



Republic of the Philippines
Department of Finance
PRIVATIZATION AND MANAGEMENT OFFICE

MEMORANDUM CIRCULAR No. 2021- 005

SUBJECT: PROCEDURAL RULES OF THE COMMITTEE ON DECORUM AND INVESTIGATION (CODI) FOR SEXUAL HARASSMENT CASES IN THE PRIVATIZATION AND MANAGEMENT OFFICE (PMO)

DATE: 12 OCTOBER 2021

Pursuant to Republic Act (RA) No. 7877 otherwise known as the "Anti Sexual Harassment of 1995,"¹ RA No. 11313 otherwise known as "Safe Spaces Act,"² Civil Service Commission (CSC) Resolution No. 01-0940 series of 2001,³ and CSC Memorandum Circular No. 11 series of 2021,⁴ the Privatization and Management Office (PMO) hereby promulgates these Rules:

**RULE I
TITLE**

Section 1. These Rules shall be known as the "Administrative Disciplinary Rules on Sexual Harassment Cases in the Privatization and Management Office."

**RULE II
DECLARATION OF POLICY**

Section 2. It is the policy of the PMO to uphold and guarantee full respect for human rights and dignity of workers, employees, officials, outsourced personnel, applicants for employment, clients, including student-trainees and on-the-job training in the office. Towards this end, the PMO is committed to prevent the commission of acts of sexual harassment. By reason of which, the following standard procedure for the administrative investigation, resolution, settlement, imposition of administrative sanctions or prosecution of sexual harassment cases in the PMO are hereby adopted.

**RULE III
COVERAGE**

Section 3. These Rules shall apply to all officials and employees in the PMO, whether in the Career or Non-Career service and holding any level of position, including Presidential appointees, temporary employees, and contractual employees, which consists of the Offices of the Chief Privatization Officer (CPO), Deputy Privatization Officer for Marketing, Deputy Privatization Officer for Asset Management, Deputy Privatization Officer for Legal Services, Deputy Privatization Officer for Administration and Financial and Management Services, and other offices/units that form part of the agency.

For purposes of these Rules, the Committee on Decorum and Investigation (CODI) for Sexual Harassment Cases shall serve as the disciplining authority for sexual harassment cases involving PMO officials and employees. For presidential appointees, the disciplining authority shall be the Office of the President.

RULE IV

¹ Anti-Sexual Harassment Act dated February 14, 1995

² Safe Spaces Act dated April 17, 2019.

³ Administrative Disciplinary Rules on Sexual Harassment Cases dated May 21, 2001

⁴ Revised Administrative Disciplinary Rules on Sexual Harassment Cases (Amendment to the Sexual Harassment Provisions in the 2017 Revised Rules on Administrative Cases in the Civil Service)



DEFINITION

Section 4. For the purpose of these Rules, the **administrative offense of 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 a government employee or official⁵ in a work, training, or education related environment, which may be committed under any of the following circumstances:

a) **Work-related sexual harassment** includes the following circumstances:

- i. An act or series of act involving any unwelcome sexual advances, request or demand for sexual favors or any act of sexual nature, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individuals' employment, job performance or opportunities.

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, job security, benefits and any other human resource action) affecting the applicant/employee;

- ii. A conduct of sexual nature affecting the dignity of a person, which is unwelcome, unreasonable and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems.

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;

- iii. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.

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.

"Sexual harassment in the workplace may also be committed by a government employee or official in a work-related, training or education related environment of the person complained of, against any person regardless of the motive for committing such action or remarks, between peers, and by a subordinate to a superior officer.

b) **Education or training-related 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:

⁵ Employee refers to a person, who in exchange for remuneration, agrees to perform specified services for another person, whether natural or juridical, and whether private or public, who exercises fundamental control over the work, regardless of the term or duration of agreement. A person who is detailed to an entity under a subcontracting or secondment agreement shall be considered an employee.

Employer refers to a person who exercises control over an employee.

