

ADMINISTRATIVE PROCEDURE FOR SEXUAL HARASSMENT CASES



*The formal investigation report and recommendation are conducted and put forward by the CODI, respectively, while the decision to adopt those recommendations is made by the disciplining authority.

Source: DFA GAD Secretariat Microsite

WHAT IS SEXUAL HARASSMENT?

Sexual Harassment refers to an act, or a series of acts, involving any unwelcome sexual advances, 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.

(2017 Rules and Regulations on Administrative Cases in the Civil Service)

The Safe Spaces Act of 2019 or Republic Act No. 11313 further expands the definition of sexual harassment from the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877), and penalizes all forms of gender-based sexual harassment in streets, public spaces including modes of transportation, and those done online including all forms of social media. Sexual harassment committed by a government employee within the premises of a government agency offering front-line services to the public (like the Department) carries a heavier penalty.



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Visit the GAD Microsite
<https://sites.google.com/dfa.gov.ph/dfa-gad/committee-on-decorum-and-investigation>



BUILDING A SAFE WORKPLACE



A GUIDE ON SEXUAL HARASSMENT FOR DFA PERSONNEL

5 FACTS ON SEXUAL HARASSMENT

01 JOKES CAN BE A FORM OF SEXUAL HARASSMENT



Sexual harassment in the workplace occurs when a person receives or experiences unwelcome, unwanted, or uninvited sexual advances or conduct, or offensive behavior and/or actions that affect conditions of your employment, invade your personal space, or make the environment at work hostile, intimidating, humiliating and unsafe.

Sexual harassment can be committed verbally, physically, visually, or online by a peer, subordinate or direct report, or a principal.



02 SEXUAL HARASSMENT CAN HAPPEN TO ANYONE



Anyone can be a victim, and every one may, intentionally/ knowingly or unintentionally/ unknowingly, commit sexual harassment on people they know and/or do not know.

However, due to gender bias and discrimination against women, sexual harassment often occurs to women and is committed by men, and between people who know each other.

Sexual harassment can also happen between the same sex, since power and oppression manifest themselves through various characteristics or identifiers such as age, influence, position, class, among others, and when these intersect, further enhance vulnerability, privilege or opportunities.



03

SEXUAL HARASSMENT IS NOT REALLY ABOUT GETTING SEX, BUT ABOUT POWER



Sexual harassment is about 'putting you in your right place'. It is about exerting dominance and control over others based on their perceived or actual sex and/or gender.

04

SEXUAL HARASSMENT CAN HAPPEN ONCE OR MULTIPLE TIMES

Sexual harassment is more common in workplaces that have leadership and a work culture that is tolerant to violence, male-dominated (macho culture), sexually objectifying, hierarchical, and/or hyper-competitive. These conditions foster weak institutional trust and create a work environment that is unsafe, not only for the target/victim but for everyone.



A single incident or repeated acts of sexual harassment causes pain and suffering, affects a person's sense of safety at work, undervalues a person's contribution to the institution, and/or interferes with professional development.

05

THERE IS NO SINGLE RESPONSE TO SEXUAL HARASSMENT

People react differently to fear and aggression. When sexual harassment occurs, some people are ready to face the perpetrator and tell him/her to stop, others fight back, some try to avoid or get out of the situation either physically or verbally through jokes or changing the topic (flight), while there are those who are unable to say or do anything (freeze).



These responses can happen one at a time or simultaneously. However, because of fear of backlash and stigma, and the impact on professional development and promotion, very few file a formal report.



01

The **Safe Spaces Act of 2019** or Republic Act No. 11313 further **expands the definition** of sexual harassment from the Anti-Sexual Harassment Act of 1995 (Republic Act No. 7877), and **penalizes all forms of gender-based sexual harassment in streets, public spaces** including modes of transportation, and those done online including all forms of social media.

02

The Safe Spaces Act provides that sexual harassment **committed by a government employee** within the premises of a government agency offering front-line services to the public (like the Department) carries a **heavier penalty**.

03

The Safe Spaces Act made the act an imprescriptible offense. Thus, **sexual harassment complaints may be filed anytime**, such as when victims are prepared and ready to face the administrative and legal procedures.

