

# PART 1: FOUNDATIONAL CONCEPTS AND OVERVIEW OF THE ANTI-SEXUAL HARASSMENT ACTS AND SAFE SPACES ACT

## ? What is sexual harassment?

Republic Act (R.A.) No. 7877, otherwise known as the Anti-Sexual Harassment Act, defines Work, Education, or Training-related Sexual Harassment as:

1

Committed by an employer, employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person;

2

[Who] Having authority, influence, or moral ascendancy over another in a work or training or education environment; [and]

3

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



## ? How is sexual harassment committed?

## How is sexual harassment committed?

The Anti-Sexual Harassment Act distinguishes between work-related and education/training-related sexual harassment, as follows:

### Work-related 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.

### Education or Training-related sexual harassment is committed against:

1. One who is under the care, custody or supervision of the offender; or
2. One whose education, training, apprenticeship or tutorship is entrusted to the offender.

### Education or Training-related sexual harassment is committed when:

1. When the sexual favor is made a condition to giving a passing grade, or granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations; or
2. When the sexual advances result in an intimidating, hostile or offensive environment for the student, trainee, or apprentice.

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### What are the other acts punishable under the Anti-Sexual Harassment Act?

These are:

- 1 Any person who directs or induces another to commit any act of sexual harassment; or
- 2 Any person who cooperates in the commission thereof by another.



### Can a case of sexual harassment prosper between co-employees or co-classmates/trainees?



No, what the Anti-Sexual Harassment Act contemplates is a situation when the offender is one who, having authority, influence or moral ascendancy over another.



### Is sexual harassment exclusive to women victims?

No, the Anti-Sexual Harassment Act does not distinguish. Both men and women can be victims of sexual harassment.



### What is the Safe Spaces Act?



Republic Act (R.A.) No. 11313 or the Safe Spaces Act, otherwise known as Bawal Bastos Law, provides protective measures and prescribes penalties to stop gender-based sexual harassment (GBSH). The Bawal Bastos Law aims to achieve equality, security, and safety not only in private but also on the streets, in public spaces, online, in workplaces, and in educational and training institutions.

## PART 1: FOUNDATIONAL CONCEPTS AND OVERVIEW OF THE ANTI-SEXUAL HARASSMENT ACTS AND SAFE SPACES ACT



### What is the difference between the Anti-Sexual Harassment Act and the Safe Spaces Act?



The Safe Spaces Act expands the scope of what may constitute as sexual harassment, who may commit sexual harassment, and where it may be committed.

1

The scope of what may constitute as sexual harassment is expanded under the Safe Spaces Act. The Anti-Sexual Harassment Act covers sexual favors specifically when made as a condition for employment, rehiring, or favorable compensation or benefits in a work environment or a passing grade in class, granting honors, or scholarships in educational or training institutions. Meanwhile, 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 actions or remarks.

2

The Anti-Sexual Harassment Act covers only persons in authority who could be charged as offenders. There are no provisions for harassment by subordinates or peers. The perpetrator's authority, influence, or moral ascendancy over the offended party is no longer required to constitute sexual harassment under the Safe Spaces Act.

3

The Anti-Sexual Harassment Act covers Work, Education, and Training-related environments. The Safe Spaces Act expands this by including streets and public spaces, public utility vehicles, and even online spaces.



**NOTE:** The new law does not supersede the original Anti-Sexual Harassment Act. If someone's offense qualifies under both the Safe Spaces and Anti-Sexual Harassment Acts, they can be charged for counts under both laws. Offenses can also intersect other laws like the Anti-Violence Against Women and Children Act.



### What is gender? How is it different from sex?



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. On the other hand, sex refers to the biological and physiological characteristics of male, female, or intersex individuals based on their reproductive organs and hormones.



