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Date: **AUG 01 2023**



REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

DVP-L-30F23- L-355

June 30, 2023

HON. JERICHO L. PETILLA
Governor
Province of Leyte
Provincial Capitol
6501 Palo, Leyte



Dear Hon. Petilla:

Greetings!

We are respectfully forwarding attached Human Rights Advisory titled "*ADVISORY ON THE ROLES AND FUNCTIONS OF DUTY-BEARERS UNDER THE SAFE SPACES ACT (CHR-VIII-ADV-2023-30F23)*" for your information and perusal.

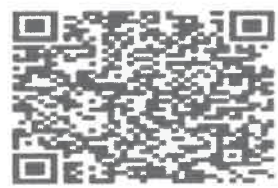
The said advisory is being issued pursuant to our Human Rights Policy Advisory Services. CHR's policy advisory services include the issuance of human rights advisories, position papers, statements and comments on existing and proposed legislations, local ordinances and programs and practices of government bodies.

We would also like to respectfully request for your written reply/comment about the above-mentioned advisory or scan the QR code below for your feedback.

Thank you very much.

Very truly yours,

ATTY. DESIREE V. PONTEJOS
Regional HR Director *mw*



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REPUBLIC OF THE PHILIPPINES
COMMISSION ON HUMAN RIGHTS

**COMMISSION ON HUMAN RIGHTS REGION-VIII
HUMAN RIGHTS ADVISORY
(CHR-VIII-ADV-2023-30F23)**

**ADVISORY ON THE ROLES AND FUNCTIONS OF DUTY-BEARERS
UNDER THE SAFE SPACES ACT**

“Three in five women have experienced sexual harassment at least once in their lifetime, according to a survey conducted in 2016 by the Social Weather Stations (SWS), as part of UN Women’s Safe Cities Metro Manila Programme. Eighty-eight percent of women who are 18 to 24 years old have experienced sexual harassment at least once in their lifetime.”¹

Addressing sexual harassment is aligned with the Philippines’ commitment as a State Party to the Convention on the Elimination of All Forms of Discrimination (CEDAW) that requires State Parties to “adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women”² and is in adherence to the Declaration on the Elimination of Violence against Women to “pursue by all appropriate means and without delay a policy of eliminating violence against women.”³

R.A. 7877 or the “Anti-Sexual Harassment Act of 1995” is a landmark legislation that recognized unwelcome sexual advances as a form of gender-based violence. It defined sexual harassment as “committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demand, request or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object.”⁴

“According to the SWS Survey, 58 percent of sexual harassment are experienced on the streets, major roads, and eskinitas with majority of physical harassment happening in public transport vehicles.”⁵ On this note, R.A. 7877 only covers sexual harassment taking place in the work, education or training environment and further limits the individuals who can be held liable, presupposing

¹ Cabral, Alyana. “The invisible ways we experience sexual harassment.” <https://www.cnnphilippines.com/life/culture/2017/03/28/sexual-harassment-policies.html>. Accessed 29 June 2023.

² Article 2(b), Convention on the Elimination of All Forms of Discrimination Against Women

³ Article 4, Convention on the Elimination of All Forms of Discrimination Against Women

⁴ Section 3, R.A. 7877.

⁵ Cabral, Alyana. “The invisible ways we experience sexual harassment.”

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the existence of authority, influence or moral ascendancy of the offender over the offended party. Hence, there was a need to expand the scope of acts constituting sexual harassment by redefining sexual harassment, strengthening the monitoring mechanism to ensure the operationalization of CODI tasked to handle cases on sexual harassment, and prescribe penalties for non-compliance or violations of the provisions of the law.

The Safe Spaces Act⁶ or *Bawal Bastos Law* (Republic Act No. 11313) was passed last April 17, 2019. It expanded the scope of the Anti-Sexual Harassment Act of 1997 (Republic Act No. 7877) to include sexual harassment in public and online spaces as well as sexual harassment between peers and co-employees. Thus, the Commission on Human Rights, as the national human rights institution and gender and development ombud in the Philippines, renders this advisory to remind the identified duty-bearers of their roles and functions under the Safe Spaces Act.

