

WALKING THROUGH
THE
OFFICE OF THE OMBUDSMAN

Defining the Job and
the OMB Selection Process 2002

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In an ideal society...

An ideal society rests on the premise of having representative leaders governing a responsible citizenry under just laws.

In an ideal society, these representative leaders will be men and women of integrity, whose noble aim is to serve the public interest over and above any thought of personal gain. These ideal leaders will always put the good of the masses ahead of their personal interests. These ideal leaders will be the epitome of a good citizen. These ideal leaders will be honest, transparent, efficient, and competent beyond reproach.

Unfortunately, this vision of an ideal society is far removed from the realities of everyday life. The sad truth is that public officials, despite their noble positions, are just as human as the rest of the citizenry. They can be lazy and inefficient. They can make bad decisions. They can be tempted to spend money that is not theirs. And they can be lured by bribery and the promise of a quick buck.

This is why society needs an Ombudsman: Someone who has the power and authority to go after erring public officials and see to it that their misdeeds do not go unpunished.

In an ideal society, therefore, an Ombudsman should be the paragon of virtue, someone with moral authority and unimpeachable character – someone whose integrity surpasses even the high standards required for any other public official.

Although these standards may be too idealistic – we still live in the real world, after all – society has no choice but to demand it.

An ombuds-what?

Om-buds-man. n. (1) a person who investigates complaints, reports findings, and mediates fair settlements, especially between aggrieved parties; (2) a government official who investigates citizens' complaints against the government or its functionaries.

The word ombudsman is from Swedish, a Germanic language in the same family as English. The word "man" in Swedish corresponds to the English word for man, while "ombud" means "commissioner or agent," coming from the Old Norse "umbodh," made up of *um*, "regarding," and *bodh*, "command." In Old Norse an umbodhsmadr was a deputy who looked after the interests and legal affairs of a group such as a trade union or business.

King Charles XII of Sweden is generally credited with starting the institution. An official with the title of Hogsta Ombudsman (Supreme Royal Ombudsman) was appointed in 1713. He was assigned to "keep an eye on Royal officials" and supervise observance of the laws. In the Constitution of 1809, the Swedish parliament officially appointed an Ombudsman, making the Office independent from the King.

This practice of designating an Ombudsman as the "watchdog of the people" was soon adopted by other countries, including the Philippines.

What's so special about the Filipino Ombudsman?

Usually, the Ombudsman in other countries can only investigate and recommend cases of abuse and neglect committed by government officials. If the recommendation is ignored, the Ombudsman is powerless to enforce it.

In the Philippines, however, the Ombudsman is more powerful. Aside from his powers of investigation, he can also prosecute government officials based on the results of his findings.

Aside from its functions of investigation and prosecution, the Ombudsman is also:

- a complaint-handling office which investigates and prosecutes complaints against any act or omission of any public officer or

employee, office agency, when such act or omission appears to be illegal, unjust, improper or inefficient;

- a graft prevention office which determine the causes of inefficiency, red tape, mismanagement, fraud and corruption in the Government and correspondingly, to make recommendations for their elimination.

To further strengthen and insulate the Office of the Ombudsman from politics and pressure forces, the Constitution made it a fiscally autonomous body, independent from any other branch of government.

The Filipino Ombudsman has a fixed term of seven years, and can only be removed from office only by way of impeachment. . The Ombudsman and his Deputies enjoy the rank of Chairman and members, respectively, of a Constitutional Commission whose appointments require no Congressional confirmation.

How and when did it all start?*

The Permanent Commission

In the Philippines, the Permanent Commission in the Revolutionary Government may be considered a precursor of the present Office of the Ombudsman. Article 21 of the Decree of June 23, 1898 creating the Revolutionary Government of the Philippines provided for a Permanent Commission, presided over by the Vice President, that shall decide on appeal all criminal cases decided by provincial councils. These cases were those filed against Department Secretaries and provincial and municipal officials.

The Permanent Commission continued its existence after the ratification of the Constitution of 1899, popularly known as the Malolos Constitution. Under No. 1, Article 55 of said Constitution, one of the powers of the Commission was to “declare if there is sufficient cause to proceed against the President of the Republic, the Representatives, Department Secretaries, the Chief Justice of the Supreme Court and the Solicitor General in the cases provided by the Constitution.

In Previous Administrations

Succeeding administrations likewise provided for the creation of agencies to

handle cases of corruption in the government service. An Integrity Board was created by President Quirino in 1950. President Magsaysay immediately upon assumption to office created the Presidential Complaints and Action Commission in 1957. President Garcia created the Presidential Committee on Administration Performance Efficiency in 1958 and President Macapagal created a Presidential Anti-Graft Committee in 1962. President Marcos in 1966 created a Presidential Agency on Reforms and Government Operations.

In 1969, the Office of the Citizen's Counselor was created by Republic Act No. 6028. However, like the previous agencies created by past administrations, the functions of the Citizen's counselor were mainly to conduct fact-finding investigations and to make recommendations to Congress and the President. Moreover, RA No. 6028 was not at all implemented. Subsequently, President Marcos created a Complaints and Investigation Office in 1970 and the Presidential Administrative Assistance Committee in the following year.

The Tanodbayan

The 1973 Constitution (Sections 5 and 6, Article XIII) provided for the establishment of a special court known as the Sandiganbayan and an Office of the Ombudsman known as the Tanodbayan. Presidential Decree Nos. 1486 and 1487 created the Sandiganbayan and Tanodbayan, respectively, on June 11, 1978. Subsequent amendments were made to both decrees.

The Tanodbayan shall receive and investigate complaints relative to public office, including those in government-owned or controlled corporations, make appropriate recommendations, and in appropriate cases, file and prosecute criminal, civil or administrative cases before the proper court or body. On the other hand, the Sandiganbayan shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations.

