



PUERTO RICO FISCAL AGENCY  
AND FINANCIAL ADVISORY AUTHORITY

*PERSONNEL REGULATIONS*  
OF THE PUERTO RICO FISCAL AGENCY  
AND FINANCIAL ADVISORY AUTHORITY

2024

PERSONNEL REGULATIONS

TABLE OF CONTENT

INTRODUCTION ..... 1

**ARTICLE 2 — LEGAL BASIS ..... 4**

**ARTICLE 3 — APPLICABILITY ..... 4**

**ARTICLE 4 — DEFINITIONS ..... 4**

**ARTICLE 5 — STRUCTURE OF THE SERVICE ..... 12**

**ARTICLE 6 — CLASSIFICATION OF CAREER POSITIONS ..... 22**

**ARTICLE 7 — RECRUITMENT AND SELECTION FOR CAREER POSITIONS..... 31**

**ARTICLE 8 — PROMOTIONS, TRANSFERS AND DEMOTIONS OF CAREER  
EMPLOYEES..... 56**

**ARTICLE 9 — PROFESSIONAL TRAINING AND DEVELOPMENT ..... 61**

**ARTICLE 10 — RETENTION IN CAREER SERVICE ..... 64**

**ARTICLE 11 — FRINGE BENEFITS ..... 75**

**ARTICLE 12 — WORK SCHEDULE AND ATTENDANCE ..... 113**

**ARTICLE 13 — EMPLOYEE FILES..... 117**

**ARTICLE 14 — PROHIBITION ..... 121**

**ARTICLE 15 — REVIEW OF PERSONNEL ACTIONS INVOLVING CAREER  
EMPLOYEES..... 121**

**ARTICLE 16 —PERSONNEL RELATIONS ..... 123**

**ARTICLE 17 — DETAIL ASSIGNMENTS AND ACTING APPOINTMENTS FOR  
CAREER EMPLOYEES ..... 125**

**ARTICLE 18 — EQUAL OPPORTUNITY IN EMPLOYMENT AND WORK  
ENVIRONMENT ..... 127**

**ARTICLE 19 — DISSEMINATION ..... 132**

**ARTICLE 20 — AMENDMENTS TO THE REGULATIONS ..... 133**

**ARTICLE 21 — RULES OF INTERPRETATION ..... 133**

**ARTICLE 22 — SEVERABILITY CLAUSE..... 133**

**ARTICLE 23 — REPEAL ..... 134**

**ARTICLE 24 — EFFECTIVENESS ..... 134**

**PERSONNEL REGULATIONS  
OF THE PUERTO RICO FISCAL AGENCY  
AND FINANCIAL ADVISORY AUTHORITY**

**INTRODUCTION**

The Puerto Rico Fiscal Agency and Financial Advisory Authority (hereinafter "Authority" or "AAFAF") was created by Chapter 6 of Act 21-2016 for the purpose of "acting as fiscal agent, financial advisor, and reporting agent of the Commonwealth of Puerto Rico." Act 21-2016 empowered the Authority to act as fiscal agent and financial advisor to the central government and its public corporations, instrumentalities, commissions, authorities, municipalities and political subdivisions. However, the Puerto Rico Fiscal Agency and Financial Advisory Authority Act, Act 2-2017, as amended, repealed Chapter VI of Act 21-2016, and incorporated all the responsibilities and powers of the new AAFAF. AAFAF was created as a leading public corporation and instrumentality responsible for coordinating the sustainable use of resources and presenting a coordinated and global vision of the capital needs of the instrumentalities of the Government of Puerto Rico. The Authority is essential in the economic development of Puerto Rico since it is the governmental entity responsible for the collaboration, communication, and cooperation between the Government of Puerto Rico and the Financial Oversight and Management Board, created under the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). Therefore, the Authority, in collaboration with the Governor of Puerto Rico and his/her representatives, is responsible for the creation, execution, supervision and oversight of any Fiscal Plan and/or Budget, which are approved and certified in accordance with PROMESA.



Section 5.2 of Act 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act” (“Act 8-2017”), provides that public or public-private corporations or instrumentalities that, like the Authority, operate as private companies or businesses, are excluded from it. However, with regard to excluded entities, Act 8-2017 provides that the merit system applies to such entities, which must adopt regulations that incorporate the merit system in the administration of their human resources.

These Regulations comply with the above mandate and address the need to establish defined criteria for the management of the human resources of the Authority, including those in the Career Service. These new personnel regulations reaffirm that the merit system will be the guiding principle in the administration of human resources, thus ensuring that the Authority and Puerto Rico are served by those who are more suitable and that all employees are selected, trained, promoted, classified, treated and retained in their job in consideration of their merit and ability. The Executive Director of the Authority shall be responsible for the administration and faithful compliance with the Regulations. To facilitate its administration, the Executive Director shall establish such internal procedures and rules as he/she determines necessary, provided that they are in harmony with the content and purpose of the Regulations. The Executive Director may also delegate the administration of the Regulations to those officers of the Authority that he/she deems appropriate.

These Regulations are approved during the effectiveness of Act 26-2017, the "Fiscal Plan Compliance Act", as amended ("Act 26-2017"). Article 1.02 of Act 26-2017, which establishes the supremacy of Act 26-2017 over any other Act or regulation, will be

applicable should any of the provisions of these Regulations be contrary to the provisions of Act 26-2017.

## PERSONNEL REGULATIONS OF THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY

These Regulations shall be known as the Personnel Regulations of the Puerto Rico Fiscal Agency and Financial Advisory Authority ("Regulations").

### **ARTICLE 2 — LEGAL BASIS**

These Regulations are adopted pursuant to the provisions of Article 5 of Law No. 2 of January 18, 2017, as amended, known as the "Puerto Rico Fiscal Agency and Financial Advisory Authority Act" ("Act 2-2017"); and Law No. 38 of June 30, 2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act."

The Executive Director shall approve the rules and procedures required for the implementation of these Regulations.

### **ARTICLE 3 — APPLICABILITY**

These Regulations apply to all regular employees and officers of the Authority.

### **ARTICLE 4 — DEFINITIONS**

The terms used in these Regulations have the meaning stated below, unless a different interpretation is apparent from the context:

#### **1. Short-Term Training**

Practical training activity or technical or academic studies with a duration of not more than six (6) months that prepare the employee to perform their duties optimally.

#### **2. Essential Areas of the Merit System**

Position classification; recruitment and selection; promotions, transfers and demotions; training, and retention. These areas apply only to career employees.

**3. Promotion**

Change of a career employee to a position of another class for which a higher minimum rate of salary has been provided.