- i. Submission to or rejection of the act or series of acts 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.
 - ii. 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
 - iii. The act or series of acts might reasonably 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.
- c) **Sexual harassment in streets and public spaces** is committed through any unwanted and uninvited sexual actions or remarks against any person regardless of the motive for committing such action or remarks which includes:
 - i. Catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic and sexist slurs, persistent uninvited comments or gestures on a person's appearances;
 - ii. Relentless request for personal details;
 - iii. Statement of sexual comments and suggestions; or
 - iv. Public masturbation or flashing of private parts, groping, or any advances, whether verbal or physical, that is unwanted and has threatened one's sense of personal space and physical safety, and committed in public spaces as alleys, roads, sidewalks and parks.
- d) **Gender-based online sexual harassment⁶** may be committed through the following:
 - i. Online conduct targeted at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear for personal safety;
 - ii. Online identity theft;
 - iii. Acts that use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats;
 - iv. Unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages;
 - v. Invasion of victim's privacy through cyberstalking and incessant messaging;
 - vi. Uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content;
 - vii. Any unauthorized recording and sharing of any of the victim's photos, videos, or any information online;
 - viii. Impersonating identities of victims online or posting lies about the victims to harm their reputation;
 - ix. Filing false abuse reports to online platforms to silence victims; and
 - x. Any other related acts committed through online platforms.

Section 5. Sexual harassment may take place:

⁶ Gender refers to a set of socially ascribed characteristics, norms, roles, attitudes, values and expectations identifying the social behavior of men and women, and the relations between them.

Gender identity and/or expression refers to the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with physiological characteristics of the opposite sex in which case this person is considered transgender.

- a) In the premises of the workplace or office;
- b) In any place where the parties were found as a result of work responsibilities or relations;
- c) At work-related social functions;
- d) While on official business outside the office or during work-related travel;
- e) At official conferences, fora, symposia or training sessions;
- f) By telephone, cellular phone, fax machine or electronic mail/messages or any kind of online platform; and/or
- g) In streets and public spaces are those performed in streets and alleys, public parks, schools, buildings, malls, bars, restaurants, transportation terminals, public markets, spaces used as evacuation centers, government offices, public utility vehicles as well as private vehicles covered by app-based transport network services and other recreational spaces such as, but not limited to, cinema halls, theaters and spas.

RULE V FORMS OF SEXUAL HARASSMENT

Section 6. The following are illustrative forms of sexual harassment:

- a) Physical
 - i. Malicious Touching⁷;
 - ii. Overt sexual advances;
 - iii. Gestures with lewd insinuation⁸.
- 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 writing notes with sexual underpinnings; and/or
- d) Other forms analogous to the forgoing as provided by existing laws and issuances of the CSC.

RULE VI PERSONS LIABLE FOR SEXUAL HARASSMENT

Section 7. Any government official or employee, regardless of sex, is liable for sexual harassment when he/she:

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

⁷Malicious touching includes unnecessary or intentional touching against a person's body.

⁸Lewd insinuation includes remarks or comments that are sexually inappropriate especially if it is done in the public or to someone who does not want that kind of attention.

RULE VII
COMMITTEE ON DECORUM AND INVESTIGATION (CODI) FOR SEXUAL
HARASSMENT CASES

Section 8. The CODI of Sexual Harassment Cases is an independent internal mechanism constituted by the CPO to address and investigate complaints of sexual harassment.

Section 9. Composition - The CODI shall be composed of:

- a) Five (5) members with representative from the following sectors:
 - i. One (1) from the Management: Deputy Privatization Officer for Administration, Financial and Management Services;
One (1) from the Supervisory Rank: Chief Administrative Officer (Administrative Division)
 - ii. Rank-and-File: Human Resource Management Officer, GFPS Technical Working Group Head, Accountant IV, Information Technology Officer III.
- b) CODI shall be headed by a woman and not less than half of its members shall be women.

A quorum shall be required for any transaction or proceedings. In rendering its findings and recommendations, a majority vote of all the members shall be required.

