

**DENR Administrative Order**

**No. 96-33**

**October 31, 1996**

**SUBJECT : Implementing Rules and Regulations on the Anti-Sexual Harassment Act of 1995 (R.A. 7877)**

Pursuant to Section 4 (a) of Republic Act 7877 otherwise known as “An Act Declaring Sexual Harassment Unlawful In The Employment, Education or Training Environment, And For Other Purposes”, this Administrative Order setting forth the rules and regulations governing implementation of the Act is hereby promulgated.

**Sec. 1 Basic Policy and Objective.** The State values the dignity of every individual, enhances the development of its human resources, guarantees full respect for human rights, and upholds the dignity of workers, employees, and applicants for employment in the Civil Service. 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 a hostile environment in the workplace which adversely affect productive performance.

The Department of Environment and Natural Resources (DENR) hereby promulgates these Rules and Regulations to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution , settlement or prosecution and adjudication of sexual harassment cases.

**Sec. 2 Coverage.** These Rules shall apply to all officials and employees of the DENR, including the Bureaus, Regional and Field Offices and Attached Agencies, whether in the Career or Non-Career service and holding positions under permanent, temporary,

contractual, coterminous and casual status. These shall likewise apply to prospective employees, applicants for employment, trainees, consultants of the DENR, employees who have been dismissed by reason of the application of these rules, and other similarly-situated persons.

**Sec. 3 Jurisdiction.** The DENR shall exercise its jurisdiction and authority to impose discipline and proper decorum over all its officials and employees particularly acts and omissions which constitute sexual harassment.

**Sec. 4 Definition of Sexual Harassment.** Sexual harassment is a form of misconduct committed in a work or training environment involving an act of demanding, requesting or otherwise requiring any sexual favor from another, regardless of whether the demand, request or requirement for submission is accepted or rejected by the object of said act, or other verbal or physical behavior of a sexual nature, made directly or impliedly.

**Sec. 5 Specific Acts Constituting Sexual Harassment.** Sexual harassment in a work-related or employment or training environment constitutes, though not limited to, the following specific acts:

- (a) Demanding, requesting or requiring sexual favor for any of the following considerations:
1. as a condition for hiring or employment, re-employment or continued employment of an individual, or
  2. as a condition for granting favorable compensation, terms or conditions of employment, promotion or privileges;
  3. as a basis for any other employment decision;

4. as a basis or condition for granting a request for cooperation, support, or prompt response in any work or employment/training-related activity;
- (b) Demanding, requesting or requiring sexual favor from an individual whose work or training is entrusted for supervision to or otherwise assigned for coordination or cooperation with the offender;
- (c) Demanding, requesting or requiring sexual favor which affects the offended individual in any of the following manner:
1. by interfering with the individual's work performance;
  2. by causing discrimination, insecurity, discomfort, offense or humiliation to the individual;
  3. by creating an intimidating, hostile or offensive environment for the individual;
  4. by impairing the individual's rights or privileges under existing civil service laws, rules and regulations;
- (d) Upon refusal of any such demand, request or requirement for sexual favor, limiting, classifying or segregating an individual as would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said individual;

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

1. in the office at all hours of the day;
2. at office related social functions;
3. while on official business outside the office or during work-related travel;
4. at official conferences, for a, symposia or training sessions;
5. through letters, over the telephone, cellular phone, fax machine, E-mail and other forms of communications; and
6. in any other place or form of work, training or employment environment.

**Sec. 6 Forms of Sexual Harassment.** The acts of sexual harassment may take any of the following forms:

- (a) 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
- (b) Verbal, such as requests or demands for sexual favors or lewd remarks
- (c) Use of objects, pictures, letters or written notes and other media with bold persuasive sexual underpinnings and which

create a hostile, offensive or intimidating work or training environment which is annoying or disgusting to the victim.

**Sec. 7 Persons Liable for Sexual Harassment.**

Any employee or official, regardless of sex, position, authority, influence or moral ascendancy over another person in the DENR is liable for sexual harassment in the Department.

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

1. Directing or inducing another to commit any of the acts of sexual harassment defined in these rules (Principal by Inducement); or
2. Cooperating in the commission of the act of sexual harassment by another without which it would not have been committed (Principal by Indispensable Cooperation).

