SyCip Salazar Hernandez & Gatmaitan

BULLETS

Bulletin on Employment Trends by SyCipLaw

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1. Are there new obligations DOLE Department Order No. 259-26 imposes on private establishments regarding workplace violence and harassment?

On 31 July 2026, the Secretary of Labor and Employment issued Department Order No. 259, Series of 2026 ("**DO 259-26**" or the "**Guidelines**"), or the *Guidelines on the Prevention and Elimination of Violence and Harassment in the Workplace*, to implement the Philippines' ratification of ILO Convention No. 190 ("**ILO C190**"). DO 259-26 adopts a voluntary, advisory approach grounded in cooperation, respect, trust, tripartism, and social dialogue.

Employers are strongly encouraged, though not strictly mandated, to adopt a workplace policy preventing and addressing violence and harassment, including gender-based sexual harassment. They are also expected to update their Code of Conduct and anti-sexual harassment policies to adopt a zero-tolerance policy, define covered acts, set procedures for breaches, align committee functions with the Guidelines, protect victim-survivors and whistleblowers, and submit the prescribed report to DOLE. Workers and unions are expected to cooperate and engage with management on policy improvements.

DO 259-26 does not impair legitimate management prerogatives, such as supervision, performance evaluation, discipline, work assignments, and workplace investigations, if exercised in good faith, without discrimination, and in accordance with law.

Coverage. The Guidelines apply to all private sector establishments, regardless of size, category, nature of business, or number of workers, and cover any site or location where work is undertaken, whether within or outside the employer's usual place of business.

Covered individuals include employees, interns, apprentices, terminated workers, volunteers, jobseekers, applicants, and persons exercising employer authority. On the other hand, covered workplaces include work-related trips, trainings, social activities, commutes, digital communications, platform work, and employer-provided accommodation.

Recognized forms of violence and harassment. DO 259-26 identifies four categories: physical violence, psychological violence and harassment, economic violence and harassment, and sexual violence and harassment.

Components of workplace policy. DO 259-26 identifies four policy components:

(a) Prevention, mitigation, and protection – this includes workplace information materials, advocacy participation, and DOLE-assisted capacity building.

(b) Enforcement and remedies – these refer to confidential grievance mechanisms, external remedies if internal processes fail, referral support, alternative work arrangements or paid leave for victim-survivors, and non-retaliation protections.

(c) Education and training – this covers orientation on relevant laws, ILO C190, and gender-sensitive workplace communication.

(d) Monitoring and evaluation – this contemplates quarterly monitoring by the Occupational Safety and Health Committee with HR, with policy changes developed cooperatively with workers or through Labor-Management Cooperation.

Annual reporting. Employers must report to DOLE every 30 January on the status of policy adoption or formulation, including the number and status of cases filed, pending, and disposed, using the prescribed form at https://reports.dole.gov.ph. HR must keep compliance records available for DOLE inspection.

DOLE enforcement role. DOLE will conduct yearly random and unannounced inspections, receive complaints through the Single-Entry Assistance Desk ("**SEAD**") and DOLE Hotline 1349, develop learning modules through the Bureau of Workers with Special Concerns ("**BWSC**"), and coordinate with other agencies on matters outside the Guidelines' current coverage.

Effectivity. The Guidelines will take effect fifteen (15) days after its publication in a newspaper of general circulation. It was published last September 23, 2026, and will therefore take effect of October 8, 2026. ■

SyCipLaw Bullet Point No. 1

Employers should review whether their Code of Conduct and anti-sexual harassment and Safe Spaces Act policies already cover the broader categories recognized under DO 259-26, and confirm whether non-payroll personnel, such as interns and apprentices, are covered.

Employers should also audit their grievance procedures and training programs against the four policy components, and prepare confidentiality protocols and reporting channels for the CODI's independent investigation process.

Finally, employers should also calendar the 30 January annual reporting deadline and prepare Data Privacy Act-compliant protocols for handling violence and harassment complaint records.

2. Is an employer still obligated to remit social security contributions for an employee who was illegally dismissed?

In *Lopez Sugar Corporation v. Perrin, Jr.*, G.R. No. 260447, the Supreme Court denied Lopez Sugar Corporation's ("**LSC**") petition and held that LSC remained liable to remit SSS contributions for illegally dismissed employees for the period covered by their backwages award, plus the 3% monthly penalty for late remittance.

The case arose from LSC's dismissal of Romeo Perrin, Jr., Eduardo Candelario, Leonito Franco, and Rogelio Pabalan on 25 September 1995. These employees thereafter filed a complaint before the Labor Arbiter. Although the Labor Arbiter initially dismissed their complaint, the NLRC found that they were illegally dismissed and ordered reinstatement with backwages, a ruling later affirmed by the CA and the Supreme Court.

The Labor Arbiter implemented the NLRC Decision and directed LSC to pay Perrin et al. their backwages and separation pay in lieu of reinstatement, among other monetary awards. Following the implementation of the Labor Arbiter's order, Perrin et al. demanded that LSC remit the corresponding social security contributions covering the period for which backwages were awarded. LSC, however, declined to do so.

The employees then filed, sometime in 2011, a petition before the Social Security Commission ("**SSC**") to compel remittance. In a Resolution dated 5 October 2016 (more than 20 years after the employees dismissal), the SSC

ruled in favor of the employees', holding that the employer-employee relationship was deemed to continue during the period of illegal dismissal. Thus, SSC had the obligation to remit Perrin et al.'s social contributions to the SSS during this period. The CA affirmed.

LSC's arguments before the Supreme Court

LSC argued that the SSC lacked jurisdiction, the claim was barred by res judicata, the employees had waived the claim through a Satisfaction of Judgment, and Section 11 of the Social Security Act ended its contribution obligation upon separation from employment.

The Supreme Court's ruling

On the issue of jurisdiction, the Supreme Court held that the SSC, not the NLRC, had jurisdiction because the dispute concerned SSS contributions and penalties, not the computation of backwages. The Court also rejected LSC's argument that the claim for social security contributions is already barred by the prior NLRC judgment, stating that the illegal dismissal case and the SSC petition involved different causes of action: the first concerned dismissal, while the second concerned non-remittance of SSS contributions.

The Court further held that the Satisfaction of Judgment before the NLRC did not waive the SSS claim. A waiver must be clear and unequivocal, and the surrounding circumstances showed that the employees intended only to acknowledge receipt of backwages, not to release LSC from its separate obligation to remit contributions.

On the merits, the Court held that illegally dismissed employees are deemed never to have left employment and remain entitled to all benefits that would have accrued had they not been dismissed. Accordingly, LSC's duty to remit SSS contributions continued during the backwages period, and its non-remittance triggered the 3% monthly penalty under Section 22 of the Social Security Act. ■

SyCipLaw Bullet Point No. 2

Employers should treat reinstatement and backwages awards in illegal dismissal cases as including a corresponding duty to remit SSS contributions for the backwages period. When evaluating the potential costs of litigating an illegal dismissal claim, employers should therefore factor in the SSS contributions and penalties that may become due if the dismissal is found illegal.

Moreover, a broad quitclaim or satisfaction of judgment will not necessarily waive a separate SSS contribution claim unless the waiver is clear and unequivocal. Non-remittance may expose the employer to the 3% monthly penalty under Section 22 of the Social Security Act until payment.

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