At Present

The framers of the 1987 Constitution envisioned the Ombudsman as an official critic who studies the laws, procedures and practices in government, a mobilizer who ensures that the steady flow of services is accorded the

citizens, and a watchdog who looks at the general and specific performance of all government officials and employees. (cf. Journal No. 40, July 26, 1986, p. 432). To further strengthen and insulate the Office of the Ombudsman from politics and pressure forces, the Constitution made it a fiscally autonomous body, (cf. Sec. 14, Art. XI, 1987 Constitution) independent from any other branch of government, and headed by an Ombudsman with a fixed term of seven years, who could be removed from office only by way of impeachment. (cf. Sec. 2, Art. XI, 1987 Constitution). The Ombudsman and his Deputies enjoy the rank of Chairman and members, respectively, of a Constitutional Commission whose appointments require no Congressional confirmation. (cf. Secs. 9 and 10, Art. XI, 1987 Constitution).

The clear intent is to give full and unimpeded play to the exercise by said Office of its extraordinary range of oversight and investigative authority over the actions of all public officials and employees, offices and agencies. Not only can it investigate on its own or on complaint any official act or omission that appears to be illegal, unjust, improper or inefficient; it can prod officials into performing or expediting any act or duty required by law; stop, prevent and control any abuse or impropriety in the performance of such duties; require the submission of documents relative to contracts, disbursements, and financial transactions of government officials for the purpose of ferreting out any irregularities therein. (cf. Sec. 13, Art. XI, 1987 Constitution). The conferment of this extensive authority is prefaced in the Constitution with the bestowal upon the Ombudsman and his deputies of the appealing title of "Protectors of the People" (cf. Sec. 12, Art. XI).

On July 24, 1987, Executive Order No. 243 was issued by President Corazon C. Aquino declaring the effectivity of the creation of the Office and restating its composition, powers and functions. On May 12, 1988, the Office of the Ombudsman became operational upon the appointment of the Ombudsman and his Overall Deputy Ombudsman. Immediately thereafter, one Deputy Ombudsman each for Luzon, Visayas and Mindanao were likewise appointed by the President. This date became the basis for celebrating the anniversary of the Office of the Ombudsman.

The Congress enacted on November 17, 1989 Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, providing for the functional and structural organization of the Office of the Ombudsman and delineating its powers functions and duties. Indeed, Congress, in enacting Republic Act 6770, sought to have an Ombudsman who would be an effective and an

activist watchman vesting the Ombudsman with adequate authority that would prevent the Ombudsman from being a “toothless tiger”.

** Taken from the Official Website of the Office of the Ombudsman of the Philippines (<http://www.ombudsman-phil.net>)*

What is the Ombudsman supposed to do? What can it do, and what can it *not* do?

The Office of the Ombudsman is an independent constitutional body that receives and investigates complaints against public officials, and government-owned or -controlled corporations. Based on the results of its investigation, the Ombudsman makes appropriate recommendations, and files and prosecutes criminal, civil or administrative cases before the proper court or administrative body.

The Office of the Ombudsman was created to be the watchdog of the people under Article XI, Section 5 of the 1987 Constitution.

Republic Act 6770 – otherwise known as The Ombudsman Act of 1989 – further defines its mandate:

Section 13. Mandate. - *The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.*

Because of this mandate, the Ombudsman has been described as a graft-buster, public defender; a grievance man, a watchman over the law’s watchmen; voice of the citizen; and citizen’s counselor. It is the Ombudsman’s task to assist people in obtaining justice against erring public officials and employees, and to investigate and prosecute all government officials and employees for committing acts that are illegal, unjust, improper, inefficient, or unethical.

Section 15 of Republic Act 6770 defines its functions in detail:

Section 15. Powers, Functions and Duties. - *The Office of the Ombudsman shall have the following powers, functions and duties:*

- (1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of government, the investigation of such cases;*
- (2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;*
- (3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;*
- (4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedures, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;*

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: Provided, that the Ombudsman under its rules and regulations may determine what cases may not be made public: Provided further, That any publicity issued by the Ombudsman shall be balanced, fair and true;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the government and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

(8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the

**The Ombudsman:
Fast Facts**

MANDATE:

As set forth under Section 13 of Republic Act 6770, otherwise known as The Ombudsman Act of 1989:

The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

TERM OF OFFICE:

- Seven (7) years without re-appointment
- Can be removed only by Impeachment

effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexpired wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties.

The Ombudsman is also empowered to act on administrative complaints:

Section 19. Administrative Complaints. - *The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:*

(1) Are contrary to law or regulation;

(2) Are unreasonable, unfair, oppressive or discriminatory;

(3) Are inconsistent with the general course of an agency's functions, though in accordance with law; Proceed from a mistake of law or an arbitrary ascertainment of facts; Are in the exercise of discretionary powers but for an improper purpose; or Are otherwise irregular, immoral or devoid of justification.

Section 20. Exceptions. - *The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:*

(1) The complainant has an adequate remedy in another judicial or quasi-judicial body;

(2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;

(3) *The complaint is trivial, frivolous, vexatious or made in bad faith;*

(4) *The complaint has no sufficient personal interest in the subject matter of the grievance; or*

(5) *The complaint was filed after one year from the occurrence of the act or omission complained of.*

Section 21. Officials Subject to Disciplinary Authority; Exceptions. - *The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government- owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.*

The Ombudsman: Fast Facts

QUALIFICATIONS:

Under Republic Act 6770, the Ombudsman:

- Must be a natural born citizen of the Philippines, at least 40 years old
- Must be a member of the Philippine Bar
- Must have been, for ten (10) years or more, a judge or engaged in the practice of law in the Philippines
- Must not have been a candidate for any national or local office in the immediately preceding election whether regular or special

R.A. 6770 further gives the Ombudsman the following special powers:

Section 22. Investigatory Power. - *The Office of the Ombudsman shall have the power to investigate any serious misconduct in office allegedly committed by officials removable by impeachment, for the purpose of filing a verified complaint for impeachment, if warranted.*

In all cases of conspiracy between an officer or employee of the government and a private person, the Ombudsman and his Deputies shall have jurisdiction to include such private person in the investigation and proceed against such private person as the evidence may warrant. The officer or employee and the private person shall be tried jointly and shall be subject to the same penalties and liabilities.

Section 23. Formal Investigation.

(1) Administrative investigations conducted by the Office of the Ombudsman shall be in accordance with its rules of procedure and consistent with due process.

(2) At its option, the Office of the Ombudsman may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees, which shall be terminated within the period prescribed in the civil service law. Any delay without just cause in acting on any referral made by the Office of the Ombudsman shall be a ground for administrative action against the officers or employees to whom such referrals are addressed and shall constitute a graft offense punishable by a fine of not exceeding five thousand pesos (P5,000.00).

