

# Office of the Board Secretary

# EXCERPTS OF APPROVED MINUTES OF THE 5<sup>th</sup> LSU Board of Regents Meeting 11 June 2002 \* LNU, Tacloban City

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

BOR Resolution No. 66, s. 2002

Approving the implementing rules and regulations of the Anti-Sexual Harassment Act of 1995, as presented.

BOARD ACTION: APPROVED

Date : 11 June 2002

ATTACHMENT: X

Certified True and Correct:

Received by: joint w/27/05

# Office of the Board Secretary

LEYTE STATE UNIVERSITY Visca, Baybay, Leyte 6521 A Philippines

11 June 2002

The Honorable Chairman and Members of the LSU Board of Regents

Ladies: Gentlemen:

I am hereby presenting to the Board of Regents the proposed LSU Implementing Rules and Regulations (IRR) of the Anti-Sexual Harassment Act of 1995. All agencies of government including educational institutions have been required by the Civil Service Commission (CSC) to come up with individual IRRs as contained in Rule XII, Section 58 of CSC Resolution No. 01-0940.

This IRR has been presented to the Administrative Council (ADCO) and the ADCO favorably endorses the proposal.

A summary of the salient points of the LSU Implementing Rules and Regulations of the Sexual Harassment Act of 1995 is likewise presented to facilitate deliberations.

Very truly yours,

PACIENCIA P. MILAN President

Porta Brobusz

# SUMMARY OF THE SALIENT POINTS OF THE LSU IMPLEMENTING RULES AND REGULATIONS OF THE ANTI-SEXUAL HARASSMENT ACT OF 1995

The IRR integrates the salient points of the CSC Resolution No. 01-0940 or the Administrative Disciplinary Rules on Sexual Harassment Cases. However, additions have been made to take into consideration the context of the University environment.

Item	CSC Resolution (Standard)	LSU IRR
Preliminary Matters	Rule III Sec 3 Definition of sexual harassment	□ Sec 2(a) uses same definition □ Sec 2 (b) - (f) defines the terms used: administrators, faculty members, staff, students and others
Coverage	□ Rule II Sec 2	<ul> <li>Sec 3-5 Applies to all officials, employees, students of LSU and others who may have transactions with the university</li> </ul>
Policies	Affirms Sec 3, Art IX (B) of 1987 Phil. Constitution; Sec 4(B) of RA 6713; RA 7877	□ Adds the following policies: □ Sec 8: Expands definition of SH cases to include not only abuse of authority or power but as well as those in peer relations or those involving harassment of faculty & staff by students. It covers cases involving persons of the same or opposite sex □ Sec 12: Provision of all possible support services to all victims of SH □ Sec 14: Adopt reasonable standard to determine if behavior constitutes SH; perspective of victim □ Sec 15: Gross display of public affection is discouraged
Sexual Harassment	□ Rule V Sec 5 Forms of harassment	□ Added the following forms: □ Sec 20 (a) Persistent, unwanted attempts to change a professional or educational relationship to a personal one □ Sec 20 (f) Serious physica abuse which includes sexual assault and rape
Anti-Sexual Harassment Office	Rule VI Sec 7 Committee on Decorum and Investigation to be created in all offices	□ Sec 22 The University shall provide facilities for both informal and formal procedures for resolving case or dealing with incidents of sexual harassment □ Sec. 23 Creates an Antisexual harassment Office (ASHO) under the Office of the President composed of the following: all Vice-Presidents, Deans of Colleges, Faculty,