**4. “Authority” or “AAFAF”**

Puerto Rico Fiscal Agency and Financial Advisory Authority.

**5. Appointing Authority**

Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

**6. Certification of Eligibles**

Document containing the names of the first ten (10) candidates who have standing on the register of eligibles to fill a vacant position for a given class.

**7. Layoff**

Separation from service imposed on an employee due to the elimination of a position for a lack of work or funds, or a determination that he/she is physically or mentally incapacitated to perform the essential duties of his/her position.

**8. Selective Certification**

The process by which the Executive Director, or the officer delegated by him/her, specifies the special qualifications that a candidate must have to fill a position and prepares a clear description of the duties of the position to be filled, selects from the register the names of the qualifying candidates and establishes a certification turn in order of grade for the purposes of that particular position.

**9. Position Class or Classes**

A group of positions whose duties, type of work, authority, and responsibility are similar in such a way that they can be reasonably called by the same title, their occupants may be required to meet the same minimum requirements, the same tests, and the same salary scale may be applied.

**10. Position Classification**

The process by which the duties and responsibilities of the different positions that make up an organization are systematically studied, analyzed, and ordered by forming classes or series of classes.

**11. Demotion**

Change of a career employee to a position of another class for which a lower minimum rate of salary has been provided.

**12. Job Description**

Document containing a description of the essential and marginal duties of each position, degree of authority, responsibility and supervision inherent to the position, as well as the working conditions behind the performance of said duties.

**13. Dismissal**

Total, absolute and definitive separation from service imposed on an employee as a disciplinary measure for just cause.

**14. Executive Director**

Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

**15. Eligible**

A person qualified to hold a position or be considered for appointment to a position in the career service under the provisions of these Regulations, who has passed the examination required for a certain class and whose name is included in the Register of Eligibles.

**16. Career Employee**

An employee appointed to a position in the Career Service Classification and Remuneration Plan who has successfully completed the probationary period.

**17. Trust Employee**

An employee who takes part or substantially collaborates in the formulation of public policy, and/or advises or provides direct service to the Executive Director. This is an at-will appointment position.

**18. Provisional/Temporary Employee**

An employee appointed to a position for the purpose of performing duties for a specified period.

**19. Class Specification**

A document containing a written and narrative statement outlining the principal characteristics of the core work of one or more positions in terms of the nature, complexity, responsibility and authority required of its occupants, examples of the work, knowledge, abilities and the minimum qualifications that candidates must meet to hold such positions.

**20. Examination**

Written, oral, or physical tests, or performance exams or evaluations based on experience and education, which are used to measure the qualifications of a candidate for employment or promotion.

**21. Notice of Charges**

A document issued by the Executive Director, or the officer delegated by him/her, notifying a career employee of violations committed with respect to the standards of performance and discipline that must prevail in the Authority and the decision to impose a disciplinary measure.

**22. Occupational or Professional Group**

The grouping of classes and series of classes that describe positions included in the same work field or activity.

**23. Workplace Harassment (or Bullying)**

Malicious, unwanted, repetitive, abusive, biased, unreasonable, and/or willful conduct; repeated infliction of verbal, written, and/or physical abuse by an employer, its agents, supervisors, or employees, unrelated to the legitimate interests of the employer's business, unwanted by the targeted employee, and which violates the employee's constitutionally protected rights: the inviolability of the dignity of the person; the protection of law against abusive attacks on his/her honor, reputation, and private or family life; the protection of the worker against risks to his/her health or personal integrity in the workplace.

**24. Sexual Harassment**

Any type of behavior of a sexual nature or gender-based nature, unwanted, that is subjectively and objectively offensive, weakens morale, or interferes with the work environment of another employee.

**25. Board of Directors**

The highest authority of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

**26. Mobility**

A process to flexibly implement the Government's initiatives by identifying the necessary human resources that allow for the adequate rendering and continuity of the services offered to the citizenry and that, in turn, promote the best use and retention of human resources. This mechanism is applicable to the Authority.

**27. Appointment**

Official designation of a person to perform certain duties and responsibilities.

**28. Recruitment Rules**

Determinations as to minimum requirements, type of recruitment, and nature of examination for career service positions.

**29. Probationary Period**

A period during which an employee, upon being appointed to a position, undergoes a training and trial period and is subject to evaluations in the performance of their duties and responsibilities.

**30. Classification and Remuneration Plan**

The systematic grouping of positions into classes and series of classes, by virtue of their duties and responsibilities, and the set of generally accepted principles and practices that govern their implementation and administration.

**31. Merit System**

A concept that means that all government employees will be recruited, selected, trained, promoted, transferred, demoted, and retained on the basis of their capabilities and performance of the duties inherent to their position and without being discriminated against on the basis of race, color, sex, birth, age, sexual orientation, gender identity, social condition or origin, political or religious beliefs, veteran status, actual or perceived status as a victim of domestic violence, sexual assault or stalking, or physical or mental disability.

**32. Position**

A set of duties and responsibilities assigned or delegated by the Authority, which require the employment of a person for a full or part-time work schedule.

**33. Reclassification**

The act of classifying a position that had been previously classified within the same Classification and Remuneration Plan. Positions may be reclassified into a class with a higher, the same, or lower salary range.

**34. Register of Eligibles**

A list of the names of persons who have been previously examined and certified as eligible for appointment to a career position. The list will be arranged by descending test scores.

### **35. Regulations**

Personnel Regulations for all officers and employees of the Puerto Rico Fiscal Agency and Financial Advisory Authority.

### **36. Reinstatement**

The right of a career employee to be reinstated in a career position equal to or similar to the last career position he/she held in the Authority, after having separated from service for any of the following reasons:

- a) separation from positions of trust, if prior to his/her appointment to the trust service the employee held a career position with regular status in the Authority;
- b) separation upon completion of or during the probationary period by reason of his/her services if, immediately before, the employee held a career position with regular status in the Authority;
- c) separation due to physical or mental disability;
- d) at the end of any type of leave without pay.

### **37. Resignation**

Total, absolute and voluntary separation of an employee from his/her position due to his/her written stated intention.

### **38. Series or Series of Classes**

Grouping of classes that reflects the different hierarchical levels of work that exist.

### **39. Suspension Without Pay**

Temporary separation from service without remuneration for a specific term imposed on an employee or officer for just cause, as a disciplinary measure, after charges have been issued in writing, signed by the Executive Director or his/her authorized representative.

#### **40. Summary Suspension**

Temporary separation of the employee or official, prior to the informal hearing, when their conduct consists of the illegal use of public funds or when there is reasonable basis to believe that he/she constitutes a real danger to the operations of the Authority, and/or the health, life or morals of the employees or the people in general, as a preventive measure without prejudice to their salary and fringe benefits.

