

150 Questions on Administrative Law

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March 20, 2023

Administrative Law

1. What is **Administrative Law** (AL)?
2. What Articles in the **1987 Constitution** touch on AL?
3. Give **examples** of ALs?

Administrative Law

An Administrative Agency (AA) **can or cannot:**

1. Issue cease and desist orders?
2. Rule on disputes?
3. Cite a person in contempt?
4. Amend statutes?
5. Provide for penal rules?
6. Decide on mixed questions of fact and law?
7. Regulate an activity and prescribe fees?
8. Expropriate?
9. Levy tax?
10. Exercise those powers not expressly given to it?

Administrative Agencies

True or False: An AA:

1. Belongs to the “4th branch” of Government.
2. Is a public office.
3. Has a legal or juridical personality.
4. Is a delegate, a trustee, and a subordinate to the creating authority.
5. Can be perform a mix or fusion of powers.
6. Is an organization accountable to the State and the public.

Administrative Agencies

AA or Public Office (PO) or Both?

1. Courts
2. Philippine Reclamation Authority (PRA)
3. Makati City
4. Congress
5. University of the Philippines

Administrative Agencies

What are the **similarities and differences** between:

1. Department of Interior and Local Governments (DILG) and Quezon City (QC)?
2. Commission on Elections (COMELEC) and Regular Courts?
3. Manila International Airport Authority (MIAA) and Philippine Reclamation Authority (PRA)?
4. Manila Economic and Cultural Office and Boy Scouts of the Philippines?
5. Corregidor Foundation and Philippine International Convention Center (PICC)?
6. Metropolitan Waterworks and Sewerage System and University of the Philippines?

Administrative Agencies

The City Government of Paranaque assessed MIAA **real property tax** over the latter's runway and terminal.

1. Is MIAA liable?
2. If MIAA files a case in court, is it exempt from paying legal/ docket fees?

Will your answer be the same if it is PICC?

Administrative Agencies

1. What do you call that instrument which **creates/ incorporates** an AA?
2. What are the **forms** of enabling instruments?
3. What are its **basic parts**?
4. Why is it **important** to read/ know the Charter of an AA?

Administrative Relationship

What is the **relationship** between the:

President	Department of Transportation (DOTr)
President	Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF)
President	Commission on Audit (COA)
President	Local Government Units (LGUs)
Secretary of Energy	Philippine National Oil Company (PNOC)
Province of Cavite	Bacoor City

Administrative Relationship

Matching Type (There can be more than 1 answer.)

	<i>Power</i>		<i>Relationship</i>
1	Changing/ overruling decisions	A	Control
2	Declaring a policy illegal	B	Supervision
3	Presiding as Board Chairperson	C	Attachment
4	Disciplining the subordinate officer	D	Autonomous
5	Exercising no authority over		
6	Prescribing the manner on how to act		
7	Requiring submission of reports		
8	Reversing a decision of lower office		
9	Declare acts arbitrary		

Administrative Relationship

Under the 1991 Local Government Code, a sanggunian barangay can impose a fine as penalty for a maximum amount of P1,000 for violation of a barangay ordinance. A barangay enacted an ordinance requiring the use of face masks during the quarantine and penalizing violators with a fine.

1. The fine imposed is P800. On review by the sangguniang panlungsod, can it **direct** the fine to be the **increased** to P1,000, the maximum allowable?
2. The fine imposed is P1,200. On review by the sangguniang panlungsod, can it **direct** the fine to be the **decreased** to P800, or below the maximum?
3. The fine imposed is P1,200. On review by the sangguniang panlungsod, can it **declare** the provision **ultra vires** or illegal? Contrary to **public policy**?

Administrative Relationship

Can the **Secretaries**, sitting as ***ex officio* Chairpersons**, as required under the law, **veto/ overrule the decision** of a majority of the AA Board on the ground that they are the ***alter egos*** of the President?

Can the Charter of AA provide for veto power of the Chairperson?

