

CODI Manual (Draft)

RULE I Declaration of Policy, Coverage, and Definition

Section 1. *Declaration of Policy.* – It is the policy of the DENR 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. 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. Towards this end, the DENR 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.

Section 2. *Coverage.* – This covers the DENR, including the Bureaus, Regional Offices, Provincial and Community Environment and Natural Resources Offices (PENROs and 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. This shall likewise apply to contract under service providers i.e. janitors and security guards, trainees, consultants of the DENR and employees who have been dismissed by reason of application of these rules and other similarly-situated persons.

Section 3. *Definitions.* – As used in this CODI Manual, the following terms shall mean:

- (a) Committee – refers to the Committee on Decorum and Investigation (CODI) of sexual harassment cases as may be constituted and authorized by the Secretary of Environment and Natural Resources, and/or the respective heads pursuant to Civil Service Commission (CSC) Resolution No. 2100064 or the Revised Administrative Disciplinary Rules on Sexual Harassment and Republic Act (RA) No. 11313 or the Safe Spaces Act of 2019.

(b) Department – refers to the Department of Environment and Natural Resources (DENR)

(c) Commission – refers to the Civil Service Commission (CSC)

(d) Disciplining Authority – refers to the DENR Secretary or Heads of Bureaus and Attached Agencies, as the case may be.

(e) Sexual Harassment

(1) Sexual Harassment in the Workplace includes the following:

(i) An act or series of act involving any unwelcome sexual advances, request or demand for sexual favors or any acts 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 or education, job performance or opportunities.

(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.

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

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.

(2) 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.

Sexual harassment in the streets and public spaces includes catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic and sexist slurs, persistent uninvited comments or gestures on a person's appearances, relentless request for personal details, statement of sexual comments and suggestions, 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. Acts constitutive of sexual harassment in streets and public spaces are those performed in buildings, schools, churches, restaurants, malls, public washrooms, bars, internet shops, public markets, transportation terminals or public utility vehicles.

- (3) Online Sexual Harassment refers to gender-based sexual harassment which may be committed through an online conduct at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear for personal safety, sexual harassment acts including unwanted sexual remarks and comments, threats, uploading or sharing of one's photo's without consent, video and audio recordings, cyberstalking and online identity theft.

Gender-based online sexual harassment includes acts that use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats, 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, 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 of any of the victim's photos, videos, or any information online, impersonating identities of victims online or posting lies about the victim to harm their reputation, or filing false abuse reports to online platforms to

silence victims.

RULE II DENR CODI on Sexual Harassment Cases

Section 1. *The DENR's CODI.* – The Department CODI is hereby established to ensure a culture of respect for human dignity and vigilance against all forms of abuse and discrimination, and in taking in prompt and effective steps to address sexual harassment, other forms of sexual misconduct, and inappropriate behavior, prevent their recurrence, and remedy their effects.

The CODI shall be headed by a woman and not less than half of its members should be women. They shall be responsible in receiving all complaints involving sexual harassment allegedly committed by any government official or employee of the Department, conducting investigations of alleged sexual harassment cases and submit a report of its findings and recommendation to the disciplining authority for decision, conducting 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, disseminating information by posting copies of anti-sexual harassment laws in the offices and workplace, and leading in the conduct of discussions about sexual harassment within the Department to increase understanding and prevent incidents of sexual harassment.

Section 2. *Composition.* – The CODI shall be composed of a Chairperson, a Vice-Chairperson, and at least one representative from the following: management; employees from the supervisory rank; rank-and-file employees; union/s or employees association; and gender and development focal point system, if any, as members.

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

Section 3. *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 DENR CODI. If the complaint is sent by

mail, electronic mail, or other means of communication, the receiving office/personnel shall route the same to DENR CODI within five (5) days from receipt.

(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 complainant, if any;
5. a certification of non-forum shopping.

