

# POLICY AGAINST SEXUAL HARASSMENT

## 1. Statement of Commitment

The TRANS-ASIA values the dignity of its employees and respects the rights of its workers. Towards this end, TRANS-ASIA is committed to keep its work environment free from sexual harassment and all forms of sexual intimidation and exploitation. In keeping with this commitment, TRANS-ASIA will not tolerate harassment of its employees in the workplace. For this purpose, sexual harassment, as it is hereby defined, is considered a violation of this policy and is, therefore, forever banned in the TRANS-ASIA working environment.

TRANS-ASIA further commits to increase awareness of the value of respecting the dignity of each employee as a pro-active measure to prevent incidents on sexual harassments in the workplace.

## 2. Sexual Harassment, Defined

Sexual harassment is defined under Republic Act No. 7877, otherwise known as “An Act Declaring Sexual Harassment Unlawful in the Employment, Education and Training Environment and for Other Purposes” (R.A. No. 7877), as an act committed by an employer, employee, manager, supervisor, agent of the employer, or any other person who, having authority, influence or moral ascendancy over another in a work environment, demands, requests, 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. TRANS-ASIA adopts this definition and declares the commission of sexual harassment in the workplace as a violation of this Policy. At the same time, acts with sexual undertones that tend to create a hostile, intimidating or offensive working environment are likewise considered violations of this Policy regardless of the rank or position of the person who committed it, subject to the conditions set forth herein.

### 2.1. *Forms of Sexual Harassment*

In line with TRANS-ASIA’s goal of having a work environment supportive of the dignity of the individual, this Policy also considers other acts which have sexual undertones which are not necessarily unlawful under R. A. No. 7877, as violations of this Policy and are thus considered prohibited. Sections 2.1.1 to 2.1.2 discuss acts of sexual harassment under the law, while 2.1.3 to 2.1.4 tells of other acts that are prohibited under this Policy. The commission of all or any of these acts can subject an employee to disciplinary action, the penalty of which will vary depending on the gravity of the offense.

Also equally liable under this Policy would be those who direct or induce another to commit any of the prohibited acts under this Policy, or those who cooperate in the commission thereof without which the act could not have been committed.

It must be noted, however, that nothing herein shall prevent a person from exercising any right available under the law in case of any false and malicious accusations, without prejudice to any administrative liability to be imposed by TRANS-ASIA on the false accuser.

In general, sexual harassment, which comes in many forms, whether subtle and indirect, blatant and overt, can be committed against an aggrieved party, who could either be an employee, whether casual, contractual, probationary or regular, or an apprentice or trainee, under the following circumstances:

#### *2.1.1. Sexual favor as a condition*

Whenever a request, demand or requirement for sexual favor is made by an employee who possesses authority, influence, or moral ascendancy over an aggrieved party, as a condition for the:

- a. Hiring/acceptance for training, or in the employment or re-employment or continued employment/apprenticeship or said aggrieved party, or;
- b. Granting of favorable compensation, terms, conditions, promotions or privileges.

#### *2.1.2. When refusal to accede results in discrimination, or impairment of rights under labor laws or in an intimidating, hostile or offensive environment for the employee*

Whenever the refusal by the aggrieved party to accede to the sexual favor made results in any of the following:

- a. Evaluating, limiting, segregating, or classifying the aggrieved party which in any way could discriminate, deprive, or diminish employment opportunities, compensation, benefits or privileges, or otherwise adversely affect said aggrieved party;
- b. The impairment of the rights and privileges of the aggrieved party under existing labor laws;
- c. An intimidating, hostile or offensive environment for the aggrieved party.

#### *2.1.3. Retaliation against a sexual harassment concern*

Retaliation or reprisal made by the respondent against a complaining employee for raising a concern against sexual harassment, whether in the form of a formal complaint or a report to concerned authorities, is hereby prohibited. Likewise, falsely denying, lying about or attempting

to cover-up such acts of retaliation or reprisal is also considered prohibited under this Policy. The following are some examples of such acts of retaliation against an aggrieved party:

- a. Disciplining, discriminating against, changing or downgrading terms and conditions of employment, including work assignments, compensation, benefits, etc.;
- b. Rendering an unwarranted performance evaluation;
- c. Providing inaccurate work information;
- d. Refusing to cooperate or discuss work-related matters.

#### *2.1.4. Other forms of sexual harassment*

In addition to the above-mentioned acts, TRANS-ASIA also considers acts that have sexual undertones the commission of which create an intimidating, hostile or offensive working environment as violations of this Policy and are, therefore, prohibited. The following are classifications of these acts:

##### *(1) Light Offenses.*

TRANS-ASIA is aware that the commission of certain acts may appear to be innocent, but, nevertheless create a working environment that is intimidating, hostile or offensive. These acts and/or behaviors, which may be manifested in several forms, can be described as indecent, vulgar, or even malicious, depending on the sensitivities of the listeners and/or audience. Hence, these acts shall be considered as violations only after the offended party has manifested his or her objections to the said acts, and, the respondent continues with the commission of such acts in spite of knowledge of the objections. For this purpose, an offended party has the option of either manifesting his or her objections directly to the respondent, or to any member of the Committee on Decorum, the composition of which will be discussed in other parts of this Policy.

