IMPLEMENTING RULES AND REGULATIONS ON R.A. 7877, AN ACT DECLARING SEXUAL HARASSMENT UNLAWFUL IN THE EMPLOYMENT, EDUCATION OR TRAINING ENVIRONMENT, AND FOR OTHER PURPOSES

CSC MEMORANDUM CIRCULAR NO. 30, October 10, 1995

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Republic Act 7877, An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for other purposes was approved by President Fidel V. Ramos on February 14, 1995 and took effect on March 5, 1995, or fifteen (15) days after its complete publication on February 18, 1995 in two (2) national newspapers of general circulation.

In this connection, we wish to invite your attention to the provisions of Section 4 thereof which requires the Employer or Head of Office to promulgate appropriate rules and regulations in consultation with and jointly approved by the employees through their duly designated representatives, prescribing the procedures for the investigation of sexual harassment cases and the administrative sanctions therefor.

The said rules and regulations shall also include among others, guidelines on proper decorum in the workplace and the creation of committee on decorum and investigation of cases on sexual harassment.

For your reference, we have enclosed a copy of R.A. 7877[*] and our own Implementing Rules and Regulations, which may use as model. You may modify or amplify said Rules to suit your own needs.

Adopted:

(SGD.) CORAZON ALMA G. DE LEON
Chairman

Resolution No. 95-6161

WHEREAS, the State values the dignity of every human being and guarantees full respect for human rights;

WHEREAS, an act of sexual harassment is recognized as a violation of human rights, defeats and impairs morale and efficiency in the workplace, violates the merit and fitness principle in the civil service and creates or fosters environment in the workplace which adversely affect productive performance;

WHEREAS, R.A. 7877, An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment and for other purposes, was enacted of February 14, 1995 and became effective on March 5, 1995, fifteen days after its publication in the Malaya and Times Journal on February 18, 1995.

WHEREAS, Section 4, Republic Act 7877 mandates each employer or head of agency to promulgate appropriate rules and regulations in consultation with and jointly approved by the employees through their duly designated representatives, to include guidelines on proper decorum and create a Committee on Decorum and Investigation;

NOW, THEREFORE, this Commission hereby promulgates these Rules and Regulations prescribing procedures

for the resolution, settlement or prosecution and adjudication of sexual harassment cases, as well as guidelines for the proper decorum of officials and employees in the Commission which shall be supplementary to these Rules (under separate cover);

Rule I
Coverage

SECTION 1. These Rules shall apply to all officials and employees in the Commission including the Career Executive Service Board (CESB), Regional and Field Offices, whether in the Career or Non-Career service and holding positions under permanent or temporary status.

Rule II
Jurisdiction

SECTION 2. Jurisdiction - The Commission as the disciplining authority over all its officials and employees shall exercise exclusive jurisdiction over acts and omissions which constitute sexual harassment. The decision of the Commission shall be final and appealable only to the Court of Appeals.

Rule III
Definition of Sexual Harassment

SECTION 3. Sexual harassment is a form of misconduct involving an act or a series of unwelcome sexual advances, requests for sexual favours, or other verbal or physical behaviour of a sexual nature, made directly, indirectly or impliedly under the following instances:

- such behaviour might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to another person or group; or

- submission to such conduct is made either implicitly or explicitly a condition of employment; or

- submission to or rejection of such conduct is used as a basis for any employment decision (including, but not limited to, matters of promotion, raise in salary, job security and benefits affecting the employee); or

- such behavior has the purpose or the effect of interfering with a person's work performance, or creating and intimidating, hostile or offensive work environment.

Rule IV
Specific Acts Constituting Sexual Harassment

SECTION 4. The following acts constitute Employment or Work-Related Sexual Harassment:

- Demand, request or requirement for sexual favor is made for the following considerations:

    1. as a condition for hiring or employment, re-employment or continued employment of an individual, or

    2. in granting said individual favorable compensation, terms or conditions of employment, promotion or privileges;

- the demand, request or requirement for sexual favor is made against one whose training is entrusted to the offender;

- the refusal of the demand, request or requirement for sexual favor will limit, classify or segregate an employee as would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;

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- the demand, request or requirement for sexual favor would result in intimidating, hostile or offensive environment for the employee.

