

RULES AND REGULATIONS ON ADMINISTRATIVE SEXUAL HARASSMENT CASES

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EXPLANATORY NOTE

Sexual harassment violates the dignity of the person and their right to a humane, just and safe work environment, defeats and impairs morale and efficiency in the workplace, and violates the fitness and merit principle in the civil service.

On 05 March 1995, Republic Act No. 7877, otherwise known as the "Anti-Sexual Harassment Act of 1995" took effect, declaring unlawful sexual harassment against women and men in the employment, education, and training environment. A person who violates the provisions of this law may be liable administratively, civilly, or criminally.

Section 4(a) of R.A. No. 7877 mandates every employer or head of agency in the public and private sectors to promulgate rules and regulations prescribing the procedure for the investigation of sexual harassment cases and administrative sanctions therefor. In compliance therewith, the Civil Service Commission issued CSC Resolution No. 01-0940 entitled "Administrative Disciplinary Rules on Sexual Administrative Cases." CSC Resolution No. 01-0940 set forth the procedural and substantive requirements to pursue cases involving sexual harassment, beginning with the basic issue of what acts constitute sexual harassment and under what specific circumstances. The focus is mainly on sexual harassment as an administrative offense in government offices and agencies as, distinguished from sexual harassment as a civil or criminal offense. The most important distinction is that in the administrative offense of sexual harassment, the requirement of authority, influence, or moral ascendancy of the offender found in Section 5 of R.A. No. 7877 is no longer necessary.

Under Section 58 of CSC Resolution No. 01-0940, all agencies of the government shall promulgate its rules and regulations in conformity with said Resolution, in consultation with its employees, within six (6) months from the effectivity of said Resolution and those who fail to do so shall be charged with Neglect of Duty. In connection to this, Section 87 of the Philippine Foreign Service Act of 1991 empowers the Secretary of Foreign Affairs to issue such rules and regulations as may be necessary to implement the provisions of the Philippine Foreign Service Act as well as the provisions of acts, decrees, and orders which are not inconsistent with it.

Therefore, in view of the foregoing, the following are the rules and regulations defining the administrative offense of sexual harassment and prescribing the standard procedure for the administrative investigation, prosecution and resolution of sexual harassment cases in the Department of Foreign Affairs.

RULE I

General Provisions

SECTION 1. Title. — These Rules shall be known as the Rules and Regulations on Administrative Sexual

Harassment Cases.

SECTION 2. Coverage. — These Rules shall apply to all officers and employees of the Department of Foreign Affairs in the Home Office, the Regional Consular Offices (RCOs), and Foreign Service Posts (FSPs), whether in the Career or Non-Career service, and holding any level of position, or possessing permanent, temporary, casual, or contractual status, including consultants and detailed or seconded personnel. These Rules shall have suppletory application to the personnel of attached agencies of the Department of Foreign Affairs in the home office and personnel of attached services in the Foreign Service Posts.

The chiefs of mission who are commissioned by the President as ambassadors extraordinary and plenipotentiary shall not be investigated or separated from the Service unless there is an express written directive from the President.

SECTION 3. Definition of Terms — The terms hereunder shall be construed as follows:

- a. DEPARTMENT means the Department of Foreign Affairs.
- b. PRESIDENT means the President of the Philippines.
- c. SECRETARY means the Secretary of Foreign Affairs.
- d. BFSA means the Board of Foreign Service Administration.
- e. CODI means the Committee on Decorum and Investigation.
- f. OPAS means the Office of Personnel and Administrative Services.
- g. GAD refers to Gender and Development.
- h. DISCIPLINING AUTHORITY refers to the President for all officers with the rank of Foreign Service Officer IV and higher; and to the Secretary for all other personnel referred into in Section 2, Rule I.
- i. RESPONDENT refers to the person who is formally charged by the BFSA.
- j. PERSON COMPLAINED OF refers to the person who is the subject of a complaint but who is not as yet formally charged by the BFSA.
- k. PARTY ADVERSELY AFFECTED refers to the respondent against whom a decision in a disciplinary case has been rendered.
- l. FSO means Foreign Service Officer.
- m. FSSO means Foreign Service Staff Officer.
- n. FSSE means Foreign Service Staff Employee.
- o. CSC means Civil Service Commission.
- p. SERVICE means the Foreign Service of the Philippines which includes all personnel of the Department in the home office and the Foreign Service, including all persons covered under Section 2 of this Rule
- q. RCOs refer to Regional Consular Offices.
- r. FSPs refer to Foreign Service Posts.