Local Government Units (LGUs) are hereby reminded of the following duties under the law, to wit:

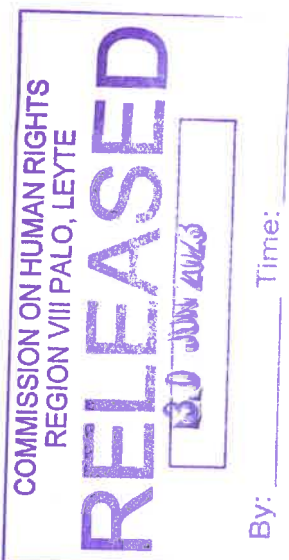
SEC. 9. Duties of Local Government Units (LGUs). – Local government units shall bear primary responsibility in enforcing the provisions under Article I (Gender-Based Streets and Public Spaces Sexual Harassment) of R.A. No. 11313. LGUs shall have the following duties:

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

Ordinances passed pursuant to this law shall, to the extent possible, contain measures that will prevent the occurrence of GBSH such as provision of gender sensitivity training (GST), orientation on the law, creation of offices and appointment of people that will be responsible to address GBSH, including instances falling within the Katarungang Pambarangay system, create measures to efficiently respond to the issue such as clear protocols of reporting and responding to GBSH, and programs to help the victims as well as perpetrators; and ensure that there are mechanisms, people and budget to effectively respond to GBSH. Provided, however, that the passage of an ordinance shall not serve as a prerequisite for the implementation of the law by LGUs. The pendency of proceedings to adopt such local ordinance shall not be construed as a bar for LGUs from implementing the law;

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

⁶ Republic Act No. 11313, AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR.

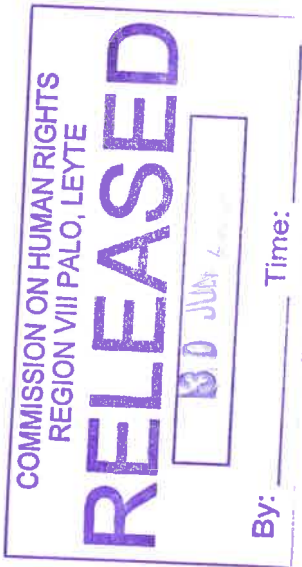


The LGU shall ensure that the personnel assigned to attend the hotline are knowledgeable on GBSH and the forms of assistance made available by the LGU.⁷

Meanwhile, the Department of Interior and Local Government (DILG) has a significant role in ensuring the full implementation of the law, as follows:

SEC. 10. Role of the DILG. – The DILG shall ensure the full implementation of R.A. No. 11313 by:

- a) Inspecting LGUs if they have disseminated or posted in conspicuous places a copy of the law and the corresponding ordinance. This may be done through monitoring LGU compliance, and other reportorial mechanisms;
- b) Conducting and disseminating surveys and studies on best practices of LGUs in implementing the law. The DILG shall provide avenues for exchanges of ideas among LGUs concerning their policies on the localization of the law;
- c) Providing capacity-building and training activities to build the capability of local government officials to implement the law in coordination with the Philippine Commission on Women (PCW), the Local Government Academy (LGA) and the Development Academy of the Philippines (DAP); and
- d) Assisting the LGUs in localizing the applicability of the law. The DILG shall lead in the development of guidelines and mechanisms to ensure the effective implementation and monitoring of the law and for such purpose, may consult other relevant agencies and civil society organizations (CSOs). This shall include guidelines on the interface of the law with the Katarungang Pambarangay System and the strengthening of the VAW desk.⁸



To address gender-based sexual harassment in streets and public spaces, R.A. 11313 provides:

SEC. 11. Implementing Bodies for Gender-Based Sexual Harassment in Streets and Public Spaces. – To respond to GBSH in streets and public spaces,

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

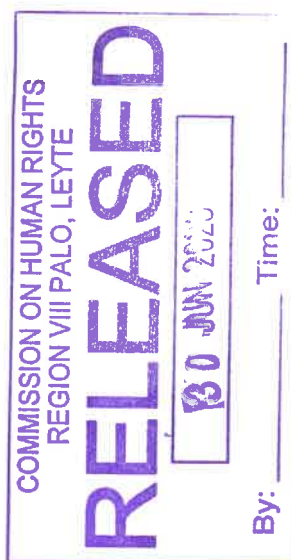
The PNP and MMDA, shall ensure that their Anti-Sexual Harassment Enforcers (ASHE) undergo gender sensitivity training (GST), which shall cover topics, among others, gender, sexual orientation, gender identity, gender expression, sources of gender discrimination, the roles of different institutions in society in perpetuating discrimination, sexual orientation, gender identity, gender expression, the different manifestations of discrimination, including sexual harassment, and the solutions to minimize or eliminate such forms of discrimination.

⁷ Implementing Rules and Regulations of Republic Act No. 11313, AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR.

⁸ Id.