04

When an alleged act of sexual harassment is committed, redress may be three-fold:

- **Criminal action;**
- **Civil action;** and/or
- **Administrative action**

(This is where the Department, and its obligation to determine administrative liability, comes in).

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Administrative cases for sexual harassment can be categorized into:

1. **Grave offense** (punishable by dismissal from service and includes touching of sensitive areas, sexual assault, malicious touching, quid pro quo),
2. **Less grave offense** (punishable by suspension for the first offense and dismissal for the second offense; and includes unwanted touching, pinching, derogatory or degrading remarks, verbal abuse), and
3. **Light offense** (punishable by reprimand for the first offense, suspension for the second offense, and dismissal for the third offense; and includes surreptitiously looking at private parts, sexist remarks, smutty jokes, leering/ ogling, sexually offensive pictures, unwelcome inquires/ comments or personal sex life, unwelcome sexual flirtation/ advances/ propositions, offensive hand gestures, unwanted phone calls).

5 KEY STEPS IN BUILDING A SAFE WORKPLACE

01 KNOW YOUR BOUNDARIES



In building a safe workplace, everyone needs to be involved, and as such self-awareness is very important in recognizing and protecting personal and public lines. Personal lines need to be defined individually (e.g. acceptable jokes, actions or remarks), while professional lines should be in accordance with Republic Act No. 6713, the code of conduct and ethical standards for public officials and employees.

02 BE PROFESSIONAL



While it is true that sexual harassment is contingent on the perception and appreciation of the recipient of the sexual advances that actions are offensive, this does not automatically mean that people charged with sexual harassment are immediately adjudged as guilty, simply based on the allegations of the private complainant. The CODI carefully examines the statements and pieces of evidence presented by both parties, and due process dictates that the respondent (person complained of) is given a chance to be heard.



It is important to keep interactions and behavior professional. In the end, this could be the best defense. Be mindful of how you speak, act, and relate to co-employees, no matter where you are and no matter the platform. Republic Act No. 6713 establishes a code of conduct and ethical standards for public officials and employees.

03 CHECK YOUR BIASES



Bias is strong inclination for or against a person, a group, or a thing, which may be expressed explicitly and with intent, or implicitly or unconsciously, which may be outside of a person's awareness and can be in direct contradiction to a person's espoused beliefs and values. Thus, bias, if left unchecked, can be harmful as it may lead to error in decisions, discriminatory actions, bullying, harassment, or worse, violence. For example, bias against women or a person's sexual orientation or gender identity or expression (SOGIE) may manifest through marginalization, subordination, stereotyping, multiple burden, or violence.

04 SPEAK UP WHEN OTHERS CAN'T OR WHEN SOMETHING IS NOT RIGHT



The Safe Spaces Act recognizes the critical role and responsibility of the organization's leadership and co-workers in maintaining a safe environment at work. Studies have shown that bystander intervention is effective in preventing or stopping sexual harassment from happening, such as co-workers and managers interrupting an ongoing harassment incident or challenging a harasser directly. However, tentative, temporary, delayed or ineffective responses, or worse, participation in the harassing conduct (such as through jokes, side comments, or questioning the integrity of the victim) can cause further victimization and stigmatization.

05 BE KIND



Our day to day actions lay the groundwork on the kind of environment we want. Jokes and behavior that we tolerate at work shape our office culture. These norms are taught and further reinforced by policies and programs, and various social institutions. Thus, actions that are anchored on the values of patriotism, integrity, professionalism, excellence, service, and kindness can build a work environment that is safe for all, government personnel and clients alike.



LAWS, RULES AND REGULATIONS AND D.O. ON SEXUAL HARASSMENT

ANTI-SEXUAL HARASSMENT ACT OF 1995 (R.A. 7877)

SAFE SPACES ACT (R.A. 11313)

2017 RULES ON ADMINISTRATIVE CASES IN THE CIVIL SERVICE (2017 RACCS)

RULES AND REGULATIONS ON ADMINISTRATIVE CASES IN THE DFA (D.O. 07-2018)



DFA - CODI

COMMITTEE ON DECORUM AND INVESTIGATION

Section 8 of the Department Order No. 07-2018 provides that a complaint for sexual harassment shall be filed with the CODI established in the Home Office, Consular Office or Foreign Service Post with jurisdiction over the place where the incident was committed.