

**2014 to 2015 Cases**

# **Administrative Law and Administrative Agencies**

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# Administrative Law

- **Definition:** All the laws and policies that regulate or control the administrative organization and operations of the government
- **Classifications:**
  1. Internal and External Administration
  2. Law that Controls and those made by Administrative Agencies
  3. Substantive or Procedural Administrative Law
  4. General or Special Administrative Law

# Administrative Agencies (AAs)

- An agency which exercises some significant form or combination of executive, legislative or judicial powers (“4<sup>th</sup> Branch”)
- All AAs are Public Offices
- Include boards, commissions, departments, bureaus, offices, authorities, government corporations, government instrumentalities, and local governments
- Rationale: complex, diverse and specialized concerns

# Creation of AAs

- Constitution
- Congress (Law; GOCCs– economically viable and common good; LGUs - plebiscite)
- President (Executive Order; by authority under the Constitution or of law)
- Supreme Court (determines classification)
- Administrative Agencies themselves (Articles of Incorporation; by authority of law)
- Local Governments (Ordinance; by authority of law)

# Government Bureaucracy

- Administrative Agency/  
Government Agency
- Government-Owned and –  
Controlled Corporation  
(original charter/  
chartered)
- GOCC (special charter/  
non-chartered)
- Government  
Instrumentality
- Government Financial  
Institution
- Public Corporation
- Public Office
- National Government  
Agency
- Quasi-Corporation
- Quasi-Public Corporation
- Municipal Corporation  
Proper/ Local Government  
Unit
- Quasi-Municipal  
Corporation

# GOCC vs. GI

## GOCC

1. Organized as stock or non-stock corporation
2. Public character of its function
3. Government ownership over the same
4. Created by law or under Corporation Code

## GI

1. Agency of the national government
2. Not integrated within the department framework
3. Vested with special functions or jurisdiction by law
4. Endowed with some if not all corporate powers
5. Administering special funds
6. Enjoying operational autonomy, usually through a charter
7. Not a corporation
8. Neither stock nor non-stock
9. Created by law only (not under Corporation Code)

# Recent Jurisprudence

Entity	Characterization
Manila International Airport Authority	Created under an Executive Order GI; not a GOCC since neither stock nor non-stock
Manila Economic and Cultural Office	Created under Corporation Code as non-stock corporation Not a GOCC (not owned by Government); Not a GI (since incorporated under Corporation Code) Sui Generis Funds subject to COA
Boy Scouts of the Philippines	Created as corporation under Special Law (Commonwealth Act) Juridical person under Civil Code (other corporations with public purpose) Public function - vital role of the youth GOCC and GI – attached agency; need not meet twin test (economic viability and control/ownership test)
Veterans Federation of the Philippines	Created under RA 2640 and registered with the SEC “Public corporation” per Charter; Adjunct of government; Classified as GOCC to be privatized Sovereign function; Control and supervision of DND; DBM can in the future allocate funds
Philippine Fisheries Development Authority	Created under PD 977 as amended by EO 772 GI; not a GOCC (has capital stock, but not divided into shares)
Leyte Metropolitan Water District	Created pursuant to PD 198 GOCC with an original charter (since not under Corporation Code, not a private corporation) Quasi-Public under Charter
Philippine Economic Zone Authority	GI since not integrated within the department framework but is an agency attached to the DTI

# Rules

1. All AAs are POs, not all POs are AAs (e.g. Congress, Courts)
2. All AAs are GAs, All GAs are AAs (under GCG Act)
3. All PCs are AAs, not all AAs are not PCs (e.g. Departments, GIs and Commissions)
4. GOCCs are Corporations, GIs are not; GOCCs cannot be GIs (except BSP)
5. GOCCs, not GIs, must meet twin constitutional test of economic viability and ownership/ control
6. There are chartered and non-chartered GOCCs



# Rules

7. All Quasi-Corporations are GOCCs, All GOCCs are Quasi-Corporations; GIs are not QCs since they are not corporations
8. GOCC-GI distinction matters:
  - a. Local taxation (PFDA and MIAA – GIs exempt)
  - b. COA jurisdiction (BSP, WD and MECO – subject to COA)
  - c. Relationship either attachment, control or supervision (VFP – control and supervision; and BSP - attached)

# Charter: Enabling Instrument

1. Name
2. Principles
3. Mandate and Purpose
4. Powers
5. Duties and Responsibilities
6. Relationships
7. Jurisdiction
8. Structure
9. Budget
10. Dissolution

# Characteristics of AAs

1. Size
2. Specialization/ Functions
3. Territory
4. Responsibility for Results
5. Variety of Administrative Duties
6. Delegated Authorities
7. Accountability
8. Relationships
9. Capitalization/ Funding