#### **41. Transfer**

The change of an employee from one position to another within the same class, or from one position to another with duties of a similar level, at the same remuneration level.

#### **42. Informal Administrative Hearing**

The meeting at which a career employee has the opportunity to submit their written or oral version of the charges against them before the appointing authority makes a final determination whose sanction could result in a suspension without pay or dismissal.

### **ARTICLE 5 — STRUCTURE OF THE SERVICE**

The Authority has two (2) services or categories that will encompass the employment positions: career service and trust service.

### **Section 5.1 — Career Service**

The career service shall include all positions in the Authority corresponding to professional, technical and administrative roles up to the highest level at which they are separable from an advisory or regulatory role. It also includes any skilled and unskilled work. The jobs and duties included in the career service will be mostly subordinated to the policy guidelines and programmatic norms that are formulated and prescribed by the trust service.

Career employees may have delegated discretion to establish operational systems and methods, but they will only occasionally have it by express delegation, to formulate, modify or override guidelines or rules on the content or implementation of programs. Incidental to their ordinary duties, they may have the authority to make recommendations on guidelines and rules, but it will not be the primary duty of their position. Performing duties effectively in the career service does not require that employees have certain philosophical ideas or positions or special relationships of personal trust with their superiors.

The career service must give the appropriate and necessary continuity to the administration, regardless of changes in political leadership. Career employees have probationary or regular status. Career employees with probationary status are employees recruited and appointed in accordance with the process established in these Regulations. These employees will be subject to a period of orientation, training and periodic evaluation regarding their productivity, efficiency, habits and attitudes, in

order to demonstrate their suitability as public employees. Career employees with regular status are those who entered the Authority after passing through the recruitment process established in these Regulations and successfully completing the probationary period.

### **Section 5.2 — Trust Service**

Employees in the Trust Service are those who substantially take part or collaborate in the formulation of public policy, directly advise, or provide direct services to the Executive Director, in roles such as the following:

1. **Public Policy Formulation** – This role will include direct or delegated responsibility for adopting standards on program content, eligibility criteria, operation of the Authority, interagency relations, and other essential aspects in the management of the Authority's programs. It will also include participating, to a substantial extent and effectively, in the formulation, modification or interpretation of public policy or in providing direct advice to the Executive Director.
2. **Providing direct services to the Executive Director of the Authority, which requires a high degree of personal trust** – The element of personal trust in this type of service is irreplaceable. The nature of the work is essentially suitable for the career service, but the element of personal trust is key. The job may include secretarial services, keeping confidential files, driving cars, and other similar tasks. In this type of work, the element of confidentiality and security with respect to people, programs or public duties is always present.

3. **Duties that, as established by law, are naturally those of a trust position** – Although the occupants of these positions are at-will employees, they can only be removed for the reasons established in the laws that create the positions. Their mandate shall extend until the expiration of the term of their appointments, in accordance with said laws.

### ***Section 5.3 — Human Resources Administration in the Trust Service***

1. The Executive Director shall establish the plan for positions of trust in consideration of the roles described in Section 5.2. There will be as many positions of trust as needed in accordance with the organizational structure and operational complexities of the Authority.
2. Through Resolution 2024-32 of June 10, 2024 issued by the Board of Directors a Classification and Remuneration Plan was approved for positions of trust in the Authority. Said plan was developed pursuant to Circular Letter OSG-2022-002 and is tailored to the circumstances and needs for service and to generally accepted principles and practices of job classification. The Classification and Remuneration Plan was approved by the Financial Oversight and Management Board for Puerto Rico (FOMB) on May 29, 2024. The Executive Director shall establish the rules and procedures necessary for the administration of the above plan in accordance with generally accepted principles and practices in the field of job classification. The Classification and Remuneration Plan will be kept up to date as job descriptions, class specifications and position assignments to classes are updated.

3. Classification and Reclassification of Positions of Trust - All positions of trust will be formally assigned to the corresponding classes. Newly created positions of trust will be classified into one of the classes included in the Classification and Remuneration Plan for Positions of Trust as provided hereunder. There will be no unclassified positions of trust, except those that are not subject to the Classification and Remuneration Plan in accordance with these Regulations. No one, under no circumstances, may be appointed to a position of trust that has not been previously classified.
4. The Executive Director, or his/her authorized representative, shall determine, on the basis of the principles and practices of job classification, the circumstances and occasions in which it is appropriate to reclassify a position of trust, vacant or occupied, to another class within the Classification and Remuneration Plan for Positions of Trust. The Executive Director, or his/her authorized representative, shall refrain from executing service contracts with persons in their individual capacity when the conditions and characteristics of the relationship established are typical of a position of trust.
5. Changes in Duties, Responsibilities or Authority - The Executive Director, in the exercise of his/her discretion, may order changes in the duties, responsibilities or authority of positions of trust when he/she deems it necessary or convenient, without this necessarily entailing the reclassification of the position. In these cases, the new duties, authority and responsibility must be related to the classification of the concerned position.

6. Hierarchy or Relative Position of Classes - The Executive Director shall determine the hierarchy or relative position of the classes of positions in accordance with the Classification and Remuneration Plan for Positions of Trust for purposes of assigning them to the remuneration scales. The determination of hierarchy or relative position is the process by which each position class is placed on the scale of values of the organization in terms of factors, such as the nature and complexity of the duties and the degree of authority and responsibility that is exercised and received. The processes for establishing the class hierarchy should be objective to the maximum extent possible and consistent with the Classification and Remuneration Plan for Positions of Trust. The fact that this is a matter of assigning duties and groups of duties, regardless of the people who perform them or will perform them, must be taken into account. Those elements of the duties that tend to differentiate the relative position of some classes vis-à-vis others are taken into consideration. Weighing these elements should lead to a pattern of classes that allows to gauge the differences in salaries and other differences. Likewise, it must facilitate objective comparison between different classification plans in order to identify and determine the interagency mobility of employees.
7. Selection and Recruitment of Employees to Positions of Trust – The Authority may use the methods it deems appropriate to recruit trust personnel who will be at-will employees but must meet the requirements established by the Executive Director. Any person who is appointed to a position of trust must meet the following general conditions to enter into the public service:

- a. Be a United States citizen or an alien legally authorized to work pursuant to applicable legislation;
- b. be physically and mentally capable of performing the essential duties of the position, with or without reasonable accommodation;
- c. comply with the applicable provisions of the 2011 Puerto Rico Internal Revenue Code, as amended, concerning the filing of income tax returns for four (4) years preceding the employment application;
- d. not to have engaged in dishonorable conduct;
- e. not to have been convicted of a felony or any crime involving moral turpitude;
- f. not to make illegal use of controlled substances;
- g. Not to be an addict to the habitual and excessive use of alcoholic beverages;
- h. Not to have been removed from public service or convicted of the felonies or misdemeanors listed in Section 6.8 (3) of Act 8-2017 within the jurisdiction of the Commonwealth of Puerto Rico, the federal jurisdiction or the jurisdiction of any of the states of the United States of America.
- i. Not to have attempted to deceive or commit fraud in terms of the information submitted in the employment application;
- j. Conditions in subsections “d” to “h” will not apply when the candidate has been habilitated to hold a job in the public service by the Secretary of the Department of Labor and Human Resources.

