

**RULES OF PROCEDURE OF THE COMMITTEE ON DECORUM AND INVESTIGATION
(CODI) FOR SEXUAL HARASSMENT CASES IN THE PHILIPPINE NATIONAL OIL
COMPANY (PNOC)**

**RULE I
TITLE**

Section 1. These Rules shall be known and cited as the "Rules of Procedure of PNOC CODI on Sexual Harassment Cases."

**RULE II
DECLARATION OF POLICY**

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

**RULE III
COVERAGE**

Section 3. These Rules shall apply to all the officials and employees of the PNOC, whether in the career or non-career service and holding any level of position, including Presidential appointees.

**RULE IV
DEFINITION OF SEXUAL HARASSMENT**

Section 4. **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 official in a work-related, training or education related environment of the person complained of. These Rules contemplate cases of harassment involving persons of the same or opposite sex, regardless of sexual orientation, gender identity and expression.

(a) **Work related sexual harassment** is committed under the following circumstances:

- (1) The 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 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, or word of the person complained of.

(b) **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 training, apprenticeship or tutorship is directly or constructively entrusted to, or is provided by, the offender, when:

- (1) Submission to or rejection of the act or series of acts as a basis of any decision affecting the complainant, including, but not limited to, the payment of allowance, or the giving of any benefit, privilege or consideration.
- (2) The act or- series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive environment for 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 intern of the person complained of.

RULE V FORMS OF SEXUAL HARASSMENT

Section 5. The following are illustrative forms of sexual harassment:

- 1. Physical
 - a) Malicious Touching
 - b) Overt Sexual Advances
 - c) Gesture with lewd insinuation
- 2. Verbal, such as but not limited to, requests or demands for sexual favors, and lurid remarks.
- 3. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
- 4. Other forms analogous to the foregoing.

RULE VI LIABILITY FOR SEXUAL HARASSMENT

Section 6. Persons liable for sexual harassment – refers to any government official or employee of the PNOC whether holding permanent or temporary position, including Presidential appointees, regardless of sex or gender 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.

Section 7. Where Committed. – Sexual Harassment may be committed in any work, education, or training environment, including, but not limited to the following:

- a) In the premises of the workplace or office building or of the training site;
- b) In any place where the parties were found as a result of work or training responsibilities or relations;
- c) At work or training related social functions;
- d) While on official business outside the office or training institution or during work related travel.
- e) At official conferences, fora symposia or training sessions; or
- f) By telephone, cellular phone, fax machine, electronic-mail, private messages or posts in social media accounts, by text message or other electronic means.

RULE VII COMMITTEE ON DECORUM AND INVESTIGATION FOR SEXUAL HARASSMENT CASES

Section 8. Functions – The PNOC CODI shall have the following functions and duties:

- a) Receive and evaluate sexual harassment complaints allegedly committed by any government official or employee, including Presidential appointees of the Philippine National Oil Company;

- b) Conduct investigations of alleged sexual harassment cases and submit a report of its findings and recommendation to the disciplining authority for decision;
- c) Conduct meetings, trainings, related activities, as may be necessary, with officers and employees to promote better understanding and prevent incidents of sexual harassment;
- d) Lead in the conduct of discussions about sexual harassment within PNOC to increase understanding and prevent incidents of sexual harassment.

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

Section 9. Pre-Filing Stage

- a) The Personnel Services Division of the Administrative Services Department shall provide assistance to an alleged victim of sexual harassment which may include:
 - a.1) Counseling services to help offended parties process their experience and advise them on what remedies they may take;
 - a.2) Referral to an agency offering professional help such as medical services, therapy, legal services when appropriate; and
 - a.3) Advice on options available before filing of the complaint.

RULE IX
STANDARD PROCEDURAL REQUIREMENTS

Section 10. Complaint - The complaint shall be filed with the Committee on Decorum and Investigation.

