

GOVERNMENT DEVELOPMENT BANK FOR PUERTO RICO
Commonwealth of Puerto Rico

**Regulation for the Prevention of
Discrimination in Employment
and Complaint Procedure**

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Public Policy against Discrimination in Employment

The Government Development Bank for Puerto Rico, its subsidiaries and affiliates require a respectful and tolerant work environment that values human dignity, as well as the wellbeing and safety of all the people who work at, and visit our facilities.

In accordance with the Government of the Commonwealth of Puerto Rico's public policy for preventing discrimination, it is illegal to discriminate against any person in the employment by reason of race or color; age; sex or gender; sexual orientation; gender identity; genetic information; social or national origin, social condition; political affiliation or ideology; religious ideology; matrimony; former military status, serving or having served in the Armed Forces of the United States, or for having veteran or disabled veteran status, physical or mental handicap or disability or for any other condition protected under the law. Discrimination against persons who have been, or are perceived as victims of domestic abuse, sexual aggression or stalking, is also not allowed.

Discrimination is an unacceptable conduct that affects and damages employment relations. To that effect, any type of discrimination by and between officials, supervisors, employees, visitors, applicants and candidates for employment, students, suppliers and contractors is hereby strictly prohibited.

The Regulation for the Prevention of Discrimination in Employment and Complaint Procedure summarizes the current legal provisions and rules and describes in detail the existing administrative procedure to report the complaints that may arise from officials, employees, supervisors, students, applicants and candidates for employment, suppliers, contractors and/or visitors, and the disciplinary measures applicable to the cases that constitute an act of any type of discrimination.

It is very important that you read and become acquainted with the rules described here and that you fully cooperate to prevent any conduct or attitude that may constitute discrimination in employment. If you have any questions or would like more information, contact the Labor Relations Specialist of the Human Resources and Labor Relations Office.

Melba Acosta Febo
President

SECTION 1 - NAME

This document will be known as Regulation for the Prevention of Discrimination in Employment and Complaint Procedure (hereinafter “the Regulation” or “Regulations”).

SECTION 2 – LEGAL BASIS

These Regulations are enacted by virtue of Act 17 of September 22, 1948, which bestows upon the Government Development Bank for Puerto Rico, its subsidiaries and affiliates (hereinafter “the Bank”, “the GDB”, or “the institution”) the power to establish the regulations that are needed for the good administration of its human resources and the best performance of its duties and services.

The rules contained in these Regulations have been drafted in compliance with the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico, Article II, Section 1; Title VII of the Civil Rights Act of July 2, 1964, 42 USC 21, as amended; Act 170 of August 12, 1988, known as the Uniform Administrative Procedure Act, as amended; as well as the federal and state laws, and the pertinent caselaw that apply to the Bank.

Following are the most common legal provisions associated with the policy against discrimination in employment:

- *Law No. 3 of March 13, 1942*, as amended, Working Mother’s Protection Act.
- *Law No. 69 of July 6, 1985*. This Act prohibits discrimination by reason of gender and guarantees equal employment rights to both men and women. This Act applies in cases of sexual harassment in employment because such acts are considered discriminatory acts on account of sex or gender.
- *Law No. 100 of June 30, 1959*, as amended. This Act prohibits discrimination in employment on account of age, race, color, sex, social or national origin, social condition, political affiliation, religious ideology, matrimony, gender identity, sexual orientation, being a victim or being perceived as a victim of domestic abuse, sexual assault or stalking.
- *Law No. 44 of July 2, 1985*, as amended, Equal Employment Opportunities for Persons with Disabilities Act.
- *Law No. 17 of April 22, 1988*, as amended. This Act establishes the current public policy of the Government of the Commonwealth of Puerto Rico that sexual harassment in employment is a type of discrimination by reason of gender that violates the constitutional rights of the people.
- *Law No. 115 of December 20, 1991*. This Act guarantees that an employee may not be discharged, threatened or discriminated against regarding the terms, conditions, compensation, location, benefits or privileges of the employment should the

employee offer or attempt to offer, verbally or in writing, any testimony, expression or information before a legislative, administrative or judicial forum in Puerto Rico, as well as in the internal proceedings established by the employer, or before any employee or representative in a position of authority, when such expressions are not of a defamatory nature nor constitute disclosure of privileged information established by law.

- *Law No. 427 of December 16, 2000, Act to Regulate the Period to Breastfeed or to Express Breast Milk.*
- *Law No. 196 of August 18, 2002, amends Act 17 and establishes a one (1) year limitations period to file a lawsuit for sexual harassment in employment.*
- *Law No. 217 of September 29, 2006.* This Act imposes on the employer the responsibility for establishing an orientation and complaint procedure to manage domestic abuse situations that may arise in employment, and protect employees and visitors.
- *Law No. 22 of May 29, 2013.* This Act establishes the prohibition of employment discrimination based on sexual orientation or gender identity as the public policy for all employers in Puerto Rico.
- *Law No. 23 of May 29, 2013.* This Act extended the protection of Act 54 to same sex couples; therefore, the victim is protected in the workplace against adverse personnel actions on account of being a victim or being perceived as a victim of domestic abuse.
- *Title VII of the 1964 Civil Rights Act, as amended.*
- *1967 Age Discrimination in Employment Act (ADEA).*
- *Title 1 of the 1990 Americans with Disabilities Act (ADA).*

The Bank is responsible under the law for keeping a work center free from sexual harassment or discrimination on account of age, race, color, sex, matrimony, social or national origin, social condition, sexual orientation, gender identity, genetic information, Vietnam War veteran or disabled veteran status, political or religious ideology, or for being a person with disabilities, or being a victim or being perceived as a victim of domestic abuse, sexual aggression or stalking, or any other category prohibited by law, a work center where supervisors, officials, employees, visitors, students, applicants for employment, and contractors may feel respected and free from any kind of sexual threats.

