



Republic of the Philippines

Department of Agriculture

Fertilizer and Pesticide Authority

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MEMORANDUM CIRCULAR NO. 26-1

DATE : **August 23, 2022**

SUBJECT : **ADMINISTRATIVE DISCIPLINARY RULES OF THE COMMITTEE ON DECORUM AND INVESTIGATION (CODI) FOR SEXUAL HARASSMENT CASES IN THE FERTILIZER AND PESTICIDE AUTHORITY (FPA).**

Pursuant to Republic Act 11313 or the Safe Spaces Act and in accordance with the CSC MC No. 11, s. 2021 and CSC Resolution No. 2100064 dated January 20, 2021, the Procedural Rules of CODI in the FPA is hereby created as follows:

"ADMINISTRATIVE DISCIPLINARY RULES OF THE COMMITTEE ON DECORUM AND INVESTIGATION (CODI) FOR SEXUAL HARASSMENT CASES IN THE FERTILIZER AND PESTICIDE AUTHORITY (FPA)."

RULE I DECLARATION OF POLICY

Section 1. It is the policy of the FPA 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 FPA 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 FPA Proper, consisting of the Office of the Executive Director including the Field Operations and Coordination Unit and the Regional Field Units, Finance and Administrative Division, Planning Management and Information Division, Laboratory Services Division, Pesticide Regulations Division, Fertilizer Regulations Division and other units and personnel that form part of the agency.

RULE III DEFINITION OF TERMS

Section 1. As used in this FPA 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 Head of the Agency of FPA.



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b) *"Sexual Harassment"* – Sexual Harassment in the workplace includes the following;

1. An act or series of act involving any unwelcome sexual advances, request or demand for sexual favors or any act 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 system, that has or could have a detrimental effect on the conditions of an individuals' employment or education, job performance or opportunities.
2. A conduct of sexual nature affecting the dignity of a person, which is unwelcome, unreasonable and offensive to 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.
3. A conduct that is unwelcome and pervasive and creates an intimidating, hostile of 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.

c) *"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 as action or remarks.

Sexual harassment in 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 such as alleys, roads, sidewalks and parks. Acts constitutive of sexual harassment in streets and public spaces are those performed in buildings, schools, churches, restaurant, malls, public washrooms, bars, internet shops, public markets, transportation terminals or public utility vehicles.

d) *"Online Sexual Harassment"* – refers to:

Gender-based online sexual harassment may be committed through an online conduct targeted 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.



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Gender-based online sexual harassment also 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 consent, 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 victims to harm their reputation, or filing false abuse reports to online platforms to silence victim.

- e) *"Persons liable for sexual harassment"* – refers to any government official or employee of the FPA, whether holding permanent, temporary, casual, or co-terminus position, regardless of sex or gender, who commits any of the following acts:
- a. directly participates in the execution of any act of sexual harassment as defined herein;
 - b. induces or directs another to commit sexual harassment as defined herein;
 - c. cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished; and/or
 - d. cooperates in the commission of sexual harassment by another through previous or simultaneous acts.
- f) *"Disciplining Authority"* - refers to the person or body duly authorized by law to impose the penalty provided by law or rules.

RULE IV

DUTIES AND LIABILITIES OF THE HEAD OF THE AGENCY OR OTHER PERSONS OF AUTHORITY, INFLUENCE OR MORAL ASCENDANCY

Section 1. 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 ensure that 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 a conspicuous place a copy of the law and this rule to all persons in the workplace, which shall include the following:

1.1 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;

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

1.3 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.



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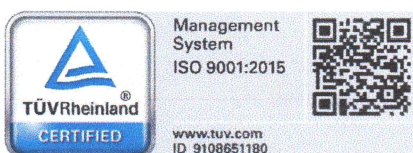
2. Provide measures to prevent sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars, which shall be provided to all employees, regardless of rank and status. Trainings on gender sensitivity, orientations on gender-based violence, and other relevant topics may also 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 also be considered;
3. Create a Committee on Decorum and Investigation (CODI) to investigate and address complaints of sexual harassment; and
4. Develop and disseminate, in consultation with employees or their union/association, if any, a code of conduct on sexual harassment and CODI manual, which will be in accordance with the provisions of the 2017 RACCS.