In line with this, the following are considered as examples of these other forms of sexual harassment, the commission of which continue in spite of the manifestation of objection by the offended party and the knowledge of such objection by the respondent:

- (a) Persistently telling sexually-oriented or what are commonly called “green” jokes to any employee (regardless of rank or position);
- (b) Taunting the employee with constant talk of sex or sexual innuendoes;
- (c) Displaying offensive pictures or publications in the workplace;

- (d) Asking an employee intimidating questions on his/her sexual activities/preferences;
- (e) Making offensive hand or body gestures at an employee;
- (f) Making/ sending obscene and/or offensive messages through phone calls, the cellular phone, internet, and other telecommunication devices, or through written and/or verbal communications, to an employee during and outside working hours;
- (g) Any form of body contact which is commonly known in the vernacular as “chancing” such as, but not limited to, caressing or touching in a manner that is usual only between persons with intimate family or romantic relationship.
- (h) Other acts of similar nature, which has sexual undertones or implications.

*(2) Moderate Offenses*

- (a) Unnecessarily brushing up against the body;
- (b) Pinching of buttocks;
- (c) Requesting for dates or other similar favors, in exchange for a job, favorable evaluation, working conditions, assignments, etc.;
- (d) Other acts of similar nature.

*(3) Serious Offenses*

There are, however, certain acts and behaviors that by their very grave and appalling nature cannot be considered to have been done without malice. These acts are so atrocious that by committing them, even once, the respondent shall have violated this Policy. Examples of these acts are the following:

- (a) Knowingly touching a co – employee in his/her sensitive/parts;
- (b) Other similar acts of lasciviousness;
- (c) Threat of a sexual nature, actual sexual assault, or attempted, frustrated or consummated rape;
- (d) Other acts of similar nature.

*2.1.5. Other Acts of Sexual Harassment*

As a test in determining if an offensive act or behavior with sexual undertones not otherwise found in the above – mentioned offenses, is considered as a violation of this Policy, we should

ask if such act or behavior is committed again by the respondent even after the complainant has indicated that she/he finds it offensive or objectionable and if answered in the affirmative, it may rightly be classified as sexual harassment. As such, it can be classified as Light, Moderate, or Serious, depending on the circumstances of the case.

### **3. Committee on Decorum**

#### *3.1. Functions*

A Committee on Decorum is hereby constituted with the following main responsibilities:

- a. Receive complaints, investigate and hear sexual harassment cases;
- b. Prepare reports and make recommendations to the Office of the President on the appropriate decision;
- d. Conduct meetings with co-employees to increase awareness and prevent incidents on sexual harassments.

#### *3.2. Composition*

The Committee, to the extent possible, is composed of representatives from all kinds of employees based on rank and position. They are as follows:

- a. The Head of the Human Resources Department, or his designated representative, who will act as the Chairman;
- b. An employee with the rank of manager/supervisor;
- c. An employee with the rank of rank-and-file.

The members of the Committee shall be appointed by the President, to whom the Committee shall be accountable.

In the event that a member of the Committee is a party to the complaint, either as a complainant or a respondent, she/he shall inhibit herself/himself from hearing and investigating the case and shall be replaced by the President from among the class of employees he/she is representing.

#### *3.3. Investigation Procedures*

##### *3.3.1. Complaint*

A sexual harassment case will be initiated by filing a written complaint to the Chairman of the Committee within thirty (30) calendar days from the happening of the incident.

Failure to file the complaint within the stipulated period of thirty (30) calendar days will not necessarily cause the dismissal of the complaint, although it may cast doubt on the veracity of the complaint if the delay in the filing of the complaint cannot be justifiably explained by the complainant.

While there is no particular form necessary for the validity of the complaint, it should, nevertheless, contain the following:

- a. Full name, designation of the complainant;
- b. Full name, designation of the respondent;
- c. Specification of the charges, sufficient to constitute any of the offenses mentioned in 2.1 above;
- d. Brief statement of relevant facts with particulars as to date, time, place, persons present and other relevant circumstances including any antecedent events, if any;
- e. If there were witnesses to the incident whom the complainant wishes to present, the complaint should be accompanied with sworn statements of the said witnesses.

Upon receipt of the written complaint by the Chairman, he/she shall review the same and conclude if there is sufficient ground to engender a belief in the mind of a reasonable person that a violation of this Policy has been committed by the respondent.

Should the complaint be too vague or too general, the Chairman may summon the complainant and require her/him to specify the acts complained of.