In addition, in order to be eligible for employment with the Authority, the candidate must comply with Article 30 of Law No. 5 of December 30, 1986, as amended, known as the "Child Support Administration Organic Act", which establishes as a condition of employment, that a person obliged to pay child support must be up to date in his/her payments or that he/she execute and comply with a payment plan. Likewise, the candidate must submit a negative certification of personal and real property issued by the Municipal Revenue Collection Center ("CRIM", by its Spanish acronym). Removal of Trust Employees or Officers - The Executive Director may freely remove trust employees and officers from their position or office without bringing charges. The decision to remove an employee from their position must be notified in writing. It will not be necessary to state the grounds for such action. When a trust employee or official is removed for reasons that could lead to the dismissal of a career employee, and the removed employee is entitled to reinstatement in a career position in the Authority, he/she may be charged and informed of their right to an informal administrative hearing. In determining whether a trust employee or officer should be charged, the Executive Director shall take into consideration whether the seriousness of the misconduct committed by the trust employee or officer justifies their disqualification from public service.

***Section 5.4 — Reinstatement of Trust Employees or Officers***

All career employees with regular status who transfer to a position of trust shall be fully entitled to be reinstated in a position equal or similar to the last career position they held, unless dismissed from their position of trust upon charges brought. In addition,

they will be entitled to all benefits regarding classification and salary that have been extended to the career position they held during the term they served in a position of trust.

All career employees with regular status who are elected or designated as substitutes for holding elective public offices within the Executive or Legislative Branch, shall be fully entitled to be reinstated in a position equal or similar to the last career position they held, unless dismissed from said elective office due to misconduct or impeachment, or unless they have resigned from office due to malfeasance or misconduct that would have led to their dismissal or impeachment. In addition, they will be entitled to all benefits regarding classification and salary that have been extended to the career position they held during the term they served in elective public office.

Regular career employees who are recruited to hold a position of trust, or who are elected by the people or designated as substitutes for holding an elective public office, as provided above, will retain the fringe benefits and leave rights established in Article 11 of these Regulations and those that are extended to these employees by any prospective legislation or determination of the Board of Directors during the entire time of their absence from regular office when they were holding a position of trust or serving in elective public office.

The Authority shall be responsible for reinstating the employee and shall exhaust all resources to reinstate the employee in any of its areas. In any event, the reinstatement of the employee in the career service must be carried out simultaneously with the separation from the position of trust and must not be burdensome for the employee.

When reinstatement is to a position in a class other than that of the position the employee held in the career service, the employee must meet the minimum requirements established for the position class but will not be required to pass examinations. The Executive Director is responsible for verifying compliance with the minimum requirements. In any case of reinstatement, the employee will have regular status. The salary of the employee will be determined in accordance with the provisions of the remuneration rules in force on the date of reinstatement.

### ***Section 5.5 — Changes to Categories***

As a general rule, a change of category from a career position to a position of trust will be authorized when the trust position is vacant. In cases where the career position is filled, the incumbent may consent. The consent must be in writing, certifying that he/she knows and understands the nature of the position of trust, particularly with regard to appointment and removal. When the incumbent does not consent to the change of category of his/her position, the Executive Director may relocate the employee to another career position in the same occupational group, provided that the salary remains the same in the transaction.

A change of category from a position of trust to a career position will be authorized when there is a change in the duties of the position or in the organizational structure of the Authority that justifies it. When the position is occupied, the change of category may only take place if the incumbent meets the following conditions:

1. He/she meets the requirements established by the class of position;

2. He/she has held the position for at least a period that corresponds to the probationary period for the position class;
3. He/she passes or has passed the examination established by the position class; and
4. the Executive Director certifies that the incumbent's services have been satisfactory.

## ARTICLE 6 — CLASSIFICATION OF CAREER POSITIONS

### ***Section 6.1 — Establishment of Classification and Remuneration Plans***

Through Resolution 2024-32 of June 10, 2024, the Board of Directors approved a Classification and Remuneration Plan ("Classification Plan" or "Plan") for career positions, which was subsequently implemented by the Executive Director. The plan was developed pursuant to Circular Letter OSG-2022-002 and approved by the FOMB on May 29, 2024. The Authority may also establish classification plans for certain position classes or organizational units according to its needs, which will be tailored to the circumstances and needs for service and to generally accepted principles and practices of job classification. The classification of positions will be governed by uniformity criteria, based on the principles of equal and fair treatment, which is the core of the merit system.

The Classification Plan must reflect the status of all positions in the career service at a given time and will constitute an inventory of all authorized positions at that time. To ensure that the Classification Plan is an appropriate and effective working instrument in personnel administration, the position classifications must be kept up to date by

entering any changes that take place in the positions, so that at all times the Plan accurately reflects the organizational and functional reality of the Authority.

The development, implementation and administration of any Classification Plan prepared by the Authority after these Regulations are approved will be carried out in accordance with the provisions established below.

### ***Section 6.2 — Job Descriptions***

In accordance with its organizational and functional structure, the Authority shall prepare and keep up to date, for each position authorized in the career service, a clear and accurate description of the essential and marginal duties and responsibilities, as well as the degree of authority, responsibility and supervision attached to it. The Authority shall evaluate the original of the initially drafted job description, as well as the original of any subsequent revision, to determine the classification of the position or to take any subsequent action that may be appropriate in cases of duty revision. A copy of the job description must be given to the employee upon appointment and taking office.

Significant changes in duties and responsibilities, as well as in the degree of authority and supervision attached to the positions, must be promptly recorded in the job descriptions so that position classifications can be evaluated within a reasonable time. Whenever the Job Description is officially modified a copy of it must be given to the employee.

The job description will be used to guide, train, supervise and evaluate employees in accordance with the procedures that are established. A copy of all job descriptions

must be retained for each position, together with any other documentation related to the position's classification history.

