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**MEMORANDUM FOR THE SECRETARY**

OFFICE OF THE SECRETARY

11 April 2016

By: [Signature]  
Time: 4:56 Control No. 4677-16

**FROM : THE NATIONAL PROGRAM MANAGER**

**SUBJECT : Explanatory Context of the Memo on "Legal Safeguards against Discriminatory Practices that may Marginalize Women in the Workplace"**

The above-cited memo (and as attached) emanated from the Pantawid Program. In 2014 while implementing the GAD assessment activities together with the Field Offices, the Team of GAD Focal Persons inadvertently captured unofficial reports involving gender issues mostly experienced by our City/Municipal Links (C/MLs) in one region. The C/MLs who got pregnant out of wedlock were allegedly terminated or not renewed (all MOA workers back then).

A composite team was eventually formed to further investigate whether the alleged incidents were also occurring in other regions. Consequently, the team gathered eight (8) cases from four regions (FO III, VII, X, and XI). Drawing from the circumstances of the cases, the C/MLs' contracts were terminated or not renewed because of poor work performance and absenteeism. Some of them were however rehired after they got married or gave birth. The investigation further opined that to some degree, "subtle" termination was apparent on the ground of moral issues, based on the assumption that the C/MLs are "supposed to be models because they preach (advocate) values in the FDS".

This led Pantawid to issue the above-cited memo in coordination with the GAD Technical Working Group (TWG) to serve as a "gentle reminder" to the regions, should they encounter such cases. This provides them legal references to guide them that their decisions to terminate or not to renew an employee's contract should be based on the "merit and fitness rule" under the CSC Memo Circular No. 40, s. 1998 (Omnibus Rules on Appointments and Other Personnel Actions) and not on "gender-based discriminatory grounds". Most importantly, this will provide information particularly for women workers found in a difficult circumstance such as getting pregnant out of wedlock—that they have a mantle of protection against gender-based discriminatory practices as provided for by laws, namely the Magna Carta of Women (RA 9710) and Solo Parents Welfare Act (RA 7982), as indicated in the said memo.

For the Honorable Secretary's information *& consideration*.

*[Signature]*

**DIR. LEONARDO C. REYNOSO**

Cc: Usec. Florita R. Villar  
Policy and Programs Group  
Chair, DSWD-GAD Technical Working Group



DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT

**MEMORANDUM FROM THE  
SECRETARY**

File/Ref. No.

Date :

07 April 2016

TO	<b>All Regional Directors DSWD Field Office NCR, CAR, I to XII, NIR, and Caraga</b>
ATTENTION	<b>Deputy Program Managers</b>
SUBJECT	<b>Legal Safeguards against Discriminatory Practices that may Marginalize Women in the Workplace</b>

To realize the ultimate goal of women's empowerment and gender equality, the Department ensures the creation of mechanisms and processes that will abolish unequal structures and practices that perpetuate gender-based discrimination. Among the possible gender-based discrimination in the workplace may occur to unmarried women who get pregnant and could become Solo Parents. Within the context of Pantawid Program, this may also manifest as non-renewal (or even termination) of their contracts, specifically in the case of MOA and Contractual employees.

In situations where such cases are encountered, this Memo thereby enjoins the Field Offices to consider as references the specific provisions of the **2009 Magna Carta of Women (RA 9710)** and the **Solo Parents Welfare Act of 2010 (RA 7982)**. These laws directly or indirectly safeguard the rights of women workers in vulnerable situations, such as unmarried women who got pregnant. Depriving them of work opportunities through non-renewal of their contracts or termination of their services run counter to the provisions of the mentioned laws, to wit:

1. **Section 2** of the Magna Carta of Women “**condemns discrimination against women in all its forms...**”; **Section 3** states that “**pregnant mothers affected by disasters, calamities, and other crisis situations must be protected and provided with humanitarian assistance**”; and **Section 13-c** similarly stipulates that “**expulsion and non-readmission of women faculty due to pregnancy outside of marriage shall be outlawed**”.
2. **Section 7** of the Solo Parents Welfare Act cites that “**no employer shall discriminate against any solo parent employee with respect to terms and conditions of employment on account of his/her status**”.

These provisions are comprehensive enough to cover unmarried women who get pregnant, which should not be used as grounds for dismissing an employee as it will be utterly discriminatory, unlawful, and prohibited. Any official and/or employee found to have committed discriminatory acts against unmarried women who get pregnant may be liable to the administrative and criminal proceedings as provided under the law, citing the AM# P-07-2333 administrative case of unmarried mother dismissed (CJ Puno, Corona vs. Ramada). Quoting the following relevant provisions in the said administrative case:

- (1) If the father of the child is himself unmarried, the woman is not ordinarily administrative liable for disgraceful and immoral conduct. 1[18] It may be a not-so-ideal situation and may cause complications for both mother and child but it does not give cause for administrative sanction. There is no law which penalizes an

unmarried mother under those circumstances by reason of her sexual conduct or prescribes the consensual sexual activity between two unmarried persons. Neither does the situation contravene any fundamental state policy as expressed in the Constitution, a document that accommodates various belief systems irrespective of dogmatic origins.2[19]

- (2) If the father of the child born out of wedlock is himself married to a woman other than the mother, then there is a cause for administrative sanction against either the father or the mother. 3[20] In such a case, the disgraceful and immoral conduct consists of having extramarital relations with a married person. The sanctity of marriage is constitutionally recognized and likewise affirmed by our statutes as a special contract of permanent union.

Nonetheless, **CSC Memo Circular No. 40, s. 1998 (Omnibus Rules on Appointments and Other Personnel Actions)**, shall remain a basis for non-renewal of contracts or termination of services due to valid and non-gender discriminatory grounds.

**For strict compliance.**

  
**CORAZON JULIANO-SOLIMAN**

**Enclosed as stated**

**cc: Undersecretary Camilo G. Gudmalin**  
Operations and Programs Group

**Undersecretary Angelita Gregorio-Medel**  
Institutional Development Group

**Undersecretary Mateo G. Montañó**  
General Administration and Support Services Group

FRV/RGA/FMA/Pantawid NPMO GAD unit/GAD TWG secretariat

ACTION TAKEN :  
DATE :