# Types of AAs

1. Offers gratuities, grants or privileges (*PAO*)
2. Performs specific governmental functions (*BIR*)
3. Undertakes public service (*MWSS*)
4. Regulates businesses affected with public interest (*NTC*)
5. Exercises police power to regulate private businesses (*SEC*)
6. Resolves controversies (*NLRC*)

# Administrative Relationship

- Areas: policies, operations, budget, decisions, day-to-day, policy and program coordination
- Types:
  1. Supervision and Control (*substitute judgment; rules on how to execute act; alter-ego; e.g. President and DOTC*)
  2. Administrative Supervision (*oversight, reports, proper performance; not over appointments and contracts, not reverse decisions; e.g. Department and Regulatory Agencies; Province and Component City/ Municipality*)
  3. Attachment (*sit in Board; reporting; not day-to-day; e.g. DPWH and MWSS*)

# Powers

- AAs possess Delegated, not Inherent, Powers
- Subordinate, not Superior, to Enabling Instrument
- Liberal, not Strict, Interpretation of Powers
- AAs cannot prohibit what law does not prohibit
- Basic Powers
  1. Investigative
  2. Rule-Making or Quasi-Legislative
  3. Adjudicative or Quasi-Judicial

# Delegation of Powers

- *Potestas delegata non potest delegari*
- Exceptions:
  - President – tariff and emergency
  - Local Governments
  - People’s Initiative
  - Administrative Agencies
- Tests of Valid Delegation:
  - Completeness (the ‘what’); *and*
  - Sufficient Standards (may be broad; need not be stated in law); not vague (Cybercrime Law complete [formulate plan] and has standards [law and order])

# Investigative Powers

- partakes of judicial discretion, not judicial function
- Express Grant
  1. Contempt (can be adjunct of IP, if law provides, not exclusive to courts)
  2. Subpoena
  3. Search

*(Presence of counsel not required)*
- Express or Implied
  1. Clearance
  2. Fact-Finding
  3. Ocular Inspection
  4. Visitorial



# Rule-Making

- Definition: Power to Issue Rules/ Fill in details/ ‘How’ (not ‘What’) a Law will be implemented
- Nature: Inferior/ Subordinate, i.e., cannot change, amend or conflict with charter or law (cannot: abortifacient – “primarily” induces abortion; “shall” use name of father to “may” use; media campaign limits “overall”)
- Rationale:
  1. regulation highly complex
  2. future situations cannot be fully anticipated
  3. practicability
  4. expediency

# Rule-Making

## *Effects*

1. Force and effect of law
2. Interpretations persuasive (not controlling)
3. Presumed legal and constitutional
4. Operative effect
5. Subject to judicial review
6. Subject to repeal and amendment
7. Prospective application

# Rule-Making

## *Requisites*

1. Authority: by authority of law
2. Substance: not contrary to law
3. Procedure: properly promulgated; publication and hearing, if required by law (Circular/ not Administrative Regulation [internal rule] so not require hearing, publication and consultation)
4. Issuer: Issued by proper authority (FDA can issue circular based on AO of SoH; CSC cannot issue rules on positions exempt from classification since outside jurisdiction)
5. Standard: Reasonable
  - Relation to purpose
  - Supported by good reasons
  - Not arbitrary
  - Free from legal infirmities

# Types of Rules (PIPICS)

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

# Invalid Exercise: Rule-Making

## *Law*

Creates

Strict Requirements

No Requirement

Stated Requirement

Enumeration Exclusive

No Classification

Limited Application

Fixed Period

Continue Practice

Grant Power

## *Rule*

Abolishes

Liberalizes Requirements

Imposes Requirement

Alters/ Deletes Requirement

Adds/ Deletes Requirement

Discriminates/ Classifies

Expands Application

Changes Period

Discontinues Practice

Nullifies Power

# Quasi-Judicial Power

- Grant of Power: Express
- Definition: Deciding controversies, resolving conflicting claims and positions
- Extent: Typically, only questions of fact (questions of law or mixed if expressly permitted under the Charter/ law)
- Limitation: Subject to Judicial Review

# Classes: Quasi-Judicial Power

1. Directing (corrective/ award), e.g., *backwages*
2. Enabling (grant/ permit), e.g., *grant of franchise*
3. Dispensing (exempt/ relieve), e.g., *amnesty*
4. Summary (compel/ force), e.g., *cease and desist*
5. Equitable

# Quasi-Legislative or -Judicial

1. Application for rate increase by a particular public utility (*QJ*)
2. Increase rates for all buses (*QL*)
3. Setting qualification standards (*QL*)
4. Disqualifying a candidate (*QJ*)
5. Procedures for applying for a franchise (*QL*)
6. Revoking a specific franchise (*QJ*)



