

R.A. No. 11313

SAFE SPACES ACT

Implementing Rules and Regulations

THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 11313 OR "AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR", OTHERWISE KNOWN AS THE "SAFE SPACES ACT"



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Implementing Rules
and Regulations

A reference material for the
Miriam College
SAFE SPACES ACT

The Implementing Rules and Regulations of Republic Act No. 11313

OR “AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR”, OTHERWISE KNOWN AS THE “SAFE SPACES ACT”

Pursuant to Section 38 of Republic Act No. 11313, otherwise known as the Safe Spaces Act, the following rules and regulations are hereby issued:

GENERAL PROVISIONS

These rules and regulations shall be known and cited as the **Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 11313**, otherwise known as the “**Safe Spaces Act**”.

Purpose

These rules and regulations are hereby promulgated to provide guidelines and mechanisms in the implementation of the Safe Spaces Act.

Declaration of Policies

It is the policy of the State to value the dignity of every human person and guarantee full respect for human rights. It is likewise the policy of the State to recognize the role of women in nation-building and ensure the fundamental equality before the law of women and men. The State also recognizes that both men and women must have equality, security, and safety not only in private but also on the streets, public spaces, online, workplaces and educational and training institutions.

DEFINITION OF TERMS

As used in these rules, the following terms are defined as follows:

- a) Catcalling** - unwanted remarks directed towards a person, commonly done in the form of wolf-whistling and misogynistic, transphobic, homophobic, and sexist slurs.
- b) Common carriers** - persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public.
- c) Cyberstalking** - a form of stalking that is committed through an electronic medium in which online communication takes place.

- d) **Employee** - a person, who in exchange for remuneration, agrees to perform specified services for another person, whether natural or juridical, and whether private or public, who exercises fundamental control over the work regardless of the term or duration of agreement. Employees in the informal economy are included herein. Provided that for the purposes of the law and these rules, a person who is detailed to an entity under a subcontracting or secondment agreement shall be considered an employee.

In the public sector, the term employee refers to any person who is in the service of the government or any of its agencies, divisions, subdivisions or instrumentalities including government-owned and controlled corporations with or without an original charter, or state universities or colleges with a regional charter.

- e) **Employer** - a person who exercises control over an employee: Provided, that for the purpose of the law and these rules, the status or conditions of the latter's employment or engagement shall be disregarded.

In the public sector, the term employer refers to the head of government agencies, divisions, subdivisions or instrumentalities including government-owned and controlled corporations with or without an original charter, or state universities or colleges with a regional charter which exercises control over an employee.

- f) **Gender** - a set of socially ascribed characteristics, norms, roles, attitudes, values, and expectations identifying the social behavior of men and women, and the relations between them.

- g) **Gender-based online sexual harassment** - an online conduct targeted at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear of personal safety, sexual harassment acts including unwanted sexual remarks and comments, threats, uploading or sharing of one's photos without consent, video and audio recordings, cyberstalking and online identity theft.

- h) **Gender identity and/or expression** - the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with physiological characteristics of the opposite sex, or may have been assigned a particular sex at birth but who identifies with the opposite sex, or may have an identity that does not correspond to one's sex assigned at birth or to one's primary or secondary sex characteristics, in which case this person is considered transgender.

- i) **Homophobic remarks or slurs** - statements in whatever form or however delivered, which are indicative of fear, hatred or aversion towards persons who are perceived to be or actually identify as lesbian, gay, bisexual, queer, pansexual and such other persons of diverse sexual orientation, gender identity or expression, or towards any person perceived to or actually have experienced same-sex attraction.

- j) **Information and communication system** - a system for generating, sending, receiving, storing or otherwise processing electronic data messages or electronic documents and includes the computer system or other similar devices by or in which data are recorded or stored and any procedure related to the recording or storage of electronic data messages or electronic documents.

- k) Information and communications technology or ICT** - the totality of electronic means to access, create, collect, store, process, receive, transmit, present and disseminate information.
- l) Misogynistic remarks or slurs** - any statements in whatever form or however delivered, that are indicative of the feeling of hating women or the belief that men are inherently better than women.
- m) Public spaces** - streets and alleys, roads, sidewalks, public parks, buildings, schools, churches, public washrooms, malls, internet shops, restaurants and cafes, transportation terminals, public markets, spaces used as evacuation centers, government offices, common carriers, public utility vehicles (PUVs) as well as private vehicles covered by app-based transport network services, other recreational spaces such as, but not limited to, cinema halls, theaters and spas, bars and clubs, resorts and water parks, hotels and casinos, and all other areas, regardless of ownership, openly accessible or offered to be accessed by the public.
- n) Sexist remarks or slurs** - statements in whatever form or however delivered, that are indicative of prejudice, stereotyping, or discrimination on the basis of sex, typically against women.
- o) Transphobic remarks or slurs** - statements in whatever form or however delivered, that are indicative of fear, hatred or aversion towards persons whose gender identity and/or expression do not conform with their sex assigned at birth.
- p) Stalking** - conduct directed at a person involving the repeated visual or physical proximity, non-consensual communication, or a combination thereof that cause or will likely cause a person to fear for one's own safety or the safety of others, or to suffer emotional distress.

GENDER-BASED SEXUAL HARRASSMENT IN THE DIFFERENT SETTINGS

Gender-Based Streets and Public Spaces Sexual Harassment

The crimes of gender-based streets and public spaces sexual harassment are committed through any unwanted and uninvited sexual actions or remarks against any person regardless of the motive for committing such action or remarks.

