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DENR ADMINISTRATIVE ORDER
NO. 2002- 25

NOV 11 2002

**SUBJECT: REVISED IMPLEMENTING RULES AND REGULATIONS ON
THE ANTI-SEXUAL HARASSMENT ACT OF 1995**

Pursuant to Section 4 (a) of Republic Act No. 7877 otherwise known as "An Act Declaring Sexual Harassment Unlawful In The Employment, Education or Training Environment, And For Other Purposes" and by virtue of Civil Service Commission (CSC) Resolution No. 01-0940 otherwise known as "The Administrative Disciplinary Rules On Sexual Harassment Cases", the Department of Environment and Natural Resources (DENR) hereby adopts and promulgates the following Revised Implementing Rules and Regulations (IRR):

RULE I. PRELIMINARY PROVISIONS

Sec 1. Title

These rules and regulations shall be entitled "Revised Implementing Rules And Regulations On The Anti-Sexual Harassment Act Of 1995".

Sec 2. 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 DENR hereby promulgates these Revised IRR 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.

RULE II. COVERAGE

Sec 3. Coverage

These Rules shall apply to all officials and employees of the DENR, including the Bureaus, Regional Offices, Provincial & Community Environment and Natural Resources Offices (PENROs & CENROs), Attached Agencies, and Government Owned or Controlled Corporations with original charters, whether in the Career or Non-Career service and holding any level of position under permanent, temporary, contractual, coterminous and casual status including Presidential appointees regardless of status. These shall likewise apply to trainees, consultants of the DENR and employees who have been dismissed by reason of application of these rules and other similarly-situated persons.

RULE III. DEFINITION

Sec 4. Specific Acts Constituting Sexual Harassment

For the purpose of these Rules, the following shall be defined as follows:

- (a) "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, regardless of whether the demand, request or requirement for submission is accepted, and committed by a government official or employee in a work-related or training-related environment of the person complained of.
- (b) "Work-related sexual harassment" is committed under the following circumstances:
- (1) 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, re-employment, continued employment, promotion, raise in salary, favorable compensation, job security, giving of benefits, privileges or consideration, and any other personnel action) affecting the applicant/employee; or
 - (2) 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; or
 - (3) 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, client, trainee, apprentice or other similarly-situated persons, of the person complained of.
- (c) "Training-related sexual harassment" is committed against one who is under the actual care or constructive care, custody or supervision of the offender, or against one whose training, apprenticeship is directly or constructively entrusted to, or is provided by, the offender, when:
- (1) submission to or rejection of the act of series of acts is used as a basis for any decision affecting the complainant, including, but not limited to, granting of scholarships, the giving of a grade, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration; or
 - (2) the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive training environment of the complainant; or
 - (3) 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 trainee, apprentice, or other similarly-situated persons, of the person complained of.
- (d) "Disciplining Authority" refers to the DENR Secretary or Heads of Bureaus and Attached Agencies, as the case may be.
- (e) "Committee" refers to either the Central or Localized Committee, as the case may be.

Sec 5. Place of Sexual Harassment

Sexual harassment may take place:

1. in the premises of the workplace, office or training environment;
2. in any place where the parties were found as a result of work or training responsibilities or relations;
3. at work or training-related social functions;
4. while on official business outside the office or training environment or during work or training-related travel;
5. at official conferences, fora, symposia or training sessions; or
6. through letters, telephone, cellular phone, fax machine or electronic mail and other forms of communications.

RULE IV. FORMS OF SEXUAL HARASSMENT

Sec 6. Forms of Sexual Harassment

The following are illustrative forms of sexual harassment:

- (a) Physical
 - i. Malicious touching
 - ii. Overt sexual advances
 - iii. Unwelcome, improper or unnecessary gestures of a sexual nature.
- (b) Verbal, such as but not limited to, requests or demands for sexual favors, and lewd remarks
- (c) Use of objects, pictures or graphics, letters or written notes with persuasive sexual underpinnings and which create a hostile, offensive or intimidating work or training environment which is annoying or disgusting to the victim
- (d) Any other forms analogous to the foregoing.