(c) In the absence of any one of the aforementioned requirements, the DENR Central or the respective DENR Office CODI may summon or notify the complainant to comply within ten (10) days from receipt of summon or notice for compliance. Otherwise, the complaint shall be dismissed without prejudice to its refiling.

Where the complaint is not under oath, the complainant shall be summoned by the CODI to swear to the truth of the allegations in the complaint.

(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 4. *Action on the Complaint.* – After evaluating the complaint, the CODI within five (5) days shall either:

- (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 5. *Preliminary Investigation.* – The investigation of the Complaint by the CODI shall proceed as follows:

(a) Within five (5) days from receipt of the complaint, the CODI shall commence the investigation by notifying the person complained of regarding the complaint filed against him with a directive for him to submit his counter-affidavit/comment under oath and evidence in his defense within five (5) days from receipt of notice.

(b) Upon receipt of the counter-affidavit/comment under oath and evidence submitted by the respondent, the Committee 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 twenty (20) days from its commencement. The Committee 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 person complained of.

Section 6. *Decision or Resolution After Preliminary Investigation.* All proceedings before the CODI shall be held under strict confidentiality. If a prima facie case is established after preliminary investigation, the disciplining authority may issue a formal charge or a notice of charge pursuant to Rule 5 of the 2017 RACCS.

In the absence of a prima facie case, the complaint shall be dismissed.

Further, the role of the CODI ends after the submission of a Preliminary Investigation or Fact-Finding Investigation Report. It is now between the disciplining authority and the Legal Affairs Service/Division to conduct the formal investigation or hearing as the case may be.

Section 7. *Formal Charge.* - The formal charge, to be signed by the disciplining authority, shall contain a specification of charge, a brief statement of material or relevant facts, which may be accompanied by certified true copies of the documentary evidence, and a directive for respondent to submit his answer under oath within ten (10) days from receipt thereof, an advice for the respondent to indicate in the answer whether or not a formal investigation is demanded, and a notice that respondent may opt to be assisted by a counsel.

The disciplining authority and legal service/division shall not entertain requests for clarification, bills of particulars, motions to dismiss, motion to quash, motions for reconsideration, and motions for extension of time to file answer. If any of these pleadings is filed by the respondent, the same shall be considered to have waived his right to submit the same and the case shall be decided based on available records.

Upon the issuance of the formal charge, the procedures on the 2017 RACCS be adopted.

RULE III Offense of Sexual Harassment

Section 1. *Sexual harassment in the Workplace (SHWP).* –

- a. Grave Offenses of SHWP shall include but are not limited to: unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast); sexual assault; malicious touching; 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 payments of a stipend or allowance; and other analogous cases.
- b. Less Grave Offenses shall include, but not limited to: unwanted touching or brushing against a victim's body; pinching not falling under grave offenses; derogatory or degrading remarks or innuendos directed toward the members of one sex, or one's sexual orientation or used to describe a person; verbal abuse with sexual overtones; and other analogous cases.
- c. Light Offenses shall include, but not limited to surreptitiously looking at a person's private part or worn undergarments; making sexist and uttering smutty jokes or sending theses 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 advice, when they are by their nature clearly embarrassing, offensive or vulgar; malicious leering or ogling; display of sexually offensive pictures, material or graffiti; unwelcome inquiries or comments about a person's sex life; unwelcome sexual flirtation, advances, propositions; making offensive hand or body gestures at an employee; persistent unwanted attention with sexual overtones; unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and other analogous cases.

Section 2. *Sexual harassment in the Streets and Public Places (SHSP).* –

- a. Grave Offenses of SHSP is committed when a public official or employee 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.
- b. Less Grave offenses of SHSP is committed when a public official or employee engages in 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
- c. Light Offenses of SHSP is committed when a public official or employee engages in acts that include catcalling or wolf-whistling.