Employees are encouraged to become acquainted with all the antidiscrimination laws. To obtain a copy of any law or to receive an orientation, you may inquire with the Labor Relations Specialist of the Office of Human Resources and Labor Relations.

SECTION 3 – SCOPE AND APPLICABILITY

The provisions of these Regulations will apply to all employees of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates, regardless of their level, position or rank, as well as to any other nonemployee whose conduct constitutes an act of discrimination in any of its forms. The public policy to prevent and condemn discrimination in employment also applies to candidates for employment, students, contractors, providers and/or visitors.

Any person who believes he/she has been discriminated, who has witnessed an act or received information of an act against another person, by any of the aforementioned persons, may submit a complaint under these Regulations.

SECTION 4 – DEFINITIONS

These Regulations have been drafted without distinction of sex, sexual orientation or gender identity; therefore, they apply to men and women alike. The terms discussed in these Regulations bear the meaning stated below, unless a different definition may be implied from their context or the law that defines their cause of action:

1. **Appointing Authority/President:** President of the Government Development Bank for Puerto Rico and/or Executive Directors of the affiliates and subsidiaries, as applicable.
2. **Government Development Bank for Puerto Rico:** Government Development Bank for Puerto Rico, its subsidiaries and affiliates (hereinafter, “the Bank” or by its acronym, “GDB”, or “the institution”)
3. **Contractor:** Any natural or legal person, their representatives or employees that keep a contractual relation with the GDB, including personnel under miscellaneous, service and consulting contracts, as well as subcontractors.
4. **Complaint Coordinator:** Person appointed by the Appointing Authority or the Director of Human Resources and Labor Relations of the GDB to receive individuals and provide them orientation, and to investigate the complaints. As a general rule, the Labor Relations Specialist shall serve as Complaint Coordinator, but other persons may be appointed in accordance with the needs of the service.
5. **Employee:** Any person who holds a position in the GDB. For the purpose of this policy against discrimination in employment, the term includes, regular, irregular, temporary, emergency, transitory, and probationary employees, as well as political appointees, students and preselected candidates for employment.
6. **Investigation File:** File containing the documents related to the complaint, as well as all the statements and evidence gathered during the internal administrative

investigation process conducted by the GDB.

7. **Gender Identity:** As defined in *Law No. 22 of May 29, 2013*, it is the manner in which an individual identifies or recognizes him/herself in relation to his/her gender, with or without regard to the individual's designated sex at birth.
8. **Investigation Report:** The final written decision and recommendation issued by the Human Resources and Labor Relations Office on the results of a discrimination in employment investigation.
9. **Intimidation:** An act aimed at instilling in a person the fear of personally, or a close relative, suffering any kind of harm so that the person submits to discrimination or refrains from reporting it for fear of suffering retaliations.
10. **Board of Directors:** Board of Directors of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates, as applicable.
11. **Disciplinary Measures or Sanctions:** All corrective measures imposed by the President or his/her representative, when an employee's conduct does not conform to the rules established in the applicable laws, rules and regulations.
12. **Temporary Measures:** Preventive measures that may be taken while the investigation of the discrimination complaint is pending. These temporary measures are usually temporary, do not constitute a decision or set a precedent, and are not related to the final decision resulting from the investigation.
13. **Officer Examiner:** Person appointed by the Government Development Bank for Puerto Rico, its subsidiaries and affiliates to preside over the Informal Administrative Hearing on the employment discrimination complaint.
14. **Office:** Office of Human Resources and Labor Relations.
15. **Labor Union:** Employee Union of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates, as applicable.
16. **Sexual Orientation:** As defined in *Act 22 of May 29, 2013*, it is the ability of any person of having an emotional, affective, or sexual attachment to persons of the other gender, the same gender, or more than one gender.
17. **Employer:** Government Development Bank for Puerto Rico, its subsidiaries and affiliates. It has the meaning and scope defined in the law that grants the cause of action.
18. **Informal Complaint:** A verbal complaint alleging a conduct that constitutes discrimination filed against a GDB employee, official, contractor or visitor. It may be [lodged by] the person affected by the discriminatory act, a person who witnessed

the discriminatory act against another person, or a person who knows of the conduct that constitutes discrimination in employment.