The Administrative Division shall serve as the Secretariat of CODI.

When the complainant or the person complained of is a member of the CODI, he/she shall be disqualified from being a member thereof or the complaint may be filed directly with the CSC or other disciplinary authorities with jurisdiction over the case.

The complainant or the person complained of may request a member of the CODI to inhibit, or the CODI member may, on his/her initiative, cause the inhibition based on conflict of interest, manifest partiality, and other reasonable grounds. Upon such a grant of inhibition, the member shall immediately be replaced so as not to cause a delay in the proceedings.

The CPO shall also ensure that there will be a sufficient number of people who may immediately replace any member of the CODI in case he/she inhibits from any case, or when needed, so as not to cause any delay in the process being undertaken.

Section 10. Functions - The CODI shall have the following functions and duties:

- a) Receive all complaints involving sexual harassment allegedly committed by any official or employee of the PMO;
- b) Conduct investigation and hearings on alleged sexual harassment cases including preliminary investigation in accordance with the prescribed procedure;
- c) Submit a report of its findings with the corresponding recommendation within ten (10) days from the termination of the conduct of the investigation to the CPO for decision;
- d) Ensure the protection of the complainant from retaliation and guarantee confidentiality to the greatest extent possible as well as ensure that the respondent is given the opportunity to be properly notified of and respond to the charge/s and that parties are given information on the hearings and its outcomes; and
- e) Lead in the conduct of discussions about sexual harassment within the PMO to increase understanding and prevent incidents of sexual harassment.

Section 11.Term – The members of the CODI shall have a maximum term of two (2) years and may formulate such rules and other matters pertaining to its functions not otherwise provided in these Rules.

**RULE VIII
PRE-FILING STANDARD OPERATING PROCEDURES IN ATTENDING TO VICTIMS
OF SEXUAL HARASSMENT**

Section 12. The Pre-filing Stage – The CODI shall provide assistance to an alleged victim of sexual harassment which may include counselling, referral to an agency offering professional help, and advice on options available before the filing of the complaint.

**RULE IX
STANDARD PROCEDURAL REQUIREMENTS**

Section 13. The procedural rules provided hereunder are the standard requirements in handling sexual harassment cases.

Section 14. Confidentiality – All proceedings under these Rules shall be conducted in a manner consistent with the dignity and privacy of the parties. Records of the cases shall be treated with utmost confidentiality.

Section 15. Complaint.

- a) The complaint may be filed personally, by mail, electronic mail or similar means of communication at any time with the Office of the CPO or with the CODI. If filed with the Office of the CPO, the same shall be transmitted to the CODI within five (5) calendar days.
- b) The complaint must be in writing, signed and sworn to by the complainant. It shall contain the following:
 - i. Full name and address of the complainant;
 - ii. Full name, address, and position of the respondent;
 - iii. Brief statement of the relevant facts;
 - iv. Evidence, in support of the complainant, if any; and
 - v. Certification of non-forum shopping.

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

If the complaint is not under oath or does not comply with any of the requirements stated in Section 15(b), the complainant shall be summoned by the CODI to swear to the truth of the allegations in the complaint.

- c) Complaints sent by mail, electronic mail or similar means of communication shall be considered filed if the complaint as sent complied with the requirements provided in Section 15(b) hereof. Otherwise, the complaint shall only be considered filed after the complainant has complied with the requirements provided in Section 15(b) hereof within ten (10) calendar 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.

Section 16. Action on the Complaint. –Upon receipt of the complaint that is sufficient in form and substance, the CODI shall require the respondent to submit a Counter-Affidavit/Comment under oath within five (5) calendar 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 17. Preliminary Investigation – Upon receipt of the Counter-Affidavit/Comment under oath and evidence submitted by the respondent, the CODI shall conduct an ex-parte⁹ examination of the documents submitted by the parties, including available records of the case to determine whether a prima facie case exists to warrant the issuance of a formal charge.

During Preliminary Investigation, the parties may submit Affidavits and Counter-Affidavits of their witnesses, if there be any.