SECTION 4. Filing.—Any affidavits, counter-affidavits, motions, petitions, appeals, or other pleadings required to be filed under this Department Order may be done so personally, by registered mail, or through the diplomatic

pouch, if the person required to file is assigned abroad. The document or pleading shall be deemed filed on the date of receipt by the proper office stamped on the document or pleading, if filed personally; on the date of mailing, as shown by the post office stamp on the envelope or the registry receipt; and on the date submitted to the person in charge at Post for inclusion in the pouch list, if filed via diplomatic pouch.

SECTION 5. Computation of Time. — In computing any period of time prescribed or allowed by these Rules, or by order of the CODI, the BFSa, or the disciplining authority, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday, the time shall not run until the next working day.

RULE II

Definition of Administrative Sexual Harassment

SECTION 6. For the purpose of these Rules, the offense of administrative sexual harassment is an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by an officer or employee in a work related, training or education related environment of the person complained of.

(a) Work related administrative sexual harassment is committed under the following circumstances:

1. submission to or rejection of the act or series of acts is used as a basis for any employment decision (including, but not limited to, matters related to hiring, promotion, raise in salary, local or foreign assignment, job security, benefits and any other personnel action) affecting the applicant/employee; or
2. the act or series of acts have the purpose or effect of interfering with the complainant's work performance, or creating an intimidating, hostile or offensive work environment; or
3. the act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a co-employee, applicant, customer, or ward of the person complained of.

(b) Education or training-related administrative: sexual harassment is committed against one who is under, the actual or constructive care, custody or supervision of the offender or against one whose education, training, apprenticeship, internship or, tutorship is directly or constructively entrusted to, or is provided by the offender, when:

1. submission to or rejection of the act or series of acts is used as a basis for any decision affecting the complainant, including, but not limited to, the: giving of a grade, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration.
2. the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive academic environment of the complainant; or
3. the act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a trainee, apprentice, intern, tutee or ward of the person complained of.

SECTION 7. Administrative Sexual Harassment may take place:

1. in the Home Office, any of the RCOs, FSPs, or Honorary Consulates;
2. in any place where the parties were found as a result of work or education or training responsibilities or

relations;

3. at work or education or training-related social functions;
4. while on official business outside the places enumerated in no. 1 above or during work or school or training-related travel;
5. at official conferences, fora, symposia or training sessions; or
6. by telephone, cellular phone, fax machine or electronic mail.

RULE III

Forms of Administrative Sexual Harassment

SECTION 8. The following are illustrative forms of administrative sexual harassment:

(a) Physical

- i. Malicious Touching
- ii. Overt sexual advances
- iii. Gestures with lewd insinuation.

(b) Verbal, such as but not limited to, requests or demands for sexual favors, and lurid remarks

(c) Use of objects, pictures or graphics, letters or written notes with sexual underpinnings

(d) Other forms analogous to the foregoing.

RULE IV

Persons Liable for Administrative Sexual Harassment

SECTION 9. Any personnel of the Department under Section 2 of Rule I, regardless of sex, is liable for administrative sexual harassment when he/she:

- (a) directly participates in the execution of any act of administrative sexual harassment as defined by these Rules;
- (b) induces or directs another or others to commit administrative sexual harassment as defined by these Rules;
- (c) cooperates in the commission of administrative sexual harassment by another through an act without which the administrative sexual harassment would not have been accomplished;
- (d) cooperates in the commission of administrative sexual harassment by another through previous or simultaneous acts.