19. **Formal complaint:** A written complaint filed by a person with the right to file the complaint pursuant to these Regulations and the prevailing legal system, in order to initiate an administrative complaint. It may be the person affected by the discriminatory act, a person who witnessed the discriminatory act against another person, or a person who knows of the conduct that constitutes discrimination in employment.
20. **Respondent:** Person who allegedly committed the employment discrimination acts.
21. **Complainant:** Person who has the right to file the written complaint pursuant to these Regulations and the prevailing legal system. It may be the person affected by the discriminatory act, a person who witnessed the discriminatory act against another person, or a person who knows of the conduct that constitutes discrimination in employment.
22. **Regulations:** Regulations for the Prevention of Discrimination in Employment and Complaint Procedure.
23. **Retaliation:** As defined by *Act 115 of December 20, 1991*, it is when an employee is discharged, suspended or subject to more burdensome work conditions related to the terms, conditions, compensation, location, benefits or privileges of the employment, or is in any way discriminated against because he/she has offered or attempted to offer, verbally or in writing, any testimony, expression or information before a legislative, administrative or judicial forum in Puerto Rico, or in the internal procedures established by the employer, or before any employee or representative in a position of authority—if said expressions are not defamatory and do not constitute a disclosure of lawfully privileged information—, [or] has filed a complaint or provided testimony in any administrative or judicial forum.
24. **Supervisor:** Any GDB employee who directs or exercises some kind of control or whose recommendation is taken into consideration for contracting, classifying, discharging, promoting, transferring, fixing compensation, or in connection with work hours, places or conditions or the tasks or duties that an employee or group of employees perform or may perform, or with any other terms or conditions of employment; or any person that performs day to day supervisory tasks.
25. **Third Party:** For purposes of these Regulations, this term refers to all non GDB employees, including contractors, suppliers, clients and visitors.
26. **Time Periods:** will be understood to be work days, unless otherwise specified.

27. **Victim:** Any person against whom an employment discrimination act has been committed.
28. **Informal Administrative Hearing:** Process or mechanism that allows the right to request reconsideration of an administrative decision.
29. **Visitor:** Any non GDB employee who visits the facilities of the institution to provide or receive some service, accompany someone else, or do some business.

SECTION 5 – GUARANTY OF EQUAL PROTECTION OF THE LAWS

At the Bank, we do not practice discrimination or prejudice, the highest constitutional principles and equal protection of the laws are guaranteed. This right applies in the recruitment, selection and training process, as well as in all stages of work within our institution. Work decisions will be unbiased, based on merit and equal conditions, and will recognize the rights conferred by law.

SECTION 6 – PUBLIC POLICY AGAINST DISCRIMINATION IN EMPLOYMENT

It will be illegal to discriminate against any person in the employment on account of their race or color, age; sex or gender; sexual orientation, gender identity, genetic information; social origin, social or national condition; political affiliation or ideology; religious ideology; matrimony; for being a former military person, serving or having served in the United States Armed Forces or for being a veteran or a disabled veteran; having a physical or mental impairment or disability or any other condition protected by law. Discrimination is also prohibited against persons who are, have been or are perceived as victims of domestic abuse, sexual aggression or stalking.

Discriminatory and illegal practices prohibited in the GDB include, but are not limited to:

- a. Discriminating upon recruitment, selection, promotion or retention of candidates to, or in any position or employment.
- b. Discriminating when performing an evaluation of any work aspect.
- c. Suspending, disciplining, transferring or affecting the salary, wages, daily wages, compensation, terms, categories, conditions or privileges of work of a person on account of any of the prohibited types of discrimination.
- d. Depriving a person from, or denying him/her employment opportunities or affecting an employee on account of discrimination.
- e. Preventing or obstructing access to learning programs, training or retraining on account of any type of discrimination.
- f. Publishing, circulating or allowing to publish or circulate advertisements, notices or any other means of communication that deny employment opportunities, directly or indirectly on account of any discriminatory reasons.

- g. Participating in, or allowing discrimination or the creation of a hostile work environment, whether caused by supervisors, employees, contractors or visitors to the workplace.

SECTION 7 – GUIDELINES FOR THE PREVENTION OF SEXUAL HARASSMENT AND DOMESTIC ABUSE

The GDB has guidelines and rules that summarize the laws and specify other policies for the prevention of acts of discrimination and violence in employment, including the procedures contained in the Regulation for the Prevention of Sexual Harassment in Employment and Complaint Procedure, and the Protocol for Preventing Domestic Abuse in Employment.

Note that Law No. 23 of May 29, 2013 extended the protection of Act 54 of August 15, 1989, as amended, known as *Domestic Abuse Prevention and Intervention Act*, to same sex couples, therefore, the victim is protected in the workplace against adverse personnel actions on account of being a victim or being perceived as a victim of domestic abuse.

To receive an orientation on how to file a complaint for any type of sexual harassment or domestic abuse incidents in employment, contact the Labor Relations Specialist in the Human Resources and Labor Relations Office of the GDB.

SECTION 8 – COMMUNICATING THE POLICY AGAINST DISCRIMINATION

The GDB's public policy for the prevention and condemnation of discrimination in employment protects employees, contractors, clients and visitors of our institution.

The GDB will use the methods needed to provide orientation on, and communicate this public policy. These Regulations inform the procedure to submit and investigate complaints, as well as the process to impose disciplinary sanctions for those employees who violate the legal rules. To receive an orientation on the public policy against employment discrimination, you may request an appointment with the Labor Relations Specialist of the Human Resources and Labor Relations Office of the GDB.

SECTION 9 – COMPLAINT COORDINATOR

The Office of Human Resources and Labor Relations provides orientation and support to those who wish to receive information and report a situation of any type of discrimination, sexual harassment or domestic abuse in employment.

The Labor Relations Specialist of the Human Resources and Labor Relations Office will be designated as the Complaint Coordinator to receive and investigate the complaints submitted before the Office. The Human Resources and Labor Relations Office may also designate GDB staff or consultants to address and investigate a work complaint.

SECTION 10 – LAW THAT PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION OR GENDER IDENTITY

A. Scope of the Law

Law No. 22 of May 29, 2013, known as “Law to Prohibit Employment Discrimination Based on Sexual Orientation or Gender Identity”, declares as the public policy of the government of the Commonwealth of Puerto Rico to prohibit employment discrimination based on sexual orientation and gender identity in the public or the private sector.