Gender-based streets and public spaces sexual harassment include, among others:

- a) Catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic, homophobic, and sexist slurs;
- b) Persistent uninvited comments or gestures on a person's appearance;
- c) Relentless requests for personal details;
- d) Statement of sexual comments and suggestions;
- e) Public masturbation or flashing of private parts, groping, making offensive body gestures

at someone, and other similar lewd sexual actions;

- f) Any advances, whether verbal or physical, that is unwanted and has threatened one's sense of personal space and physical safety. This may include cursing, leering and intrusive gazing, and taunting;
- g) Persistent telling of sexual jokes, use of sexual names; and
- h) Stalking

Gender-Based Sexual Harassment (GBSH) in Restaurants and Cafes, Bars and Clubs, Resorts and Water Parks, Hotels and Casinos, Cinemas, Malls, Buildings and Other Privately Owned Places Open to the Public

The management of restaurants, bars, cinemas, malls, buildings and other privately-owned places open to the public shall adopt **a policy of zero tolerance** in their establishments against gender-based streets and public spaces sexual harassment.

Such policy, which will apply to all persons who are within its area or vicinity, shall include:

- a) Measures to prevent the occurrence of GBSH in such places, including among others:
 - 1. Installation of clearly visible readable warning signs against gender-based public spaces sexual harassment in their business establishments which includes anti-sexual harassment hotline number(s), which may include that of the nearest police station in a language that is understandable by customers which are placed in a conspicuous area within the vicinity of the establishment.
 - 2. Designation of at least one (1) anti-sexual harassment officer to receive GBSH complaints. Provided that, the officer must be competent and knowledgeable on GBSH and on the appropriate assistance to be provided to victims.
- b) Measures to address the occurrence of GBSH in such places, including, among others:
 - 1. Provision of assistance to victims of GBSH by coordinating with local police authorities immediately after GBSH is reported. This includes accompanying the victim to the police authorities, whenever necessary;
 - 2. Where it is required, and/or whenever possible, installation of functional closed-circuit television (CCTV) cameras. To the extent possible, the CCTV footages shall be made available to victims of GBSH as part of the package of assistance;
 - 3. Making CCTV footage available when ordered by the court. This is without prejudice to the prerogative/practice of establishments to make CCTV footage accessible even without a court order;
 - 4. Provision of a safe gender-sensitive environment to encourage victims to report GBSH as soon as it happens. This includes, among others, having a secure and private area where the victim can narrate the events of GBSH, and whenever possible, providing an online platform for reporting GBSH incidents;
 - 5. Development of protocols to be followed in cases of GBSH in their establishment that include procedures to speedily and effectively address reports and/or complaints of

instances of GBSH. The complaint may be made immediately in person or online to the management of these places that are open to the public.

Whenever GBSH happens, a *security guard or any person who witnessed the crime* may conduct a citizen's arrest and apprehend the perpetrator in accordance with law. The security guards in these places may be deputized to apprehend perpetrators caught in *flagrante delicto* (or in the act of committing a crime) and are required to immediately coordinate with local authorities. Towards this end, the Philippine National Police (PNP) shall issue guidelines on the deputization of security guards.

A *citizen's arrest* is when any private person may arrest, without need of warrant under the following circumstances:

- When, in the presence of the private person, the person to be arrested has committed, is actually committing or is attempting to commit GBSH; and
- When GBSH has in fact just been committed, and the private person has personal knowledge of facts indicating that the person to be arrested has committed it.

To ensure that the security guards are knowledgeable on GBSH, awareness of the law will form part of topics or modules for training which are conducted before security agencies and security guards may renew their licenses.

Gender-Based Sexual Harassment in Public Utility Vehicles (PUV)

In addition to the penalties in the law:

Land Transportation Office (LTO) may cancel the license of *perpetrators* found to have committed acts constituting sexual harassment in PUVs

Land Transportation Franchising and Regulatory Board (LTFRB) may suspend or revoke *the franchise of transportation operators* who commit gender-based streets and public spaces sexual harassment acts.

GBSH in PUVs where the *perpetrator is the driver* of the vehicle shall also constitute a breach of contract of carriage, for the purpose of creating a presumption of negligence on the part of the *owner or operator of the vehicle* in the selection and supervision of employees and rendering the owner or operator solidarily liable for the offenses of the employee.

In cases of GBSH in PUVs, the LTO or the LTFRB may suspend or revoke the use of driver's license after finding of substantial evidence that the perpetrator committed any violation of the law, subject to LTO's own administrative procedure on suspension or revocation or of driver's license.

When a case is filed in the appropriate court, upon finding of guilt, the court may order the cancellation of the perpetrator's license, or revocation or suspension of their franchise. Whereupon, the LTO or the LTFRB, as the case may be, shall order such cancellation, suspension or revocation.

In cases where the court decision did not include such order, the LTO and LTFRB, may, after the filing of an administrative case, and hearing thereof, order such cancellation, suspension, or revocation. The court decision may form part of the evidence which may be presented by the complainant to the LTO or LTFRB.

Gender-Based Sexual Harassment in Streets and Public Spaces Committed by Minors

In case the offense is committed by a minor, the **Department of Social Welfare and Development (DSWD)** shall take necessary disciplinary measures and diversion programs as provided for under R.A. No. 9344, otherwise known as the “Juvenile Justice and Welfare Act of 2006”. The program shall include age-appropriate gender sensitivity training and anti-sexual harassment awareness activities.

The rules and regulations issued to implement R.A. No. 9344 as amended by R.A. No. 10630 shall govern when the offense is committed by a minor

Duties of Local Government Units (LGUs)

Local government units (LGUs) shall bear primary responsibility in enforcing the provisions under Article I (Gender-Based Streets and Public Spaces Sexual Harassment) of R.A. No. 11313.

LGUs shall have the following duties:

- a) Pass an ordinance that shall localize the applicability of the law within sixty (60) days from its effectivity. Such an ordinance shall consider and address the particular circumstances prevalent in their respective jurisdictions.