For this purpose, work or employment related sexual harassment may take place in the following:

- the office

- anywhere else as a result of work responsibilities or employment relations

- at office related social functions

- while on official business outside the office or during work-related travel

- at official conferences, fora, symposia or training sessions

- over the telephone, cellular phone, fax machine, E-mail

Rule V
Forms of Sexual Harassment

SECTION 5. The acts of sexual harassment may take any of the following forms:

- Physical

    i. Physical Contact or Malicious Touching
    ii. Overt sexual advances
    iii. Unwelcome, improper or any unnecessary gesture of a sexual nature; or
    iv. any other suggestive expression or lewd insinuation

- Verbal, such as requests or demands for sexual favors or lurid remarks

- Use of objects, pictures, letters or written notes with bold persuasive sexual under-pinnings and which create a hostile, offensive, or intimidating work or training environment which is annoying or disgusting to the victim.

Rule VI
Persons Liable for Sexual Harassment

SECTION 6. Any official having authority, influence or moral ascendancy over another person in the Commission, or employee, regardless of sex, are liable for sexual harassment in the Commission.

Any official or employee in the Commission, regardless of sex shall similarly be held liable for sexual harassment under the following circumstances:

1. Directing or inducing another to commit any of the acts of sexual harassment defined in these Rules (Principal by Induction) or

2. Cooperating in the commission of the sexual harassment by another without which it would not have been committed (Principal by Indispensable Cooperation)

Rule VII
Duty of the Commission

SECTION 7. The Commission shall initiate measures to:

a. prevent or deter the commission of acts of sexual harassment through an extensive awareness campaign or informal education, research and survey of data to determine extent of the problem, the profile of harassers and

their victims and the forms of sexual harassment take and its consequences;

b. implement the procedures for the resolution, settlement or prosecution of acts of sexual harassment provided in these Rules;

c. create a Committee on Decorum and Investigation of cases on sexual harassment; and

d. furnish a copy of these Rules and Regulations to each of the officer of employee in the Commission and post a copy thereof in two conspicuous locations in places of work or training.

Rule VIII
Committee on Decorum and Investigation of Sexual Harassment Cases

SECTION 8. A Committee on Decorum and Investigation shall be created in the Commission and each Regional Office, including the Career Executive Service Board (CESB). Said Committee shall perform the following:

- Receive the complaint, file the formal charge and investigate and conduct hearings in accordance with the Uniform Rules of Procedure in the Conduct of Administrative Investigation in the Civil Service Commission. It shall submit a report of its findings with the corresponding recommendation to the Commission for final decision. Said Report shall be considered strictly confidential.

- Conduct meetings with officers, employees and trainees to increase understanding and prevent incidents of sexual harassment; and

- Recommend measures to the Commission that will expedite the investigation and adjudication of sexual harassment cases.

In the Regional Office, the authority to investigate and hear sexual harassment cases shall devolve upon the Local Committee which shall submit the report of investigation with its findings and recommendation directly to the Commission.

When a member of the Committee is a complainant or respondent in a sexual harassment case, the member shall inhibit himself/herself from the deliberations of the Committee.

SECTION 9. Composition - The Committee on Decorum and Investigation shall be composed of the following:

a. Central Committee

- Chairman: A Director appointed by the Commission for a term of one (1) year
- The CSC Focal Point on Women and Development
- President CSC Employee Association or in the absence thereof, a representative elected by the General Assembly
- An employee in the Second Level
- An employee in the First Level

b. Local Committee

- The Regional Director as Chairman
- Equality Advocate (EQUAD) in the Regional Office
- A representative of the Employee Association
- An employee in the Second Level
- An employee in the First Level

The representatives of the First and Second level employees in the Personnel Selection Board of this Commission

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who have been elected in a general assembly of employees shall concurrently sit as members of the Committee on Decorum and Investigation.