***Section 6.3 — Grouping of Positions in the Classification Plan***

The Plan will group into classes all career service positions whose duties, type of work, authority, and responsibility are similar in such a way that they can be reasonably called by the same title, their incumbents may be required to meet the same minimum requirements, the same tests, and the same salary scale may be applied with equity under substantially equal working conditions.

Each class of position will be designated by a short official title that will describe the nature and level of complexity and responsibility of the work required. This title must be used in processing any personnel, budget and financial transaction or action, as well as in any official business relating to the position.

***Section 6.4 — Class Specifications***

A specification will be prepared for each of the position classes included in the Classification Plan. The specifications shall describe all the positions included in the class. The Authority will use them as a basic tool in the classification and reclassification of positions; in the development of recruitment rules; in the determination of the lines of promotions, transfers and demotions; in the evaluation of employees; in the identification of staff training needs; in the basic determinations related to remuneration, retention, budget and personnel transactions, and otherwise in the administration of human resources.

The Authority is responsible for keeping class specifications up to date with changes in its programs and activities, and in job descriptions that require modification of the classification plan. These changes must be recorded in the class specifications.

Class specifications must contain, in their general format, the following elements in the order indicated.

1. Code Number – This is the number that is located in the upper right corner of the class specification and is the identification of the class specification.
2. Official Class Title – This should be short and descriptive of the duties assigned to the class.
3. Nature of the Work and Distinct Aspects of the Work – These will identify the characteristics that differentiate one class from another in terms of levels of complexity, responsibility and authority, type and form of supervision that is received and exercised, methods that are used to perform the work including the degree of freedom, independence, use of discretion and judgment, how the work is reviewed and its purpose.
4. Work examples -Includes the duties common to the positions grouped in the class.
5. Minimum knowledge, skills and abilities
  - a. Knowledge – will include the description of the subjects with which the employees and candidates for the positions must be familiar.

- b. Abilities –will include the mental and physical capacity necessary to perform duties, provided that they are related or necessary and consistent with the duties inherent to the position class.
  - c. Skills –will include the motor skills or agility, as well as physical and/or mental capacities and skills that employees or applicants to a certain class of position must possess, provided that they are related or necessary and consistent with the duties inherent to the position class.
6. Minimum Education and Experience – Indicates the minimum education required, the minimum duration and type of work experience.
7. Probationary period – is the period during which an employee, upon being appointed to a position, undergoes a training and trial period and is subject to evaluations of the performance of their duties and responsibilities. During the probationary period, the employee does not acquire any right over the position.

Class specifications will be formalized with the signature of the Executive Director or his/her authorized representative.

### ***Section 6.5 — Position Classes***

Classes will be organized in a list or index in alphabetical order and will be kept up to date.

Each position class will be identified by number in the above documents by means of a code based on the classification of the position.

### ***Section 6.6 — Classification and Reclassification of Positions***

#### 1. Classification of Positions

All positions will be formally assigned to the relevant classes. Newly created positions will be assigned to one of the classes in the Classification Plan. There will be no unclassified positions. No person may be appointed to a position that has not been previously classified.

The Executive Director, or his/her authorized representative, shall refrain from executing service contracts with persons in their individual capacity when the conditions and characteristics of the relationship established between employer and employee are specific to a position. In these cases, the position must be created in accordance with the provisions and procedures established for classification in these Regulations.

## 2. Reclassification of Positions

The reclassification of positions will be justified when any of the following situations are present:

### a. **Mistaken Original Classification**

In this situation, there is no significant change in the duties of the position, but additional information is obtained that allows to correct an initial mistaken assessment of the correct position classification.

### b. **Changes to Classification Plans**

In this situation, there are not necessarily significant changes in job descriptions, but in the process of keeping the classification plan up to date by creating, eliminating, consolidating, separating, or altering position classes, there is a need to change the classification of some positions.

c. **Substantial Change in Duties, Responsibilities or Authority**

It is a deliberate and substantial change in the nature, complexity or authority of the position and the change results in a higher or lower position or places it in a different class at the same level of hierarchy.

d. **Evolution of the Position**

It is the gradual change that takes place over time that leads to an increase in the duties, authority, and responsibilities of the position that causes a transformation of the original position.

When an employee considers that the position they hold is misclassified or has undergone a substantial change in their duties, they can make a request for a study, channeled through their immediate supervisor and the director of the department or office. The Authority shall carry out the corresponding classification study within a reasonable time. If the reclassification is in order, the current rules will be applicable.

**Section 6.7 — Status of Employees in Reclassified Positions**

The status of employees whose positions are reclassified will be determined in accordance with the following rules:

1. **Mistaken Original Classification**

If the reclassification is in order due to an error in the original classification and the change involves a promotion:

- a) the employee may be transferred to a vacant position of the class corresponding to the employee's appointment without the transfer creating a burden for the employee;

b) or if the employee qualifies, he/she can be confirmed in the reclassified position.

If the change involves a demotion, with the employee's written consent:

- a) the employee may be confirmed in the position without affecting their right to appeal;
- b) the employee may be transferred to a vacant position in the class corresponding to his/her appointment;
- c) the reclassification may be suspended until the employees is relocated.

In any case, the employee will maintain the same status as he/she had before the reclassification of his/her position.

## **2. Substantial Changes**

If the reclassification is in order due to a substantial change in duties, authority or responsibility and the changes result in a position of higher hierarchy, the employee may be:

- a) promoted without competition if it is determined that the employee meets the requirements of the new class. The request for reclassification of the position will be considered as a request for promotion without competition. In any case, the incumbent will be subject to the probationary period of the new class;
- b) relocated to a position in a classification equal to his/her appointment or to a similar position, for which the employee meets the minimum requirements, or the reclassification may be suspended until the

employee is relocated if the employee does not qualify to fill the reclassified position.

### 3. Evolution of the Position and Change to the Plan

If the reclassification is in order due to the evolution of the position or due to changes in the Classification Plan, the employee will continue to hold the reclassified position with the same status as before the change.

#### ***Section 6.8 — Changes in Duties, Responsibilities or Authority***

When circumstances so warrant, the duties, responsibilities or authority of a position may be changed in accordance with the following rules:

1. Any change shall respond to the needs of the Authority; no change may be arbitrary or have disciplinary purposes.
2. When the changes are related to the classification of the position, they will not entail the reclassification of the affected position.

#### ***Section 6.9 — Position Relative to the Classes and Equivalences Between Different Classification Plans***

The determination of hierarchy or relative position of position classes is the process by which each class of position is placed on the scale of values of the organization, in terms of factors, such as the nature and complexity of the duties, the degree of authority and responsibility that is exercised and received, working conditions, risks inherent to the work and minimum requirements. The Authority shall determine the hierarchy or relative position among the classes of positions included in the Classification Plan for

the purpose of assigning them to the remuneration scales and establishing correspondence for promotions, transfers and demotions.