Ordinances passed pursuant to this law shall, to the extent possible:

1. contain measures that will prevent the occurrence of GBSH such as provision of gender sensitivity training (GST)
2. orientation on the law, creation of offices and appointment of people that will be responsible to address GBSH, including instances falling within the Katarungang Pambarangay system;
3. create measures to efficiently respond to the issue such as clear protocols of reporting and responding to GBSH, and programs to help the victims as well as perpetrators; and ensure that there are mechanisms, people and budget to effectively respond to GBSH.

Provided, however, that the passage of an ordinance shall not serve as a prerequisite for the implementation of the law by LGUs. The pendency of proceedings to adopt such local ordinance shall not be construed as a bar for LGUs from implementing the law;

- b) Disseminate or post in conspicuous places a copy of the law and the corresponding ordinance. The LGUs may come up with information, education, and communication (IEC) materials on the law and/or ordinance which may be in their respective local languages;
- c) Provide measures to prevent GBSH in educational institutions, such as information campaigns and anti-sexual harassment seminars;

- d) Discourage GBSH and impose fines on acts of GBSH as defined in the law;
- e) Establish an anti-sexual harassment hotline;

The LGU will ensure that the *personnel assigned* to attend the hotline are knowledgeable on GBSH and the forms of assistance made available by the LGU. The hotline shall have the following functions, among others:

1. Receive and record reports/complaints, and
 2. Act as a referral mechanism for complainants;
- f) Coordinate with the Department of the Interior and Local Government (DILG) on the implementation of the law
 - g) Establish a referral system for complainants of GBSH in streets and public spaces. This may form part of an existing referral system for complainants of other forms of gender-based violence;
 - h) Provide training on the law for the Punong Barangay and members of the Lupong Tagapamayapa in cases covered by the Katarungang Pambarangay system, for traffic enforcers under their jurisdiction, and adopt training modules for concerned LGU personnel down to the barangay level;
 - i) Set up Anti-Sexual Harassment (ASH) desks in all barangay, city and municipal halls, preferably staffed by a woman. VAW Desks may also serve as the ASH desks and the same shall be strengthened, following the guidelines to be set by the DILG; and
 - j) Create a mechanism for handling and documentation of complaints including those in cases covered by the Katarungang Pambarangay system.

Role of the DILG

The DILG shall ensure the full implementation of R.A. No. 11313 by:

- a) Inspecting LGUs if they have disseminated or posted in conspicuous places a copy of the law and the corresponding ordinance.
- b) Conducting and disseminating surveys and studies on best practices of LGUs in implementing the law.
- c) Providing capacity-building and training activities to build the capability of local government officials to implement the law in coordination with the Philippine Commission on Women (PCW), the Local Government Academy (LGA) and the Development Academy of the Philippines (DAP); and
- d) Assisting the LGUs in localizing the applicability of the law.

The DILG shall lead in the development of guidelines and mechanisms to ensure the effective implementation and monitoring of the law and for such purpose, may consult other relevant agencies and civil society organizations (CSOs). This shall include guidelines on the interface of the law with the Katarungang Pambarangay System and the strengthening of the VAW desk.

Implementing Bodies for Gender-Based Sexual Harassment in Streets and Public Spaces

To respond to GBSH in streets and public spaces,

a) **The Metro Manila Development Authority (MMDA), the local units of the PNP** for the provinces, and the **Women and Children Protection Desk (WCPD)** of the PNP shall have the authority to apprehend perpetrators and enforce the law.

The PNP and MMDA, shall ensure that their Anti-Sexual Harassment Enforcers (ASHE) undergo gender sensitivity training (GST) which shall cover topics such as:

1. gender
2. sexual orientation
3. gender identity
4. gender expression
5. sources of gender discrimination
6. the roles of different institutions in society in perpetuating discrimination
7. sexual orientation
8. gender identity
9. gender expression
10. the different manifestations of discrimination, including sexual harassment
11. the solutions to minimize or eliminate such forms of discrimination

LGUs may designate their traffic enforcers to respond to GBSH committed in the streets. The LGUs shall ensure that such designated traffic enforcers will undergo GST as mentioned above. In the case of special economic zones, its police shall also be tasked to apprehend perpetrators and the administrators of these areas shall ensure that its police force will undergo GST.

The authority vested on MMDA, local units of PNP, WCPD of PNP and the local traffic enforcers under the preceding paragraphs is suppletory to the authority vested on appropriate persons under existing rules on law enforcement, apprehension, and arrest.

b) The MMDA and the PNP shall deputize its enforcers to be Anti-Sexual Harassment Enforcers (ASHE). The ASHE shall:

1. Receive complaints on the street;
2. Immediately apprehend a perpetrator if caught in *flagrante delicto* or in the act of committing the crime;
3. Immediately bring the perpetrator to the nearest PNP station; and
4. Together with the Women's and Children's Desk of PNP stations, keep a ledger of perpetrators who have committed acts prohibited under the law for purposes of determining if a perpetrator is a first-time, second-time or third-time offender. The Women's and Children Desk shall forward its records to the Women and Children Protection Center (PNP WCPC).

c) The DILG shall ensure that all local government bodies expedite the receipt and processing of complaints by:

1. Setting up an Anti-Sexual Harassment Desk in all barangays, municipal and city halls and the assignment of a person-in-charge
2. Ensuring the set-up of CCTVs in major roads, alleys and sidewalks in their respective areas to aid in the filing of cases and gathering of evidence.

d) The DILG and the DSWD in coordination with the Department of Health (DOH) and the PCW shall coordinate if necessary to ensure that LGUs facilitate the access of victims to proper psychological counseling support services and other services, in consonance with R.A. No. 11036 or the Philippine Mental Health Law. For this purpose, the LGUs may tap other service providers.