RULE V. PERSONS LIABLE FOR SEXUAL HARASSMENT

Sec 7. Persons Liable for Sexual Harassment

Any official or employee of the DENR, regardless of sex, position, authority, influence or moral ascendancy over another person 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;
- (d) cooperates in the commission of sexual harassment by another through previous or simultaneous acts.

**RULE VI. COMMITTEE ON DECORUM AND INVESTIGATION
OF SEXUAL HARASSMENT CASES**

Sec 8. Committee on Decorum and Investigation (CODI)

A Committee on Decorum and Investigation (CODI) shall be created in the DENR Central Office, Bureaus, and Heads of Attached Agencies. Within thirty (30) days from promulgation of the Revised IRR, said offices shall be obliged to create their respective committees. Failure to submit to the Secretary an order or memorandum showing the creation of the said purpose shall be charged with Neglect of Duty. The Committee shall perform the following functions:

- (a) Receive complaints of sexual harassment;
- (b) Investigate sexual harassment complaints in accordance with the prescribed procedure;
- (c) Submit a report of its findings with the corresponding recommendation to the disciplining authority for decision;
- (d) Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevent incidents of sexual harassment;

When a member of the Committee is the complainant or is the person complained of in a sexual harassment case, he/she shall be disqualified from being a member of the Committee until his/her case is resolved/closed.

Sec 9. Composition

The Committee shall be composed of the following:

- I. DENR Central Office
 - a) Chairperson: An official occupying supervisory position appointed by the Secretary.
 - b) Members: At least a Division Chief Level from the Legal and Legislative Affairs, Administrative Service, Personnel Division, and of the Complainant and the Person Complained of; a representative from the Gender and Development (GAD) Focal Point System, the duly accredited union, and the first level and second level rank-and-file employees.
- II. Localized Committee

Bureau Directors and Heads of Attached Agencies shall have the authority and discretion to determine the composition of their localized committees.

Sec 10. Secretariat

A Secretariat shall be created by the designated Chairperson to provide administrative support to the Committee.

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

Sec 11. The Pre-Filing Stage

The DENR/Committee, before filing of any complaint, may provide assistance to an alleged victim of sexual harassment which may include counseling, referral to an offering professional help, and advice.

RULE VIII. STANDARD PROCEDURAL REQUIREMENTS

Sec 12. Complaint

- a. The complaint may be filed at any time with the disciplining authority or with the Committee. In case where the complaint is filed with the disciplining authority, the same shall be transmitted to the Committee.
- b. The complaint must be in writing, signed and sworn to by the complainant. It shall contain the following:
 1. the full name and address of the complainant;
 2. the full name, address, and position of the respondent;
 3. a brief statement of the relevant facts;
 4. evidence, in support of the complaint, if any;
 5. a certification of non-forum shopping.

In the absence of anyone of the aforementioned requirements, the complaint shall be dismissed without prejudice to its refiling.

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.

- c. Complaints sent by telegram, radiogram, electronic mail or similar means of communication shall be considered non-filed unless the complainant shall comply with the requirements provided in Section 12 (b) within ten (10) days from receipt of the notice for compliance.
- d. Withdrawal of the complaint at any stage of the proceedings shall not preclude the Committee 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.

Sec 13. Action on the Complaint

Upon receipt of a complaint that is sufficient in form and substance, the Committee shall require the person complained of to submit a Counter-Affidavit/Comment under oath within three (3) days from receipt of the notice, furnishing a copy thereof to the complainant, otherwise the Counter-Affidavit/Comment shall be considered as not filed and waived.

Sec 14. Preliminary Investigation

A preliminary investigation shall be conducted by the Committee. The investigation involves the *ex parte* examination of documents submitted by the complainant and the person complained of, as well as documents readily available from other government offices.

During the preliminary investigation, the parties may submit affidavits and counter-affidavits.

Upon receipt of the counter-affidavit or comment under oath, the Committee may now recommend whether a *prima facie* case exists to warrant the issuance of a formal charge.

During preliminary investigation, proceedings before the Committee shall be held under strict confidentiality.

