

[BWYW ADMINISTRATIVE ORDER NO. 250, June 21, 1995]

RULES AND REGULATIONS IMPLEMENTING R.A. 7877 (ANTI-SEXUAL HARASSMENT ACT OF 1995) IN THE DEPARTMENT OF LABOR AND EMPLOYMENT

Pursuant to the provisions of Section 4, Republic Act No. 7877, An Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and For Other Purposes, the following Rules and Regulations governing the prevention of sexual harassment, procedure for the resolution, settlement and/or disposition of sexual harassment cases, as well as prescribing the proper decorum in the workplace for officials and employees of the Department of Labor and Employment are hereby issued.

RULE I

Definition of Terms

SECTION 1. Definition of Terms - As used in this Rules, the following terms shall mean and be understood as indicated below:

- a) Department - refers to the Department of Labor and Employment including its Services, Bureaus, Regional Offices and Attached Agencies or shall be the employer or head of office referred to under Sections 4 and 5 of the Act.
- b) Secretary - refers to the Secretary of the Department of Labor and Employment.
- c) Department Official - refers to an official of the Department with the rank of Director and higher regardless of salary grade.
- d) Department Employee - refers to an employee of the Department below the rank of Director.
- e) Overseas Labor Officer - refers to all officer assigned abroad who acts as an operating arm of the Department for the administration and enforcement of DOLE policies and programs, labor and employment laws, rules and regulations applicable to overseas workers. It may also refer to an officer who responds to, monitors problems, complaints, queries or overseas workers and their families within their jurisdiction.
- f) Applicant/Client - refers to a person seeking employment in the Department or any person who seeks assistance and/or avails of the various services, projects and programs of the Department, applicants for licenses, permits and all other individuals transacting official matters or business in the Department.
- g) Trainee - refers to a person undergoing an organizational and instructional process undertaken by the Department through which an individual acquires any knowledge and skill.

h) Victim - refers to any Department official or employee, any applicant/client or trainee against whom acts of sexual harassment have been committed.

i) Career Position - refers to a position where entrance is based on merit and fitness to be determined as far as practicable by a competitive examination or based on highly technical qualifications. The position is characterized by opportunities for advancement to higher career positions and security of tenure.

j) Non-Career Position - refers to a position requiring entrance based on factors or criteria other than those of the usual tests of merit and fitness utilized for the career service. The tenure is limited to a period specified by law or which is co-terminus with that of the appointing authority or subject to his pleasure. It may also be limited to the duration of a particular project for which employment was made.

k) Permanent Status - refers to the status of an employee once he meets all the requirements for the position to which he is being appointed, including the appropriate civil service eligibility requirement.

l) Temporary Status - refers to an employment status of an employee who is not a civil service eligible but meets the other requirements of the position.

m) Casual Status - refers to an appointment which is good only when such services are essential and necessary and the regular staff complement of the employing agency is insufficient to carry out the demands of the service.

n) Supervisory Employee - refers to one who, in the interest of the employer, effectively recommends managerial actions such as hiring, transferring, suspending, laying-off, recalling, discharging, assigning or disciplining employees if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. In the Department, this refers to the Chief Labor and Employment Officer and to the Supervising Labor and Employment Officer.

o) Rank-and-File Employee - refers to one not falling within the definition of supervisory employee.

p) Committee - refers to the Committee on Decorum and Investigation in the Central and Regional Offices and Attached Agencies.

RULE II Coverage

SECTION 1. Officials and Employees - This Rules and Regulations shall apply to any official or employee of the Department, its offices and bureaus as well as its attached agencies, who complains of or is complained of sexual harassment, regardless of whether such official or employee is classified as belonging to the career or non-career service or holding position under permanent, temporary, casual or contractual status including overseas labor officers.

SECTION 2. Applicants and Clients - This Rules shall also cover applicants for employment in the Department, its offices, bureaus and attached agencies as well as its clients, trainees and other persons transacting official matters or business with the Department against whom acts of sexual harassment may be committed by Department officials or employees.

