the case. On the other hand, the absence of the respondent during the online pre-trial conference shall be a cause to allow the complainant to present evidence *ex-parte*.

Absence of any party during the presentation of evidence shall be deemed a waiver to cross-examine the witness or to present that witness, as the case may be.

E. CONDUCT OF MANDATORY CONCILIATION VIA VIDEO CONFERENCING

1. A notice of conciliation/mediation conference shall be sent to the parties in accordance with Section 2, Rule IX of the 2017 PRC Rules. It shall contain an invitation to the parties of their option to elect videoconferencing as a means of conducting their conciliation/mediation proceedings.
2. The parties may elect to conduct the conciliation/mediation proceeding remotely via videoconferencing in accordance with paragraph (C) of this section within five (5) days before its scheduled date.

Such request/manifestation shall be made personally, by registered mail, or private courier and electronically sent to the Conciliation and Mediation Unit's (CMU) official email address: conciliation.mediation@prc.gov.ph or any other email addresses which the PRC Regional Offices may provide for this purpose. In this regard, the PRC Regional Offices where the complaint is filed shall also create its own official email address for purposes of conciliation and mediation.

3. Upon determination that both parties elect videoconferencing or they fall in any of the exceptions in paragraph (A) of this section, the CMU or the designated Conciliator/Mediator of the PRC Regional Office — through conciliation.mediation@prc.gov.ph or such email address to be created by the PRC Regional Office — shall send the parties a link of the video conference proceeding at least two (2) days prior to the scheduled dates of conciliation/mediation.

Correspondingly, CMU or the designated Conciliator/Mediator of the PRC Regional Office must properly communicate to the requesting party that the conciliation/mediation procedure shall be conducted in a regular manner in the event that the conditions for remote conciliation is not met. Any link that is not received from the CMU or the designated Conciliator/Mediator's official email address shall not be considered as a procedure hosted by PRC-OLS.

4. The Conciliator/Mediator shall be present on site on the date of the online hearing for the use of the facilities provided by the Commission and for the access of the case files. However, in the event that the Conciliator/Mediator falls under any of the exceptions in paragraph (A) of this section, he or she may conduct the online hearing remotely, *provided* that he or she shall use headphones/earphones for the entire hearing, and that no other individual is within his or her hearing range. This is for the preservation of the confidentiality of our proceedings.
5. The Conciliator/Mediator shall use their official email accounts provided by the Commission for the conduct of the conciliation/mediation conference. Likewise, only the email addresses provided by the parties shall be granted access to the videoconference proceeding.
6. The Conciliator/Mediator, as host, shall ensure that the complainant/s and respondent/s are present before the start of the hearing. In the event that the parties cannot attend, their representatives must be fully authorized by a Special Power of Attorney (SPA) to appear, negotiate and enter into a compromise. A corporation shall, by means of a board resolution, fully authorize its representative to appear, negotiate and enter into a compromise agreement.

For this purpose, the SPA and/or the Board Resolution must be sent electronically by the principal through his/her submitted email address to ensure that he/she had truly caused the same subject to the subsequent submission of its original hard copy either personally, by registered mail or by private courier.

7. Lawyers may be allowed to attend the video conference proceeding only to render advice to their respective clients and *provided*, that their email addresses and office/business contact numbers are included in the request/manifestation submitted by the parties.
8. No one else must be in the remote rooms or within the listening distance besides the parties and the Conciliator/Mediator. No recording of the conciliation/mediation proceeding is permitted.
9. Conciliation/Mediation held via videoconferencing shall closely mirror the conciliation/mediation conducted under normal circumstances.
10. At the conclusion of the session, the Conciliator/Mediator shall prepare the minutes of the proceeding for the sole purpose of determining the attendance of the parties and the status of the conciliation/mediation. The same shall be emailed to the parties for their respective signatures and shall be emailed back to the concerned Conciliator/Mediator.

Subject to the consent of the parties, the attendance to the proceeding may be further supported by the Conciliator/Mediator's screenshot of the videoconference containing the images of the parties.

11. Failure of the parties to attend the conciliation proceedings conducted via videoconferencing has the same effect as failure to attend the said proceedings in a regular manner as provided in Section 6, Rule IX of the 2017 PRC Rules.
12. All other provisions of these Guidelines shall apply in the conduct of conciliation/mediation, insofar as practicable, subject to its confidential nature.

F. CONDUCT OF HEARINGS VIA VIDEO CONFERENCING

1. The Board and/or the Hearing Officer shall be present on site on the date of the online hearing for the use of the facilities provided by the Commission and for the access of the case files. However, in the event that the Board Member and/or the Hearing Officer designated to hear the case, falls under any of the exceptions in paragraph (A) of this section, he or she may conduct the online hearing remotely, *provided* that he or she shall use headphones/earphones for the entire hearing, and that no other individual is within his hearing range. This is for the preservation of the confidentiality of proceedings.

