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			REVISION NO. 0
	SUB TOPIC BJMP RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7877 OR THE ANTI-SEXUAL HARASSMENT ACT OF 1995 AND REPUBLIC ACT NO. 11313 OR THE "SAFE SPACES ACT"		EFFECTIVE DATE 10 DEC 2021
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1.0 REFERENCES


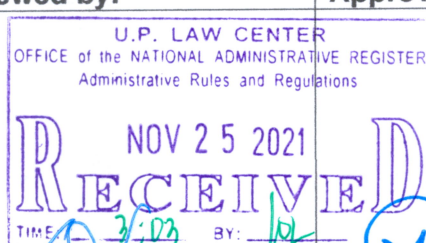
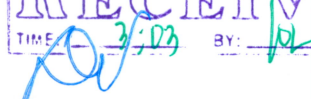


- a. Republic Act No. 7877 or the "Anti-Sexual Harassment Act of 1995";
- b. Republic Act No. 11313 or the "Safe Spaces Act";
- c. Implementing Rules and Regulations of RA 11313;
- d. Civil Service Commission Memorandum Circular No. 11 S. 2021, Revised Administrative Disciplinary Rules on Sexual Harassment Cases;
- e. Civil Service Resolution No. 01-0490 dated May 21, 2001;
- f. 2017 Rules on Administrative Cases in the Civil Service; and
- g. 2017 Comprehensive BJMP Administrative Disciplinary Machinery, as amended.


2.0 RATIONALE

Section 11, Article II of the 1987 Constitution provides that the State shall value the dignity of every person and guarantees full respect for human rights. An affirmation to such policy of the State, Congress enacted Republic Act No. 7877 or the "Anti-Sexual Harassment Act of 1995" primarily to curb the prevalent sexual harassment committed against women in workplaces and training grounds. The increasing incidents of sexual harassment degrades the integrity of the employment institution itself, which defeats the very right of employees to a safe work environment. Thus, employers of all sectors are mandated to create a committee that shall specifically handle sexual harassment cases in the workplace and criminal liability will attach to those who fail to implement the provisions of the law.

In response to this calling, the Civil Service Commission, being the central personnel agency of the government whose mandate is to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service, issued guidelines directing all agencies and instrumentalities of the government to devise their own mechanism that is substantially and procedurally consistent with the provisions of CSC Resolution No. 01-0490 dated May 21, 2001.

While in the criminal prosecution of sexual harassment, the elements of ascendancy and superiority over the victim by the accused must be present to establish the latter's guilt, the same is unnecessary in the prosecution of an administrative offense of sexual harassment. The Civil Service Commission was categorical that such elements are not essential to warrant the conviction of erring government official complained of sexual harassment.

Prepared by:	Reviewed by:	Approved by:
 JESSELA L. TARIMAN Jail Senior Inspector OIC, Morale and Welfare Division, DPRM Secretariat, CODI – NHQ	<div style="text-align: center;">  </div>  DENNIS U. ROCAMORA, CESE Jail Chief Superintendent Deputy Chief for Operations of the Jail Bureau / QMR	 ALLAN S. IRAL, CESE Jail Director Chief, BJMP
 JSSUPT FLORENT SANCHEZ Jail Senior Superintendent Deputy Director, Directorate for Welfare and Development / Chairperson, CODI – NHQ		

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The adoption of rules and regulations by the BJMP to implement the provisions of RA 7877 pursuant to the directive of the CSC is in furtherance of the government's advocacy to eliminate sexual harassment in the workplace and training facilities. Relatively, victims of the prohibited acts are to be accorded the appropriate assistance and protection they are entitled pursuant to law viz-a-viz the opportunity to be heard or extending due process to persons complained of sexual harassment.

Timely is the enactment of Republic Act No. 11313 or the "Safe Spaces Act" providing gender-based acts as another form of sexual harassment and perpetrators thereof are to be held administratively and/or criminally liable. With the issuance by the CSC of Memorandum Circular No. 11, s. 2021, it is imperative to update the rules and regulations of the Jail Bureau on sexual harassment to include offensive acts considered as gender-based sexual harassment.

