



OASH NARRATIVES

**WORKING TOWARDS A SAFE
AND SEXUAL HARASSMENT FREE UP DILIMAN**

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A SEXUAL HARASSMENT FREE UP DILIMAN**



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Editor: **Teresa Paula S. De Luna**

Authors: **Teresa Paula S. De Luna**

**Dawn Betina Q. Bernabe, Janet A. De Leon, Allen Joy M. Marquez
Remedios P. Mondiguing, Ma. Rizza Mae G. Narvaez,
Mary Ruth S. Punzalan, Prescilla D. Tulipat, Erika Rae P. Rosario**

Copy editor: Ma. Aleah G. Taboclaon

Book Designer: Angeli Narvaez



UP DILIMAN OFFICE OF ANTI-SEXUAL HARASSMENT

Benton Hall, M. Roxas Ave., UP Campus, Diliman Q.C.

oash.upd@up.edu.ph • oash.upd.edu.ph

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PREFACE

The Office of Anti-Sexual Harassment (OASH) in the University of the Philippines (UP), Diliman, was formally instituted in 2003. It was preceded by the enactment into law of Republic Act (RA) 7877 in 1995, also known as the Anti-Sexual Harassment Act. UP, mandated by law and cognizant of its duty to prevent and resolve sexual harassment (SH) acts, promptly crafted its own Implementing Rules and Regulations (IRR) in 1998, three years after the passage of RA 7877. Finally, in 2003, an office that primarily takes on the prevention, investigation, and resolution of SH cases was established. Since then, the OASH has been witness and fulcrum to the many SH stories and ordeals of the UP community.

This book is part of the OASH's undertaking to document the UP Diliman community's experiences around SH.

Specifically, this endeavor seeks to achieve the following:

1. Provide a face to the concept of SH through narratives adapted from case files;
2. Contextualize SH within an educational setting;
3. Understand circumstances that may have contributed to SH acts, and;
4. Make recommendations in preventing SH.

This project is for the awareness of the multifaceted and multilayered accounts, appreciation of facts and contexts, and inspection of resolutions for this particular type of violation against a basic human right.

This output is for our memory as well, so we may never forget the origins of this office, why it was imperative to establish it, and how far we have come.

Finally, this is for everyone who may, in one way or another, somehow be involved with OASH (we fervently hope not as perpetrators of SH). We hope for every member of our community to be incessant in actively advocating for a sexual harassment-free campus within the framework of reformative and transformative justice.

Context of the Nature of Case Appreciation, Investigation, and Resolution

The narratives cited in this book are depicted and explicated within the contexts of RA 7877, the 1998 IRR, and the 2017 ASH Code. As of the publication of this manuscript, the UP-ASH Code is currently being reviewed.

We recognize and acknowledge that as time passes, society is modified as well. Essentially, for this reason, the university directs that the code be reviewed and, if needed, amended. The enactment into law of the Safe Spaces Act in 2019 (see Appendix 4) prompted the review of the 2017 ASH Code. Since the case files from where we adapted the narratives included in this book are from 2003 to 2018, this undertaking only covers narratives within the above contexts.

RA 7877 (see Appendix 1) is the principal basis of the university's crafting of the Anti-Sexual Harassment (ASH) IRR and the establishment of the OASH. Specific to the university's IRR is this provision of the law:

SECTION 3. Work, Education, or Training-Related, Sexual Harassment Defined. – Work, education, or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence, or moral ascendancy over another in a work or training or education environment, demands, requests, or otherwise requires any sexual favor from the other, regardless of whether the demand, request, or requirement for submission is accepted by the object of said Act.

What is remarkable in the 1998 UP IRR is its expansion of coverage. Relationships covered in RA 7877 are extended to peer-to-peer and subordinate-to-superior relations (see Appendix 2).

On the other hand, the 2017 ASH Code (see Appendix 3) added provisions to the 1998 IRR. Highlighted provisions include the following:

1. Clearer definition of SH and other related and relevant concepts and entities,
2. Inclusion of other persons liable to the commission of SH,
3. Enumeration of what and who comprises the UP community, and
4. The establishment of jurisdiction, among others.

As the 2017 ASH Code is currently being reviewed for possible revisions, these narratives on SH adapted from the experiences of UP community members may provide a multi-layered comprehension of the nature of SH experienced in an educational institution. Perhaps this may also aid us in further strengthening our efforts to prevent, investigate, and resolve SH cases.

Narratives

The stories included in this volume are adapted from sexual harassment cases filed at the UP Diliman OASH from 2003, the year the office was established, up to 2018. The narratives are categorized based on the type of relations and place where the acts were committed. The appreciation and explication of the narratives should be contextualized within the 1998 IRR and the 2017 ASH Code.

To protect the identities of the parties involved, we used aliases and slightly modified identifying elements and characters in the stories.

The first category of narratives relates to the classic description of SH—moral ascendancy. There are eight stories included in this section. Particular relationships tackled are Coach vs. Athlete, Professor vs. Student, Student vs. Non-Teaching Personnel, Administrative Officer vs. Janitress, Doctor vs. Patient, and Director vs. Instructor. Classification of SH acts comprise sexual flirtation and communicating sexist/smutfy remarks, verbal and non-verbal abuse with sexual overtones, touching and brushing against the victim's body, stalking, pinching, groping, and forced kissing.

The second category of narratives relates to relations not stipulated in RA 7877—peer relationships. There are ten stories included in this section. The actual relationships discussed are Student vs. Student and Faculty vs. Faculty. Sexual harassment acts include touching and groping of private parts, touching or brushing against the victim's body, forced kissing, attempted or consummated unwanted sexual intercourse, and torture of the person in a sexual manner.

The third category of narratives relates to another category of relations that is also not stipulated in RA 7877—harassment of supervisor by a subordinate. There are two stories in this section.

The specific relationship presented is Professor vs. Student. Classification of SH acts are surreptitiously looking or stealing a look at a person's private parts or underclothing, taking a photo and video of the professor's undergarment, and verbal and/or non-verbal abuse with sexual overtones, including but not limited to offensive hand or body gesture.

The fourth and last category of narratives relates to a space where SH acts have begun to be documented beginning in 2016—online harassment. There are two cases included in this classification, which directs to online/electronic chat groups as spaces where the commission of sexual harassment acts occur.

There are also two narratives included where parties involved are of the same sex.

In each narrative, the facts of the case are recounted, and the type or types of SH act/s are identified and explicated. Resolutions or outcomes of cases are also discussed.

The narratives in this book are adapted from sexual harassment cases filed at the UP Diliman OASH from 2003 to 2018. Names, places and some characters have been changed to protect the identities of the parties involved. No narrative should be construed to represent a true or accurate recreation of the actual events that transpired. Any insinuation or resemblance of any person, living or dead, is purely coincidental.



CASE NARRATIVES BASED ON MORAL ASCENDANCY AND AUTHORITY

Moral ascendancy and authority are the principal conditions of sexual harassment cases. SH is presumed to have been perpetrated if the party who has allegedly committed it has moral ascendancy or authority over the complainant. As stated in the 2017 ASH Code, *“Sexual harassment under this Code may include, but is not limited to, cases involving abuse of authority or power, ascendancy, influence such as in a teacher-student, senior faculty-junior faculty, health worker-patient, or healthcare provider-client relationship.”*

The following narratives show how this classic classification of SH is manifested in the real experiences of UP community members who have filed complaints in OASH.

1

SPANISH BREAD

(Coach's Verbal Abuse of a Female Member of the Varsity Team)

Facts of the Case

Kate was a student-athlete of the university. She had been a member of a varsity team since her freshman year. Ever since her entry into the team, she had received uninvited, unwelcome, and unwanted attention from one of her coaches. She referred to the coach's behavior toward her as an abusive "special treatment."

"Bedroom Voice," he would call her in front of fellow athletes, coaches, and parents, much to her embarrassment. He would even shout "Go, Bedroom Voice!" while she was playing.

During one competition, he asked her, "*Anong favorite tinapay mo?* (What is your favorite bread?)"

Thinking the question to be innocent, she answered, "*Spanish bread, Coach.*"

"*Bakit Spanish bread? (Why Spanish bread?)*"

"*Kasi matamis yung loob, Coach.* (Because it is sweet inside, Coach.)"

"*Ikaw matamis ba loob mo? (What about yours, is it sweet?)*"

She couldn't reply. She was disgusted. None of her teammates said a word.

In that same competition, he asked her, "*Mahilig ka ba sa hotdog?* (Are you fond of hotdog?)"

"*Okay lang, Coach.* (It's okay, Coach.)"

"*Anong favorite hotdog mo?* (What's your favorite hotdog?)"

She just nodded and didn't answer. She caught and recognized the innuendo.

"*Sagutin mo, kung hindi papatalsikin kita!* (Answer me, or else I will kick you off the team!)"

"*Yes, Coach, footlong.*"

"*Ah, footlong pala.*"

He then indicated Leo, a male student-athlete, "*Eh, si Leo, tingin mo ba jumbo hotdog?* (How about Leo? Do you think he is a jumbo hotdog?)"

"*Yes, Coach,*" she answered hesitantly.

For years, he would make Kate greet him over and over until he was satisfied that the tone of her voice was *malambing* (affectionate). When he was in a bad mood, she would be called to cheer him up and sing or dance for him.

"*Ibang klase ka talaga* (You're really different)," he said to her once while looking at a photograph of the team when they were at the beach, wearing bikinis.

She was told that she was not allowed to have a boyfriend as she was the *buntisin* (easily impregnated) type. He told her, "*Ang mga tipo mo yung binubuntis* (You are the type that men want to impregnate)."

She was often threatened with removal from the team if she refused to obey the coach.

“Gawin mo, kung hindi papatalsikin kita! (Do it, or else you will be kicked off the team!)”

When she asked why she received such treatment from the coach, her teammates told her that the coach had a crush on her. They always advised her to just ignore him as he was already old.

One day, the coach told her that she was being expelled from the university as she had not been attending training. She repeatedly asked him for a copy of the attendance, but he refused to give her one. He texted her that if she wanted a copy, she should get it at his apartment because he was out of town.

Kate couldn't complain for a long time for fear of losing her scholarship. He had the authority to remove her from the team and had, in fact, used that authority as a threat.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Light Offenses*:

1. Sexual flirtation or persistent unwanted attention with sexual overtones;
2. Communicating sexist/smutty remarks causing discomfort, embarrassment, offense, or insult to the receiver.

However, given the position of power of the Coach, the sexual harassment acts may be understood to fall under the *Less Grave Offenses*: “Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures.”

Resolution

Kate filed a complaint with OASH. The case has been archived since the coach resigned while the case was being heard.

2

STOP OVER

(Professor's Verbal and Non-Verbal Abuse of a Student During a Field Trip)

Facts of the Case

Shiela, a graduating student, was enrolled in Professor A's class, one that required a two-day field trip out of town.

It was mid-semester when Professor A led the group of under 50 students and some guest facilitators aboard three passenger jeepneys to a trip in a nearby province, which aimed to expose the students to a reality they only read in books. Each vehicle had a guest facilitator, and Shiela was in the group of Bryan, her classmate.

On their first day in the field, Shiela noticed that Professor A was becoming unnecessarily close to her and made several attempts to hug her. It made her feel uneasy and led her to avoid, as much as possible, any interaction with him.

The class left the field site at four o'clock in the afternoon on the second day. They brought with them some bottles of coconut wine given by the community elders as a token of appreciation for the class visit. Professor A joined Bryan's group and sat next to Shiela in the vehicle. Shortly after the jeepney left the site, the professor, Bryan, and another student, Peter, started drinking the coconut wine.

The group had four stopovers on their way back to the city.

During the first stopover, Bryan moved to another vehicle, leaving Professor A and Peter still drinking the wine.

On their second stopover, Professor A left and joined another vehicle to check on the other students. He returned on the third stopover and sat again next to Shiela, who noticed that the professor was already a bit drunk. At that point, sitting next to him made her uncomfortable so she thought of moving to another seat. However, she was unable to do so since the jeepney started moving again.

Her classmates, who were enjoying the moment and unaware of her discomfort, told their Professor, “*Sir, na-miss ninyo yung kasiyahan dito kanina. Wala kasi kayo. Kumanta si Shiela at si Peter.* (Sir, you missed out on the fun earlier. You weren’t here. Shiela and Peter sang together.)”

Professor A requested Shiela to sing again for him which she refused to do.

She then turned to one of her classmates and said, “*Pahingi naman ng adobong mani* (Can I have peanuts?)”

“*Meron ka namang mani* (You already have your own peanuts),” Professor A said, as he dropped a pack of peanuts on her lap.

“*Sige, pag hindi ka kumanta, kakainin namin yang buko pie mo* (If you don’t sing for us, we’ll eat your *buko pie*),” he continued with another innuendo as he pressed his body to her. Shiela indeed had a *buko pie* on her lap at that time.

“*Sige, yayahapin kita* (I will hug you),” he said and actually attempted to hug her, which she was able to avoid.

At that point, Shiela felt very offended with the remarks and actions of their professor. The students witnessed the whole scenario and it was Peter who verbalized his concern over the turn of events. He warned Professor A, “*Sir, baka kasuhan kayo niyan* (Sir, she might file a case against you).”

The professor ignored the warning by saying, "*Hindi, magkapatid kami niyan* (Of course not, we're siblings)," and even pressed his body more against her and tried again to hug her. Shiela thought that by *magkapatid*, he was referring to their having common provincial roots. There were times in class that he would even converse with her using their own language.

"*Sir, baka kasuhan kayo niyan ng harassment* (Sir, she might file a harassment case against you)," Peter warned the professor again. He repeated his statement several times but it seemed that Professor A did not take the warning seriously and still continued to attempt to hug Shiela.

Shiela kept silent, trying to control her tears while avoiding Professor A's attempts to hug her. Gary, another student, captured in his camera the act of Professor A actually hugging Shiela.

Oblivious to the awkward situation, Professor A pointed to Shiela's earphones and said, "*Tig-isa tayo* (Let's share)."

"*Sir, isa lang yung gumagana kasi* (Sir, only one earphone is working)," she replied.

"*Ang damot mo. Ang damot nito!* (You're so selfish!) You stand out in class. You're one of a kind. You're one of my favorites. I'm so disappointed," he said.

On their fourth and last stopover, Professor A said, "*Sige, lilipat na lang ako sa masayang klase* (All right, I'll just transfer to the fun class)."

When he left, the students turned to Shiela and asked her if she was okay. She responded by crying.

"*Si Sir kasi...* (It's because of Sir)," the students said, blaming Professor A.

“Tama na, huwag ka ng umiyak, baka makita ka ni Sir. Doon ka na lang umupo sa tabi ni Liza (Stop crying, Sir might see you. Just sit beside Liza instead),” one of her classmates suggested.

Shiela transferred to another seat to avoid sitting next to Professor A in case he decides to return. Her classmates tried to calm her down, but she ended up crying all the way home. That night, she called up her parents and told them what happened during the field trip.

Four days later, she filed a complaint of sexual harassment against Professor A, who denied any intent to sexually harass the complainant.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Less Grave Offenses*:

1. Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures;
2. Touching or brushing against a victim’s body.

Resolution

A formal investigation was conducted, and the Professor was found guilty of committing less grave offenses of sexual harassment. He was meted out a penalty of two months’ suspension.

3

TEXT MESSAGE

(Professor Stalking a Student)

Facts of the Case

Liza was a Ph.D. student residing in one of the campus residence halls. The professor was a tenured male faculty member. Liza filed a complaint of stalking against him, which included unwelcome visits to her dormitory and constant unwanted text messages.

Liza listed several instances wherein the professor stalked her.

Once, for example, while on her way to buy food from a kiosk, she saw the professor walking toward her. Not wanting to talk to him, she cut across the path but saw him following her. Seeing her friends nearby, she walked toward them. She told them that the professor was following her, and they saw him stop a few meters away, just watching them. Her friends stayed with her and advised her to go through the Shopping Center and hopefully lose him there. From there, instead of walking back to her dorm, she rode the Ikot jeep to further evade him.

On another occasion, she went to the Shopping Center to eat dinner when she saw him. She evaded him by entering one of the stalls, but she saw that he kept waiting for her. She then decided to forego dinner and went back to her dorm. Later on, she received a text message from him telling her that she should not have left so they could talk.

The professor would also often wait in the lobby of her college, which forced her to go back and wait in the office until he went away.

His stalking escalated to the point that he would block her way to her dorm. The first time he did it, she screamed at him to stop following her. On the occasions that she was successful in getting past him by forcibly pushing him away, he would follow her wherever she went. He would wait for her to come out of her dorm and then follow her around. This unnerved her so much that whenever she saw him, she would immediately run back to her dorm. To get away from his constant stalking, she would either ride a taxi or a jeepney, or go the long way around the campus just to evade him.

The professor would often go to her workplace. Once, he just entered their office without knocking. It alarmed her colleagues and prompted them to tell the guard not to let him inside the building anymore. He would also vigilantly wait for her outside her office despite her telling him that she was not interested in him and to stop following her around. He would simply reply over and over that he wanted her. Many times, he would go to her dorm and page her and would wait for her from early evening until the dorm closed. She never entertained him during these visits and would just stay in her room.

She often received text messages from him, which made her feel uncomfortable and harassed. He would text her how pretty she was, that she was his type, he was her true love, they were meant for each other, and that he wanted to see her. Some messages alarmed her; for instance, he sent a message that she and the man she was with did not look good together. The professor said that they would look better together, especially with her cute blue dress and his blue shirt. She was alarmed by this because she remembered wearing a strappy blue dress for a special occasion with her parents; she didn't know that he was around, watching her.

There was only one time that she replied to his messages, and that was to tell him to stop texting her and following her around. She never replied to any of his text messages after that.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under Less Grave Offenses:

1. Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures;
2. Sexual advances or propositions;
3. Other analogous case (stalking).

Resolution

The professor was found guilty of the less grave offense of sexual harassment and was penalized with suspension for one semester, not exceeding six (6) months without pay.

He filed a motion for reconsideration to the Office of the Chancellor, which was denied. He later filed a Petition for Certiorari at the Regional Trial Court in Quezon City, which was also dismissed. Unsatisfied with the RTC decision, the Professor made an appeal to the Supreme Court, which was denied with finality by the Supreme Court en banc.

4

FREE FORM

(Teacher Committing a Grave Offense
on the Student)

Facts of the Case

Angel was a freshie. She was enrolled in a subject that had Saturday classes. One Saturday after their class, she and her classmates remained to practice the exercises they just learned. Although their class was over, their instructor stayed with them, teaching those who wanted to perfect their movements.

Angel was practicing by herself when the instructor approached her and asked what movement she wanted to perfect. Although surprised that he approached her without her asking for his help, she replied that she wanted to learn the free form movement.

Despite her request for that particular movement, her instructor asked her to demonstrate something more intricate. It required her to open her legs. In a low voice, Angel asked him why she had to do this when it was not what she wanted to learn. According to her instructor, he had been observing her during their lessons and she was kicking up too much, which would stress her muscles. She had no choice but to follow his instructions.

The instructor offered his hand to her. Assuming that he did so to lead her to the gutter to practice, she hesitantly took it. It turned out he just wanted to touch her. He also asked her to assist him so he could demonstrate a movement for her. He put her hands on his waist. Despite being uncomfortable, she did what she was told.

Soon after, while watching her do a drill, the instructor put his hand under her lower abdomen so that he could support her body while she was doing the movement. Suddenly, she felt his hand move lower and felt him insert his finger inside her “private part.” She was shocked and moved away from him; she kept her distance for the rest of the practice. However, she noticed that he was also very touchy with the other students while he taught them to do their drills one on one.