Failure of the respondent to submit his/her Counter-Affidavit/Comment shall be considered a waiver thereof.

Section 18. Duration of the Preliminary Investigation – It shall commence not later than five (5) calendar days from receipt of the complaint that is sufficient in form and substance by the CODI and shall be terminated within fifteen (15) calendar days thereafter.

The CODI may extend the period on meritorious grounds.

Section 19. Preliminary Investigation Report – Within five (5) calendar days from the termination of the preliminary investigation, the CODI shall submit its Preliminary Investigation Report and the complete records of the case to the CPO. The preliminary investigation report shall include, among others:

- a) Statement of the facts;
- b) Identification of the issue/s;
- c) Identification of the offense/s, if any; and
- d) Recommendation on whether or not a prima facie¹⁰ case exists to warrant the issuance of a formal charge.

Section 20. Resolution after the Preliminary Investigation – If a prima facie case is established during the preliminary investigation, the CPO shall issue a formal charge against the respondent within five (5) calendar days from receipt of the Preliminary Investigation Report.

If there is no prima facie case to formally charge the respondent, the case shall be dismissed and the parties shall be duly notified within five (5) calendar days from receipt of the Preliminary Investigation Report.

Section 21. Formal Charge – After finding a prima facie case, the CPO shall issue a formal charge which shall contain:

- a) The charge or acts constituting the offense/s and a brief statement of material or relevant facts;
- b) A directive for the respondent to submit his/her Answer under oath within five (5) calendar days from receipt of the formal charge; and

⁹ Ex-parte means done for, in behalf of, or on the application of, one party only (Retrieved from Dictionary (n.d.), THELAW.com)

¹⁰ Prima facie means sufficient to establish a fact or raise a presumption unless disproved or rebutted (Retrieved from: Black Law's Dictionary, 8th Edition, 2004)

- c) An advice for the respondent to indicate in his/her Answer whether or not he/she elects a formal investigation of the complaint, and if he/she does not elect a formal investigation then a conduct of a hearing shall follow; and
- d) A notice that he/she is entitled to be assisted by a counsel of his/her choice.

The formal charge must be accompanied by certified true copies of the documentary evidence, if any, and sworn statements covering the testimonies of the witnesses against the respondent.

Section 22. Answer – The respondent shall submit his Answer in writing and under oath within five (5) calendar days from receipt of the formal charge and shall be specific and must contain allegation of material facts and applicable laws in support of the defense of respondent. It shall also include a statement indicating whether he/she elects a formal investigation of his/her case.

Certified copies of documentary evidence and sworn statements covering the testimonies of the witnesses of the respondent, if there be any, shall be attached to the answer.

If the respondent has submitted his/her Counter-Affidavit/Comment during the Preliminary Investigation, he/she shall be given an opportunity to submit additional evidence which shall form part of his/her Answer.

Section 23. Failure to File an Answer. – If the respondent fails or refuses to file his/her answer within five (5) calendar days from receipt of the formal charge without justifiable cause, he/she shall be considered to have waived his/her right and a formal investigation may commence.

Section 24. Preventive Suspension – Upon petition of the complainant or *motu proprio*¹¹ upon the recommendation of the CODI, at any time after the service of the formal charge to the respondent, the CPO 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 misfeasance¹² or malfeasance¹³ and to preclude the possibility of his/her exerting undue influence¹⁴ or pressure on the witnesses against him/her or tampering of documentary evidence on file with this office.

Section 25. Duration of Preventive Suspension – When the administrative case against the respondent under preventive suspension is not finally decided by the CPO within the period of ninety (90) calendar 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 paternity/maternity leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully enjoyed.

Section 26. Remedies from the Order of Prevention Suspension. – The respondent may file a motion for reconsideration with the CPO or may elevate the same to the CSC by way of an appeal within fifteen (15) calendar days from receipt of the Order of Preventive Suspension.

