|  |  |  |
| --- | --- | --- |
| **HIPAA Complaint Process** | **PRC Complaint Process** | **AO No. 22, s. 2011: Appeals to the office of the President of the Philippines** |
| 1. OCR accepts a complaint for investigation. 2. OCR notifies the person who filed the complaint and the covered entity named in it. 3. Complainant and the covered entity are asked to present information about the incident or problem described in the complaint. 3.5 OCR may request specific information from each to get an understanding of the facts. 4. Covered entities are required by law to cooperate with complaint investigations. 5. IF complaint describes an action that could be a violation of the criminal provisions of HIPAA, OCR may refer the complaint to DOJ for investigation. IF discovered that the covered entity did not violate the requirements of the Privacy or Security Rule or if the OCR discovered that the covered entity was not in compliance, OCR will attempt to resolve the case with the covered entity by obtaining: * Voluntary compliance;
* Corrective action; and/or
* Resolution agreement.

6. OCR notifies the person who filed the complaint and the covered entity in writing of the resolution result. 7. If covered entity does not take action to resolve the matter in a way that is satisfactory, OCR may decide to impose civil money penalties on the covered entity.<http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/examples/how-OCR-enforces-the-HIPAA-privacy-and-security-rules/index.html>  | 1. Docketing and Calendar- starts from the date of filing of the complaint to when the notice of pre-trial is sent to the parties. 2. Pre-trial and depositions- covers the pre-trial, depositions, and other practices designed to dispense with, or limit time for the reception of evidence. 3. Reception of Evidence- evidence for both the complaint and for the respondent are presented as well as the rebuttal evidence. 4. Decision-making- discussions and vote on the case and the preparation and signing of the decision. <http://prc.gov.ph/services/default.aspx?id=17> | Prescribing Rules and Regulations governing appeals to the office of the President of the Philippines***Period to Appeal-*** within 15 days from notice of the aggrieved party of the decision/resolution/order appealed from, or of the denial, in part or in whole, of a motion for reconsideration duly filed in accordance with the governing law of the department or agency concerned. ***Appeal, how taken***- filing a Notice of Appeal with the Office of the President, with proof of service of a copy thereof to the dept or agency concerned and the affected parties, and payment of the appeal fee. ***Transmittal of Record-*** within 10 days from receipt of a copy of the Notice of Appeal, the department or agency concerned shall transmit to the Office of the President the complete records of the case with each page consecutively numbered and initialed by the custodian of records, together with a summary of proceedings thereon from filing of the complaint or petition before the office or or origin up to transmittal to the Office of the President in chronological order***Perfection of Appeal-*** The appeal shall be deemed perfect upon the filing of the Notice of Appeal, payment of the appeal fee, and the filing of the appeal memorandum. ***Period to file appeal memorandum-*** filed within 30 days from the date the Notice of the Appeal is filed, with proof of service of a copy thereof to the department or agency concerned and the affected parties. ***Appeal Memorandum***- filed in 3 copies and shall contain the caption and docket number of the case as presented in the office of origin and the address of the parties. -indicate the specific material dates showing that it is filed within the period prescribed in Section 1-contain a concise statement of the facts and issues and the grounds relied upon for the appeal-accompanied by a clearly legible duplicate original or a certified true copy of the decision/resolution/order being appealed. ***Non- compliance with requirements***-failure of the appellant to comply with any of the requirements (payment of appeal fee, proof of service of the appeal memorandum, and the contents of and the documents which should accompany the appeal memorandum) shall be ground for the dismissal of the appeal.***Stay of execution*** -with respect to decisions/resolutions/orders of the Housing and Land Use regulatory board, the appeal will stay at the execution for a period of 60 days from the date of filing of a Notice of Appeal. After 60 days, the decision/resolution/order shall be executory unless otherwise ordered by the OP. ***Action on appeal**** OP may require the appellee to file a comment to the appeal memo within 15 days from notice, or dismiss the appeal if the OP finds that:

a. it has no jurisdictionb. appeal is patently without meritc. the appeal is prosecuted manifestly for delayd. the questions raised in the appeal are too unsubstantial to require consideration. ***Comment***-point out insufficiencies or inaccuracies in appellant’s statement of facts and issues-state the reasons why the appeal should be denied or dismissed. -a copy shall be served on the appellant and department or agency concerned, with proof of service submitted to the Office of the President.***Submission for resolution***-deemed submitted for resolution upon the receipt of the comment, unless the OP directs otherwise. ***Memorandum decision***-shall adopt by reference the findings of fact an conclusions of law contained in the decision/resolution/order appealed from, either by attaching the same to the memorandum decision or by quoting the decision/resolution/order appealed from, either by attaching the same to the memorandum decision or by quoting the decision/resolution/order in the memorandum decision. ***Finality of decision******-***decisions of the OP shall except as otherwise provided by special laws, become final after the lapse of 15 days from receipt of a copy thereof by the parties unless a motion for reconsideration is filed within the period. -only 1 motion for recommendation is allowed and entertained. ***Executory nature of decision***-the decision of the OP is sexecutory and the records will be remanded to the department/agency where the case originated, unless the Court of Appeals or the SC issues an order staying the execution of the decision/resolution/order. ***Withdrawal of Appeal***-allowed to be withdrawn at any time prior to the promulgation of a decision of the OP, except when public interest is prejudiced thereby. Upon the approval of the appeal, the case shall stand as if no appeal had ever been taken. ***Delegation of authority***-executive secretary is authorized to decide and sign decisions/resolutions/orders in appealed cases.For cases with exigencies, the executive secretary may temporarily designate the deputy executive secretary for legal affairs or any deputy executive secretary to decide and sign resolutions in appealed cases. ***Limitation on appeals***-appeals from decision/orders of the DOJ shall continue to be limited to those involving offenses punishable by reclusion perpetua to death in accordance with MC no 58 (s. 1993). ***Application of rules of court***-rules of court shall apply in a suppletory character whenever practicable and convenient |
|  | **RECUSION PERPETUA VS. LIFE IMPRISONMENT**Life imprisonment-a sentence for a crime that is covered by a Special Penal Law. -duration is indefinite-no accessory penalties-no details on pardon specifiedReclusion Perpetua-a sentence for a crime that is under the revised penal code-duration is 20 to 40 years-comes with accessory penalties-convicts become eligible for pardon after 30 years(revised penal code)  | MC No. 58, s 1993-no appeal from or petition for review of decision/orders/resolutions of the Secretary of Justice on preliminary investigations of criminal cases shall be entertained by the OP, except those involving offenses punishable by reclusion perpetua to death wherein new and material issues are raised which were not previously presented before the DOJ and were not ruled upon in the subject decision/o/r, in which the president may order the secretary of justice to reopen/review the case, provided that the prescription of the offense is not due to lapse within 6months from notice of the questioned resolution/r/d and provided further that the appeal or petitions for review is filed within 30 days from such notice. If an appeal or petition for review does not clearly fall within the jurisdiction of the OP, as set forth in the immediate preceding paragraph, it shall be dismissed outright and no order shall be issued requiring payment of the appeal fee, submission of memorandum or the elevation of the records to the OP from the DOJ. Only the executive secretary, the chief presidential legal counsel or the assistant executive secretary for legal affairs shall be authorized to sign any order for the payment of appeal fee or the submission of appeal brief/memorandum or the transmittal of records to the OP in all cases covered by MC 1266 and by this circular.  |

