

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 5, 2002

REVENUE MEMORANDUM ORDER NO. 27-2002

SUBJECT : Administrative Disciplinary Rules on Sexual Harassment
Cases in the Bureau of Internal Revenue

TO : All Officials and Employees of the Bureau of Internal
Revenue and Others Concerned

I. OBJECTIVES

This Order is issued to:

1. Implement the mandate of Section 4 of Republic Act 7877, otherwise known as an Act Declaring Sexual Harassment Unlawful in the Employment, Education or Training Environment, and for other Purposes;
2. Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees, through their duly designated representative, the Bureau of Internal Revenue Employees Association (BIREA), as mandated under Section 58 of Resolution No. 01-0940 dated May 21, 2001 of the Civil Service Commission;
3. Provide information on the administrative offense of sexual harassment, and guidelines to effectively prevent or deter the commission of such offense; and
4. Prescribe the procedures for the investigation of sexual harassment cases and the administrative sanctions therefor.

II. RULES AND PROCEDURES

The detailed rules and procedures pertaining to the investigation of sexual harassment cases and the administrative sanctions therefor are outlined in the Administrative Disciplinary Rules on Sexual Harassment Cases in the Bureau of Internal Revenue hereto attached as Annex "A".

III. EFFECTIVITY

This Order shall take effect immediately.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue

ADMINISTRATIVE DISCIPLINARY RULES
ON SEXUAL HARASSMENT CASES
IN THE
BUREAU OF INTERNAL REVENUE

TABLE OF CONTENTS

<i>Rule No.</i>		<i>Page</i>
I	Title	1
II	Coverage	1
III	Definition	1
IV	Forms of Sexual Harassment	2
V	Persons Liable for Sexual Harassment	2
VI	Committee on Decorum and Investigation of Sexual Harassment Cases	3
VII	Pre-filing Standard Operating Procedures in Attending to Victims of Sexual Harassment	3
VIII	Standard Procedural Requirements	4
IX	Remedies After a Decision	9
X	Classification of Acts of Sexual Harassment	11
XI	Administrative Liabilities	12
XII	Forum Shopping	13
XIII	Repealing Clause	13
XIV	Effectivity Clause	13

RULE I. TITLE

Section 1. These Rules shall be known as the "Administrative Disciplinary Rules on Sexual Harassment Cases in the Bureau of Internal Revenue."

RULE II. COVERAGE

Section 2. These Rules shall apply to all officials and employees in the Bureau of Internal Revenue, whether in the Career or Non-Career service and holding any level of position, including Presidential appointees, temporary employees, and contractual employees.

RULE III. DEFINITION

Section 3. For the purpose of these Rules, 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 government employee or official in a work-related, training or education related environment of the person complained of.

- (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 personnel 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 ward 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 is used as a basis for any decision affecting the complainant, including, but not limited to, the giving of a grade, the granting of honors or scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or consideration;
 - (2) the act or series of acts have the purpose or effect of interfering with performance, or creating an intimidating, hostile or offensive environment for 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.

Section 4. Sexual harassment may take place:

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

RULE IV. FORMS OF SEXUAL HARASSMENT

Section 5. The following are illustrative forms of sexual harassment:

- (a) Physical
 - i. Malicious Touching
 - ii. Overt sexual advances
 - iii. 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 V. PERSONS LIABLE FOR SEXUAL HARASSMENT

Section 6. 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 or others to commit sexual harassment as defined by these Rules;
- (c) cooperates in the commission of sexual harassment by another without which the sexual harassment would not have been accomplished; and
- (d) cooperates in the commission of sexual harassment by another through previous or simultaneous acts.

RULE VI. COMMITTEE ON DECORUM AND INVESTIGATION OF SEXUAL HARASSMENT CASES

Section 7. A Committee on Decorum and Investigation shall be created in the national and regional offices of the Bureau of Internal Revenue, which 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 Commissioner of Internal Revenue for decision; and
- (d) Lead in the conduct of discussions about sexual harassment within the agency or institution to increase understanding and prevent incidents of sexual harassment.

The Regional Committees on Decorum and Investigation created in the BIR regional offices shall submit the report of investigation with its recommendation directly to the Commissioner of Internal Revenue.

When a member of the Committee is the complainant or the person complained of in a sexual harassment case, he shall be disqualified from being a member of the Committee.