(3) In any investigation under this Act the Ombudsman may (a) enter and inspect the premises of any office, agency, commission or tribunal; (b) examine and have access to any book, record, file document or paper; and (c) hold private hearings with both the complaining individual and the official concerned.

Section 24. Preventive Suspension. - *The Ombudsman or his Deputy may preventively suspend any officer or employee under his authority pending an investigation, if in his judgment the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (b) the charges would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the case filed against him.*

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such

delay shall not be counted in computing the period of suspension herein provided.

Section 25. Penalties.

(1) In administrative proceedings under presidential Decree No. 807, the penalties and rules provided therein shall be applied.

(2) In other administrative proceedings, the penalty ranging from suspension without pay for one year to dismissal with forfeiture of benefits or a fine ranging from five thousand pesos (P5,000.00) to twice the amount malversed, illegally taken or lost, or both at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charges.

The Ombudsman: Fast Facts

POWERS:

The Ombudsman has the power to:

- Investigate and prosecute acts of public officers, employees, offices or agencies that appear to be "illegal, unjust, improper or inefficient"
- Suspend officials under investigation
- Direct government officials to perform any duty required by law
- Procure all necessary documents and information from government agencies
- Publicize cases in the media
- Administer oaths, issue subpoenas, examine bank records
- Hold individuals in contempt
- Investigate and prosecute private individuals if they are part of a conspiracy with government agent or institution
- Determine the causes of inefficiency, red tape, mismanagement, fraud and corruption and make recommendations for their elimination
- Take proactive measures to promote efficiency in government systems and processes

Section 26. Inquiries.

(1) The Office of the Ombudsman shall inquire into acts or omissions of a public officer, employee, office or agency which, from the reports or complaints it has received, the Ombudsman or his Deputies consider to be:

(a) contrary to law or regulation;

(b) unreasonable, unfair, oppressive, irregular or inconsistent with the general course of the operations and functions of a public officer, employee, office or agency;

(c) an error in the application or interpretation of law, rules or regulations, or a gross or palpable error in the appreciation of facts;

(d) based on improper motives or corrupt considerations;

(e) unclear or inadequately explained when reasons should have been revealed; or

(f) inefficiently performed or otherwise objectionable.

(2) The Office of the Ombudsman shall receive complaints from any source in whatever form concerning an official act or omission. It shall act on the complaint immediately and if it finds the same entirely baseless, it shall dismiss the same and inform the complainant of such dismissal citing the reasons therefor. If it finds a reasonable ground to investigate further, it shall first furnish the respondent public officer or employee with a summary of the complaint and require him to submit a written answer within seventy-two hours from receipt thereof. If the answer is found satisfactory, it shall dismiss the case.

How is the Office of the Ombudsman organized?

As prescribed under Section 3 of Republic Act 6770, The Office of the Ombudsman includes the Office of the Overall Deputy, the Office of the Deputy for Luzon, the Office of the Deputy for Visayas, the Office of the Deputy for Mindanao, the Office of the Deputy for the Armed Forces, and the Office of the Special Prosecutor.

The Ombudsman and his Deputies, including the Special Prosecutor, will serve for a term of seven (7) years without reappointment.

R.A. 6770 further defines the structural organization of the Office of the Ombudsman as follows:

Section 11. Structural Organization. -

The authority and responsibility for the exercise of the mandate of the Office of the Ombudsman and for the discharge of its powers and functions shall be vested in the Ombudsman, who shall have supervision and control of the said Office.

(1) The Office of the Ombudsman may organize such directorates for administration and allied services as may be necessary for the effective discharge of its functions. Those appointed as directors or heads shall have the rank and salary of line bureau directors.

(2) The Office of the Overall Deputy shall oversee and administer the operations of the different offices under the Office of the Ombudsman. It shall likewise perform such other functions and duties assigned to it by the Ombudsman.

(3) The Office of the Special Prosecutor shall be composed of the Special Prosecutor and his prosecution staff. The Office of the Special Prosecutor shall be an organic component of the Office of the Ombudsman and shall be under the supervision and control of the Ombudsman.

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers: (a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan; (b) To enter into plea bargaining agreements; and (c) To perform such other duties assigned to it by the Ombudsman.

The Special Prosecutor shall have the rank and salary of a Deputy Ombudsman.

Where to find them

**Office of the Ombudsman
Central Office**
Ombudsman Building
Agham Road, North Triangle,
Diliman, Quezon City 1128

**Office of the Deputy
Ombudsman for Visayas**
Palace of Justice, Capitol Site,
Cebu City 6000
Tel No. (032) 255-0976
Fax (032) 253-0981

**Office of the Deputy
Ombudsman for Mindanao**
4th floor H&C Building, Alvarez
Street,
Ramon Magsaysay Avenue, Sta.
Ana,
Davao City 8000
Tel No. (082) 221-3431-33
Fax (082) 221-3038

**Office of the Ombudsman
for Military**
3rd floor Ombudsman Building,
Agham Road, North Triangle,
Diliman, Quezon City 1128

(5) The position, structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Ombudsman. The Ombudsman shall appoint all officers and employees of the Office of the Special Prosecutor, in accordance with the civil service law, rules and regulations.

Section 12. Official Stations. - *The Ombudsman, the Overall Deputy, the Deputy for Luzon, and the Deputy for the Armed Forces shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City; and the Deputy for Mindanao, in Davao City. The Ombudsman may transfer their stations within their respective geographical regions, as public interest may require.*

How is the Tanodbayan different from the Sandiganbayan?

The Tanodbayan (Ombudsman) is an investigatory and prosecutory agency. It should not be confused with the Sandiganbayan, which is a special court. The Ombudsman, through the Office of the Special Prosecutor, files and prosecutes criminal cases against public officials and employees before the Sandiganbayan, which then conducts the trial.

The Sandiganbayan was originally created under Section 5, Article XIII of the 1973 Constitution:

Section 5. *The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in Government-owned or controlled corporations, in relation to their office as may be determined by law.*

The special status of the Sandiganbayan as a judicial instrument for accountability was retained in both the Freedom Constitution and the 1987 Constitution, with the latter providing in Section 4, Article XI that “The present anti-graft court known as Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.”