- (a) 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 complainant, if any;
 - 5.) A certification of non-forum shopping.
- (b) In the absence of any one 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 9 (a) 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.

Section 11. Action on the Complaint. – Upon receipt of a complaint that is sufficient in form and substance, the Committee on Decorum and Investigation shall require the person complained of (otherwise known as the "respondent") 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.

Section 12. Preliminary Investigation. – A preliminary investigation shall be conducted by the Committee on Decorum and Investigation. The CODI shall examine all documents submitted by the complainant and the person complained of, as well as documents readily available from other sources.

During the preliminary investigation, the parties may submit affidavits and counter-affidavits. Upon receipt of the counter-affidavit or comment under oath, the Committee on Decorum and Investigation may now recommend whether a prima facie case exists to warrant the issuance of a formal charge.

The preliminary investigation proceedings before the Committee on Decorum and Investigation shall be held under strict confidentiality.

Section 13. Duration of the Investigation. – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the Committee on Decorum and Investigation and shall be terminated within fifteen (15) working days thereafter.

Section 14. Investigation Report. – Within five (5) working days from the termination of the preliminary investigation, the Committee on Decorum and Investigation shall release a report determining if there is a prima facie case.

Section 15. Decision or Resolution After Preliminary Investigation. – If a prima facie case is established during the investigation, a formal charge shall be issued by the CODI 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.

Section 16. Formal Charge – After finding a prima facie case, the CODI shall formally charge the person complained of. The formal charge shall contain a specification of the charge(s), a brief statement of materials 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.

The CODI shall not entertain requests for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceedings. 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.

Section 17. Failure to File an Answer – If the respondent fails or refuses to file his/her answer to the formal charge within 72 hours from receipt thereof without justifiable cause, he/she shall be considered to have waived his/her right thereto and formal investigation may commence.

Section 18. Preventive Suspension – Upon petition of the complainant or motu proprio upon the recommendation of the CODI, 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, if there are reasons to believe that he/she is probably guilty of the charges which would warrant his/her removal from service.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance 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 the Office.

Section 19. 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 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.

When the delay in the disposition of 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 90 calendar day period of preventive suspension. Provided 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 20. Remedies from the Order of Preventive Suspension – The respondent may file a motion for reconsideration with the disciplining authority or may elevate the same to the Civil Service Commission (CSC) by way of an appeal within fifteen (15) days from receipt thereof.

Section 21. Conduct of Formal Investigation – A formal investigation shall be conducted by the CODI if it deems such investigation is necessary to decide the case judiciously, although the respondent does not request a formal investigation. It shall be held not earlier than 5 days nor later than 10 days from receipt of the respondent's answer. Said investigation shall be finished within 30 days from issuance of the formal charge or the receipt of the answer.

Section 22. Pre-hearing Conference – At the commencement of the formal investigation, the CODI may conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

1. Stipulation of facts;
2. Simplification of issues;
3. Identification and marking of evidence of the parties;
4. Waiver of objections to admissibility of evidence;
5. Limiting the number of witnesses, and their names;
6. Dates of subsequent hearings; and
7. Such other matters as may aid in the prompt and just resolution of the case.

Section 23. Preliminary Matters – At the start of the hearing, the CODI 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.

Section 24. 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 3 days before the scheduled hearing.

Section 25. Issuance of Subpoena – 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 26. Effect of 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.

Section 27. Formal Investigation Report – Within fifteen (15) 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 CODI to the disciplining authority. The complete records of the case arranged systematically and chronologically shall be attached to the report of investigation.

If the person under investigation is the Disciplining Authority, the Formal Investigation Report shall be submitted to the PNOC Board of Directors who shall render its decision in the same manner as provided for under Section 26 hereof.

Section 28. Finality of Decisions – The disciplining authority shall render its decision on the case within thirty (30) days from receipt of the report of investigation. A decision rendered by the head of the agency where a penalty of suspension for not more than 30 days or a fine in an amount not exceeding 30 days salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding 30 days or a fine exceeding 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.