3.0 OBJECTIVES

This implementing rules and regulations aims to:

- a. Comply with the substantial and procedural requirements of the Civil Service Commission in the administrative investigation, prosecution and adjudication of sexual and gender-based sexual harassment cases;
- b. Provide a standard procedure that will govern the disposition of sexual and gender-based sexual harassment cases in the BJMP;
- c. Accord the victims of sexual harassment the appropriate assistance within the available resources and proper legal relief sanctioned by the rules in administrative cases in the civil service.;
- d. Extend administrative due process to personnel complained of sexual and gender-based sexual harassment to ensure opportunity for them to be heard of their defense; and
- e. Observe the highest standard of confidentiality of the complainant, person complained of and the proceedings of the body in the disposition of sexual and gender-based sexual harassment cases.


4.0 SCOPE

Section 1. Scope.-This Memorandum Circular shall apply to all uniformed and non-uniformed personnel regardless of status of appointment in the Bureau of Jail Management and Penology. Same rules shall apply to all BJMP personnel on detail and secondment status covered by an order signed by an appropriate authority.

5.0 DEFINITION OF TERMS

Section 2.

- a. **Catcalling** refers to unwanted remarks directed towards a person, commonly done in the form of wolf-whistling and misogynistic, transphobic, homophobic, and sexist slurs;

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- b. **Gender** refers to 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;
- c. **Homophobic remarks or slurs** are any statements in whatever form or delivered, which are indicative of fear, hatred or aversion towards persons who are perceived to be or actually identified 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;
- d. **Misogynistic remarks or slurs** are 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;
- e. **Public spaces** refer to streets and alleys, public parks, schools, buildings, malls, bars, restaurants, transportation terminals, public markets, spaces used as evacuation centers, government offices, public utility vehicles, as well as private vehicles covered by app-based transport network services and other recreational spaces such as, but not limited to, cinema halls, theaters and spas;
- f. **Sexist remarks or slurs** are statements in whatever form or however delivered, that are indicative of prejudice, stereotyping, or discrimination on the basis of sex, typically against women;

Section 3. Sexual Harassment. - The administrative offense of sexual harassment is an act, or series of acts, involving any unwelcomed sexual advance, request or demand or as sexual favor regardless of whether the request or demand was accepted, or other verbal or physical behavior of sexual nature committed by uniformed and non-uniformed personnel of the BJMP in a work-related or training-related environment of the person complained of or via online through the use of information and communication technology and gender-based sexual harassment in streets and public spaces.

I. Sexual harassment in the workplace includes the following:

- i. An act or series of act involving any unwelcome sexual advances, request or demand for sexual favors or any act of sexual nature, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individual's employment or education, job performance or opportunities.
- ii. A conduct of sexual nature affecting the dignity of a person, which is unwelcome, unreasonable and offensive to the recipient,

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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.

- iii. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.
 - iv. Sexual harassment in the workplace may also be committed by a government employee or official in a work-related, training or education-related environment of the person complained of, against any person regardless of the motive for committing such action or remarks, between peers, and by a subordinate to a superior office.
- II. **Sexual harassment in streets and public spaces** is committed through any unwanted and uninvited sexual actions or remarks against any person regardless of the motive for committing such action or remarks.


Sexual harassment in streets and public spaces includes catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic and sexist slurs, persistent uninvited comments or gestures on a person's appearances, relentless request for personal details, statement of sexual comments and suggestions, public masturbation or flashing of private parts, groping, or any advances, whether verbal or physical, that is unwanted and has threatened one's sense of personal space and physical safety, and committed in public spaces as alleys, roads, sidewalks and parks. Acts constitutive of sexual harassment in streets and public spaces are those performed in buildings, schools, churches, restaurants, malls, public washrooms, bars, internet shops, public markets, transportation terminals, or public utility vehicles.

III. **Online sexual harassment** refers to:

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

Gender-based online sexual harassment includes acts that use information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages, invasion of victim's privacy through

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cyberstalking and incessant messaging, uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content, any unauthorized recording and sharing of any of the victim's photos, videos, or any information online, impersonating identities of victims online or posting lies about the victims to harm their reputation, or filing false abuse reports to online platforms to silence victims.

