RULES AND REGULATIONS GOVERNING DISPOSITION OF CASES ON SEXUAL HARASSMENT (IMPLEMENTING A. O. NO. 68, S. 1992)

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In the interest of the service and pursuant to Section 5 of the Administrative Order No. 68, s. 1992, the following rules and regulations governing the disposition of cases on sexual harassment are hereby issued.

Rule I
Title and Definition
SECTION 1. Title — This issuance shall be known as the Implementing Rules and Regulations of Administrative Order NO. 68, s. 1992.

SECTION 2. Definition of Terms

a. Sexual Harassment — any unwanted or unwelcome sexual advance, demand or request for sexual favor, or other act or conduct of sexual nature whether written, oral, or physical, shall constitute sexual harassment when said act or conduct is committed by an official or employee of the Department of Labor and Employment (DOLE) upon his/her co-official, co-employee, applicant for employment or any other client of the Department, and such act:

- is committed to take advantage of the weaknesses, vulnerability, status and professional, social, and economic standing of the official employee, or client; or

- is explicitly or implicitly imposed as a condition for securing employment, advancement, promotion, assistance, services, or preferential treatment; or

- interferes adversely with the official's or employee's performance; or

- is bound to create a hostile, offensive, intimidating, or uncomfortable work environment.

b. Victim refers to any Department official or employee including an applicant or external client of the Department who is sexually harassed.

c. Department refers to the Department of Labor and Employment.

d. Secretary refers to the Secretary of Labor and employment.

e. Department Official refers to the officials of the Department from the rank of Director and higher.

f. Department Employee refers to the employees of the Department below the rank of Director.

g. Applicant/Client refers to any person who seeks assistance and/or avails of the various services, projects, and programs of the Department, its offices and bureaus, as well as its attached agencies including applicants seeking employment within the Department, applicants for licenses, permits and all other individuals transacting official matters or business within the Department.

h. Committee — refers to the Fact-Finding Committee created under Administrative Order No. 80, as amended.

j. Manual — refers to the Department Manual on Disposition of Administrative Cases.

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Rule II
Scope

SECTION 1. Coverage — This Implementing Rules and Regulations shall cover all acts of sexual harassment, committed by any official or employee of the Department, its offices and bureaus, as well as its attached agencies.

SECTION 2. Acts Constituting Sexual Harassment — The acts constituting sexual harassment as defined under Section 2 of Rule I of this Implementing Rules and Regulations may take any of the following forms:

a. Physical sexual harassment:

a.1 Overt sexual advances

a.2 Unwelcome or improper affectionate gestures

a.3 Any other physical expression or insinuations

b. Verbal sexual harassment:

b.1 Request or demand for sexual favors including but not limited to request to go out on dates, outing, or the like for the purpose of engaging in sexual relations.

b.2 Graphic commentaries on the victim's body by using sexually offensive words.

c. Any other act or conduct, made directly or indirectly, expressly or impliedly which suggests something of sexual nature and is generally annoying, disguisting or offensive to the victim.

Rule III
Fact-Finding Committee
SECTION 1. Composition — The Committee shall be composed of the following:

- Department Resident Ombudsman — Chairperson

- Chairperson, Department Philippine Development Plan for Women (PDPW) Focal Point — Co-Chairperson

- Assistant Secretary for Management Services — Member

- Director, Human Resource Development Service — Member

- Director, Legal Service — Member

- President, Department or its Concerned Agency's Employees Union — ad hoc Member

- Concerned Agency's Resident Ombudsman — ad hoc Member

SECTION 2. Functions — The Committee shall receive complaints, conduct investigations and hear, sexual harassment cases, prepare and submit reports with corresponding recommendations for the decision of the Secretary.

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Any member of the Committee who complaints of, or is complained against of sexual harassment shall inhibit herself/himself from participating in the deliberations of the Committee.

SECTION 3. Secretariat — The Legal Service shall serve as the Secretariat of the Committee.

Rule IV
Procedure in Handling Sexual
Harassment Cases

SECTION 1. Complaint — (a) The party filing the complaint shall be called the COMPLAINANT, while the officer or employee charged or against whom the complaint is filed shall be called the RESPONDENT.

b. The complaint shall be filed with the Fact-Finding Committee on Sexual Harassment

c. No particular form is required but the complaint must be in writing, signed and sworn to by the complainant. It must contain the following:

c.1 the full name and address of the complainant;

c.2 the full name and address of the respondent;

c.3 a specification of the charge or charges;

c.4 a brief statement of the relevant and material facts.