Those elements of the duties that tend to differentiate the relative position of some classes vis-à-vis others will be taken into consideration. Weighing these elements should lead to a pattern of classes that allows to establish the differences in responsibilities, salaries, among other differences. Likewise, it must facilitate objective comparison between different classification plans in order to identify and determine the interagency mobility of employees whether in the form of promotions, transfers or demotions.

***Section 6.10 — Assignment and Reassignment of Salary Scales to Position Classes***

The salary scales contained in the Remuneration Plan will be assigned to the classes that form part of the Classification Plan based mainly on the relative hierarchy determined for each class within the classification plans. In addition, other conditions are considered, such as the difficulty in recruiting and retaining staff for certain classes, the qualifications required to perform the essential duties of the position, the prevailing salaries in other sectors of the economy for the same occupation, special conditions, cost-of-living aspects and the fiscal situation.

The Authority may also reassign a different salary scale of those contained in the Remuneration Plan to any position class, when the need for the service so requires; or as a result of a study conducted in relation to a position class, a series of classes, or a work area; or as a result of the requirements of a change to the Plan.

**ARTICLE 7 — RECRUITMENT AND SELECTION FOR CAREER POSITIONS**

### ***Section 7.1 — Recruitment Rules***

The Authority shall be responsible for formulating and adopting recruitment rules for the position classes covered by the Career Service Classification Plan, which aim to attract and retain the most suitable human resources. The recruitment rules will establish the minimum requirements, as contained in the class specifications with the designed alternative experience requirements. The requirements will be directly related to the duties of the positions. The requirements shall take into account the information available about the labor market and human resources. The rules will establish the class or classes of examinations and the class of competition that are appropriate in each case. The class of competition is the scope or coverage of the recruitment and selection process and it is open to the public. The rules will be revised as needed to keep them up to date in line with the labor market.

### ***Section 7.2 — Competition-based Recruitment***

The Authority shall provide equal opportunity to compete for career positions to any qualified individual who is interested in joining in the responsibilities of AAFAF based on his/her qualifications in terms of academic, professional and work achievements, knowledge, capacity, skills, abilities and work ethics. That competition is based on merit without discrimination under applicable law, including discrimination based on race, color, sex, birth, social origin or status, marriage, political or religious beliefs, age, sexual orientation, gender identity, perceived status as a domestic violence, sexual assault or stalking victim, veteran status, or physical or mental disability.

### **Section 7.3 — General Conditions**

Any person who enters the public service in the Authority shall meet the general conditions for entering public service stated below:

1. Be a United States citizen or a legal alien authorized to work pursuant to the applicable legislation;
2. Be physically and mentally fit to perform the essential duties of the position, with or without reasonable accommodation;
3. Comply with the applicable provisions of the 2011 Internal Revenue Code of Puerto Rico, as amended, concerning the filing of income tax returns for four (4) years preceding the employment application;
4. Have not been found guilty of dishonorable conduct;
5. Have not been convicted of a felony or of any crime involving moral turpitude;
6. Not make use of controlled substances unlawfully;
7. Not being a habitual and excessive user of alcoholic beverages;
8. Have not been removed from public service or convicted of the felonies or misdemeanors listed in Section 6.8(3) of Act 8-2017 within the jurisdiction of Puerto Rico, the federal jurisdiction or any of the states of the United States of America.
9. Have not furnished or attempt to furnish information in the employment application or examination with the intent to deceive or defraud.

The conditions identified in paragraphs (4) through (8) shall not apply when the candidate has been habilitated by the Department of Labor and Human Resources to hold a position in the public service.

In addition, in order to be eligible for employment with the Authority, the candidate must comply with Article 30 of Law No. 5 of December 30, 1986, as amended, known as the "Child Support Administration Organic Act" , which establishes as a condition of employment, that a person obliged to pay child support must be up to date in his/her payments or that he/she execute and comply with a payment plan.

**Section 7.4 — Call for Examination/Job Posting**

1. The call for examination is the public document that announces the start of a recruitment and selection process for a certain class and invites qualified people to apply. The call for examination must include the recruitment rules as well as the following information: title of the position class, minimum education and experience requirements, nature of the examination and/or criteria for evaluation or order of names in the Register of Eligibles, probationary period, salary scale, deadline for submitting applications, class of competition and nature of the work.
2. The call must also contain procedural information regarding how, where and when to apply. The call must include without limitation: the place where the application can be submitted (physical and postal address) and deadline for applying, documentation to be submitted with the application, requirements on certifications of experience, requirement of citizenship or authorization to work and documentation related to the claim of preferences. The call must

indicate the date of issuance and be signed by the person in charge of Human Resources.

3. The recruitment and selection process will be continuous or closed. The classes of positions with a continuous recruitment process will be determined and the times in which the examinations will be offered will be well planned. When it is deemed that there are sufficient candidates available to cover the needs for service, a notice on the closing of the calls will be issued. In cases where the deadline for accepting additional applications has expired, the above term may be extended at any time, provided that the principle of equal opportunities and competition is not violated. When the job posting provides specific dates to turn in the applications, the following rules will apply:
  - a. The job posting must be published not less than ten (10) working days before the deadline for application, including in, but not limited to, the government's website.
  - b. The public notice for each examination must state the period during which applications for admission are to be accepted. Any application submitted after the established period may not be accepted.
  - c. In the event that the number of applications received is insufficient, the application submission period may be extended or the job posting may be amended or cancelled.

### **Section 7.5 — Public Notice of Employment Opportunities**

1. Employment opportunities must be released through the most appropriate means of communication in each case in order to attract and recruit the best possible candidates into the public service through free competition. Job Postings will be published on the government's website, on the Authority's website and through the most appropriate means of communication in each case, so that they can reach interested parties. Job postings must also be sent to the Government of Puerto Rico Human Resources Administration and Transformation Office ("OATRH").
2. The diversity of media or the specific one used for publication and the timeframe to receive applications will be subject to criteria such as the following: degree of specialization of the class, employment market, number of positions to be filled, geographical area of opportunity and class of competition. Appropriate media will include, but are not limited to, the following: radio, television, daily press, professional publications and magazines, communications with professional, labor, civic, and educational organizations, official interagency communications, bulletin boards, and other media that may reasonably reach potential candidates.
3. The Authority shall send, to the OATRH, notice of the recruitment and selection announcements, as well as promotion and training opportunities, including a copy of these notices together with all the information related to the corresponding requirements, duties, remuneration and other aspects, to be

published in the Central Job Posting Register for Recruitment, Promotion and Training in the Public Service, and the electronic version on the website.