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The same matters must be communicated to the concerned personnel five (5) days prior to the scheduled date of hearing.

2. The Board and the Hearing Officer shall use their respective official email accounts provided by the Commission for the conduct of the hearings. Likewise, only the email addresses provided by the parties shall be granted access to the videoconferencing hearing. For the security and the integrity of such hearings, unknown email addresses shall not be allowed to enter the online hearing room.
3. The Board and/or the Hearing Officer, as host, shall ensure that the following are present before the start of the hearing via video conferencing:
 - a. At least one (1) member representing the Board/s concerned, in cases where the matters to be raised in such hearing are highly technical;
 - b. The counsel for the complainant;
 - c. The counsel for respondent;
 - d. A Stenographer; and
 - e. The witness called to testify, as the case may be.
4. In cases where the administrative case is under the jurisdiction of two (2) or more Boards, and a full-blown trial is being conducted, all boards concerned must be represented by at least one (1) member during the videoconference hearings.
5. As far as practicable, the persons required to be present as above stated must be visible to all participants at any time during the proceedings.
6. If any of the parties has no access to technology for the videoconference hearings, the Commission may provide a hearing room and laptop/desktop for their use, subject to availability of funds.
7. Hearings held via videoconferencing shall closely mirror hearings conducted under normal circumstances.
8. All parties must go online and be present in the virtual hearing room ten (10) minutes prior to the time set for hearing. This is for the purpose of determining any technical issue that may arise during said hearing.
9. Proper decorum and solemnity of proceedings shall be observed at all times, subject to applicable rules on direct contempt. All participants are required to appear in appropriate attire.
10. When presenting witnesses, the parties may be required to use multiple cameras and angles or a single camera supplying a full view of the said witnesses' surroundings in order to prevent any coaching from occurring.
11. Object evidence must be clearly observable to all parties present in the online hearing, as determined by the Hearing Officer or the Board's representative present.
12. Proceedings may be suspended by the Board, Hearing Officer and the Conciliator/Mediator concerned if the same are significantly affected by technical issues that prove difficult to promptly resolve. The reason for suspension of the proceedings shall be properly recorded and reflected in the transcript of stenographic notes.
13. All parties must be able to see, hear, and observe any physical or documentary evidence or exhibits presented during the proceedings, either by video, email, visualizer, or other methods agreed upon.
14. In the event that the evidence to be presented requires the physical observation of the Board Member, Hearing Officer, parties, and their counsels, a hearing calling the physical presence of the aforementioned individuals shall be set for such specific purpose. This is also to facilitate the discussion on highly technical matters.

G. RECORDING OF HEARINGS VIA VIDEO CONFERENCING

1. The proceedings of the hearings shall be recorded by the Board, Hearing Officer, and/or the assisting Stenographer using the official platform of the Commission. Recordings in the videoconferencing platform shall be in Host/Organizer settings where the member of the Board, Hearing Officer and the Conciliator/Mediator shall be in control.
2. A transcript of the virtual hearing, certified as true and correct by the Commission's Stenographer, shall be made part of the records of the case. The said transcript shall indicate that the hearing was conducted through videoconferencing which includes the date thereof.
3. Unauthorized recording of the proceedings and unauthorized distribution of the recorded proceedings by any party shall be dealt with according to law.
4. The audio file shall be kept in the custody of the Stenographers. Proceedings shall be transcribed by the Stenographers as done in hearings conducted under normal circumstances.

H. PERTINENT DOCUMENTS

1. All online submissions of parties, particularly those at issue during or relating to the online hearing, must be received via email by the OLS HID or such other email address created by the PRC Regional Office before the scheduled videoconferencing hearing, subject to the same periods as prescribed under the 2017 PRC Rules.
2. The documentary evidence must be clearly identified and paginated, and shall correspond with the hard copies of the documentary evidence that may have been previously filed. The documentary evidence must also be without any annotation, note, or marking.
3. Pre-marking of the documentary evidence shall only be provisional, pending the submission of the physical copies of the documents and shall be done during the online pre-trial conference.
4. All evidence to be presented during the online hearing shall be flashed on the screen by the host/organizer using the share screen function provided by the videoconferencing platform. The evidence shown in the screen shall be identified by the witness.
5. The electronic copies of the documentary evidence presented and offered shall be marked accordingly by the Hearing Officer concerned, using digital stamps and such other tools provided by the online platform/software. A separate hearing for the purpose of permanent marking shall be set. Such hearing shall be conducted face-to-face.
6. The electronic filing of pleadings shall include proof of service of hard copies of the pleading upon the adverse party. No electronic service of pleadings to the adverse party shall be allowed. As such, service of soft copies to the adverse party shall not be considered service as defined under existing rules.
7. The following rules on electronic filing of pleadings shall govern:
 - a. Only non-initiatory pleadings and motions may be filed electronically. The same must be accompanied by two (2) physical copies with proof that the adverse party has been served, to be filed within ten (10) days from the date the soft copy was sent via email.
 - b. The time and date of the email shall be considered as the time and date of the filing, *provided*, that non-initiatory pleadings/motions filed after 5:00 P.M. shall be considered filed the following day, *provided further*, that if no physical copy was filed within ten (10) days from such email, the same shall not be considered as a filed pleading/motion.
 - c. The electronic copy of such pleadings and motions must be in Portable Document Format (PDF) and may be a scanned copy of the physical file or

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the soft copy of the document itself.