IV. **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 training is directly or constructively entrusted to or is provided by the offender, when:

- i. 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 any benefit, privilege or consideration;
- ii. the act or series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive training environment of the complainant; or
- iii. the act or series of acts will reasonably be expected to cause discrimination, insecurity, discomfort, offense or humiliation to a complainant who may be a trainee, or ward of the person complained of.

Section 4. Place or Manner of Occurrence. - Sexual harassment may take place:

- i. in the premises of the workplace, office, or of the training institution;
 - ii. in any place where the parties may be found as a result of work or training responsibilities or relations;
 - iii. at work or training-related social functions;
 - iv. while on official business outside the office, training institution, or during work or training-related travel;
 - v. at official conferences, fora, symposia or training sessions; or
 - vi. by telephone, cellular phone, computer, laptop, tablet or similar device or gadget, fax machine or electronic mail.
- i. **Stalking** refers to conduct directed at a person involving the repeated visual or physical proximity, non-consensual communication, or a combination thereof

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that cause, will cause or likely to cause a person to fear for one's own safety or the safety of others or to suffer emotional stress.

- j. **Transphobic remarks or slurs** are any 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;

6.0 PROCEDURES/DETAILS/GUIDELINES

6.1 FORMS OF COMMISSION OF SEXUAL HARASSMENT


Section 5. Forms. - The following are forms of sexual harassment:

- i. Gender-Based Streets and Public Spaces Sexual Harassment is committed through any unwanted and uninvited sexual actions or remarks against any person regardless of the motive.
- ii. Gender-Based Online Sexual Harassment includes acts that use information and communications technology in terrorizing and intimidating victims.
- iii. Physical such as malicious touching, overt sexual advances and gestures with lewd insinuation.
- iv. Verbal such as but not limited to requests or demands for sexual favors and lurid remarks.
- v. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
- vi. Other forms analogous to the foregoing.

6.2 PERSONS LIABLE FOR SEXUAL HARASSMENT

Section 6. Persons Liable. – personnel of the BJMP, regardless of sex, is liable for sexual harassment when he/she:

- i. directly participates in the execution of any act of sexual harassment as defined by these Rules;
- ii. induces or directs another or others to commit sexual harassment as defined by these Rules;
- iii. cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished; and

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- iv. cooperates in the commission of sexual harassment by another through previous or simultaneous acts.


6.3 COMMITTEE ON DECORUM AND INVESTIGATION

Section 7. Committee on Decorum and Investigation. - A Committee on Decorum and Investigation (CODI) shall be created in the National Headquarters (NHQ) and in all Regional Offices which shall serve as an independent mechanism to receive and investigate complaints of sexual harassment. CODI in the National Headquarters and Regional Offices shall perform the same functions. It shall conduct investigation, and submit a report of its recommendation directly to the disciplining authority having jurisdiction over the person complained of.

- i. The primary functions of the CODI are as follows:
 - a) Receives complaints of sexual harassment;
 - b) Investigates sexual harassment complaints in accordance with the prescribed procedures;
 - c) Submits a report of its findings with the corresponding recommendations to the disciplining authority for decisions; and
 - d) Leads in the conduct of discussions about sexual harassment within the Bureau to increase understanding and prevent incidents of sexual harassment.

- ii. Other functions:
 - a) Ensures protection of the complainant from retaliation without causing him/her disadvantage, diminution of benefits or displacement, and without compromising his/her security of tenure;
 - b) Accords the person complained of the right to be heard and accord him/her due process until termination of the case; and
 - c) Guarantees a gender sensitive handling of cases and ensures confidentiality of the identity of the parties and the proceedings.

Provided, when the complainant or the person complained of is a member of the CODI, reconstitution of the membership shall be necessary to replace the member involved in the sexual harassment case. Provided further, that the complainant or the person complained of may request a member of the CODI to inhibit, or the CODI member may inhibit based on conflict of interest, manifest partiality and other reasonable grounds. Once the request to inhibit is granted, the members shall be immediately replaced so as not to cause delay in the proceedings.