RULE V

Committee on Decorum and Investigation of Administrative Sexual Harassment Cases

SECTION 10. A Committee on Decorum and Investigation shall be created in the Home Office, in the RCOs, and wherever practicable, in the FSPs and Honorary Consulates.

The CODI shall perform the following functions:

- (a) Receive complaints of administrative sexual harassment;

- (b) Investigate administrative sexual harassment complaints in accordance with the prescribed procedure;
- (c) Submit a report of its findings with the corresponding recommendation to the BFSa, which in turn shall submit its recommendation to the Secretary for decision. In cases involving officers with the rank of FSO IV and higher, the Secretary shall not decide on the case but shall submit his own recommendation to the President for decision;
- (d) Lead in the conduct of discussions about administrative sexual harassment within the agency or institution to increase understanding and prevent incidents of administrative sexual harassment;
- (e) Recommend measures to the BFSa that will expedite the investigation and adjudication of administrative sexual harassment cases;
- (f) Lead in the formulation and implementation of measures to improve physical infrastructure to deter administrative sexual harassment using portions of the budget appropriated for the GAD Program; and
- (g) Formulate its internal administrative rules within thirty (30) calendar days from its formation; provided, that these internal rules shall be subject to approval by the Secretary within ten (10) days from submission thereof.

SECTION 11. Composition. — In the Home Office, the CODI shall be composed of the following:

Chair: Director, OLA — Investigation and Prosecution Division, provided that if the person complained of or the respondent has the rank of Chief of Mission, the Chair shall be the Assistant Secretary of OLA

Vice-Chair: Director of OPAS-PMD

Members: Department GAD focal person

Representative from DFAPA

Representative from DFARFA

Representative from UNIFORS

Representative from an attached agency, provided that the complainant or the person complained of is a personnel of such attached agency.

As much as practicable, the head of Post or the head of the RCO, the Administrative Officer, a representative each of the FSOs and FSSOs/FSSEs shall compose the CODI in the RCOs and FSPs.

When a member of the CODI is the complainant or the person complained of in an administrative sexual harassment case, he/she shall be disqualified from being a member of the CODI for that particular case. In this case, the Secretary shall appoint the person who shall replace the complainant or the person complained of in the CODI.

RULE VI

Pre-Filing Standard Operating Procedures in Attending to Victims of Administrative Sexual Harassment

SECTION 12. The Pre-Filing Stage. GAD shall adopt mechanisms to provide assistance to an alleged victim of sexual harassment which may include counseling, referral to an agency offering professional help, and advice on options available before the filing of the complaint.

RULE VII

Standard Procedural Requirements

SECTION 13. The procedural rules provided hereunder are the standard requirements in handling an administrative sexual harassment case.

SECTION 14. Complaint.

(a) The complaint may be filed within office hours with either the Office of the Secretary, with OPAS, or with the CODI which has jurisdiction over the person complained of. Upon the receipt of the complaint by the Office of the Secretary or, OPAS, the same shall immediately be transmitted to the CODI which has jurisdiction over the person complained of.

(b) The complaint must be in writing, signed, and sworn to by the complainant. It shall contain the following:

1. the full name, address, and if applicable, the position of the complainant;
2. the full name, address, and position of the respondent;
3. a brief statement of relevant facts;
4. evidence, in support of the complaint, if any;
5. a certification of non-forum shopping.

In the absence of any of the aforementioned requirements, the complaint shall be dismissed immediately by the CODI but without prejudice to its re-filing.

(c) Complaints sent by telegram, radiogram, electronic mail or similar means of communication shall be considered not filed unless the complainant shall comply with the requirements provided in Section 12 (b) within three (3) days from receipt of the notice for compliance.

(d) Withdrawal of the complaint at any stage of the proceedings shall not preclude the CODI from proceeding with the investigation where there is obvious truth or merit to the allegations in the complaint or where there is documentary or direct evidence that can prove the guilt of the person complained of; Provided that, a decision of dismissal by the CODI is deemed to be a decision on the merits of the case and with prejudice.