In faithful compliance with Section 17 of the mentioned law, and the rights conferred by it, the GDB guarantees that its officials, supervisors, employees, applicants and candidates for employment, and students will be treated in accordance with the gender identity they have assumed, instead of being judged by traditional stereotypes assigned to sex and gender categories.

As provided in Act 22, it will be illegal to discriminate against any person in employment based on their gender identity or sexual orientation. The Act itself provides the following definitions:

- Sexual Orientation: means the ability of any person of having an emotional, affective, or sexual attachment to persons of the other gender, the same gender, or more than one gender.
- Gender Identity: means the manner in which an individual identifies or recognizes him/herself in relation to his/her gender, with or without regard to the individual's designated sex at birth.

In order to achieve the purpose established in this Act, these definitions will be interpreted as broadly as necessary to extend its benefits to any person exposed to a discriminatory act or pattern.

With the enactment of Law No. 22 of May 29, 2013, the protections afforded to employees or applicants against employment discrimination were extended to discrimination based on race or color; age; sex or gender; sexual orientation; gender identity; genetic information; national origin, social condition; political affiliation or ideology; religious ideology; matrimony; veteran or disabled veteran status, being in the military service, physical or mental handicap or disability, or any other condition protected under the law. Discrimination against individuals who are, have been or are perceived as victims of domestic abuse, sexual aggression or stalking is also prohibited.

Law No. 22 of May 29, 2013 amends the following laws to include the prohibition of discrimination based on a person's sexual orientation or gender identity.

1. Puerto Rico Public Service Labor Relations Act, Law No. 130 of 1945.
2. Human Resources Administration Systems of the Commonwealth of Puerto Rico, Law No. 184 of August 3, 2004.
3. Law No. 115 of June 30, 1965.
4. Autonomous Municipalities Act, Law No. 81 of August 30, 1991.
5. Employment Discrimination Act, Law No. 100 of June 30, 1959.

This policy of prohibition and prevention of employment discrimination also amends the provisions of any regulations, collective bargaining agreement, executive order, protocol, administrative practice, as well as any Bank policy that prohibits discrimination.

B. General Prohibitions Related to Discrimination Based on Sexual Orientation or Gender Identity.

Employment discrimination against any person based on gender identity or sexual orientation shall be illegal. The illicit discriminatory practices include, but are not limited to:

- a. Avoiding the practice of recruiting, selecting, promoting or retaining candidates to any position or employment on account of sexual orientation or gender identity.
- b. Taking into consideration sexual orientation or gender identity in the evaluation of workers in connection with any work aspect.
- c. Suspending, disciplining, transferring or affecting wages, salary, daily wages, compensation, terms, categories, conditions or privileges of work of a person on account of sexual orientation or gender identity.
- d. Depriving a person from, or denying him/her employment opportunities or affecting an employee on account of sexual orientation or gender identity.
- e. Preventing or obstructing access to learning programs, training or retraining on account of sexual orientation or gender identity.
- f. Publishing, circulating or allowing to publish or circulate advertisements, notices or any other means of communication that deny employment opportunities, directly or indirectly on account of sexual orientation or gender identity.
- g. Participating in, or allowing verbal or physical harassment or the creation of a hostile work environment, whether caused by supervisors, employees, volunteers or visitors at the workplace, on account of sexual orientation or gender identity.

The following activities shall be illegal for all labor organizations:

- a. Limiting, dividing or classifying their membership in a manner that deprives a person from employment opportunities on account of his/her sexual orientation or gender identity.

- b. Preventing or obstructing access to learning programs, training or retraining on account of sexual orientation or gender identity.

C. Records of Gender and Name in Employment Applications

Any sexual orientation or gender identity related information obtained during any official employment business shall be kept confidential by the Bank.

None of the provisions here may be construed as an impediment for an individual to identify his/her sexual orientation or gender identity in the workplace, should they wish to do so.

D. Cross-checking References and History

Any knowledge of the sexual orientation or gender identity of an employee or candidate for employment the GDB gains through the process of cross-checking references or history, or through any other means will not be used to take any adverse action against the individual, and the GDB will take the necessary measures to preserve the confidentiality of such information.

E. Harassment Based on Sexual Orientation or Gender Identity

Any harassment and any actions or omissions based on gender identity or sexual orientation that result in a hostile environment are prohibited. Conducts constituting evidence of illegal harassment and hostile environment based on any type of discrimination may include the following, without limitations:

- a. Asking personal questions about the body, physical changes or sexual practices of a person.
- b. Allowing the use of work equipment or material or the work area to produce offensive material or material that undermines the integrity of a person on account of gender identity or sexual orientation.
- c. Making or allowing others to make jokes or comments in order to laugh at or mock individuals on account of gender identity or sexual orientation, even if they're not aimed directly at the victim.
- d. Denying access to sanitary installations or other facilities identified by gender to employees who identify with said gender identity.
- e. Demand that a person dresses or gets dressed up in a manner inconsistent with their gender identity or that prevents them from expressing their gender identity.

SECTION 11 – DUTY TO REPUDIATE AND REPORT DISCRIMINATORY ACTS

Any person who is a victim of, or has knowledge of the commission of an act, a conduct or a pattern constituting any type of discrimination or unequal treatment must report the conduct to the Human Resources and Labor Relations Office as soon as possible. Anyone

making a complaint is guaranteed that their complaint will be dealt with discreetly and the conduct will be investigated in an impartial and reliable manner.