4. Any time extension to accept applications or notice of amendment or cancellation of a call must be published in the same form and manner as the original job posting.

**Section 7.6 — Application Processing**

1. The Authority shall design and adopt the Application for Examination or Application for Employment form that allows obtaining the information necessary to process applications.
2. Applications received in answer to the public notices must be reviewed to determine which ones should be accepted or denied.
3. Applications will be denied for any of the following reasons:
  - a. Late submission;
  - b. Failure to meet the minimum requirements to hold office;
  - c. Applicant is not a United States citizen or legal alien authorized to work;
  - d. Applicant is physically and mentally incapacitated to perform the essential duties of the position;
  - e. Applicant has been found guilty of dishonorable conduct;
  - f. Applicant has been convicted of a felony or any crime involving moral turpitude;

- g. Applicant is an addict to the habitual and excessive use of alcoholic beverages;
- h. Applicant has been removed from public service or convicted of the felonies or misdemeanors listed in Section 6.8(3) of Act 8-2017 within the jurisdiction of Puerto Rico, the federal jurisdiction or any of the states of the United States of America and has not been habilitated by the Secretary of the Department of Labor and Human Resources.
- i. Applicant has furnished or attempted to furnish information in the employment application or examination with the intent to deceive or commit fraud:
- j. Applicant has not complied with the applicable provisions of the Internal Revenue Code of Puerto Rico, as amended, concerning the filing of income tax returns, the Debt or No Debt Certificate issued by the Department of the Treasury, the CRIM, and the Child Support Administration (“ASUME”, by its Spanish acronym);

The reasons identified in paragraphs (e) through (h) will be used to deny applications only when the candidate has not been habilitated by the Department of Labor and Human Resources.

Any candidate whose application is denied will be notified in writing of such action and informed of the reason for the denial. If the applicant understands that there was an error, he/she may request a review from the person in charge of Human Resources within fifteen (15) calendar days from the mailing date of the notice of the outcome.

### **Section 7.7 — Examinations**

1. The recruitment of personnel for career service in the Authority must be carried out through a process whereby applicants compete on equal terms and without discrimination for reasons other than merit, through examinations for each position class, which may consist of written, oral, physical, performance examinations, experience and education evaluations, supervisor evaluations, academic GPA, bar or professional exam scores, analysis of work outcomes and training results, or preferably a combination of these. The evaluation may be supplemented with other classes of exams.
2. The examinations must measure the person's capacity, aptitude and ability to perform the duties of each position class and must be developed with a reasonable focus on the essential duties and responsibilities of the position class.
3. All qualified candidates must be summoned to the in-person examinations, informing them of the date, time and place at which they must appear to take their examination. Candidates who request a reasonable accommodation to take the examination, due to a voluntarily admitted physical or mental impediment, will be offered such accommodation that is not burdensome to the Authority. Anyone who attends the examination must show a photo ID. Admission to the exam may be denied if the candidate does not arrive at the scheduled time.
4. To be eligible, every person appointed must obtain at least the minimum score established for each examination.
5. Every Veteran, as this term is defined in the Puerto Rican Veteran's Bill of Rights, will be awarded ten (10) points or ten percent (10%), whichever is greater, after passing the exam established for the class, whether for entry or promotion,

provided that they prove their veteran status. In the event of the veteran's demise, their score will be awarded to the surviving spouse if he/she has not remarried, as well as to the veteran's minor children and those of legal age who are incapacitated in accordance with the Puerto Rican Veteran's Bill of Rights.

6. In compliance with the provisions of Article 3 (a) of Act 81-1996, as amended, "Equal Employment Opportunities for Persons with Disabilities Act", five (5) points or five percent (5%) will be added after passing the exam, whether for entry or promotion, provided that the person requests it and proves their disability.
7. In compliance with the provisions of Act 1-2004, "Act on Employment Examinations or Tests for Persons Receiving Government Economic Assistance", five (5) points or five percent (5%) will be added to the score obtained by any candidate participating in government economic assistance programs.
8. Persons who have taken the examination will receive their score information. They will be advised of their right to request a review of the examination result within fifteen (15) calendar days from the mailing date of the examination result. In the event that the examination review changes the candidate's score or turn, the corresponding adjustment will be made, but any appointment made will not be affected.
9. The revision of the multiple-choice written examinations will consist of scoring the examination in the presence of the candidate, using a special key. In the other cases, the scoring or examination process will be explained to the candidate .

10. Examinations may be cancelled if applicants do not meet the requirements or have furnished or attempted to furnish information with the intent to deceive or commit fraud.

**Section 7.8 — Register of Eligibles**

The registers of persons eligible for the position classes must be established in accordance with the following provisions:

1. The names of the people who pass the examinations must be arranged in descending order of examination scores and, thus arranged, they make up the register of eligibles for the position class.
2. If there are tie scores, the order may be determined by taking into account one (1) or more of the following factors:
  - a. general or specialized education; in addition to the minimum requirements;
  - b. experience related to the position class;
  - c. grade point average in academic or specialized education, and
  - d. submission date of the application.
3. The names of persons listed on the registers of eligible must be removed for any of the following reasons:
  - a. appointment of the eligible person to a regular position by certification of the register established for the class of position to which he/she was appointed;
  - b. when the eligible person declines an appointment that is offered under the conditions previously stipulated or accepted by him/her;

- c. when it is determined that the eligible person submitted the application for examination late;
- d. when it is determined that the eligible person does not meet the minimum requirements established for the class of position;
- e. failing to attend a selection interview without providing a justified reason;
- f. failure to submit the evidence required about the minimum requirements, or submitting evidence indicating that they do not meet the minimum requirements;
- g. failure to appear for the oath after five (5) consecutive working days from the date of acceptance of a final employment offer, unless the Authority grants the eligible person additional time to take the oath of office and take hold of the position;
- h. notification by the postal authorities as to the impossibility of locating the eligible person;
- i. the eligible person has been convicted of any felony or misdemeanor involving moral turpitude or breach of official duty, in accordance with applicable law, or engaged in dishonorable conduct;
- j. twelve (12) months have passed since the eligible person was included in the register;
- k. the Authority has official knowledge that the eligible person is habitually and excessively using alcoholic beverages or using controlled substances, or has tested positive for controlled substances or alcohol;