Rule IX
Procedures in the Disposition of Sexual Harassment Cases

SECTION 10. All complaints for sexual harassment must be under oath supported by the Affidavit of the offended party. Any complaint shall be investigated and disposed of in accordance with the Uniform Rules of Procedure in the Conduct of Administrative Investigation in the Civil Service Commission.

No action shall be taken on an anonymous complaint, nor shall any civil servant be required to answer or comment on said anonymous complaint.

SECTION 11. Action on the Complaint - Upon receipt of a complaint which is sufficient in form and substance, the head of office shall within five (5) days transmit the same to the Committee on Decorum and Investigation. The Committee on Decorum, both central and local, shall have authority to file the formal charge. The Committee for this purpose will designate a hearing officer from among themselves.

SECTION 12. Preliminary Investigation - A preliminary investigation shall be conducted by the Committee wherein the complainant and the respondent shall submit their affidavits and counter-affidavits, as well as those of their witnesses. Failure of the respondent to submit his counter-affidavit shall be construed as a waiver thereof.

During the inquiry or proceedings, the parties and their witnesses shall be asked to affirm their signature on said documents and the truthfulness of the statements contained therein. Under no circumstances shall cross-examination of the witnesses be allowed but the hearing officer may profound clarificatory questions.

SECTION 13. Failure to Affirm Signature and the Contents of Affidavit - Failure of the parties or witnesses to affirm their signatures in their affidavits and the contents thereof during the preliminary investigation shall render such affidavit without evidentiary value.

SECTION 14. Record of Proceedings - During the preliminary investigation, the hearing officer shall record in his own handwriting his clarificatory questions to the parties and their witnesses and the answers given thereto. Such record and other notes made by the Hearing Officer shall form part of the records of the case.

SECTION 15. Duration of Investigation - The preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Central or Local Committee and shall be terminated not later than ten (10) days thereafter.

SECTION 16. Investigation Report - Within five (5) days from the termination of the preliminary investigation, the investigating officer shall submit the Report of Investigation and the complete records of the proceedings to the Committee on Decorum for appropriate action.

SECTION 17. Formal Charge - When the Committee finds the existence of a prima facie case, the respondent shall be formally charged. The respondent shall be furnished copies of the complaint, sworn statements and other documents submitted by the complainant, unless the respondent had already received the same during the preliminary investigation. The respondent shall be given at least seventy-two (72) hours from receipt of said formal charge to submit the answer under oath, together with the affidavits of the witnesses and other evidence. The respondent shall also be informed of the right to assistance of a counsel of his/her choice. If the respondent had already submitted the comment and counter-affidavits during the preliminary investigation, the respondent shall be given opportunity to submit additional evidence.

SECTION 18. Conduct of Formal Investigation - A formal investigation shall be held after the respondent has

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filed the answer or after the period for filing an answer has expired. It shall be completed within thirty (30) days from the date of the service of the formal charge, unless the period is extended by the Commission in meritorious cases.

Although the respondent did not elect a formal investigation, one shall nevertheless be conducted if upon evaluation of the complaint, the answer, and the documents in support thereof, the merits of the case can not be judiciously resolved without conducting such a formal investigation.

SECTION 19. Failure to File an Answer - If respondent fails or refuses to file the answer, respondent shall be considered to have waived the right to file and answer to the charges and formal investigation may already commence.

SECTION 20. Continuous Hearing Until Terminated: Postponement - Hearing shall be conducted on the hearing dates set by the hearing officer or as agreed upon during the pre-hearing conference. Postponements shall not be allowed except in meritorious cases, provided, that a party shall not be granted more than two (2) postponements.

The parties, their counsel and witnesses, if any shall be given a notice at least (5) days before the first scheduled hearing specifying the time, date, and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice.

If the respondent fails or refuses to appear during the scheduled hearings, the investigation shall proceed ex parte and the respondent is deemed to have waived the right to be present and to submit evidence in his/her favor during those hearings.

Rule X
Administrative Liabilities

SECTION 21. Any person who is found guilty of sexual harassment shall, after investigation, be meted the penalty corresponding to the gravity and seriousness of the offense.