To further strengthen the functional and structural organization of the Sandiganbayan, several amendments have been introduced to the original

law creating it, the latest of which are Republic Act. No. 7975 and Republic Act No. 8249. Under these new laws, the jurisdiction of the Sandiganbayan is now confined to cases involving public officials occupying positions classified as grade "27" and higher. As restructured, the Sandiganbayan is presently composed of a Presiding Justice and fourteen (14) Associate Justices who sit in five (5) Divisions of three (3) Justices each in the trial and determination of cases.

Justices of the Sandiganbayan have the same qualification as the Justices of the Supreme Court. They are appointed by the President of the Republic of the Philippines. The Presiding Justice is so designated in his commission, and the other Justices have precedence according to the dates of their commissions, or when the commission of two or more of them bear the same date, according to the order in which their commissions have been issued by the President. They hold office until they reach the age of 70 or become incapacitated to discharge the duties of their office.

The Sandiganbayan sits in three divisions of three Justices each to try and determine civil and criminal cases. The three divisions sit at the same time. Three Justices constitutes a quorum for sessions in division. The unanimous vote of three Justices in a division is necessary to pronounce a judgment. If the three Justices do not reach a unanimous vote, the Presiding Justice designates two other Justices from among the members of the Court to sit temporarily with them, forming a division of five Justices. The concurrence of a majority of this division is necessary to render judgment.

As far as practicable, the trial of cases before the Sandiganbayan, once begun, continues until the judgment is rendered within three months from the date the case is submitted for decision.

The decision of the Sandiganbayan is promulgated by reading the judgment or sentence in the presence of the accused and any of the Justices of Division which rendered the judgment. A petition for reconsideration of any final order or decision may be filed within 15 days from promulgation or notice of the final order or judgment. Such a petition is decided within 30 days from its submission.

The search for the third Filipino Ombudsman

Ombudsman Aniano Desierto – the second Tanodbayan to hold office under the Office of the Ombudsman as promulgated by R.A. 6770 – completed his seven-year term and retired on August 4, 2002.

Past Ombudsmen: Who they were

Conrado M. Vasquez
1988-1995
Aniano Desierto
1995-2002

Under Article XI, Section 9 of the 1987 Constitution, a new Ombudsman must be appointed by the President within three months after the vacancy.

The new Ombudsman will be chosen by the President from a list of three nominees submitted by the Judicial and Bar Council (JBC), the body tasked to accept and screen applications to head the Office of the Ombudsman.

The members of the JBC involved in the selection process for the third Ombudsman were: Chief Justice Hilario G. Davide, Jr. (Ex-Officio Chairman), Justice Josue N. Bellosillo (Consultant), Justice Reynato S. Puno (Consultant), Secretary Hernando B. Perez (Ex-Officio Member), Senator Francis N. Pangilinan (Ex-Officio Member), Rep. Alan Peter S. Cayetano (Ex-Officio Member), Hon. Regino C. Hermosisima, Jr. (Member), Hon. Teresita Cruz Sison (Member), Dean Amado L. Dimayuga (Member), Hon. Presbitero J. Velasco, Jr. (Consultant).

How does the JBC select its nominees?

The JBC selects nominees for the Ombudsman following the same process* required for filling up vacancies in the Supreme Court, the Court of Appeals, and the Sandiganbayan.

Although anyone who fulfills the qualifications may apply, the JBC is responsible for evaluating all applications and narrowing down the list to three nominations to be submitted to the President.

Here's a rundown of the process for selecting the final nominees:

1. The JBC calls for applicants.

2. Applicants file on their own behalf or at the recommendation of any person, association, or organization.
 - a. In the latter case, the applicant must manifest his or her acceptance to the recommendation within the recommendation paper itself or in a separate document.
 - b. Filing may be done in person with the JBC Secretariat, or by registered mail, using a form prescribed by the JBC.
3. JBC sets the deadline after which no more applicants will be accepted.
4. JBC publishes the list of qualified applicants in newspapers and invites public comment on the applicants before completing its evaluation of the list.
5. Appointment: The President has three (3) months after the vacancy occurs to appoint a new Ombudsman from the list given by the JBC.

*(*For a full copy of the Rules of the Judicial and Bar Council, see Appendix.)*

What are the criteria for selection?

Applicants for the Ombudsman search 2002

Abes, Bernardino
 Avila, Edgar
 Calida, Jose
 Capulong, Romeo
 Casimiro, Orlando
 Dela Cruz, Romeo
 Fernando, Remedios
 Salazar
 Gervacio, Margarito Jr.
 Goco, Raul
 Guerrero, Jesus
 Mabutas, Ramon Jr.
 Marcelo, Simeon
 Ongkiko, Mario
 Padua, Ceferino
 Reyes, Mariano Ramon
 Tamayo, Leonardo
 Tugero, Artemio
 Valdez, Aramado
 Valenzuela, Antonio
 Villarín, Florencio
 Yorac, Haydee
 Zuño, Jovencito

Under the Article XI, Section 8 of the Constitution, the Ombudsman should be:

- a natural-born citizen of the Philippines
- at least forty (40) years-old
- of recognized probity and independence
- a member of the Philippine Bar
- must have been a judge or engaged in the practice of law in the Philippines for at least ten (10) years
- must not have been a candidate for any elective office in the immediately preceding election

In addition to these requirements, the JBC will screen all applicants according to their **Competence; Integrity; Probity/Independence;** and **Sound Physical, Mental and Emotional Condition** according to the following guidelines set forth under JBC-009, Rules of the Judicial

and Bar Council:

Competence – In determining the competence of the applicant or recommendee for appointment, the Council shall consider his education preparation, experience, performance and other accomplishments.

Integrity – The Council shall take every possible step to verify the applicant’s record of and reputation for honesty, integrity, incorruptibility, irreproachable conduct, and fidelity to sound moral and ethical standards. For this purpose, the applicant shall submit to the Council certifications or testimonials thereof from reputable government officials and non-governmental organizations, and clearances from the courts, National Bureau of Investigation, police, and from such other agencies as the Council may require

Probity/Independence – Any evidence relevant to the candidate’s probity and independence such as, but not limited to, decisions he has rendered if he is an incumbent member of the judiciary or reflective of the soundness of his judgment, courage, rectitude, cold neutrality and strength of character shall be considered.