Section 8. *Composition of the Committee on Decorum and Investigation and Terms of Office of the Members.* - The Bureau of Internal Revenue National/Regional Committee on Decorum and Investigation shall be composed of one (1) representative each from the following:

- 1. The first level employees (non-supervisory capacity) with salary grade of 1 to 10;
- 2. The second level employees (non-supervisory and supervisory capacity) with salary grade of 11 to 24;
- 3. The third level employees which covers positions in the Career Executive Service with salary grade of 25 and up; and
- 4. The Bureau of Internal Revenue Employees Association (BIREA).

The term of office of the members of the Committee shall not be more than two (2) years.

RULE VII. PRE-FILING STANDARD OPERATING PROCEDURES IN ATTENDING TO VICTIMS OF SEXUAL HARASSMENT

Section 9. *The Pre-filing Stage.* - The Committee on Decorum and Investigation shall provide assistance to an alleged victim of sexual harassment which may include counseling, referral to an agency offering professional help, and advice on options available before the filing of the complaint.

RULE VIII. STANDARD PROCEDURAL REQUIREMENTS

Section 10. *Complaint.*

- a. The complaint may be filed at any time with the Office of the Commissioner of Internal Revenue or with the National/Regional Committee on Decorum and Investigation. If filed with the Office of the Commissioner of Internal Revenue, 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, address and position 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 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 filed if the complaint as sent complied with the requirements provided in Section 10(b) hereof. Otherwise, the complaint shall only be considered filed after the complainant has complied with the requirements provided in Section 10 (b) hereof 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 11. *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. The person complained of shall furnish a copy of his/her counter-affidavit/comment to the complainant, otherwise, his/her Counter-Affidavit/Comment shall be considered as not having been filed/submitted.

Section 12. *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 of their witnesses, if there are any.

Upon receipt of the counter-affidavit or comment under oath, the Committee on Decorum and Investigation shall determine whether a *prima facie* case exists to warrant the issuance of a formal charge.

Failure of the person complained of to submit his/her counter-affidavit shall be considered a waiver thereof.

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

Section 13. *Duration of the investigation.* - A preliminary investigation shall commence not later than five (5) working days from receipt of the complaint by the Committee on Decorum and Investigation and shall be terminated within fifteen (15) working days.

Section 14. *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 Commissioner of Internal Revenue.

Section 15. *Resolution After Preliminary Investigation.* - If a *prima facie* case is established during the investigation, a formal charge shall be issued by the Commissioner of Internal Revenue within five (5) 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 16. *Formal Charge.* - The formal charge shall contain:

- a. A specification of charge(s) and a brief statement of material or relevant facts;
- b. A directive to answer the charge(s) in writing and under oath within five (5) days from receipt thereof;
- c. An advice to the respondent to indicate in his/her answer whether or not he/she elects a formal investigation (hearing) of the charge(s); and
- d. A notice that he/she is entitled to be assisted by a counsel of his/her choice.

The formal charge must be accompanied by certified true copies of the documentary evidence, if any, and sworn statements covering the testimonies of the witnesses against the respondent.

Section 17. *Answer.* - The answer, which must be in writing and under oath, shall be specific and must contain allegation of material facts and applicable laws in support of the defense of respondent. It shall also include a statement indicating whether he/she elects a formal investigation (hearing) of his/her case. Certified copies of documentary evidence and sworn statements covering the testimonies of the witnesses of the respondent, if there be any, shall be attached to the answer.

Section 18. *Failure to File an Answer.* - If the respondent fails or refuses to file his/her answer to the formal charge within five (5) days from receipt thereof without justifiable cause, he/she shall be considered to have waived his/her right thereto and formal investigation may commence.

Section 19. *Preventive Suspension.* - Upon petition of the complainant or *motu proprio* upon the recommendation of the Committee on Decorum and Investigation, the Commissioner of Internal Revenue may issue an order of preventive suspension against the respondent upon the service of the Formal Charge, or immediately thereafter, if there are reasons to believe that the respondent is probably guilty of the charges which would warrant his removal from the revenue service.

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

Section 20. *Duration of Preventive Suspension.* - When the administrative case of sexual harassment against the respondent under preventive suspension is not finally decided by the Commissioner of Internal Revenue within the period of ninety (90) days from the effective date of his/her preventive suspension, unless otherwise provided by special law, he/she shall be automatically reinstated in the revenue service; Provided that when the delay in the disposition of the 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 ninety (90) calendar day period of preventive suspension; Provided further 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.

Section 21. *Remedies from the Order of Preventive Suspension.* - The respondent may file a motion for reconsideration with the Commissioner of Internal Revenue or may elevate the same to the Civil Service Commission by way of an appeal within fifteen (15) days from receipt of the Order of Preventive Suspension.