Section 29. Prescription – Any offense or violation mentioned herein shall prescribe in five (5) years.

Section 30. Independent Action - Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

Nothing in this Act shall preclude the victim from instituting a separate and independent action for damages and other affirmative relief.

RULE X REMEDIES AFTER A DECISION

Section 31. 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.

Section 32. 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 33. 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 irregularities have been committed prejudicial to the interest of the movant.

Section 34. Limitation – Only one motion for reconsideration shall be entertained.

Section 35. 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.

Section 36. Filing of Appeals – The Decision imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty (30) days salary, may be appealed to the Civil Service Commission(CSC) within a period of fifteen (15) days from receipt thereof.

A notice of appeal including the appeal memorandum, shall be filed with the CSC, 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 fifteen (15) days, to the appellate authority.

Section 37. 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 38. 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.

Section 39. 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.

Section 40. 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 XI CLASSIFICATION OF ACTS OF SEXUAL HARASSMENT

Section 41. 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 assignments, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance, and
5. flashing of private parts, public masturbation, groping, and similar lewd sexual actions;
6. 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. the use of words, gestures or actions that ridicule on the basis of sex gender or sexual orientation, identity and/or expression including sexist, homophobic, misogynistic, transphobic statements, sexist slurs;
5. verbal abuse with sexual overtones; and

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6. other analogous cases.

C. The following shall be considered Light Offenses;

1. surreptitiously looking or staring a look of a person's private part or worn undergarments;
2. telling sexist/smutfy jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense 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. cursing, wolf-whistling, catcalling, and intrusive gazing, taunting, unwanted invitations;
5. the persistent telling of sexual jokes, use of sexual names, comments and demands, and any statement that has made an invasion on a person's personal space or threatens the person's sense of personal safety;
6. persistent unwanted comments on one's appearance, relentless requests for one's personal details such as name, contact and social media details or destination;
7. the display of sexually offensive pictures, materials or graffiti;
8. unwelcome inquiries or comments about a person's sex life;
9. unwelcome sexual flirtation, advances, propositions;
10. making offensive hand or body gestures at an employee;
11. persistent unwanted attention with sexual overtones;
12. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
13. other analogous cases.

RULE XII ADMINISTRATIVE PENALTIES AND LIABILITIES

Section 42. The 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.

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.

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

A. For light offenses:

1st offense – Reprimand

2nd offense – Fine in an amount not exceeding thirty (30) days salary or suspension not exceeding thirty (30) days

3rd offense – Dismissal

B. For less grave offenses:

- 1st offense – Fine in an amount exceeding thirty (30) days salary or suspension of not less than thirty (30) days and not exceeding six (6) months
2nd offense – Dismissal

C. For grave offenses: Dismissal

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.

Penalty of Fine – Upon the request of the head of office or the concerned party and when supported by justifiable reason/s, the disciplining authority may allow payment of fine in place of suspension if any of the following circumstances are present:

- a. When the functions/nature of the office is impressed with national interest such as those involved in maintenance of peace and order, health and safety, education or;
- b. When the respondent is actually discharging frontline functions or those directly dealing with the public and the personnel complement of the office is insufficient to perform such function; and
- c. When the respondent committed the offense without utilizing or abusing the powers of his/her position or office.

The fine shall be paid to the agency imposing the same, computed on the basis of respondent's salary at the time the decision becomes final and executory.

RULE XIII SEPARABILITY CLAUSE

Section 43. If any provision or part hereof is held invalid or unconstitutional, the remainder of the rules or the provision not otherwise affected shall remain valid and subsisting.

RULE XIV EFFECTIVITY CLAUSE

Section 44. These Rules shall take effect upon signing and shall remain in force until further orders.

APPROVED:


ADM Reuben S. Lista (Ret.)
President and CEO
Date: October 22, 2020

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