Sec 15. Duration of the Investigation

A preliminary investigation shall commence not later than five (5) working days from receipt of the complaint by the Committee and shall be terminated within fifteen (15) working days thereafter.

Sec 16. Investigation Report

Within five (5) working days from the termination of the preliminary investigation, the Committee shall submit the Investigation Report and the complete records of the case to the disciplining authority.

Sec 17. Decision or Resolution After Preliminary Investigation

If a *prima facie* case is established during the investigation, a formal charge shall be issued by the disciplining authority within three (3) working days from receipt of the Investigation Report.

In the absence of a *prima facie* case, the complaint shall be dismissed within the same period.

Sec 18. Formal Charge

After finding a *prima facie* case, the disciplining authority shall formally charge the person complained of. The formal charge shall contain a specification of the charge(s), a brief statement of material or relevant facts, accompanied by certified true copies of the documentary evidence, if any, sworn statements covering the testimony of witnesses, a directive to answer the charge(s) in writing under oath in not less than seventy-two hours from receipt thereof, an advice for the respondent to indicate in his/her answer whether or not he/she elects a formal investigation of the charge(s), and a notice that he/she is entitled to be assisted by a counsel of his/her choice.

If the respondent has submitted his/her comment and counter-affidavits during the preliminary investigation, he/she shall be given the opportunity to submit additional evidence.

The Committee shall not entertain requests for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceeding. If any of these pleadings is filed by the respondent, the same shall be considered as part of his/her answer which he/she may file within the remaining period for filing the answer.

Sec 19. Answer

The answer, which must be in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statements covering testimonies of witnesses, if there be any, in support of respondent's case. It shall also include a statement indicating whether he/she elect a formal investigation.

Sec 20. Failure to File an Answer

If the respondent fails or refuses to file his/her answer to the formal charge within seventy-two (72) hours from receipt thereof without justifiable cause, he/she shall be considered to have waived his right thereto and formal investigation may commence.

Sec 21. Preventive Suspension

Upon petition of the complainant or *motu proprio* upon the recommendation of the Committee, at any time after the service of the formal charge to the respondent, the proper disciplining authority may order the preventive suspension of the respondent during the formal investigation.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance or malfeasance and to preclude the possibility of his/her exerting undue influence or pressure on the witnesses against him/her or tampering of documentary evidence on file with this Office. In case the preventive suspension has been served, the proper disciplining authority may reassign the respondent to other units of the agency during the pendency of the case.

Sec 22. Duration of Preventive Suspension

When the administrative case against the respondent under preventive suspension is not finally decided by the disciplining authority within the period of ninety (90) 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) 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.

Sec 23. Remedies from the Order of Prevention Suspension

The respondent may file a motion for reconsideration with the disciplining authority or may elevate the same to the Civil Service Commission by way of an appeal within fifteen (15) days from receipt thereof.

Sec 24. Conduct of Formal Investigation

Although the respondent does not request a formal investigation, one shall nevertheless be conducted by the Committee if it deems such investigation is necessary to decide the case judiciously.

The investigation shall be held not earlier than five (5) working days nor later than ten (10) working days from receipt of the respondent's answer. Said investigation shall be finished within thirty (30) working days from the issuance of the formal charge or the receipt of the answer unless the period is extended by the disciplining authority in meritorious cases.

Sec 25 Pre-hearing Conference

At the commencement of the formal investigation, the Committee may conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. stipulation of facts;
- b. simplification of issues;
- c. identification and marking of evidence of the parties;

- d. waiver of objections to admissibility of evidence;
- e. limiting the number of witnesses, and their names;
- f. such other matters as may aid in the prompt and just resolution of the case.

The parties may submit position papers/memoranda and submit the case for resolution based on the result of the pre-hearing conference without any need for further hearing.

Sec 26. Continuous Hearing Until Terminated; Postponement

Hearings shall be conducted on the hearing dates set by the Committee or as agreed upon during a pre-hearing conference.

Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (5) working days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice. A party shall be granted only three (3) postponements upon oral or written requests. A further postponement may be granted only upon written request and subject to the discretion of the Committee.