SECTION 15. Action on the Complaint. — Within three (3) days from receipt of a complaint that is sufficient in form and substance, the CODI shall require the person complained of to file a Counter-Affidavit/Comment under oath within three (3) days, from receipt of the notice, furnishing a copy thereof to the complainant. Otherwise, the Counter-Affidavit/Comment shall be considered as not filed.

SECTION 16. Preliminary Investigation. — Within three (3) days from receipt of the Counter-affidavit or Comment under oath, the CODI shall conduct a Preliminary Investigation for the purpose of determining whether a prima facie case exists to warrant the issuance of a Formal Charge.

A preliminary investigation involves the ex parte examination of records and documents submitted by the complainant and the person complained of, as well as documents readily available from other government offices. During the said investigation, the parties are given the opportunity to submit additional affidavits and counter-affidavits.

Thereafter, if necessary, the parties may be summoned to a conference where the CODI may propound clarificatory and other relevant questions.

During the preliminary investigation, proceedings before the CODI shall be under strict confidentiality.

SECTION 17. Duration of the Preliminary Investigation. — A. preliminary, investigation shall commence not later than three (3) days from receipt of the Counter-Affidavit/Comment by the CODI and shall be terminated within fifteen (15) working days thereafter.

SECTION 18. Preliminary Investigation Report.

a) Within three (3) working days, from the termination of the preliminary investigation, the CODI shall submit the Preliminary Investigation Report and the complete records of the case to the BFSA. If the CODI recommends that a prima facie case exists, it shall attach a draft Formal Charge to the Preliminary Investigation Report.

b) On the next regular or special meeting of the BFSA after the CODI submits its Preliminary Investigation, the BFSA shall deliberate and render a decision on the recommendation of the CODI.

c) If the BFSA determines that a prima facie case is established during the investigation, a Formal Charge shall be issued by the BFSA during that meeting to the respondent, copy furnished the CODI.

In the absence of a prima facie case, the complaint shall be dismissed by the BFSA during that meeting:

SECTION 19. Formal Charge. — The Formal Charge shall contain a specification of the charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not more than three (3) days from receipt thereof, an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge(s) and a notice that he/she is entitled to be assisted by a counsel of his/her choice.

If the respondent has submitted his/her comment and counter-affidavits during the preliminary investigation, he/she shall be given the opportunity to submit additional evidence.

No requests for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceeding shall be entertained by the CODI or the BFSA. If any of these pleadings is filed by the respondent, the same shall be considered as part of his/her answer which he/she may file within the remaining period for filing the answer.

SECTION 20. Answer. — The Answer shall be in writing and under oath. It shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of respondent's case. It shall also include a statement indicating whether he/she elects a formal investigation. The respondent shall submit the answer to the CODI, furnishing a copy thereof to the BFSA and to the complainant. Otherwise, the answer shall be deemed. not filed.

SECTION 21. Failure to File an Answer. — If the respondent fails or refuses to file his/her answer to the formal charge within three (3) days from receipt thereof without justifiable cause, he/she shall be considered to have waived his right thereto and formal investigation may commence.

SECTION 22. Preventive Suspension. — Upon petition of the complainant or motu proprio upon the recommendation of the CODI or the BFSA, at any time after the service of the Formal Charge to the respondent, the disciplining authority may order the preventive suspension of the respondent during the formal investigation, if there are reasons to believe that he/she is probably guilty of the charges which would warrant his/her removal from the service.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her

misfeasance and to preclude the possibility of his/her exerting undue influence or pressure on the witnesses against him/her or tampering of documentary evidence on file with his Office.

In lieu of preventive suspension, for the same purpose, the proper disciplining authority may reassign respondent to other Offices.

SECTION 23. Duration of Preventive Suspension. — When the administrative case against the respondent under preventive suspension is not finally decided by the disciplining authority within the period of ninety (90) days after the date of his/her preventive suspension, unless otherwise provided by special law, he/she shall be automatically reinstated into the service; provided that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay should not be included in the counting of the ninety (90) calendar days period of preventive suspension. Provided further, that should the respondent be on approved leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been consummated.