## What is gender-based sexual harassment (GBSH)?

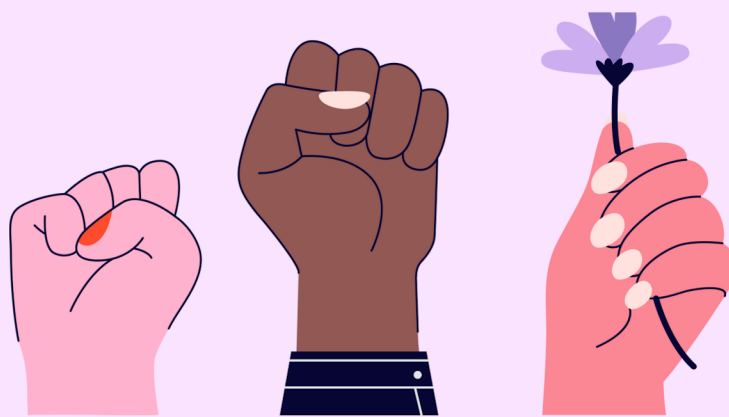
GBSH constitutes any acts that are committed through any unwarranted, unwanted, and uninvited sexual actions or remarks against any person, of any gender identity, regardless of the motive for committing such action or remarks.



## How is GBSH committed?

GBSH may be committed on/in:

- 1 [the] Streets and Public Spaces
- 2 Online
- 3 [the] Workplace
- 4 Educational and Training Institutions.





## PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY



### What crimes under the Safe Spaces Act are covered by the Katarungang Pambarangay?

The first and second offenses of GBSH in streets and public spaces in the first degree of the Safe Spaces Act are covered by the Katarungang Pambarangay.



**NOTE:** The Katarungang Pambarangay's jurisdiction is limited by law. In general, the Katarungang Pambarangay are authorized to settle criminal offenses punishable by imprisonment not exceeding one (1) year or a fine not exceeding Php 5,000. Those exempted by law take the case(s) out of the jurisdiction of the Katarungang Pambarangay.

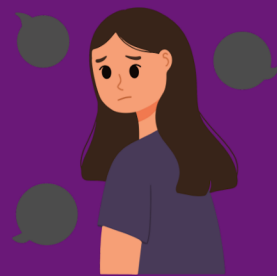


### What acts constitute the first and second offenses of GBSH in the streets and public spaces? And what are their penalties?

#### GBSH IN THE STREETS AND PUBLIC SPACES FIRST DEGREE (VERBAL GBSH)

GBSH in the streets and public places in the first degree includes:

1. cursing,
2. wolf-whistling,
3. catcalling,
4. leering and intrusive gazing,
5. taunting,
6. pursing,
7. unwanted invitations,
8. misogynistic, transphobic, homophobic, and sexist slurs,
9. persistent unwanted comments on one's appearance,
10. relentless requests for one's personal details such as name, contact and social media details or destination,
11. 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,
12. the persistent telling of sexual jokes,
13. use of sexual names, comments, and demands, and
14. any statement that has made an invasion on a person's personal space or threatens the person's sense of personal safety.



| FIRST OFFENSE  | SECOND OFFENSE  |
|--|---|
| Php 1,000 fine and 12 hour community service with Gender Sensitivity Seminar | Arresto menor (6 to 10 days imprisonment) or Php 3,000 fine |

## What crimes are not covered by the KP?

- 1 The third offense of GBSH in the streets and public spaces in the first degree

| GBSH IN THE STREETS AND PUBLIC SPACES FIRST DEGREE                             |
|--|
| <i>THIRD OFFENSE</i>   |
| Arresto mayor (1 month and 1 day to 6 months imprisonment) and Php 10,000 fine |

- 2 GBSH in the streets and public spaces in the second degree

**GBSH IN THE STREETS AND PUBLIC SPACES  
SECOND DEGREE (DEMONSTRATED GBSH)**

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GBSH in the streets and public places in the second degree includes:

1. making offensive body gestures at someone; and
2. exposing private parts for the sexual gratification of the perpetrator with the effect of demeaning, harassing, threatening, or intimidating the offended party including:
  - (a) flashing of private parts,
  - (b) public masturbation,
  - (c) groping, and
  - (d) similar lewd sexual action.