SECTION 22. The penalties for light, less grave, and grave offenses are as follows:

A. For light offenses:

- Reprimand or fine or suspension not exceeding ten days; or

- Fine or suspension not exceeding twenty days; or

- Fine or suspension not exceeding thirty days at the discretion of the disciplining authority.

B. For less grave offenses:

- Transfer or demotion in rank or salary of one grade or fine or suspension not exceeding six months; or

- Fine not exceeding four (4) months or suspension not exceeding eight (8) months at the discretion of the disciplining authority.

C. For grave offenses:

- Transfer or demotion in rank or salary from two to three grades or fine in an amount equivalent to six (6) months salary; or

- Suspension for one year; or

- Dismissal, at the discretion of the disciplining authority.

SECTION 23. The head of office who fails to act on any complaint properly filed for sexual harassment after being informed thereof against any employee in that Office shall be charged with neglect of duty.

Rule XI
Prescriptive Period

SECTION 24. Any complaint or action arising from the violation of these Rules should be filed three (3) years from the commission of such violation, otherwise, the same shall be deemed to have prescribed.

Rule XII
Effect on Other Issuances

SECTION 25. Memorandum Circular No. 19, series of 1994 of this Commission shall be suppletory to these Rules in so far as it is not inconsistent herewith.

SECTION 26. Rules and Regulations, other issuances, or parts thereof inconsistent with the provisions of these Rules are hereby repealed or modified accordingly.

SECTION 27. The Civil Service Commission may amend or modify these Rules as may be necessary.

Rule XV
Effectivity Clause

SECTION 28. These Rules and Regulations shall take effect immediately upon approval by the Commission.

Adopted: 10 Oct. 1995

(SGD.) CORAZON ALMA G. DE LEON
Chairman

(SGD.) RAMON P. EREÑETA, JR.
Commissioner

(SGD.) THELMA P. GAMINDE
Commissioner

CLASSIFICATION OF ACTS OF SEXUAL HARASSMENT INTO GRAVE, LESS GRAVE OR LIGHT OFFENSE

In consonance with the definition of Section 3, Rule III, Section 4, Rule IV and Section 5, Rule V of the Rules and Regulations of this Commission Implementing R.A. 7877, An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and For Other Purposes, I propose that the following acts of sexual harassment be classified into three categories namely, grave or serious, less grave and light offense, to wit:

Grave Offenses:

a. unwanted touching of private parts of the body or any other act or malicious touching;

b. sexual assault;

c. any act of sexual harassment mentioned in Section 5 (a) and (b), Rule V of the CSC Implementing Rules and Regulations, committed by a superior officer or any person having moral ascendancy over the victim

The Less Grave Offenses may include but not limited to:

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a. requesting for dates to public places or sexual favors in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments or grant of benefits;

b. pinching not falling under grave offenses;

c. unnecessary touching or brushing against a victim's body;

d. derogatory or degrading remarks or innuendos directed towards members of one sex or one sexual orientation or used to describe a person; or

e. verbal abuse or threats

The following may be considered Light Offenses:

a. persistently telling sexist/smutty jokes causing embarrassment or offense, told or carried out after the joker has been advised that they are offensive or embarrassing or are by nature clearly embarrassing, offensive or vulgar;

b. leering or ogling which is an unwelcome, suggestive, flirtatious, knowing or malicious look at another;

c. voyeurism which is sexual stimulation derived through visual means;

d. the display of sexually offensive pictures, materials or graffiti;

e. unwelcome inquiries or comments about a person's sex life;

f. unwelcome sexual flirtation, advances, propositions;

g. making offensive hand or body gestures at an employee; or

h. persistent unwanted contact or attention after the end of a romantic relationship.

The above classification will greatly facilitate imposition of the proper penalty depending on the gravity and seriousness of the act of sexual harassment.

Adopted: 25 August 1995

(SGD.) EVALYN I. FETALINO
Director IV
Civil Service Commission

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[*] Text available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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