No one has to put up with, much less submit to discriminatory acts, conducts or treatments in the employment, regardless of the position of the victim or the person who incurs in discrimination.

We also recommend that you inform the person who is engaging in discrimination that their conduct is unwanted, disliked and that they must stop immediately. This communication can be provided by any means, but we recommend that it be in writing.

We urge each and every person to repudiate and report any act constituting any type of discrimination, whether the discrimination is aimed at you personally or at any person in the GDB, or whether it results from the employment relation.

SECTION 12 – GUARANTY OF NO RETALIATION

Employees who report or participate in the process of reporting or investigating an employment discrimination incident will not be retaliated or discriminated against.

Witnesses and persons being interviewed are guaranteed that the investigation will be conducted discreetly to protect them, and their participation in the investigation will not appear in their personnel files.

In the event the complainant employee were to feel he/she is the object of retaliation, he/she must report it immediately in writing to the Director of the Human Resources and Labor Relations Office. The complainant employee may contact the Vice President for Administration, Operations and Comptrollership.

Any employee, without distinction, who incurs in an act of retaliation will be subject to disciplinary measures, pursuant to the Handbook of General Rules of Work.

SECTION 13 – RESPONSIBILITIES OF EMPLOYEES

The discrimination prohibition applies to all GDB employees, regardless of their position status or category. In this sense, every employee is required to:

1. Meet the rules and policies for the prevention and prohibition of employment discrimination.
2. Read and know the rights and protections provided in these Regulations and the regulations applying to all GDB employees and contractors. When in doubt, refer to, and request an orientation from the Office of Human Resources and Labor Relations.
3. Immediately report to the Human Resources and Labor Relations Office or the

Complaint Coordinator if he/she feels discriminated against in employment, following the procedures described in these Regulations and the ones indicated by the Complaint Coordinator. The employee should also directly inform the person who is harassing or discriminating against them that their conduct is unwanted and that they must stop immediately.

4. If an employee has information about a situation of employment discrimination, whether it involves employees, visitors, or third parties in the GDB facilities, he/she must report it to the Office of Human Resources and Labor Relations as soon as possible pursuant to these Regulations.
5. Failure by an employee to report an incident of discrimination or harassment that he/she has suffered, witnessed or been informed about, may entail the imposition of disciplinary measures pursuant to the GDB's Handbook of General Rules of Work.
6. Should an employee provide false information or information that obstructs or hinders an employment discrimination complaint or investigation, or refuse to take part in a complaint or investigation, he/she shall be subject to a disciplinary sanction for not complying with his/her duties and obligations pursuant to the GDB's Handbook of General Rules of Work.

SECTION 14 – RESPONSIBILITIES OF SUPERVISORS

In addition to his/her responsibilities as an employee, every supervisor shall:

1. Provide orientation to employees under his/her supervision on the Regulation for the Prevention of Discrimination in Employment and Complaint Procedure.
2. Be alert as to the behavior between employees in his/her charge and make sure that the personnel has received orientation on to the Policy for the Prevention of Discrimination in Employment.
3. Ensure that no conduct or event takes place in their work area that could be interpreted as, or constitute discrimination, whether it involves other supervisors, employees, contractor or visitors to the GDB.
4. Take immediate corrective action and refer any acts he/she sees or information he/she receives alleging employment discrimination to the Complaint Coordinator of the Office of Human Resources and Labor Relations.

SECTION 15 – SUBMITTING A COMPLAINT

The allegedly affected party may first lodge an initial claim with his/her immediate supervisor or with the Coordinator to have the conduct of an official or visitor investigated for the alleged discrimination. In the absence of the immediate supervisor and the Coordinator, the complaint may be filed with the Human Resources and Labor Relations Director, or directly with the President of the Bank. In this way, the Bank will have the opportunity to take corrective measures on the matter.

If the complainant were a union employee, he/she may also bring the situation to the attention of the Union, pursuant to the provisions of the Collective Bargaining Agreement. The employee may, at his/her discretion, ask the President or an official of the Union to be present upon filing the complaint.

The Complaint Coordinator or the designated person shall provide orientation to, and inform the complainant of his/her right to submit a written complaint regarding the conduct he/she will be reporting, and the legal rights and remedies available to the complainant, who will be asked, along with the witnesses and others participating in the investigation, to sign their written statements about the incidents.

The discriminatory acts may come from supervisors or other management personnel, other employees or third-parties, such as, visitors. Failure to report immediately to the above mentioned persons having witnessed a discriminatory act or that another employee complained of discrimination constitutes an act of indiscipline and entails the corresponding sanction, depending on the seriousness of the discrimination. Any information, notification, informal or formal complaint received regarding discrimination shall be promptly investigated and kept in the strictest possible confidentiality in order to protect the employee from retaliation.

In those cases in which it is determined that a supervisor, official or employee has incurred in some kind of discrimination, the corresponding corrective measure shall be taken, including the appropriate disciplinary measure.

The Director of Human Resources and Labor Relations may at his/her own initiative launch an investigation on the improper conduct of an official or employee for alleged discrimination.

SECTION 16 - CONTENT OF THE FORMAL COMPLAINT

The employee or official may submit the complaint in person, which must include the name and telephone of the person submitting the complaint, the name and relevant information of the person being reported (the respondent), the place of work of both parties, as well as his/her classification. It shall also include a summary of the facts giving rise to the complaint, the date and place of the events and the names and information of possible witnesses.

