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性騷擾防治 相關措施與法規要義

Sexual Harassment Prevention
Related Measures and
Summation
of Legal Guidelines



壹、施行日期與目的

- 一、性騷擾防治法於94年2月5日經總統公布，95年2月5日施行。
- 二、為防治性騷擾及保護被害人權益，特制定本法，以補充「兩性工作平等法」、「性別平等教育法」及「社會秩序維護法」之不足，諸如非僱傭關係之人員無法適用，公共場所性騷擾事件對被害人保護不周全事項等。

貳、性騷擾防治法摘要

一、本法適用對象

有關性騷擾之定義及性騷擾事件之處理及防治，依本法之規定，本法未規定者，適用其他法律。但適用兩性工作平等法及性別平等教育法者，除第12條、第24條（媒體責任及違反之處罰）、第25條（強制觸摸罪）外，不適用本法之規定。

二、性騷擾定義

指性侵害犯罪以外，對他人實施違反其意願而與性或性別有關之行為，且有下列情形之一者：

- （一）以他人順服或拒絕該行為，作為其獲得、喪失或減損與工作、教育、訓練、服務、計畫、活動有關權益之條件。
- （二）以展示或播送文字、圖畫、聲音、影像或其他物品之方式，或以歧視、侮辱之言行，或以他法而有損害他人人格尊嚴，或造成使人心生畏怖、感受敵意或冒犯之情境，或不當影響其工作、教育、訓練、服務、計畫、活動或正常生活之進行。

Part I The promulgation date and objective

- I. The Sexual Harassment Prevention Act was announced as per a presidential order made on Feb. 5, 2005, and inducted on Feb. 5, 2006.
- II. In search of preventing sexual harassment and protecting the victim's equity, the legislation has been promulgated to supplement deficiencies contained in the "Gender Equal Opportunity Employment Act", Gender Equal as the incomplete applicability for persons not on an employment hiring relation, or incomplete protection to the victim stemming from sexual harassment cases that occur in public venues.

Part II Abstract of the Sexual Harassment Prevention Act

I. Applicable subjects of the law

Definition of sexual harassment and means for responding and preventing sexual harassment cases shall heed to stipulations set by this act, and those not defined under this act may refer to relevant laws; however, those that fall under the Gender Equal Opportunity Employment Act and Gender Equal Opportunity Education Act, except Article 12, Article 24 (media liability and violation penalties), and Article 25 (Forceful bodily contact crime) are not applicable to stipulations set by this bill.

II. The definition of sexual harassment

Not a sexual harassment crime, it pertains to behavior imposed against the will of an individual or one that is related to sex or gender related behavior, and fall under any one of the following scenarios,

- (I) Deploying the behavior to manipulate an individual to obey or refuse behavior as the precondition for securing, depriving or diminishing whose equity to work, education, training, employment, project or activity.
- (II) Deploying the means of displaying or transmitting text, graphic, audio, video image, or other object in discriminatory, insulting manner, or deploying other means to create a scenario that makes others fear, sense the hostility or being offended, or improperly affecting an individual's work, education, training, employment, project, activity or normal living routine.

III. The distinction of applicable laws and regulations

Sexual harassment behavior: depending on the venue and identify that a particular act takes place, there are the Social Order Maintenance Act (governing public venues); Gender Equal



三、適用之法規區別

性騷擾行為：視行為發生場所及身分不同，分別有社會秩序維護法(公共場所)、兩性工作平等法(職場)、性別平等教育法(校園)及性騷擾防治法之適用。

四、性騷擾行為人之責任

(一) 民事責任

對他人為性騷擾者，應負損害賠償責任。所稱損害賠償責任，包括財產上及非財產上之損害賠償；非財產上之損害，得請求賠償相當之金額，其名譽被侵害者，並得請求回復名譽之適當處分。

(二) 行政責任

1、一般責任：對他人為性騷擾者，由直轄市、縣(市)主管機關處新臺幣1萬元以上10萬元以下罰鍰。

2、加重責任：對於因教育、訓練、醫療、公務、業務、求職或其他相類關係受自己監督、照護之人，利用權勢或機會為性騷擾者，得加重科處罰鍰至二分之一。

(三) 刑事責任

意圖性騷擾，乘人不及抗拒而為親吻、擁抱或觸摸其臀部、胸部或其他身體隱私處之行為者，處2年以下有期徒刑、拘役或科或併科新臺幣10萬元以下罰金。此項犯罪，為告訴乃論之罪，須經

Opportunity Employment Act (pertaining to the workplace); Gender Equal Opportunity Education Act (pertaining to the campus); and Sexual Harassment Prevention Act).