Sound Physical, Mental and Emotional Condition – The applicant or the recommending party shall submit together with his application or the recommendation a sworn medical certificate or the results of an executive medical examination issued or conducted, as the case may be, within two months prior to the filing of the application or recommendation. At its discretion, the Council may require the applicant to submit himself to another medical and physical examination if it still has some doubts on the findings contained in the medical certificate or the results of the executive medical examination.

To this end, the JBC is also tasked to conduct personal interviews of the candidate/nominees “to observe their personality, demeanor, deportment, and physical condition; assess their ability to express themselves, especially in the language of the law in court trials/proceedings and in their decisions or rulings; test their mastery of the law and legal principles; inquire into their philosophies, values, etc; determine their probity and independence of mind and evaluate their readiness and commitment to assume and fulfill the duties

and responsibilities of judgeship.”

The JBC’s Top Three Nominees

After conducting interviews and deliberating on the qualifications of the applicants/nominees, the Judicial and Bar Council submitted its top three (3) nominees to President Gloria Macapagal Arroyo on Oct. 8, 2002.

The top three nominees were: Solicitor General Simeon Marcelo, Chief State Prosecutor Jovencito Zuño, and Social Security System Commissioner Bernardino Abes.

- Marcelo, who hails from Nueva Ecija, was a Senior Partner at the Carpio, Villaraza, Cruz Law Office before he was thrust into the public eye as the interrogator at former President Estrada’s impeachment trial. He was appointed Solicitor General in February 2001, after Estrada was deposed as President.
- Zuño, who hails from Batangas, is a career civil service employee who rose from the ranks to become the top prosecutor of the Department of Justice. He had successfully prosecuted several high-profile cases: those of former Calauan, Laguna Mayor Antonio Sanchez, the Vizconde massacre, and the case of former Rep. Romeo Jalosjos.
- Abes, who hails from Pampanga, was Labor Secretary under the term of President Diosdado Macapagal. Aside from holding his post as Commissioner of the Social Security System (SSS), he is also a member of the Board of Directors of the Philippine Stock Exchange (PSE). He is President Gloria Macapagal Arroyo’s Presidential Adviser on Legislative Affairs.

Although President Arroyo technically has until Nov. 4, 2002 to make her decision (three months after the position was vacated), Simeon Marcelo was appointed as the Philippines’ third Tanodbayan (Ombudsman) on Oct. 10, 2002.

Public interviews: A welcome amendment to the selection process

The search for the third Ombudsman was noteworthy because, for the first

time ever, the JBC opened the interviews of the applicant/nominees to the general public. .

Acting on a letter submitted by JBC ex-officio member Senator Francis Pangilinan and with further amendments by another JBC member, Associate Justice Reynato Puno , the council announced its Resolution to conduct the Ombudsman interviews in public.

The amendment to Section 1 of Rule 7, JBC-009, Rules of the Judicial and Bar Council that took effect on September 1, 2002 reads as follows:

“The interviews for the positions in the Supreme Court, Court of Appeals, Sandiganbayan and Ombudsman shall be conducted in public. Access by the media to the interviews shall be subject to the rules that the Council may promulgate. For this purpose, the list of candidates, date and place of the interview shall be published once in a newspaper of general circulation in the Philippines and once in a newspaper of local circulation in the province or city where the vacancy in question is located.”

Prior to the official announcement, there had been a clamor for greater transparency in the selection process from several civil society groups.

The Transparency and Accountability Network (TAN), in particular, actively campaigned for an “open, transparent and accountable” selection process for the Ombudsman, stressing the need for civil society involvement in the process. Through public forums and a media campaign designed to generate greater public awareness about the Ombudsman search, TAN actively lobbied to make sure that only persons of “integrity, incorruptibility, irrepachable conduct, and fidelity to sound moral and ethical standards” will be recommended for appointment.

The Transparency and Accountability Network (TAN), is a civil society coalition with a membership base of 19 organizations from the academe, private sector, and other civil society groups with strong interest in anti-corruption and good governance.

Specifically, TAN aims to (1) serve as a mechanism for coordinating transparency and accountability initiatives of civil society, (2) engage government, the private sector and the citizenry in a comprehensive strategy to promote

transparency and accountability, and (3) formulate, advocate and, where appropriate, implement strategic reform initiatives.

TAN member organizations include:

1. The Asia Foundation
2. Bantay Bukas
3. Caucus of Development NGO Networks
4. De La Salle University
5. Development Academy of the Philippines
6. Evelio B. Javier Foundation Inc.
7. Institute for Politics and Governance
8. Institute for Popular Democracy
9. Kilosbayan-Bantay Katarungan
10. Konsensyang Pilipino
11. Makati Business Club
12. National Institute for Policy Studies
13. Pagbabago@Pilipinas
14. Philippine Center For Policy Studies
15. Philippine Governance Forum
16. Procurement Watch, Inc.
17. Social Weather Stations
18. TAPATT
19. Transparency International-Philippines

A step toward greater transparency

Opening the doors of the Ombudsman interviews was a very big step toward creating greater transparency in government processes and institutions.

This could not have come at a better time, especially in light of eroding public confidence and allegations of system-wide graft and corruption. It must be remembered that former Ombudsman Aniano Desierto was himself assailed with allegations of corruption near the end of his term. How can the public trust its “watchdog” under such circumstances?

The first public interviews of the Ombudsman applicants enabled the public, to a certain extent, to be involved in the selection process. As JBC ex-officio member Senator Francis Pangilinan said, “The public, being the principal stakeholders of government affairs, should have a say on who should sit as the next Ombudsman.”

Open-door interviews, where the applicants are asked about their past associations, were especially needed because public interest groups have been abuzz in saying that President Gloria Macapagal Arroyo had already made her choice even before the nominations came in. In several press statements and editorials, it had been pointed out that then-Solicitor General Simeon Marcelo was a shoo-in for Ombudsman because of his association with the Carpio, Villaraza, Cruz Law Office, the private counsel of the President.