Angel pretended not to mind what the instructor did. She was nice to him and even thanked him for helping her before she left the building. While changing clothes after the practice, she overheard two students talking about what the instructor did to them, which was similar to what she had just experienced.

Sexual Harassment Act

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment act committed falls under *Grave Offenses*: “Touching or groping of private parts of the body such as the breast, genitalia, or buttocks.”

Resolution

Angel reported the incident and filed a formal complaint to the OASH the following Monday. A preliminary investigation was conducted by the OASH where two (2) members submitted dissenting opinions to the majority recommendation that the case be dismissed and that formal charges for Simple Negligence be filed against the respondent.

While the case was recommended for dismissal, the Chancellor ordered that: (1) the College of the respondent draft clear guidelines of decorum and formal orientation/consultation with students for all courses involving physical contact; and (2) the

Office of the Vice President for Academic Affairs be informed of an additional proposed amendment to the previously submitted Revised UP IRR on Sexual Harassment containing the necessity for prior information/consultation/orientation as well as providing alternatives to the students for all classes that involve physical contact between peers and between students and instructors.

5

PANGGA

(Unwanted Sexual Advances on a Student by a UP Non-Teaching Personnel)

Facts of the Case

Pearl was a transfer student. She held the university in high regard, seeing it as a hallowed institution with every member of the UP community—teaching, non-teaching, and students—as having very high standards not only in excellence but also in honor.

As a transferee, Pearl had to validate her subjects before the opening of classes, and thus, she frequented an office responsible for this. Johnny, a non-teaching personnel responsible for attending to the needs of transfer students, usually attended to her. He was very helpful and quite attentive, which she thought was the way he was to everyone. Every time she needed some document or information, she would go to him. Soon after, he started calling her *pangga*, which he said was a term of endearment of fathers for their favorite daughters in his home province. He also started introducing her as his niece. She did not put any meaning into this as she thought that he was just fatherly.

One time, she bumped into Johnny in the corridor. He invited her for lunch. Thinking nothing of this, she accepted the invitation. They went to the college cafeteria where he partly paid for her lunch. She thanked him for being nice. He asked where she was going, and she told him that she was going to the Shopping

Center to purchase something she needed for class. He then asked her if he could hitch a ride in her car as he also needed to go to the Cashier's Office to sign something. She wondered how he knew that she had a car, but not finding anything wrong with his request, she agreed.

They talked all the way to the Shopping Center. Before they arrived, he asked if he could also ride back with her to save on jeepney fare. Trusting him, she agreed. On the way back to her college, however, while her hands were on the steering wheel, he stroked her thighs and her face. Stunned and petrified, she could not say anything and continued to drive. He continued stroking her thighs. She felt fear and panic at the same time and did not know what to do. All she wanted was to reach their destination as fast as she could, so she could drop him off. When they finally reached her college, he suddenly grabbed her face and kissed her hard on the lips, then got off. She was so shocked that she froze. When she finally got out of her car, she felt like a zombie. She even forgot to lock her car. She felt like she was just raped.

For days after the incident, she tried to suppress what happened and acted like normal, but her mother soon noticed that there was something wrong. It was only then that she told her mother what happened. She asked her mother not to tell anyone as she felt embarrassed and hurt and did not want people to be talking about her. She would cry whenever she was reminded of the incident.

From that day on, she avoided going to Johnny's office. However, he continued to hound her, keeping documents and college invitations from her to force her to go see him in his office. She resorted to asking her friends to get documents for her. If her presence were needed, she asked someone to accompany her.

Johnny was also able to get her phone number and home address from her records. He would call her at home, and she would ask their helper to just tell him that she was not there.

On her birthday, she was surprised to see him and some of his office friends at their gate holding a huge birthday cake. She did not invite them in. He complained and kept calling her and sending her text messages.

Whenever she met his friends in the lobby, she felt uneasy, as they would always ask her about Johnny. When she would accidentally encounter Johnny in the corridor, he would mention her meeting his friends. This made her feel that his friends were reporting back all these chance encounters with them. She felt like she was being stalked.

Johnny also knew her class schedule as he would suddenly be at her side every time her classes ended. He always tried to engage her in conversation and attempt to hold her hand. She would immediately pull away and get as far away from him as possible.

His harassment continued for several semesters, and Pearl did the best she could to avoid him. In her senior year, she was surprised when she was informed that she was on the delinquent list and had to go to a lot of trouble to clear things up, only to be told that her file was accidentally placed in the delinquent file box. She could see Johnny smirking at her while the college secretary was informing her about this. At another time, for no justifiable reason, her registration forms were put on hold.

Pearl graduated magna cum laude. After graduation, while she was in her college lobby getting her graduation pictures, Johnny went near her and tried to grab her pictures at the same time asking about her family. She ignored him and immediately left.

A few weeks after the above incident, a close female relative of hers had to go to the same office for registration purposes, and the only person there to assist her was Johnny. When he saw that they had the same family name, he asked if she was related to Pearl. It scared her female relative, and she called Pearl and told her what happened. This made Pearl finally decide to file a complaint as she did not want her female relative or

other students who are most vulnerable to undergo the same experience she suffered under Johnny.

She repressed the violations done to her until she graduated. She was afraid that if she reported them, Johnny would get back at her, and she would not be able to graduate on time and with honors.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Less Grave Offenses*:

1. Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures;
2. Sexual advances or propositions;
3. Other analogous case (stalking).

Resolution

During the preliminary conference of the hearing committee, Pearl agreed not to proceed with the case after Johnny apologized to her verbally and in writing. However, the Hearing Committee decided to continue to deliberate on the case despite Pearl's decision to withdraw her complaint on the following grounds:

RA 7877, Section 4: "The employer or head of office in a work-related, education or training environment has the duty to prevent or deter the commission of acts of sexual harassment and to provide the resolution or settlement or prosecution of acts of sexual harassment."

CSC Resolution 01-0940: Rule VIII, Section 12 (d) of the Standard Procedural Requirements:

“Withdrawal of the complaint at any stage of the proceedings shall not preclude the Committee on Decorum (CODI) from proceeding with the investigation where there is obvious truth or merit to the allegations in the complaint or where there is documentary evidence or direct evidence that can prove the guilt of the PCO.”

UP Implementing Rules and Regulations on the Anti-Sexual Harassment Act of 1995 (UP IRR) approved by the UP Board of Regents on July 30, 1998, Formal Procedure:

“A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the (Hearing) Committee from proceeding with the investigation of the case.”

The Committee also parenthetically found both written and verbal apology of the respondent to be unapologetic as “his demeanor did not convey to the committee the sincerity needed to reflect an attitude of remorse or penitence at least by means of his actions.”

Based on the Findings and Recommendations of the Hearing Committee, the Office of the Chancellor ruled that the respondent committed acts of sexual harassment against Pearl and imposed the sanction of three (3) months suspension without pay. In lieu of a fine, he was to undergo gender sensitivity training and provide administrative support to the OASH during the period of suspension.

6

SENIOR

(Harassment of a Junior Faculty by a Senior Faculty Holding a Significant Administrative Position)

Facts of the Case

Sabine graduated with very high honors and was invited to teach in her college after graduation. Her conscientiousness stood well in her new role as an instructor with a temporary appointment. She became a favorite among the faculty as well as among her students. Having just graduated, she was quite young compared to many of her colleagues.

In her first year of teaching, during an office Christmas party, she was walking along the corridor when she saw Nestor, the head of her department. He suggested that they join the others outside for some drinks. He then held her hand, which made her feel uncomfortable. Being new in the department and not wanting to offend him, she just clenched her fist so he could not interlace his fingers with hers. He only let go of her hand when they came in sight of the other employees.

Two years later, after she came back from a one-year study leave abroad, Nestor hitched a ride in her car on official business to visit a foreign diplomat. While they were on their way, he started asking her if she had suitors when she was abroad. She felt his question was inappropriate and intrusive, but being a respectful person, she answered that yes, she had some suitors. He then started to tell her about a friend of his who also studied abroad and was being courted by someone she did not like. He often stayed with her in

her apartment, and when the person courting her would knock on the door, Nestor would take off his shirt, rumple his hair, and make it look like the visitor interrupted them doing something intimate. Sabine found the story disgusting and did not feel comfortable about his sharing it with her. She was also disturbed about the situation since he was the highest-ranking official in their office, and they were alone in her car.

On the return trip from the diplomat's residence, Nestor extended his hand and told her, "Thank you" when they arrived at their destination. She reluctantly shook his hand but was unprepared when he pulled her close and kissed her cheek. She felt violated, but he just smiled and quickly alighted from the car.

In another instance, while Sabine was working inside her office, Nestor entered, closed the door, and began discussing potential scholarships abroad. While discussing these possibilities, he asked her whether she was pregnant. Taken aback by this very personal, intrusive, and impertinent question, she could not answer right away. He then added that he noted she had been using loose clothes lately. She then replied that it was because of the warm weather.

Just a month after the above incident, Nestor saw her walking away from the administrative office in a hurry, looking upset about something. She went to her room and locked the door, not wanting to be disturbed. After a few minutes, she heard Nestor knocking and calling her name repeatedly until she finally opened the door. Upon entering, he sat on her desk facing her, started talking to her, and then began stroking her hair. He continued to stroke her hair, which upset her. She did not say anything because she did not want to agitate him further. All she wanted was for him to leave.

A few months later, Nestor went to her office again. He asked her for detailed computer specifications and to edit a document. Nestor sat on a stool behind her and touched her arm and her back, which she found inappropriate. This happened several times

in the course of a year, with him entering her room on the pretext of discussing things with her while touching her arms and back.

Sabine thought that these acts were inappropriate. She felt violated every time he would do it, but not wanting to offend a person in authority, she kept silent. Finally, wanting to stop these violations on her person, she got the courage to inform her colleagues during a faculty meeting that some junior faculty members (she later found out that there were other junior faculty members who were experiencing similar unwanted sexual advances from Nestor) were being harassed by a senior faculty member whom she did not identify.

A day after the faculty meeting, she was surprised to see Nestor go to her classroom. He had never done it before. He asked if she had any problems with equipment/facilities in her classroom, a problem raised by junior faculty members during the meeting. The following day, he again went to her classroom to ask her about the specifications of the equipment she needed for her class. An hour later, he was there again and informed her that the things she requested were already being purchased. She wondered why he kept going to her classroom and why suddenly all the requests of junior faculty members were being acted upon.

Later in the afternoon of the same day, Nestor went to her office and asked her about the sexual harassment issue that she raised in the faculty meeting. He asked her what happened and whether it was a faculty or administrative staff involved. She told him it was an administrator involved and that the acts consisted of kissing, verbal sexual advances, and other inappropriate acts. He told her that he wanted to know more about the sexual harassment, how to handle it when it happens, and that it should stop. Before he left, however, he told her that if she had an issue with him, she should talk to him, emphasizing the last statement. He then stood there waiting for an answer. She did not want to say yes, but he stayed standing and would not leave, so she just nodded.

While all the above was happening, she found it hard to go to her classes. She felt especially anxious whenever Nestor appeared in her office with no one around. Despite this, she went to class every day because she loved to teach. She also wanted to file a complaint sooner, but she did not want to cause her parents undue pain if they found out what was happening to her. She also did not want to be seen as a troublemaker in her college.

She finally decided to file a complaint when she learned that she was not the only person whom Nestor had been harassing. It turned out that he had been harassing students and colleagues for many years already. By speaking out, she hoped that she could prevent him from harassing more women.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Light Offenses*:

1. Sexual flirtation or persistent unwanted attention with sexual overtones;
2. Communicating sexist/smutfy remarks causing discomfort, embarrassment, offense, or insult to the receiver;
3. and *Grave Offenses*: "Forced kissing."

Resolution

Nestor was found guilty of having committed six (6) counts of less grave offenses of sexual harassment against Sabine. He was penalized with suspension from the service for a period of six (6) months.

7

COFFEE MAKER

(Verbal and Non-Verbal Abuse by a UP Personnel
to a Contractual Employee)

Facts of the Case

One Monday morning at around 7 o'clock, Marie, a maintenance worker in one unit, was already cleaning the office when Lenard, an administrative staff, came in and inquired why she was absent last Friday. Joking around with Lenard was not uncommon for her, so she replied, "*Bakit, Kuya, na-miss ninyo po ba ako? (Why, did you miss me?)*"

He then followed it up with an invitation to dine out together, which was not the first time he asked her out. That morning was no exception, too, for Marie to turn him down. She never took his persistent invitations seriously since she only saw him as an older brother. Still in her jovial mood and also as a way to evade the question, she told him, "*Sa paggunaw ng mundo tayo lalabas (We'll go out when the world ends).*"

To her surprise, Lenard responded, "*Ay! Mare-rape kita ng wala sa oras (I might just rape you then).*" Marie asked him to repeat what he said, as it didn't sit well with her. He ignored her and went to his table to fill out some forms. She didn't pursue the issue and just continued cleaning.

Later, he asked her where the stapler was and she pointed it to him. She saw that the forms he was filling out were for a loan

application, and she asked why he needed one. *"Panggastos ko para sa'yo (It's my budget for you),"* he said. Going along with what she assumed was a joke, she said, *"Kuya, taga-London ka ba? Kasi loan dito, loan doon ka (Are you from London? Because you're getting a loan here, a loan there)."*

He laughed out loud and then pinched her arm. She complained that the pinch was painful and said, *"Kuya, huwag mo akong kukurutin kasi magkakapasa ako (Don't pinch me, I might get bruises)."*

Lenard then said, *"Hindi na kita kukurutin sa susunod, kakagatin na lang kita (I won't pinch you next time, I'll just bite you instead)."* She did not reply anymore.

He later took a pack of coffee from their supplies cabinet and asked her to brew it in the admin kitchen. Shortly after she finished cleaning, she went to the kitchen to make the coffee. She was preparing the coffee maker when she noticed that Lenard had followed her. Without turning around to face him, she just said, *"Kuya, huwag mo na ko kukurutin (Don't pinch me again)."* She heard him laugh and was surprised that he pinched her again. Before she could react to his pinch, she was shocked when he hugged her from behind. She struggled to move away from his embrace, and when he released her, she said, *"Grabe! Hindi na nakakatuwa 'yang ginagawa mo, Kuya! Ayoko ng ganyang biro! Grabe ka, Kuya! (It's not funny anymore. I don't like those jokes. You're too much!)"*

Lenard, however, didn't take her words seriously.

Just when she thought that he was leaving the kitchen, he hugged her again from behind, tighter than the first and kissed her on the nape. He held her tightly; she didn't know how to shake him loose. She pleaded, *"Kuya, huwag mo akong ganyanin. Kuya, bitiwang mo ako (Please don't do this to me. Let me go!)"* He then released her and immediately left the kitchen.

She was left dumbfounded in the kitchen and in tears. Two male personnel came in, and upon seeing her, they asked her what was

wrong. She said it was nothing. Since her tears could not deny that something was indeed wrong, the two male personnel brought up their concern to the building administrator, who later talked to Marie.

Marie disclosed to the building administrator what transpired in the kitchen involving Lenard. After their talk, she went to the restroom and continued crying. After a while, she composed herself enough to return to work.

On her way back to the office, Lenard approached her to inform her of the admin's dysfunctional water heater. When he noticed her puffy eyes due to her incessant crying, he apologized to her for what he did earlier and promised not to do it again.

The next day, Marie filed a formal complaint of sexual harassment against Lenard, who denied her allegations.

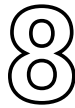
Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Less Grave Offenses*:

1. Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures;
2. Pinching that does not fall under grave offenses.

Resolution

Lenard was formally charged with sexual harassment, constituting both less grave and grave offenses. The case, however, was later dismissed, not on the basis of merits but following Lenard's untimely death.



PHYSICAL EXAMINATION

(Harassment During a Doctor's Examination)

Facts of the Case

Katrina was an employee of the university. She suffered from recurring syncope (medical term for fainting or passing out) since she was 12 years old. On one of her syncope attacks, she was brought to the emergency room, and the attending physician referred her to a consultant neurologist.

Katrina went to the neurologist referred to her by the ER physician. Since she had no idea how people with syncope were medically treated, she fully trusted the doctor even though she had felt uncomfortable during the examination.

During the consultation, Katrina sat on one of the chairs in front of the doctor's desk. She told him everything related to her condition. After several minutes of discussions and clarifications, the doctor stood up and sat opposite her and told her that he would teach her first aid methods to make her feel better immediately whenever she felt an attack was coming. Holding her knees, the doctor told her, "Open your legs." He then pushed her knees apart and asked her to put her head between her legs.

While she was doing that, the doctor sat spread-legged in front of her, holding her head down. When she sat upright, he asked her to put her chair beside his. He explained that whenever she felt faint in a place where there was a bench or anything where she could lay down on, like in a church or a jeepney, all she had to do

was lie down. The doctor placed his right hand on her shoulder to demonstrate it, guiding her head down his lap facing outward. His left hand then held her head down, while his right hand touched her side and finally rested on her hips. He made her do it twice to make sure she was able to do it correctly. After that, he told her that other first-aid options could be done whenever she felt that a syncope attack was coming.

After the first aid demonstrations, the doctor told her that he would do other physical examinations to determine what might have caused her condition. She could only say, "Okay." He then said, "I'd like to check your heartbeat. Can you remove your shirt?" She didn't want to, but she didn't know what to say. She just loosened her shirt. The doctor immediately placed the stethoscope inside her shirt. After a few seconds, he said, "Excuse me lang *ha*, I need it to hear from here...." Without waiting for any response, he lifted her bra. Katrina felt so self-conscious; she thought then that if the doctor's skin touched hers, she would punch him in the face. After listening to her heartbeat, the doctor said, "Okay *naman*, sorry. Sorry, *ha*," while caressing and slightly pressing her arms.

The doctor went to the examination bed at the back of his room. He instructed Katrina to sit on it facing the window, saying he would do further examinations. He lifted the back of her shirt and told her that he would listen to her heartbeat from the back. He tried to lift her shirt further to her nape. So as not to expose her breast or the front part of her body, she held on to the bottom of her shirt, slightly pulling it down.

The doctor then asked her to face him. Using a reflex hammer, he hit her lightly on the lower part of her patella to check her knee reflex. He asked her what leg felt numb. When she told him that it was her right leg, he tapped it again. His left hand rested on her thighs while he seemed to be thinking what to do next.

After a few minutes, he started rubbing her thighs. He asked her if she felt what he was doing and to rate it from 1 to 100. He continued

his rubbing motion until she gave him a rating. He repeated the same action on her shin and asked the same questions. He made her lie down on her back. He continued the rubbing motion on her feet, breast, and arms and repeated the same questions. He told her to turn around and lie face down. He repeated the rubbing motion on her buttocks and along her legs and asked her for her rating.

The doctor told her that she had an unusual condition and he had to check her abdomen for further examination. He moved her shirt up to expose her abdomen. She put her hands below her breast to prevent the shirt from going higher than necessary. The doctor said, "*Paki buksan mo 'yan* (Please unbutton that)," pointing to her pants. When she unbuttoned her pants, the Doctor lowered the zipper and started touching her abdomen. She felt the doctor's hand on top of her pubic area. After his examination, he zipped her pants and helped her stand up. He held her hand while his other hand rested at her back. The doctor told her, "*Wala naman akong makitang diperensiya* (I don't see anything wrong). You look healthy *naman... ilan na ang anak mo* (You look healthy... how many kids do you have?)." He guided her back to the patient's chair. He further discussed her condition and told her that she should undergo a few laboratory tests. He told her she should see him again even without the results of her laboratory exams. She agreed and left the room.

The consultation with the doctor left Katrina feeling violated. She asked around about him and found out that she was not the only patient who experienced the same treatment from that doctor.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Less Grave Offenses*: "Touching or brushing against a victim's body."