RULE V

COMMITTEE ON DECORUM AND INVESTIGATION FOR SEXUAL HARASSMENT CASES

Section 1. Composition of CODI

1. CODI shall serve as an independent internal mechanism to address and investigate complaints of sexual harassment.
2. CODI in workplaces shall be composed of at least one representative each from the management, the employees from the supervisory rank, the rank-and-file employees, and the union/s or employee's association, if any. The head of agency shall also ensure that there will be a sufficient number of 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.
4. Every CODI shall be headed by a woman and not less than half of its members shall be women.
5. When the complainant or the person complained of is a member of the Committee, he/she shall be disqualified from being a member thereof or the complaint may be filed directly with the Civil Service Commission or other disciplinary authorities with jurisdiction over the case.
6. The complainant or the person complained of may request a member of the CODI to inhibit, or the CODI member may, on his/her initiative, cause the inhibition based on conflict of interest, manifest partiality, and other reasonable grounds. Upon such a grant of inhibition, the member shall immediately be replaced so as not to cause a delay in the proceedings.
7. The CODI shall ensure the protection of a complainant from retaliation without causing her/him any disadvantage, diminution of benefits or displacement, and without compromising his/her security of tenure. It shall also guarantee gender-sensitive handling of cases, and confidentiality of the identity of the parties and the proceedings to the greatest extent possible.
8. The CODI shall observe due process and within ten (10) days from the termination of the conduct of the investigation, submit a report of its findings with the corresponding recommendation to the disciplining authority for decision.



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Section 2. In sexual harassment cases, the CODI shall perform the following functions:

1. Receive complaints of sexual harassment;
2. Investigate sexual harassment complaints including preliminary investigation in accordance with the prescribed procedure;
3. Within ten (10) days from the termination of the conduct of the investigation, submit a report of its findings with the corresponding recommendation to the disciplining authority for decision;
4. Ensure the protection of the complainant from retaliation and guarantee confidentiality to the greatest extent possible as well as ensure that the respondent is given the opportunity to be properly notified of and respond to the charge/s and that parties are given information on the hearings and its outcomes.
5. Lead in the conduct of discussions about sexual harassment within the agency to increase understanding and prevent incidents of sexual harassment.

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 the CODI.

b) The complaint must be in writing and duly signed and sworn to by the complainant and shall contain the following:

- 1) the full name and address of the complainant;
- 2) the full name, address, and government position of the respondent;
- 3) a brief statement of the relevant facts;
- 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 3 (b) hereof, the CODI may summon or notify the complainant to comply within ten (10) days from receipt of summon or notice for compliance.

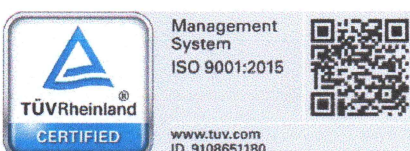
d) Complaint sent by telegram, electronic mail or similar means of communication shall be considered non-filed unless the complainant shall comply with the requirements within ten (10) days from receipt of the notice for compliance.

e) Withdrawal of the complaint may be allowed at any stage of the proceedings, but 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. The withdrawal of the complaint does not result in its outright dismissal or discharge of the person complained of from any administrative liability.

f) In cases wherein the respondent to a sexual harassment complaint is the head of office or agency who are either a presidential appointee or an elective official, a complaint for sexual harassment shall be filed directly with the proper disciplining authority.

Section 4. Action on the complaint. - After evaluating the complaint, the 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.



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Section 5. Preliminary Investigation of the complaint. - The investigation of the complaint by CODI shall proceed as follows:

- a) Within five (5) days from receipt of the complaint, the CODI shall commence the investigation by notifying the respondent of the complaint filed against him/her with a directive for him/her to submit his/her counter-affidavit/comment under oath and evidence in his/her 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 FPA 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 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 6. 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/her answer under oath within seventy-two (72) hours from receipt thereof and he/she should state whether or not he/she elects a formal investigation of the complaint, if the respondent does not elect a formal investigation, the conduct of a hearing shall follow.

Section 7. Answer - The answer must be in writing and under oath, containing respondent's defense and evidence with a statement on whether or not he/she 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 8. Conduct of formal investigation - The 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 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.

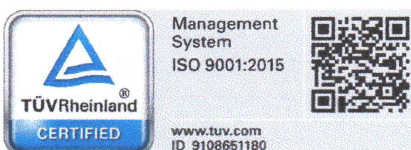
Section 9. Conduct of hearing - The hearing shall be conducted in this order:

- 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 10. Submission of formal investigation report - After fifteen (15) days from the termination of the formal investigation, the CODI shall submit the report of its findings and recommendation to the disciplining authority.