If this is the case, then the next Ombudsman will “not be an Ombudsman of the republic but her own Ombudsman,” lawyer Marichu Lambino pointed out during a forum held by the Lawyers for an Ombudsman’s Freedom and Tenacity (LOFTY).

“While solving graft as a systemic societal problem is not the sole responsibility of the Ombudsman and may even exceed his capacities, it certainly does not help if the appointed chief graft-buster is a crony out to protect vested interests playing footsies with the powerful,” LOFTY said in an official statement.

And as Doy Romero of the Development Academy of the Philippines wrote in a press statement, “It is difficult to get a ‘more than the usual’ Ombudsman unless the process for nominating, selecting and appointing the next Ombudsman itself is an open, transparent, and accountable process,”

Thanks to the public interviews, however, the public became privy to the dialogue between the JBC and the interviewees, as illustrated by the following news report (“Ombudsman aspirant’s ties to big law firm questioned,” by Maria Theresa Torres, *The Manila Times*, Oct. 5, 2002.):

MEMBERS of the Judicial and Bar Council (JBC) yesterday questioned the close association of Solicitor-General Simeon Marcelo to former Ilocos Sur governor Luis “Chavit” Singson and the Carpio, Villaraza, Cruz Law Office during the public screening of aspirants for the Office of the Ombudsman.

Sen. Francis Pangilinan, a member of the seven-man JBC, told Marcelo that his association with

the Carpio, Villaraza and Cruz Law Office and Singson was enough basis for not being appointed as Ombudsman.

Singson exposed the "juetengate" scandal allegedly involving former President Joseph Estrada, which later led to the ouster of his former political ally and drinking buddy by the EDSA 2 People Power revolution.

According to Pangilinan, attachment to a particular group or individual might affect the performance of Marcelo's duties as Ombudsman.

Other JBC members, including Dean Amado Dimayuga and Atty. Teresita Cruz-Sison agreed with Pangilinan, saying the council wanted to ensure that the next Ombudsman should not be dictated upon by an individual or group.

The JBC also questioned the independence of former Labor secretary Bernardino Abes who, reports and Supreme Court sources say, is being pushed by the law firm.

But Abes countered he is not a "yes" man and assured that he would be totally independent once appointed as Ombudsman.

Marcelo, on the other hand, said, he had totally disassociated himself from the Carpio, Villaraza, Cruz Law Office upon his appointment as solicitor-general.

That Simeon Marcelo was eventually appointed as Ombudsman – which naturally had critics screaming: "I told you so!" – is beside the point. What matters is that due process was followed: the JBC screened the applicants, the final list of nominees was submitted to the President, and the President made her choice – all in keeping with the guidelines prescribed by the Constitution – and the whole process was open to the public eye.

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Atty. Bong Montesa
Atty. Reggie Castillo
Mr. Vince Lazatin
A professor from UST (requested anonymity)
Marie Carisa Orinario (Research Assistant/ Interviewer)

Rules of the Judicial and Bar Council

RULE 1: FILLING OF VACANCIES

SECTION 1. Vacancies in the Supreme Court.- Vacancies in the Office of the Chief Justice and of Associate Justices in the Supreme Court shall be filled within ninety days from the occurrence thereof (Const., Art. VIII, Sec. 4, par. 1).

SECTION 2. Vacancies in the Office of the Ombudsman.- Vacancies in the Office of the Ombudsman or his deputies shall be filled within ninety days from the occurrence thereof. (Const., Art. XI, Sec. 9).

SECTION 3. Vacancies in the Court of Appeals, Sandiganbayan and all other courts.- Vacancies in the Court of Appeals, Sandiganbayan and all other courts shall be filled within ninety days from the submission by the Council of the list of nominees for the vacancy concerned.

SECTION 4. Call for applications.- (a) The occurrence of any vacancy in the Supreme Court or in the Office of the Ombudsman opens, ipso facto, the vacant position for filling and acceptance of applicants therefore.

(b) With the effective, efficient and expeditious administration of justice always in mind, the Council shall open for applicants other vacancies in the Judiciary taking into account the advice of the Supreme Court and of the condition of the dockets of the positions involved.

SECTION 5. Filling of application for appointment.- Application for appointment may be done by the applicant himself or by recommendation of another person, an association or organization. In the latter case, the applicant concerned must manifest his acceptance of the recommendation either in the recommendation paper itself or in a separate document.

SECTION 6. Where to file application or recommendation.- The application or recommendation shall be filed personally or by registered mail with the Secretariat of the Council, which must indicate therein the date and time of the filing, or receipt thereof if filed by registered mail.

SECTION 7. Contents of application.- The application must be in the form prescribed by the Council. However, if the application filed is not in such form, the applicant must submit said application in the correct form within five (5) days from notice served on him by the Secretariat. In case of a recommendation which is not accompanied by the prescribed acceptance, the recommendee who has accepted the recommendation shall be required to submit said acceptance within the same period.

SECTION 8. Deadline for filing of application.- The Council may fix the deadline for the filing of applications or recommendations for appointment, or may extend it for justifiable reasons. In case of recommendations, the acceptance by the recommendee must be made before the deadline. Applications or recommendations file beyond the deadline will not be honored.

SECTION 9. Publication of list of applicants.- The list of applicants or recommendees which

the Council shall consider in a given time shall be published once in a newspaper of general circulation in the Philippine and once in a newspaper of local circulation in the province or city where the vacancy in question is located. The publication shall invite the public to inform the Council within the period fixed therein of any complaint or derogatory information against the applicant. Copies of the list shall likewise be posted in three conspicuous places in the province, city, or municipality where the vacancy concerned is located. As far as practicable, copies thereof shall be furnished the major religious, civic, social, professional, business and other non-governmental organizations in the city or municipality where such vacancy is located. The Executive Judge of the Regional Trial Court to whose territorial jurisdiction the vacant judicial post belongs shall see to it that these requirements are complied with.

The Integrated Bar of the Philippines (IBP), as well as its Chapter in the province or city where the vacancy is located shall likewise be furnished copies of the list of applicants.

RULE 2: CONSTITUTIONAL AND STATUTORY QUALIFICATIONS FOR APPOINTMENT

SECTION 1. Qualifications applicable to all Members of the Judiciary and the Ombudsman and his deputies.-

(a) No person may be appointed Member of the Supreme Court or any lower collegiate court or as Ombudsman or deputy Ombudsman unless he is a natural-born citizen of the Philippines (CONST., Art. VIII, Section 7, par. 1; Id., Art. XI, Section 8).