**Sec. 8 DENR Initiatives Against Sexual Harassment.** The DENR hereby initiates the following measures regarding sexual harassment:

- (a) prevent or deter the commission of acts of sexual harassment through an extensive awareness campaign or informal education on gender-related issues, research and survey data to determine extent of the problem, the profile of harassers and their victims and the forms that sexual harassment take and its consequences;
- (b) promulgate appropriate rules and procedures in consultation with and jointly approved by the employees through their duly-designated representatives, prescribing the guidelines on proper

decorum, the procedures for the investigation of sexual harassment cases and the administrative sanctions therefor;

- (c) created a Committee on Decorum and Investigation of Sexual Harassment Cases; and
- (d) furnish a copy of these Rules and Regulations to each of the officer and employee in the department and post a copy thereof in two conspicuous locations in places of work or training.

**Sec. 9 Committee on Decorum and Investigation of Sexual Harassment cases.** A Committee on Decorum and Investigation of Sexual Harassment Cases is hereby created in the DENR central Office and each Regional Office. Said Committee shall perform the following:

- (a) Receive the complaint, file the formal charge and investigate and conduct hearings in accordance with the procedures hereinafter set forth. It shall submit a report of its findings with the corresponding recommendation to the Assistant Secretary for Management who shall give final action within five (5) days after receipt of the report. Said report shall be considered strictly confidential.
- (b) Conduct meetings and other consultative fora with officers, employees and trainees to increase understanding of gender-related issues and proper decorum in the Department.
- (c) Initiate and support extensive awareness campaign or informal education on gender-related issues to prevent or deter incidents of sexual harassment; and

- (d) Recommend measures to the Secretary that will expedite the investigation and adjudication of sexual harassment cases, and any other measures that will help attain the objectives of these rules and regulations.

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 finding and recommendation directly to the Assistant Secretary for Management.

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.

**Sec. 10 Composition.** The Committee on Decorum and Investigation of Sexual Harassment Cases shall be composed of the following:

- (a) DENR Central Office
- Chairperson: An official occupying supervisory position appointed by the Secretary for a term of at least one (1) year
  - Members: A Representative from the Administrative Services Division
  - A Representative from the DENR Gender and Development Focal Point System
  - A Representative from the Legal Service Division
  - A Representative from the duly-designated union or association of employees of the DENR
  - An employee in the Second Level
  - An employee in the First Level

(b) DENR Bureaus/Regional Offices/Attached Agencies

- The Bureau Director/Regional Executive Director/Head of Attached Agency as Chairperson for a term of at least one (1) year
- Members: A Representative from the Gender and Development Focal Point System
- A Representative from the Legal Division
- A Representative from the Personnel Division
- A Representative from the duly-designated union or association of employees
- An employee in the Second Level
- An employee in the First Level

The members of the Committee shall likewise be appointed by the Secretary, Bureau Director, Regional Executive Director, or Head of the Attached Agency, as the case may be, upon the recommendation of the employees or members of the concerned office, bureau, or agency.

In all cases, the Committee must always be fairly represented by both women and men who are reputedly aware of and sensitive to gender issues.

**Sec. 11 Procedures in the Disposition of Sexual Harassment Cases.** All complaints for sexual harassment may be commenced by submitting a formal letter-complaint duly signed by the complainant to any member of the Committee on Decorum and Investigation of Sexual Harassment Cases. Such letter-complaint may be supported with the statements of his/her witnesses and other documents. Complaints shall be investigated and disposed of in accordance with the rules hereinafter set forth. No. action shall be taken on an anonymous complaint, nor shall any civil servant be required to answer or comment on said anonymous complaint.

**Sec. 12 Action on the Complaint.** Upon receipt of the formal letter-complaint, the Committee through its Chairperson shall notify the respondent of the charges, to which shall be attached copies of the complaint, statements and other documents submitted.

The respondent shall be given a period of five (5) days from receipt of the complaint within which to submit a formal answer, duly signed by him/her. Such answer may be supported with the statements of his/her witnesses and other documents.

The Committee for this purpose shall designate a hearing officer from among themselves.

**Sec. 13 Initial Investigation.** An initial investigation shall be conducted by the duly-designated hearing officer, wherein the complainant and the respondent shall submit their statements under oath, as well as those of their witnesses, if any. Failure of the respondent to submit his/her reply statements within the specified period shall be construed as a waiver thereof.

During the initial investigation, the parties and their witnesses shall be asked to affirm their signatures on said documents and the truthfulness of the statements contained therein. Under no circumstance shall cross-examination of the witnesses be allowed but the hearing officer may propound clarificatory questions.