staff and student representatives to be appointed for a term of two years, Dean of Students and the ASHO Coordinator Sec. 24 Its functions include to receive complaints, undertake information & educational activities, design or formulate informal procedures for handling such cases; provide security & support measures to victims; constitute a Hearing for the formal procedures Sec 26 A Hearing Committee will be constituted in every cases where a formal procedure is preferred or deemed necessary Sec 26 The ASHO will constitute a pool of faculty. staff and students who will serve as members of the Hearing Committee Rule VIII Sec 11-38 Formal Rule VI Sec 29-33 (a) & (b) Procedures for Rule IX Sec 39 - 52 Rule VI Sec 33 (c) SH cases Administrative Rule XI Sec 56 Penalties Sec 37 Penalties a. Light offenses Liabilities a. Light offenses offense: reprimand 1st offense: suspension for thirty 2<sup>nd</sup> offense: fine or suspension (30) days for staff not exceeding thirty (30) days hard labor of not less than fifty (50) hours and not more than 100 hours for students 2<sup>nd</sup> offense: suspension of not less than sixty (60) days but not to exceed six (6) months for staff suspension of one (1) semester for students 3rd offense: dismissal for both staff and students b. Less grave offenses b. Less grave offenses 1st offense: fine or suspension 1st offense: suspension of not not less than thirty (30) days less than sixty (60) days but not and not exceeding six (6) to exceed six (6) months for months 2<sup>nd</sup> offense: dismissal suspension of one (1) semester for students 2<sup>nd</sup> offense: dismissal for both staff and students c. Grave offenses c. Grave offenses 1st offense: dismissal 1st offense: dismissal from service and permanent disqualification from government employment within the LSU systems expulsion for students

# LEYTE STATE UNIVERSITY

Visca, Baybay, Leyte

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

Pursuant to the provision of Section 4, of Republic Act No. 7877 entitled "Anti-Sexual Harassment Act of 1995" and Rule XII, Section 58 of the CSC Resolution No. 01-0940 entitled "Administrative Disciplinary Rules on Sexual Harassment Cases", the following rules and regulations are hereby promulgated for the purpose of prescribing the policy and proper decorum for administrators, faculty, staff, and students of the Leyte State University and for the resolution, settlement and disposition of cases of sexual harassment.

# RULE I PRELIMINARY MATTERS

Section 1. <u>Title</u>. These rules shall be known as the Implementing Rules and Regulations on Antisexual harassment cases of the Leyte State University (LSU), or "Rules" for short.

Section 2. <u>Definition of Terms</u>. As used in the Rules and Regulations, the following terms shall mean and be understood as indicated below:

- (a) Sexual harassment means an act, or a series of acts, involving any unwelcome sexual advance, request or demand for a sexual favor, or other verbal or physical behavior of a sexual nature, committed by any administrator, faculty, staff and student. In work-related or education/ training related cases, the person complained of exercises authority, influence or moral ascendancy over another person or individual.
- (b) Administrators refer to the President, Vice Presidents, Deans of Colleges, Center Directors, Department Heads, and Directors of Administrative Offices.
- (c) Faculty members refer to the pool of employees of the University holding academic positions and performing teaching, research and extension functions on a full-time or part-time basis.
- (d) Staff refer to the pool of employees holding non academic or administrative positions performing tasks in support of the instruction, research, and extension functions of the University.
- (e) Student refers to a person duly enrolled for a degree or special course, whether on a credit or audit basis, part-time or full time or in a short-term training, review course, thesis writing in any academic unit, training or review center of the University or are students hired as student assistants or graduate teaching assistants during semestral or summer breaks
- (f) Others refer to those who may have certain dealings/transactions with the University

### RULE II COVERAGE

- Section 3. Officials and employees These rules and regulations shall apply to any administrator, faculty member, and staff of the University who complaints of or against whom a complaint for sexual harassment is filed.
- Section 4. <u>Students</u> These rules and regulations shall also apply to students who complain of or against whom an administrator, faculty member, staff or fellow student files a complaint of sexual harassment.
- Section 5. Others These rules and regulations shall apply to those who may have certain dealings/transactions and have complaints for sexual harassment against any administrator, faculty member, staff or student of the University.

### RULE III POLICIES

- Section 6. The Leyte State University, in the light of its mission, vision and goals believes in and upholds the human dignity of every faculty, staff and student in the University. As such, it strongly adheres to a school environment where administrators, faculty, staff and students respect one another and behave in accordance with the highest ethical standard. It, therefore, commits itself to the implementation of RA 7877 or the "Anti-sexual Harassment Act of 1995."
- Section 7. The ethical obligation of the university is to provide an environment that is free from sexual harassment and from fear that it may occur. The entire educational community suffers when sexual harassment occurs in the academic and work atmosphere. It is, therefore, the declared policy of the University that sexual harassment is unacceptable behavior and a violation of the laws of the Philippines and the Rules and Regulations of the University, and shall not be tolerated and condoned. It shall take measures to prevent sexual harassment and eliminate conditions that give rise to sexual intimidation and exploitation within the purview of these Rules.

