

[DBP CIRCULAR NO. 08, S. 2014, March 12, 2014]

**REVISED IMPLEMENTING GUIDELINES ON THE
ADMINISTRATIVE DISCIPLINARY RULES ON SEXUAL
HARASSMENT CASES (REVISED CIRCULAR NO. 3, S. 2007)**

Pursuant to Resolution No. 01-0940 of the Civil Service Commission the following revised Implementing Guidelines on the Administrative Disciplinary Rules on Sexual Harassment Cases are hereby prescribed:

**RULE 1-
DISCIPLINING AUTHORITY**

Section 1. Disciplining Authority. - In accordance with Section 9(f) and Section 10(f) of the Revised Charter of the DBP (Executive Order No. 81, series of 1986 as amended by Republic Act No. 8523), the Disciplining Authority in the Bank shall be as follows:

- a. For disciplinary cases involving officers from the rank of Vice President or its equivalent, and other more senior officer positions, the Disciplining Authority shall be the Board of Directors. The Board of Directors may delegate its Disciplining Authority and power to the President and Chief Executive Officer (CEO) of the Bank.
- b. For disciplinary cases involving officers and/or employees below the rank of Vice President or its equivalent, the Disciplining Authority shall be the President and Chief Executive Officer (CEO) of the Bank. The President and CEO may delegate this authority to a Committee to be composed of the Chief Financial Officer of the Bank as Chairperson, the next highest ranking Sector Head as Vice Chairperson, and the Chief Legal Counsel as Member in accordance with Circular No. 24, series of 2013.

**RULE II –
DEFINITION OF SEXUAL HARASSMENT**

Section 1. The 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, committed by a Bank employee or official in a work-related, training or education related environment of the person complained of.

Section 2. Work-related sexual harassment is committed under the following circumstances:

- a. 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

- b. 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
- c. 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 ward of the person complained of.

Section 3. Sexual harassment may take place:

- a. in the premises of the workplace or office or of the school or training institution;
- b. in any place where the parties were found as a result of work or education or training responsibilities or relations;
- c. . at work or education or training-related social functions;
- d. while on official business outside the office or school or training institution or during work or school or training-related travel;
- e. at official conferences, fora, symposia or training sessions; or
- f. by telephone, cellular phone, fax machine or electronic mail.

**RULE III –
FORMS OF SEXUAL HARASSMENT**

Section 1. The following are forms of sexual harassment:

- a. Physical Malicious Touching
 - i. Overt sexual advances
 - ii. Gestures with lewd insinuation.
- b. Verbal, such as but not limited to, requests or demands for sexual favors and lurid remarks
- c. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings
- d. Other forms analogous to the foregoing.

**RULE IV –
PERSONS LIABLE FOR SEXUAL HARASSMENT**

Section 1. A Bank official or employee, regardless of sex, 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 V –
COMMITTEE ON DECORUM AND INVESTIGATION**

Section 1. Functions - A Committee on Decorum and Investigation 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 the person complained of in a sexual harassment case, he/she shall be disqualified from being a member of the Committee.

Section 2. Composition and Term of Office. - The proper Disciplining Authority shall designate the members of the Committee on Decorum and Investigation, who shall have a term of two years from date of appointment and shall be composed of:

a. For Rank-and-File -

- A Senior Officer - Chairperson
- A Junior Officer - Member
- A Representative of the DBP Employees Union - Member

b. For Junior Officers -

- A Sector Head - Chairperson
- A Senior Officer - Member
- A Representative of the Association of DBP Career Official (ADCO) - Member

c. For Senior Officers -

- Two members of the Board of Directors
- A Sector Head

The designees shall not have supervision over the Unit where the complainant and employee/official complained of are assigned.

Every Regional Marketing Center (RMC) shall have its respective Committee on Decorum and Investigation with the same composition, term of office, and functions as stated above and shall submit the report of investigation with its recommendation directly to the Disciplining Authority in accordance with these Guidelines. The RMC Committees shall handle branch cases involving junior officers and rank and file. On the other hand, cases involving the RMC personnel (officers and rank and file) will be handled by the appropriate Committee in the Head Office.

Section 3. CODI Secretariat. - The Secretariat of the Committee on Decorum and Investigation is the Corporate Governance Office (CGO).

Section 4. Functions of the Secretariat. -

- a. To act as the receiving body of complaints for sexual harassment to be forwarded to the Disciplining Authority including answers, motions, pleadings and other relevant documents.
- b. To be the custodian of all documents and records of the proceedings.
- c. Other functions to be assigned by the Committee on Decorum and Investigation, including but not limited to supervision of the stenographers in the recording of the proceedings, and preparation of minutes thereof; report to the Committee members the failure of any party or parties to comply with any order or resolution of the Committee within the period prescribed therefor; receive the orders, decisions and resolutions of the Committee for promulgation and release to the parties concerned, and make entries of judgment.

RULE VI – PROCEDURES

Section 1. Complaint.

- a. The complaint may be filed at any time with the Disciplining Authority or with the Committee on Decorum and Investigation. Upon receipt of the complaint by the Disciplining Authority, the same shall be transmitted to the Committee on Decorum and Investigation.
- 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 1 (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.

Section 2. 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 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 3. Preliminary Investigation. - A preliminary investigation shall be conducted by the Committee on Decorum and Investigation. 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 on Decorum and Investigation may now recommend whether a prima facie case exists to warrant the issuance of a formal charge.

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

Section 4. 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 5. Investigation Report. - Within five (5) working days from the termination of the preliminary investigation, the Committee on Decorum and investigation shall submit the Investigation Report and the complete records of the case to the Disciplining Authority.

Section 6. 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.

Section 7. 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 seventytwo 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 on Decorum and Investigation 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.