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Section 8. CODI Composition. - The CODI in the NHQ and in the Regional Offices shall have the following composition:

CODI in the National Headquarters:

Ranking Female Senior Officer	- Chairperson
Two (2) Senior Officers (JCINSP to SSUPT)	- Members
Two (2) Junior Officers (JINSP to JSINSP)	- Members
President, Civilian Employees Association (CEA)	- Member
GAD TWG Chairperson	- Member
Morale and Welfare Division, DPRM	- Secretariat

CODI in the Regional Office:

Ranking Female Jail Officer Rank	- Chairperson
One (1) Senior Officer (JCINSP to JSUPT)	- Member
One (1) Junior Officer (JINSP to JSINSP)	- Member
Jail Non-Officer Rank	- Member
GAD Regional Representative	- Member
Regional Hearing Office	- Secretariat


Provided that in the afore-cited composition of the CODI, the designating authority shall ensure that more than half of its members are women.

If in case the complainant or the person complained of is a Jail Non-Officer Rank (JNOR) or a Non-Uniformed Personnel (NUP), the NESJO/RESJO or the President, CEA or NUP assigned in regions, if available, shall serve as ex-officio members of CODI in NHQ and Regional Office, during their tenure as incumbent of such positions while all others shall serve for a term of two (2) years except for reasons of death, physical incapacity, retirement, reassignment, dismissal or separation from the service.

Section 9. Designating Authority. - The Chief, BJMP and the Regional Director of the Jail Bureau shall designate the members of the CODI in the NHQ and in the Regional Offices, respectively. No members shall be replaced during incumbency except by reason of death, physical incapacity, retirement, reassignment or separation from the service.

The designating authority, with the assistance of the CODI, shall have the duty to prevent and deter the occurrence of sexual harassment cases and ensure that necessary action be taken on the complaint filed with the CODI. For such purpose, it shall be necessary for them to:

- i. Disseminate or post copies of these rules and guidelines in conspicuous places in the workplace for information of their members.

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- ii. Conduct orientations on laws, rules and regulations pertaining to sexual harassment in the workplace and prepare information materials such as primers, frequently asked questions and the like.
- iii. Provide measures to prevent sexual harassment in the workplace such as conduct of anti-sexual harassment seminars and the like.


6.4 DISCIPLINING AUTHORITIES AND JURISDICTIONS

a. *Jurisdictions.* - The following are disciplining authorities for sexual harassment cases with their corresponding jurisdictions:

- i. President of the Philippines - shall exercise original jurisdiction on complaints of sexual harassment against uniformed personnel holding the rank of Jail Chief Superintendent and above;
- ii. Secretary, Department of the Interior and Local Government (DILG) - shall exercise original jurisdiction on complaints of sexual harassment against uniformed personnel holding the rank of Jail Senior Superintendent;
- iii. Chief, BJMP - shall exercise original jurisdiction on complaints of sexual harassment cases against personnel with the rank of Jail Superintendent to Jail Inspector. Same jurisdiction shall be exercised on complaints of sexual harassment against Jail Non-Officer Ranks in the NHQ and NJMPTI, those undergoing schooling or training in other institutions, those on detail service to former Chiefs, BJMP and other government officers or agencies and Non-Uniformed Personnel to include those under secondment status; and
- iv. Regional Director of the Jail Bureau - shall exercise original jurisdiction on complaints of sexual harassment against Jail Non-Officer Ranks assigned in the regions under his/her supervision.

6.5 PRE-FILING STAGE REQUIREMENT

Section 10. Pre-filing stage. - An alleged victim of sexual harassment shall be referred by the Chief, BJMP or the Regional Director of the Jail Bureau to the Mental Health and Behavioral Science Division of the Directorate for Health Service in the NHQ or to the Regional Health Service Division, as the case may be, for psychosocial support and intervention which may include counselling, therapy sessions, or referral to other agencies for professional help.

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6.6 PROSECUTION OF SEXUAL HARRASSMENT

Section 11. Bureau Prosecutors. – The National Bureau Prosecutor or the Regional Bureau Prosecutor shall prosecute all cases of sexual harassment filed and received by the CODI in the NHQ or CODI in the Regional Offices, respectively. Private prosecutors or the counsel for the complainant may be allowed by the CODI to intervene during formal investigation under the direction and control of the concerned Bureau Prosecutor.

The CODI may commission the Directorate for Investigation and Prosecution (DIP) or Regional Investigation and Prosecution Division (RIPD) to conduct preliminary investigation on the complaint for the purpose of determining whether or not prima facie case exist to warrant the filing of a formal charge. The DIP or the RIPD shall submit report of its findings to the CODI and the latter shall make its recommendation to the disciplining authority.

