

II. Administrative Law

2023 Bar Review

based on SC Syllabus

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A. General Principles

- **Definition:** All the laws and policies that regulate or control the administrative *organization and operations* of the government through administrative agencies (AAs)
- **Classifications:**
 1. Internal and External Administration
 2. Law that Controls (Charter) and those issued by Administrative Agencies (Rules)
 3. Substantive and Procedural Administrative Law
 4. General and Special Administrative Law
 5. Geographical and Functional Jurisdiction

B. Administrative Agencies

- **Definition:** An agency which exercises some *significant form or combination* of executive, legislative or judicial powers (“4th Branch”)
- **Classification:** Public Offices, Juridical Persons, “Delegates” and “Agents”
- **Coverage:** Boards, commissions, departments, bureaus, offices, authorities, government corporations, government instrumentalities, and local governments
- **Rationale:** complex, diverse and specialized concerns
- **Creation:** Constitution, Special Laws, President by authority of law, Administrative Agencies themselves and Local Governments (Charter/Enabling Instrument)

B. Administrative Agencies

Charter

1. Name
2. Principles
3. Mandate/ Purpose
4. Powers
5. Duties and Responsibilities
6. Relationships (control, supervision or attachment)
7. Jurisdiction
8. Structure
9. Capitalization
10. Dissolution

C1. Powers of Administrative Agencies: Quasi-Legislative Power

a) Kinds of Administrative Rules and Regulations

<i>Supplementary</i>	Supplies the details, implements and supplements the law, and governs the public	Providing incentives to all government and private Health Institutions with Breastfeeding Practices
<i>Procedural</i>	Outlines the procedures and remedies	Outlining the procedure for the disqualification of nuisance candidates
<i>Contingent</i>	Determines the existence of a fact which is specified in the law, and operationalizes	Lowering the National Tax Allotment of LGUs on the basis of a declaration of an unmanageable public sector deficit
<i>Penal</i>	Provides for the conditions and penalties for the violation of rules as expressly allowed under the law	Setting the penalties for violation of rules pursuant to the Fair Election Act
<i>Interpretative</i>	States the official position or opinion of the AA.	Opinions of DOJ and DILG
<i>Internal</i>	Governs the administration and operations of a particular AA or other AAs	Circulars of DILG addressed to LGUs

C1. Powers of Administrative Agencies: Quasi-Legislative Power

a) Kinds of Administrative Rules and Regulations

<i>Type</i>	<i>Grant</i>	<i>Publication</i>
<i>Supplementary</i>	Express (E) or Implied (I)	Required
<i>Procedural</i>	E or I	Required
<i>Contingent</i>	E	Required
<i>Penal</i>	E	Required
<i>Interpretative</i>	E or I	Not Required
<i>Internal</i>	E or I	Not Required

C1. Powers of Administrative Agencies: Quasi-Legislative Power

b) Requisites for Validity

- AAs have no legislative power (*except LGUs*)
- Valid Delegation: Completeness and Standard
- Subordinate Legislation
- Germane to objects of law
- Reasonableness
- Issued by authority of law
- Issued by proper issuer
- Notice and Hearing if law mandates, material deviation and affect rights
- Subject to judicial review
- Prospective application
- Subject to repeal and amendment

C1. Powers of Administrative Agencies: Quasi-Legislative Power

b) Requisites for Validity (Invalid Rules)

<i>Law</i>	<i>Rule</i>
Creates	Abolishes
Strict Requirements	Liberalizes Requirements
No Requirement	Imposes Requirement
Stated Requirement	Alters/ Deletes Requirement
Enumeration Exclusive	Adds/ Deletes Requirement
List with “others”	Others not germane to list
No Classification	Discriminates/ Classifies
Limited Application	Expands Application
Broad Application	Abridging Application
Fixed Period	Changes Period
Continue Practice	Discontinues Practice
Grant Power	Nullifies Power

C2. Powers of Administrative Agencies:

Quasi-Judicial Power

Overview

- Definition: Deciding controversies, resolving conflicting claims and positions (*adversarial*)
 - Expressly conferred by law
 - Jurisdiction defined by law
 - Typically, questions of fact (*unless law allows resolution of questions of law*)
 - Subject to judicial review (*courts accord great respect*)
- Types:
 1. Directing
 2. Enabling
 3. Dispensing
 4. Summary
 5. Equitable

C2. Powers of Administrative Agencies: Quasi-Judicial Power

Overview

<i>Subject</i>	<i>Quasi-Judicial</i>	<i>Quasi-Legislative</i>
Grant	E	E or I
Parties	Particular	All/ Sectors
Adversarial	Yes	No
Controversy	Exists	None
Notice and Hearing	Required	Not Required (unless law requires; radical change) (Circular - internal)
Primary/ Exhaustion	Applicable	Not Applicable; judicial review at first instance
Time	Past/ Present	Future
Publication	Not Required	Depends on type
Res Judicata	Applicable	Not Applicable

C2. Powers of Administrative Agencies: Quasi-Judicial Power

a) Administrative Due Process

- Compared to Administrative Proceedings: not resolve controversy; grant of authorization/ permission
- Non-Delegability of QJ (*reception of evidence can be sub-delegated*)
- Observe procedural rules
- Due process (*Notice and Hearing*) required but absence curable
- Impartial Tribunal
- Substantial Evidence
- Not bound by technical rules
- Decision needed (*need not be full blown; discuss all issues*)
- Counsel dispensable
- Can enforce if allowed by law

C2. Powers of Administrative Agencies: Quasi-Judicial Power

b) Administrative Appeal and Review

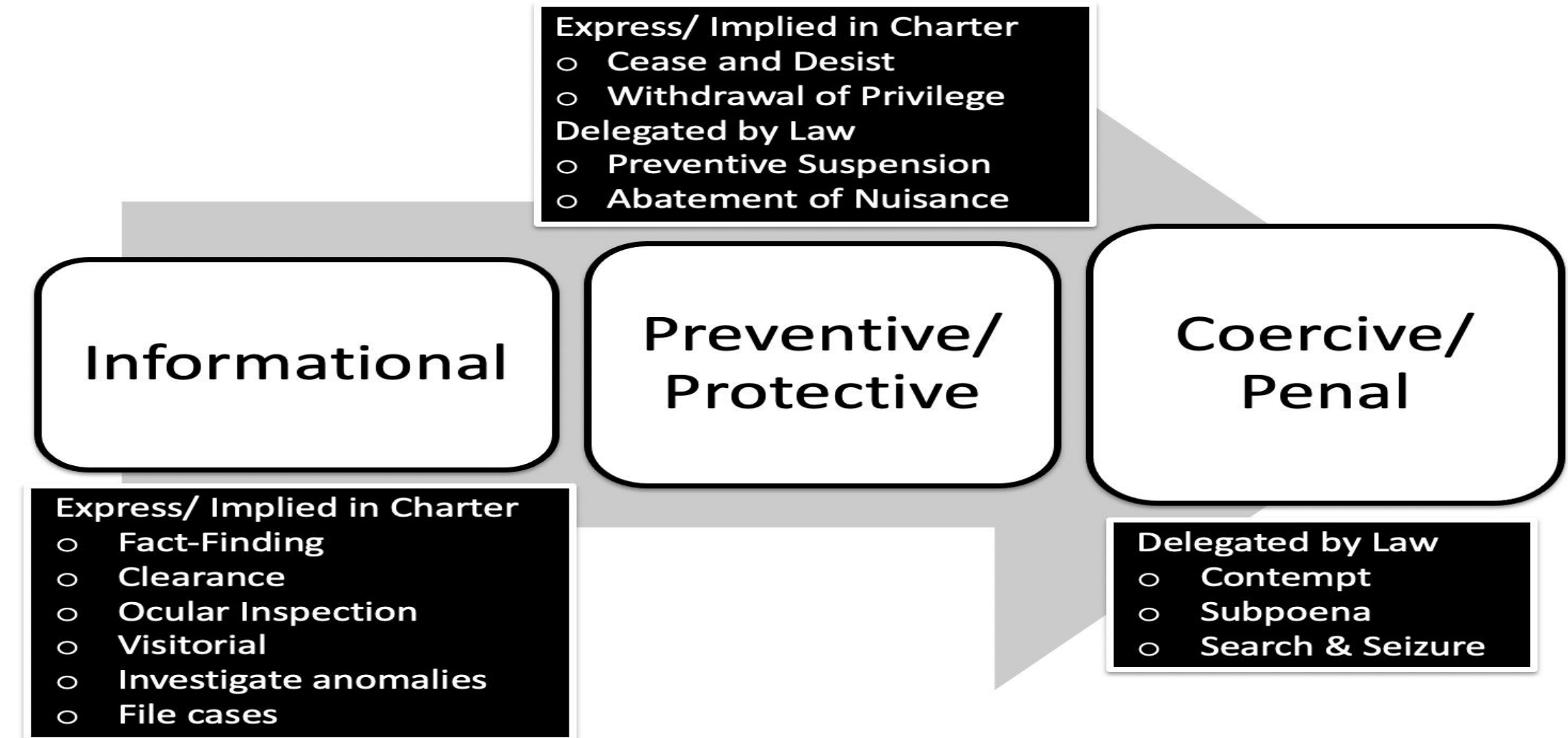
- Appeal (*next level*) within or outside the AA
- Period and procedure spelled out in law or procedural rules
- AA can, even if law is silent, in its procedural rules, require appeal to OP (*under rule on Exhaustion*)
- Review can cover legal and factual findings (*except for LGUs – only factual since relationship is only supervision*)
- Review can result in reversal/ declaration of nullity