Resolution

Katrina filed a sexual harassment case against the doctor. After the preliminary investigation, he was formally charged with sexual harassment under Section 3(a) of the Implementing Rules and Regulations of the Anti-Sexual Harassment Act of 1995, constituting grave misconduct under paragraph 6.3 of the Formal Procedures for Sexual Harassment cases of the Formal Procedures for Sexual Harassment Cases in relation with Rule X, Section 53 (A) 1, 3, and 5 of Civil Service Commission Resolution No. 01-0949 of the Administrative Disciplinary Rules on Sexual Harassment Cases.



CASE NARRATIVES BASED ON PEER RELATIONSHIP

Long before peer relationships as associations where SH is committed were acknowledged by Philippine law (Safe Spaces Act), UP had already included and addressed this nature of relations in its anti-SH IRR. It is specifically stated in the 2017 UP ASH Code that *“Sexual harassment under this Code may include, but is not limited to, cases involving...peer relationships such as faculty-faculty, employee-employee, or student-student relations.”*

At present, more than half of cases filed and resolved in the university involved peer relations, particularly student-to-student relations. The following are stories adapted from SH cases filed at the OASH. The narratives in this section pertain to student peer relations except for one faculty peer relations.

A peer relations case involving the same sex is also included in this section. This is to show that the university recognizes that SH also happens between same-sex individuals: *“This Code contemplates cases of harassment involving persons of the same or opposite sex, regardless of sexual orientation, gender identity and expression.”*

1

TAXI RIDE

(Harassment During the Organization's Application Period)

Facts of the Case

Gina is a newly inducted member of a certain student organization. She was seen as conservative by her friends. She decided to participate in the organization's ("org") social activities. One such activity is an *inuman* (drinking session). Gina and three orgmates went to a well-known bar in Krus na Ligas, Quezon City. While socializing, an org alumnus, Mario, joined them. This was the first time she met him in person. However, she was aware of his unsavory reputation due to stories relayed to her by some org members. Feeling that this person would not harm her since she was with three other orgmates, she decided to continue socializing with the group. At around 11:00 P.M., Gina's three orgmates decided to go home. They left her behind with Mario, telling her, "Don't worry, *safe ka dyan* (Don't worry, you're safe with him)." She felt uncomfortable, but she still thought it would be okay. Mario ordered another beer for her and asked for her mobile number.

Gina's discomfort increased when Mario sat very close to her, touched her hand, put it near his private part, and kept on asking if she had a boyfriend. She moved away from him, shook off his hand from hers, and decided to leave. It was already late in the evening, so she tried booking an Uber. Mario volunteered to call a taxi for her and take her home. He said, "Let me accompany you home." She agreed because she was unsuccessful in booking an Uber.

Inside the taxi, her situation worsened. Mario put his hand on her shoulder, kissed her forehead, squeezed her right breast, and groped her. She was shocked and couldn't move. She endured the sexual assault until she got home. The taxi ride was about 30 minutes. She stopped the taxi when she was near her house and got off upon seeing her mother.

She was so confused regarding what happened inside the taxi that she could not sleep that night. She kept on crying because she felt so dirty. The following day, she told the three orgmates what happened the night they left her with the said alumnus. However, instead of sympathizing with her, they blamed her for what happened. The victim-blaming resulted in severe psychological trauma. She initially tried to hide it from her parents. Fortunately, her mother noticed changes in Gina's behavior.

Eventually, Gina and her parents went to OASH to lodge a complaint against Mario. Her father, an OFW, said, "I searched for the background of this man, and I am ready to hit him, but I still respect OASH's procedure in handling this case. I hope they will give justice to my daughter." Her mother also cried, saying she did not want her daughter to suffer further pain from that incident. To help her deal with the trauma, Gina consulted counselors from the Office of Counseling and Guidance, PsycServ, and the Diliman Gender Office.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: "Touching or groping of private parts of the body such as the breast, genitalia, or buttocks."

Resolution

The Anti-Sexual Harassment (ASH) Council deliberated on the case and decided it was not within OASH jurisdiction because it occurred in a bar and the activity was not organization/academic-related. Given the situation, the Council proceeded to find a resolution to the case. The parties involved were invited during the council meeting. Mario stressed that he thought what transpired was consensual. It was explained to him that consent has to be expressed verbally. He eventually admitted to the wrongdoing and apologized. The council also decided to help Gina transfer to another dormitory located far from where she usually saw Mario. She was referred to the Office of Legal Aid (OLA) for legal assistance if she decided to file a court case. The student organization's officials were also made aware of the repercussions to the organization if such acts were allowed to continue to happen and not reported to OASH. The Council members decided that, if needed, they would invite Gina's parents to explain to them in person why the case was not within the OASH jurisdiction. The office assured Gina that they would provide psychosocial support if needed.

2

FINAL RITES

(Harassment that Transpired During
an Organization Party)

Facts of the Case

Anita and John were orgmates. They had enough in common to spend time together with other members and form a friendship. In fact, they had been friends for about two years. Activities and almost regular parties held by their org provided them the time and opportunity to get together and know more about each other. While they eventually found a romantic mutual understanding between them, this never blossomed into a committed or exclusive relationship. John prioritized his studies. Even when they were the targets of constant teasing by their orgmates, they did not fall into a relationship like most young people their age do.

One semester, their org was able to recruit a record number of new members—twice the average number of recruits. To culminate the induction of the new members, the org had its final rites in a resort, farther from campus than usual.

The actual org activity took most of the day, but it was the after-party that most of them looked forward to. A swimming pool, alcoholic beverages, a big group of people to hang out, chat and drink with; it was all a college student needed to have a good time.

The org had rented three separate rooms for its members to sleep in. Anyone could sleep anywhere, and there was enough space

for everyone. Some students sang karaoke, others swam in the pool, while some drank and told each other stories. Anita did not drink. She was content with hanging out with her orgmates and talking with them. One of these orgmates, Celine, became very drunk. Anita decided to look after her, knowing that Celine could not take care of herself in that state. Anita brought her to one of the lofts in the rooms they had rented, seeing that there was only one other person there, John.

Celine kept the conversations and jokes coming, fidgeting and moving about. Another orgmate, Andy, came in but did not join them, preferring to sleep instead.

Somebody turned the lights off downstairs, so Anita, John, and Celine decided to go to bed. Anita was between Celine and John; she wanted them to sleep as she was also sleepy and had things planned the next day. She massaged Celine's and John's heads, just as her mother would do to her, to get them to fall asleep. When they appeared to be sleeping, she settled down. Suddenly, John asked her for a kiss. She refused and said she would cry if he insisted. She turned her back on him and drifted off to sleep. It was dark and cold. The three shared a thin blanket that hardly kept the cold out. Anita was awoken by the cold. She said, "*Ang ginaw*" (It's cold)."

John, who seemed to be sleeping, turned to face Anita and rested his arm and leg on her. She pushed him off, thinking that he was asleep. However, he did it again, reaching farther and leaning heavier on her, this time, with his hand on her breast. She panicked and pushed him off her again.

For the third time, he rested his leg on her, more aggressively. She could feel his hand on her abdomen, moving slowly up under her shirt. His face was close to her breast. She felt his private part on her lower belly.

She couldn't take it anymore and shoved him again. "*Grabe! Ayoko nito!* (This is too much! I don't like this!)." She did not leave

but turned her back, fearing what might happen if she left Celine alone with John because Celine was too drunk. He might act out his lewd intentions on her.

He moved away, taking the blanket with him, and settled by their feet. It took Anita months to report the incident to OASH. Reporting it didn't even cross her mind until a friend who was not from UP suggested it to her.

John claimed that when he embraced Anita and rested his leg on her, it was with her consent. He had held her in such a way when they were talking earlier. He said that what she felt was not his private part but his car key, which was in his pocket. His head was on her shoulder, and his hand was on her waist when he fell asleep. He did not know of anything that he did that night that could have offended Anita. He said that he acted without malice or lewd intentions.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: "Touching or groping of private parts of the body such as the breast, genitalia, or buttocks."

Resolution

The Hearing Committee found John guilty of sexual harassment, specifically Administrative Disciplinary Rules on sexual harassment cases, Rule X, Section 53, Subsection (B) Less Grave Offense of (1) unwanted touching or brushing against a victim's body. The committee recommended a penalty of suspension for one semester and strongly suggested that John attend a Sexual Orientation Gender Identity and Expression (SOGIE) workshop or its relevant counterpart.

3

SAN MIG

(Harassment Prompted by a Dating Application)

Facts of the Case

Danica met Gener over Omegle, an online dating application. They extended their communication over Viber and discovered they had a lot of common interests. Both graduated from the same college, and they shared a common friend. Eventually, they agreed to meet up to get to know each other better. At this point, she informed him that she was not interested in engaging in any sexual acts with anyone. They agreed to meet in a bar in Katipunan. When she arrived at the bar, Gener was already there, drinking with another man; a bucket of San Miguel Light beer was on the table. The other guy then left. Gener ordered a bucket of San Miguel Pale Pilsen and one more bucket of San Miguel Light. They stayed together at the bar for a few hours, talking more about their interests in life. At past midnight, she wanted to leave. She was supposed to spend the night at her friend's house, but Gener suggested she could sleep in his place instead. Because she was sleepy and drunk and felt like throwing up, she accepted his offer. She went with him to his place in Maginhawa. Through the night, she would occasionally wake up and throw up.

Sometime that night, Danica felt Gener lie down next to her and put his arms around her. She was too drunk to push him away and fell asleep again. Later, Danica woke up when she felt him touch her breasts and put his fingers in her private part. She asked him what he was doing, and he apologized. She then asked him if he wanted to "do it" (have sex), and he said yes. They had sexual intercourse.

In the morning, Danica took a bath, telling Gener no when he asked whether she would like to have sex again before she left. He didn't insist.

In the next few days, Gener kept apologizing to her over Viber, even admitting his guilt over their sexual encounter. He also asked for a dialogue with her to settle misunderstandings in what happened between them.

Because of this incident, Danica admitted to having a relapse of bipolar disorder. She suffered from "loss of appetite, loss of motivation to do anything, lost interest in hobbies, insomnia, excessive sleeping, vomiting during mornings, random spikes of energy and euphoria followed by depression." Her depression sparked suicidal thoughts. She eventually resigned from work. After an Alternative Dispute Resolution (ADR), she managed to bounce back to her usual routine.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: "Attempted or consummated unwanted sexual intercourse or torture of the person in a sexual manner."

Resolution

The Anti-Sexual Harassment (ASH) resolved that this case was not under the jurisdiction of OASH since the alleged act happened outside of UP premises. It was also not related to work or education. Instead, they proposed an informal meeting of parties to shed light on what happened between Danica and Gener and possibly find a resolution. After this informal meeting, both parties signed an agreement to resolve the complaint. Gener vowed to fulfill the following conditions:

- Commit voluntary service in the Diliman Gender Office; he will also attend a Gender Sensitivity Training, an Anti-Sexual Harassment Orientation, and a Masculinity Forum.
- Attend regular counseling at DGO within the six-month voluntary service in the said office.
- Submit a reflection paper based on his overall volunteer service experience, which will be addressed to Danica; and
- Deliver a written statement assuring Danica that he will not commit any retaliatory act/s in any form or medium and that the incident complained of will not be known to anyone from this time on.
- The above conditions must be completed in six (6) months.

4

VAN

(Harassment During Fieldwork)

Facts of the Case

Joanna and Hazel were classmates. One of the requirements they had to fulfill to complete their class was to participate in fieldwork, which was done up north. It would take eight hours to arrive at the first point of their trip. To get there, they rode in a van owned by their college, usually used for trips like this. They left the university before midnight and were encouraged to sleep on the way. Fieldwork would begin early in the morning.

Charles, one of their classmates, asked Joanna if he could sit beside her in the van. Charles and Joanna had been friends for at least two years, so she said yes without a second thought. She soon found herself in an increasingly uncomfortable situation as the van departed north to their destination.

She had yet to fall asleep when he began caressing her arm. She thought it was strange but didn't think much of it. They were friends, after all. He leaned on her shoulder as if to sleep. He then held her hand very tightly.

The van drove through the North Luzon Expressway. Joanna had her bag on her lap. After a brief stopover somewhere in Bulacan, Charles began to push the bag away from her. Once he had cleared enough space, he slipped his hand under her shirt to touch her chest.

She did not know what to do. She was afraid to tell anyone as this

might start a more undesirable situation. Everyone else in the van seemed asleep. She tried to push his arm away, but he persisted. She finally managed to prevent him from slipping his hand under her shirt and got her bag back into her lap. He resigned and settled in holding her hand, pretending to be asleep.

Joanna tried to go back to sleep as she didn't know what else to do. Charles moved her bag again and slipped his hand under her shirt once more. After this, she felt one of his fingers above her private area, pressing on her skin. She again pushed his hand away and put her bag back into her lap to protect herself. He then took her hand and placed it somewhere near his thighs. She pulled her hand away, but he pulled it back.

Joanna stepped out of the van to take a breath of fresh air when the van took another stopover. During this stopover, Joanna managed to exchange seats with Hazel. The row where Hazel was initially seated was very crowded. Joanna took the crowded space without hesitation. She knew she could sleep easier in a tight space than in a tight situation. She no longer had Charles to deal with next to her.

The trip was long, and they were still far from their destination. Hazel now sat next to Charles.

Hazel was leaning against the window to sleep when Charles asked for permission to lean on her shoulder. She thought it was okay because of his friendly approach. She hugged the pillow she brought and was about to drift off to sleep when she felt Charles's hand trying to hold hers. She wasn't a touchy person. She did not want to hold hands with him. She held her hand in a tight fist to keep his hand off, but he successfully pried her hand open. He did not only hold it but caressed it. His other hand was busy on her back, running up and down. He then wrapped his arm around her, reaching for the clasp of her bra. She couldn't tell anyone. Everyone was asleep. No one could see what he was doing because he covered himself with his jacket, and it was dark. She couldn't move as he moved in on her space. He pretended to be asleep as his

hands sought to slip his hands under her shirt. When she leaned forward to protect her breasts, he rested his head on her back and nibbled on her shirt. She leaned back to stop him, but that left her open to further intrusions by him.

Any feeling of drowsiness left her when she felt his hand just above her breasts. She pulled his hand away, but he persisted in touching her. She was surprised that he was so forceful while he appeared to be asleep. She did not stop struggling and applied all her strength to ward him off. Only at this point did she notice that he was not wearing a shirt. The air conditioner of the van was functioning perfectly.

At another stopover around dawn, Hazel talked to one of their classmates about what happened in the van. The classmate did not comment. This stopped her from telling anyone else as it appeared that her classmate didn't believe her. When she returned to the van and sat beside Charles once more, he told her, "I missed you." He said that she was soft but muscular. He wrapped his arms around her again as they went on their long drive. He put his hand on her nape and began to massage it in a circular motion. She didn't like how it felt. He did the same to her scalp. She told him to stop, but he did not. She pulled his hand off her, and this made him stop. When they arrived at the first stop of fieldwork for this trip, he acted as if nothing happened.

Hazel could not report what happened as she was worried about what such action would do to the fieldwork. She did not want the whole group to be distracted from their actual purpose for going on this trip. She did not exchange seats with anyone and stayed seated next to him. She was tired and lacked sleep. She leaned forward again to rest her head on something, anything. But again, he was on her back, nibbling on her shirt. She sat up straight to make him stop.

She could only tell someone else when she was in the room with her other female classmates. She did not know that Joanna

experienced the same treatment from Charles, nor did she know that it was the reason Joanna switched seats with her.

The next day, she asked a male classmate to swap seats with her. He initially refused as he did not believe her. It took a while to convince him, but she finally succeeded. For the entirety of the trip, Hazel avoided and ignored Charles.

It was only after their return to the university that Hazel reported the incident to her professor, and it was only at this point that she learned that Joanna had suffered the same.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: “Touching or groping of private parts of the body such as the breast, genitalia, or buttocks.”

Resolution

About a month after the incident, both women filed separate complaints with OASH. Charles waived his right to file an answer to deny the allegations made by Joanna and Hazel. With all the affidavits filed, probable cause was found, and a formal charge was filed against Charles. He pleaded guilty to the charge to prevent any formal hearings. He was found guilty of sexual harassment and sentenced to a single penalty of suspension of six months and one day.

5

RESTROOM

(Harassment During Fieldwork Part 2)

Facts of the Case

This case is related to the previous case.

Bea was also a classmate of Charles in a different class, which also required fieldwork in a province up north. The trip, in which about 50 students, teachers, and drivers participated, took about two weeks.

For most of the trip, the group stayed at a school, using the empty buildings as their operations and lodging base.

One evening, while doing work for their class in the discussion room, Bea felt the need to pee but was afraid to go to the restroom alone. It was a bit far, it was dark, and the place was not very well secured. She said out loud to her classmates, "*Naiihi ako* (I want to pee)." Soon after, Charles came over to her and said, "*Naiihi ka, di ba?* (You want to pee, right?)" before going out of the room himself.

Assuming that he was going to the restroom himself and trusting him to be a safe company, Bea followed him. After doing her business in the toilet, she stepped out into the hallway. At first, Bea didn't see Charles because it was dark. She thought he must still be in the restroom or had already gone back to the discussion room, but when she glanced to her right, she saw him staring at something. He then began to approach her and put his left arm around her. She tried to ward him off, but she couldn't. He was too strong, and she was scared. He then started kissing her on the lips

and touched her breasts. He repeatedly touched and inserted his fingers in her private parts.

He then left and walked back to the discussion room.

Still in shock, Bea, too, went back to the discussion room to gather her things, then to the sleeping quarters for girls. She tried to get some sleep but couldn't. She could only stare blankly at the walls.

It took months after the incident for Bea to file a complaint against Charles with OASH. Initially, she was afraid of what filing a complaint can do to her reputation, studies, family, and future. However, with close relatives and friends' advice to seek justice and closure, she came forward and filed a complaint against him.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: "Attempted or consummated unwanted sexual intercourse or torture of the person in a sexual manner."

Resolution

Charles answered that what took place that evening was consensual. Charles was found not guilty of the charge for lack of substantial evidence.

6

BOARDING HOUSE

(Same-Sex Harassment)

Facts of the Case

Joey, an 18-year-old first-year student of the university and a resident of one of the boarding houses inside the campus, filed a sexual harassment case against his roommate Bill, who was also 18 and a freshman.

Joey and Bill were good friends. They had known each other since their first semester in the university. They did things together; they watched movies on Bill's laptop, and Bill taught Joey some drawing techniques. Joey would also let Bill borrow some of his things, like his clothes and shoes. Joey was a devoted Christian and Bill would see him do and write devotions every night. Often, Joey shared stories of his involvement in the church with Bill.

One February night, Joey woke up when he felt someone touching his private parts. When he opened his eyes, he saw Bill's face. He went back to sleep, unsure of what happened and not thinking anything bad against Bill because they were close friends.

The next day, the same thing happened. Joey woke up when he felt someone touching him. He ignored Bill's actions once again even though he was already bothered by the repeated touching of his private area. He was also thinking of reasons why Bill was doing such things since they were close friends.

Joey started to feel scared that the touching incident would get worse. He decided to use his phone and record the incidents while he was sleeping so that whenever he decided to file a complaint, he would have evidence and that Bill would not be able to deny his wrongdoings.

He started to do his video-recording on the succeeding nights. One night, Joey was able to record Bill touching him. He asked advice from another friend on the proper action that he can do to stop Bill. His friend told him that he should investigate and go to OASH to report the touching incidents. Since he was advised to investigate further, he recorded again other incidents that happened while he was sleeping for three consecutive days. After the last incident of touching, Joey decided that he would bring the videos and report the incidents to OASH.

Through all the nights when Bill touched him, Joey pretended to be sleeping. He was afraid of what Bill might do to him, so he would just move and lay face down so that Bill would not be able to touch his genitals. It had no effect because Bill was still able to touch his other private parts.