6.7 STANDARD RULES OF PROCEDURE


The rules provided hereunder are the standard procedural actions on a sexual harassment case.

Section 12. Complaint.

- a. Complaint for sexual harassment received by offices shall be referred to CODI for its for appropriate action.
- b. The complaint must be in writing, signed and sworn to by the complainant. It shall contain the following:
 - i. The rank, name and address of the complainant;
 - ii. The rank, name, address and position or designation of the respondent;
 - iii. A brief narration of the material and relevant facts;
 - iv. Evidence in support of the complaint, if any; and
 - v. A certification or statement of non-forum shopping.

Where the complaint is not under oath, the complainant shall be summoned by the CODI to comply within ten (10) days upon receipt of the notice to swear to the truth of the allegations.

In the absence of any of the aforementioned requirements, the complaint shall be dismissed without prejudice to its re-filing.

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Anonymous complaints shall not be entertained unless the act subject of the complaint is of public knowledge or the allegations can be verified or supported by documentary or direct evidence.


- c. On complaints sent through mail, electronic mail or similar means of communication, the receiving unit shall forward the same to the disciplining authority who shall direct the CODI to act on the complaint provided that the original copy thereof be received not more than five (5) days reckoned from the day the electronic copy was received.
- d. Withdrawal of the complaint at any stage of the proceedings shall not preclude the CODI from proceeding with the investigation and make a report on its findings and recommendation to the disciplining authority when the evidence so warrants.

Section 13. Action on the Complaint. - Upon receipt of the complaint, the CODI shall either:

- a. dismiss the complaint without prejudice for non-compliance with the requirements; or
- b. proceed with the investigation if the complaint is sufficient in form and substance.

Section 14. Preliminary Investigation. - The CODI, upon proper delegation to the DIP or RIPD, shall conduct preliminary investigation on the complaint and undertake the following:

- a. Upon receipt of the complaint, the DIP or RIPD shall examine whether or not the said complaint is sufficient in form and substance, direct the person complained of to submit his/her counter-affidavit under oath attached the evidence in his/her defense within three (3) days upon receipt of the notice, furnishing a copy thereof to the complainant.
- b. Upon receipt of the counter-affidavit or comment under oath, the DIP or RIPD shall conduct an ex parte investigation of the documents submitted by the parties and other available records of the case which shall terminate within five (5) days and shall immediately submit report containing the findings and recommendation, together with the entire records, to the CODI whether or not prima facie case exist to warrant the filing of a formal charge.

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- c. The CODI shall submit, within five (5) days from termination of preliminary investigation, to the disciplining authority subject to his approval, the preliminary investigation report of its findings and recommendation, together with the entire records, on the basis of the resolution of the Bureau Prosecutor whether or not prima facie case exist to warrant the issuance of a formal charge or if otherwise, the dismissal of the complaint. The proceedings of the preliminary investigation shall be held under strict confidentiality.

Section 15. Issuance of Formal Charge. - If prima facie case for sexual harassment exists, the disciplining authority shall issue a formal charge against the respondent within three (3) days. In its absence, the complaint shall be dismissed within the same period.

Section 16. Formal Charge. - The disciplining authority shall formally charge the person complained of, specifying the material or relevant facts constituting the offense and all evidence directing the respondent to file his/her answer in writing and under oath within seventy-two (72) hours upon receipt thereof and an advice if he/she elects a formal investigation. The complaint shall state that he/she is entitled to be assisted by a counsel.


Section 17. Prohibited Pleadings. - The following pleadings or motions shall not be entertained by the CODI:

- a. bill of particulars;
- b. motion to extend the period to file answer;
- c. motion to dismiss; and
- d. other clarificatory motions.

Section 18. Answer. - The respondent shall file within the prescribed period his/her answer in writing and under oath narrating the material and relevant facts and evidence in support of his/her defense. It shall state whether or not he/she elects formal investigation or he/she submits the case for resolution by the CODI.

Section 19. Failure to File an Answer. - If the respondent fails or refuses to file his/her answer to the formal charge, he/she shall be considered to have waived his/her right thereto and the CODI shall continue with the investigation based on the evidence available and other documents adduced by the bureau prosecutor.