(b) No person may be appointed judge of any court lower than a collegiate court unless he is a citizen of the Philippines (Const., Art. VIII, Section 7, par. 2).

(c) A Member of the Judiciary must be of proven competence, integrity, probity and independence (id., id., par. 3) and a member of the Philippine Bar (id., id., par. 2).

SECTION 2. Additional qualifications for Members of the Supreme Court.- No person shall be appointed Member of the Supreme Court unless he is at least forty years of age and must have been fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines. (id., id., par. 1).

SECTION 3. Additional qualifications for Members of the Court of Appeals.- No person shall be appointed as Member of the Court of Appeals unless he possesses the same qualifications as those prescribed for Members of the Supreme Court. (B.P. Blg. 129, Section 7).

SECTION 4. Additional qualifications of Members of the Sandiganbayan.- No person shall be appointed as Member of the Sandiganbayan unless he is at least forty years of age and for at least ten years has been a judge of a court of record or has been engaged in the practice of law in the Philippines or has held office requiring admission to the bar as a prerequisite for a like period. (P.D. 1607, as amended, Section 1).

SECTION 5. Additional qualifications of Ombudsman and his deputies.- The Ombudsman and his deputies must be, at the time of their appointment, at least forty years old, of recognized probity and independence, a member of the Philippine Bar, must have been for ten years a judge or engaged in the practice of law in the Philippines, and must not have been a candidate for any elective office in the immediately preceding election (Const., Art. XI,

Section 8).

SECTION 6. Additional qualifications of Judges of the Court of Tax Appeals.- Judges of the Court of Tax Appeals shall have the same qualifications as Members of the Supreme Court (R.A. No. 1125, Section 1, in relation to C.A. No. 103, Section 1).

SECTION 7. Additional qualifications of Judges of the Regional Trial Courts.- No person shall be appointed Judge of the Regional Trial Court unless he is at least thirty five years of age, and, for at least ten years, has been engaged in the practice of law in the Philippines or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite. (B.P. Blg. 129, Section 15).

SECTION 8. Additional qualifications of judges of courts of the first level.- No person shall be appointed judge of courts of the first level (Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, Municipal Circuit Trial Court) unless he is at least thirty years of age, and, for at least five years, has been engaged in the practice of law in the Philippines, or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite. (B.P. Bldg. 129, Section 26).

SECTION 9. Additional qualifications of judges of Shari'a courts.- In addition to the qualifications for Members of Regional Trial Courts, a judge of the Shari'a district court must be learned in the Islamic Law and Jurisprudence. (P.D. No. 1083, Article 140).

No person shall be appointed judge of the Shari'a Circuit Court unless he is at least twenty five years of age, and has passed an examination in the Shari'a and Islamic Jurisprudence to be given by the Supreme Court for admission to special membership in the Philippine Bar to practice in the Shari'a courts. (id., Article 152).

RULE 3: COMPETENCE OF APPLICANTS

SECTION 1. Guidelines in determining competence.- In determining the competence of the applicant or recommendee for appointment, the Council shall consider his education preparation, experience, performance and other accomplishments of the applicant.

SECTION 2. Education preparation.- The Council shall evaluate the applicant's (a) scholastic record up to completion of the degree in law and other baccalaureate and post-graduate degrees obtained; (b) bar examination performance; (c) civil service eligibilities and grade in other government examinations; (d) academic awards, scholarships or grants received/ obtained; and (e) membership in local or international honor societies or professional organizations.

SECTION 3. Experience.- The experience of the applicant in the following shall be considered:

(a) Government service, which includes that in the Judiciary (Court of Appeals, Sandiganbayan, and courts of the first and second levels); the Executive Department (Office of the President proper and the agencies attached thereto and the Cabinet); the Legislative Department (elective or appointive positions); Constitutional Commissions or Offices; Local Government Units (elective and appointive positions); and quasi-judicial bodies.

(b) Private Practice, which may either be general practice, especially in courts of justice, as proven by, among other documents, certifications from Members of the Judiciary and the IBP and the affidavits of reputable persons; or specialized practice, as proven by, among other documents, certifications from the IBP and appropriate government agencies or professional organizations, as well as teaching or administrative experience in the academe; and

(c) Others, such as service in international organizations or with foreign governments or other agencies.

SECTION 4. Performance.-

(a) The applicant who is in government service shall submit his performance ratings, which shall include a verified statement as to such performance for the past three years.

(b) For incumbent Members of the Judiciary who seek a promotional or lateral appointment, performance may be based on landmarks decisions penned; court records as to status of docket; reports of the Office of the Court Administrator; verified feedback from the IBP; and a verified statement as to his performance for the past three years, which shall include his caseload, his average monthly output in all actions and proceedings, the number of cases deemed submitted and the date they were deemed submitted, and the number of his decisions during the immediately preceding two-year period appealed to a higher court and the percentage of affirmance thereof.

SECTION 5. Other accomplishments.- The Council shall likewise consider other accomplishments of the applicant, such as authorship of law books, treatises, articles and other legal writings, whether published or not; and leadership in professional, civic or other organizations.

RULE 4: INTEGRITY

SECTION 1. Evidence of integrity.- The Council shall take every possible step to verify the applicant's record of and reputation for honesty, integrity, incorruptibility, irreproachable conduct, and fidelity to sound moral and ethical standards. For this purpose, the applicant shall submit to the Council certifications or testimonials thereof from reputable government officials and non-governmental organizations, and clearances from the courts, National Bureau of Investigation, police, and from such other agencies as the Council may require.

SECTION 2. Background check.- The Council may order a discreet background check on the integrity, reputation and character of the applicant, and receive feedback thereon from the public, which it shall check or verify to validate the merits thereof.

SECTION 3. Testimony of parties.- The Council may receive written opposition to an applicant on ground of his moral fitness and, at its discretion, the Council may receive the testimony of the oppositor at a hearing conducted for the purpose, with due notice to the applicant who shall be allowed to cross-examine the oppositor and to offer countervailing evidence.