Section 22. *Conduct of Formal Investigation.* - Although the respondent does not request a formal investigation, one shall nevertheless be conducted by the Committee on Decorum and Investigation if it deems such investigation is necessary to decide the case judiciously.

The investigation shall be held not earlier than five (5) days nor later than ten (10) days from receipt of the respondent's answer or after the period for filing of an answer has expired. Said investigation shall be completed within thirty (30) days from the date of service of the formal charge unless the period is extended by the Commissioner of Internal Revenue in meritorious cases.

Section 23. *Pre-hearing Conference.* - At the commencement of the formal investigation, the Committee on Decorum and Investigation may conduct a pre-hearing conference for the parties to appear, consider and agree on any of the following:

- a. Stipulation of facts;
- b. Simplification of issues;
- c. Identification and marking of evidence of the parties;

- d. Waiver of objections to admissibility of evidence;
- e. Limiting the number of witnesses, and their names;
- f. Dates of subsequent hearings; and
- g. Such other matters as may aid in the prompt and just resolution of the case.

The parties may submit position papers/memoranda and submit the case for resolution based on the result of the pre-hearing conference without any need for further hearing.

Section 24. *Continuous Hearing Until Terminated; Postponement.* - Hearings shall be conducted on the hearing dates set by the Committee on Decorum and Investigation or as agreed upon during the pre-hearing conference.

Where no pre-hearing conference is conducted, the parties, their counsel and witnesses, if any, shall be given a notice of at least five (5) days before the first scheduled hearing specifying the time, date and place of the said hearing and subsequent hearings. Thereafter, the schedule of hearings previously set shall be strictly followed without further notice. A party shall be granted only three (3) postponements upon oral or written requests. A further postponement may be granted only upon written request and subject to the discretion of the Committee on Decorum and Investigation.

If the respondent fails to appear during the scheduled hearings despite due notice, the investigation shall proceed *ex-parte* and the respondent is deemed to have waived his/her right to be present and to submit evidence in his/her favor during those hearings.

Section 25. *Preliminary Matters.* - At the start of the hearing, the Committee on Decorum and Investigation shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

If the respondent appears without the assistance of a counsel, he/she shall be deemed to have waived his/her right to counsel.

Before taking the testimony of a witness, the Committee on Decorum and Investigation shall place him under oath and then take his name, address, civil status, age, and place of employment.

Section 26. *Appearance of Parties.* - Any person representing any of the parties before any hearing or investigation shall manifest orally or in writing his appearance for either the respondent or complainant, stating his full name and exact address where he can be served with notices and other documents. Any pleading or appearance made without complying with the above stated requirements shall not be recognized.

Section 27. *Order of Hearing.* - Unless the Committee on Decorum and Investigation directs otherwise, the order of hearing shall be as follows:

- a. The complainant shall present evidence in support of the charge(s);
- b. The respondent shall then offer evidence in support of his defense;
- c. The complainant may then offer rebuttal evidence, and the respondent, sur-rebuttal evidence.

Every witness may be examined in the following order:

- a. Direct examination by the proponent;
- b. Cross-examination by the opponent;
- c. Re-direct examination by the proponent;
- d. Re-cross examination by the opponent.

A sworn statement of a witness properly identified and affirmed by the witness before the Committee on Decorum and Investigation shall constitute his direct testimony.

When the presentation of evidence has been concluded, the parties shall formally offer their evidence either orally or in writing and, thereafter, objections thereto may also be made either orally or in writing. After which, both parties may be given time to submit their respective memorandum, which in no case shall be beyond five (5) days after the formal offer of evidence. Failure to submit the memorandum within the given period shall be considered a waiver thereof.

Section 28. Objections. - All objections raised during the hearing shall be resolved by the Committee on Decorum and Investigation. However, objections that cannot be ruled upon by the Committee shall be noted with the information that the same shall be included in the memorandum of the concerned party to be ruled upon by the Commissioner of Internal Revenue .

The Committee on Decorum and Investigation shall accept all evidence deemed material and relevant to the case. In case of doubt, the admission of evidence shall be allowed subject to the objection interposed against its admission.

Section 29. Markings. - All documentary evidence or exhibits shall be properly marked by letters (A, B, C, etc.) if presented by the complainant and by numbers (1, 2, 3, etc.) if presented by the respondent. These shall form part of the complete records of the case.

Section 30. Request for Subpoena. - If a party desires the attendance of a witness or the production of documents or things, he shall make a request for the issuance of the necessary subpoena at least three (3) days before the scheduled hearing.

Section 31. Issuance of Subpoena. - The Committee on Decorum and Investigation may issue subpoena *ad testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or objects.

