

MFN 2278

**Office of the President**  
**of the Philippines**  
**Malacañang**

MEMORANDUM ORDER NO 376

PROVIDING RULES AND REGULATIONS PRESCRIBING THE PROCEDURE FOR THE INVESTIGATION OF SEXUAL HARASSMENT CASES AND THE ADMINISTRATIVE SANCTIONS THEREFOR IN THE OFFICE OF THE PRESIDENT PROPER

Pursuant to Section 4 of RA 7877, otherwise known as the "Anti-Sexual Harassment Act of 1995", the following rules and regulations are hereby promulgated prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor in this Office.

**RULE I**      **COVERAGE**

SECTION 1. These rules shall cover all officials and employees of the Office of the President proper, whether in the Career or Non-Career service, and holding positions under permanent or temporary status.

**RULE II**      **DEFINITION**

SEC. 2. Sexual harassment is a form of misconduct involving an act, gesture, or other verbal or physical behavior of a sexual nature, made directly, indirectly or impliedly, creating in the process an intimidating, humiliating, hostile, or offensive work environment to the harassed.

For the purpose of this Order, sexual harassment is committed when:

(1) The sexual favor is made as a condition in the hiring or in the employment, re-employment, or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating, or classifying the employee, which in any way would discriminate, deprive, or diminish employment opportunities or otherwise adversely affect said employee;

(2) The above acts would impair the employee's rights or privileges under existing labor laws; or

(3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.

Any person, who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Order.

### RULE III FORMS OF SEXUAL HARASSMENT

SEC. 3. Likewise, or this purpose, sexual harassment may take place

- 1 in the work place
- 2 anywhere else as part of work assignment  
at off related social functions  
while on official mission outside the work station  
or during work related travel
- 5 at official conferences, fora, symposia,  
workshops, or training sessions
- 6 over the telephone, cellular phone, fax machine  
E-mail  
at any place where, or any activity during which  
two or more persons who work in the same office  
are together; whether or not work-related

### RULE IV COMMITTEE ON DECORUM AND INVESTIGATION OF SEXUAL HARASSMENT CASES

SEC. 4. A Committee on Decorum and Investigation of Sexual Harassment Cases is hereby created to be composed of the following:

Chairman	Assistant Executive Secretary for Legal Affairs
Member	Social Secretary
Member	Personnel Director
Member	An employee in the second level
Member	An employee in the first level

The representatives of the first and second level employees in the OP Selection/Promotion Board shall concurrently sit as members of this Committee.

SEC.5 The Committee shall have the following powers and functions

(a) Receive the complaint, file the formal charge, and investigate and conduct hearings in accordance with the Uniform Rules of Procedure in the Conduct of Administrative Investigation in the Civil Service. It shall submit a report of its findings with the corresponding recommendation to the Executive Secretary for decision. Said report shall be considered strictly confidential.

(b) Conduct meetings with the officials and employees to increase understanding and prevent incidents of sexual harassment;

Recommend measures to the Executive Secretary that will expedite the investigation and adjudication of sexual harassment cases; and

(d) Administer oaths, issue subpoena and subpoena duces tecum, take testimony in any investigation or inquiry, punish for contempt in accordance with the same procedures and penalties prescribed in the Rules of Court.

RULE V PROCEDURE IN THE DISPOSITION OF SEXUAL HARASSMENT CASES

SEC. 6. Filing of Complaint - All complaints for sexual harassment must be under oath and supported by the affidavit of the offended party. Any complaint shall be investigated and disposed of in accordance with the Uniform Rules of Procedure in the Conduct of Administrative Investigation in the Civil Service. No anonymous complaint shall be entertained nor shall any civil servant be required to answer or comment on said anonymous complaint.

SEC. 7. Action on Complaint - All complaints for sexual harassment shall be sufficient in form and substance and shall be filed with the head of office who shall, within five (5) days from receipt thereof, transmit the same to the Committee on Decorum and Investigation.

SEC. 8. Preliminary Investigation - The Committee shall conduct a preliminary investigation wherein the complainant and the respondent shall submit their affidavits and counter-affidavits, as well as those of their witnesses. Failure of the respondent to submit his counter-affidavit shall be construed as a waiver thereof.

During the inquiry or proceedings, the Committee may ask clarificatory questions, but under no circumstances

shall cross-examination of the witnesses be allowed, but the hearing officer may propound clarificatory questions.

SEC. 9. Record of Proceedings - During the preliminary investigation, the Committee shall record all clarificatory questions to the parties and their witnesses and the answers given thereto. Such record and other notes shall form part of the records of the case.

SEC. 10. Hearings - Hearing shall be conducted on the hearing dates set by the Committee or as agreed upon during a pre-hearing conference. Postponement of hearing shall not be allowed except in meritorious cases, provided, not more than two (2) postponements shall be allowed.

The parties, their counsel and witnesses, if any, shall be given a notice at least (5) 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.

If the respondent fails or refuses to appear during the scheduled hearings, the investigation shall proceed ex parte and the respondent is deemed to have waived the right to be present and to submit evidence in his/her favor during those hearings.

SEC. 11. Duration of Investigation - The preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Committee and shall be terminated not later than ten (10) days thereafter.

SEC. 12. Investigation Report - Within five (5) days from the termination of the preliminary investigation, the Committee shall submit its report and recommendation to the Executive Secretary.

SEC. 13. Formal Charge - When the Committee finds the existence of a prima facie case, it shall formally charge the respondent. The formal charge shall be embodied in its report and recommendation to the Executive Secretary. If approved, the Executive Secretary shall order the Legal Office to conduct a formal investigation.

SEC. 14. Formal Investigation - The Legal Office shall conduct a formal investigation, which shall be completed within ( ) days from the date of the service of formal charge, unless the period is extended in meritorious cases.

In the event the respondent chooses not to elect a formal investigation, one shall nevertheless be conducted if, upon evaluation of the complaint, together with the

ADMINISTRATIVE LIABILITIES

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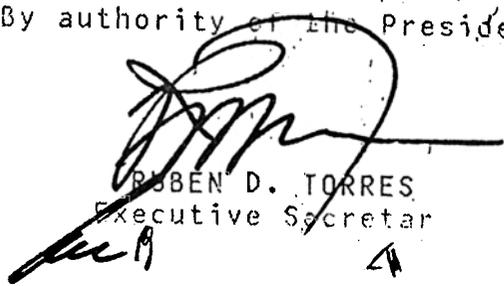
PRESCRIPTIVE PERIOD

RULE VIII EFFECTIVITY CLAUSE

SEC. 18. These Rules and Regulations shall take effect immediately upon approval.

Done in the City of Manila, this 6th day of June in the year of Our Lord, nineteen hundred and ninety six.

By authority of the President:



ROBBEN D. TORRES  
Executive Secretary

Manila

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