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- Sexual harassment under these Rules is not limited to cases involving abuse of authority or power but includes as well those in peer relationships, such as in faculty-faculty, staff-staff or student-student relations, or those involving harassment of faculty members or staff by students. It contemplates cases of harassment involving persons of the same or opposite sex.
- Accordingly, sexual harassment is hereby declared a ground for administrative disciplinary Section 9. action including the expulsion or termination as the case may be.
- All reported incidents or cases of sexual harassment shall be investigated and the 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 interests of the University.
- University officials, faculty members, staff and students entrusted with duties or functions connected with the implementation or enforcement of these Rules are required to observe confidentiality and respect individual privacy to the greatest extent possible in dealing with reports and complaints of sexual
- The University will provide all possible support services to faculty members, staff, and Section 12. students who are victims of sexual harassment.
- All members of the University affected by a sexual harassment incident shall be treated Section 13. with respect and given full opportunity to present their side of the incident.

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.

- In the investigation of the case, the Committee shall adopt a reasonable standard to determine whether the conduct is unwelcome and sufficiently pervasive to amount to sexual harassment as viewed by both men and women. Using this standard, the proper focus is on the victim's perspective of the given conduct.
- The gross display of romantic affection in public otherwise known as public display of Section 15. affection which includes, but is not limited to kissing, necking, petting and other intimate actions by faculty, staff and students is likewise discouraged.

# RULE IV SEXUAL HARASSMENT

Work-related sexual harassment. This is committed under the following circumstances:

(a) Submission to or rejection of the act or series of acts is used as a basis for any employment decision including but not limited to, matters related to hiring, promotion, raise in salary, job security, benefits and any other personnel action affecting the applicant/employee

(b) The act or series of acts have the purpose or effect of interfering with the complainant's work performance, or creating an intimidating hostile or offensive work environment;

(c) The above acts would impair the rights or privileges of the faculty member or staff under the Civil Service Law, rules or regulations; or

- (d) The act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense, or humiliation to a complainant who may be a co-employee, applicant, customer, or ward of the person complained of
- Education or training related sexual harassment. This is committed against one who is Section 17. under the actual or constructive care, custody or supervision of the offender, or against one whose education, training, apprenticeship, internship or tutorship is directly or constructively entrusted to, or is provided by, the
  - (a) Submission to or rejection of the act or series of acts is used as a basis for any decision affecting the complainant, including, but not limited to, the giving of a grade, the granting of honors or a scholarship, the payment of a stipend or allowance, or the giving of any benefit, privilege or
  - (b) The act of series of acts have the purpose or effect of interfering with the performance, or creating an intimidating, hostile or offensive academic environment of the complainant; or
  - (c) The act or series of acts might reasonably be expected to cause discrimination, insecurity, discomfort, offense of humiliation to a complainant who may be a trainee, apprentice, intern, tutee or ward of the person complained of.

Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestion that a student could get a higher grade or a raise by submission to the sexual advances.

The suggestion or advance need not be direct or explicit. It can be implied from the conduct, , circumstances, and relationship of the individuals involved.

Section 19. Sexual harassment may take place:

- (a) Within the premises of the University campus such as in the office, classroom, laboratory or training room;
- (b) In any place where the parties were found as a result of work or education or training responsibilities or relationships;

(c) At work or education or training related social functions;

- (d) While on official business outside the University campus or during work or school or training-related
- (e) At official conferences, fora, symposia or training sessions; and

(f) By telephone, cellular phone, fax machine or electronic mail

Forms of sexual harassment. Sexual harassment can consist of the following:

- (a) Persistent, unwanted attempts to change a professional or educational relationship to a personal one;
- (b) Unwelcome sexual flirtations and inappropriate put-downs of individual persons or classes of people. Examples include but are not limited to the following:

Unwelcome sexual advances;

(2) Derogatory, demeaning or lascivious comments about men and women in general, whether sexual or not;

(c) Verbal

- (1) Abuse of a sexual nature
- (2) Graphic commentary about an individual's body, sexual prowess, or sexual deficiencies;

(3) Repeated sexual-oriented kidding, teasing, joking or flirting;

(4) Offensive crude language;

(d) Physical

(1) Leering, whistling, touching, pinching, or brushing against another's body;

(2) Malicious touching

(3) Gestures with lewd insinuations

(e) Visual such as the use or display of objects or pictures, graphics, letter or written notes which have sexual underpinnings that would create a hostile or offensive work or living environment

(f) Serious physical abuse

(1) Sexual assault

(2) Rape

Section 21. Persons liable for sexual harassment. Any administrator, faculty, staff, students and others are liable for sexual harassment when he/she:

(a) Directly participates in the execution of any act of sexual harassment as defined by this Rules;

(b) Induces or directs another or others to commit sexual harassment as defined by this Rules;

(c) Cooperates in the commission of sexual harassment by another through an act without which the sexual harassment would not have been accomplished; and

(d) Cooperates in the commission of sexual harassment by another through previous simultaneous acts.