Section 20. Preventive Suspension. - Upon motion or *moto proprio*, after the service of the Formal Charge to the respondent, the proper disciplining authority may order the preventive suspension of the respondent not exceeding ninety (90) days to temporarily remove him/her

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in the position to exert undue influence or pressure on the witnesses and/or tamper with the evidence. Thereafter, he/she shall be automatically reinstated unless otherwise provided for by special law.

In lieu of the preventive suspension, the proper disciplining authority may reassign or transfer the respondent to other units within the agency during the pendency of the formal investigation.

Section 21. Remedies for the Order of Preventive Suspension. – The respondent may appeal the order of preventive suspension before the Civil Service Commission. Pending resolution of the appeal, the order of preventive suspension shall be executory.

Section 22. Conduct of Formal Investigation. In any case that the respondent does not request a formal investigation, one shall be conducted by the CODI having jurisdiction over the respondent if it deems such investigation is necessary to decide the case judiciously.


Said investigation shall terminate within thirty (30) days from the issuance of the formal charge or the receipt of the answer unless the period is extended by the disciplining authority in meritorious cases.

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

- 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 that may aid in the prompt and just resolution of the case.

The parties may submit the case for resolution based on the result of the pre-hearing conference without any need of further hearing. They shall be required to submit their position papers/memoranda within five (5) days thereafter.

Section 24. Continuous Hearing Until Terminated; Postponement. – Hearings shall be conducted on the hearing dates set by the CODI or as agreed upon during a pre-hearing conference. No motions for postponement of scheduled hearing will be given due course and shall automatically be denied by the Committee.

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If parties fail to appear during the scheduled hearings despite due notice, the formal investigation shall proceed ex-parte and the party deemed to have waived the right to be present and submit evidence in his/her favor.

Section 25. Preliminary Matters. At the start of the hearing the CODI shall note the appearances of the parties and shall proceed with the reception of evidence for the complainant.

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

Before taking the testimony of a witness, the CODI shall place him/her under oath and take his/her name, address, civil status, age and place of employment.

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

Complaints of sexual harassment against any BJMP personnel shall be prosecuted by the Bureau Prosecutor. As such, the intervention of private counsel representing the complainant shall be with the permission of the CODI and under the strict direction and control of the Bureau Prosecutor.

Section 27. Order of Hearings. – Unless the CODI directs otherwise, the order of hearing shall be as follows:


- a. the complainant or the Bureau Prosecutor shall present evidence in support of the charge;
- b. the respondent shall then offer evidence in support of his/her defense;
- c. the complainant or Bureau Prosecutor 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; and
- d. re-cross examination by the opponent;

A sworn statement of a witness properly identified and affirmed by the witness before the CODI shall constitute his/her direct testimony.

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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. Thereafter, both parties may be given time to submit their respective memoranda, which in no case shall be beyond five (5) days after the termination of the investigation. 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 Chairperson, CODI.

The CODI shall accept evidence deemed material and relevant to the case. In case of doubt, the CODI shall allow the admission of evidence subject to the objection interposed against its admission.

Section 29. Markings. – Documentary evidence or exhibit 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 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/she 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. – CODI may issue subpoena *ad testificandum* to compel the attendance of witnesses and subpoena *duces tecum* for the production of documents or objects.

Section 32. Effect of Pendency of an Administrative Case. – The pendency of any administrative case shall not disqualify the respondent from promotion or from claiming maternity/paternity benefits. For this purpose, an administrative case shall be construed as pending when the disciplining authority has issued a formal charge and until a final and executory decision has been issued.

Section 33. Formal Investigation Report. - Within fifteen (15) days after the conclusion of the formal investigation, a report containing a narration of the material facts established during the investigation, the findings and the evidence supporting said findings, as well as the recommendations, shall be submitted by the CODI to the disciplining authority together with the complete records of the case.

Section 34. When Case is Decided. – The disciplining authority shall render his/her decision on the case within thirty (30) days from receipt of the report of the CODI.