Specific Acts and Penalties for Gender-Based Sexual Harassment in Streets and Public Spaces

Per Section 11 of the law, the following acts shall be penalized as follows:

a) For acts such as cursing, wolf-whistling, catcalling, leering and intrusive gazing, taunting, cursing, unwanted invitations, misogynistic, transphobic, homophobic, and sexist slurs, persistent unwanted comments on one's appearance, relentless requests for one's personal details such as name, contact and social media details or destination, the use of words, gestures or actions that ridicule on the basis of sex, gender or sexual orientation, identity and/or expression including sexist, homophobic, and transphobic statements and slurs, the persistent telling of sexual jokes, use of sexual names, comments and demands, and any statement that has made an invasion on a person's personal space or threatens the person's sense of personal safety.

- 1) The first offense shall be punished by a fine of One thousand pesos (P 1,000.00) and community service of twelve (12) hours inclusive of attendance to a Gender Sensitivity Seminar to be conducted by the PNP in coordination with the LGU and the PCW. The PNP shall issue the certificate of completion of community service;
- 2) The second offense shall be punished by *arresto menor* (6 to 10 days) or a fine of Three thousand pesos (P3,000.00);
- 3) The third offense shall be punished by *arresto menor* (11 to 30 days) and a fine of Ten thousand pesos (P10, 000.00).

b) For acts such as making offensive body gestures at someone, and exposing private parts for the sexual gratification of the perpetrator with the effect of demeaning, harassing, threatening or intimidating the offended party including flashing of private parts, public masturbation, groping, and similar lewd sexual actions.

- 1) The first offense shall be punished by a fine of Ten thousand pesos (P 10,000.00) and community service of twelve (12) hours inclusive of attendance to a Gender Sensitivity Seminar, to be conducted by the PNP in coordination with the LGU and the PCW. The PNP shall issue the certificate of completion of community service;

2) The second offense shall be punished by *arresto menor* (11 to 30 days) or a fine of Fifteen thousand pesos (P15,000.00);

3) The third offense shall be punished by *arresto mayor* (1 month and 1 day to 6 months) and a fine of Twenty thousand pesos (P20,000.00);

c) For acts such as stalking, and any of the acts mentioned in Section 11, paragraphs (a) and (b), when accompanied by touching, pinching or brushing against the body of the offended person; or any touching, pinching, or brushing against the genitalia, face, arms, anus, groin, breasts, inner thighs, face, buttocks or any part of the victim's body even when not accompanied by acts mentioned in Section 11, paragraphs (a) and (b).

1) The first offense shall be punished by *arresto menor* (11 to 30 days) or a fine of Thirty thousand pesos (P30,000.00), provided that it includes attendance in a Gender Sensitivity Seminar, to be conducted by the PNP in coordination with the LGU and the PCW. The PNP shall issue the certificate of completion of community service;

2) The second offense shall be punished by *arresto mayor* (1 month and 1 day to 6 months) or a fine of Fifty thousand pesos (P 50,000.00);

3) The third offense shall be punished by *arresto mayor* in its maximum period or a fine of One hundred thousand pesos (P100,000.00)

GENDER-BASED ONLINE SEXUAL HARASSMENT

Gender-Based Online Sexual Harassment

Gender-based online sexual harassment includes acts that use information and communications technology in terrorizing and intimidating victims through:

a) Physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages;

b) Invasion of the victim's privacy through cyberstalking and incessant messaging;

c) Uploading and sharing without the consent of the victim any form of media that contains photos, voice, or video with sexual content;

d) Any unauthorized recording and sharing of any of the victim's photos, videos or any information online;

e) Impersonating identities of victims online or posting lies about victims to harm their reputation; or

f) Filing false abuse reports to online platforms to silence victims.

Implementing Bodies for Gender-Based Online Sexual Harassment

PNP Anti-Cybercrime Group (PNP ACG)

- Serves as the national operational support unit of the PNP primarily responsible for the implementation of Philippine laws on cybercrime
- Shall receive complaints of gender-based online sexual harassment, develop an online mechanism for reporting real-time gender-based online sexual harassment acts and apprehend perpetrators.

The Department of Justice (DOJ)

- shall lead in the development of protocols and standards of gathering evidence and case build-up.

The **Cybercrime Investigation and Coordinating Center (CICC) of the DICT** shall coordinate with the *PNP ACG, National Telecommunications Commission (NTC), National Privacy Commission (NPC) and other relevant agencies* to prepare appropriate and effective measures to monitor and penalize gender-based online sexual harassment, including:

a) The development of a monitoring and evaluation system, including a database for gender-based online sexual harassment, tools, and/or process to see whether the law is effectively being implemented.

b) The recommendation of policies, law, issuances, and measures for the effective implementation and enforcement of the provisions of gender-based online sexual harassment, based, among others, on the results of the monitoring and evaluation.

The CICC may, whenever necessary, submit a report on the above-enumerated measures to the Oversight Body.

All agencies involved in receiving complaints, case build-up, and implementation of penalties shall at all times ensure confidentiality, privacy, and security of the victim.

Procedure for Filing Cases of Gender-Based Online Sexual Harassment

The DOJ, PNP, and NBI shall develop procedures and protocols for receiving complaints and addressing gender-based online sexual harassment, including preliminary measures to immediately address reports of Gender-Based Online Sexual Harassment, within one hundred fifty (150) days from the effectivity of these rules.

Penalties for Gender-Based Online Sexual Harassment

The penalty of *prision correccional* in its medium period or **a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00), or both**, at the discretion of the court shall be imposed upon any person found guilty of any gender-based online sexual harassment.