Section 27. Formal Investigation – A formal investigation shall be conducted by the CODI when:

¹¹Motu proprio means of one's own initiative (Retrieved from: Duhaine's Law Dictionary, n.d.)

¹²Misfeasance means improper doing of an act which a person might lawfully do; excessive, malicious, or negligent exercise of permitted powers by a public officer or employee (Retrieved from: Black Law's Dictionary, 8th Edition, 2004).

¹³ Malfeasance means doing of an act which a public officer or employee should not have done; a wrongful or unlawful act especially wrongdoing or misconduct of a public officer (Retrieved from: Black Law's Dictionary, 8th Edition, 2004).

¹⁴Undue influence means the improper use of power or trust in a way that deprives a person of free will and substitutes another's objective (Retrieved from: Black Law's Dictionary, 8th Edition, 2004).

- a) The CODI deems it necessary as the merits of the case cannot be decided judiciously without conducting further investigation; or
- b) The respondent elects to conduct a formal investigation; or
- c) Respondent failed or refused to file his Answer without justifiable cause within five (5) calendar days from receipt of the formal charge.

The formal investigation shall be held not earlier than five (5) calendar days but not later than ten (10) calendar days from receipt of the respondent's Answer and shall be terminated within thirty (30) calendar days from receipt of the formal charge unless the period is extended by the CODI on meritorious cases.

Section 28. Pre-hearing Conference - At the commencement of the formal investigation, the CODI may conduct a Pre-Hearing Conference for the parties to consider and agree on any of the following:

- a) Stipulation of facts;
- b) Simplification of issues;
- c) Identification and marking of evidence;
- d) Waiver of objections to the 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 the prompt and just disposition of the case.

The CODI may require the parties to submit Position Papers/Memoranda and submit the case for resolution based on the result of the Pre-Hearing Conference without further hearing.

Section 29. Continuous Hearing and Postponement – Hearings shall be conducted on the dates agreed upon during the Pre-Hearing Conference or on the dates set by the CODI.

If no Pre-Hearing Conference is conducted, the parties, their counsel, and witnesses, if any, shall be duly notified at least five (5) calendar days before the first hearing informing them of the date, time, and place of the hearing and all subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without need of notice.

A party may, upon oral or written motion, request for postponements, but in any case, he/she can only be granted a maximum of three (3) postponements. Any further postponements shall be done in writing and subject to the discretion of the CODI.

Section 30. Preliminary Matters – At the start of the hearing, the CODI shall note the appearance of the parties and proceed with the reception of evidence for the complainant.

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

If the respondent fails to appear despite due notice, the hearing shall proceed ex-parte and the respondent is deemed to have waived his/her right to be present and submit evidence.

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

Section 31. Appearance of Parties - Any person representing any of the parties before any hearing or investigation shall manifest orally or in writing his appearance for either the respondent or complainant, stating his full name and exact address where he 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 32. Order 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(s);
- b) The respondent shall then offer evidence in support of his 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 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. After which, both parties may be given time to submit their respective Memorandum, which in no case shall be beyond five (5) calendar days after the formal offer of evidence. Failure to submit the memorandum within the given period shall be considered a waiver thereof.

Section 33. Objections. - All objections raised during the hearing shall be resolved by the CODI. However, objections that cannot be ruled upon by the CODI shall be noted with the information that the same shall be included in the Memorandum of the concerned party to be ruled upon by the CPO.

The CODI shall accept all evidence deemed material and relevant to the case. In case of doubt, the admission of evidence shall be allowed subject to the objection interposed against its admission.

Section 34. Markings. - All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and by numbers (1, 2, 3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 35. Subpoena. - If a party desires the attendance of a witness or the production of documents or things, he shall make a request for the issuance of the necessary subpoena at least three (3) calendar days before the scheduled hearing.

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 36. Records of Proceedings. - The proceedings during the formal investigation must be recorded either through shorthand or stenotype or by any other method.