# Quasi-Legislative and -Judicial

<i>Topic</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
Time	Past/ Present	Future
Publication	Not Required	Depends
Res Judicata	Applicable	Not Applicable

# Administrative Proceedings

- Character: Adversarial, quasi-judicial, civil
- Jurisdiction: Defined by Law/ Charter (not by AA or parties)
- Nature: Power to Adjudicate Not Delegable (power to hear/ receive evidence can be delegated)
- Due Process (DINA): Decision, Impartial Tribunal, Notice and Appear/ Defend
- Procedure: reasonable, due process, meet ends, published

# Administrative Proceedings

- Notice and Hearing
  - Required (actual or constructive)
  - Subject to waiver and estoppel
  - Curable (i.e., subsequently heard, filing of motion of reconsideration, oral arguments)
  - Position papers allowed
  - Not required when privilege, abatement, conditional right, legislative or administrative
- Right to counsel not imperative
- Full Hearing: All Claims, Rebuttal, Evidence and Cross-Examination (dispensable)

# Administrative Proceedings

- Evidence
  - Substantial (unless law provides different quantum)
  - Ocular allowed (when relevant)
  - Adoption of reports allowed
- Decision: Bases, Form (need not be full-blown), Parties, All Issues and Evidence
- Enforcement: by AA if authorized by law (if not, courts)

# Administrative Findings

- AA findings are not conclusive and final before courts
- Given weight, not disturbed unless:
  1. Not based on substantial evidence
  2. Fraud, mistake, collusion
  3. Palpable errors
  4. Grave abuse of discretion
  5. Misappreciation of evidence
  6. Conflict in factual findings

# Judicial Review

1. Certiorari
2. Prohibition
3. Injunction
4. Mandamus
5. Declaratory Relief
6. Appeal

# Scenarios

AA

Higher/  
Level 2

Lower/  
Level 1

Courts

1. No actual injury, filed case in AA or Court
2. Instead of filing case before AA, filed directly with Court
3. While case pending before AA Level 2, filed case in Court
4. After AA Level 1 decides case, filed case before Court

# Defenses: Judicial Review Premature

1. Doctrine of **Finality of Administrative Action**: Decision of AA must be final before Judicial Review; Exceptions:
  - interlocutory orders
  - protect rights
  - violate Constitution
  - excessive use of power
2. Doctrine of **Primary Jurisdiction**: AA concurrent with courts; needs administrative discretion and expertise of AA



# Defenses: Judicial Review Premature

3. Doctrine of **Ripeness for Review**: Controversy must be real, present or imminent (not future/ imaginary/ remote)
3. Doctrine of **Exhaustion of Administrative Remedies**: exhaust all administrative remedies before recourse to courts (**reassignment – Governor; failure of bidding – BAC**), condition precedent, with some 19 exceptions, namely: **JPLCS DRIED DARN CLRNT**

# Exceptions: Non-Exhaustion

## JPLCS

- Questions essentially **Judicial**
- Administrative Remedy is **Permissive**
- Pure question of **Law**
- **Constitutionality**  
(impairment; freedom of speech)
- **Small amount** that exhaustion will be costly

## DRIED

- Utter disregard for **Due Process**
- No plain speedy **Remedy**
- Strong public **Interest**
- **Estoppel**
- Continued and unreasonable **Delay/ Urgency** (impending maturity if bonds; elections nearing)

# Exceptions: Non-Exhaustion

## DARN

- Irreparable **D**amage by party
- **A**lter Ego Bears approval of President
- No administrative **R**eview is provided
- Insistence on exhaustion will lead to **N**ullification of claim

## CLRNT

- **C**ivil action for damages
- **L**and not part of public domain
- Special **R**easons demanding immediate judicial relief
- No **D**ecision rendered
- **T**ranscendental issues

# Compare/ Contrast the Defenses

Defenses/ Aspects	Finality of Admin. Action	Primary Jurisdiction	Non-Exhaustion of Admin. Remedies	Ripeness for Review
Concept	AA not yet final (pending)	Concurrent AA and court; AA 1 <sup>st</sup> instance	AA process (all levels) not yet completed	No controversy (future, imaginary, remote)
What has to be done	Await decision of AA	Allow AA to assume jurisdiction	Complete whole process (all levels)	Await matter to become real/ present or imminent
Pendency before AA	While pending in an AA level, go to court	No AA case yet; filed with court directly	Process complete at 1 level, not elevate to next level, then file with court	Pending or no pending AA case
w/ exceptions	Yes	Yes	Yes	No
Exceptions	Interlocutory Preserve status quo Protect rights Violate Constitution Great damage Excess power	Judicial discretion Question of law AA has no jurisdiction	Pure question of law Transcendental issue Constitutional issue No adequate remedy Alter-ego Public interest	None (Declaratory Relief)
Applicability	QJ	QJ	QJ	QJ and QL

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