SECTION 24. Remedies from the Order of Preventive Suspension. — The respondent may file a motion for reconsideration with the disciplining authority within fifteen (15) days from receipt of the order of preventive suspension.

The timely filing of a Motion for Reconsideration shall not stay the execution of the order of preventive suspension. Should the Motion for Reconsideration be granted, the Respondent shall be entitled to automatic reinstatement without loss of seniority rights and to all the salaries and benefits due him during the duration of the nullified order of preventive suspension.

The order of preventive suspension issued by the Secretary may be elevated to the Civil Service Commission by way of an appeal within fifteen (15) days from receipt of the same.

SECTION 25. Conduct of Formal Investigation. — Although the respondent does not request a formal investigation, one shall nevertheless be conducted by the CODI, if it deems such investigation is necessary to decide the case judiciously.

The formal investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's Answer by the CODI. Said formal investigation shall be finished within thirty (30) calendar days from its commencement.

SECTION 26. Pre-Hearing Conference. — At the commencement of the formal investigation, the CODI may conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. stipulation of facts;
- b. simplification of issues;
- c. identification and marking of evidence of the parties;
- d. waiver of objections to admissibility of evidence;
- e. limiting the number of witnesses, and their names;
- f. dates of subsequent hearings; and
- g. such other matters as may aid in the prompt and just resolution of the case.

The parties may submit position papers/memoranda and submit the case for resolution based on the result of the pre-hearing conference without any need for further hearing.

The CODI shall inform the respondent of his right to counsel.

SECTION 27. Continuous Hearing Until Terminated; Postponement. — Hearings shall be conducted on the hearing dates set by the CODI or as agreed upon by the parties during the pre-hearing conference.

Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (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. A party shall be granted only three (3) postponements upon oral or written requests.

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

SECTION 28. Preliminary Matters. — At the start of the hearing, the CODI shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If the respondent appears without the aid of a counsel, he/she shall be deemed to have waived his/her right to counsel.

Before taking the testimony of a witness, the CODI shall place him/her under oath and then take his/her name, address, civil status, age, and place of employment.

SECTION 29. Appearance of Parties. — Any person representing any of the parties before any hearing or investigation shall manifest orally or in writing his/her appearance for either the respondent or complainant, stating his/her full name and exact address where he/she can be served with notices and other documents. Any pleading or appearance made without complying with the above stated requirements shall not be recognized.

SECTION 30. Order of Hearing. — Unless the CODI directs otherwise, the order of hearing shall be as follows:

- a. The complainant shall present evidence in support of the charge;
- b. The respondent shall then offer evidence in support of his/her defense;
- c. The complainant may then offer rebuttal evidence, and the respondent, sur-rebuttal evidence.

Every witness may be examined in the following order:

- a. Direct examination by the proponent;
- b. Cross-examination by the opponent;
- c. Re-direct examination by the proponent;
- d. Re-cross examination by the opponent.

A sworn statement of a witness, properly identified and affirmed by the witness before the CODI shall constitute his/her direct testimony.

When the presentation of evidence has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. Thereafter, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) days after the termination of the investigation. Failure to submit the memorandum within the given period shall be considered a waiver thereof.

SECTION 31. Objections. — All objections raised during the hearing shall be resolved by the CODI.

The CODI shall accept all evidence deemed material and relevant to the case.

SECTION 32. Markings. — All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and numbers (1, 2, 3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

SECTION 33. Request for Subpoena. — If a party desires the attendance of a witness or the production of documents or things, he/she shall make a request for the issuance of the necessary subpoena, at least three (3) days before the scheduled hearing.

SECTION 34. Issuance of Subpoena. — The CODI may issue subpoena ad testificandum to compel the attendance of witnesses and subpoena duces tecum for the production of documents or objects.

SECTION 35. Records of Proceedings. — The proceedings of the formal investigation must be recorded either through shorthand or stenotype or by any other method.

SECTION 36. Effect of the Pendency of an Administrative Case. — Pendency of an administrative case under this Department Order shall not disqualify respondent for promotion or from claiming any personnel benefits. For this purpose, an officer or employee is subject of a pending administrative when the BFSa has issued a formal charge against him.