Delegation of Powers

1. Congress enacted a law authorizing the Department of Health (DOH) to regularly update the list of **notifiable infectious diseases**? Is the law **complete** and therefore would allow DOH to add diseases?
2. A law was passed empowering an AA “**whenever for any cause**” to impound commodities. Is this provision valid?
3. In the enumeration of powers of a GOCC Board, it provides “**such matters as the Board may from time to time prescribe.**” Is this lawful?
4. Under a law, emergency powers are given to the President on account of “**public interest.**” A taxpayer claims that the **standard** is vague. Is the contention correct?
5. The Securities and Exchange Commission (SEC) issued a circular **prohibiting an activity** when the law does not expressly give it that power. Is the circular valid?

Investigative+ Powers

Can an AA which is empowered to **regulate the power industry and protect consumers**:

1. Conduct **fact-finding investigations**?
2. File **cases**?
3. Resolve **disputes**?
4. Undertake **ocular inspections**?
5. Suspend **licenses**?
6. Cancel **franchises**?
7. Cite persons in **contempt**?
8. Issue **subpoenas**?
9. Issue **cease and desist orders**?
10. Abate **nuisance**?

Quasi-Legislation

Which of these statements are **Absolutely True**?

1. Only **Congress** can enact laws.
2. AAs cannot enact laws but can issue **rules**.
3. Law-making \cong **rule-making**.
4. The principle of **subordinate legislation** admits of exceptions.
5. An AA, through its own rule, can define its geographical and functional **jurisdiction**.
6. A rule can provide for the **procedure for granting franchises** when the Charter of the AA is silent on the matter.

Quasi-Legislation

Name that **rule**: A rule which –

1. Supplies the details, implements and supplements the law, and governs the public.
2. Outlines the procedures and remedies.
3. Determines the existence of a fact which is specified and defined in the law, and effectuates said statutory provision.
4. Provides for the conditions and penalties for the violation of rules whereby the law permits the imposition of penalties for violation of rules.
5. States the official position or opinion of the AA.
6. Governs the administration and operations of a particular AA or other AAs.

Quasi-Legislation

Allows Contingency Rule

xxx Provided, That in the event that the national government incurs an **unmanageable public sector deficit**, the President of the Philippines is hereby authorized, upon the **recommendation** of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to **consultation** with the presiding officers of both Houses of Congress and the presidents of the “liga”, to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of national internal revenue taxes of the third fiscal year preceding the current fiscal year: xxx

Allows Penal Rule

Violation of this Act and the **rules and regulations** of the COMELEC issued to **implement this Act** shall be an **election offense** punishable under the first and second paragraphs of Section 264 of the Omnibus Election Code (Batas Pambansa Blg. 881).

Quasi-Legislation

An AA issued the following rules **without** having an **express authority** under its Charter and **without publishing** the same:

1. A **department order** that the general public must follow.
2. A **memorandum circular** addressed to all LGUs.
3. An **opinion** on the power to issue CDOs.
4. An **administrative order** which provides for penalties for violation of AA rules.

A taxpayer questioned the validity of these rules.
Discuss.

Quasi-Legislation

Agree or Disagree:

1. Rules are laws.
2. Courts cannot declare rules illegal.
3. Rules, like laws, are permanent and immutable.
4. Rules can be changed at anytime.
5. Notice and hearing are never required before rules are promulgated.
6. An AA can ignore or suspend the application of rules of another AA.
7. A taxpayer must always seek redress with the President to question a rule before seeking court intervention.

Quasi-Legislation

Can an AA issue the following rules in connection with the statutory provision:

	<i>Law</i>	<i>Rules</i>
1	AA relationship is supervision	Supervising AA requires regular reports
2	AA to Court of Appeals (CA)	AA to Office of the President to CA
3	Appeal is prescribed but silent as to period	Prescribe 15-day appeal period
4	Delegated power to investigate	Cross-examination not allowed

Quasi-Legislation

Can an AA issue the following rules in connection with the statutory provision:

	<i>Law</i>	<i>Rules</i>
5	5 listed qualifications	Remove or add 1 from list
6	10-day appeal period	5-day appeal period
7	Activity not prohibited	Prohibit such activity
8	Regulate an activity	Prohibit said activity
9	"May" use	"Shall" use
10	"and"	"or"
11	"Infectious"	"primarily infectious"
12	Law silent	Rules on Hold Departures
13	Prescribe minimum standards	If fail test, cannot be admitted

Nature of Proceedings

An AA:

1. Issued a procedural rule.
 2. Granted a license/ franchise/ certificate of public convenience.
 3. Resolved a dispute between two parties in favor of one.
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- a. Characterize/ categorize the **AA proceedings**.
 - b. Is prior **notice and hearing** (N/H) required?