The complaint will be formulated in writing and delivered to the Complaint Coordinator. The interview statement will be signed by the complainant and the Coordinator. The complainant and the witnesses may be asked that their written statements be verified before a Notary appointed by the Bank. Even if the formal complaint is not verified, the Office of Human Resources and Labor Relations may conduct an investigation of the alleged events. Any pertinent temporary or disciplinary measure may be taken. The complaint will also be notified to the Director of Human Resources and Labor Relations.

SECTION 17 – RIGHTS OF THE COMPLAINANT

The complainant will be notified that all the information obtained during the course of the investigation will be handled in a confidential and respectful manner. The fact that the discriminatory conduct has stopped will not be grounds for dismissing the complaint; the complaint shall be thoroughly investigated. No retaliatory actions and no actions adversely affecting the complainant will be taken against him/her. The complainant will have the right to voluntarily dismiss or withdraw the complaint pursuant to the provisions of Section 20 of these Regulations.

SECTION 18 – RIGHTS OF RESPONDENTS

The respondent will have the following rights:

- A. The respondent will have the right to receive notice of the allegations against him/her within five (5) work days after the complaint has been submitted. Through this notice respondent will be summoned to appear at an interview.
- B. As a general rule, the notice will be delivered by hand. In those cases in which notice cannot be delivered by hand, it will be sent by certified, return receipt requested mail at respondent's last postal address in the personnel files of the Office of Human Resources and Labor Relations.
- C. Respondent will be given reasonable time, which may not exceed ten (10) days, to answer the complaint and submit evidence, if any.
- D. If the respondent is a union employee, the employee will be notified that he/she may, upon request, be accompanied by a Union representative during the interview.
- E. Respondent will be informed of the disciplinary measures the Bank may take if he/she does not collaborate with the investigation, fails to provide the names of witnesses or other evidence that may be relevant to the investigation, or if it is confirmed, during the course of the investigation, that he/she incurred in any discriminatory act.
- F. Respondent will be advised that the interview may not be cancelled, except for just cause through written request submitted at least five (5) days before the interview.

SECTION 19 – TEMPORARY MEASURES

Convenient and necessary measures may be established during the process of submission and investigation of formal complaints in order to provide a respectful work environment and avoid possible retaliatory acts. The Human Resources and Labor Relations Director will determine the temporary measures that will be taken or established. Said measures may include:

1. Reassigning the complainant or the respondent to another work unit, if doing so does not harm the complainant.
2. Temporarily suspending the respondent from work without loss of pay.
3. Ensuring that complainant is not alone with the respondent.
4. Moving forward the vacation of any of the persons involved.

Temporary measures will last for a reasonable period of time, but may not exceed the date of the final decision issued by the Director of Human Resources and Labor Relations. In those cases in which it is deemed necessary, these measures may be established permanently, as required in each case. The measures will not constitute a precedent, an admission or a determination in favor or against either party.

SECTION 20 – VOLUNTARY DISMISSAL OF THE COMPLAINT

The complainant will have the right to voluntarily dismiss or withdraw the complaint at any stage of the proceedings, investigation or informal administrative hearing. To voluntarily dismiss the complaint, the complainant shall provide the Office of Human Resources and Labor Relations written notice confirming his/her wish to voluntarily withdraw the complaint.

The Complaint Coordinator will inform the complainant that he/she must make the request in writing and that, once it is submitted, the complainant will have five (5) work days after giving the written notice of voluntary dismissal to reinstate the complaint. After this term has lapsed, the complaint will be considered voluntarily dismissed and will be dismissed.

Voluntary dismissal of the complaint does not constitute sufficient reason to end the investigation if the Office of Human Resources and Labor Relations deems that the investigation of the complaint should continue.

SECTION 21 – FRIVOLOUS COMPLAINTS

An employment discrimination allegation or complaint is a very serious matter and those who knowingly make frivolous or false accusations may be subject to disciplinary and/or legal measures if it is found that the allegation or complaint was brought knowing it was false. We are not referring to mistakes, we are referring to submitting malicious or unfounded complaints.

SECTION 22 – INVESTIGATION OF COMPLAINTS

For the effective implementation of these Regulations, the Bank has established an internal procedure to hear and adjudicate complaints for discrimination in employment:

- A. As a general rule, the investigation shall begin on or before a term of five (5) days after the complaint has been submitted in writing in the Office of Human Resources and Labor Relations.
- B. The investigation will be carried out in the most confidential possible manner, limiting communications to those required to conduct the investigation of the reported events. The most reliable and effective means of communications will be used for this purposes. (e.g., faxes, emails, telephone calls, messengers)

