



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

MEMORANDUM CIRCULAR NO. 005

SUBJECT : Revised Procedural Rules of the Committee on Decorum and Investigation (CODI) for Sexual Harassment Cases in the Department of Justice (DOJ)

DATE : MAR 11 2019

In the interest of service and pursuant to the provisions of Civil Service Commission (CSC) Resolution No. 01-0940¹, the Procedural Rules of the CODI in the DOJ is hereby revised as follows:

"REVISED PROCEDURAL RULES OF THE COMMITTEE ON DECORUM AND INVESTIGATION (CODI) FOR SEXUAL HARASSMENT CASES IN THE DEPARTMENT OF JUSTICE (DOJ)."

**RULE I
DECLARATION OF POLICY**

Section 1. It is the policy of the DOJ 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, the DOJ 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 II
COVERAGE**

Section 1. This covers the DOJ Proper, consisting of the Offices of the Secretary, Undersecretaries, Assistant Secretaries, National Prosecution Service (including DOJ Prosecution Staff and Regional/Provincial/City Prosecution Offices), Legal Staff (Office of Chief State Counsel), Board of Pardons and Parole, Office of Cybercrime, Office for Competition, Technical Staff, Administrative Service, Financial Service, Planning and Management Service, Internal Audit Service, and other offices/units that form part of the agency.

¹ Entitled: **Administrative Disciplinary Rules on Sexual Harassment Cases**, 21 May 2001.

RULE III DEFINITION OF TERMS

Section 1. As used in this Revised DOJ CODI Rules, the following terms shall mean:

- (a) "Committee on Decorum and Investigation of Sexual Harassment Cases" or "CODI" – refers to the committee on decorum and investigation of sexual harassment cases as may be constituted and authorized by the Secretary of Justice in the DOJ Proper and Regional Prosecution Offices of the National Prosecution Service (NPS), respectively, pursuant to Section 4(b) of Republic Act (R.A.) 7877, otherwise known as the "Anti-Sexual Harassment Act of 1995."
- (b) "Sexual harassment cases" or "sexual harassment" – include/s: (1) any act committed by a government official or employee, of asking sexual favors from an individual in exchange, or as condition, for employment, reemployment, or continued employment, promotion, grant of local/foreign travels, scholarship, privileges and other favorable terms and conditions in connection therewith; or giving of passing grades or favorable terms to student-trainees or on-the-job training in the office; (2) any act purposely employed by such government official or employee to limit, segregate, or classify the individual employee; or which in any way discriminate, deprive, or diminish individual employment opportunities by reason of refusal to grant sexual favors; and (3) all such acts which the Civil Service Commission may, from time to time, define, designate, or classify as forms of sexual harassment committed by a government official or employee: Provided that, the acts herein contemplated shall include direct or indirect participation or cooperation and inducement to another to commit acts constituting sexual harassment; and Provided, further, that sexual harassment, as an administrative offense, shall refer to any act or 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 environment² of the person complained of.
- (c) "Persons liable for sexual harassment" – refers to any government official or employee of the Department of Justice Proper whether holding permanent or temporary position, regardless of sex or gender.
- (d) "DOJ Proper" – refers to the Offices of the Secretary, Undersecretaries, Assistant Secretaries, National Prosecution Service (including DOJ Prosecution Staff and Regional/Provincial/City Prosecution Offices), Legal Staff (Office of Chief State Counsel), Board of Pardons and Parole, Office of Cybercrime, Office for Competition, Technical Staff, Administrative Service, Financial Service, Planning and Management Service, Internal Audit Service, and other offices/units that form part of the agency.

² Complete definition under Section 3 of R.A. No. 7877, the "Anti-Sexual Harassment Act of 1995" and Sections 3 and 4 of CSC Resolution No. 01-0940.

- (e) "Disciplining authority" – refers to the Secretary of Justice, for officials, prosecutors, and employees appointed by the President and the Secretary, respectively; and Regional Prosecutors, for employees appointed thereof pursuant to R.A. No. 10071, otherwise known as the Prosecution Service Act of 2010.

**RULE IV
COMMITTEE ON DECORUM AND INVESTIGATION FOR
SEXUAL HARASSMENT CASES**

Section 1. Functions. – The DOJ Proper and NPS Regional CODI shall have the following functions and duties:

- (a) Receive all complaints involving sexual harassment allegedly committed by any government official or employee of the Department of Justice Proper;
- (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 or related activities, as may be necessary, with officers and employees to promote better understanding of anti-sexual harassment laws and its implementing rules and prevent incidents of sexual harassment;
- (d) Disseminate information by posting copies of anti-sexual harassment laws in the offices and workplace; and
- (e) Lead in the conduct of discussions about sexual harassment within the DOJ Proper to increase understanding and prevent incidents of sexual harassment.