# RULE V ANTI-SEXUAL HARASSMENT OFFICE

The University shall provide facilities for both informal and formal procedures for resolving Section 22. cases or dealing with incidents of sexual harassment.

(a) Informal procedures. These are actions of the University through the appropriate officials or committees, which does not involve formal investigation, or filing of formal charges. It may consist of counseling, 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.

(b) The President shall establish facilities for informal procedures. This will be lodged in the ASHO to be created under the University structure.

(c) If the case or situation requires resort to formal charge of sexual harassment, the procedures set out in Rule VI herein shall be complied with.

The Anti-sexual Harassment Office (ASHO) is hereby created in the University under the Section 23. office of the President. It shall be composed of the following:

(a) As Chairperson on a rotating basis, the Vice-Presidents for Academic Affairs, the Vice-President for Administration, and the Vice-President for Research and Extension, or equivalent officials

(b) Deans of Colleges where respondent and complainant belong

(c) One representative each from the faculty, staff, and student sectors who shall be appointed by the President upon consultation with the respective sectors, for a term of two years each;

(d) The Dean of Students

(e) The Coordinator of the ASHO, who shall be a non-voting member

The Office shall perform the following functions:

(a) Receive complaints of sexual harassment and whenever needed, assists complainant in the preparation of a written complaint;

(b) Undertake information and educational activities to ensure that the University policy, rules, regulations and procedures on sexual harassment are disseminated and become part of the academic culture

(c) 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 counseling and grievance management; and

(d) Provide security and support measures to aggrieved parties or victims in sexual harassment cases; and

(e) In every appropriate case, constitute a Hearing Committee as required in the formal procedure set in Rule VI.

Section 25. It shall be headed by a Coordinator appointed by the President to serve on a full-time basis for a term of three years, which may be renewed. He or she shall be executive officer of the Office and shall be responsible for the efficient implementation of the decisions of the Office and of the President involving sexual harassment cases.

Section 26. The Office shall every year constitute a pool of such number of faculty, staff and students as may be necessary, from which shall be drawn the members of the Hearing Committee in every case where formal procedure is preferred or deemed necessary. The members of the pool shall come from all the campuses of the University. The sectoral representatives during the hearings will come from the concerned campuses. The members of the pool shall acquaint themselves with the university policy, rules, regulations and procedures concerning sexual harassment.

Section 27. Within 60 days from the effectivity of these Rules and Regulations, the President 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 28. <u>Annual Report</u>. The Coordinator of the Anti-sexual Harassment Office through the Office of the Vice-President for Administration shall submit an annual report to the President of the University, which shall contain an evaluation of the sexual harassment problems vis-à-vis the implementation of the University policy, rules and regulations contained herein, together with the recommendations.

# RULE VI FORMAL PROCEDURE FOR SEXUAL HARASSMENT CASES

Section 29. Complaint.

(a) Any administrator, faculty, staff or student who experiences sexual harassment is encouraged to file a complaint with the ASHO.

(b) 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.

(c) The complainant shall file a written complaint with the ASHO, which shall, upon receipt of the complaint, determine whether probable cause exists before giving due course to the complaint. Upon finding of probable cause, a Hearing Committee shall be constituted with members drawn from a pool as established under Section 26 of the Rules and Regulations.

(d) The complaint shall forthwith be referred to the Committee.

(e) 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, address, position or course and year of the complainant;

(2) the full name, address, position or course and year of the respondent;

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.

(f) 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.

(g) 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.

(h) The Committee shall notify the respondent in writing of the sexual harassment charge.

Section 30. Answer of the Respondent

(a) Unless a different period is indicated in the notice issued by the Committee, the respondent shall be given not less than seventy-two (72) hours after receipt of the complaint to answer the charges.