If the perpetrator is a juridical person, its license or franchise shall be automatically deemed revoked, and the persons liable shall be the officers thereof, including the editor or reporter in the case of print media, and the station manager, editor and broadcaster in the case of broadcast

media.

An alien who commits gender-based online sexual harassment shall be subject to deportation proceedings after serving sentence and payment of fines.

Exemption to acts constitutive and penalized as gender-based online sexual harassment are authorized written orders of the court for any peace officer to use online records or any copy thereof as evidence in any civil, criminal investigation or trial of the crime: Provided, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses may produce, and upon showing that there are reasonable grounds to believe that gender-based online sexual harassment has been committed or is about to be committed, and that the evidence to be obtained is essential to the conviction of any person for, or to the solution or prevention of such crime.

Any record, photo or video or copy thereof of any person that is in violation of the preceding sections shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

Qualified Gender-Based Streets, Public Spaces and Online Sexual Harassment

The penalty next higher in degree will be applied in the following cases:

- a) If the act takes place in a common carrier or PUV including, but not limited to, jeepneys, taxis, tricycles, or app-based transport network vehicle services, where the perpetrator is the driver of the vehicle and the offended party is a passenger;
- b) If the offended party is a minor, a senior citizen, or a person with disability (PWD), or a breastfeeding mother nursing her child;
- c) If the offended party is diagnosed with a mental condition tending to impair consent;
- d) If the perpetrator is a member of the uniformed services, such as the PNP and the Armed Forces of the Philippines (AFP), and the act was perpetrated while the perpetrator was in uniform. For the purposes of these rules, persons who belong to reserve units of the AFP are considered to be members of the uniformed services only when they are undergoing active duty training or are mobilized upon order of the President;
- e) If the act takes place in the premises of a government agency offering frontline services to the public and the perpetrator is a government employee.

GENDER-BASED SEXUAL HARASSMENT IN THE WORKPLACE

Gender-Based Sexual Harassment in the Workplace

The crime of GBSH in the workplace includes the following:

- a) **An act or series of acts involving any unwelcome sexual advances, requests 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 other forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individual's employment or education, job performance or opportunities;

b) **A conduct of sexual nature and other conduct-based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the 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;

c) **A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.**

GBSH in the workplace may also be committed between peers, and by a subordinate to a superior officer.

Workplaces include all sites, locations, spaces, where work is being undertaken by an employee within or outside the premises of the usual place of business of the employer.

Duties of Employers

Employers or other persons of authority, influence or moral ascendancy in a workplace **shall have the duty to prevent, deter, or punish the performance of acts of GBSH in the workplace.** Towards this end, the employer or person of authority, influence or moral ascendancy shall:

a) Disseminate or post in a conspicuous place a copy of the law to all persons in the workplace. Dissemination of the law may be done through, among others:

- 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;
- 2) Posting a copy of the law and its rules online or in the official website of the workplace;
- 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.
- 4) Copies of the law and its rules should always be posted in workplace areas that are easily visible to employees, especially in areas where they usually congregate;

b) Provide measures to prevent GBSH 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;

c) Create an independent internal mechanism or a Committee on Decorum and Investigation (CODI) to investigate and address complaints of GBSH which shall carry out such functions as stated under Section 17(c) of the law and as further outlined in Sec. 33 of these rules;

d) Develop and disseminate, in consultation with all persons in the workplace, including employees or their representatives and union, if any, a code of conduct or workplace policy which shall:

- 1) Expressly reiterate the prohibition on GBSH;
- 2) Describe the procedures of the internal mechanism created under Section 17(c) of the law; and
- 3) Set administrative penalties.

In case of non-compliance in the public sector by the employer of their duties, an employee may file an administrative complaint with the **Civil Service Commission (CSC)**.

In case the employer is a presidential appointee, elective official or official of the AFP, an administrative complaint may be filed with appropriate offices with such jurisdictions, such as the **Office of the President or Office of the Ombudsman**.

Compliance of employers of the duties as provided herein shall form part of the enforcement function of the **Department of Labor and Employment (DOLE)**. Non-compliance with these duties shall also be reported to the DOLE. The latter shall conduct the inspection and require compliance in accordance with existing rules and regulations.

If the act was committed while the employee is in the workplace by a person other than those enumerated in Section 19 of these rules, the employer shall ensure that assistance is given to the employee, as mandated in the company's policies, and supervised by the CODI and/or Human Resources.

Support for Workers in the Informal Economy

Within sixty (60) days from the effectivity of these rules, the DOLE, in coordination with concerned agencies, shall develop guidelines on the provision of appropriate mechanisms and interventions, including redress mechanisms, for employees covered by R.A. No. 10361 or the Kasambahay Law, those employed in the informal economy and those employed in establishments where there are only ten or fewer employees.

Duties of Employees and Co-Workers

Employees and co-workers shall have the duty to:

- a) Refrain from committing acts of GBSH;
- b) Discourage the conduct of GBSH in the workplace;
- c) Provide emotional or social support to fellow employees, co-workers, colleagues or peers who are victims of GBSH; and
- d) Report acts of GBSH witnessed in the workplace. Reports may be made by any person to the employer or any agent of the employer. A report may be anonymous and, unless

made by the victim in her/his own name, shall not constitute a formal complaint. Any such report shall constitute sufficient notice to the employer who shall thereafter verify and refer the matter to the CODI. An employee may choose to report directly to the CODI, in which case the CODI guidelines and procedures shall be observed

The failure of the employer to act on reports may make the employer liable under Section 19 (b) of the law.

The failure of the CODI to act on reports shall be subject to the penalties in the Code of Conduct to be developed in accordance with Section 32 of these rules.