IV. Liabilities of sexual harassments

(I) Civil liabilities

Individuals who impose sexual harassment to others are liable to assume damage compensation liabilities. The term damage compensation liabilities refer to asset and non-asset damage compensations. In non asset damages, the victim may file for compensation at a comparable monetary sum, and those that suffer from reputation infringement may seek adequate action to have whose reputation reinstated.

(II) Administrative liabilities

1. General liabilities: individuals that impose sexual harassment on others are punishable by a penalty fine of over NT\$10,000 and up to NT\$100,000 by competent government authorities of a central-ruled municipality, or county/municipal administration.

2. Stepped up liabilities: individuals who impose sexual harassment on those under whose own supervision, care for the purpose of education, training, medical care, government business, business dealings, job interview or other related circumstances utilizing whose power or opportunistic convenience may be stepped up to one more half of original penalty.

(III) Criminal liabilities

Those imposing deliberate sexual harassment of kisses, embracing, touching of one's chest, hips or other intimate body parts when others are unable to resist, are punishable by an imprisonment term of up to two years, detention, and may be imposed of a penalty fine of up to NT\$100,000. The crime is of a crime that only sustains through prosecution, and that the suitor is to bring on the charges.

(IV) Other liabilities

Corrective action issued by the agency, company or employer of an individual, such as demerit and so forth.

V. The agency's liabilities

(I) Upon learning sexual harassment incidents, prompt and effective corrective action and remedy shall be sought at once.

(II) Those with organization members, hired help or service staff exceeding ten persons shall instill a grievance filing venue; those that hire 30 or more shall draft a sexual harassment prevention



告訴權人提起告訴。

(四) 其他責任

接受所屬機關、部隊或僱用人的懲處，例如記過等。

五、機關責任

- (一) 知悉有性騷擾情事，應採取立即有效之糾正及補救。
- (二) 組織成員、受僱人或受服務人員10人以上者，應設立申訴管道；其人數30人以上者，應訂定性騷擾防治措施，並公開揭示之（防治原則、申訴管道、懲處辦法、教育訓練方案）。
- (三) 定期辦理或鼓勵所屬參加性騷擾防治教育訓練。
- (四) 不得為不當之差別待遇。
- (五) 行為人對被害人為回復名譽措施時，提供適當協助。

本項規定對機關不適用之。

六、機關未採下列措施或處理之處罰

measure, which shall be disclosed openly (pertaining to the prevention principle, grievance filing venue, reprimand action measure, awareness training proposal).

- (III) To routinely stage or encourage the associates to partake sexual harassment awareness training.
- (IV) To refrain from engaging in improper differential treatments.
- (V) To provide adequate assistance when the harasser attempts to restore the victim's reputation.

The stipulations set by the measure are not applicable to the agency.

VI. Penalties governing the agency's failure to adopt the following measure or settlement

- (I) The agency upon learning of sexual harassment incidents, has failed to adopt effective corrective action and remedial measures.
- (II) The absence of a grievance filing venue and response coordination when the number of organization members or employees exceeding ten persons.
- (III) The absence of drafting a sexual harassment prevention measure and disclose it openly for those that employ 30



- (一) 機關於知悉有性騷擾之情形時，未採取立即有效之糾正及補救措施。
- (二) 組織成員或受服務人員達10人以上者未設立申訴管道協調處理。
- (三) 人數達30人以上者，未訂定性騷擾防治措施，並公開揭示者。

直轄市、縣(市)主管機關得處新臺幣1萬元以上10萬元以下罰鍰。經通知限期改正仍不改正者，得按次連續處罰。

七、性騷擾申訴

- (一) 事件發生1年內提出申訴。
- (二) 加害人所屬機關調查加害人不明或不知有無所屬時，由事件發生地警察機關調查。
- (三) 受理7日內應開始調查，2個月內結案，必要時得延長1個月；逾期未完成或不服調查結果時，得於30日內向直轄市、縣(市)主管機關提出再申訴。

八、再申訴

- (一) 直轄市、縣(市)主管機關受理性騷擾再申訴案件後，性騷擾防治委員會主任委員應於7日內指派委員3人至5人組成調查小組，並推選1人為小組召集人，進行調查。有關調查之期限，並依第13條規定。
- (二) 性騷擾事件已進入偵查或審判程序者，直轄市或縣(市)性

persons or more.

