RULES AND REGULATIONS PRESCRIBING THE PROCEDURE FOR THE INVESTIGATION OF SEXUAL HARASSMENT CASES AND THE ADMINISTRATIVE SANCTIONS THEREFOR IN THE NATIONAL BUREAU OF INVESTIGATION

NBI MEMORANDUM ORDER NO. 62, S. 98, September 07, 1998

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Pursuant to Section 4 of RA 7877, otherwise known as the "Anti-Sexual Harassment Act of 1995", the following rules and regulations are hereby promulgated prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor in this Bureau.

Rule I
Coverage
SECTION 1. These rules shall cover all officials and employees of the NATIONAL BUREAU OF INVESTIGATION and holding positions under permanent and temporary status.

Rule II
Definition
SECTION 2. Sexual harassment is a form of misconduct involving an act, gesture or other verbal or physical behavior of a sexual nature, made directly, indirectly or impliedly, creating in the process an intimidating humiliating, hostile, or offensive work environment to the harassed.

For the purpose of this Memorandum Order, sexual harassment is committed when:

1. The sexual favor is made as a condition in the hiring or in the employment, re-employment, or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating, or classifying the employee, which in any way would discriminate, deprive, or diminish employment opportunities or otherwise adversely affect said employee;

2. The above acts would impair the employee's rights or privileges under existing laws; or

3. The above acts would result in an intimidating, hostile, or offensive environment for the employee.

Any person, who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Memorandum Order.

Rule III
Forms of Sexual Harassment
SECTION 3. Sexual Harassment may take place:

1. In the work place

2. Anywhere else as part of work assignment

3. At office related social functions

4. While on official mission outside the work station or during work related travel

5. At official conferences, fora, symposia, workshops or training sessions; or

6. At any place where, or any activity during which two or more persons who work in the same office are together, whether or not work-related

Rule IV
Committee on Decorum and Investigation of Sexual Harassment Cases
SEC. 4. A Committee on Decorum and Investigation of Sexual Harassment Cases is hereby created to be composed of the following:

Chairman — Deputy Director for Administrative Services

Member — Chief, Inspection and Investigation Division

Member — President or any officer, NBI Employees Association

Member — An employee in the second level

Member — An employee in the first level

SEC. 5. The Committee shall have the following powers and functions:

a. Investigate and conduct hearings in accordance with the Uniform Rules of Procedure in the Conduct of Administrative Investigation in the Civil Service. It shall submit a report of its findings with the corresponding recommendation to the Director for decision. Said report shall be considered strictly confidential.

b. Conduct meetings with the officials and employees to increase understanding and prevent incidents of sexual harassments;

c. Adopt measures that will expedite the investigation and adjudication of sexual harassment cases; and

d. Administer oaths, issue subpoena and subpoena duces tecum, take testimony in any investigation or inquiry, institute contempt proceedings in accordance with the procedures prescribed in the Rules of Court

Rule V
Procedure in the Disposition of Sexual Harassment Cases
SEC. 6. Filing of Complaints — All complaints for sexual harassment must be under oath and supported by the affidavit of the offended party. No anonymous complaint shall be entertained nor shall any civil servant be required to answer or comment on said anonymous complaint.

SEC. 7. Action on Complaint — All complaints for sexual harassment shall be sufficient in form and substance and shall be filed with the head of office who shall, within five (5) days from receipt thereof, transmit the same to the Committee on Decorum and Investigation.

SEC. 8. Preliminary Investigation — the Committee shall conduct a preliminary investigation wherein the Complainant and the Respondent shall submit their affidavits and counter-affidavits, as well as those of their witnesses. Failure of Respondent to submit his counter-affidavit shall be construed as a waiver thereof.

During the inquiry or proceedings, the Committee may ask clarificatory questions, but under no circumstances shall cross-examination of the witnesses be allowed but the Chairman may propound clarificatory questions.

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SEC. 9. Record of Proceedings — During the preliminary investigation, the Committee shall record the clarificatory questions propounded to the parties and their witnesses and the answers given thereto. Such record and other notices shall form part of the records of the case.

SEC. 10. Hearings — Hearing shall be conducted on hearing dates set by the Committee or as agreed upon during a pre-hearing conference. No postponement of hearing shall be allowed except in meritorious cases, provided, not more than two (2) postponements shall be allowed.

The parties, their counsel and witnesses, if any , shall be given a notice at least five (5) days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, 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 present and to submit evidence in his/her favor during those hearings.

SEC. 11. Duration of Investigation — The preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Committee and shall be terminated not later than ten (10) days thereafter.

SEC. 12. Investigation Report — Within five (5) days from the termination of the preliminary investigation the Committee shall submit its report and recommendation to the Director who shall forward the same to the Legal and Evaluation Division for review and final recommendation.

SEC. 13. Formal, Charge — When the Committee finds the existence of a prima facie case, it shall recommend that Respondent be formally charged. The formal charge shall be embodied in its Resolution and recommendation to the Director.

SEC. 14. Formal Investigation — If the Director approves the recommendation to file a formal charge against the Respondent, he shall designate a Hearing Officer and Prosecutor to conduct formal hearing of the case which shall be completed Sixty (60) days from the date of the service of the formal charge, unless the period is extended in meritorious cases.

In the event the Respondent chooses not to elect formal investigation, one shall nevertheless be conducted if, upon evaluation of the complaint together with the documents submitted in support thereof, the merits of the case cannot be judiciously resolved without conducting such formal investigation.

Rule VI
Administrative Liabilities

SEC. 15. 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.

SEC. 16. The penalties for light, less grave and grave offenses are as follows:

A. For light offenses:

At the discretion of the disciplining authority

1. Reprimand or fine or suspension not exceeding ten days; or

2. Fine or suspension not exceeding twenty days; or

3. Fine or suspension not exceeding thirty days.

B. For Less Grave Offenses:

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1. Fine not exceeding four (4) months or suspension not exceeding eight (8) months; or

2. Transfer or demotion in rank or salary or one grade or fine or suspension not exceeding six months.

C. For Grave Offenses

1. Dismissal

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

3. Suspension for one year.

Rule VII
Prescriptive Period
SEC. 17. Any complaint or action arising from violation of these rules should be filed within five (5) years from the commission of such violation; otherwise, the same shall be deemed to have prescribed.

Rule VIII
Effectivity Clause
SEC. 18. These Rules and Regulations shall take effect immediately.

Adopted: 7 Sept. 1998

(SGD.) SANTIAGO Y. TOLEDO
Director

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