Liability of Employers

In addition to liabilities for committing acts of GBSH, employers may also be held responsible for:

- a) Non-implementation of their duties under Section 17 of the law, as provided in penal provisions;
- b) Not taking action on reported acts of GBSH committed in the workplace.

Any person who violates subsection (a) of this section, shall upon conviction, be penalized with a **fine of not less than Five thousand pesos (P5,000.00) nor more than Ten thousand pesos (P10,000.00).**

Any person who violates subsection (b) of this section, shall upon conviction, be penalized with a **fine of not less than Ten thousand pesos (P10,000.00) nor more than Fifteen thousand pesos (P15,000.00).**

Independent Action for Damages

Nothing shall preclude the victim of work-related GBSH from instituting a separate and independent action for damages and other affirmative relief.

Routine Inspection

The DOLE for the private sector and the CSC for the public sector shall conduct yearly spontaneous, random, and unannounced inspections to ensure compliance of employers and employees in accordance with their rules on inspection and their obligations under the law.

GENDER-BASED SEXUAL HARASSMENT IN EDUCATIONAL AND TRAINING INSTITUTIONS

Gender-Based Sexual Harassment in Educational and Training Institutions

A designated office or person (a designated officer-in-charge) should be present in all education and training institutions to receive complaints that will ensure that the victim will be provided a gender sensitive environment that is respectful and conducive to truth-telling

Towards this end, educational and training institutions shall:

- a) Assign an office or a person that must be readily accessible to receive complaints on GBSH.
 - The educational and training institutions shall ensure that received complaints are processed in a manner that is most efficient and convenient to the complainant.
 - The officer-in-charge shall also determine, upon receipt of the complaint, if the offended party needs immediate assistance, such as counseling, and/or medical services, and to the extent possible, be provided,
 - The complaints shall be forwarded to the CODI within forty-eight (48) hours from receipt therefrom.
- b) The office or the person assigned to receive complaints shall be knowledgeable about gender, gender-based violence such as sexual harassment, mental health, counselling, and other relevant knowledge and skills in handling the subject cases.
- c) Ensure confidentiality in the process of accepting the complaint.

Nevertheless, this provision, an offended party may directly file a complaint with the CODI.

1. Within one hundred fifty (150) days from the effectivity of these rules, every education and training institution must adopt and publish grievance procedures to facilitate the filing of complaints by students, staff and faculty members
 - Even if an individual does not want to file a complaint or does not request that the school take any action and the school authorities have knowledge or reasonably know about a possible or impending act of GBSH or sexual violence, the school should promptly investigate to determine the circumstances under which the act of GBSH or sexual violence were committed, and take appropriate steps to resolve the situation.
 - If a school knows or reasonably should know about acts of GBSH or sexual violence could have been committed that creates a hostile environment, the school must take immediate action to eliminate the same acts, prevent their recurrence, and address their effects.
 - Once a perpetrator is found guilty by the CODI, the educational institution may reserve the right to strip the diploma from the perpetrator or issue an expulsion order.

- The Commission on Higher Education (CHED), Department of Education (DepEd), Technical Education and Skills Development Authority (TESDA), and other agencies or offices with attached training institutions shall formulate the guidelines to effectively implement this penalty. Provided, that the perpetrator covered in this section refers to students who were currently enrolled in the school or training institution at the time of the commission of the crime complained of.
 - The CODI of educational and training institutions shall address GBSH and online sexual harassment in accordance with the rules and procedures contained in their CODI manual.
 - The confidentiality of the proceeding shall be protected. In spite of the prompt obligation of the school to investigate, it shall respect the privacy of the victim. In the event that the victim decides to go to court, educational and training institutions have to make the proper referral for legal assistance.
2. Support Parties Involved in GBSH-Related Court Proceedings. When a case is brought before the appropriate courts, educational and training institutions shall give due consideration to parties involved in court proceedings with respect to school or work requirements, such as excusing their absences from classes when they need to attend court hearings.

Who Can Commit Gender-Based Sexual Harassment in Educational and Training Institutions?

GBSH may be committed by:

- 1) principals
- 2) school heads
- 3) teachers
- 4) instructors
- 5) professors
- 6) coaches
- 7) trainers
- 8) any person who has authority, influence or moral ascendancy over another, students, and trainees.

What are the duties of School Heads and Heads of Training Institutions?

School heads and heads of training institutions shall have the following duties:

- a) Disseminate or post a copy of the law in a conspicuous place in the educational or training institution;

Dissemination of the law may be done through, among others:

1. Sending copies of the law and its Rules through
 2. Posting a copy of the law and its Rules online or in the official website of the educational or training institution;
 3. Conducting orientation on the law and providing copies in print or electronically, as well as preparing information materials
 - Copies of the law and its IRR should always be posted in areas of the educational or training institutions that are easily visible to students.
 - The law and its rules may be translated into a language easily understandable to the students/trainees.
- b) Provide measures to prevent GBSH in educational or training institutions such as:
 1. information campaigns
 2. express inclusion in the student handbook
 3. orientation of student organizations
 4. training of teaching and non-teaching staff students
 5. security officers
 6. other members of the school community

Heads of educational and training institutions shall ensure that all students will receive age-appropriate training on gender sensitivity and gender-based violence, including sexual harassment and other gender and development (GAD) related topics as may be relevant.

- c) Create an independent internal mechanism or a CODI to investigate and address complaints of GBSH.
- d) Provide and disseminate, in consultation with all persons in the educational or training institution, a code of conduct or school policy which shall:
 - 1) Expressly reiterate the prohibition on GBSH;
 - 2) Prescribe the procedures of the internal mechanism created under the law; and
 - 3) Set administrative penalties;
- e) Designate an office or person to receive complaints of sexual harassment.