Section 37. Effect of the Pendency of an Administrative Case. - The pendency of an administrative case for sexual harassment shall not disqualify the respondent for promotion or from claiming maternity/paternity benefits. For this purpose, an administrative case shall be construed as pending when the CPO has issued a formal charge.

Section 38. Formal Investigation Report. – The CODI shall submit a Formal Investigation Report to the CPO within fifteen (15) calendar days after the formal investigation, which shall contain a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations.

The complete records of the case shall be attached to the Formal Investigation Report. 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.

Section 39. When Case is Decided. – The CPO shall render his decision on the case within thirty (30) calendar days from receipt of the Formal Investigation Report.

Section 40. Finality of Decisions. – A decision rendered by the CPO where a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days or a fine exceeding thirty (30) days salary, the same shall be final and executory after the lapse of the reglementary period for filing a motion for Reconsideration or an Appeal and no such pleading has been filed.

RULE X REMEDIES AFTER A DECISION

Section 41. Motion for Reconsideration. – Within fifteen (15) calendar days from receipt of the decision a party adversely affected may file a Motion for Reconsideration with the CPO.

Only one Motion for Reconsideration shall be entertained by the CPO.

Section 42. When Deemed Filed. – A Motion for Reconsideration shall be deemed filed on the date stamped on the official copy by the proper receiving authority, and in case it was sent by mail, on the date shown by the postmark on the envelope which shall be attached to the records of the case.

Section 43. Grounds for Motion for Reconsideration. – The Motion for Reconsideration shall be based on any of the following grounds:

- a) New evidence has been discovered which materially affects the decision rendered; or
- 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 44. Effect of Filing. – The filing of a Motion for Reconsideration within the reglementary period of fifteen (15) calendar days shall stay the execution of the decision sought to be reconsidered.

Section 45. Filing of Appeals. – Decisions of the CPO imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary may be appealed to the CSC Proper within fifteen (15) calendar days from receipt thereof.

In case the decision rendered by the CPO is appealable to the CSC, the same may be initially appealed to the Secretary of Finance and finally to the CSC Proper.

Pending appeal, the same shall be executory except where the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary of Finance.

A Notice of Appeal, including the Appeal Memorandum, shall be filed with the appellate authority, copy furnished the PMO. The latter shall submit the records of the case, which shall be systematically and

chronologically arranged, paged and securely bound to prevent loss, to the appellate authority together with its Comment, within fifteen (15) calendar days from receipt of the Notice of appeal and the Appeal Memorandum.

Section 46. When Deemed Filed. - An appeal sent by mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the proper office.

Section 47. Appeal Fee. - The appellant shall pay an appeal fee of Three Hundred Pesos (P300.00) and a copy of the receipt thereof shall be attached to the appeal.

Section 48. Perfection of an Appeal. - To perfect an appeal, the appellant shall, within fifteen (15) calendar days from receipt of the decision, submit the following:

- a) Notice of Appeal which shall specifically state the date of the decision appealed from and the date of receipt thereof;
- b) Three (3) copies of the Appeal Memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence;
- c) Proof of service of a copy of the Appeal Memorandum to the disciplining office;
- d) Proof of payment of the appeal fee; and
- e) A statement or certification of non-forum shopping.

Failure to comply with any of the above requirements within the reglementary period shall be construed as failure to perfect an appeal and shall cause its dismissal.

Section 49. Effect of Filing. - An appeal shall not stop the decision from being executory, 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.

Section 50. When case is Remanded for Violation of Respondent's Right to Due Process. - If the case on appeal with the CSC Proper is remanded to the CPO for further investigation, the latter, through the CODI, shall finish the investigation within three (3) months from the date of 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 aforesaid prescribed period.

The CPO shall render his decision within fifteen (15) calendar days from the submission of the investigation report to him by the CODI. If, at the end of said period, the CPO fails to decide the case, the CSC Proper shall vacate and set aside the appealed decision and declare the person complained of exonerated of the charge. If the person complained of is under preventive suspension, he shall be immediately reinstated.