SECTION 37. Report of CODI to BFSa. — Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting, said findings, as well as the recommendations, shall be submitted by the CODI to the BFSa. The complete records of the case shall be attached to the Report of Formal Investigation.

If no formal investigation has been conducted, the CODI shall nevertheless submit a report and a recommendation to the BFSa within fifteen (15) days from receipt of the Answer, based on the existing records and evidence.

The CODI shall attach a draft decision to its Report of Formal Investigation. The draft decision shall contain all the material facts and evidence supporting the decision.

The complete records shall be systematically and chronologically arranged, paged, and securely bound to prevent loss. A table of contents shall be prepared. Whoever is in-charge of the transmittal of the complete records shall be held responsible for any loss or suppression of pages thereof.

On the next regular or special meeting of the BFSa after the receipt of the Report of Formal Investigation, the BFSa shall deliberate on the same and render a decision, on, the CODI's recommendation.

SECTION 38. When Case is Decided.

1. CASES CONCERNING OFFICERS WITH THE RANK OF FSO IV AND HIGHER:

The BFSa shall submit a recommendation to the Secretary within five days from the regular or special meeting when the decision on the CODI's recommendation was rendered. The recommendation of the BFSa shall include the entire records of the case as well as a draft recommendation to the President. In turn, the Secretary shall submit a recommendation to the President within fifteen (15) days from receipt of the recommendation of the BFSa. The President shall render his decision on the case. The applicable rules, regulations, and guidelines of the Office of the President shall be strictly observed.

2. CASES CONCERNING OTHER PERSONNEL:

The BFSA shall submit a recommendation to the Secretary within five days from the regular or special meeting when the decision on the CODI's recommendation was rendered. The recommendation of the BFSA shall include the entire records of the case as well as a draft decision for consideration of the Secretary. The Secretary shall render his decision on the case within thirty (30) days from receipt of the recommendation of the BFSA.

SECTION 39. Finality of Decisions. — A decision rendered by the disciplining authority shall be final and executory fifteen (15) days after receipt of the party adversely affected and no motion for reconsideration or appeal has been filed.

RULE VIII

Remedies

SECTION 40. Filing of Motion for Reconsideration. — Any party to the case may file a motion for reconsideration with the disciplining authority who rendered the same within fifteen (15) days from receipt thereof.

SECTION 41. Grounds for Motion for Reconsideration. — The motion for reconsideration shall be based only on any of the following:

- a. New and material evidence has been discovered which the respondent could not with reasonable diligence have discovered and produced during the material investigation which materially affects the decision rendered;
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

SECTION 42. Limitation. — Only one motion for reconsideration shall be entertained.

SECTION 43. Decision of the Secretary on the Motion for Reconsideration. — The Secretary shall render a decision on the motion for reconsideration within fifteen (15) days from receipt thereof.

SECTION 44. Effect of Filing of Motion. — The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

SECTION 45. Filing of Appeals with the Civil Service Commission. — Decisions rendered by the Secretary may be appealed to the Civil Service Commission (CSC) within a period of fifteen (15) days from receipt thereof.

A notice of appeal including the appeal memorandum shall be filed with the CSC, copy furnished the Secretary. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, with its comment, within fifteen (15) days, to the CSC. The applicable rules, regulations and guidelines promulgated by the CSC shall be strictly observed.

SECTION 46. When Case is Remanded for Violation of Respondent's Right to Due Process. — If the case on appeal with the CSC is remanded to the Secretary for further investigation, the Secretary, through the CODI, shall finish the investigation within three (3) calendar months from the date of the receipt of the records from the CSC, unless the investigation is delayed due to the fault, negligence or petition of the person complained of or an extension is granted by the CSC in meritorious cases. The period of delay shall not be included in the computation of the prescribed period. The Standard Procedural Requirements in Rule VII shall be applied.

Executed decisions of the Secretary shall be considered as preventive suspension during the period when the case is remanded for further investigation.