**Sec. 14 Failure to Affirm Signature and the Contents of Statement.** Failure of the parties or witnesses to affirm their signatures in their statements and the contents thereof during the initial investigation shall render such statements without evidentiary value.

**Sec. 15 Record of Proceedings.** During the initial investigation, the hearing officer shall record in his/her own handwriting his/her 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.

**Sec. 16 Duration of Initial Investigation.** The initial investigation shall commence not later than five (5) days from the lapse of the period within which respondent is allowed to answer and shall be terminated not later than ten (10) days thereafter.

**Sec. 17 Investigation Report.** Within five (5) days from the termination of the initial investigation, the hearing officer shall submit the Report and the complete records of the proceedings to the Committee on Decorum and Investigation of Sexual Harassment Cases for appropriate action.

**Sec. 18 Formal Charge and Investigation.** When the Committee finds the existence of a prima facie case, the respondent shall be formally charged. A formal investigation shall thereupon be conducted for the sole purpose of ascertaining the truth and without necessarily adhering to the technical rules applicable in judicial proceedings.

The direct evidence of the complainant and the respondent shall consist of the statements and documents submitted in support of the complaint or answer, as the case may be, without prejudice to the presentation of additional evidence deemed necessary but was unavailable at the time of the filing of the complaint or answer, upon which the cross-examination by respondent and complainant, respectively, shall be based. Following the cross-examination, there may be re-direct and re-cross examination.

**Sec. 19 Service of Counsel, Witnesses and Documents.** Either party may avail himself/herself of the services of counsel and may opt to require the attendance of witnesses and the production of documentary evidence in his/her favor.

**Sec. 20 Duration of Formal Investigation.** The formal investigation shall be completed within thirty (30) days from the date of the service of the formal charge, unless the period is extended by the Committee in meritorious cases.

**Sec. 21 Continuous Hearing Until Terminated: Postponement.** Hearing shall be conducted on the hearing dates set by the hearing officer or as agreed upon during the initial investigation. 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 five (5) days before the first scheduled hearing specifying the time, date, and place of the said hearings 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 or despite his/her absence and the respondent is deemed to have waived the right to be present and to submit evidence in his/her favor during those hearings.

**Sec. 22 Administrative Liabilities.** Any person who is found guilty of sexual harassment shall, after investigation and depending on the gravity of the offense committed, be meted any of the following penalties by the Assistant Secretary for Management, who shall give his/her final action after receipt of the report and recommendation by the Committee.

- a) Reprimand, fine, and/or suspension;
- b) Transfer or demotion in salary and/or rank;
- c) Dismissal from service.

If the offense of sexual harassment is found to have been committed by an official who has authority, influence, or moral ascendancy over the offended party in a work or training environment, the Committee shall, in all instances and depending on the gravity of the offense, imposed the penalty of suspension for one (1) year or dismissal from service. (Refer to Annex “A”)

**Sec. 23 Responsibility and Liability of Heads of Offices, Bureaus, Attached Agencies and Divisions.** It is the duty of the heads of the Central and Regional Offices, Bureaus, Attached Agencies, and their respective Divisions to prevent or mitigate any damage or injury to the offended person if he/she has been informed by the offended person of the act of sexual harassment. Any such head or officer who fails to act thereon after having been informed by the offended person shall be charged with neglect of duty and shall be solidarily liable for damages arising from the acts of sexual harassment committed.

**Sec. 24 Prescriptive Period.** Any complaint or action arising from the violation of these Rules should be filed within three (3) years from the commission of such violation. Otherwise, the same shall be deemed to have prescribed.

**Sec. 25 Appeal.** The decision of the Assistant Secretary for management, upon the recommendation of the Committee on Decorum and Investigation of Sexual Harassment Cases, shall be final unless appealed to the Secretary.

**Sec. 26 Effect on Other Issuances.** Memorandum Circular No. 19, series of 1994 of the Civil Service Commission shall be suppletory to these Rules in so far as it is not inconsistent herewith.

**Sec. 27 Repealing Clause.** Rules and Regulations, other issuances, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

**Sec. 28 Amendment.** The Department of Environment and Natural Resources may amend or modify these Rules as may be necessary.

**Sec. 29 Effectivity Clause.** These Rules and Regulations shall take effect immediately.

**VICTOR O. RAMOS**  
Secretary