Bill's actions toward him caused discomfort and uneasiness. Joey had to pretend that he knew nothing about the touching incidents.

Sexual Harassment Act

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: "Attempted or consummated unwanted sexual intercourse or torture of the person in a sexual manner."

Resolution

Joey went to OASH and formally filed a complaint against Bill. After the preliminary investigation, Bill was formally charged with the offense of sexual harassment. During the pre-hearing conference, Bill admitted his guilt and preferred not to have legal counsel. He waived his right to formally investigate the case filed against him.

Bill was found guilty of grave offenses of sexual harassment and was given a penalty of one-year suspension.

7

RESIDENT GHOST

(Sexual Assault Is also a Form
of Sexual Harassment)

Facts of the Case

Marianne was a minor. She was a student temporarily residing in a boarding house inside the UP Diliman campus. She frequented the library and had varied interests. Dylan was a senior male student, also with varied interests. He was living in a dormitory inside UP. He was an officer of a student organization where Marianne was a member.

One evening, while she was reading in the library, Dylan arrived. They both recognized each other, so he sat down with her. They talked and discussed matters of common interest, and after some time, Dylan invited her to have dinner with him. Although she did not know him well, she accepted, thinking that he could be trusted as he was a senior officer of their organization.

They had dinner at a nearby eatery and continued talking about many things. Marianne was impressed about the different topics that Dylan was conversant with. After dinner, he invited her for a stroll around the campus as he said that he was quite full and in need of a walk. She agreed. Their animated conversation continued, stopping only when they rested and watched a mini-performance.

Afterward, Dylan suggested that they go to the building where he had left some of his things. Trusting him and wanting to continue their interesting conversation, Marianne went along. He then

started to talk about the many ghost stories around the campus and hinted that the building they were going to was notorious for having a resident ghost. When they entered the building, it was pretty dark, and he teased her about being scared. He started talking about self-defense and told her that he would show her how to defend herself if she found herself in trouble.

Dylan started demonstrating some self-defense stances to her. He tackled her to the floor and got on top of her, grinning. Thinking that he was just teasing her and wanted her to try out the self-defense tactics he showed her earlier, Marianne tried to free herself, but he pinned her down. She continued to struggle to free herself, but he would not let go and even tried to kiss her. She resisted and tried to move her body, wiggling this way and that to free herself, but he was too heavy. He continued trying to kiss her. She kept resisting, telling him to stop and that he was hurting her. He did not stop.

Dylan continued pinning her down, and Marianne kept moving her face so he could not kiss her lips, but he was too strong for her. She started crying and begging him to stop as he was hurting her, but he went on. He ignored her pleas and attempts to get up. He almost raped her but he failed. She was able to free one of her hands and managed to hold on to the top of her pants. She continued begging him to stop.

After more struggling, Dylan finally stopped. Marianne felt weak and drained and could barely move. He helped her up as if nothing happened and walked her to her boarding house. When he put his arms around her, she tried to remove them, but she had no strength left.

As a result of the above assault, Marianne suffered bruises and contusions all over her body and had to undergo counseling for mental and emotional trauma.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: “Attempted or consummated unwanted sexual intercourse or torture of the person in a sexual manner.”

Resolution

Dylan was found guilty of grave offenses of sexual assault and was penalized with expulsion from the university.



LAMBING

(Forced Kissing from a Person
You Thought You Could Trust)

Facts of the Case

Esther was an undergraduate student. David, another undergraduate student from the same college, was her orgmate and a long-time friend.

Esther was waiting for a friend in their *tambayan* (hangout). It was early evening, and no one was around. David came along and asked her for a kiss.

Since he was her friend and she was known to be *malambing* (sweet), she said yes, but only on the cheek. He said, "No, I want to kiss you on the lips." She said no. David reluctantly said okay. He went closer to her, held her at the waist, then kissed her on the cheek. Afterward, David said sorry; he could not help himself. He kissed her on the lips without her approval. Esther was taken aback; she wiped his saliva off her lips while he kept telling her he was sorry. She felt both angry and *inis* (annoyed), but she controlled her anger because David was a close friend and was even her child's godparent.

David told her that he had kissed many women by force, but all of them eventually got over their anger against him. Some women slapped him; some stayed angry at him. When Esther arrived home, she went straight to the bathroom to shower as she felt dirty, like her whole being has been degraded. She wanted to wash

the filth off her. She became restless and found it difficult to sleep that night. She kept thinking of what David would eventually do with his tendency to kiss women without their permission. She could not forgive herself if David ended up eventually raping someone. Wanting to teach him a lesson, Esther decided to report what happened to her to OASH. She filed a complaint because she wanted people like David to realize that what they were doing was wrong and not to do it again.

A friend of hers tried to dissuade her from pursuing her complaint because David was going abroad soon. This made her more determined to pursue her complaint and requested that the OASH act on her case right away before David left the country.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Grave Offenses*: “Forced kissing.”

Resolution

David was found guilty of the offense of “slight misdemeanor of a sexual nature” and penalized with “one-semester suspension to include the semester he already lost by voluntarily failing to register due to the pressures generated by this case.”

9

DUFFLE BAG

(Harassment Inside a Vehicle During Fieldwork)

Facts of the Case

Jane and David were classmates. They went on an overnight fieldwork in the south. On the way back, they sat next to each other in one of the two vans they hired for the fieldwork. Jane was seated between a faculty member and David. David was sitting to her right.

At around 8 PM to 11 PM, with their classmates and teacher sleeping, David placed a duffel bag on Jane's lap and put his left hand on her thigh.

Jane was shocked at David's action. She was confused and didn't know what to do. She couldn't react. Her classmates and teacher were soundly sleeping. David then took out his phone and typed, "I want to do you right now," and showed it to Jane. She pushed the phone away from her and began to cry silently. David tried to console her and apologized.

Jane couldn't think straight after the incident. She was too shocked and confused. She worried about making a big scene and that there were no witnesses.

Around two months after the incident, Jane filed a formal complaint against David before the OASH. Jane also consulted with a psychiatrist and was diagnosed with post-traumatic stress disorder stemming from the incident with David. She was prescribed anti-depressants and has been to therapy 14 times

as of the submission of the medical certificate issued by Jane's psychiatrist.

David alleged that he and Jane had developed feelings for each other before the incident. He claimed that he did not intentionally sit beside Jane in the van. There was no more room in the other van, and the only space available was beside Jane. He further claimed that what transpired inside the van was consensual. He neither denied the touching of Jane's thigh nor the typing of the message on his phone and showing it to Jane. He alleged that only through Jane's facial expression did he realize that she was refusing the proposal typed on his phone. He claimed that upon arriving at the university, they took a jeepney together to their respective homes.

Sexual Harassment Act

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the alleged acts of sexual harassment committed in this case fall under *Grave Offenses*: "Touching or groping of private parts of the body such as breast, genitalia, or buttocks."

Resolution

David was found guilty of sexual harassment. At the time of the decision, he was already a graduate student in the university. He was meted the corrective measure of a one-year suspension from enrollment and employment in all UP Diliman units, foundations, and organizations.

10

STRANGE ENCOUNTER

(Harassment Committed Inside a Jeepney)

Facts of the Case

John was on his way to the UP campus one morning. He took a jeepney, which was full of passengers. He was seated second from the entrance, in between two other male passengers.

As the jeepney left the terminal, John felt something moving on his left side. He realized it was the hand of the male passenger on his left. The stranger's hand went upward John's chest and down to his hip. John looked at him sternly, but the other man did not stop.

The stranger's groping continued, but he was interrupted when the other passenger seated next to the entrance got off. John moved to his right to occupy the vacant spot. The stranger, however, moved, too, and as he closed the distance between them, he maliciously brushed his right leg to John's leg.

The stranger continued and even used his fingers to scribble on John's left thigh some patterns of flowers, curls, and lightning bolts. John slapped the stranger's hand away and said, "What you're doing is disrespectful and qualifies for sexual harassment." The stranger stopped what he was doing, but he did not say a word.

The other passengers seemed unmindful of what was happening between the two men. Most passengers alighted when they arrived inside the campus, giving the stranger enough space to move away from John.

The stranger got off in front of the Sunken Garden and walked toward the building where an Automated Teller Machine (ATM) was located. Before he could enter, the security guard asked for his ID. John followed him and seconded the demand of the guard to get his ID. The stranger initially made an alibi that he lost his ID and even asked John if they could just talk about what happened “outside,” but John replied that they have to go through the due process in UP.

The stranger eventually handed his ID to the guard, and to John’s surprise, he learned that the person was no stranger in UP. In fact, he was a co-faculty member named Michael.

John asked the guard where he could lodge a formal complaint and was referred to the Guidance Office. Following the guard’s advice, he brought Michael to the said office. He talked first to the counselor and narrated what brought them there while Michael patiently waited for his turn. After their separate brief sessions, Michael was scheduled by the counselor for two more meetings.

Before they left the building, John demanded one more thing from Michael as he handed him his calling card—that he must write and sign a letter explaining why the incident happened and mail it to John—to which Michael agreed. After which, the two parted ways.

John, however, felt that he needed to do more, so he went to Michael’s department to report the latter’s misdemeanor. However, the Chair was not around that time. He saw Michael, who was also surprised to see him in the college. Michael then asked him if he could just scan his handwritten letter and send it through e-mail, to which John agreed but insisted he would still want to receive the original signed copy.

That night, Michael, who badly wanted to settle the issue, finished a four-page apology letter and sent it to John through email. However, he did not send the original copy by snail mail.

A week later, John filed a formal complaint of sexual harassment against his co-faculty, Michael, who admitted all the alleged acts

and even provided a copy of his apology letter initially sent through email to John.

Sexual Harassment Act

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment acts committed fall under *Less Grave Offense*: "Touching or brushing against a victim's body."

Resolution

The Anti-Sexual Harassment Council recommended the issuance of a formal charge, but the Diliman Legal Office suggested otherwise. The case was deemed outside the jurisdiction of the OASH since the incident happened inside a jeepney outside the campus, even if the jeepney followed a UP Diliman route.



CASE NARRATIVES BASED ON INVERTED MORAL ASCENDANCY OR AUTHORITY

Unique to the UP's IRR is its identification and acknowledgment that SH can happen even if the power relations of the parties involved are shifted; in other words, the relationship reflects an inverted relation of moral ascendancy or authority. It states in the code that *"Sexual harassment under this Code may include, but is not limited to...cases involving harassment of teaching or non-teaching personnel by students, or cases involving harassment of supervisors by subordinates."*

Although cases of this nature are uncommon, there are times when UP community members perceived to be in positions of authority become victims of SH. The following narratives exemplify this relation.

1

SMART PHONE

(Young Junior Faculty Harassed
by a Student During Class)

Facts of the Case

It was Ana's first year of teaching at the university. As a new graduate, she was easily mistaken as an undergraduate student. However, she did not expect that one of her students would harass her. She wasn't even sure if the incident indeed happened.

The student's name was Bryan, and he thought his behavior went unnoticed. He thought he had gotten away with it because weeks had already passed since he used his smartphone to capture photos beneath his teacher's skirt. He did it on two different occasions of their laboratory class. He was seated while Ana was standing beside his workstation when he surreptitiously held out his smartphone facing down with the camera on, inching it closer to Ana's skirt.

Nobody in class noticed. Ana noticed the second attempt but was unsure what the act meant. She did not confront him at the time, but she felt uncomfortable and stopped wearing skirts in class.

She consulted a senior faculty member, who assisted her in reporting the incident to the OASH. She wanted to confirm her suspicion and call the attention of her student.

Sexual Harassment Acts

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment act committed falls under *Light Offenses*: “Surreptitious looking or stealing a look at a person’s private parts or underclothing.”

Resolution

Ana formally filed a complaint against Bryan in the OASH. When Bryan was notified of the complaint filed against him, he admitted it in his written response. He expressed his apologies and willingness to drop out of Ana’s class immediately.

Upon reading Bryan’s response, Ana considered the option for an ADR, which equates to not pushing for formal charges but instead negotiating the conditions that Bryan has to comply with the transformative values of student discipline. After seeing Bryan in a meeting facilitated by the OASH, Ana immediately felt pity for the student and forgave him as she saw in him a person who needed help. While Ana never felt vindictive toward the student, she gave conditions that would help him further realize his wrongdoing and help her in the process of restoring her sense of security and privacy.

The conditions Ana stipulated were the following:

1. Surrender the smartphone he used in recording and subject it to digital storage wipeout;
2. Drop out of her class;
3. Execute a sworn statement that he has deleted any recording, never shared the file nor reproduced them;
4. Undergo counseling sessions;

5. Meet a spiritual adviser for guidance and reflection;
6. Write an apology letter to their college official; and
7. Avoid any interaction with Ana, including online.

In around two to three months, Bryan was able to comply with all the mutually agreed-upon conditions in the ADR. Satisfied with his compliance, Ana subsequently withdrew her complaint against him. In ensuring that there will be no interaction between Ana and Bryan, their college had been very cooperative in fulfilling the ADR.

2

OVERDUE BOOKS

(Student Crossing the Line of Teacher-Student Relations During Class Discussions)

Facts of the Case

In March 2016, Professor Mabaya cautioned his student Bughaw about his two-week absence in their Saturday graduate class sessions. On the said day, Bughaw attended the class late, arriving around 8:55 AM. Mabaya confronted him in the presence of Bughaw's classmates Luntian and Bulan. The brief confrontation brought attention to Bughaw's unreturned borrowed books from Mabaya. The books were returned only that day with an accompanying apology from Bughaw. Mabaya responded to the apology expressing disappointment, saying, "It is easy to say that I forgive you, but my soul probably will not," further asking Bughaw what to do with his behavior.

Bughaw tried to make light of the situation, saying "*Puede ko ibigay katawan ko* (I can offer my body)." Mabaya asked Bughaw to return to his seat. The response extremely disturbed him, prompting him to discontinue the morning session and walk out of the class. Before leaving, Mabaya asked Bulan what would happen to him if he were to utter the exact words Bughaw stated. Bulan responded that he, the professor, would probably get fired.

Two days after the occurrence, Mabaya filed a complaint of sexual harassment toward Bughaw. Bughaw issued a response letter two months later, stating that the admitted uttered words were not to be taken seriously and were not to be taken under such interpretation.

Sexual Harassment Act

Under Section 7, Classification of Acts of the 2017 UP ASH Code, the sexual harassment act committed falls under *Less Grave Offenses*: “Verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures.”

Resolution

The narrative suits the definition of sexual harassment duly approved by the Board of Regents (BOR) under the UP IRR on the Anti-Sexual Harassment Act of 1995:

Under Section 3.

- (b) In a work-related environment, either academic or administrative, sexual harassment is deemed to exist when:*
- (3) the above acts would result in an intimidating, hostile, or offensive environment for the faculty member or employee.*

On the day of the filing of the complaint, the OASH advised Mabaya to report the incident and request proper assistance from the Office of the Vice-Chancellor for Student Affairs (OVCSA).

The OASH issued a Notice of Preliminary Investigation (NPI) to all concerned parties on the 14th of March 2016. Bughaw failed to submit his counter-affidavit within the three-day allowance after the issuance of the NPI.

On the 20th of April 2016, the OASH Committee called on the parties involved for a separate clarificatory questioning on the 6th of May 2016. Only Mabaya’s party was present; he maintained his

sexual harassment allegation against Bughaw. At the same time, he expressed openness to the ADR.

The OASH Committee agreed to give Bughaw a final notice through an Order dated on the 13th of May 2016, allowing him to submit his counter-affidavit. On the 24th of May 2016, the Office of the Vice Chancellor received Bughaw's handwritten answer. The letter was forwarded to OASH on the 26th of May 2016.

On the 21st of June 2016, the OASH Committee called on both parties for another clarificatory questioning on the 13th of July 2016. Both parties were notified on the 5th of July 2016. Only Mabaya appeared on the scheduled day and was reminded of the formal procedures and the possible pendency of the complaint if Bughaw did not enroll in the upcoming semester.

After deliberation, the OASH Committee found probable cause to warrant the filing of a formal charge against Bughaw. They recommended to the Chancellor the issuance of a formal charge against Bughaw for sexual harassment.



CASE NARRATIVES RELATED TO ONLINE HARASSMENT

The emergence of new technologies that impact communication, connectivity, and social relationships resulted to the arrival of new spaces where SH can and are committed. Even though both the 1998 IRR and 2017 ASH Code have provisions for SH acts perpetrated with the aid of electronic device—*“It is an act, which may be committed physically, verbally, or visually with or without the use of information communication technology.”*—the particularities and nuances of online SH have yet to be further clarified. With the passage of the Safe Spaces Act into law in 2019, these challenges were finally addressed.

The following are two cases that pertain to a type of online harassment that involves SH acts, such as communicating sexist/smuttery remarks causing discomfort, embarrassment, offense, or insult to the receiver; inquiries or comments about a person’s sex life and gender orientation; displays of sexually-offensive pictures, materials, or graffiti; verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures, and; derogatory or degrading remarks or innuendoes directed toward the opposite or same sex, sexual orientation, or gender identity.

1

STUDENT VS. ORGANIZATION

(Group Chat)

Facts of the Case

While campaigning for a position in a student organization, Rachel learned that an anonymous user was circulating screenshots of a tweet in her social media account in the organization's exclusive group chat. In one of the screenshots, Rachel's name was mentioned, and her campaign slogan was maligned. There were unsavory remarks made, which made her feel uncomfortable and discriminated against. In another screenshot, it was mentioned that the group has a video about her, which made her feel vulnerable.

While Rachel did not mention any specific names in her complaint, she attached a list of the students alleged to be members of the group chat. She filed a complaint against all the members and held them accountable for making unsavory, derogatory, and misogynistic remarks about her and other marginalized groups. The fact that there was also a mention of a video with her engaging in a sexual act, although she was not directly mentioned, made her feel vulnerable, especially since she was running for a post in the organization. She felt that her personhood as a woman was being attacked.

When confronted with the complaint, all the alleged members involved in the group chat denied their participation. They questioned the acquisition of such as illegal and against their constitutional rights to privacy.

Rachel later qualified during clarificatory questioning that some of those alleged members who engaged in/or were tagged in the chat were her former schoolmates in high school who were aware of the video of her engaging in a sexual act. One of them was specifically tagged in the chat group, as he was the only person who had access to it. Although the sex video happened when they were still in high school, and the perpetrator had already been penalized, Rachel was afraid that they would use it against her. She was running for a position in an organization where her rival happened to be one of those alleged to have circulated her screenshots in their group chat.

The persons named in the complaint reiterated that there was no evidence or specific mention of acts of sexual harassment done to Rachel. There were no specific mentions of those who participated in these acts. They said that they were merely tagged in the conversation. They also claimed that anybody could create a chat group, and anyone who was not part of the group could be tagged. They countered that Rachel failed to establish how she got hold of the chat transcript. They also stated that none of them knew Rachel personally nor had any direct interaction with her.

Since the complaint was about online sexual harassment and the integrity of the group chat was questioned, the OASH consulted a computer expert to verify the alleged group chat's validity. The computer expert attested to the validity of the source code mentioned in the supplemental complaint. The source code led to the group conversation. However, the source code could only attest to the existence of the group chat but could not be used as proof to identify the senders of the messages in the chat.

Case Resolution

Based on the foregoing, the ASH Council found the group chat valid, and that sexual harassment happened within the context of student-to-student relations using information communications

technology. It was also deemed that the screenshots showed that Rachel's alleged sex video was a political strategy to malign her. The ASH Council also found that the flow of the conversation in the alleged leaked group chat was misogynistic, which humiliated, degraded, and threatened Rachel's personhood or being a woman.