Section 32. Records of Proceedings. - The proceedings during the formal investigation must be recorded either through shorthand or stenotype or by any other method.

Section 33. Effect of the Pendency of an Administrative Case. - The pendency of an administrative case for sexual harassment shall not disqualify the respondent for promotion or from claiming maternity/paternity benefits. For this purpose, an administrative case shall be construed as pending when the Commissioner of Internal Revenue has issued a formal charge.

Section 34. *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 Committee on Decorum and Investigation to the Commissioner of Internal Revenue. The complete records of the case shall be attached to the Report of Investigation.

The complete records shall be systematically and chronologically arranged, paged and securely bound to prevent loss. A table of contents shall be prepared. Whoever is in charge of the transmittal of the complete records shall be held responsible for any loss or suppression of pages thereof.

Section 35. *When Case is Decided.* - The Commissioner of Internal Revenue shall render his decision on the case within thirty (30) days from receipt of the Report of Investigation.

Section 36. *Finality of Decisions.* - A decision rendered by the Commissioner of Internal Revenue where a penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary is imposed, shall be final and executory. However, if the penalty imposed is suspension exceeding thirty (30) days or a fine 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.

RULE IX. REMEDIES AFTER A DECISION

Section 37. *Filing of Motion for Reconsideration.* - The party adversely affected by the decision may file a motion for reconsideration with the Commissioner of Internal Revenue who rendered the decision within fifteen (15) days from receipt thereof.

Section 38. *When Deemed Filed.* - A motion for reconsideration shall be deemed filed on the date stamped on the official copy by the proper receiving authority, and in case it was sent by mail, on the date shown by the postmark on the envelope which shall be attached to the records of the case.

Section 39. *Grounds for Motion for Reconsideration.* - The motion for reconsideration shall be based on any of the following grounds:

- a. New evidence has been discovered which materially affects the decision rendered; or
- b. The decision is not supported by the evidence on record; or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Section 40. *Limitation.* - Only one motion for reconsideration shall be entertained.

Section 41. *Effect of Filing.* - The filing of a motion for reconsideration within the reglementary period of fifteen (15) days shall stay the execution of the decision sought to be reconsidered.

Section 42. *Filing of Appeals.* - Decisions of the Commissioner of Internal Revenue imposing a penalty exceeding thirty (30) days suspension or fine in an amount exceeding thirty days salary may be appealed to the Civil Service Commission Proper within a period of fifteen (15) days from receipt thereof.

In case the decision rendered by the Commissioner of Internal Revenue is appealable to the Civil Service Commission, the same may be initially appealed to the Department Head and finally to the Civil Service Commission Proper. Pending appeal, the same shall be executory except where the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary of Finance.

A notice of appeal, including the appeal memorandum, shall be filed with the appellate authority, copy furnished the Bureau of Internal Revenue. The latter shall submit the records of the case, which shall be systematically and chronologically arranged, paged and securely bound to prevent loss, to the appellate authority together with its comment, within fifteen (15) days from receipt of the notice of appeal and the appeal memorandum.

Section 43. *When Deemed Filed.* - An appeal sent by mail shall be deemed filed on the date shown by the postmark on the envelope which shall be attached to the records of the case and in case of personal delivery, the date stamped thereon by the proper office.

Section 44. *Appeal Fee.* - The appellant shall pay an appeal fee of Three Hundred Pesos (P300.00) and a copy of the receipt thereof shall be attached to the appeal.

Section 45. *Perfection of an Appeal.* - To perfect an appeal, the appellant shall, within fifteen (15) days from receipt of the decision, submit the following:

- a. Notice of appeal which shall specifically state the date of the decision appealed from and the date of receipt thereof;
- b. Three (3) copies of the appeal memorandum containing the grounds relied upon for the appeal, together with the certified true copy of the decision, resolution or order appealed from, and certified copies of the documents or evidence;
- c. Proof of service of a copy of the appeal memorandum to the disciplining office;
- d. Proof of payment of the appeal fee; and
- e. A statement or certification of non-forum shopping.

Failure to comply with any of the above requirements within the reglementary period shall be construed as failure to perfect an appeal and shall cause its dismissal.

Section 46. *Effect of Filing.* - An appeal shall not stop the decision from being executory, and in case the penalty is suspension or removal, the respondent shall be considered as having been under preventive suspension during the pendency of the appeal, in the event he wins the appeal.