Liability of School Heads and Heads of Training Institutions

School heads and other members of the community may also be held responsible by:

- a) Non-implementation of their duties under Section 22 of the law
- b) Failure to act on reported acts of GBSH committed in the educational institution.

Any person who violates subsection (a) and subsection (b) of the section 28 of the RA 11313, shall upon conviction, be penalized with a fine.

Liability of the Students

Minor students who are found to have committed acts of GBSH shall only be held liable for administrative sanctions by the school as stated in their school handbook.

Independent Action for Damages

Nothing shall prevent the victim of education or training-related GBSH from instituting a separate and independent action for damages and other affirmative relief.

Routine Inspection

DepEd, CHED, and TESDA shall conduct regular spontaneous inspections to ensure compliance of school heads with their obligations under the law.

CODE OF CONDUCT AND THE COMMITTEE ON DECORUM AND INVESTIGATION

Development of Code of Conduct

Within one hundred fifty (150) days from the effectivity of these rules, employers and heads of educational and training institutions shall develop a Code of Conduct, in consultation with workers or the union, if any, in workplaces, and with the student council in the case of schools and training institutions, that will:

- a) Define GBSH, its coverage, forms, classifications, appropriate penalties; when and where it may be committed and by whom. The Code of Conduct may include a prohibition against sexual harassment by:
 - 1) Employers or employees to customers or clients of the establishment or agency;
 - 2) Employers or employees in a company, office, or agency acting as a Partner On-The-Job-Training Institution to student interns, if the Code of Conduct covers the workplace;
 - 3) Student interns to employers, employees, or workers in a company, office or agency that is acting as a Partner On-The-Job-Training Institution, if the Code of Conduct covers the educational or training institution;

- b) Specify the procedures in the filing of cases, investigation, and resolution and appeal. Rules and procedures in case of a request for inhibition of any of the members of the CODI either from the parties or a member of the CODI shall also be developed;
- c) Specify the functions, responsibilities, composition, and qualifications of the members of the CODI, including the penalties to be imposed on members of the CODI in cases of nonperformance or inadequate performance of functions. All members of the CODI shall undergo continuing training on gender sensitivity, gender-based violence, sexual orientation, gender identity and expression, and other gender and development (GAD) topics as needed.

To the extent possible, employers may also include the provision of support especially for victims of GBSH such as psychological or psychosocial counseling services, or referral to such services, and assistance in the filing of administrative, civil, and/or criminal case/s.

Committee on Decorum and Investigation (CODI)

Within one hundred fifty (150) days from the effectivity of these rules, employers and heads of educational and training institutions shall constitute a Committee on Decorum and Investigation (CODI) that shall serve as an independent internal grievance mechanism that will act as the main body in the investigation and resolution of cases involving GBSH in the workplace and in educational and training institutions.

- a) For workplaces, the CODI 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 employees association, if any. The representatives of the workers shall be selected among them and by vote. The employer may include other groups in the CODI as may be applicable. The employer 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.
- b) For educational and training institutions, the CODI shall be composed of at least one (1) representative each from the school administration, the trainers, instructors, professors or coaches and students or trainees, students and parents, as the case may be. The school or training institution head may include other groups in the CODI as may be applicable.

It shall be ensured that there is equal representation of persons of diverse sexual orientation, gender identity and/or expression, as far as practicable. Aside from the regular members of the CODI, the school head or the head of training institution must designate their respective permanent alternate who shall act on their behalf in case of absence of the regular member and must have the authority to render decision so as not to delay the proceedings being undertaken and to ensure continuity of deliberation.

- c) Every CODI shall be headed by a woman and not less than half of its members shall be women.
- d) Every CODI shall be composed of members who should be impartial and not connected or related to the alleged perpetrator within the fourth degree of consanguinity or affinity and have no prior record of involvement as a respondent, defendant or accused in any case of whatever nature on Sexual Harassment. In case of relation by consanguinity or affinity to either the complainant or respondent, the CODI member shall not participate in any part of the proceeding, or be substituted.

- The complainant or the respondent 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.
 - The CODI shall, at all times, observe due process and, investigate and decide on written complaints within ten (10) working days (not including the period of appeal) or less upon receipt.
 - The CODI, shall 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. An appeal process will be ensured.
- e) 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.

All workplaces, educational and training institutions that have existing Code of Conduct or Policy on Sexual Harassment, including a CODI established under Republic Act No. 7877 shall make necessary changes to conform with the Republic Act. No. 111313

Notwithstanding the duty of every employer to develop CODI guidelines, it may consider as part thereof the guidelines, policies or pertinent issuances on sexual harassment developed by the DOLE for the effective implementation of the law in the private sector. The public sector shall comply with the standards set by the CSC.

School heads or heads of training institutions covered by CHED, DepED, and TESDA shall comply with the standards set by them, accordingly.

Nothing in these rules prevents the victim from seeking redress in the appropriate courts of justice.

OVERSIGHT MECHANISM

Oversight Mechanism

An oversight body composed of agencies mandated to implement the law and its rules is hereby created to ensure the effective implementation of the law. **The Philippine Commission on Women (PCW), the Department of the Interior and Local Government (DILG) and the Department of Information and Communications Technology (DICT)** shall be co-chairs with the following as members:

- a) Civil Service Commission;
- b) Commission on Human Rights;
- c) Department of Justice (DOJ);
- d) Department of Education (DepEd);

- e) Department of Labor and Employment (DOLE);
- f) Department of Social Welfare and Development (DSWD) ;
- g) Department of Health (DOH);
- h) Commission on Higher Education (CHED);
- i) Technical Education and Skills Development Authority (TESDA);
- j) Land Transportation Office (LTO);
- k) Metro Manila Development Authority (MMDA);
- l) Land Transportation Franchising and Regulatory Board (LTFRB);
- m) Philippine National Police (PNP);
- n) National Bureau of Investigation (NBI);
- o) Cybercrime Investigation and Coordinating Center (CICC); and
- p) Three (3) Civil Service Organizations (CSOs) active on issues of gender-based violence