Section 2. Procedure in handling of complaint. – The following shall be observed in handling complaints involving sexual harassment:

- (a) All complaints involving sexual harassment cases contemplated herein shall be directly filed with the DOJ Proper and NPS Regional CODI, as the case may be. If the complaint is sent by mail, electronic mail, or other means of communication, the receiving office/personnel shall route the same to DOJ Proper or NPS Regional CODI within ten (10) days from receipt.
- (b) The complaint must be in writing and duly signed and sworn to by the complainant, containing: 1) the full name and address of the complainant; 2) the full name, address, and government position of the respondent; 3) brief narration of the incident; 4) evidence in support of the complaint; and 5) certification of non-forum shopping.
- (c) If the complaint is not under oath, or does not comply with any of the requirements stated in Section 2 (b) hereof, the DOJ Proper or NPS Regional CODI may summon or notify the complainant to comply within ten (10) days from receipt of summon or notice for compliance.

- (d) Withdrawal of the complaint may be allowed at any stage of the proceedings without preventing the DOJ Proper or NPS Regional CODI, in proper cases, to conclude its investigation and make a report of its findings and recommendation to the disciplining authority when the evidence so warrants.

Section 3. Action on the complaint. – After evaluating the complaint, the DOJ Proper or NPS Regional CODI shall:

- (a) Dismiss the complaint for non-compliance of the requirement; or
- (b) Proceed with the investigation if the complaint is sufficient in form and substance.

Section 4. Preliminary Investigation of the complaint. – The investigation of the complaint by DOJ Proper or NPS Regional CODI shall proceed as follows:

- (a) Within five (5) days from receipt of the complaint, the DOJ Proper or NPS Regional CODI shall commence the investigation by notifying the respondent of the complaint filed against him with a directive for him to submit his counter-affidavit/comment under oath and evidence in his defense within three (3) days from receipt of notice.
- (b) Upon receipt of the counter-affidavit/comment under oath and evidence submitted by the respondent, the DOJ Proper or NPS Regional CODI shall conduct an ex-parte examination of the documents submitted by the parties, including available records of the case.
- (c) The preliminary investigation shall terminate within fifteen (15) days from its commencement. The DOJ Proper or NPS Regional CODI shall within five (5) days from such termination submit to the disciplining authority a report of its findings with a recommendation on whether or not there exists a prima facie case to warrant the issuance of a formal charge against the respondent. If there is no prima facie case to formally charge the respondent, the case shall be dismissed within that 5-day period. All proceedings before the CODI shall be held under strict confidentiality.

Section 5. Formal Charge – The formal charge, to be signed by the disciplining authority, shall specify the acts constituting the offense and all supporting evidence, with a directive for respondent to submit his answer under oath within seventy-two (72) hours from receipt thereof and he should state whether or not he elects a formal investigation of the complaint. If the respondent does not elect a formal investigation, the conduct of a hearing shall follow.

Section 6. Answer – The answer must be in writing and under oath, containing respondent's defense and evidence with a statement on whether or not he elects a formal investigation of the complaint. The non-filing of an answer within the prescribed period shall constitute a waiver to file an answer and a formal investigation shall commence thereafter.

Section 7. Conduct of formal investigation – The DOJ Proper or NPS Regional CODI shall conduct the formal investigation not earlier than five (5) days but not later than ten (10) days from receipt of the answer. At the start of the formal investigation, the DOJ Proper or NPS Regional CODI may conduct a pre-hearing conference for stipulation of facts, simplification of issues, marking of evidence, waiver of objections to the admissibility of documents, and other matters to aid the prompt disposition of the case. After the pre-hearing conference, the parties may choose to submit the case for resolution without further hearing.

Section 8. Conduct of hearing – The hearing shall be conducted in this order: (a) presentation of complainant's evidence; and (b) presentation of respondent's evidence. In both cases, the parties may cross-examine the witnesses. Thereafter, the parties shall submit their formal offer of evidence in writing.

Section 9. Submission of formal investigation report – After fifteen (15) days from the termination of the formal investigation, the DOJ Proper or NPS Regional CODI shall submit the report of its findings and recommendation to the disciplining authority.

Section 10. When case is decided – The disciplining authority shall decide the case within thirty (30) days from receipt of the formal investigation report.

Section 11. Finality of decision – A decision rendered by the disciplining authority where the penalty of suspension for not more than thirty (30) days, or a fine in the amount not exceeding thirty (30) days' salary is imposed, shall be final and executory and not appealable, unless a motion for reconsideration is seasonably filed. However, the respondent may file an appeal when the issue raised is a violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or a fine in an amount 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. A motion for reconsideration may be taken by the respondent within fifteen (15) days from receipt of the decision of the disciplining authority.

Section 12. Filing of motion for reconsideration or appeal, and subsequent proceedings, and other matters not covered by this Revised DOJ CODI Rules – The filing of a motion for reconsideration and appeal, and subsequent proceedings and other matters not covered by this DOJ CODI Rules shall be governed by existing Civil Service Rules on the matter.

Section 13. Imposition of penalties – The imposition of penalties on any government officer or employee found to have committed sexual harassment shall be meted the penalty prescribed by the existing Civil Service Rules on the matter.

**RULE V
EFFECTIVITY CLAUSE**

Section 1. This Revised DOJ CODI Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Section 2. This Circular takes effect immediately and shall remain in force until further orders.



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Secretary

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Copy furnished:
All concerned.