Section 3. *Online Sexual Harassment (OSH).* –

- a. Grave OSH 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.
- b. Less Grave OSH is committed when a public official or employee engages in in acts that include the use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats with sexual overtones.
- c. Light OSH is committed when a public official or employee 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.

Rule IV Administrative Disciplinary Rules

Section 1. *Duties and Liabilities of the Head of Office/Agencies or other Persons of Authority, Influence or Moral Ascendancy.* – The head of office or agency or other persons of authority, influence, or moral ascendancy, shall have the duty to prevent and deter the occurrence of sexual harassment cases, as well as to ensure the necessary action be taken on complaint filed with the CODI. To this extent, the head of office or agency shall

1. Disseminate or post in conspicuous place a copy of the law and this rule to all persons in the workplace, which shall include the following:

a. Sending copies of the law and its rules through official notices or means of communications to heads of different departments, bureaus, offices, units or such subdivisions in a workplace for proper information of their members;

b. Posting a copy of the law and its rules online or in the official website of the workplace;

c. Conducting orientations on the law and its rules and providing its employees with copies in print or electronic form as well as preparing information materials such as primers, frequently asked questions, and the like.

2. Provide measures to prevent sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars, which shall be provided to all employees, regardless of rank and status.

Trainings on gender sensitivity, orientations on gender-based violence, and other relevant topics may also be conducted, in addition to the conduct of anti-sexual harassment seminars. Such trainings and orientations, when conducted, should form part of their staff development and basic knowledge of employees.

Trainings to further capacitate and increase the awareness of CODI members on preventing sexual harassment and proper case handling shall be considered;

3. Create a Committee on Decorum and Investigation (CODI) to investigate and address complaints of sexual harassment
4. Develop and disseminate, in consultation with employees or their unions, if any, a code of conduct, on sexual harassment and CODI manual, which will be in accordance with the provisions of the 2017 Revised administrative Disciplinary Rules on Sexual Harassment Cases (RACCS)
5. The agency may formulate its own rules governing the term of office of its members which should not be more than two years, and other matters pertaining to the functions of the Committee not otherwise provided in these Rules.
6. Non-implementation of the above duties and the failure to create a CODI or not taking action on complaints filed by the head of office or agency shall be charged with Neglect of Duty.

Section 2. *Person who is found guilty of sexual harassment.* - 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 3. *Imposition of Penalties.* –

I. Sexual Harassment in the Workplace

- a. Grave Offenses are punishable by dismissal from the service.
- b. Less grave Offenses 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.
- c. Light Offenses are punishable by reprimand for the offense; suspension of one (1) to thirty (30) days for the second offense; and dismissal from the service for the third offense.

II. Sexual Harassment in Streets and Public Places

- a. Grave Offense of SHSP are punishable by dismissal from service
- b. Less Grave Offense of SHSP 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.
- c. Light Offense of SHSP 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.

III. Online Sexual Harassment

- a. Grave OSH are punishable by dismissal from the service.
- b. Less Grave OSH 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.
- c. Light OSH 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.

Section 4. Confidentiality. - The identities of the parties, and the proceedings and records of the Committee involving specific incidents (including but not limited to all statements, documents, and evidence submitted by the parties, and communications and reports issued by the CODI) are confidential information. Confidential information may be disclosed only to authorized persons and cannot be disseminated to the public, except for general statistical information required to be disclosed in the CODI Annual Report as provided in Section 2, Rule VI.

The complainant, respondent, and their witnesses will obtain confidential information in the course of their participation in the proceedings before the Committee. They may disclose confidential information to persons authorized by the CODI Chairperson on a need-to-know basis, who need to access the confidential information to perform an official duty, function, or obligation; and other persons as allowed by existing or future laws and regulations.

Personnel who have authorized access to confidential information or acquire such information in the course of their work have the obligation to safeguard the information and prevent its disclosure to unauthorized persons.