However, there were members of the group chat who were not tagged in the alleged conversations, and some who were tagged were not directly linked to the complainant. One member was mentioned twice in the group chat whenever Rachel's name was mentioned, triggering the flow of offensive remarks.

After careful deliberation, the ASH Council found *prima facie* evidence to warrant the filing of a formal charge against the member of the chat group whose name appeared whenever Rachel's name was mentioned, triggering the flow of offensive remarks.

Based on the above findings, the ASH council recommended to the Chancellor the dismissal of the complaint against those members of the alleged chat group who were not tagged and those who were tagged but were not directly linked to the complaint. The council also recommended the issuance of a formal charge against the member whose name appeared whenever Rachel's name was mentioned.

2

GROUP CHAT

(From High School to College)

Facts of the Case

Sam and Matthew were former schoolmates in high school. Between 2012 and 2013, they had a relationship but eventually broke it off. She moved on and started dating Noah.

One evening in November 2015, Noah informed Sam that he found out about a Facebook chat group participated in by Matthew and his friends, Jacob and Ethan, which involved her. Noah found that Matthew sent several naked pictures of Sam in the chat group and that Jacob and Ethan, upon seeing her photos, made lewd remarks about her. Initially, Sam did not know where these pictures came from, but she later realized that these were screenshots of a Skype video call between them back in 2012 or 2013 when they were still dating. Noah messaged the participants in the chat and told them to delete copies of the photos if they had any. Later, Jacob informed chat group members that everyone would be kicked out from the chat and that it would be deleted.

Months later, in March 2016, a student informed Sam that there was a Facebook account using a fake name, Renz Porter, which has been sending nude photos of her and other girls from her high school to male students and alumni of the same school.

Bothered by this incident, Sam and Noah decided to create a fake Facebook account to meet with Renz Porter. They succeeded in negotiating with him and agreed to meet with him in Trinoma. When they arrived at the meeting place, they were surprised to see Miguel.

Miguel then called Jacob, one of the chat group participants, to tell him that he saw Sam and Noah across the meeting place. Jacob was also in Trinoma. The next day, Noah confronted Jacob. Jacob said to him that Renz Porter also messaged him, but he could not show the messages because he already deleted them. Because of the inconsistencies, Sam believed that Jacob might have also been involved with Renz Porter.

Sam felt disgusted and angry when she found out that Matthew took pictures of her without her consent, and she was even more shocked to find that he sent these photos to his friends years after their relationship had already ended. She felt embarrassed whenever she would be around Jacob and Ethan, who also happened to be friends with Noah when these incidents transpired. She also became afraid when she found out about Renz Porter because she did not know how far his reach was and whether he sent her pictures to other people.

After these events, Sam felt depressed and increasingly anxious. She was not comfortable in her own body anymore, and she felt like she was not worthy of respect because she felt dirtied by people she once considered friends. What was more difficult to accept for her was that Matthew, Ethan, and Jacob never apologized for what they did. In 2016, as a result of all that has happened to her, she was diagnosed with depression and anxiety.

In 2017, Sam became a student at the University of the Philippines. By this time, Matthew, Jacob, and Ethan were also students of the university. In 2018, Sam found out about OASH. She contemplated taking action to seek redress for all that she had gone through. She posted on Twitter, asking for advice on the process of filing a case. Presumably, Matthew saw this post. He sent her a text message apologizing for what he did three years ago. She did not accept his apology, feeling that he only said this because he feared the possible consequences should she file a case with OASH. In September 2018, she filed a case in OASH against Matthew, Jacob, and Ethan.

Matthew, Jacob, and Ethan all denied Sam's allegations. They claimed that there was no basis for her claims since all was based on hearsay, given that she had only gotten the information from her boyfriend, Noah. Assuming that the chat did exist, Noah got the information in violation of their right to privacy and should be considered inadmissible under the law. Furthermore, they also pointed out that Sam was not yet a UP student when the alleged events transpired, which meant OASH had no jurisdiction to hear the case.

Sexual Harassment Act

Section 3 of the 2017 UP ASH Code provides that “[the] Code applies to all members of the UP community. x x x The ‘UP community’ refers to persons, natural or juridical, inclusive of teaching and nonteaching personnel, and students as defined herein.” In letter (c) of the same section, the Code defines students as “any individual admitted to and registered in any program of the University on a regular or part-time basis, including one who is officially on leave of absence; and who has not yet been separated from the University formally through either transfer, graduation, honorable or dishonorable dismissal, expulsion or expiration of the period allowed for maximum residence, at the time of the commission of the act of sexual harassment, regardless of whether or not he/she is enrolled in any unit of the University at the time of the filing of the charge or during the pendency of the disciplinary proceedings, including any person undertaking on-the-job training. x x x”

Resolution

After considering all the arguments of the complainant Sam and the respondents Matthew, Jacob, and Ethan, the Office of the Chancellor decided in favor of the respondents. At the time of the commission of the act complained of, Sam was not a UP student

yet, as stipulated in the Code. The acts, therefore, were outside the jurisdiction of OASH and the university. Ultimately, the Office of the Chancellor dismissed the case.

POSTSCRIPT

Indeed, sexual harassment can be committed by anyone and in any space, whether intentionally or unintentionally. We have to always keep in mind that intention is irrelevant in any and all SH cases.

Examining the narratives presented in this book shows that an established sketch of a sexual harasser does not exist and there is no specific space where this violation is most likely to occur. More importantly, there is no profile of a person who is most likely to be harassed.

UP remains active in and committed to maintaining the core principle of its anti-sexual harassment policy—that all forms of SH are unacceptable. We at OASH carry on working toward a transformative and reformatory justice for all. It is our hope that all members of the UP community are with us in upholding this obligation in the years to come.

APPENDIX 1

Republic Act 7877: Anti-Sexual Harassment Act of 1995

AN ACT DECLARING SEXUAL HARASSMENT UNLAWFUL IN THE EMPLOYMENT, EDUCATION OR TRAINING ENVIRONMENT, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title. – This Act shall be known as the “**Anti-Sexual Harassment Act of 1995.**”

SECTION 2. Declaration of Policy. – The State shall value the dignity of every individual, enhance the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, applicants for employment, students or those undergoing training, instruction or education. Towards this end, all forms of sexual harassment in the employment, education or training environment are hereby declared unlawful.

SECTION 3. Work, Education or Training-Related, Sexual Harassment Defined. – Work, education or training-related sexual harassment is committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

(a) In a work-related or employment environment, sexual harassment is committed when:

- (1) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms of conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;
 - (2) The above acts would impair the employee's rights or privileges under existing labor laws; or
 - (3) The above acts would result in an intimidating, hostile, or offensive environment for the employee.
- (b) In an education or training environment, sexual harassment is committed:
- (1) Against one who is under the care, custody or supervision of the offender;
 - (2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;
 - (3) When the sexual favor is made a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or consideration; or
 - (4) When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Any person who directs or induces another to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall also be held liable under this Act.

SECTION 4. Duty of the Employer or Head of Office in a Work-related, Education or Training Environment. – It shall be the duty of the employer or the head of the work-related, educational or training environment or institution, to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:

- (a) Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees or students or trainees, through their duly designated representatives, prescribing the procedure for the investigation of sexual harassment cases and the administrative sanctions therefor.

Administrative sanctions shall not be a bar to prosecution in the proper courts for unlawful acts of sexual harassment.

The said rules and regulations issued pursuant to this subsection (a) shall include, among others, guidelines on proper decorum in the workplace and educational or training institutions.

- (b) Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings, as the case may be, with officers and employees, teachers, instructors, professors, coaches, trainers, and students or trainees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.

In the case of a work-related environment, the committee shall be composed of at least one (1) representative each from the management, the union, if any, the employees from the supervisory rank, and from the rank and file employees.

In the case of the educational or training institution, the committee shall be composed of at least one (1) representative from the administration, the trainors, instructors, professors or coaches and students or trainees, as the case may be.

The employer or head of office, educational or training institution shall disseminate or post a copy of this Act for the information of all concerned.

SECTION 5. Liability of the Employer, Head of Office, Educational or Training Institution. – The employer or head of office, educational or training institution shall be solidarily liable for damages arising from the acts of sexual harassment committed in the employment, education or training environment if the employer or head of office, educational or training institution is informed of such acts by the offended party and no immediate action is taken.

SECTION 6. Independent Action for Damages. – Nothing in this Act shall preclude the victim of work, education or training-related sexual harassment from instituting a separate and independent action for damages and other affirmative relief.

SECTION 7. Penalties. – Any person who violates the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than one (1) month nor more than six (6) months, or a fine of not less than Ten thousand pesos (P10,000) nor more than Twenty thousand pesos (P20,000), or both such fine and imprisonment at the discretion of the court.

Any action arising from the violation of the provisions of this Act shall prescribe in three (3) years.

SECTION 8. Separability Clause. – If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

SECTION 9. Repealing Clause. – All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent

with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 10. Effectivity Clause. – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved:

(Sgd.) EDGARDO J. ANGARA

President of the Senate

(Sgd.) JOSE DE VENECIA, JR.

Speaker of the House of Representatives

This Act is a consolidation of House Bill No. 9425 and Senate Bill No. 1632 was finally passed by the House of Representatives and the Senate on February 8, 1995.

(Sgd.) EDGARDO E. TUMANGAN

Secretary of the Senate

(Sgd.) CAMILO L. SABIO

Secretary General

House of Representatives

Approved: February 14, 1995

(Sgd.) FIDEL V. RAMOS

President of the Philippines

<https://pcw.gov.ph/republic-act-7877-anti-sexual-harassment-act-of-1995/>

APPENDIX 2

1998 IMPLEMENTING RULES AND REGULATIONS OF THE ANTI-SEXUAL HARASSMENT ACT OF 1995

Pursuant to its powers vested by law, the Board of Regents of the University of the Philippines System hereby promulgates the following rules and regulations to effectively carry out Republic Act No. 7877, otherwise known as the Anti-Sexual Harassment Act of 1995, within the premises and jurisdiction of the said University.

Section 1. Affirmation of Policy – In affirmation of the Declaration of Policy set forth in Section 2 of Republic Act No. 7877, the University of the Philippines System shall establish and maintain an intellectual and moral environment in which the dignity and worth of all members of the academic community are guaranteed full respect.

The University affirms its commitments to provide a secure and conducive learning and working environment for students, faculty members and employees free from sexual harassment and all forms of sexual intimidation and exploitation.

Section 2. Definitions – As used in these Rules and Regulations –

- (a) “Student” means a person duly enrolled for a degree course or in a short-term training or review program in any academic unit or training center of the University.
- (b) “Employee” means any person who holds an official appointment or designation in any unit or office (academic or administrative) of the University and includes casual or contractual employees as well as graduate or student assistant; and
- (c) “Faculty Member” means any member of the teaching staff of the University, regardless of academic rank or category

and includes librarian, researcher or research associate, coach, trainor or training specialist, and extension worker as well as graduate student with teaching responsibilities.

Section 3. Sexual Harassment Defined –

- (a) Sexual Harassment is committed by an officer, faculty member, employee, coach, trainor, or any person who having authority, influence or moral ascendancy over another in any aspect of academic or administrative work in any campus, unit, office or classroom of the University demands, requests or otherwise requires any sexual favor from the other, without regard as to whether such demand, request or requirement is accepted by the latter.
- (b) In a work-related environment, either academic or administrative, sexual harassment is deemed to exist when:
 - (1) The sexual favor is made as a condition in the hiring or employment or reemployment of the individual who is the object of sexual harassment, or in granting such individual favorable compensation or promotion or any other terms, conditions or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying a faculty member or employee which would discriminate, deprive him or her or diminish employment opportunities or otherwise adversely affect such faculty member or employee;
 - (2) The above acts would impair the rights or privileges of the faculty member or employee under the Civil Service law, rules or regulations;
 - (3) The above acts would result in an intimidating, hostile or offensive employment environment for the faculty member or employee.

- (c) In the academic, teaching or study environment, sexual harassment is committed:
- (1) Against a student, trainee or one who is under the care, custody, supervision or advisorship of the offender;
 - (2) Against one whose education, training, apprenticeship or tutorship is entrusted to the offender;
 - (3) When the sexual favor is deemed to be a condition to the giving of a passing grade, the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations; or
 - (4) When sexual advances result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

Section 4. Inducement or Cooperation to Commit Sexual Harassment

– Any person connected with the University as an officer, faculty member, employee or a student, who directs or induces to commit any act of sexual harassment as herein defined, or who cooperates in the commission thereof by another without which it would not have been committed, shall be held accountable under these Rules and Regulations.

Section 5. Policy Standards and Guidelines Concerning Sexual Harassment – In furtherance of the Declaration of Policy affirmed in Section 1 hereof, the following standards and guidelines shall be observed within the University of the Philippines System:

- (a) These Rules and Regulations cover all officials, faculty members, employees, and students within the jurisdiction of the University of the Philippine System. Included in this coverage are applicants for academic or administrative positions and for admission as students in any unit or campus of the University System, after the application has been received by such unit or campus.

- (b) Sexual harassment under these Rules and Regulations is not limited to cases involving abuse of authority or power but includes as well those in peer relationships, such as in faculty-faculty, employee-employee or student-student relations, or those involving harassment of faculty members or employees by students. It contemplates cases of harassment involving persons of the same or opposite sex.
- (c) Sexual harassment is a reprehensible conduct which subverts the mission of the University and undermines the careers of students and faculty members as well as those of the research and administrative personnel. The University shall take measures to prevent sexual harassment and eliminate conditions which give rise to sexual intimidation and exploitation within the purview of these Rules and Regulations.
- (d) Accordingly, sexual harassment is hereby declared a ground for administrative disciplinary action and may constitute grave misconduct, simple misconduct, disgraceful or immoral conduct, or conduct prejudicial to the best interest of the service, as each case may warrant.
- (e) All reported incidents or cases of sexual harassment shall be investigated and appropriate disciplinary, criminal or any other legal action will be taken by the University authorities, with the consent of the victim and taking into account the integrity and other preponderant interests of the University.
- (f) University officials, faculty members, employees and students entrusted with duties or functions connected with the implementation or enforcement of these Rules and Regulations are required to observe confidentiality and respect individual privacy to the greatest extent possible in dealing with reports and complaints of sexual harassment.

- (g) The University will provide all possible support services to students, faculty members or employees who are victims of sexual harassment.
- (h) Retaliation against parties directly or indirectly involved in any incident case or report concerning sexual harassment will not be tolerated. Any act of retaliation in itself shall be a ground for disciplinary action.

Section 6. Procedures –

- (a) Each campus of the University, or where appropriate its constituent institution, shall provide facilities for both informal and formal procedures for resolving cases or dealing with incidents of sexual harassment.
- (b) Informal procedure refers to University action through appropriate officials or committees which does not involve formal investigation nor filing of formal charges. It may consist of counselling, providing information, or other means of support. However, incidents of sexual harassment dealt with in this manner will be documented to determine whether patterns of sexual harassment are present.

The Chancellor shall establish facilities for informal procedures. Until the Sexual Harassment Office is created as provided in Section 8 hereof, the Center for Women's Studies or the Women's Desk of the Chancellor's Office shall provide informal facilities.

- (c) If the case or situation requires resort to formal charge of sexual harassment, the procedure set out in Annex "A", together with the definition of penalties therein, shall be complied with.

Section 7. Responsible Officials –

- (a) Under the general supervision of the President of the University, Chancellors shall be directly responsible for the

effective implementation of the policy on sexual harassment as provided in the present Rules and Regulations.

Section 8. Sexual Harassment Office –

(a) A Sexual Harassment Office is hereby created in each autonomous campus of the University under the office of the Chancellor. It shall be composed as follows:

- (1) As Chairperson on a rotating basis, the Vice-Chancellor for Academic Affairs, the Vice-Chancellor for Administration, the Vice-Chancellor for Student Affairs and other Vice-Chancellor, or equivalent officials: Provided, however, that the Vice-Chancellor for Academic Affairs, or equivalent official, shall, under the direction of the Chancellor, be the chairperson in charge of organizing the Office and shall preside over its initial business meeting;
- (2) One representative each from the faculty, employees, and student sectors, who shall be appointed by the Chancellor upon consultation with the respective sectors, for a term of two years each;
- (3) The Director of the Women's Studies Center, or Chairperson of the Women's Desk of the Chancellor's Office; and
- (4) The Coordinator of the Office, who shall be a non-voting member.

(b) The Office shall:

1. Undertake information and educational activities to the end that the University policy, rules, regulations, and procedures on sexual harassment are disseminated and become part of academic culture;

2. Creatively design or formulate informal procedures of such nature as to elicit trust and confidence on the part of interested parties in resolving problems arising from cases or incidents of sexual harassment, including counselling and grievance management;
 3. Provide security and support measures to aggrieved parties or victims in sexual harassment cases; and
 4. In every appropriate case, constitute a Hearing Committee as required in formal procedure set out in Annex "A" hereof.
- (c) The Coordinator shall be appointed by the Chancellor to serve on full-time basis for a term of three years, which may be renewed. He or she shall be the executive officer of the Office and shall be responsible for the efficient implementation of the decisions of the Office and of the Chancellor involving sexual harassment cases.
- (d) The Office shall every year constitute a pool of such number of students, faculty members, and officers or employees as may be necessary, from which shall be drawn the members of a Hearing Committee in every case where formal procedure is preferred or is deemed necessary. The members of the pool shall acquaint themselves with University policy, rules, regulations, and procedures concerning sexual harassment.
- (e) Within sixty days from the effectivity of these Rules and Regulations, the Chancellor shall complete the organization of the Office and shall by appropriate public notice inform the academic community of the date it becomes thereby operational.

Section 9. Annual Report – The Chancellor shall submit an annual report to the President of the University, which shall contain an evaluation of the sexual harassment problem vis-à-vis the implementation of the University policy, rules and regulations contained herein, together with his recommendations.

Section 10. Effectivity – These Rules and Regulations shall take effect seven days from publication in the Philippine Collegian or its counterpart University student publication of the autonomous university.

ANNEX “A”

FORMAL PROCEDURE FOR SEXUAL HARASSMENT CASES

1. Complaint

- 1.1 A formal complaint requires that the complainant be willing to identify the respondent so that a thorough investigation and hearing of the charge shall be conducted. A formal charge of sexual harassment will be filed only on a subscribed sworn complaint. Complaint procedures must conform to the principles of due process.
- 1.2 The complainant shall file a written complaint with the Sexual Harassment Office which shall, upon receipt of the complaint, determine whether probable cause exists before giving due course to the complaint. Upon a finding of probable cause, a Hearing Committee shall be constituted with members drawn from a pool as established under Section 8 (d) of the Rules and Regulations.

1.3 The complaint shall forthwith be referred to the Committee.

1.4 No particular form is required for the complaint, but it must be in writing, signed and sworn to by the complainant. It must contain the following:

- (1) the full name and address of the complainant;
- (2) the full name and address of the respondent;
- (3) a specification of the charge or charges;
- (4) a brief statement of the relevant and material facts.

Where the complaint is not under oath, the complainant shall be summoned by the Committee to swear to the truth of the allegations in the complaint.

1.5 In support of the complaint, the complainant may submit any evidence he or she has, including affidavits of witnesses, if any, together with the complaint.

1.6 A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the Committee from proceeding with the investigation of the case.

1.7 The Committee shall notify the respondent in writing of the sexual harassment charge.

2. Answer

2.1 Unless a different period is indicated in the notice issued by the Committee, the respondent shall be given not less than seventy-two hours after receipt of the complaint to answer the charges.

2.2 The answer shall be in writing, signed and sworn to by the respondent, and copy furnished the complainant. No particular form is required but it is sufficient if the answer

contains a specific admission or denial of the charge or charges and a statement of the relevant facts constituting the respondent's defense.