If the respondent fails to appear during the scheduled hearings despite due notice, the investigation shall proceed *ex-parte* and the respondent is deemed to have waived his right to be present and to submit evidence in his favor during those hearings.

Section 27. Preliminary Matters

At the start of the hearing, the Committee shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

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

Before taking the testimony of a witness, the Committee shall place him/her under oath and then take his/her name, address, civil status, age, and place of employment.

Sec 28. Appearance of Parties

Any person representing any of the parties before any hearing or investigation shall manifest orally or in writing his/her appearance for either the respondent or complainant, stating his/her full name and exact address where he/she can be served with notices and other documents. Any pleading or appearance made without complying with the above stated requirements shall not be recognized.

Sec 29. Order of Hearing

Unless the Committee directs otherwise, the order of hearing shall be as follows:

- a. The complainant shall present evidence in support of the charge;
- b. The respondent shall then offer evidence in support of his/her 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 said witness before the Committee, shall constitute his/her 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. Thereafter, both parties may be given time to submit their respective memorandum which in no case shall be beyond five (5) working days after the termination of the investigation. Failure to submit the memorandum within the given period shall be considered a waiver thereof.

Sec 30. Objections

All objections raised during the hearing shall be resolved by the Committee. However, objections that cannot be ruled upon by the Committee 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 proper disciplining authority.

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

Sec 31. 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.

Sec 32. Request for Subpoena

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

Sec 33. Issuance of Subpoena

The Committee may issue subpoena ad *testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or objects.

Sec 34. Records of Proceedings

The proceedings of the formal investigation must be recorded either through shorthand or stenotype or by any other method.

Sec 35. Effect of the Pendency of an Administrative Case

The pendency of any administrative case 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 disciplining authority has issued a formal charge.

Sec 36. Formal Investigation Report

Within fifteen (15) working days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the

Committee to the disciplining authority. The complete records of the case shall be attached to the Report of Investigation.

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.

Sec 37. When Case is Decided

The disciplining authority shall render his decision on the case within thirty (30) days from receipt of the Report of Investigation.

Sec 38. Finality of Decisions

A decision rendered by the disciplining authority 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 IX. REMEDIES AFTER A DECISION

Sec 39. Filing of Motion for Reconsideration

The party adversely affected by the decision may file a motion for reconsideration with the disciplining authority who rendered the decision within fifteen (15) days from receipt thereof.

Sec 40. 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.

Sec 41. Grounds for Motion for Reconsideration

The motion for reconsideration shall be based on any of the following:

- 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.

Sec 42. Limitation

Only one motion for reconsideration shall be entertained.

Sec 43. Effect of Filing

The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

Sec 44. Filing of Appeals

Decisions of the disciplining authority imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty days salary, may be appealed to the Commission Proper within a period of fifteen (15) days from receipt thereof.

In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the Secretary and finally to the Commission 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.

A notice of appeal including the appeal memorandum shall be filed with the appellate authority, copy furnished the disciplining office. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss with its comment, within (15) days, to the appellate authority.

Sec 45. 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.

Sec 46. 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. Said appeal fee may be paid to any paying office of the Department.

Sec 47. Perfection of an Appeal

To perfect an appeal, the appellant shall within fifteen (15) 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 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.

Sec 48. 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/she wins the appeal.

Sec 49. When Case is Remanded for Violation of Respondent's Right to Due Process

If the case on appeal with the Commission Proper is remanded to the proper disciplining authority for further investigation, the said disciplining authority through the Committee shall finish the investigation within three (3) calendar months from the date of receipt of the records from the Commission, unless the investigation is delayed due to the fault, negligence or petition

of the person complained of, or an extension is granted by the Commission Proper in meritorious cases. The period of delay shall not be included in the computation of the prescribed period.

Within fifteen (15) days from the submission of the investigation report to the disciplining authority, the same shall render its decision. If, at the end of said period, the disciplining authority fails to decide the case, the Commission 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/she shall be immediately reinstated.

The Civil Service Regional Office or the Office for Legal Affairs of the Civil Service Commission shall evaluate requests for the extension of formal investigations and grant the same on meritorious grounds. In disposing the requests, said office shall be guided by the principles of justice and fair play, provided, that the extension shall not be for more than twenty (20) days.