C2. Powers of Administrative Agencies: Quasi-Judicial Power

c) Administrative Res Judicata

- Applies to Quasi-Judicial (*not Quasi-Legislative*)
- Similar to judicial res judicata
- Results in final determination, subject to judicial review, of decisions of AAs as to rights of parties reading the controversy within the jurisdiction of the AAs (*not permitted to be litigated again before the AA concerned*)
- 3 Elements: Ruled on the merits | AA has jurisdiction | Identity of Parties

C3. Powers of Administrative Agencies: Fact-finding, Investigative, Licensing & Rate-Fixing



D1. Judicial Recourse and Review:

Doctrine of Primary Administrative Jurisdiction

- AA concurrent with courts (*needs administrative discretion and expertise of AA*)
- Court may suspend or, if the parties would not be unfairly disadvantaged, dismiss the case without prejudice
- If 2 AAs have concurrent, where 1st filed provided that AA opts to take cognizance, acquires jurisdiction

D2. Judicial Recourse and Review:

Doctrine of Exhaustion of Administrative Remedies

Exhaust all administrative remedies before recourse to courts

Instances:

1. Reassignment with Governor
2. Failure of bidding with BAC
3. Rate adjustment with ERC
4. Security of tenure of water district employees with LWUA Board then CSC
5. HLURB to OP since there is prompt relief for injurious effects of judgment
6. Factual considerations in mass testing and efficient testing
7. Legality of tax code provisions with DOJ

D2. Judicial Recourse and Review:

Doctrine of Exhaustion of Administrative Remedies

10 Exceptions to Rule on Exhaustion

1. Rules issued by AAs (*Quasi-Legislative*)
2. Questions essentially Judicial
3. Pure Question of Law
4. Constitutional issues
5. Alter Ego bears approval of President
6. Transcendental issues
7. Urgency
8. No plain speedy and adequate remedy
9. Strong public Interest
10. Administrative Remedy is permissive/ not specified

D2. Judicial Recourse and Review:

Doctrine of Finality of Administrative Action

- Decision of AA must be final before Judicial Review
- Exceptions:
 1. Interlocutory orders
 2. Protect rights
 3. Violate Constitution
 4. Excessive use of power

Good luck. Thank you.