The competent government authorities of a central-ruled municipality, or county/municipal administration may levy a penalty fine exceeding NT\$10,000 and up to NT\$100,000, and those that fail to adopt corrective action exceeding the deadline may be given repeated penalties by each offence.

VII. Sexual harassment grievance filing

- (I) A grievance filing is to be made within one year from the date the incident occurred.
- (II) In the wake that the investigation by the victim's agency should concludes that the investigator's whereabouts remain unknown or the incident liabilities were indiscernible, the incident shall be referred to the local police administration for further investigation.
- (III) Investigation shall commence within seven days upon a case is lodged in, and the case shall be concluded within a two-month period, with option to extend for one more month when deemed necessary; when failing to conclude the case or in the wake of contestation to the investigation findings exceeding the deadline, an appeal may be filed with competent government authorities of a central-ruled municipality, county/municipal administration.

VIII. Appeal

- (I) Upon the competent government authorities of a central-ruled municipality, county/municipal administration, upon lodging in an appeal case, the sexual harassment prevention committee shall assign three to five individuals to form a investigation team within the ensuing seven days, and appoint one individual as team commissioner for conducting the investigation. Logistics concerning the deadline of investigation shall refer to stipulations set forth under Article 13.
- (II) Of sexual harassment cases that have already entered an investigation or trial proceeding, the sexual harassment prevention committee of a central-ruled municipality, or county/municipal administration, when deemed necessary, may order the case processing be suspended prior to the proceeding has been concluded.

IX. Mediation proceeding

- (I) The parties of a sexual harassment incident may file with a sexual harassment prevention committee at a central-ruled municipality, or county/municipal administration seeking for mediation in writing or verbally, in which one that filed



騷擾防治委員會認為有必要時，得議決於該程序終結前，停止該事件之處理。

九、調解程序

- (一) 性騷擾事件當事人得以書面或言詞，向直轄市、縣(市)政府性騷擾防治委員會申請調解，其以言詞申請者，應製作筆錄。
- (二) 調解除勘驗費外，不收取任何費用。
- (三) 調解成立者，應作成調解書。
- (四) 調解不成立者，當事人得向該管地方政府性騷擾防治委員會申請將調解事件移送該管司法機關；其第一審裁判費暫免徵收。

十、性侵害犯罪事件準用之規定

- (一) 機關應防治性侵害行為發生及採取適當糾正及補救措施、設置防治措施並公開揭示及違反規定之罰則。
- (二) 定期舉辦或鼓勵所屬人員參與防治性騷擾之相關教育訓練。
- (三) 不得為不當之差別待遇及違反規定之罰則。
- (四) 協助被害人回復名譽。

參、其他

有關「性騷擾防治法」、「性騷擾防治施行細則」、「本署性騷擾防治法措施申訴及懲戒處理要點」、「本署性騷擾案件申訴處理程序流程圖」及「本署性騷擾申訴處理委員會輪值委員表」，均刊載於本署人事處網站。

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verbally shall be documented into a written deposition.

- (II) In mediation, except the surveying fees, no further charges may be collected.
- (III) In instances where the mediation has been sustained, a written mediation certificate shall be produced.
- (IV) In instances where the mediation should fail to sustain, the case party may file a request with the local sexual harassment committee of a local government to have the case forwarded to a judicial agency; the judgment fee for the initial court trial is temporarily suspended from levying.

X. Stipulations that commensurate to sexual harassment criminal cases

- (I) The agency shall prevent sexual harassment acts from occurring, and shall adopt adequate corrective measure and remedial measures by launching prevention measure, which is to be openly disclosed, along with penalties governing infringement of relevant stipulations.
- (II) Routine staging or encouraging associates to partake sexual harassment related awareness training.
- (III) Penalty clauses governing banned improper differential treatment or violation stipulations.
- (IV) To facilitate the victim restore whose reputation.

Part III Other

Detailed information pertaining to the "Sexual Harassment Prevention Act", "Sexual Harassment Prevention Act Implementation Detail", "Administration Sexual Harassment Prevention Measure's Grievance Filing and Reprimand Processing Guideline", and "Administration Sexual Harassment Grievance Filing Response Procedure Chart" and "Administration Sexual Harassment Grievance Response Committee's Duty Rotation Chart" are posted on the Administration personnel division's Website.

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