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Section 35. Motion for Reconsideration. - The motion for reconsideration on the decision of the disciplining authority to be filed within fifteen (15) days from receipt of the decision by the respondent shall only be on any of the following grounds:

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


Section 36. Finality of Decisions. – Decision rendered by the disciplining authority imposing the penalty of suspension for not more than thirty (30) days or a fine in an amount not exceeding thirty (30) days salary shall not be appealable. It shall be final and executory. However, the respondent may file an appeal thereon when the issue raised is a violation of due process.

If the penalty imposed is suspension exceeding thirty (30) days, or fine in an amount exceeding thirty (30) days salary, the decision shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or appeal and no such pleading has been filed.

Section 37. Perfection of an Appeal. - To perfect an appeal, the appellant shall submit to the appellate authority within fifteen (15) days from receipt of the decision the following:

- a. A memorandum containing the following:
 - i. the date of the decision appealed from and the date of receipt thereof;
 - ii. grounds relied upon for the appeal; and
 - iii. certified true copies of the documents or evidence relevant to the case.
- b. Proof of service of a copy of the appeal memorandum to the disciplining office.
- c. A statement or certification of non-forum shopping.

Failure to comply with any of the above requirements within the reglementary period, the appellate authority shall direct compliance within the period of ten (10) days from receipt thereof, with a warning that failure to comply shall be construed as failure to perfect an appeal and shall cause its dismissal with prejudice.

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Sexual harassment cases decided by the Chief, BJMP and Regional Directors of the Jail Bureau shall be appealable to the Civil Service Commission – Regional Office of jurisdiction.

Section 38. Effect of Filing an Appeal. - An appeal shall not stay the execution of the decision. In cases where the imposed penalty is dismissal from the service, the same shall be executory after confirmation by the Civil Service Commission.

Section 39. Effect of Finding of Violation of Due Process. - If the appellate authority finds violation of appellant's right to due process by the disciplining authority, the case shall be dismissed and shall order the reinstatement of the respondent with payment of back wages and other benefits. However, the dismissal shall be without prejudice on the part of the disciplining authority to re-file the case.

Section 40. 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, as amended.

Section 41. 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.


6.8 THE OFFENSE OF SEXUAL HARASSMENT

Section 42. Classification of the Offense of Sexual Harassment.

Sexual Harassment in the Workplace.

- a. Grave Offenses are punishable by dismissal from the service shall include, but are not limited to:
 - i. unwanted touching of private parts of the body (inner thighs, genitalia, buttocks and breast);
 - ii. sexual assault;
 - iii. malicious touching;
 - iv. requesting for sexual favor in exchange for promotion, local travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of stipend or allowance; and
 - v. other analogous cases.
- b. Less grave offenses are punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense; and

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dismissal from the service for the second offense, shall include, but are not limited to:

- i. unwanted touching or brushing against the victim's body;
 - ii. pinching not falling under grave offenses;
 - iii. derogatory or degrading remarks or innuendos directed toward the members of one sex, or one's sexual orientation or used to describe a person;
 - iv. verbal abuse with sexual overtones; and
 - v. other analogous cases.
- c. Light Offenses are punishable by reprimand for the first offense, suspension of one (1) to thirty (30) days for the second offense, and dismissal from the service for the third offense, shall include, but are not limited to:
- i. surreptitiously looking at a person's private part or worn undergarments;
 - ii. making sexist statements and uttering smutty jokes or sending through text, electronic mail including but not limited to social media platform, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing or, even without such advice, when they are, by their nature, clearly embarrassing, offensive or vulgar;
 - iii. malicious leering or ogling;
 - iv. display of sexually offensive pictures, materials or graffiti;
 - v. unwelcome inquiries or comments about a person's sex life;
 - vi. unwelcome sexual flirtation, advances, propositions;
 - vii. making offensive hand or body gestures at co-employees;
 - viii. persistent unwanted attention with sexual overtones;
 - ix. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
 - x. other analogous cases.