Unauthorized disclosure of confidential information, whether done intentionally or through negligence, could violate individual privacy rights and personnel non-disclosure agreements; prejudice the rights of the parties; unfairly damage the reputation of a person; endanger a person's safety and security; and undermine the independence of the CODI's established processes for investigating and resolving disputes.

Unauthorized disclosure of the identities of the parties or the proceedings and records of the CODI may be subject to disciplinary action and other legal remedies; provided, that nothing herein shall prevent individuals from reporting, talking, or speaking about their experience of sexual harassment, other forms of sexual misconduct, or inappropriate behavior whether it is happening to them or someone else. In so doing, however, they are expected to act responsibly by respecting the dignity, personality, and privacy of others, and by observing honesty and good faith

Section 5. *Non-Retaliation.* - Committing or insinuating acts of retaliation due solely to the filing of an informal report or Complaint, or to participation in administrative procedures or investigations under this Code and Rules is a major infraction that is subject to disciplinary action, up to and including termination or dismissal.

Retaliation includes, but is not limited to, threats, intimidation, reprisals, and/or any adverse action related to employment or education against a person who reports an incident of sexual harassment or other form of sexual misconduct, or who testifies, assists, or participates in any proceeding, investigation, or resolution of a sexual harassment/sexual misconduct report or Complaint.

The filing of a disciplinary complaint or other legal action against one who instituted a false Complaint/report for sexual misconduct, sexual harassment, inappropriate behavior, or analogous acts under this Code and Rules or who bore false witness in proceedings under this Code and Rules is not retaliation if there is a reasonable basis for such disciplinary complaint or legal action.

Section 6. *False Complaint.* - Any person who makes a false Complaint/report of sexual misconduct, sexual harassment, inappropriate conduct, or analogous acts under this Rules shall be subject to disciplinary action. The Committee, on its own accord, or the complainant may file an appropriate Complaint.

The mere fact that a Complaint of sexual misconduct, sexual harassment, inappropriate behavior, or analogous acts under this Code and Rules is dismissed or the respondent is not found guilty of such charges does not necessarily constitute a false complaint. A Complaint is false only if there is proof that the allegations were fabricated, and the Complaint was filed with malice.

Rule V Miscellaneous Provisions

Section 1. *Screening and Training of Personnel.* - All Department personnel must undergo a mandatory orientation on this Code and Rules, gender-sensitivity, relevant laws and issuances, and other related topics upon hiring and a mandatory refresher training every three (3) years thereafter.

All members of the CODI shall undergo, in addition to the general training program for personnel, an orientation prior to the assumption of their tasks and continuing skills-based training programs specializing on administrative due process; interview and investigation skills and techniques; gender sensitive and child-appropriate approaches; and other relevant topics.

Section 2. *Annual Report* – The Committee shall submit an Annual Report to the DENR Secretary within 30 days from the end of the twelfth month of the fiscal year. The Annual Report shall contain the following information:

- a. General statistical information regarding the formal complaints received by the Committee, including the number of formal complaints categorized by the nature of the charge (i.e. grave, less grave, light offense); sex disaggregated information on the number of complainants and persons complained of; number of persons found guilty/not guilty; number of decisions requested by a party to be reconsidered by the DENR Secretary and number of Resolutions by the DENR Secretary on such requests; number of decisions appealed with the Commission;
- b. Issues and Recommendations; and
- c. Other relevant Matters

The Annual Report shall not disclose the identities of the parties, any personally identifiable information, or other details regarding the proceedings.

Section 3. *Review of these Rules.* - This policy will be reviewed periodically every two (2) years from its effectivity.

At any other time prior to the review period, the DENR Secretary, through the recommendation of the CODI Chairperson, may order the amendment or repeal of this Code and Rules or any of its provisions to prevent any violation of due process, to promote justice, or to comply with law, jurisprudence, and administrative issuances.

Section 4. *Effectivity of these Rules.* - This Code and Rules shall take effect within thirty (30) days from the date of its approval by the DENR Secretary.