SECTION 4. Anonymous complaints.- Anonymous complaints against an applicant shall not be given due course, unless there appears on its face a probable cause sufficient to engender belief that the allegations may be true. In the later case, the Council may either

direct a discreet investigation or require the applicant to comment thereon in writing or during the interview.

SECTION 5. Disqualification.- The following are disqualified from being nominated for appointment to any judicial post or as Ombudsman or Deputy Ombudsman:

1. Those with pending criminal or regular administrative cases;
2. Those with pending criminal cases in foreign courts or tribunals; and
3. Those who have been convicted in any criminal case; or in an administrative case, where the penalty imposed is at least a fine of more than P10,000, unless he has been granted judicial clemency.

SECTION 6. Other instances of disqualification.- Incumbent judges, officials or personnel of the Judiciary who are facing administrative complaints under informal preliminary investigation (IPI) by the Office of the Court Administrator may likewise be disqualified from being nominated if, in the determination of the Council, the charges are serious or grave as to affect the fitness of the applicant for nomination.

For purposes of this Section and of the preceding Section 5 insofar as pending regular administrative cases are concerned, the Secretary of the Council shall, from time, to time, furnish the Office of the Court Administrator the name of an applicant upon receipt of the application/recommendation and completion of the required papers; and within ten days from receipt thereof the Court Administrator shall report in writing to the Council whether or not the applicant is facing a regular administrative case or an IPI case and the status thereof. In regard to the IPI case, the Court Administrator shall attach to his report copies of the complaint and the comment of the respondent.

RULE 5: PROBITY/ INDEPENDENCE

SECTION 1. Evidence of probity and independence.- Any evidence relevant to the candidate's probity and independence such as, but not limited to, decisions he has rendered if he is an incumbent member of the judiciary or reflective of the soundness of his judgment, courage, rectitude, cold neutrality and strength of character shall be considered.

SECTION 2. Testimonials of probity and independence.- The Council may likewise consider validated testimonies of the applicant's probity and independence from reputable officials and impartial organizations.

RULE 6: SOUND PHYSICAL, MENTAL AND EMOTIONAL CONDITION

SECTION 1. Good health.- Good physical health and sound mental/ psychological and emotional condition of the applicant play a critical role in his capacity and capability to perform the delicate task of administering justice. The applicant or the recommending party shall submit together with his application or the recommendation a sworn medical certificate or the results of an executive medical examination issued or conducted, as the case may be, within two months prior to the filing of the application or recommendation. At its discretion, the Council may require the applicant to submit himself to another medical and physical examination if it still has some doubts on the findings contained in the medical certificate or the results of the executive medical examination.

SECTION 2. Psychological/psychiatric tests.- The applicant shall submit to psychological/psychiatric tests to be conducted by the Supreme Court Medical Clinic or by a psychologist and/or psychiatrist duly accredited by the Council

RULE 7: PERSONAL INTERVIEWS

SECTION 1. Conduct of interviews.- The Council en banc, or any panel of members thereof as may be authorized by the Council, shall conduct personal interview of candidates to, inter alia, observe their personality, demeanor, deportment, and physical condition; assess their ability to express themselves, especially in the language of the law in court trials/proceedings and in their decisions or rulings; test their mastery of the law and legal principles; inquire into their philosophies, values, etc; determine their probity and independence of mind and evaluate their readiness and commitment to assume and fulfill the duties and responsibilities of judgeship.

The interviews may be held or conducted outside of Manila.

SECTION 2. Submission of reports of interview.- Reports of the personal interviews shall be submitted to the Secretary of the Council which shall furnish the Members with copies thereof. The reports are hereby declared strictly confidential documents which shall be available only to the Members of the Council.

RULE 8: APPOINTMENT TO THE SUPREME COURT

SECTION 1. Due weight and regard to recommendees of the Supreme Court.- In every case involving an appointment to a seat in the Supreme Court, the Council shall give due weight and regard to the recommendees of the Supreme Court. For this purpose, the Council shall submit to the Court a list of the candidates for any vacancy in the Court with an executive summary of its evaluation and assessment of each of them, together with all relevant records concerning the candidates from whom the Court may base the selection of its recommendees.

SECTION 2. Age of prospective nominee.- In the selection of nominees to a vacancy in the Supreme Court, the Council must consider his age with a view to discourage appointment of those who would not be able to serve it for a reasonably sufficient time. The Council shall not consider for nomination non-career and career applicants who may no longer be able to serve the court for at least five years or for at least one and one-half years, respectively, before reaching compulsory age of retirement

RULE 9: SPECIAL GUIDELINES FOR NOMINATION TO A VACANCY IN THE COURT OF APPEALS AND SANDIGANBAYAN

SECTION 1. Additional criteria for nomination to the Court of Appeals and the Sandiganbayan.- In addition to the foregoing guidelines the Council should consider the following in evaluating the merits of applicants for a vacancy in the Court of Appeals and Sandiganbayan:

1. As a general rule, he must have at least five years of experience as a Judge of a Regional Trial Court, except when he has in his favor outstanding credentials, as evidenced by, inter alia, impressive scholastic or educational record and performance in the Bar

examinations, excellent reputation for honesty, integrity, probity and independence of mind; at least very satisfactory performance rating for three (3) years preceding the filing of his application for nomination; and excellent potentials for appellate judgeship.

If the applicant directly comes from the private sector, he must show outstanding credentials as evidenced by an impressive scholastic or educational background and performance in the Bar examinations; leadership in the legal profession; outstanding record as a lawyer with unsullied reputation for honesty, integrity, competence, probity and independence of mind, adherence to sound moral principles and fidelity to the Code of Professional Responsibility; and excellent potential for appellate judgeship, with the expectation that he can serve the Judiciary for not less than five (5) years until he reaches the compulsory age of retirement.

RULE 10: VOTING REQUIREMENTS

SECTION 1. Votes required for inclusion as nominee.- No applicant shall be considered for nomination for appointment to a judicial position unless he shall obtain the affirmative vote of at least a majority of all the Members of the Council.

SECTION 2. Votes required when integrity of a qualified applicant is challenged.- In every case where the integrity of an applicant who is not otherwise disqualified for nomination is raised or challenged, the affirmative vote of all the Members of the Council must be obtained for the favorable consideration of his nomination.

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