Section 51. Petition for Review. - A complainant may elevate the decision of the CPO dismissing a complaint for lack of a prima facie case before the CSC Proper through a Petition for Review within fifteen (15) calendar days from the receipt of said decision.

Section 52. Petition for Review with the Court of Appeals. - A party may elevate a decision of the CSC before the Court of Appeals by way of Petition for Review under Rule 43 of the 1997 Revised Rules of Court, as amended.

Section 53. Petition for Certiorari. - When the disciplining authority has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction and there is no

appeal, nor any plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified Petition for Certiorari in the proper court under Rule 65 of the 1997 Revised Rules of Court, as amended.

RULE XI. JURISDICTION OF THE CSC OVER SEXUAL HARASSMENT CASES

Section 54. In case a complaint for sexual harassment is filed with the Commission, the same shall be remanded to the agency where the alleged offender is employed. However, the Commission may take cognizance of the case under any of the following circumstances:

- a) The agency has no CODI;
- b) The disciplining authority is the subject of the complaint;
- c) The subject of the complaint is a CODI member; or
- d) There is unreasonable delay in complying with the periods provided in these Rules for the investigation and adjudication of a sexual harassment complaint.

For this purpose, there is unreasonable delay when any of the periods set in these Rules lapsed for a period of more than thirty (30) days without justifiable reason.

In cases wherein the respondent to a sexual harassment complaint is the head of office who is either a presidential appointee or an elective official, a complaint for sexual harassment shall be filed directly with the proper disciplining authority.

The Commission shall conduct periodic review to ensure compliance of all government offices and/or agencies in accordance with the guidelines provided under the Program to Institutionalize Meritocracy and Excellence in Human Resource Management (PRIME-HRM.)

RULE XI. ADMINISTRATIVE LIABILITIES

Section 55. Any person who is found guilty of sexual harassment shall, after the investigation, be meted the penalty corresponding to the gravity and seriousness of the offense.

Section 56. Sexual Harassment in the Workplace - a government official or employee who commits sexual harassment in the workplace as defined shall be meted the following penalties depending on the gravity of the offense:

- I. **Grave Offenses** punishable by dismissal from the service shall include, but are not limited to:
 - a) unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast);
 - b) sexual assault;
 - c) malicious touching;
 - d) 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 scholarship, or the grant of benefits or payment of a stipend or allowance; and
 - e) other analogous cases.
- II. **Less Grave Offenses** punishable by suspension of one month and one day to six months for the first offense; and dismissal from the service for the second offense, shall include, but are not limited to:
 - a) unwanted touching or brushing against a victim's body;
 - b) pinching not falling under grave offenses;
 - c) derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person;
 - d) verbal abuse with sexual overtones; and
 - e) other analogous cases.

III. **Light Offenses** punishable by reprimand for the offense; suspension of one to thirty days for the second offense; and dismissal from the service for the third offense, shall include, but are not limited to:

- a) surreptitiously looking at a person's private part or worn undergarments;
- b) making sexist statements and uttering smutty jokes or sending these through text, electronic mail including but not limited to social media platform, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advise, when they are by their nature clearly embarrassing, offensive or vulgar;
- c) malicious leering or ogling;
- d) display of sexually offensive pictures, materials or graffiti;
- e) unwelcome inquiries or comments about a person's sex life;
- f) unwelcome sexual flirtation, advances, propositions;
- g) making offensive hand or body gestures at an employee;
- h) persistent unwanted attention with sexual overtones;
- i) unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
- j) other analogous cases.