- 2.3 The respondent shall indicate in his answer whether or not he elects a formal investigation.
- 2.4 In support of the answer, the respondent shall submit any evidence he or she has, including affidavits of witnesses, if any, together with the answer.
- 2.5 Unless otherwise directed by the Committee, failure of the respondent to file an answer or to appear in the investigation shall be construed as a waiver to present evidence in his or her behalf.

3. Hearing

- 3.1 After all the pleadings have been submitted, the Committee shall conduct a hearing not earlier than five (5) days nor later than ten (10) days from the date of receipt of the respondent's answer or complainant's reply, if any, and shall as far as possible conclude the hearing or investigation within thirty (30) days from filing of the charges.
- 3.2 The Committee shall prepare a report within fifteen days after the conclusion of the investigation or hearing and submit the report and its recommendations to the Sexual Harassment Office.

4. Preventive Suspension

- 4.1 On the recommendation of the Sexual Harassment Office, the Chancellor may suspend any subordinate officer, faculty member or employee for not more than ninety (90)

days pending an investigation, if the charge is for grave misconduct and the evidence of guilt is strong which would warrant the respondent's removal from the service.

- 4.2 If the case against the officer, faculty member or employee under preventive suspension is not finally decided within a period of ninety (90) days after the date of suspension, respondent shall be automatically reinstated in the service: Provided, that if the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of the delay shall not be counted in computing the period of suspension.

5. Decision

- 5.1 Within fifteen (15) days from receipt of the Committee report and recommendation, the Chancellor shall render the decision.
- 5.2 The decision of the Chancellor shall be final and executory ten (10) days after receipt of the copy thereof by the parties.
- 5.3 Any appeal of the decision shall be filed in accordance with the University rules and regulations regarding administrative cases.

6. Penalties

Sexual harassment is punishable as follows:

- 6.1 As Simple Misconduct
 - First offense: Suspension for 1 month and 1 day to 6 months.
 - Second offense: Suspension for one year.
 - Third offense: Dismissal.

6.2 As Conduct Prejudicial to the Best Interest of the Service or Disgraceful and Immoral Conduct

First offense: Suspension for 6 months and 1 day to one year.

Second offense: Dismissal.

6.3 As Grave Misconduct

First offense: Dismissal and permanent disqualification from government employment within the University System.

6.4 A student found guilty of simple misconduct involving sexual harassment shall be penalized with a suspension for not less than one (1) calendar day but not more than thirty (30) calendar days, provided that should the student be found guilty for the third time, the penalty shall be expulsion. Grave misconduct involving sexual harassment shall be punishable by expulsion.

APPENDIX 3

2017 UP ANTI-SEXUAL HARASSMENT CODE

Pursuant to its powers vested by law, the Board of Regents of the University of the Philippines System hereby promulgates this Anti-Sexual Harassment Code within the jurisdiction of the University of the Philippines.

Section 1. Declaration of Policy. – The University values and upholds the dignity of every individual and guarantees the full respect for human rights of all members of the UP community.

All forms of sexual harassment are unacceptable.

To this end, the University shall maintain an enabling, gender-fair, safe and healthy learning and working environment for the members of the UP community.

Section 2. Policy Standards and Guidelines on Sexual Harassment.
– In furtherance of the Declaration of Policy in Section 1 hereof, the following standards and guidelines shall be observed by the University:

- (a) This Code shall apply to all teaching and non-teaching personnel, and students of the University.
- (b) Sexual harassment is a reprehensible conduct which subverts the mission of the University and undermines the dignity of the members of the UP community. The University shall undertake measures to prevent and eliminate sexual harassment.
- (c) All reported incidents or cases of sexual harassment, including incidents between member/s of the UP community and partner entities, shall be appropriately acted upon by the University.

- (d) The University shall provide appropriate services to parties to sexual harassment cases.
- (e) Retaliation, in any form, against persons directly or indirectly involved in any incident report or case involving sexual harassment, shall be a ground for disciplinary action.

Section 3. Coverage. – This Code applies to all members of the UP community.

The “UP community” refers to persons, natural or juridical, inclusive of teaching and non-teaching personnel, and students as defined herein.

- (a) “Teaching personnel” – any member of the teaching staff of the University, regardless of academic rank or status of appointment, including any person with teaching responsibilities.
- (b) “Non-teaching personnel” – any person who works for the University, not included in the teaching staff regardless of status of appointment.
- (c) “Student” – any individual admitted to and registered in any program of the University on a regular or part-time basis, including one who is officially on leave of absence; and who has not yet been separated from the University formally through either transfer, graduation, honorable or dishonorable dismissal, expulsion or expiration of the period allowed for maximum residence, at the time of the commission of the act of sexual harassment, regardless of whether or not he/she is enrolled in any unit of the University at the time of the filing of the charge or during the pendency of the disciplinary proceedings, including any person undertaking on-the-job training.
- (d) “Other UP Workers” – refers to non-UP contractual and job order workers, who are under a contractual teaching and

non-teaching arrangement, including, but not limited to coach, mentor, trainer, consultant.

- (e) "UP organizations" - refers to organizations or groups registered or recognized by the University or any of its offices/units.

Section 4. Definitions. – As used in this Code –

- (a) Academic activity – any activity that involves academics such as, but not limited to, classes, tutorials, seminars, workshops, conferences, lectures, examinations, fieldwork, externships/internships, on-the-job trainings, for the fulfillment of academic requirements and others.
- (b) Academic unit – all units such as but not limited to College, School, Institute, Center or Program.
- (c) Academic year – as determined by the University.
- (d) Admonition/Reprimand – a written or oral, formal reproof.
- (e) Alternative Dispute Resolution (ADR) – any process to amicably resolve a case by which the dispute is resolved by the parties themselves with the assistance of a neutral third party, which includes mediation and conciliation.
- (f) Apology – a signed written expression of contrition or remorse for wrong done, accepted by the University and the private complainant.
- (g) Community service – any rehabilitative activity as provided by the University designed to provide for the public good in keeping with the overall goals of the community, and agreed upon by the University and the respondent/s; *Provided*, that it should not displace regular employees, supplant employment opportunities ordinarily available, or impair contracts for services.
- (h) Constituent University (CU) – The University is composed of

its existing Constituent Universities, as follows: University of the Philippines Diliman; University of the Philippines Manila; University of the Philippines Los Baños; University of the Philippines Visayas; University of the Philippines Mindanao; University of the Philippines Baguio; University of the Philippines Open University; and those that may be created in the future.

- (i) Expulsion – permanent disqualification from attendance in the University.
- (j) Hearing – an opportunity for the parties to be heard. The hearing is not a trial-type hearing.
- (k) Juridical person – refers to partnerships, corporations, cooperatives, and labor unions.
- (l) Partner entity – refers to any private or public person, natural or juridical, with which the University has teaching, research, extension, and other service arrangements.
- (m) Private Complainant – the aggrieved person who files a complaint, or any person initially acting in his or her behalf. She/he shall be considered a complaining witness.
- (n) Respondent – one against whom a Formal Charge is issued.
- (o) Semester – academic period as determined by the University.
- (p) University premises – the lands, buildings or facilities occupied or managed by the University.
- (q) University System – all units and offices under the Office of the University President and Vice Presidents.
- (r) Year, month, day – “year” is understood to be twelve calendar months; “month” of thirty days, unless it refers to a specific calendar month in which case it shall be computed according to the number of days the specific month contains; “day,” a day of 24 hours; and “night,” from sunset to sunrise.

Section 5. Sexual Harassment Defined. –

Sexual harassment is unwanted, unwelcome, uninvited behavior of a sexual nature or inappropriate sexual advances or offensive remarks about a person's sex, sexual orientation, or gender identity.

It is an act, which may be committed physically, verbally, or visually with or without the use of information communication technology.

Sexual harassment may be a demand or request for sexual favor by a person of authority, influence or moral ascendancy in exchange for appointments, grants, grades or favors, or set as terms and conditions for appointments, grants, grades or favors regardless of whether such act or series of acts are accepted by the offended party.

It may be committed inside UP premises; or outside UP premises in a work, education, research, extension, or related activity.

Sexual harassment under this Code may include, but is not limited to, cases involving abuse of authority or power, ascendancy, influence such as in a teacher-student, senior faculty-junior faculty, health worker-patient or healthcare provider-client relationship; cases involving peer relationships such as faculty-faculty, employee-employee, or student-student relations, or cases involving harassment of teaching or non-teaching personnel by students, or cases involving harassment of supervisors by subordinates.

This Code contemplates cases of harassment involving persons of the same or opposite sex, regardless of sexual orientation, gender identity and expression.

Where the act/s of sexual harassment are shown to be organization-related or organization-based, the liability for sexual harassment shall extend to the officers of the organization, who are registered students during the commission of the offense, and the organization itself.

Section 6. Persons Liable. – Any member of the UP community is liable for sexual harassment when he/she:

- (a) directly participates in the execution of any act of sexual harassment as defined by this Code;
- (b) induces or directs another or others to commit sexual harassment as defined by this Code;
- (c) cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished;
- (d) cooperates in the commission of sexual harassment by another through previous or simultaneous acts;
- (e) benefits from the commission of any act of sexual harassment;
- (f) conceals or hides the commission of any act of sexual harassment; and
- (g) restrains, or coerces the victim from filing the appropriate complaint.

Section 7. Classification of Acts. – Sexual harassment in relation to Section 5 is classified as light, less grave and grave offenses, as follows:

- (a) Light Offenses shall include, but are not limited to:
 1. surreptitious looking or stealing a look at a person's private parts or underclothing;
 2. malicious leering or ogling;
 3. sexual flirtation or persistent unwanted attention with sexual overtones;
 4. inquiries or comments about a person's sex life and gender orientation;

5. communicating sexist/smutfy remarks causing discomfort, embarrassment, offense, or insult to the receiver;
6. display of sexually-offensive pictures, materials, or graffiti; and
7. other analogous cases.

(b) Less Grave Offenses shall include, but are not limited to:

1. verbal and/or non-verbal abuse with sexual overtones, including but not limited to, offensive hand or body gestures;
2. derogatory or degrading remarks or innuendoes directed toward the opposite or one's sex, sexual orientation or gender identity;
3. touching or brushing against a victim's body;
4. pinching that does not fall under grave offenses;
5. sexual advances or propositions; and
6. other analogous cases.

(c) Grave Offenses shall include, but are not limited to:

1. touching or groping of private parts of the body such as breast, genitalia, or buttocks;
2. forced kissing;
3. requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance;

4. attempted or consummated unwanted sexual intercourse or torture of the person in a sexual manner; and
5. other analogous cases.

Section 8. Anti-Sexual Harassment Council. – An ASH Council shall be constituted in each of the constituent universities (CUs). The ASH Council shall be composed of:

- (a) the Vice Chancellor for Academic Affairs, the Vice Chancellor for Administration, the Vice Chancellor for Student Affairs and other Vice-Chancellors, or equivalent officials;
- (b) one representative each from the teaching and non-teaching personnel, and students, who shall be appointed by the Chancellor in consultation with their respective sectors, for a term of one academic year each; *Provided*, that the exclusive bargaining representative of the teaching and non-teaching personnel shall be accorded representation.
- (c) the Director/Coordinator of the Women’s Studies Center/ Gender Office; and
- (d) the Coordinator of the OASH, who shall be a non-voting member.

The Council shall be headed by a Vice Chancellor who will serve as Chairperson on a rotating basis with the other Vice Chancellors.

The ASH Council shall be responsible for the following:

- (a) serve as the oversight committee of the Office of Anti-Sexual Harassment (OASH);
- (b) determine whether a *prima facie* case of sexual harassment exists before giving due course to the complaint;

- (c) recommend the constitution of Hearing Committees to hear and resolve cases with members drawn from a pool of nominees; and,
- (d) perform such other tasks that the Chancellor will assign or delegate.

Section 9. Office of Anti-Sexual Harassment. – Each constituent university shall have an Office of Anti-Sexual Harassment (OASH). The OASH shall be directly under the Office of the Chancellor. It shall be headed by a Coordinator.

- (a) The Coordinator shall be appointed by the Chancellor to serve for a term of three (3) years, which may be renewed. He or she shall be the executive officer of the Office and shall be responsible for the efficient implementation of the decisions of the Office and of the Chancellor involving sexual harassment cases.
- (b) The OASH shall:
 1. design and implement a continuing program of activities and initiatives for the prevention of sexual harassment;
 2. undertake information and educational activities to ensure that the University policy, rules, regulations, and procedures on anti-sexual harassment are disseminated and become part of academic culture;
 3. formulate procedures of such nature as to elicit trust and confidence on the part of interested parties in resolving problems arising from cases or incidents of sexual harassment, including counseling and grievance management;
 4. coordinate security and support measures to aggrieved parties or victims in sexual harassment cases;

5. serve as the secretariat of the ASH Council and Hearing Committees and act as custodian of records;
6. prepare and submit an annual report to the Chancellor of the University;
7. monitor the implementation of decisions/orders of the appropriate disciplining authority; and,
8. perform such other functions which this Code and the Chancellor may delegate.

Each constituent university shall henceforth set up its respective OASH, not later than one (1) year from effectivity of this Code. The existing organizational structure shall continue to discharge its respective functions pending the creation of an OASH and Gender Office/Center as separate and independent units in each constituent university.

Section 10. Anti-Sexual Harassment Hearing Pool. – The OASH shall constitute and maintain a pool of students, and teaching and non-teaching personnel with regular appointments from which shall be drawn the members of a Hearing Committee for every case where formal procedure is preferred or is deemed necessary.

The members of the pool shall undergo orientation on the nature of sexual harassment, and gender sensitivity.

Section 11. Procedures. – The University shall provide facilities for both informal and formal procedures for resolving cases or dealing with incidents of sexual harassment.

Informal procedure refers to University action other than the formal procedure outlined in Section 16. It may include alternative dispute resolution (ADR) mechanisms, corrective measures, and provision of support services, such as counseling, providing information, issuance of an administrative protection order, alternate or temporary shelter, study or work immersion, wellness

programs and wholesome rehabilitative measures, and such other appropriate support.

Formal procedure refers to an administrative disciplinary proceeding initiated upon a sworn written complaint and, after investigation, involves the issuance of a Formal Charge, the conduct of summary hearing, the resolution of a case, and the imposition of the corrective measure, if any.

Incidents of sexual harassment dealt with in this manner will be documented to determine whether patterns of sexual harassment are present, and to come up with measures to prevent and eliminate sexual harassment.

Section 12. Alternative Dispute Resolution (ADR). – As used in this Code, ADR is limited to conciliation and mediation. It may be resorted to only in one complaint of sexual harassment; *Provided*, that these three requisites occur: it is the first complaint against the person being complained of; the complaint is a light offense; the case is peer-to-peer. Furthermore, it is understood that the complaint against the respondent is the first complaint filed in any of the constituent universities.

Complaints settled through ADR shall at all times be with the assistance of the OASH.

Section 13. Support Services. – The OASH may, at any time, in either formal or informal procedure, coordinate with, refer to, and/or provide appropriate support services to both aggrieved party or person/complainants and persons complained of/respondents.

Support services may include but are not limited to: temporary shelter, medical and legal services, counseling, transportation, communication, safety and security measures and laboratory procedures.

For this purpose, the OASH shall provide orientation/training to all those who are involved in providing support services to parties in the sexual harassment case.

Section 14. Right to Representation. – The University as complainant shall be represented by the Chancellor or President, as the case may be, or his/her designate.

The complaining witness and the respondent may be assisted by their respective counsels of choice, who are not connected with the University.

The role of counsel shall be limited to advice to his/her client.

Section 15. Where to File. – The report/complaint may be filed with the CU OASH where the incident was committed, or in the CU OASH selected by the aggrieved party, if parties involved are from different CUs.

Section 16. Procedures on the Determination of Sexual Harassment. –

- (a) How Commenced. – Any sexual harassment committed may be reported orally or in writing, in English or Filipino, to the OASH by an aggrieved party, or by any person for the aggrieved party. No particular form is required for the report, but it must be in writing, signed by the aggrieved party or person and notarized.

Deans/Directors/Heads of units who receive such report shall communicate the report to the OASH.

A report made orally, or thru a text message, or thru other non-written means, shall be reduced in writing by the OASH person-in-charge using a prescribed case in-take form and signed by the aggrieved party, or any person serving as the aggrieved party; *Provided*, that reports or statements in writing and other documents submitted shall be attached thereto.

A report filed by any member of the UP community against a non-member of the UP community with the University shall be dealt with similarly; *Provided*, that the report against the latter shall proceed in accordance with the terms of their engagement with the University.

A report filed against any member of the ASH Council and the OASH staff shall be referred to the Office of the Chancellor for investigation and appropriate action.

Reports/complaints involving UP System officials and employees shall be referred to the UP Diliman OASH for investigation and disposition.

A report filed against the Chancellor shall be referred to the Office of the President of the University for investigation and appropriate action.

A report filed against the President shall be referred to the Board of Regents of the University of the Philippines for investigation and appropriate action.

- (b) Interview. – A designated OASH case interviewer shall determine the particulars of the incident/s reported by asking specific questions to elicit details, record the answers and ensure that the record of the interview is attested to by the aggrieved party or person.
- (c) Notices. – Within five (5) days from receipt of the report, the OASH shall serve a notice of the report upon the person complained of and his/her parent or guardian, if the student is below 18, with copies of all pertinent documents.
- (d) Response to Report. – Within a period of five (5) days from receipt of the notice of the report, the person/s complained of shall submit to the OASH a written and notarized response, with a copy furnished the aggrieved party.
- (e) *Prima Facie* Determination of Sexual Harassment. – Upon

receipt of the response to the report or the expiration of the period for the submission thereof, whichever comes first, all pertinent documents shall be forwarded to the ASH Council for evaluation and determination whether or not a *prima facie* case for sexual harassment exists, and if there is basis for issuance of preventive suspension.

Sexual harassment is deemed to exist on the basis of the complaint when any of the following circumstances is alleged:

1. The sexual favor is demanded or requested as a condition in hiring, employment or reemployment or in granting favorable compensation or promotion or any other term, condition or privilege; or the refusal to grant the sexual favor results in limiting, segregating or classifying which would discriminate, diminish or deprive employment opportunities or otherwise adversely affect the person who is the object of sexual harassment;
2. It would impair the rights or privileges of the students, teaching and non-teaching personnel under the law, rules or regulations;
3. It would result in an intimidating, hostile or offensive employment or learning environment; it could force the offended party to give in to the unwanted, unwelcome, or uninvited behavior.
4. Committed against a student, trainee or one who is under the care, custody, supervision or advisorship of the offender, or one whose education, training, apprenticeship or tutorship is entrusted to the offender; or,
5. The sexual favor is deemed to be a condition to the giving of a passing grade, the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations.

At any time during this evaluation, the ASH Council may request the attendance of parties to answer questions, inform them of the opportunity to resolve the complaint through an informal procedure, and employ such other measures as it may deem relevant in the evaluation of the complaint. The ASH Council shall ensure the voluntariness and readiness of the parties opting for either the informal or formal procedure.

The ASH Council shall submit to the Chancellor or President, as the case may be, its report and recommendation/s, notwithstanding any withdrawal of the report made by the aggrieved party, within thirty (30) days from receipt of the response to report/complaint.

Section 17. Issuance of Formal Charge. – After finding a *prima facie* case, the Chancellor or President, as the case may be, shall issue a Formal Charge against any or all of the respondents within fifteen (15) days from receipt of the OASH report and recommendation/s.

The Formal Charge shall state the name, age, civil status, citizenship and relationship with the University of the person complained of; the acts or omissions constituting sexual harassment; the name, age, civil status, citizenship and relationship with the University of the offended person/s; the approximate date, time, place and circumstances constituting the elements of the report/complaint.