If, at the end of the stipulated period, the Secretary fails to decide the case, the CSC shall vacate and set aside the appealed decision and declare the person complained of exonerated of the charge. If the person complained of is deemed or under preventive suspension, he shall be immediately reinstated without loss of seniority rights, salaries, and benefits.

SECTION 47. Appeal with the Court of Appeals. — Decisions rendered by the President and the Civil Service Commission shall be appealable to the Court of Appeals under Rule 43 of the 1997 Rules of Court.

SECTION 48. Effect of Filing an Appeal. — An appeal shall not stay the execution of the decision, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal, in the event he wins the appeal.

RULE IX

Classification of Acts of Administrative Sexual Harassment

SECTION 49. Administrative sexual harassment is classified as grave, less grave and light offenses.

A. Grave Offenses shall include but are not limited to:

1. unwanted touching of private parts of the body (genitalia, buttocks, and breast);
2. sexual assault;
3. malicious touching;
4. requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarships, or the grant of benefits or payment of a stipend or allowance; and
5. other analogous cases.

B. Less Grave Offenses shall include but are not limited to:

1. unwanted touching or brushing against a victims body;
2. pinching not falling under grave offenses;
3. derogatory or degrading remarks or innuendoes directed toward the members of one sex or one's sexual orientation or used to described a person;
4. verbal abuse or threats with sexual overtones; and
5. other analogous cases.

C. The following shall be considered Light Offenses:

1. surreptitiously looking or stealing a look at a person's private part or worn undergarments;
2. telling sexist/smutfy jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advise, where they are by their nature clearly embarrassing, offensive or vulgar;
3. malicious leering or ogling;

4. the display of sexual offensive pictures, materials or graffiti;
5. unwelcome inquiries or comments about person's sex life;
6. unwelcome sexual flirtation, advances, propositions;
7. making offensive hand or body gestures at an, employee;
8. persistent unwanted attention with sexual overtones;
9. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
10. other analogous cases,

RULE X

Administrative Liabilities

SECTION 50. The Secretary, Assistant Secretary for Personnel and Administrative Services, or the chairman and members of the CODI who fail to act within fifteen (15) days from receipt of any complaint for administrative sexual harassment properly filed against any employee in that office may be charged with Neglect of Duty.

SECTION 51. Any person who is found guilty of administrative sexual harassment shall, after the investigation, be meted the penalty corresponding to the gravity and seriousness of the offense.

SECTION 52. The penalties for light, less grave, and grave offenses are as follows:

A. For light offenses:

1st offense — Reprimand

2nd offense — Fine or suspension not exceeding thirty (30) days

3rd offense — Dismissal

B. For less grave offenses:

1st offense — Fine or suspension not less than thirty (30) days and not exceeding six (6) months

2nd offense — Dismissal

C. For grave offenses:

1st offense — Fine or suspension of six (6) months to one (1) year

2nd offense — Dismissal.

* SECTION 51. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

RULE XI

Duty of OPAS, GAD, and the Foreign Service Institute

SECTION 53. OPAS, in coordination with GAD and the Foreign Service Institute (FSI) shall develop an

education and training program for the officials and employees of the Department and the members of the CODI to increase understanding about administrative sexual harassment, prevent its occurrence, and ensure proper investigation, prosecution and resolution of administrative sexual harassment cases.

RULE XII

Forum Shopping

SECTION 54. Under the same set of ultimate facts, the filing of a complaint based this Department Order shall preclude the filing of another administrative complaint under any other law.

RULE XIII

Prescription

SECTION 55. The offense of administrative sexual harassment shall prescribe within three (3) years from its commission.

RULE XIV

Repealing Clause

SECTION 56. Rules and regulations and other issuances or parts thereof inconsistent with the provisions of these Rules are hereby repealed or modified accordingly.

RULE XV

Effectivity Clause

SECTION 57. These Rules shall take effect fifteen (15) days after its publication in the Official Gazette and deposit in the National Administrative Register.

Adopted: 31 Jan. 2002

(SGD.) TEOFISTO T. GUINGONA, JR.
Vice President and Secretary of Foreign Affairs

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