Section 47. *When case is Remanded for Violation of Respondent's Right to Due Process.* - If the case on appeal with the Civil Service Commission Proper is remanded to the Commissioner of Internal Revenue for further investigation, the latter, through the Committee on Decorum and Investigation, shall finish the

investigation within three (3) calendar months from the date of receipt of the records from the Civil Service Commission, unless the investigation is delayed due to the fault, negligence or petition of the person complained of, or an extension is granted by the Civil Service Commission Proper in meritorious cases. The period of delay shall not be included in the computation of the aforesaid prescribed period.

The Commissioner of Internal Revenue shall render his decision within fifteen (15) days from the submission of the investigation report to him by the Committee on Decorum and Investigation. If, at the end of said period, the Commissioner of Internal Revenue fails to decide the case, the Civil Service Commission Proper shall vacate and set aside the appealed decision and declare the person complained of exonerated of the charge. If the person complained of is under preventive suspension, he shall be immediately reinstated.

Section 48. *Petition for Review.* - A complainant may elevate the decision of the Commissioner of Internal Revenue dismissing a complaint for lack of a *prima facie* case before the Civil Service Commission Proper through a Petition for Review within fifteen (15) days from the receipt of said decision.

Section 49. *Petition for Review with the Court of Appeals.* - A party may elevate a decision of the Civil Service Commission before the Court of Appeals by way of Petition for Review under Rule 43 of the 1997 Revised Rules of Court.

Section 50. *Petition for Certiorari.* - When the disciplining authority has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified Petition for Certiorari in the proper court under Rule 65 of the Rules of Court.

RULE X. CLASSIFICATION OF ACTS OF SEXUAL HARASSMENT

Section 51. Sexual harassment is classified as grave, less grave and light offenses.

- A. Grave Offenses shall include but are not limited to:
 - 1. Unwanted touching of private parts of the body (genitalia, buttocks, and breast);
 - 2. Sexual assault;
 - 3. Malicious touching;
 - 4. 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
 - 5. Other analogous cases
- B. Less Grave Offenses shall include but are not limited to:
 - 1. Unwanted touching or brushing against a victim's body;
 - 2. Pinching not falling under grave offenses;
 - 3. Derogatory or degrading remarks or innuendoes directed toward the members of one sex or one's sexual orientation or used to describe a person;

4. Verbal abuse or threats with sexual overtones; and
 5. Other analogous cases.
- C. The following shall be considered Light Offenses:
1. Surreptitiously looking or stealing a look at a person's private part or worn undergarments;
 2. Telling sexist/smitty jokes or sending these through text, electronic mail or other similar means, 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;
 3. Malicious leering or ogling;
 4. The display of sexually offensive pictures, materials or graffiti;
 5. Unwelcome inquiries or comments about a person's sex life;
 6. Unwelcome sexual flirtation, advances, propositions;
 7. Making offensive hand or body gestures at an employee;
 8. Persistent unwanted attention with sexual overtones;
 9. Unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
 10. Other analogous cases.

RULE XI. ADMINISTRATIVE LIABILITIES

Section 52. 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 53. The penalties for light, less grave, and grave offenses are as follows:

A. For Light Offenses:

- | | | |
|-------------------------|---|---|
| 1 st offense | - | Reprimand |
| 2 nd offense | - | Fine or suspension not exceeding thirty (30) days |
| 3 rd offense | - | Dismissal |

B. For Less Grave Offenses:

- | | | |
|-------------------------|---|--|
| 1 st offense | - | Fine or suspension not less than thirty (30) days and not exceeding six (6) months |
| 2 nd offense | - | Dismissal |

C. For Grave Offenses:

Dismissal

Section 54. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

RULE XII. FORUM SHOPPING

Section 55. The filing of a complaint under these rules and regulations on sexual harassment shall preclude the filing of another administrative complaint under any other law.

RULE XIII. REPEALING CLAUSE

Section 56. Rules and regulations and other issuances or parts thereof inconsistent with the provisions of these Rules are hereby repealed or modified accordingly.

RULE XIV. EFFECTIVITY CLAUSE

Section 57. These Rules shall take effect immediately.

Quezon City, September 5, 2002.

SUBMITTED BY:

(Original Signed)
ERLINDA A. SIMPLE
Acting Assistant Commissioner
Inspection Service

(Original Signed)
EDMUNDO P. GUEVARA
Deputy Commissioner
Legal and Inspection Group

(Original Signed)
EDITH C. ABANA-BAUTISTA
Assistant Chief
Internal Security Division

(Original Signed)
DOMINGO M. ALVAREZ
Head Revenue Executive Assistant
Inspection Service

APPROVED:

(Original Signed)
PERCIVAL T. SALAZAR
President
Bureau of Internal Revenue
Employees Association (BIREA)

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner
Bureau of Internal Revenue