Upon sufficiency of the complaint, the Chairman shall, whenever practicable, convene the Committee to initiate the investigation process. A copy of the Complaint will be sent to the respondent, who will be given a period of ten (10) calendar days within which to file a written Answer, with a copy furnished the complainant.

No required form is necessary for the validity of the Answer, it being sufficient for the respondent to deny the charges against him/her. Preferably, however, the respondent should attach to the Answer pieces of evidence to support his defense, such as sworn affidavits of witnesses, if any.

A withdrawal of the complaint at any stage of the investigation proceedings will not bar the Committee from further investigating the case and making a report and recommendation to the President.

### *3.3.2. Reply*

Upon receipt of the Answer, the complainant may file a Reply to the Answer within five (5) calendar days from receipt of the latter.

### *3.3.3. Preventive Suspension*

Upon receipt of the complaint, the Committee shall immediately deliberate on whether there are grounds to recommend to the President the imposition of a preventive suspension on the respondent. Under the law, preventive suspension can be imposed if there are reasonable grounds to believe that the continued presence of the employee in the work premises poses a serious threat to the life or property of the employer or of his co-workers.

Preventive suspension shall not exceed thirty calendar (30) days, during which period, the Committee shall exert all efforts to complete the investigation. Should the investigation exceed 30 days, then, the respondent will be reinstated to his former or substantially equivalent position. In lieu thereof, he/she may be placed on payroll reinstatement.

### *3.3.4. Hearing*

While technical rules of procedure applicable to courts or quasi-judicial agencies shall not be applicable herein, the Committee, must at all times, observe the requirements of administrative due process during the investigation.

In the exercise of its discretion, the Committee may make recommendations on the decision of the case based on documentary evidence and the pleadings submitted by both parties without calling for a formal hearing.

Should any party, however, request for a formal hearing, the Committee shall hear the case. In no case, however, should the duration of the hearing exceed thirty (30) calendar days from the time one was called, except in extraordinary cases, as determined by the Committee.

Either party may avail of the services of a counsel.

During the hearing, the Committee Chairman, or anyone designated by him, shall personally conduct the hearing and shall determine the order of the presentation of evidence by the parties. He shall take full control of the proceedings and examine the parties and their witnesses. He may, however, allow the members of the Committee to propound questions to the parties and their witnesses. In all instances, however, the presentation of evidence shall be limited to matters relevant to the issues at hand and necessary for a just and speedy disposition of the case.

No postponement shall be granted, except in highly meritorious cases.

Notwithstanding the foregoing, the Committee shall have the discretion to follow any procedure that would best serve the purpose of the truth, fairness and equity without being bound by technical rules of evidence.

### *3.3.5. Report and Recommendation*

Within fifteen (15) calendar days from the time the case is submitted for decision, the Committee will render an investigation report and recommendation to the President. The quantum of proof to be used in determining issues is substantial evidence, or that amount of evidence sufficient to form a conclusion in the mind of a reasonable person.

The report and recommendation shall contain the relevant facts, the evidence presented, the findings on whether the respondent is liable, and the recommended penalty, if any, to be imposed on the respondent. If need be, the Committee shall also make suggestions on how to avert the occurrence of such incident.

### *3.3.6. Decision*

Within thirty calendar (30) days from receipt of the recommendation, the President shall render a decision on the case. He may adopt or reject the recommendations, in whole or in part, modify the same or direct that further investigation be conducted. The decision shall be in writing, stating forth the basis thereof.

## **4. Schedule of Penalties**

In general, acts prohibited herein shall be penalized depending on the gravity of the offense. The following table of penalties, therefore, shall be merely directory in rendering the appropriate penalty.

<b>OFFENSE</b>	<b>PENALTY</b>
Sexual Harassment (2.1.1 to 2.1.2)	Dismissal
Serious offenses (2.1.4.c)	Dismissal
Retaliation to SH complaints (2.1.3)	One (1) – month suspension to Dismissal
Moderate offenses (2.1.4.b)	3-week suspension to dismissal
Light offenses (2.1.4.a)	Verbal reprimand to 2-week suspension

## **5. Effectivity**

This Policy will take effect immediately after posting at the Company bulletin boards.



## **6. Incorporation By Reference**

The provisions of Republic Act No. 7877, otherwise known as the “Anti-Sexual Harassment Law” insofar as applicable, are hereby incorporated to form an integral part of this Policy.

## **7. Confidentiality**

At the commencement of the investigation procedure at the Committee, starting from the filing of a written complaint, or the manifestation of an objection to an act or behavior, all matters discussed, documents reviewed, letters and correspondences read, and, testimonies heard, will be kept under the strictest confidence. It is the intention of TRANS-ASIA that rights of the parties, especially the innocent ones, are protected. At the same time, however, dignity and honor shall be preserved for all the parties concerned by keeping all information gathered through the investigation process confidential at all times, even after the conclusion of the investigation proper.