- d. Pieces of evidence which are not documentary in nature may be photographed and converted into PDF, but must be authenticated by a certification of the person submitting such evidence as a true photo reproduction thereof.
- e. The subject of the email and the file name of the document must be as follows:

[Type of Pleading/Motion]_[Professional Regulatory Board Concerned]_[Administrative Case Number]_[Title of the Case]

e.g. Motion for Reconsideration Board of Accountancy_1234_John Doe v. Juan dela Cruz, et al.

- f. The same information must be reiterated in the body of the email, as follows:

Professional Regulatory Board concerned:
Administrative Case Number:
Title of the Case:
Name of the party filing the non-initiatory pleading/motion:
Title of the Non-initiatory Pleading/Motion being filed:

- g. In cases where the email contains attachments other than a non-initiatory pleading or motion, a list of such attachments must be contained in the body of the email, after the item for "Title of the Non-initiatory Pleading/Motion being filed".

e.g.

Professional Regulatory Board concerned: **Board of/for —**

Administrative Case Number: **1234**

Title of the Case: **John Doe vs. Juan dela Cruz**

Name of the party filing the non-initiatory pleading/motion: **John Doe**

Title of the Non-initiatory Pleading/Motion being filed: **Motion for Reconsideration**

List of attached documents:

1. Annex A: [name of document]
2. Annex B: [name of document]

- h. Should it prove inconvenient for the parties to physically sign the documents, an electronic signature as defined under Section 5(e) of Republic Act No. 8792, otherwise known as the Electronic Commerce Act of 2000, shall be allowed for the foregoing electronic submissions. The pleading to be submitted electronically must contain the electronic signature of the person who prepared the same.
- i. To ensure the integrity of documents, the filing party shall be required to execute an undertaking that the physical copies to be filed with the OLS shall be faithful reproductions of the copies submitted electronically. This undertaking must be attached to both the electronic copy of the non-initiatory pleading/motion and the physical copy of the same.

The undertaking shall read as follows:

I, _____ hereby declare that the document/s (and the annexes) submitted electronically is/are complete and I hereby undertake to file the same copy of document/s within ten (10) days from the date the soft copy was sent via email.

SUBSCRIBED AND SWORN TO before me on this ___ day of , 20
, affiant exhibiting his/her competent evidence of identity, to wit:.

- j. As far as practicable, the following rules on electronic filing shall also apply to pleadings and other legal documents in connection with the conduct of conciliation/mediation and other special investigation proceedings.
- k. Only submissions complying with the foregoing procedure shall be considered complete, correct, and deemed filed.
- l. Provisions of Memorandum Order No. 32 (s. 2020) which are contrary or inconsistent with these guidelines are hereby amended or modified accordingly.

I. TECHNICAL AND OTHER OPERATIONAL MATTERS

- 1. There shall be a dedicated ICTS personnel to operate, troubleshoot and repair the videoconference equipment and manage the network. In this connection, the OLS HID staff shall inform the ICTS of any scheduled online hearing, so that at least one (1) member of the ICTS shall be available and easily contacted in case of any technical difficulty that may arise during the proceedings. The ICTS staff will not, however, be present in the video conference proceeding itself.
- 2. The Board, Hearing Officer and the Conciliator/Mediator, as the host, may hold a preliminary call before the actual hearing, in order to prepare the videoconferencing tools and address any technical issues that may occur. The representative of the ICTS may be present to assist the parties during the call.
- 3. The Board, Hearing Officer, Conciliator/Mediator and all concerned personnel of the OLS HID shall undergo training on these Guidelines, the basic principles of videoconferencing, and simple operation of the video conferencing equipment to ensure familiarity with the Guidelines and technology.
- 4. Notice to the public shall be made through an online general announcement containing the rules and guidelines on videoconferencing hearings. To ensure that a wider audience is advised, these guidelines shall be published in the official website of the Commission and its official social media accounts.

All provisions of the existing rules and regulations inconsistent with these interim guidelines are hereby deemed provisionally suspended or amended accordingly.

These rules shall be in effect only during this public health emergency and may be revised at any time should prevailing circumstances change, and until further notice.

For compliance.


TEOFILO S. PILANDO, JR.
Chairman