Formal Charge may include preventive suspension, including its scope, and protection order.

Filing of complaints may be done digitally subject to compliance of requirements provided in this Section.

Section 18. Preventive Suspension. – Upon the recommendation of the ASH Council, the Chancellor or President, as the case may be, may suspend any student, teaching or non-teaching personnel for a non-extendible period of not more than ninety (90) days from issuance of Formal Charge; *Provided*, that no suspension shall be beyond the maximum imposable penalty.

An order of preventive suspension may be issued to temporarily remove the respondent from the scene of the complained incident and to preclude the possibility of his/her exerting undue influence or pressure on the witnesses against him/her or destroying, tampering, hiding or suppressing evidence.

A respondent under preventive suspension shall be prohibited from any or all of the following:

- (a) attending classes and academic activities/rendering work;
- (b) entering UP academic/office/ service buildings and their premises;
- (c) using UP campus facilities, including but not limited to, athletic facilities, libraries, and computer laboratories; except dormitories for dormitory residents, health service, houses of worship, police station, resource generation areas, residences, and others as may be recommended by the ASH Council;
- (d) participating in UP activities within university premises;
- (e) holding student/office jobs; and,
- (f) enjoying IT privileges as defined by the current policies on IT uses and resources of the University, except online enrolment.

The preventive suspension may include other conditions set by the Chancellor or the Dean or President, as the case may be.

Section 19. Protection Order. – The Chancellor or President, as the case may be, may issue a Protection Order, on his/her own initiative, or upon application by the complainant, or upon the recommendation of the ASH Council, or Hearing Committee for the purpose of preventing retaliatory acts or continuing acts of sexual harassment against the complainant and granting other necessary relief. The reliefs granted under a Protection Order serve

the purpose of safeguarding the complainant from further harm, minimizing any disruption to her/his daily life, and facilitating her/his opportunity and ability to independently regain control over her/his life. The provisions of the Protection Order shall be enforced by the Academic Unit or Office that has authority over the respondent.

A Protection Order may be temporary or permanent. A Temporary Protection Order (TPO) may be issued for not more than ninety (90) days unless the charge is for a grave offense, in which case the TPO is issued for the duration of the proceedings. A Permanent Protection Order (PPO) may be issued as part of the corrective measures.

The Protection Order may include any, some or all of the following reliefs:

- (a) prohibition of the respondent from threatening to commit or committing, personally or through another, any of the above acts prohibited in this Code;
- (b) prohibition of the respondent from directly or indirectly harassing, annoying, discriminating or committing any other acts that tend to damage the reputation of the complainant;
- (c) removal and exclusion of the respondent from the place of work or study of the complainant, if they are officemates or classmates, either temporarily or permanently for the purpose of protecting the complainant;
- (d) directing the respondent to stay away from the complainant and to stay away from the residence, school, place of employment, or any specified place frequented by the complainant; and,
- (e) provision of such other forms of relief as may be deemed necessary to protect and provide for the safety of the complainant; *Provided*, that the complainant consents to such relief.

Violation of the TPO/PPO shall be subject to immediate disciplinary action as recommended by the Hearing Committee to the Chancellor.

Section 20. ASH Hearing Committee. – Upon the issuance of a Formal Charge, the Chancellor or President, as the case may be, shall constitute a Hearing Committee of three (3) members drawn from a Hearing Pool, which shall be composed of the following:

- (a) a Chairperson, who is a member of the teaching personnel;
- (b) one (1) member representing the sector of the complainant;
and,
- (c) one (1) member representing the sector of the respondent.

The presence of the Chair and a member shall be sufficient to constitute a quorum. The concurrence of two (2) members shall be necessary for the submission of the Committee report and recommendation/s.

A member of a Hearing Committee shall serve until the final disposition, unless in the meantime, he or she has officially severed his/her relationship with the University, or for other compelling reasons as determined by the Chancellor. Any change in the membership composition of the Committee shall not prejudice the continuity of the proceedings or the final disposition of the case.

It shall be the duty of the members of the Hearing Committee to meet and convene promptly and expeditiously for the purpose of early disposition of the case.

Section 21. Formal Procedure under the ASH Hearing Committee.
– All proceedings before the ASH Hearing Committee (Hearing Committee) shall be summary in nature and the Hearing Committee shall not be bound by technical rules of evidence. The parties and their witnesses, if any, shall submit affidavits subject to clarificatory questions by the Hearing Committee.

- (a) Quorum. – The hearings and all other meetings of the Hearing Committee shall proceed when a majority of the members are present.
- (b) Prohibited Pleadings. – The following requests are prohibited:
1. extension of time to file an answer;
 2. dismissal of the complaint;
 3. re-opening of a case;
 4. demurrer to evidence;
 5. postponements/cancellation of hearings;
 6. reply/rejoinder;
 7. intervention; and,
 8. new proceedings on the same case.
- (c) Summons. – Within five (5) days from its constitution, the Hearing Committee shall serve written summons to the respondent/s with a copy of the Formal Charge by registered mail or courier service, through the Dean/Head of Unit, or to the student-respondent's parents or guardians.
- (d) Answer. – Within seven (7) days from receipt of the summons and the Formal Charge, the respondent/s shall submit to the Hearing Committee an answer in writing or if he/she fails to submit an answer, his/her answer during the *prima facie* determination shall be considered as his/her answer.
- (e) Preliminary Meeting. – The preliminary meeting shall be mandatory. The Hearing Committee shall set the preliminary meeting date not later than two (2) weeks after receipt of the respondent's answer or after the expiration of the period within which the respondent should answer.

Failure of the private complainant to appear shall be a ground to dismiss the complaint.

Matters taken and agreed upon during the preliminary meeting shall be reduced in writing and attested to by the Hearing Committee, the University Representative and/or the private complainant, and the respondent. The preliminary meeting report shall be binding on the parties. The parties may also agree to submit the case for resolution during the preliminary meeting.

- (f) Position Papers. – Within two (2) weeks from the preliminary meeting, the parties shall simultaneously file their respective position papers, attaching thereto the affidavits of their witnesses and/or documentary evidence, if any.
- (g) Clarificatory Meeting. – At any time after the submission of the position papers, the Hearing Committee may call for clarificatory meetings.
- (h) Report and Recommendation. – Within fifteen (15) days from the receipt of the position papers or the last clarificatory meeting, the Hearing Committee shall submit its report and recommendation/s to the Chancellor or President, as the case may be.
- (i) Decision by the Chancellor. – Within thirty (30) days from the receipt of the Committee report and recommendation/s, the Chancellor shall render a decision.

The decision of the Chancellor shall be final and executory ten (10) days after receipt of the copy thereof by the parties; *Provided*, that in cases where the corrective measure is expulsion/dismissal, the same shall be automatically appealed to the Office of the President.

No motion for reconsideration is allowed.

- (j) Appeal to the President. – The decision of the Chancellor may be appealed to the President within ten (10) days upon receipt of the decision.

In cases of automatic appeal, the records of the case shall be transmitted by the OASH to the President within five (5) days from receipt of the decision of the Chancellor.

The President shall decide the case within thirty (30) days upon receipt of the decision of the Chancellor.

No motion for reconsideration is allowed.

- (k) Decision by the President in Cases Involving UP System Officials and Personnel.– Within thirty (30) days from the receipt of the Committee report and recommendation/s, the President shall render a decision.

The decision of the President shall be final and executory ten (10) days after receipt of the copy thereof by the parties; *Provided*, that in cases where the corrective measure is expulsion/dismissal, the same shall be automatically appealed to the Board of Regents.

No motion for reconsideration is allowed.

- (l) Appeal to the Board of Regents. – The decision of the President is appealable to the Board of Regents (BOR) within ten (10) days upon receipt of the decision.

Only one motion for reconsideration is allowed.

Section 22. Corrective Measures. – The corrective measures for light, less grave, and grave offenses are as follows:

- (a) For teaching or non-teaching personnel

1. For light offenses

1st offense – Reprimand or suspension for one (1) month and one (1) day to six (6) months

2nd offense – Fine or suspension for six (6) months and one (1) day to one (1) year

3rd offense – Dismissal

2. For less grave offenses

1st offense – Suspension for six (6) months and one (1) day to one (1) year

2nd offense – Dismissal

3. For grave offenses

1st offense – Dismissal

(b) For students

1. For light offenses

1st offense – Reprimand or community service not exceeding 30 hours

2nd offense – Suspension not exceeding one (1) semester

3rd offense – Expulsion

2. For less grave offenses

1st offense – Community service of 60 hours

2nd offense – Suspension for one (1) semester to one (1) year

3rd offense – Expulsion

3. For grave offenses

1st offense – Suspension for one (1) academic year to expulsion

(c) For other UP workers

They shall be proceeded against in accordance with the provisions of their contract with the University.

(d) For UP organizations

The corrective measures shall range from a minimum of suspension of privileges and recognition for one semester to a maximum of non-recognition as the gravity of the circumstances shall warrant.

In consonance with the transformative values of student discipline, the corrective measure of suspension for one semester or less may be converted and served for a like period in community service. Community service shall include a reasonable period for clinical counseling and rehabilitative measures.

Section 23. Additional Corrective Measures. – In addition to the imposable corrective measures, regardless of the number of times the offense is committed, the following corrective measures may be imposed within the period of service of the corrective measure. These include the following, but are not limited to:

- (a) written or oral apology;
- (b) counseling; and,
- (c) attendance in appropriate or relevant trainings, seminars, and lectures, such as gender sensitivity trainings, or other such similar activities.

In determining whether corrective measures are appropriate or necessary, the following factors may be taken into consideration:

- (a) nature and circumstances of the act committed;
- (b) frequency and severity of the act;
- (c) personal circumstances of the person complained of/ respondent (e.g., age, maturity, position, or rank)
- (d) safety of the parties or community; and,
- (e) such other relevant factors.

These corrective measures may also be adopted in complaints submitted for disposition under the informal procedure.

Section 24. Alternative Circumstances. – In the determination of the corrective measures to be imposed, the following circumstances attendant to the commission of the act shall be considered as alternately mitigating or aggravating:

- (a) physical illness;
- (b) good faith;
- (c) time and place of act;
- (d) official position;
- (e) subordinate;
- (f) disclosure of confidential information;
- (g) use of government property in the commission of the act;
- (h) habituality;
- (i) employment of means to commit or conceal the act;
- (j) education; or,
- (k) other analogous circumstances.

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

Section 25. Prescriptive Period. – All complaints for sexual harassment shall be filed with the OASH within four (4) years from the commission of the act complained of.

Section 26. Institution of Separate Actions. – Nothing in this Code shall preclude the complainant from instituting a separate criminal or civil action.

Section 27. Confidentiality Clause. – All proceedings and records related to the case are strictly confidential. For purposes of dissemination of Decisions to pertinent University offices, only the dispositive portion shall be released.

Parties to the case as well as University personnel and students entrusted with duties and functions in connection with the implementation or enforcement of this Code, are enjoined from disclosing any matters related thereto and to respect the individual privacy of all parties during the pendency of the case.

Any person who violates the confidential nature of such records shall be subject to appropriate disciplinary action.

The identity of the complainant in the final decision released by the University shall, upon request of the complainant, be under an assumed name; *Provided*, however, that where the respondent is found not liable for the offense charged, the name shall also be under an assumed name.

Section 28. Responsible Officials. – The President and the Chancellors shall be directly responsible for the effective implementation of this Code.

Section 29. Protocols for the Prevention of Sexual Harassment. – The ASH Council shall formulate, disseminate and publish protocols

for the prevention of sexual harassment upon consultation with the UP community. Academic units may formulate implementing guidelines applicable to their particular situation or context, subject to the review of the ASH Council.

An anti-sexual harassment protocol with contractors and concessionaires shall likewise be integrated in contracts entered with the University.

Section 30. Anti-Sexual Harassment Orientation and Clearance Requirement. – All members of the UP community shall undergo an orientation on anti-sexual harassment, once every three (3) years.

Anti-sexual harassment orientation and clearance shall henceforth be a component of student curriculum, personnel actions, such as hiring, tenure and promotion, and accreditation of service contractors, and partner entity engagements.

Section 31. Review. – The Chancellor shall call for the review of this Code or parts of it by members of the UP community, if none has been made in ten (10) years. Any member of the UP community, through the Chancellor, may propose amendments to the Board of Regents. The amendment, as approved by the BOR, shall take effect on the first day of the succeeding semester. The UP community may propose amendments to the Code.

Section 32. Repealing Clause. – This Code amends and supersedes the University’s Implementing Rules and Regulations of the Anti-Sexual Harassment Act of 1995.

This also amends and supersedes all resolutions and issuances inconsistent with this Code.

The Chancellors are hereby directed to issue appropriate guidelines and issuances to implement this Code in their respective constituent universities.

Section 33. Effectivity. – This Code shall take effect seven (7) days from publication in the UP System official publication and website.

APPENDIX 4

REPUBLIC ACT 11313: SAFE SPACES ACT

Republic of the Philippines
Congress of the Philippines
Metro Manila
Seventeenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen

AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFORE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Short Title. – This Act shall be known as the ***“Safe Spaces Act”***.

Section 2. 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.

Section 3. Definition of Terms. – As used in this Act;

1. Catcalling refers to unwanted remarks directed towards a person, commonly done in the form of wolf-whistling and misogynistic, transphobic, homophobic, and sexist slurs;
2. Employee refers to 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: Provided, That for the purposes of this law, a person who is detailed to an entity under a subcontracting or secondment agreement shall be considered an employee;
3. Employer refers to a person who exercises control over an employee: Provided, That for the purpose of this Act, the status or conditions of the latter's employment or engagement shall be disregarded;
4. 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;
5. Gender-based online sexual harassment refers to an on the 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;
6. Gender identity and/or expression refers to 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, in which case this person is considered transgender;

7. 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; and
8. Stalking refers to 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.

ARTICLE I

GENDER-BASED STREETS AND PUBLIC SPACES SEXUAL HARASSMENT

Section 4. 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 includes catcalling, wolf-whistling, unwanted invitations, misogynistic, transphobic, homophobic and sexist slurs, persistent uninvited comments or gestures on a person's appearance, relentless requests for personal details, statement of sexual comments and suggestions, public masturbation or flashing of private parts, groping, or any advances, whether verbal or physical, that is unwanted and has threatened one's sense of personal space and physical safety, and committed in public spaces such as alleys, roads, sidewalks and parks. Acts constitutive of gender-based streets and public spaces sexual harassment are those performed in buildings, schools, churches, restaurants,

malls, public washrooms, bars, internet shops, public markets, transportation terminals or public utility vehicles.

Section 5. Gender-Based Sexual Harassment 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. – Restaurants, bars, cinemas, malls, buildings and other privately-owned places open to the public shall adopt a zero-tolerance policy against gender-based streets and public spaces sexual harassment. These establishments are obliged to provide assistance to victims of gender-based sexual harassment by coordinating with local police authorities immediately after gender-based sexual harassment is reported, making CCTV footage available when ordered by the court, and providing a safe gender-sensitive environment to encourage victims to report gender-based sexual harassment at the first instance.

All restaurants, bars, cinemas and other places of recreation shall install in their business establishments clearly-visible warning signs against gender-based public spaces sexual harassment, including the anti-sexual harassment hotline number in bold letters, and shall designate at least one (1) anti-sexual harassment officer to receive gender-based sexual harassment complaints. Security guards in these places may be deputized to apprehend perpetrators caught in flagrante delicto and are required to immediately coordinate with local authorities.

Section 6. Gender-Based Sexual Harassment in Public Utility Vehicles. – In addition to the penalties in this Act, the Land Transportation Office (LTO) may cancel the license of perpetrators found to have committed acts constituting sexual harassment in public utility vehicles, and the 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. Gender-based sexual harassment in public utility vehicles (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.

Section 7. 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 as provided for under Republic Act No. 9344, otherwise known as the “Juvenile Justice and Welfare Act of 2006.”

Section 8. Duties of Local Government Units (LGUs). – Local government units (LGUs) shall bear primary responsibility in enforcing the provisions under Article I of this Act. LGUs shall have the following duties:

1. Pass an ordinance which shall localize the applicability of this Act within sixty (60) days of its effectivity;
2. Disseminate or post in conspicuous places a copy of this Act and the corresponding ordinance;
3. Provide measures to prevent gender-based sexual harassment in educational institutions, such as information campaigns and anti-sexual harassment seminars;
4. Discourage and impose fines on acts of gender-based sexual harassment as defined in this Act;
5. Create an anti-sexual harassment hotline; and
6. Coordinate with the Department of the Interior and Local Government (DILG) on the implementation of this Act.

Section 9. Role of the DILG. – The DILG shall ensure the full implementation of this Act by:

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

Section 10. Implementing Bodies for Gender-Based Sexual Harassment in Streets and Public Spaces. – The Metro Manila Development Authority (MMDA), the local units of the Philippine National Police (PNP) for other provinces, and the Women and Children’s Protection Desk (WCPD) of the PNP shall have the authority to apprehend perpetrators and enforce the law: Provided, That they have undergone prior Gender Sensitivity Training (GST). The PCW, DILG and Department of Information and Communications Technology (DICT) shall be the national bodies responsible for overseeing the implementation of this Act and formulating policies that will ensure the strict implementation of this Act.

For gender-based streets and public spaces sexual harassment, the MMDA and the local units of the PNP for the provinces shall deputize its enforcers to be Anti-Sexual Harassment Enforcers (ASHE). They shall be deputized to receive complaints on the street and immediately apprehend a perpetrator if caught in flagrante delicto. The perpetrator shall be immediately brought to the nearest PNP station to face charges of the offense committed. The ASHE unit together with the Women’s and Children’s Desk of PNP stations shall keep a ledger of perpetrators who have committed acts prohibited under this Act for purposes of determining if a perpetrator is a first-time, second-time or third-time offender. The DILG shall also ensure that all local government bodies expedite the receipt and processing

of complaints by setting up an Anti-Sexual Harassment Desk in all barangay and city halls and to ensure 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. The DILG, the DSWD in coordination with the Department of Health (DOH) and the PCW shall coordinate if necessary to ensure that victims are provided the proper psychological counseling support services.

Section 11. Specific Acts and Penalties for Gender-Based Sexual Harassment in Streets and Public Spaces. – The following acts are unlawful and shall be penalized as follows:

1. 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 (P1,000.00) and community service of twelve hours inclusive of attendance to a Gender Sensitivity Seminar to be conducted by the PNP in coordination with the LGU and the PCW;
 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).

2. 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 (P10,000.00) and community service of twelve hours inclusive of attendance to a Gender Sensitivity Seminar, to be conducted by the PNP in coordination with the LGU and the PCW;
 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).
 4. 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;

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 (P50,000.00);
3. The third offense shall be punished by arresto mayor in its maximum period or a fine of One hundred thousand pesos (P 100,000.00).

ARTICLE II

GENDER-BASED ONLINE SEXUAL HARASSMENT

Section 12. Gender-Based Online Sexual Harassment. – Gender-based online sexual harassment includes acts that use information and communications technology in terrorizing and intimidating victims through physical, psychological, and emotional threats, unwanted sexual misogynistic, transphobic, homophobic and sexist remarks and comments online whether publicly or through direct and private messages, invasion of victim’s privacy through cyberstalking and incessant messaging, uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual 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 victims to harm their reputation, or filing false abuse reports to online platforms to silence victims.

Section 13. Implementing Bodies for Gender-Based Online Sexual Harassment. – For gender-based online sexual harassment, the PNP Anti-Cybercrime Group (PNPACG) as the National Operational Support Unit of the PNP is primarily responsible for the implementation of pertinent Philippine laws on cybercrime, shall receive complaints of gender-based online sexual harassment and develop an online mechanism for reporting real-time gender-based online sexual harassment acts and apprehend perpetrators. The Cybercrime Investigation and Coordinating Center (CICC) of the

DICT shall also coordinate with the PNPACG to prepare appropriate and effective measures to monitor and penalize gender-based online sexual harassment.