| FIRST OFFENSE   | SECOND OFFENSE  | THIRD OFFENSE  |
|---|---|--|
| Php 10,000 fine and 12 hour community service with Gender Sensitivity Seminar | Arresto menor (11 to 30 days imprisonment) or Php 15,000 fine | Arresto mayor (1 month and 1 day to 6 months imprisonment) and Php 20,000 fine |

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### 3 GBSH in the streets and public spaces in the third degree

#### GBSH IN THE STREETS AND PUBLIC SPACES THIRD DEGREE

GBSH in the streets and public places in the third degree includes:

1. stalking;
2. any of the acts that constitute GBSH in the streets and public places in the first and second degree, when accompanied by touching, pinching or brushing against the body of the offended person; or
3. 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 that constitute GBSH in the streets and public places in the first and second degree.

| FIRST OFFENSE   | SECOND OFFENSE   | THIRD OFFENSE   |
|---|--|---|
| Arresto menor (11 to 30 days imprisonment) or Php 30,000 fine with Gender Sensitivity Seminar | Arresto mayor (1 month and 1 day to 6 months imprisonment) and Php 50,000 fine | Arresto mayor in its maximum (5 months and 11 days to 6 months imprisonment) and Php 100,000 fine |

### 4 GBSH online;

### 5 GBSH in the workplace; and

### 6 GBSH in educational and training institutions.



**NOTE: Crimes whose maximum punishment exceeds one (1) year of imprisonment or Php 5,000 fine are not covered by the Katarungang Pambarangay.**



## **When is there a violation of the Safe Spaces Act online? What is GBSH online? And what is the penalty?**

GBSH online includes:

1. acts that use information and communications technology in terrorizing and intimidating victims through physical, psychological and homophobic and sexist remarks and comments online whether publicly or through direct and private messaging;
2. invasion of Victim's privacy through cyberstalking and incessant massaging;
3. Uploading and sharing of any of the victim's photos, videos, or any information online;
4. Impersonating identities of victims online;
5. Posting lies about victims to harm their reputation; or
6. Filing false abusive reports to online platforms to silence victims.



The penalty for GBSH online is prison correccional in its medium period (2 years, 4 months and 1 day to 4 years and 2 months imprisonment) or a fine of not less than Php 100,000 but not more than Php 500,000, or both, at the discretion of the court.



## **Who are the implementing bodies for online GBSH?**

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 Department of Information and Communications Technology (DICT) shall also coordinate with the PNPACG to prepare appropriate and effective measures to monitor and penalize gender-based online sexual harassment.

## PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY

### ? When are GBSH in streets, public spaces, and online considered “qualified”? What are the implications?

GBSH is considered qualified when any of the following circumstances are present:

1. If the act takes place in a common carrier or public utility vehicle (PUV);
2. If the offended party is a minor, senior citizen, person with disability (PWD), or breastfeeding mother nursing her child;
3. If offended party is diagnosed with mental problem tending to impair consent;
4. If the perpetrator is member of uniformed services and act was done while in uniform; and
5. If the act takes place in the premises of a government agency offering frontline services to the public and perpetrator is a government employee.



When GBSH is considered qualified, the penalty next higher in degree will be applied.

### ? How is GBSH committed in the workplace?

GBSH in the workplace includes:

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; and
3. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient.



# PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY

## What other acts are punishable in relation to GBSH committed in the workplace? What are the penalties?

Employers may be held responsible for:

1. Non-implementation of employers' duties; or



Safe Spaces Act, § 17. Section 17 provides:

### 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:

- (a) Disseminate or post in a conspicuous place a copy of this Act to all persons in the workplace;
- (b) Provide measures to prevent gender-based sexual harassment in the workplace, such as the conduct of anti-sexual harassment seminars;
- (c) Create an independent internal mechanism or a committee on decorum and investigation to investigate and address complaints of gender-based sexual harassment which shall:
  - (1) Adequately represent the management, the employees from the supervisory rank, the rank-and-file employees, and the union, if any;
  - (2) Designate a woman as its head and not less than half of its members should be women;
  - (3) Be composed of members who should be impartial and not connected or related to the alleged perpetrator;
  - (4) Investigate and decide on the complaints within ten (10) days or less upon receipt thereof;
  - (5) Observe due process;
  - (6) Protect the complainant from retaliation; and
  - (7) Guarantee confidentiality to the greatest extent possible;
- (d) Provide and disseminate, in consultation with all persons in the workplace, a code of conduct or workplace policy which shall:
  - (1) Expressly reiterate the prohibition on gender-based sexual harassment;
  - (2) Describe the procedures of the internal
  - (3) Set administrative penalties.

2. Not taking action on reported acts of GBSH committed in the workplace.

| NON-IMPLEMENTATION OF EMPLOYERS' DUTIES                    | NOT TAKING ACTION ON REPORTED ACTS OF GBSH IN THE WORKPLACE |
|--|---|
| A fine of not less than Php 5,000 nor more than Php 10,000 | A fine of not less than Php 10,000 nor more than Php 15,000 |

# PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY

## What other acts are punishable in relation to GBSH committed in educational and/or training institutions? What are the penalties?

School heads may be held responsible for:

### 1. Non-implementation of school heads' duties



Safe Spaces Act, § 22. Section 22 provides:

#### Section 22. Duties of School Heads.

School heads shall have the following duties:

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

### 2. Failure to act on reported acts of GBSH committed in the educational institution.

| NON-IMPLEMENTATION OF SCHOOL HEADS' DUTIES                 | NOT TAKING ACTION ON REPORTED ACTS OF GBSH IN THE EDUCATIONAL INSTITUTION |
|--|---|
| A fine of not less than Php 5,000 nor more than Php 10,000 | A fine of not less than Php 10,000 nor more than Php 15,000               |

## PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY



**What if the person who committed the acts of GBSH in the educational institution is a minor? Is s/he liable?**

No, minor students who are found to have committed acts of GBSH shall only be held liable for administrative sanctions by the school as stated in their school handbook.



**When do these crimes prescribe?**

Any action arising from the violation of any of the provisions of this Act shall prescribe as follows:

| CRIME/S  | PRESCRIPTIVE PERIOD |
|--|---------------------|
| Verbal GBSH in Streets and Public Spaces                                 | ONE (1) year        |
| Demonstrated GBSH in Streets and Public Spaces                           | THREE (3) years     |
| GBSH in Streets and Public Spaces through stalking and physical advances | TEN (10) years      |
| Online GBSH  | Imprescriptible     |
| GBSH in the Workplace  | FIVE (5) years      |
| GBSH in Educational and Training Institutions                            | FIVE (5) years      |

Source: Safe Spaces Act



## PART 2: CRIMES UNDER THE SAFE SPACES ACT COVERED BY THE KATARUNGANG PAMBARANGAY



### How can the barangay assist in confronting GBSH that do not fall under the jurisdiction of the Katarungang Pambarangay?

Some of the ways that the barangay can assist in addressing GBSH in general are:

1. Providing measures to prevent GBSH through information campaigns and seminars;
2. Undergoing and conducting Gender Sensitivity Training (GST);
3. Establishing an Anti-Sexual Harassment hotline or desk in all barangay halls manned by members who are knowledgeable on GBSH and the forms of assistance made available by the local government unit (LGU);
4. Receiving and recording reports/complaints and acting as a referral mechanism for complaints; and
5. Creating mechanisms for handling documentation of complaints, including those covered by the KP system.

While the KP only covers the first two (2) degrees of GBSH in streets and public places, the barangay may still provide assistance to the complainants not falling under its scope by referring them to the proper offices such as PNPACG in cases of online GBSH.

Source: Secs. 9 & 14, IRR of R.A. No. 11313.

### Sources:

Implementing Rules and Regulations (IRR) of Republic Act 11313, Safe Spaces Act  
Republic Act 11313, Safe Spaces Act  
Republic Act 7877, Anti-Sexual Harassment Act of 1995