Where the complaint is not under oath, the complainant shall be summoned by the Fact-Finding Committee to swear to the truth of the allegations in the complaint.

d. In support of the complaint, the complainant shall submit any evidence she/he has, including affidavits of witnesses, if any, together with the complaint.

e. Where the complaint is vague or too general, the Committee may require the complainant to specify the acts complained of as sexual harassment in writing within five (5) days from receipt of the notice, otherwise, the complaint shall be dismissed.

f. Complaints sent by telegrams, radiograms, and similar means of communication shall comply with the requirements enumerated in Section 1.c above within five (5) days from receipt of notice, otherwise, such complaint shall not be deemed duly filed.

g. A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the Committee from proceeding with the investigation of the case.

SECTION 2. Answer — (a) Unless a different period is indicated in the notice issued by the Committee, the respondent shall be given not less than seventy-two (72) hours after receipt of the complaint to answer the charges.

b. The answer shall be in writing, signed and sworn to by the respondent, and copy furnished the complainant. No particular form is required but it is sufficient if the answer contains a specific admission or denial of the charge or charges and a statement of the relevant facts constituting the respondent's defense.

c. The respondent shall indicate in his answer whether or not he elects a formal investigation.

d. In support of the answer, the respondent shall submit any evidence he/she has including affidavits of witnesses, if any, together with the answer.

e. The answer may be filed through personal service or by registered mail. If it is filed by registered mail, the date

of mailing shall be considered as the date of filing.

f. Unless otherwise directed by the Committee, failure of the respondent to file an answer or to appear in the investigation shall be construed as a waiver to present evidence in his behalf. The case shall be resolved by the Secretary, based on the evidence who shall decide on the case. The Committee shall prepare the report and recommendations to the Secretary who shall decide on the case.

SECTION 3. Reply — The complainant may file a reply within five (5) days from receipt of the answer.

SECTION 4. Preventive Suspension — (a) The Secretary may suspend any subordinate officer or employee for not more than ninety (90) days pending an investigation, if there are strong reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

b. When the case against the officer or employee under preventive suspension is not finally decided within a period of ninety (90) days after the date of suspension of the respondent who is not a presidential appointee, the respondent shall be automatically reinstated in 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 the delay shall not be counted in computing the period of suspension.

SECTION 5. Hearing — (a) After all the pleadings have been submitted, the Committee shall conduct a hearing not earlier than five (5) days nor later than ten (10) days from the date of receipt of the respondent's answer or complainant's reply if any, and shall terminate such hearing within thirty (30) days from the filing of the charges. However, the Committee may extend the period of hearing if it deems necessary.

b. The parties and their respective witnesses shall be notified of the scheduled hearing at least five (5) days before the date thereof, specifying the time, date, and place of hearing.

c. Either party may require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory processes of subpoena or subpoena duces tecum.

d. Either party may avail himself of the services of counsel.

e. No postponement shall be granted except in meritorious cases.

f. All documentary evidence shall be admitted for whatever value they may have and shall be attached to the record of the case.

g. The parties may be required to submit their respective memoranda within three (3) days after their hearing of their case.

SECTION 6. Report and Recommendation — A Report/Recommendation shall be submitted by the Committee to the Secretary within fifteen (15) days after conclusion of the investigation or hearing.

SECTION 7. Decision — (a) Within thirty (30) days from receipt of the Committee report and recommendation, the Secretary shall render his decision.

b. The decision of the Secretary shall be final and executory fifteen (15) days after receipt of the copy thereof by the parties unless a motion for reconsideration is filed with the Secretary or an appeal is filed in accordance with the rules and regulations of the Civil Service regarding administrative cases.

SECTION 8. Penalty — Sexual harassment amounts to disgraceful and immoral conduct. It is classified as grave offense and shall be punishable as follows:

1. First Offense: Suspension for six (6) months and one (1) day to one (1) year.

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2. Second Offense: Dismissal.

SECTION 9. Motion for Reconsideration — (a) The aggrieved party may file a motion for reconsideration with the Office of the Secretary within fifteen (15) days from the receipt of the copy of the decision based on any of the following grounds:

a.1 New evidence has been discovered which materially affects the decision.

a.2 The decision is not supported by the evidence on record.

a.3 Errors of law or misappreciation of facts.

b. The motion for reconsideration shall be deemed filed on the date of receipt by the Office of the Secretary, if filed personally, or on the date shown by the postmark on the envelope which shall be attached to the records of the case, if by registered mail.

c. A motion for reconsideration suspends the running of the period of appeal.

Rule V
Awareness Raising Campaign/
Information Dissemination

SECTION 1. Conduct of Awareness Raising Campaign — The Department and its attached agencies shall undertake information dissemination campaigns to raise awareness on the policy against sexual harassment and to prevent incidence of the same.

Rule VI
Effectivity
This Rule shall take effect immediately.

Adopted: 25 Mar. 1992

(SGD.) MA. NIEVES R. CONFESOR
Acting Secretary

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