Section 11. When case is decided - The disciplining authority shall decide the case within thirty (30) days from receipt of the formal investigation report.



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Section 12. 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 13. Filing of motion for reconsideration or appeal, and subsequent proceedings, and other matters not covered by this CODI Rules - The filing of a motion for reconsideration and appeal, and subsequent proceedings and other matters not covered by this CODI Rules shall be governed by existing Civil Service Rules on the matter.

Section 14. 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.

Section 15. Other Specific Offenses.

The following acts also constitute administrative offenses.

A. The Offense of Sexual Harassment.

Sexual Harassment in the Workplace

I. Grave Offenses punishable by dismissal from the service shall

- a) unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast)
- b) b. sexual assault;
- c) malicious touching;
- d) 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
- e) other analogous cases.

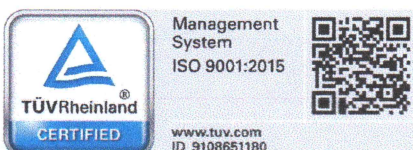
II. Less Grave Offenses punishable by suspension of one month and one day to six months for the first offense; and dismissal from the service for the second offense, shall include, but are not limited to:

- a) unwanted touching or brushing against a victim's body;
- b) pinching not falling under grave offenses;
- c) derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person;
- d) verbal abuse with sexual overtones; and
- e) other analogous cases.



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III. Light Offenses punishable by reprimand for the offense; suspension of one to thirty days for the second offense; and dismissal from the service for the third offense, shall include, but are not limited to:

- a) surreptitiously looking at a person's private part or worn undergarments;
- b) making sexist statements and uttering smutty jokes or sending these 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 advise, when they are by their nature clearly embarrassing, offensive or vulgar;
- c) malicious leering or ogling;
- d) display of sexually offensive pictures, materials or graffiti;
- e) unwelcome inquiries or comments about a person's sex life;
- f) unwelcome sexual flirtation, advances, propositions;
- g) making offensive hand or body gestures at an employee;
- h) persistent unwanted attention with sexual overtones;
- i) unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
- j) other analogous cases.

Sexual Harassment in Streets and Public Places

An FPA official or employee who commits sexual harassment in streets or public spaces as defined shall be meted the following penalties depending on the gravity of the offense:

- a) Light Offense of Sexual Harassment in Streets and Public Spaces is committed when an official or employee engages in acts that include catcalling or wolf-whistling. Such acts 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.
- b) Less Grave Offense of Sexual Harassment in Streets and Public Spaces is committed when an official or employee engages 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 such acts 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) Grave Offense of Sexual Harassment in Streets and Public Spaces is committed by an official or employee who 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. Such acts are punishable by dismissal from the service.

Online Sexual Harassment

- a) Light Online Sexual Harassment is committed by an official or employee who 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. Such acts 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.



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- b) Less Grave Online Sexual Harassment is committed by an official or employee who engages in acts that include the use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats with sexual overtones. Such acts 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) Grave Online Sexual Harassment punishable by dismissal from the service, 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.

IV. For the purpose of these Rules, the administrative offense of sexual harassment is further described in the following circumstances:

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

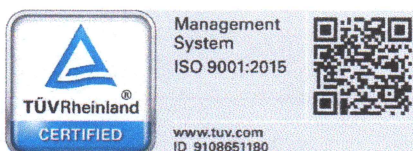
- 1. submission to or rejection of the act or series of acts is used as a basis for any employment decision (including, but not limited to, matters related to hiring, promotion, raise in salary, job security, benefits and any other human resource action) affecting the applicant/employee; or
- 2. the 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) Education or 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 education, training, apprenticeship, internship 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 for any decision affecting the complainant, including, but not limited to, the giving of a grade, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration; or
- 2. the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive academic environment of 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, intern, tutee or ward of the person complained of.

The offense may also take place in the following instances:

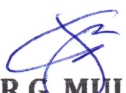

- 1. in the premises of the workplace or office or in training institution;
- 2. in any place where the parties were found as a result of work or training responsibilities or relations;
- 3. at work or training-related social functions;



4. while on official business outside the office or training institution or during work or training related travel;
5. at official conferences, fora, symposia or training sessions;
- or
6. by telephone, cellular phone, fax machine or electronic mail, or any online platforms

RULE VI EFFECTIVITY RULES

Section 1. This FPA CODI Rules shall take effect immediately. And shall remain in force until further orders.


MYER G. MULA, Ph.D.
Officer-in-Charge 



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