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

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



- b) The MMDA and the PNP shall deputize its enforcers to be Anti-Sexual Harassment Enforcers (ASHE). The ASHE shall:
 - 1) Receive complaints on the street;
 - 2) Immediately apprehend a perpetrator if caught in *flagrante delicto* or in the act of committing the crime;
 - 3) Immediately bring the perpetrator to the nearest PNP station; and
 - 4) Together with the Women's and Children's Desk of PNP stations, keep a ledger of perpetrators who have committed acts prohibited under the law for purposes of determining if a perpetrator is a first-time, second-time or third-time offender. The Women's and Children Desk shall forward its records to the Women and Children Protection Center (PNP WCPC).
- c) The DILG shall ensure that all local government bodies expedite the receipt and processing of complaints by setting up an Anti-Sexual Harassment Desk in all barangays, municipal 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. Every city and municipality shall set-up an anti-sexual harassment desk and ensure the assignment of a person-in-charge thereof.
- d) The DILG and the DSWD in coordination with the Department of Health (DOH) and the PCW shall coordinate if necessary to ensure that LGUs facilitate the access of victims to proper psychological counseling support services and other services, in consonance with R.A. No. 11036 or the Philippine Mental Health Law. For this purpose, the LGUs may tap other service providers.⁹

The PNP Anti-Cybercrime Group (PNP ACG), Department of Justice (DOJ), Cybercrime Investigation and Coordinating Center (CICC) of the DICT, National Telecommunications Commission (NTC), and National Privacy Commission (NPC) are tasked to address gender-based online sexual harassment. R.A. 11313 provides:

SEC. 14. Implementing Bodies for Gender-Based Online Sexual Harassment. – For gender-based online sexual harassment, the PNP Anti-Cybercrime Group (PNP ACG) as the national operational support unit of the PNP primarily responsible for the implementation of pertinent Philippine laws on cybercrime, shall receive complaints of gender-based online sexual harassment, develop an online mechanism for reporting real-time gender-based online sexual harassment acts and apprehend perpetrators. The Department of Justice (DOJ) shall lead in the development of protocols and standards of gathering evidence and case build-up.

⁹ Implementing Rules and Regulations of Republic Act No. 11313, AN ACT DEFINING GENDER-BASED SEXUAL HARASSMENT IN STREETS, PUBLIC SPACES, ONLINE, WORKPLACES, AND EDUCATIONAL OR TRAINING INSTITUTIONS, PROVIDING PROTECTIVE MEASURES AND PRESCRIBING PENALTIES THEREFOR.

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

- a) The development of a monitoring and evaluation system, including a database for gender-based online sexual harassment, tools, and/or process to see whether the law is effectively being implemented.
- b) The recommendation of policies, law, issuances, and measures for the effective implementation and enforcement of the provisions of gender-based online sexual harassment, based, among others, on the results of the monitoring and evaluation.

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

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

Employers, from both the public and private sectors, as well as the Department of Labor and Employment (DOLE) and the Civil Service Commission (CSC), as the corresponding oversight agencies, have the following duties under the law:

SEC. 19. Duties of Employers. – Employers or other persons of authority, influence or moral ascendancy in a workplace shall have the duty to prevent, deter, or punish the performance of acts of GBSH in the workplace. Towards this end, the employer or person of authority, influence or moral ascendancy shall:

- a) Disseminate or post in a conspicuous place a copy of the law to all persons in the workplace.

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

- 1) Sending copies of the law and its rules through official notices or means of communications to heads of different departments, bureaus, offices, units or such subdivisions in a workplace for proper information of their members;
- 2) Posting a copy of the law and its rules online or in the official website of the workplace;
- 3) Conducting orientations on the law and its rules and providing its employees with copies in print or electronic form as well as preparing information materials such as primers, frequently asked questions and the like.

Copies of the law and its rules should always be posted in workplace areas that are easily visible to employees, especially in areas where they usually congregate.

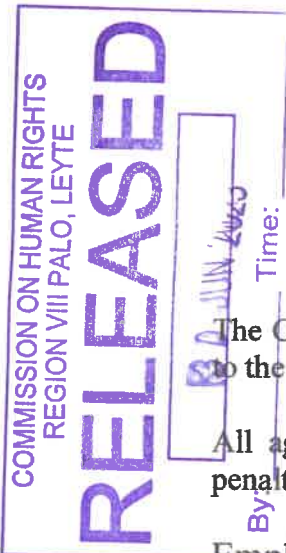
- b) Provide measures to prevent GBSH in the workplace, such as the conduct of anti-sexual harassment seminars, which shall be provided to all employees, regardless of rank and status.

Trainings on gender sensitivity, orientations on gender-based violence, and other relevant topics may also be conducted, in addition to the conduct of anti-sexual harassment seminars. Such trainings and orientations, when conducted, should form part of their staff development and basic knowledge of employees;

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- c) Create an independent internal mechanism or a Committee on Decorum and Investigation (CODI) to investigate and address complaints of GBSH which shall carry out such functions as stated under Section 17(c) of the law and as further outlined in Sec. 33 of these rules.
- d) Develop and disseminate, in consultation with all persons in the workplace, including employees or their representatives and union, if any, a code of conduct or workplace policy which shall:
 - 1) Expressly reiterate the prohibition on GBSH;
 - 2) Describe the procedures of the internal mechanism created under Section 17(c) of the law; and
 - 3) Set administrative penalties.