RULE III
Sexual Harassment

SECTION 1. Who are Liable - Sexual harassment is committed by any DOLE official or employee against another official, employee, applicant for employment in the Department, client or trainee over whom he or she has authority, influence or moral ascendancy regardless of whether or not the demand, request or requirement for submission to such acts is accepted by the person against whom acts of sexual harassment are alleged are to have been committed.

SECTION 2. Other Persons Liable - Any Department official or employee who directs or induces another to commit any act of sexual harassment as stated under this Section 1 of this Rule or who cooperated in the commission thereof by another without which it would not have been committed, shall also be liable for sexual harassment.

SECTION 3. When Committed - Sexual harassment is committed when:

- a) a sexual favor is made as a condition in hiring, re-employment or continued employment or in granting favorable compensation, promotions or privileges, and other terms and conditions of employment;
- b) the refusal to grant sexual favor, demand, request or requirement results in limiting, segregating or classifying an employee which in any way would discriminate against, deprive or diminish the victim of employment opportunities or otherwise adversely affect said victim;
- c) the above acts would violate or impair the victims rights or privileges under existing laws; or
- d) the above acts would result in an intimidating, hostile or offensive environment for the victim.

SECTION 4. Where Committed - Sexual harassment may be committed in any work or training environment. It may include but are not limited to the following:

- a) in or outside the office building or training site;
- b) at office or training-related social functions;
- c) in the course of work assignments outside the office;
- d) at work-related conferences, studies or training sessions; or
- e) during work-related travel.

RULE IV
Forms of Sexual Harassment

SECTION 1. Forms of Sexual Harassment - Sexual harassment may be committed in any of the following forms:

- a) Overt sexual advances;
- b) Unwelcome or improper gestures of affection;

c) Request or demand for sexual favors including but not limited to going out on dates, outings or the like for the same purpose;

d) Any other act or conduct of a sexual nature or for purposes of sexual gratification which is generally annoying, disgusting or offensive to the victim.

RULE V

Committee on Decorum and Investigation

SECTION 1. Creation - The Committee on Decorum and Investigation shall be established in the Central and Regional Offices and Attached Agencies.

SECTION 2. Composition in Central Office - The Committee in the Central Office may be composed of the following:

- 1) Assistant Secretary for Management Services - Chairperson
- 2) Director, Legal Service - Vice-Chairperson
- 3) Director, Human Resource Development Service - Member
- 4) President, DOLE Employees Union or Representative - Member
- 5) Representative of Supervisors - Member
- 6) Representative of the Rank and File - Member

Members representing the supervisory and rank-and-file employees shall be elected by the employees they represent.

SECTION 3. Composition in Regional Offices and Attached Agencies - The Committee in the Regional Offices and Attached Agencies may be composed of the following:

- 1) Resident Ombudsperson - Chairperson
- 2) Representative of Management - Member
- 3) President or Representative of Employees Union or Association - Member
- 4) Representative of Supervisors - Member
- 5) Representative of the Rank and File - Member

Representatives of the supervisors and rank-and-file employees shall be elected by the employees they represent.

SECTION 4. Functions - The Committee shall receive complaints, investigate and hear sexual harassment cases, prepare and submit reports with corresponding recommendations for the decision of the Secretary.

The Secretary may delegate to the appropriate committee in the regional office or attached agency the authority to investigate and hear sexual harassment cases arising out of its jurisdiction in accordance with the procedure set forth under Rule VI of this Rules. The Committee shall submit to the Secretary the results of its investigation and the corresponding recommendations, copy furnished the regional director or head of the attached agency.

Any member of the Committee who complains of or is complained against sexual harassment shall inhibit himself/herself from participating in the deliberation of the committee.

SECTION 5. Other Functions - The Committee shall develop and implement programs to increase understanding and awareness about sexual harassment. In addition, the Committee shall develop rules in the settlement and disposition of sexual harassment complaints, taking into consideration confidentiality and respect to privacy. The Committee shall also ensure that no complainant shall be subjected to further harassment or retaliation by the person alleged to have committed acts of sexual harassment.

RULE VI Procedure

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 Committee on Decorum and Investigation.
- 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 Committee to swear to the truth of the allegations in the complaint.

- d) In support of the complaint, the complainant shall submit any evidence he/she 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