Sexual Harassment in Streets and Public Places


- a. Light offense of sexual harassment is punishable by reprimand for the first offense, suspension of one (1) to thirty (30) days for the second offense and dismissal from the service for the third offense shall include but not limited to cat-calling or wolf-whistling in streets and public spaces.
- b. Less grave offenses of sexual harassment are punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense and dismissal from the service for the second offense shall include, but not limited to:

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- i. unwanted invitations, misogynistic, transphobic, and sexist slurs;
 - ii. persistent uninvited comments or gestures on person's appearance;
 - iii. Relentless request for personal details; and
 - iv. Making statements, comments and suggestions with sexual innuendos.
- c. Grave offenses of sexual harassment in streets and public spaces are punishable by dismissal from the service if the personnel commits the following:
- i. masturbation or flashing of private parts, groping or any advances, whether verbal or physical;
 - ii. the enumerated acts in the preceding are unwanted and has threatened one's sense of personal space and physical safety; and
 - iii. committed in public spaces such as alleys, roads, sidewalks and parks.

Online Sexual Harassment

- a. Light offense of online sexual harassment shall be punishable by reprimand for the first offense, suspension of one (1) to thirty (30) days for the second offense and dismissal from the service for the third offense shall include but not limited to:
 - i. unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages; and
 - ii. invasion of victim's privacy through cyberstalking and incessant messaging with sexual overtones.
- b. Less grave offense of online sexual harassment shall be punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense and dismissal from the service for the second offense for the act of use of information and communication technology in terrorizing and intimidating victims through physical, psychological, and emotional threats with sexual overtones.
- c. Grave offense of sexual harassment shall be punishable by dismissal from the service shall include but not limited to:

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- i. uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content;
- ii. any unauthorized recording and sharing online of any of the victim's photos, videos, or any information of sexual content;
- iii. impersonating identities of victims online or posting lies of sexual nature about the victims to harm their reputation; and
- iv. filing false abuse reports to online platforms to silence victims of sexual harassment.

6.9 GENERAL STATEMENT


- a. All personnel shall demonstrate a strong commitment to herein policy and observe the highest degree of behaviors to create a working environment that is free from any forms of sexual and gender-based sexual harassment.
- b. The National Headquarters and Regional Offices shall disseminate through the distribution of primers and posting a copy of this policy in conspicuous places for information of all personnel.
- c. The National Headquarters and Regional Offices shall post online or in their respective official websites a copy of the law and related issuances on sexual harassment and gender-based sexual harassment by the Civil Service Commission.
- d. Conduct orientation or similar activities on the law and its rules and regulations to all personnel which shall form part of their welfare and development and basic knowledge on the mechanism in handling sexual and gender-based sexual harassment.

7.0 REPORTORIAL CLAUSE

The Secretariat, CODI in the National Headquarters and the Regional Offices shall render a report on the last month of every year to the Civil Service Commission of jurisdiction or upon its requests, all complaints and status or disposition of cases of sexual harassment.

8.0 FINANCIAL CLAUSE

Other than the operational expenses in the resolution of cases, no funding shall be necessary in all actions on complaints and disposition of sexual harassment cases in the Jail Bureau.

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Information dissemination, seminars, and the like shall be included in the GAD annual program of activities and the funds necessary therefor shall be taken from its appropriation in the BJMP Annual Operation Plans and Budget.

9.0 SEPARABILITY CLAUSE

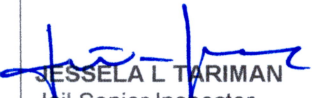



In the event that any part of this Circular be declared as unauthorized, unconstitutional, or invalid by a competent authority or tribunal, provisions not affected thereby shall stand and remain effective.

10.0 REPEALING CLAUSE

All other issuances that are inconsistent with the provisions herein are superseded or modified accordingly.

11.0 EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) days following the registration with the Office of the National Administrative Register (ONAR), University of the Philippines Law Center, Diliman, Quezon City, in accordance with Sections 3 and 4, Chapter II, Book VII of Executive Order No. 292, otherwise known as the "Administrative Code of 1987".

Prepared by:	Reviewed by:	Approved by:
 JESSELA L. TARIMAN Jail Senior Inspector OIC, Morale and Welfare Division, DPRM Secretariat, CODI – Natl, Headquarters	 DENNIS U. ROCAMORA, CESE Jail Chief Superintendent Deputy Chief for Operations of the Jail Bureau / QMR	 ALLAN S. IRAL, CESE Jail Director Chief, BJMP
 JSSUPT FLORY F. SANCHEZ Jail Senior Superintendent Deputy Director, Directorate for Welfare and Development / Chairperson, CODI – NHQ		