The oversight shall have the following functions:

- 1) Harmonize the initiatives in implementing the law and ensure that there are no overlaps in activities;
- 2) Ensure and facilitate coordination and collaboration among agencies involved;
- 3) Develop a monitoring and evaluation system including a database for all the forms of GBSH in the law, tools, and/or process to see whether the law is effectively being implemented;
- 4) Recommend policies, guidelines, or measures to ensure effective implementation of the law;
- 5) Develop and recommend strategies for the prevention of GBSH;
- 6) Formulate a comprehensive and integrated program to prevent and suppress GBSH;
- 7) Include other agencies and CSOs/NGOs to the oversight body as may be necessary;
- 8) Meet at least twice a year, or as often as may be necessary; and
- 9) Perform such other functions necessary to attain the purposes and objectives of the law.

COMMON PROVISIONS

Confidentiality

At any stage of the investigation, prosecution, and trial of an offense under R.A. No. 11313, the rights of the victim and the accused who is a minor shall be recognized. In all cases of GBSH as enumerated in the law, the confidentiality of records on the victim, and when the accused is a minor will be protected.

Restraining Order

Where appropriate, the court, even before rendering a final decision, may issue an order directing the perpetrator to stay away from the offended person at a distance specified by the court or to stay away from the residence, school, place of employment, or any specified place frequented by the offended person.

Remedies and Psychological Counseling

- A victim of gender-based street, public spaces or online sexual harassment may avail of appropriate remedies as well as psychological counseling services with the aid of the LGU and the DSWD, in coordination with the DOH and the PCW. Any fees to be charged in the course of a victim's availment of such remedies or psychological counseling services and other services in consonance with R.A. No. 11036 shall be shouldered by the perpetrator.
- LGUs and concerned agencies may partner with private entities in the provision of psychological counseling services and other related processes. In all instances, any fees that may be charged or incurred in the course of the counseling shall be shouldered by the perpetrator.
- Psychological counselling and other remedies referred to in this Section may also be provided to victims of workplace and school-based sexual harassment.

Administrative Sanctions

The imposition of penalties is without prejudice to any administrative sanctions that may be imposed if the perpetrator is a government employee.

Imposition of Heavier Penalties

LGUs may come up with ordinances that impose heavier penalties for the acts specified herein.

Exemptions

Acts that are expressions or norms of indigenous culture and tradition, as well as breastfeeding in public shall not be penalized.

Expressions of indigenous culture and tradition include the wearing of traditional attires of tribes

or clans that may show partial nudity. Provided that, such expressions of indigenous culture and tradition do not discriminate against women, girls, and persons of diverse sexual orientation, gender identity, and expression.

FINAL PROVISIONS

PNP Women, and Children Protection Centers/Desks

The women and children's desks and the Women and Children Protection Center shall:

1. Act on and attend to all complaints covered under the law
2. Coordinate with:
 - ASHE officers on the street
 - security guards in privately-owned spaces open to the public
 - anti-sexual harassment officers in government and private offices or schools

Educational Modules

All schools shall:

1. educate students from the elementary to tertiary level about the provisions of the law
2. educate students how they can report cases against all forms of GBSH
3. include age-appropriate, inclusive and culturally-sensitive educational modules against all forms of GBS which shall be developed by DepEd, CHED, TESDA, and PCW

Awareness Campaigns

Role of agencies in disseminating information on the law:

1. PCW shall take the lead in a national campaign for the awareness of the law;
2. DILG and PCW, together with duly accredited women's groups shall coordinate to ensure participation of all LGUs in a sustained information campaign.
3. DICT shall ensure the development of an online campaign that reaches a wide audience of Filipino internet users.

Information, education, and communication (IEC) materials for such awareness campaigns may include all forms of media condemning different forms of GBSH informing the public of penalties for committing GBSH, infographics of hotline numbers of authorities and in addition, these agencies shall ensure that all forms of GBSH covered by the law will be included in the communication plans and awareness campaigns.

Safety Audits

LGUs are required to conduct safety audits on their responsibilities with every three (3) years to assess the efficiency and effectivity of the implementation of the law within their jurisdiction. Such audits shall be made with consultations with schools, police officers, and civil society organizations.

Appropriations

Such amounts as may be necessary for the implementation of the Safe Spaces Act shall be indicated under the annual General Appropriations Act (GAA). National and local government agencies shall be authorized to utilize their mandatory gender and development (GAD) budget. In addition, LGUs may also use their mandatory twenty percent (20%) allocation of their annual internal revenue allotments for local development projects.

Prescriptive Period

Any action arising from the violation of any of the provisions of the Safe Spaces Act shall prescribe as follows:

- a) Offenses committed under Section 11(a) of the law shall prescribe in one (1) year;
- b) Offenses committed under Section 11(b) of the law shall prescribe in three (3) years;
- c) Offenses committed under Section 11(c) of the law shall prescribe in ten (10) years;
- d) Offenses committed under Section 12 of the law shall be imprescriptible; and
- e) Offenses committed under Sections 16 and 21 of the law shall prescribe in five (5) years.

Separability Clause

If any provision or rule is held invalid or unconstitutional, the remaining provisions not affected shall remain in full force and effect.

Repealing Clause

All administrative orders, rules, regulations, memoranda, circulars, local ordinances, resolutions, and other issuances or orders contrary to the provisions of the Safe Spaces Act or inconsistent herewith are hereby repealed, modified, or amended accordingly.

Effectivity

These Implementing Rules and Regulations shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.



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