(b) 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. (c) The respondent shall indicate in his/her answer whether or not he/she elects a formal investigation.

(d) 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.

(e) 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.

# Section 31. Hearing

(a) 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 the filing of the charges.

(b) The Committee shall prepare a report within fifteen (15) days after the conclusion of the

investigation or hearing and submit the report and its recommendations to the President.

# Section 32. Preventive Suspension.

- (a) Upon the recommendation of the Committee, the President may suspend any administrator, 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 service.
- (b) If the case against the administrator, faculty member or staff 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.

## Section 33. Decision

- (a) Within fifteen (15) days from receipt of the Committee report and recommendation, the President shall render the decision.
- (b) The decision of the President shall be final and executory within ten (10) days after receipt of the copy thereof by the parties.
- (c) Any appeal of the decision shall be filed in accordance with Civil Service Commission rules and regulations regarding administrative cases.

# RULE VII CLASSIFICATION OF ACTS OF SEXUAL HARASSMENT

Section 34. Sexual harassment is classified as grave, less grave and light offenses.

- (a) Grave offenses shall include but are not limited to:
  - (1) Unwanted touching of private parts of the body (genitalia, buttocks and breast)
  - (2) Sexual assault;
  - (3) Malicious touching;
  - (4) Requesting for sexual favor in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing grade, the granting of honors or scholarships, or the grant of benefits or payment of a stipend or allowance, and
  - (5) Other analogous cases
- (b) Less grave offenses shall include but are not limited to
  - (1) Unwanted touching or brushing against a victim's body;
  - (2) Pinching not falling under grave offenses;
  - (3) Derogatory or degrading remarks or innuendoes directed toward the members of one sex or one's sexual orientation or used to describe a person;
  - (4) Verbal abuse or threats with sexual overtones; and
  - (5) Other analogous cases
- (c) The following shall be considered light offenses:
  - (1) Surreptitiously looking or stealing a look at a person's private parts or worn undergarments
  - (2) Telling sexist/smutty jokes or sending these through text, e-mail, or other similar means, causing embarrassment or offense and carried out after the offender has been advised that they are offensive or embarrassing, even without such advice, when they are by their nature clearly embarrassing, offensive, or vulgar;
  - (3) Malicious leering or ogling;
  - (4) The display of private parts and sexually offensive pictures, materials, or graffiti;
  - (5) Unwelcome inquiries or comments about a person's sex life;
  - (6) Unwelcome sexual flirtation, advances, propositions
  - (7) Making offensive hand or body gestures at an employee
  - (8) Persistent unwanted attention with sexual overtones;
  - (9) Unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver; and
  - (10)Other analogous cases

#### **RULE VIII ADMINISTRATIVE LIABILITES**

Section 35. The head of office who fails to act within fifteen (15) days from receipt of any complaint for sexual harassment properly filed against any employee shall be charged with neglect of duty.

Section 36. Any administrator, faculty, staff or student who is found guilty of sexual harassment shall, after the investigation, be meted the penalty corresponding the gravity and seriousness of the offense.

Section 37. The penalties for light, less grave and grave offenses are as follows:

(a) For light offenses

1<sup>st</sup> offense - suspension for thirty (30) days for staff

hard labor of not less than 50 hours and not more than 100 hours for students

2<sup>nd</sup> offense - suspension not less than sixty days (60) days but not to exceed six (6) months for staff

suspension for one semester for students

3rd offense - dismissal for both staff and students

(b) For less grave offenses

1st offense - - suspension of not less than sixty days (60) days but not to exceed six (6) months for

suspension for one semester for students

2<sup>nd</sup> offense -- dismissal for both staff and students

(c) For grave offense

1st offense -- dismissal from service and

permanent disqualification 0

from government employment within the LSU system

expulsion for students

Section 38. If the respondent is found guilty of two or more charges or counts, the penalty to be imposed should be that corresponding to the most serious charge or count and the rest shall be considered as aggravating circumstances.

### **RULE IX FORUM SHOPPING**

Section 39. The filing of a complaint based on the herein rules shall preclude the filing of another administrative complaint under any other law.

# RULE X EFFECTIVITY CLAUSE

Section 40. Effectivity. These Rules and Regulations shall take effect fifteen days from publication in the INFOWEB, AMARANTH or its counterpart student publication in the other campuses.