- C. The parties, as well as the witnesses and the persons who may have knowledge of the incidents alleged in the complaint, will be interviewed and will have to collaborate during the course of the investigation.
- D. The written statements will form part of the file of the complaint and investigation, together with any other evidence. The parties may be asked to verify the statements before a Notary designated by the Bank.
- E. The rights of the complainant and the respondent, and of all those taking part in the investigation, will be respected during the process of the investigation.
- F. The persons designated to conduct the investigation will be appointed by the Director of Human Resources and Labor Relations, and may be Bank personnel or outside advisors.
- G. The Coordinator or person designated to conduct the investigation shall refrain from conducting or participating in this investigation if there is any conflict of interest with any of the parties involved in, or affected by the situation, in order to guarantee the right to an impartial investigation.
- H. Throughout this process, the parties will have the right to request the Director of Human Resources and Labor Relations that the Coordinator or person assigned to carry out the investigation disqualify him/herself if they believe that there is a conflict of interest, partiality or any other irrefutable situation establishing that the investigation is not being conducted or cannot be conducted in the required objective and impartial manner. Assumptions and speculations may not be grounds for ordering the disqualification of the Coordinator or person assigned to carry out the investigation.
- I. The Director of Human Resources and Labor Relations may, on his/her own initiative, request an investigation of alleged acts that may constitute sexual harassment or any type of discrimination, without a formal complaint.
- J. Respondent shall submit, within the term granted, and on the request of the Coordinator, or on his/her own initiative, any information considered relevant to the process.
- K. The documents and any other evidence produced or obtained during the course of the investigation will be kept confidential and will belong to the GDB. The parties will not have the right, at this stage of the process, to examine the evidence that forms part of the investigation file.
- L. Complaints for a situation that occurs during a job interview or the recruitment of personnel related to an applicant or candidate for employment will be channeled through the Director of the Office of Human Resources and Labor Relations.

SECTION 23 – INVESTIGATION REPORT

As a general rule, the investigation shall be completed on or before twenty (20) days after the written complaint is submitted with the Office of Human Resources and Labor Relations. The Investigation Report will be issued within this term. If there is a request for disqualification of the Coordinator, the report will be submitted within the term of twenty (20) days counting from the designation of the new investigator. If warranted under the circumstances, the term may be extended for ten (10) additional days to complete the investigation and issue the Report. The Investigation Report will include a written

recommendation based on the findings of the investigation. It will include the pertinent recommendation, such as, whether there is or there is not sufficient cause to impose disciplinary sanctions or other applicable sanctions pursuant to law.

SECTION 24 – FINAL DECISION OF THE HUMAN RESOURCES AND LABOR RELATIONS OFFICE

After evaluating the report submitted by the Coordinator, the Director of Human Resources and Labor Relations shall issue a decision based on the facts and applicable law.

The Director of Human Resources and Labor Relations will have the authority to adopt, amend or reject the recommendations contained in the Investigation Report. In issuing the final decision, the Director of Human Resources and Labor Relations will take into account the applicable law and the nature or seriousness of the alleged conduct. The parties will be notified in writing with the final decision, in person or by certified mail, at the last address the parties have reported to the Coordinator. If it is decided that there was sufficient evidence to conclude that unacceptable, inappropriate and/or conduct constituting employment discrimination or harassment occurred, the procedure to impose a disciplinary sanction will be followed pursuant to the GDB's *Handbook of General Rules of Work*. If the decision involves a suspension from work with loss of pay or a dismissal, the employee will be given the opportunity to be heard before the Bank makes the final determination in the matter. If the respondent is a Union employee, and so wishes, he/she may be accompanied by the Union President or official designated by the latter at the time of being heard.

If the discriminatory acts were committed by third parties who are not GDB employees, the GDB will resort to legal measures available under the Law. The parties will be informed of this decision through an official written communication from the President of the Bank or a representative.

SECTION 25 - LETTER INFORMING DISCIPLINARY MEASURES

- A. If the Appointing Authority, or the person designated by the latter, determines that there was a deviation from the rules of conduct, the employee affected by the decision will receive a letter informing him/her of the disciplinary measures.
- B. This letter will be signed by the President or a representative. The letter will be notified to the parties, the complainant and the respondent, on or before five (5) days after it has been found that there was a deviation from the rules of conduct.
- C. As a general rule, the letter will be delivered by hand. In those cases in which the letter cannot be delivered by hand, it will be sent by certified, return receipt requested mail at the last postal address in the personnel files of the Office of Human Resources and Labor Relations, provided by the employee.
- D. If the letter is delivered by certified mail and is returned unclaimed, the presumption of the rules of evidence applicable to regular mail will apply; according to this presumption, any letter that is mailed is received by the addressee, and presumed received, within three (3) calendar days after being mailed.

- E. The notification will be effective upon delivery by hand or from the date of the certified mail return receipt. The term to request an Informal Administrative Hearing before an Officer Examiner begins on said date.
- F. The letter informing the disciplinary measure will be filed in the employee's personnel record.

SECTION 26 - RIGHT TO APPEAL AND REQUEST A HEARING

- A. A party who receives a disciplinary measure decision will have the right to appeal the decision and request an Informal Administrative Hearing before an Officer Examiner selected by the Bank.
- B. The request for appeal must be made in writing and submitted within the term of fifteen (15) calendar days after receipt of the notification of disciplinary measure or the date of the letter's certified mail return receipt.
- C. The request for appeal will be addressed to the Chairperson of the Board of Directors and it must be delivered at the Office of Human Resources and Labor Relations within the aforementioned term.
- D. Once the request for appeal is received, the Office of Human Resources and Labor Relations will notify the employee that an Officer Examiner has been assigned to hold the Informal Administrative Hearing. At the hearing, the respondent will have the opportunity to present his/her version of the facts in dispute, as well as evidence relevant to the case. This date will be notified within fifteen (15) days prior to the Hearing.
- E. After the term to request for appeal has lapsed, if the employee has not moved to appeal, he/she will lose the right of revision.