Section 57. Sexual Harassment in Streets and Public Places - a government official or employee who commits sexual harassment in streets or public spaces as defined shall be meted the following penalties depending on the gravity of the offense:

- I. **Light Offense** of Sexual Harassment in Streets and Public Spaces is committed when a public official or employee engages in acts that include catcalling or wolf-whistling. Such acts are punishable by reprimand for the first offense, suspension of one (1) to thirty (30) days for the second offense and dismissal from the service for the third offense.
- II. **Less Grave Offense** of Sexual Harassment in Streets and Public Spaces is committed when a public official or employee engages in acts that include unwanted invitations, misogynistic, transphobic and sexist slurs, persistent uninvited comments or gestures on a person's appearances, relentless request for personal details or making statements comments and suggestions with sexual innuendos such acts are punishable by suspension of one (1) month and one (1) day suspension to six (6)months for the first offense, and dismissal from the service for the second offense.
- III. **Grave Offense** of Sexual Harassment in Streets and Public Spaces is committed by a public official or employee who engages in acts that include public masturbation or flashing of private parts, groping, or any advances, whether verbal or physical, that is unwanted and has threatened one's sense of personal space and physical safety, and committed in public spaces as alleys, roads, sidewalks and parks. Such acts are punishable by dismissal from the service.

Section 58. Online Sexual Harassment - a government official or employee who commits sexual harassment online as defined shall be meted the following penalties depending on the gravity of the offense:

- I. **Light Online Sexual Harassment** is committed by a government official or employee who engages in acts that include unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages, invasion of victim's privacy through cyberstalking and incessant messaging with sexual overtones. Such acts are punishable by reprimand for the first offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense.

- II. Less Grave Online Sexual Harassment is committed by a government official or employee who engages in acts that include the use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats with sexual overtones. Such acts are punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and dismissal from the service for the second offense.
- III. Grave Online Sexual Harassment punishable by dismissal from the service, includes uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content, any unauthorized recording and sharing online of any of the victim's photos, videos, or any information of sexual content, impersonating identities of victims online or posting lies of sexual nature about the victims to harm their reputation, or filing false abuse reports to online platforms to silence victims of sexual harassment.

Section 59. 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 XIII

DUTIES AND LIABILITIES OF THE HEAD OF OFFICE OR AGENCY

Section 60. Duties - The head of office or agency shall have the duty to prevent and deter the occurrence of sexual harassment cases, as well as ensure that necessary action be taken on complaint filed with the CODI. To this extent, the CPO shall:

- a) Constitute a CODI to investigate and address complaints of sexual harassment;
- b) Submit a list of the members of the CODI immediately after its composition to the CSC;
- c) Submit an authenticated copy of this Rules to the CSC for approval within one (1) month from the date of promulgation;
- d) In coordination with the CODI, disseminate information regarding this Rules, which shall include the following:
 - i. Posting a copy in a conspicuous place in the PMO;
 - ii. Posting a copy online or in the official website of the PMO;
 - iii. Sending copies of this Rules through official notices or means of communications to all officials and employees of the PMO; and
 - iv. Conducting orientations on this Rules and providing its officials and employees information materials such as primers, frequently asked questions and the like.
- e) In coordination with the CODI, provide measures to prevent sexual harassment in the workplace, such as the conduct of:
 - i. Anti-sexual harassment seminars;
 - ii. Trainings on gender sensitivity, orientations on gender-based violence, and other relevant topics; and
 - iii. Trainings to further capacitate and increase the awareness of CODI members on preventing sexual harassment and proper case handling.
- f) Act on any complaint for sexual harassment properly filed against any employee.

Section 61. Liabilities - The head of office or agency shall be charged with Neglect of Duty¹⁵ in case of non-implementation of the abovementioned duties.

**RULE XIV
FORUM SHOPPING**

Section 62. The filing of a complaint under these Rules shall preclude the filing of another administrative complaint under any other law.

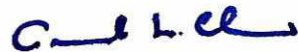
**RULE XV
REPEALING CLAUSE**

Section 63. All previous orders/memoranda/issuances that are inconsistent herewith are hereby repealed or modified accordingly.

**RULE XVI
EFFECTIVITY CLAUSE**

Section 64. These Rules shall take effect immediately.

Makati City, 12 October 2021



GERARD L. CHAN, CESO I
Chief Privatization Officer

¹⁵ Neglect of duty is the failure of an employee or official to give proper attention to a task expected of him or her, signifying a disregard of a duty resulting from carelessness or indifference