Section 14. 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.

ARTICLE III
QUALIFIED GENDER-BASED STREETS, PUBLIC SPACES AND
ONLINE SEXUAL HARASSMENT

Section 15. Qualified Gender-Based Streets, Public Spaces and Online Sexual Harassment. – The penalty next higher in degree will be applied in the following cases:

1. 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:
2. If the offended party is a minor, a senior citizen, or a person with disability (PWD), or a breastfeeding mother nursing her child;
3. If the offended party is diagnosed with a mental problem tending to impair consent;
4. 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; and
5. 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.

ARTICLE IV
GENDER-BASED SEXUAL HARASSMENT IN THE WORKPLACE

Section 16. Gender-Based Sexual Harassment in the Workplace. – The crime of gender-based sexual harassment in the workplace includes the following:

1. 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;
2. 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;
3. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient: Provided, That the crime of gender-based sexual harassment may also be committed between peers and those committed to a superior officer by a subordinate, or to a teacher by a student, or to a trainer by a trainee; and,
4. Information and communication system refers to 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.

Section 17. 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 gender-based sexual harassment in the workplace. Towards this end, the employer or person of authority, influence or moral ascendancy shall:

1. Disseminate or post in a conspicuous place a copy of this Act to all persons in the workplace;
2. Provide measures to prevent gender-based sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars;
3. Create an independent internal mechanism or a committee on decorum and investigation to investigate and address complaints of gender-based sexual harassment which shall;
 - a. Adequately represent the management, the employees from the supervisory rank, the rank-and-file employees, and the union, if any;
 - b. Designate a woman as its head and not less than half of its members should be women;
 - c. Be composed of members who should be impartial and not connected or related to the alleged perpetrator;
 - d. Investigate and decide on the complaints within ten days or less upon receipt thereof;
 - e. Observe due process;
 - f. Protect the complainant from retaliation; and
 - g. Guarantee confidentiality to the greatest extent possible;
4. Provide and disseminate, in consultation with all persons in the workplace, a code of conduct or workplace policy which shall;
 - a. Expressly reiterate the prohibition on gender-based sexual harassment;
 - b. Describe the procedures of the internal mechanism created under Section 17(c) of this Act; and
 - c. Set administrative penalties.

Section 18. Duties of Employees and Co-Workers Employees and co-workers shall have the duty to:

1. Refrain from committing acts of gender-based sexual harassment;
2. Discourage the conduct of gender-based sexual harassment in the workplace;
3. Provide emotional or social support to fellow employees, co-workers, colleagues or peers who are victims of gender-based sexual harassment; and
4. Report acts of gender-based sexual harassment witnessed in the workplace.

Section 19. Liability of Employers. – In addition to liabilities for committing acts of gender-based sexual harassment, employers may also be held responsible for:

1. Non-implementation of their duties under Section 17 of this Act, as provided in the penal provisions: or
2. Not taking action on reported acts of gender-based sexual harassment 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).

Section 20. Routine Inspection. – The Department of Labor and Employment (DOLE) for the private sector and the Civil Service Commission (CSC) for the public sector shall conduct yearly spontaneous inspections to ensure compliance of employers and employees with their obligations under this Act.

ARTICLE V
**GENDER-BASED SEXUAL HARASSMENT IN EDUCATION AND
TRAINING INSTITUTIONS**

Section 21. Gender Based Sexual Harassment in Educational and Training Institutions. – All schools, whether public or private, shall designate an officer-in-charge to receive complaints regarding violations of this Act, and shall ensure that the victims are provided with a gender-sensitive environment that is both respectful to the victims’ needs and conducive to truth-telling. Every school must adopt and publish grievance procedures to facilitate the filing of complaints by students and faculty members. Even if an individual does not want to file a complaint or does not request that the school take any action on behalf of a student or faculty member and school authorities have knowledge or reasonably know about a possible or impending act of gender-based sexual harassment or sexual violence, the school should promptly investigate to determine the veracity of such information or knowledge and the circumstances under which the act of gender-based sexual harassment or sexual violence were committed, and take appropriate steps to resolve the situation. If a school knows or reasonably should know about acts of gender-based sexual harassment or sexual violence being 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, the educational institution may reserve the right to strip the diploma from the perpetrator or issue an expulsion order.

The Committee on Decorum and Investigation (CODI) of all educational institutions shall address gender-based sexual harassment and online sexual harassment in accordance with the rules and procedures contained in their CODI manual.

Section 22. Duties of School Heads. – School heads shall have the following duties:

1. Disseminate or post a copy of this Act in a conspicuous place in the educational institution;
2. Provide measures to prevent gender-based sexual harassment in educational institutions, like information campaigns;
3. Create an independent internal mechanism or a CODI to investigate and address complaints of gender-based sexual harassment which shall:
 - a. Adequately represent the school administration, the trainers, instructors, professors or coaches and students or trainees, students and parents, as the case may be;
 - b. Designate a woman as its head and not less than half of its members should be women;
 - c. Ensure equal representation of persons of diverse sexual orientation, identity and/or expression, in the CODI as far as practicable;
 - d. Be composed of members who should be impartial and not connected or related to the alleged perpetrator;
 - e. Investigate and decide on complaints within ten (10) days or less upon receipt thereof;
 - f. Observe due process;
 - g. Protect the complainant from retaliation; and
 - h. Guarantee confidentiality to the greatest extent possible.
 - i. Provide and disseminate, in consultation with all persons in the educational institution, a code of conduct or school policy which shall:

- i. Expressly reiterate the prohibition on gender-based sexual harassment;
- ii. Prescribe the procedures of the internal mechanism created under this Act; and
- iii. Set administrative penalties.

Section 23. Liability of School Heads. – In addition to liability for committing acts of gender-based sexual harassment, principals, school heads, teachers, instructors, professors, coaches, trainers, or any other person who has authority, influence or moral ascendancy over another in an educational or training institution may also be held responsible for:

1. Non-implementation of their duties under Section 22 of this Act, as provided in the penal provisions; or
2. Failure to act on reported acts of gender-based sexual harassment committed in the educational institution.

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).

Section 24. Liability of Students. – Minor students who are found to have committed acts of gender-based sexual harassment shall only be held liable for administrative sanctions by the school as stated in their school handbook.

Section 25. Routine Inspection. – The Department of Education (DepEd), the Commission on Higher Education (CHED), and the Technical Education and Skills Development Authority (TESDA)

shall conduct regular spontaneous inspections to ensure compliance of school heads with their obligations under this Act.

ARTICLE VI

COMMON PROVISIONS

Section 26. Confidentiality. – At any stage of the investigation, prosecution and trial of an offense under this Act, the rights of the victim and the accused who is a minor shall be recognized.

Section 27. 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.

Section 28. Remedies and Psychological Counselling. – A victim of gender-based street, public spaces or online sexual harassment may avail of appropriate remedies as provided for under the law as well as psychological counselling 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 counselling services shall be borne by the perpetrator.

Section 29. Administrative Sanctions. – Above penalties are without prejudice to any administrative sanctions that may be imposed if the perpetrator is a government employee.

Section 30. Imposition of Heavier Penalties. – Nothing in this Act shall prevent LGUs from coming up with ordinances that impose heavier penalties for the acts specified herein.

Section 31. Exemptions. – Acts that are legitimate expressions of indigenous culture and tradition, as well as breastfeeding in public shall not be penalized.

ARTICLE VII

FINAL PROVISIONS

Section 32. PNP Women and Children’s Desks. – The women and children’s desks now existing in all police stations shall act on and attend to all complaints covered under this Act. They shall coordinate with ASHE officers on the street, security guards in privately-owned spaces open to the public, and anti-sexual harassment officers in government and private offices or schools in the enforcement of the provisions of this Act.

Section 33. Educational Modules and Awareness Campaigns. – The PCW shall take the lead in a national campaign for the awareness of the law. The PCW shall work hand-in-hand with the DILG and duly accredited women’s groups to ensure all LGUs participate in a sustained information campaign and the DICT to ensure an online campaign that reaches a wide audience of Filipino internet-users. Campaign materials may include posters condemning different forms of gender-based sexual harassment, informing the public of penalties for committing gender-based sexual harassment, and infographics of hotline numbers of authorities.

All schools shall educate students from the elementary to tertiary level about the provisions of this Act and how they can report cases of gender-based streets, public spaces and online sexual harassment committed against them. School courses shall include age -appropriate educational modules against gender-based streets, public spaces and online sexual harassment which shall be developed by the DepEd, the CHED, the TESDA and the PCW.

Section 34. Safety Audits. – LGUs are required to conduct safety audits every three (3) years to assess the efficiency and effectivity of the implementation of this Act within their jurisdiction. Such audits shall be multisectoral and participatory, with consultations undertaken with schools, police officers, and civil society organizations.

Section 35. Appropriations. – Such amounts as may be necessary for the implementation of this 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, as provided under Republic Act No. 9710, otherwise known as “The Magna Carta of Women” for this purpose. In addition, LGUs may also use their mandatory twenty percent (20%) allocation of their annual internal revenue allotments for local development projects as provided under Section 287 of Republic Act No. 7160, otherwise known as the “Local Government Code of 1991.”

Section 36. Prescriptive Period. – Any action arising from the violation of any of the provisions of this Act shall prescribe as follows:

1. Offenses committed under Section 11(a) of this Act shall prescribe in one (1) year;
2. Offenses committed under Section 11(b) of this Act shall prescribe in three (3) years;
3. Offenses committed under Section 11(c) of this Act shall prescribe in ten (10) years;
4. Offenses committed under Section 12 of this Act shall be imprescriptible; and
5. Offenses committed under Sections 16 and 21 of this Act shall prescribe in five (5) years.

Section 37. Joint Congressional Oversight Committee. – There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of this Act and to review the implementing rules and regulations promulgated. The Committee shall be composed of five (5) Senators and five Representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee

shall be co-chaired by the Chairpersons of the Senate Committee on Women, Children, Family Relations and Gender Equality and the House Committee on Women and Gender Equality.

Section 38. Implementing Rules and Regulations (IRR). – Within ninety (90) days from the effectivity of this Act, the PCW as the lead agency, in coordination with the DILG, the DSWD, the PNP, the Commission on Human Rights (CHR), the DOH, the DOLE, the DepEd, the CHED, the DICT, the TESDA, the MMDA, the LTO, and at least three (3) women’s organizations active on the issues of gender-based violence, shall formulate the implementing rules and regulations (IRR) of this Act.

Section 39. Separability Clause. – If any provision or part hereof is held invalid or unconstitutional, the remaining provisions not affected thereby shall remain valid and subsisting.

Section 40. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 41. Effectivity. – This Act shall take effect fifteen days after its publication in the Official Gazette or in any two (2) newspapers of general circulation in the Philippines.

Approved,

GLORIA MACAPAGAL-ARROYO
Speaker of the House of
Representatives

VICENTE C. SOTTO III
President of the Senate

This Act which is a consolidation of Senate Bill No. 1558 and House Bill No. 8794 was passed by the Senate of the Philippines and the House of Representatives on February 6, 2019.

DANTE ROBERTO G. MALING
Acting Secretary General, House of
Representatives

MYRA MARIE D. VILLARICA
Secretary of the Senate

Approved: April 17, 2018

RODRIGO ROA DUTERTE
President of the Philippines

ABOUT THE AUTHORS



TERESA PAULA S. DE LUNA is Associate Professor from the Department of Speech Communication and Theater Arts (DSCTA) and is currently the Coordinator of the University of the Philippines (UP) Diliman Office of Anti-Sexual Harassment (OASH). Prior to being the coordinator of OASH, she served as Faculty Representative in the Anti-Sexual Harassment Council. She took her BA Speech and Drama and MA

in Speech Communication at the DSCTA and finished her Ph.D. in Anthropology at the College of Social Sciences and Philosophy. Her recent publications are with the *Journal of Southeast Asian Studies*, "Philippine Values in the Supermodern/Hypermodern Age of the Internet," and with UP Diliman's *Diliman Gender Review*, "Faces of Sexual Harassment in UP Diliman and the OASH Mandate." Her areas of concentration are in the field of Rhetoric, focusing on Digital and Popular Culture, and Intercultural Communication. She is currently working on a project, "Filipin/As: Women in the Philippine Society" with colleagues in the DSCTA in collaboration with the UP Diliman Gender Office.



DR. REMEDIOS "PEACH" P. MONDIGUING is a PhD in Anthropology and an MA in Women and Development. She used to work with the University Center for Women's Studies (UPCWS) now the UP Center for Women's and Gender Studies (UPCWGS) where she helped establish and institutionalize the UP Diliman Gender Office (UPDGO) and the UP Diliman Office of Anti-Sexual Harassment (OASH). She served as the first Coordinator of OASH when it was established in September 3, 2003. She served the University with the OASH until she retired in 2016. She continues to serve with the OASH as its GAD Consultant.



PRESCILLA D. TULIPAT is a registered guidance counselor and finished her Master of Arts in Women and Development at UP Diliman, and MA Gender and Peacebuilding at the University for Peace Costa Rica. She is presently a PhD student at the UP Diliman Department of Anthropology and works as a University Extension Specialist III at the Office of Anti-Sexual Harassment.



JANET A. DE LEON is a registered social worker and a University Extension Specialist at the UP Diliman Office of Anti-Sexual Harassment.

She finished her bachelor degree in Social Work with honors at the UP Diliman College of Social Work and Community Development in 2003, and currently, she is finishing her masteral degree at the UP College of Education Major in Guidance.



MA. RIZZA MAE G. NARVAEZ, a licensed teacher, is a University Research Associate at the UP Diliman Office of Anti-Sexual Harassment. She finished her bachelor degree in Physical Education at UP Diliman College of Human Kinetics in 2008, and finished her Master of Arts in Women and Development at the College of Social Work and Community Development in 2021.



MARY RUTH S. PUNZALAN earned her Juris Doctor degree in the University of the Philippines College of Law. She served as a graduate assistant of OASH for three semesters. She is currently the legal officer of the Coffee Science Center and Legal Advocate of the Coffee Heritage Project which aims to improve, promote, and conserve Philippine coffee.

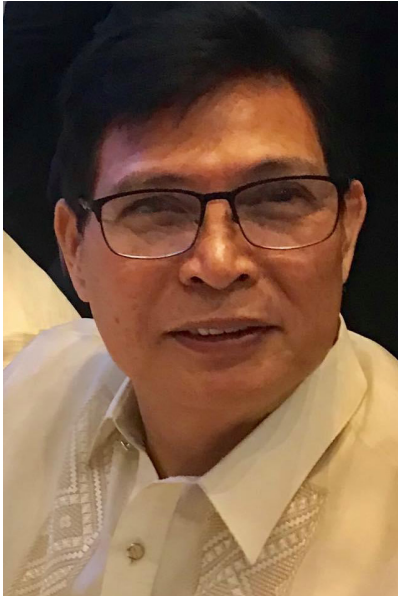


DAWN BETINA Q. BERNABE graduated cum laude with a Bachelor degree in European Languages from UP College of Arts Letters. In 2020, she also graduated with a Juris Doctor degree from the UP College of Law. She started working with the Office of Anti-Sexual Harassment as a Graduate Assistant from the year 2017 during her second year as a law student. During this time, she assisted in the handling of its administrative cases and participated in its advocacy programs and campaigns. She also acted as a lecturer in the Gender Sensitivity Orientations organized with the Diliman Gender Office for the UP Community.”



ALLEN JOY M. MARQUEZ is currently a student under the program of Masters in Arts in Theatre Arts. They finished BA Communication Arts in UP Los Baños and is part of the progressive theatre group Umalohokan, Inc., LGBTQIA+ support group UPLB Babaylan, and writing organization UPLB Writers' Club. They continue to search and mold themselves in directing and performing. They also takes part, usually a "salingkit", in some productions of the UP Repertory Company.

ERIKA RAE P. ROSARIO finished her BS Psychology degree at Siliman University in Dumaguete and currently finishing her Juris Doctor degree at the College of Law in University of the Philippines Diliman. She worked as a Program Associate at ISIS International-Manila and a Legal Intern at CASD LAW Firm. She served as an OASH graduate assistant for one semester.



ATTY. RODRIGO RODOLFO G. ARTUZ obtained his Bachelor of Laws Degree in 1989 from the University of the Philippines and was admitted to the Philippine Bar on April 10, 1990. He actively engaged in the practice of law initially as a solo practitioner thence as the managing partner of the Artuz, Bello & Borja Law Offices in representing clients with diverse legal problems.

On March 18, 2011, he was appointed as Chief Executive Officer V of the Civil Aviation Authority of the Philippines (CAAP) until he left CAAP in March 2013. Thereafter, he joined the University of the Philippines-Diliman Legal Office as one of the University Legal Counsels.

ACKNOWLEDGMENT

The UP Diliman OASH would like to extend our deepest gratitude to everyone who has given their unwavering support to all our efforts as we work towards a sexual-harassment-free university. We would like to especially thank former Chancellor Michael L. Tan for approving this project during his term.

Your engagement in the prevention, investigation and resolution of sexual harassment throughout the years is a significant part of how this book on OASH Narratives was conceptualized and conceived.

Maraming Salamat po:

To our current UP Diliman Chancellor Fidel R. Nemenzo and to all former UP Diliman Chancellors who have helped the OASH grow since it was formally established in September 2003.

To all the past OASH Coordinators who have triumphed the various challenges of leading the unit.

To all the Vice-Chancellors who have served as chairperson and members of the Anti-Sexual Harassment Council (formerly OASH Committee).

To all the appointed representatives of the students, teaching and non-teaching personnel to the ASH Council.

To the current and all past Coordinators of the Diliman Gender Office, who served as members of the ASH Council, who make possible the availment of counseling and legal services, and who champion all our campaigns against sexual harassment.

To the UP Diliman Legal Office for always providing us with legal advisers for the ASH Council and the Hearing Committees.

To all members of the UP Community who have accepted the formidable task of leading the formal investigation of cases as ASH Hearing Committees.

To all complainants who have courageously filed their complaints against their alleged offenders.

To all college officials, unit heads and officers who have been very cooperative with us in implementing the university policies against sexual harassment in terms of intervention services, and most especially on prevention programs.

We could not enumerate all who have supported the OASH throughout the years but we know in our hearts that OASH will not be able to provide all its services without your cooperation and assistance.

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Montana Amir C. Dominguez
Tricia Rachelle I. Cusi
Josalee S. Deinla
Annalyn L. Leyesa
DILIMAN LEGAL OFFICE
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REVIEW TEAM MEMBERS:

- | | |
|---|---|
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- | | |
|------------------------|--------------|
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| Ma. Rizza Mae Narvaez | - OASH Staff |
| Maria Cristina Bernabe | - OASH Staff |

*** RESOURCE PERSONS:**

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 - Professor, UP Diliman College of Mass Communication/
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4. Jullian "Tolits" Tanaka
 - Councilor/ Gender Committee Head/
UP Diliman University Student Council/ Student, College of Fine Arts

Sexual harassment can be committed by anyone and in any space, whether intentionally or unintentionally. We have to always keep in mind that intention is irrelevant in any and all SH cases.

Examining the narratives presented in this book shows that an established sketch of a sexual harasser does not exist and there is no specific space where this violation is most likely to occur. More importantly, there is no profile of a person who is most likely to be harassed.

UP remains active in and committed to maintaining the core principle of its anti-sexual harassment policy—that all forms of SH are unacceptable. We at OASH carry on working toward a transformative and reformatory justice for all. It is our hope that all members of the UP community are with us in upholding this obligation in the years to come.