SECTION 27 - INFORMAL ADMINISTRATIVE HEARING

- A. The notification of the Informal Administrative Hearing will be sent to the employee within fifteen (15) days prior to the hearing.
- B. As a general rule, the notification will be delivered by hand. In those cases in which it cannot be delivered in person, it will be sent by certified, return receipt requested mail to the last postal address the employee has provided to the Office of Human Resources and Labor Relations.
- C. The notification will be effective from the delivery by hand or the date of the certified mail return receipt.
- D. The Informal Administrative Hearing will be presided over by an Officer Examiner selected by the Bank.
- E. At the Hearing, the discovery mechanisms deemed necessary by the Officer Examiner will be used, excluding the harassment victim's past sexual history or behavior.
- F. The employee respondent will offer his/her version of the events and may ask the Officer Examiner to request and inspect a copy of the complaint, the documents and the evidence relevant to the case. The employee has the right to know the legal and regulatory provisions that were allegedly breached.

- G. The Hearing may only be suspended for just cause, through a written request, which must be received by the Officer Examiner at least five (5) work days prior to the date scheduled for the Hearing.
- H. The respondent will be granted a second and last opportunity within a reasonable term, which will be established by the Officer Examiner in accordance with the circumstances of the case. If respondent were suspended from employment with pay, the time extension will be discounted from his/her [accrued] vacation leave.
- I. The Report of the Officer Examiner will be issued within a reasonable period, which may not exceed forty-five (45) work days after the Hearing concludes. The Report will state the findings of fact and [conclusions] of law that are the grounds for the recommendation, and that reconsideration is available.
- J. The Report issued by the Officer Examiner will be notified to the Complaint Coordinator who will prepare a communication to the Board of Directors with the consent of the Director of Human Resources and Labor Relations for their pertinent action. The letter and the resolution of the Board of Directors regarding the decision will be notified as soon as possible to the parties.
- K. The party adversely affected by the decision will have twenty (20) calendar days to submit a motion for reconsideration counting from the date of the notification of the resolution of the Board of Directors.
- L. If submitted, the Bank shall consider the motion for reconsideration or deny it within fifteen (15) calendar days after submission.
- M. If the person fails to appear at the Informal Administrative Hearing on the established date, without justification, the allegations will be admitted and the person will lose the right to reconsideration.

SECTION 28 – OTHER LEGAL REMEDIES

The party affected by the conduct prohibited in these Regulations may avail him/herself of the procedures provided in Act 17 of April 22, 1988 by filing a complaint before the Labor Department's Anti-discrimination Unit or before the Equal Employment Opportunity Commission (EEOC), and does not need to exhaust the remedies established in these Regulations.

SECTION 29 – RIGHTS OF NON GDB EMPLOYEES

The GDB public policy against discrimination in employment covers contractors, providers, students, clients, as well as any visitor or third party against illegal conduct that may take place in our institution. Contract administrator(s) shall provide orientation to non GDB employees to this effect. In case of any doubt, non GDB employees shall be referred to the Office of Human Resources and Labor Relations.

SECTION 30 – COMPLAINTS AGAINST NON GDB EMPLOYEES

The policy against discrimination in employment guarantees that no non GDB employee shall incur in illegal or inappropriate acts. Contractors, providers, clients or visitors will not be allowed to discriminate against anyone in our institution.

The GDB will investigate discrimination complaints alleging that a non GDB employee has incurred in a discriminatory act or conduct. The complaint will be processed through the Office of Human Resources and Labor Relations, and the pertinent measures will be taken in order to eliminate the conduct; temporary measures will be established as well, depending on the control there is over the respondent and the provisions of law.

A contract with a provider or contractor may be ordered terminated, and anyone may be asked to leave the GDB premises immediately. In addition, individuals who have previously committed discriminatory acts against a GDB employee or visitor may be forbidden to enter GDB premises.

SECTION 31 – RELATION WITH OTHER RULES

The provisions of these Regulations may not be interpreted independently of other regulations, policies and rules enacted by the Bank and by the Board of Directors of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates.

SECTION 32 - AMENDMENTS

The procedures and rules contained here may be amended whenever necessary in order to improve GDB services and operations, or to adjust them to public policy enacted by the Government of the Commonwealth of Puerto Rico, as well as to laws, regulations, circular letters and executive orders that apply specifically to the GDB or in general.

These rules may be adjusted pursuant to official amendments, resolutions of the Board of Directors, and to state and federal laws.

SECTION 33 – SEVERABILITY CLAUSE

Should any word, sentence, clause, section or part of these Regulations be declared unconstitutional, invalid or void by a court, said decision will not affect, undermine or invalidate the remaining provisions and parts of these Regulations, but rather, its effect will be limited to the specific word, clause, sentence, section or part thus declared unconstitutional or void, and it will be understood that such invalidation of any word, clause, sentence, section or part of any instance will in no way affect or have an adverse effect on the application or validity of these Regulations in any other instance.

SECTION 34 - REVOCATION

These Regulations may be revoked or amended by the Board of Directors of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates on their own initiative or on the request of the President.

SECTION 35 - EFFECTIVENESS

These Regulations will be effective immediately after approval by the Board of Directors of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates.

SECTION 36 - APPROVAL

These Regulations were approved by the Board of Directors of the Government Development Bank for Puerto Rico, its subsidiaries and affiliates on August 19, 2015.

Melba Acosta Febo, Esq.
President
Government Development Bank
for Puerto Rico

Melba Acosta Febo, Esq.
Acting Chairwoman
Board of Directors
Government Development Bank
for Puerto Rico