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

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

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

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

SEC. 24. Routine inspection. – The DOLE for the private sector and the CSC for the public sector shall conduct yearly spontaneous, random, and unannounced inspections to ensure compliance of employers and employees in accordance with their rules on inspection and their obligations under the law.

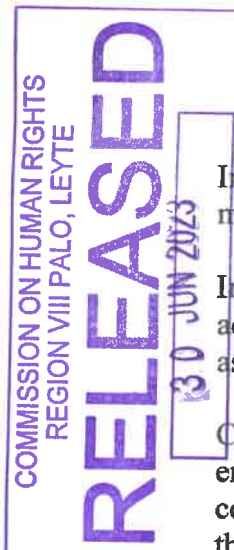
For school heads and heads of training institutions, with the oversight function of the Department of Education (DepEd), Commission on Higher Education (CHED), and Technical Education and Skills Development Authority (TESDA), the following duties are provided under the law:

SEC. 27. Duties of School Heads and Heads of Training Institutions. – School heads and heads of training institutions shall have the following duties:

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

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

- 1) Sending copies of the law and its Rules through official notices or means of communications among heads of different departments, bureaus, offices, units or such subdivisions in an educational or training institution for proper information to members;
- 2) Posting a copy of the law and its Rules online or in the official website of the educational or training institution;



- 3) Conducting orientation on the law and providing copies in print or electronically, as well as preparing information materials such as primers, frequently asked questions, and the like.

Copies of the law and its IRR should always be posted in areas of the educational or training institutions that are easily visible to students, especially in areas where they usually congregate.

The law and its rules may be translated into a language easily understandable to the students/trainees.

- b) Provide measures to prevent GBSH in educational or training institutions, like information campaigns, express inclusion in the student handbook, orientation of student organizations, and training of teaching and non-teaching staff, students, security officers, and other members of the school community.

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

- c) Create an independent internal mechanism or a CODI to investigate and address complaints of GBSH which shall carry out such functions as stated under Section 22(c) of the law and as further outlines in Section 33 of these rules;

- d) Provide and disseminate, in consultation with all persons in the educational or training institution, a code of conduct or school policy which shall:

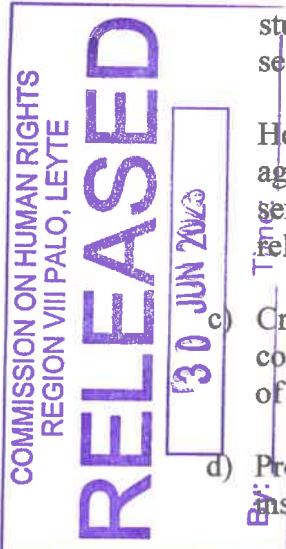
- 1) Expressly reiterate the prohibition on GBSH;
- 2) Prescribe the procedures of the internal mechanism created under the law; and
- 3) Set administrative penalties.

- e) Designate an office or person to receive complaints of sexual harassment.

SEC. 31. Routine Inspection. – DepEd, CHED, and TESDA shall conduct regular spontaneous inspections to ensure compliance of school heads with their obligations under the law.

“Sexual harassment as a form of gender-based violence (GBV) seriously inhibits women's ability to enjoy their rights and freedoms on a basis of equality with men. Expanding the definition of sexual harassment in the Philippines and strengthening the mechanisms to address all acts of sexual harassment will ensure that women are protected from all forms of discrimination and create a safe environment that will promote the participation of women in economic, social, political, cultural development.”¹⁰ Further, the passage of the Safe Spaces Act also aims to secure all persons, regardless of sex, sexual orientation, and gender identity and expression, from all forms of gender-based violence and discrimination such as sexual harassment, not only in private, but also on the streets, public spaces, online, workplaces and educational and training institutions.

¹⁰ Philippine Commission on Women. Policy Brief No. 5. Strengthening Law Enforcement and Protection Against Sexual Offenses: EXPANDING THE ANTI-SEXUAL HARASSMENT LAW, <https://pcw.gov.ph/assets/files/2019/07/PCW-WPLA-Policy-Brief-5-Anti-Sexual-Harassment.pdf>. Accessed 29 June 2023.



Thus, the Commission on Human Rights Regional Office VIII accordingly renders this Human Rights Advisory as reminder to the abovementioned duty-bearers of their respective duties and responsibilities under the Safe Spaces Act.

Done in Palo, Leyte this 30th day of June 2023.

Respectfully submitted:


MARJORIE C. LEGASPI
Attorney IV

Approved by:


ATTY. DESIREE V. PONTEJOS
Regional Human Rights Director



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Thank you very much.

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