

Questions & Answers

The CODI and Administrative Disciplinary Rules on Sexual Harassment Cases



National Statistics Office
Gender and Development Committee
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1. What is CODI?

CODI is the **C**ommittee on **D**ecorum and **I**nvestigation of Sexual Harassment Cases

2. What are the functions of the CODI?

The Committee shall have 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 office to increase understanding and prevent incident of sexual harassment.

3. Who shall compose the Committee?

The Committee shall be composed of at least one (1) representative each from the management, the accredited union, if any, the second level employees, and from the first level employees, duly selected by the unit concerned.

4. What is the Administrative Disciplinary Rules on Sexual Harassment Cases all about?

The Administrative Disciplinary Rules on Sexual Harassment Cases spells out in clear-cut terms the procedural and substantive requirements in pursuing sexual harassment cases, sets preliminary investigation to start within five days from receipt of a complaint and to be completed within 15 days thereafter.

5. Who are the persons liable for Sexual Harassment?

Any government 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 to commit sexual harassment as defined in 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.

6. What are the standard procedural requirements in handling a sexual harassment case?

a. Complaint –

- The complaint may be filed with the disciplining authority of the agency or with the CODI. Upon receipt of the complaint by the disciplining authority, the same shall be transmitted to the CODI.
- The complaint must be in writing, 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 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 any one of the abovementioned requirement, the complaint shall be dismissed without prejudice to its refiling.

- Complaints 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.
- 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.

b. Action on the Complaint – Upon receipt of the complaint that is sufficient in form and substance, the CODI 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.

c. Preliminary Investigation – A preliminary investigation shall be conducted by the CODI. The CODI shall examine all documents submitted by the complainant and the person complained of, as well as documents readily available from other sources. The parties may submit affidavits and counter-affidavits. All proceedings before the CODI shall be held under strict confidentiality.

Upon receipt of the counter-affidavit or comment under oath, the CODI may recommend whether a *prima facie* case exists to warrant the issuance of a formal charge.

- d. **Duration of Investigation** – A preliminary investigation shall commence not later than five (5) days from receipt of the complaint by the CODI and shall be terminated within fifteen (15) working days thereafter.
- e. **Investigation Report** – Within five (5) working days from the termination of the preliminary investigation, the CODI shall submit the Investigation Report and the complete records of the case to disciplining authority.
- f. **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.

- g. **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 materials 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 seventy-two 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.

The CODI shall not entertain requests for clarification, bills of particulars or motions to dismiss which are obviously designed to delay the administrative proceedings. 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.

- h. **Failure to File an Answer** – If the respondent fails or refuses to file his/her answer to the formal charge within 72 hours from receipt thereof without justifiable cause, he/she shall be considered to have waived his/her right thereto and formal investigation may commence.
- i. **Preventive Suspension** – Upon petition of the complainant or *motu proprio* upon the recommendation of the CODI, at any time after the service of the formal charge to the respondent, the proper disciplining authority may order the preventive suspension of the respondent during the formal investigation, if there are reasons to believe that he/she is probably guilty of the charges which would warrant his/her removal from service.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of his/her misfeasance and to preclude the possibility of his/her exerting undue influence or pressure on the witnesses against him/her or tampering of documentary evidence on file with the Office.

When the administrative case against the respondent under preventive suspension is not finally decided by the disciplining authority within the period of 90 days after the date of his/her preventive suspension, unless otherwise provided by special law, he/she shall be automatically reinstated into the service.

When the delay in the disposition of case is due to the fault, negligence or petition of the respondent, the period of delay should not be included in the counting of the 90 calendar day period of preventive suspension. Provided that should the respondent be on paternity/maternity leave, said preventive suspension shall be deferred or interrupted until such time that said leave has been fully enjoyed.

- j. **Remedies from the Order of Preventive Suspension** – The respondent may file a motion for reconsideration with the disciplining authority or may elevate the same to the Civil Service Commission (CSC) by way of an appeal within fifteen (15) days from receipt thereof.
- k. **Conduct of Formal Investigation** – A formal investigation shall be conducted by the CODI if it deems such investigation is necessary to decide the case judiciously, although the respondent does not request a formal investigation. It shall be held not earlier than 5 days nor later than 10 days from receipt of the respondent's answer. Said investigation shall be finished within 30 days from issuance of the formal charge or the receipt of the answer.
- l. **Pre-hearing Conference** – At the commencement of the formal investigation, the CODI may conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:
 - 1. Stipulation of facts;
 - 2. Simplification of issues;
 - 3. Identification and marking of evidence of the parties;
 - 4. Waiver of objections to admissibility of evidence;
 - 5. Limiting the number of witnesses, and their names;
 - 6. Dates of subsequent hearings; and
 - 7. Such other matters as may aid in the prompt and just resolution of the case.
- m. **Preliminary Hearing** – At the start of the hearing, the CODI shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.
- n. **Request for Subpoena** – If a party desires the attendance of a witness or the production of documents or things, he/she shall make a request for the issuance of the necessary subpoena, at least 3 days before the scheduled hearing.
- o. **Issuance of Subpoena** – The CODI may issue subpoena *ad testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or objects.

- p. **Formal Investigation Report** – Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the CODI to the disciplining authority. The complete records of the case arranged systematically and chronologically shall be attached to the report of investigation.
- q. **Finality of Decisions** – The disciplining authority shall render her decision on the case within thirty (30) days from receipt of the report of investigation. A decision rendered by the head of the agency where a penalty of suspension for not more than 30 days or a fine in an amount not exceeding 30 days salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding 30 days or a fine exceeding 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.

7. What are the Administrative Liabilities?

- a. The head of the office who fails to act within fifteen (15) days from receipt of any complaint for sexual harassment properly filed against any employee of the office shall be charged with Neglect of Duty.
- b. 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. The penalties for light, less grave and grave offenses are as follows:

1. For light offense

1st offense - Reprimand

2nd offense - Fine or suspension not exceeding thirty (30) days

3rd offense - Dismissal

2. For less grave offense

1st offense - Fine or suspension of more than thirty (30) days and not exceeding six (6) months

2nd offense – Dismissal

3. For grave offense - Dismissal