For this purpose, the Civil Service Regional Director shall monitor the implementation of the CSC Resolution remanding the case to the proper disciplining authority for further investigation and submit a report to the Commission Proper.

Sec 50. Petition for Review

A complainant may elevate the decision of the disciplining authority dismissing a complaint for lack of a prima facie case before the Commission Proper through a Petition for Review within fifteen (15) days from the receipt of said decision.

Sec 51. Petition for Review with the Court of Appeals

A party may elevate a decision of the Commission before the Court of Appeals by way of Petition for Review under Rule 43 of the 1997 Revised Rules of Court.

Sec 52. 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 Rules of Court.

RULE X. CLASSIFICATION OF ACTS OF SEXUAL HARASSMENT

Section 53. Classification of Act Constituting Sexual Harassment

Sexual harassment is classified as grave, less grave and light offenses.

A. Grave Offenses shall include but are not limited to:

1. unwanted touching of private parts of the body (genitalia, buttocks, and breast);
2. sexual assault;
3. malicious touching;
4. requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignment, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance; and
5. other analogous cases.

B. Less Grave Offenses shall include but are not limited to:

1. unwanted touching or brushing against a victim's body;
2. pinching not falling under grave offenses;
3. derogatory or degrading remarks or innuendoes directed toward the members of one sex or one's sexual orientation or used to describe a person;
4. verbal abuse or threats with sexual overtones; and
5. other analogous cases.

C. Light Offenses shall include but are not limited to:

1. surreptitiously looking or stealing a look at a person's private part or worn undergarments;
2. telling sexist/smutty jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offenses and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advice, when they are by their nature clearly embarrassing, offensive or vulgar;
3. malicious leering or ogling;
4. the display of sexually offensive pictures, materials or graffiti;
5. unwelcome inquiries or comments about a person's sex life;
6. unwelcome sexual flirtation; advances, propositions;
7. making offensive hand or body gestures at an employee;
8. persistent unwanted attention with sexual overtones;
9. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
10. other analogous cases.

RULE XI. ADMINISTRATIVE LIABILITIES

Sec 54. Failure to Act on any Complaint

The Disciplining Authority/Head of Office who fails to act within fifteen (15) days from receipt of any complaint for sexual harassment properly filed against any employee in that office shall be charged with Neglect of Duty.

Sec 55. Persons found guilty

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.

Sec 56. Penalties for light, less grave, and grave offenses

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

A. For light offenses:

- | | | |
|-------------------------|---|----------------------------------------------------|
| 1 st offense | - | Reprimand |
| 2 nd offense | - | Fine or suspension not exceeding thirty (30) days) |
| 3 rd offense | - | Dismissal |

B. For less grave offenses:

- | | | |
|-------------------------|---|----------------------------------------------|
| 1 st offense | - | Fine or suspension not less than thirty (30) |
|-------------------------|---|----------------------------------------------|

2nd offense - days and not exceeding six (6) months
Dismissal

C. For grave offenses:

Dismissal

Sec 57. Persons found guilty of more charges

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 XII. DUTY OF THE DENR

Sec 58. Conduct of Training Program

The DENR shall strengthen its education and training program for its officials, employees and members of the Committee to increase understanding about sexual harassment, prevent its occurrence, and ensure proper investigation, prosecution and resolution of sexual harassment cases. Funds for this purpose may be charged against the GAD Focal Point System.

RULE XIII. FORUM SHOPPING

Sec 59. Forum Shopping

Under the same set of ultimate facts, the filing of a complaint based on the DENR's rules and regulations on sexual harassment shall preclude the filing of another administrative complaint under any other law.

RULE XIV. REPEALING CLAUSE

Sec 60. Repealing Clause

Rules and regulations and other issuances or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

RULE XV. EFFECTIVITY CLAUSE

Sec 61. Effectivity Clause

These Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.


HEHERSON T. ALVAREZ

Secretary

NOV 11 2002

PUBLICATION:

TODAY - November 18, 2002