Quasi-Judicial Power

Put a check (✓) inside the brackets/ boxes if correct/ allowed/ can be done, and cross (X) if incorrect/ not allowed/ cannot be done:

- [] 1. QJ power implied from the power to investigate and issue rules.
- [] 2. Right to counsel and right to cross-examine can be dispensed with in QJ proceedings.
- [] 3. AAs can rule on questions of law.
- [] 4. Evidence beyond reasonable doubt is the quantum of proof for QJ proceedings.
- [] 5. A decision of an AA must be full-blown like decisions of the courts.
- [] 6. Lack of notice and hearing in QJ proceedings can be remedied.
- [] 7. Not bound by technical rules means that AAs can dispense with any rule on admissibility.

Quasi-Judicial Power

Put a check (✓) inside the brackets if correct/ allowed/ can be done, and cross (X) if incorrect/ not allowed/ cannot be done:

[] 8. An AA with QJ power can delegate to one of its departments the power to receive evidence.

[] 9. In a decision, the AA declared that its ruling cannot be reviewed by the courts.

[] 10. Courts can overrule the decisions of AAs and conduct a new trial.

[] 11. Courts can change the decision/ policy of an AA increasing the premiums to be paid by employers.

[] 12. Under the Charter of the AA, it can resolve pollution-related cases. The AA, pursuant to the agreement between the parties, ruled on the ownership of properties of the parties.

[] 13. Under the AA Charter, it can resolve industry-related transactions. The AA ruled on damages caused by a private party.

[] 14. An AA can condone fines when condonation is not prayed for by the petitioner.

Quasi-Judicial Power

Can the **COMELEC En Banc**, in the exercise of its adjudicatory power:

1. Resolve **questions of law**?
2. Enforce its own **decisions**?
3. Conduct **trial de novo** of a case resolved by a COMELEC Division?
4. Cite persons in **contempt**?
5. Require **position papers** in lieu of trial?
6. Apply preponderance of evidence as **quantum of proof**?
7. Delegate unto its Regional Directors the power to:
 - a) Receive **evidence**?
 - b) Decide on **election contests**?

Judicial Review

What are the **remedies**:

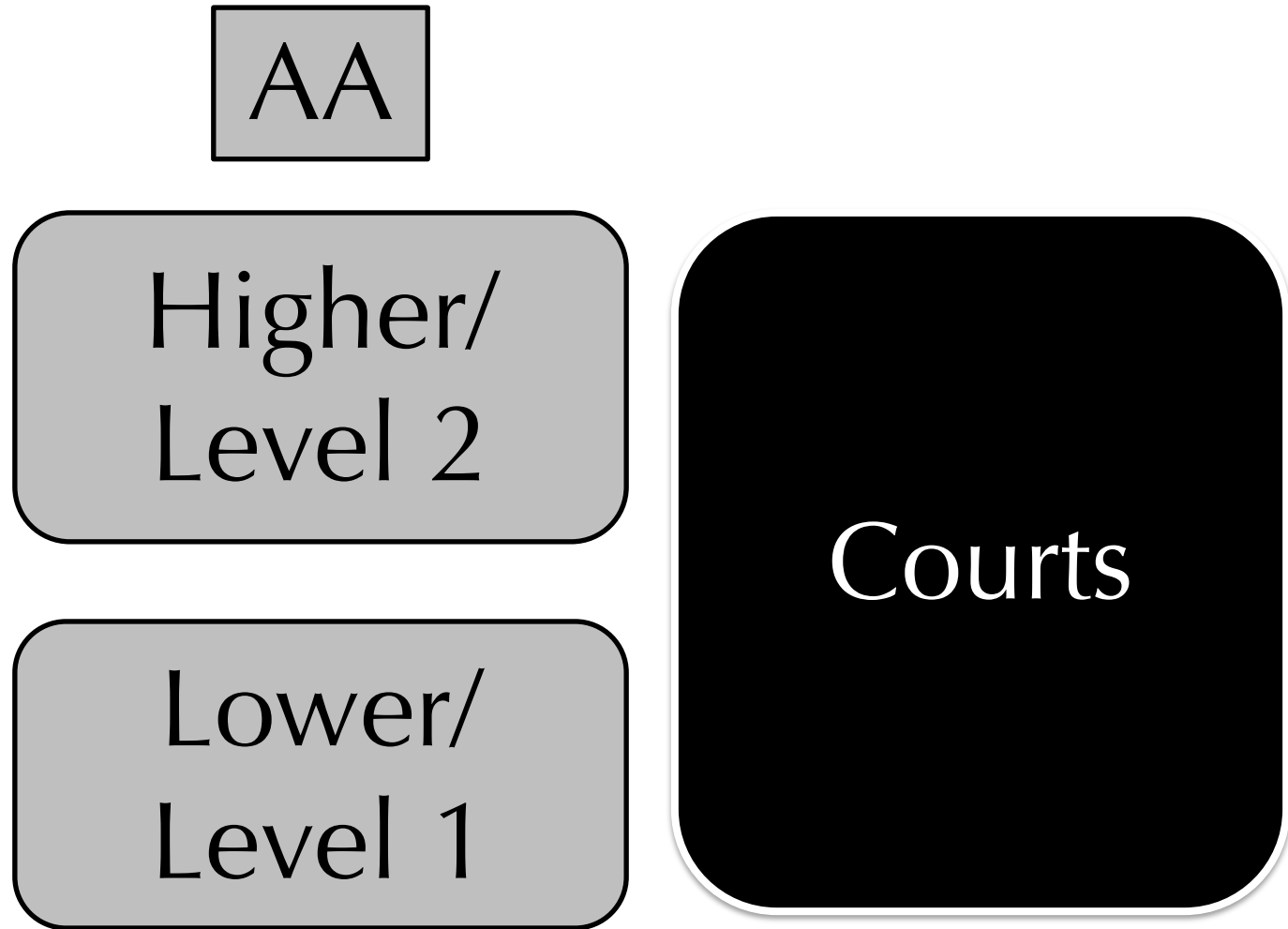
1. to assail the **actions**, rules, policies and decisions of AA?
2. to render liable the **officers** of the AA?

Judicial Review

If you are a justice or judge, in what instances will you **change or not change** the **factual findings** of AAs?

Why or why not?

Judicial Review



Judicial Review

What defenses can an AA raise if:

1. There is no actual injury, and an aggrieved party files a case with the AA or Court?
2. Instead of filing case before AA which has jurisdiction under its Charter, an aggrieved party filed a case with Court?
3. While a case is pending before AA Level 2, an aggrieved party elevated the case in Court?
4. After AA Level 1 decides a case, an aggrieved party filed a case before the Courts, not with AA Level 2?

Judicial Review

Proper or Improper:

1. While a case is pending before the Energy Regulatory Commission (ERC), an aggrieved party felt that the ERC is biased and was not giving the party the opportunity to be heard. Instead of waiting for the resolution of the case, the affected party lodged a case in court.

Under the 1991 Local Government Code, a taxpayer must question a tax ordinance before the Department of Justice (DOJ). Instead of elevating the matter to the DOJ, a taxpayer filed a case in court:

2. on the ground of due process.
3. assailing the validity of a measure imposing a fee.
4. A foundling who filed her Certificate of Candidacy for the position of President was disqualified by the Comelec 1st Division. She elevated the matter directly with the Supreme Court. She did not file an MR before the Comelec En Banc.

Judicial Review

Proper or Improper:

5. A student seeks the release of his transcript but was denied by the college. Rather than elevating the matter to the Commission on Higher Education, he went to court.
6. A party, instead of elevating a decision made by the Deputy Ombudsman on behalf of Ombudsman to the latter, filed a case before the Court of Appeals.
7. For non-payment by a city, the contractor who constructed the port filed a collection case before the courts, rather than the Commission on Audit which has jurisdiction over money claims against local governments.
8. A taxpayer assailed before the SC the efficiency of the mass testing protocol issued by the IATF.
9. An AA in charge of preserving a lake ordered the payment of a fine which is permitted under its Charter. Instead of assailing the order with the DENR, the party elevated the matter in court.



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Thank you.