- l. the eligible person provided false testimony about any specific fact in connection with their application for employment or examination;
  - m. the eligible person has attempted to or has deceived or committed fraud in the employment application or examination, or in securing eligibility or appointment;
  - n. the eligible person has been declared incapacitated to perform the basic or essential duties of the position by any court or administrative body with competent jurisdiction;
  - o. the eligible person has been removed from public service for cause that disqualifies him;
  - p. The eligible person's demise.
4. When a determination is made to remove a candidate from a register of eligible candidates for any of the reasons indicated in the preceding paragraph, he/she must be notified in writing and advised of their right to request a review of that determination within fifteen (15) calendar days of the notification. If the candidate demonstrates that removing their name from the register of eligible candidates is a mistaken action, their name will be kept in the register in the pertinent turn. If the determination to remove the candidate's name from the register prevails, he/she will be notified of their right to request review.
5. The registers of eligibles will be established for the term warranted by their usefulness and effectiveness in meeting the needs for service. Registers may be cancelled in the following circumstances:

- a. when it is considered that new candidates should be attracted by introducing a new competition or different requirements;
  - b. when the position class for which the register was established has been eliminated;
  - c. when it has been found that some form of general fraud took place before or during the administration of the examinations;
  - d. when a new general position classification plan is established, or when an occupational series or group is changed;
  - e. when eligible persons included in the register exhibit a consistent pattern of not appearing or not accepting offers of employment made to them;
  - f. when the position for which the register was created is filled.
6. Eligible persons will be notified in writing when the registers are cancelled and/or the position is filled. The Authority shall establish the following special registers:
- a. Register of former pensioners who recover from their disability
  - b. Register of scholarship recipients

**Section 7.9 — Certification and Selection**

As a general rule, regular vacant positions in the career service are filled by the certification and selection of candidates in the registers of eligible candidates in accordance with the following provisions:

1. Certifications will be issued to fill vacancies in the order in which personnel applications are received. The eligible candidates included in each certification will be the first ten (10) candidates who appear in the register willing to accept appointment under the stipulated conditions. When the registry has less than ten (10) candidates, the available candidates will be certified.
2. When the Certification of Eligible Candidates is meant to fill more than one position, ten (10) candidates will be certified for each vacant position. In these cases, at least one (1) of the first ten (10) candidates evaluated and available for employment will be selected.
3. The name of an eligible person who appears in registers for different classes may be certified simultaneously for vacancies in those classes.
4. The selection of candidates for appointment will be made within not more than fifteen (15) working days from the date the certification of eligible candidates is sent. This term may be extended for not more than ten (10) additional working days in extraordinary circumstances. However, after the initial fifteen (15) days, the same candidates may be included in other certifications.
5. In a level playing field, preference must be given to veterans in accordance with the provisions of the Puerto Rican Veteran's Bill of Rights.
6. When a candidate has been included in more than one (1) certification of eligible candidates for the same class of position and is selected by more than one work unit, his/her appointment must be prioritized in the unit that has the greatest need for service.

7. In cases in which a selection cannot be made, because one or more of the candidates in the certification does not attend the interview or is unwilling to accept an appointment, candidates may be added to the original certification to bring the total to ten (10) eligible candidates.
8. The person in charge of Human Resources may authorize selective certifications when the special qualifications of the position so require.
9. Certified candidates who are not selected will receive notice thereof.

***Section 7.10 — Verification of Requirements, Pre-Employment Screening for Controlled Substances, Medical Examination, and Oath of Allegiance***

1. It must be verified, at the time of appointment or authorization of the pertinent change, that the selected candidates meet the requirements of education, experience, licenses, bar or association memberships, citizenship and other requirements established for the position class in which they will be appointed, before the appointment is issued or the corresponding change is authorized. Failure to submit the required evidence or failure to meet the minimum requirements based on the evidence submitted will be grounds for cancellation of any candidate selection.
2. All shortlisted candidates for employment must undergo a pre-employment screening for controlled substances as set forth in the Regulations of the Program for the Detection of Controlled Substances; a positive result leads to the cancellation of the selection.

3. Individuals shortlisted for appointment may be subject to an investigation to substantiate their character, reputation, habits and behavior in the community, as well as their education, employment, credit and tax history, and their criminal records.
4. Any person who is to be appointed to enter into the public service will be required to submit their birth certificate or, in its absence, an equivalent legally valid document.
5. The Employment Eligibility Verification Form (Form – I-9) must be completed prior to swearing-in and taking office or employment pursuant to the Federal Immigration Reform and Control Act of 1986 ("IRCA") (Public Law No. 99-603).
6. For every person who is extended an appointment to enter into the public service, the Authority must provide as a requirement for employment, the Oath of Allegiance and of Office required by Law No. 14 of July 24, 1952, as amended, "Law of the Office of the Comptroller of the Commonwealth of Puerto Rico".

#### ***Section 7.11 — Probationary Work Period***

The probationary period constitutes the last part of the recruitment, selection and examination process.

1. Any person appointed or promoted to a regular career position or transferred or demoted to another class will be subject to the probationary period established for the position class, unless otherwise expressly provided. Upon satisfactory completion of the probationary period, the employee will become a regular career employee.

2. The performance of the probationary employee will be evaluated on an ongoing basis using the criteria of productivity, efficiency and compliance with the order and discipline standards. It will be the responsibility of the supervisor to train and guide the employee, to implement the evaluations, discuss them with the employee and take any appropriate action. To this end, supervisors shall use the official probationary period evaluation forms. Employees must demonstrate their ability to satisfactorily perform the duties of the position. In addition, they must observe the conduct that is expected of a public servant to be entitled to the regular career employee status.
3. It is the responsibility of the immediate supervisor to provide guidance to the probationary employee on:
  - a. The essential and marginal duties and responsibilities of the position;
  - b. the degree of authority and supervision of the position;
  - c. The actions that may be taken due to the faults committed in the performance of their duties;
  - d. the productivity and efficiency criteria that must be achieved;
  - e. the manner and frequency with which their work will be evaluated.
4. The Human Resources Department shall provide guidance to the probationary employee on:
  - a. The programs and organization of the Authority.

- b. The duties and obligations of employees as set forth in these Regulations, Law No.1 of January 3, 2012, as amended, the Puerto Rico Government Ethics Office Organic Act, and any internal rules of conduct that contain the rules applicable to public employees.
5. The probationary period will cover a full cycle of the duties of the position and will last six (6) months. In extraordinary situations, with the prior approval of the Executive Director, the probationary period may be extended for up to half of the original probationary period. Absences of more than five (5) consecutive working days will have the effect of extending the probationary period for the same number of days. Any employees who had a promotion or transfer that involved the imposition of a probationary period is excluded from this rule, provided that these days are in the vacation plan.
6. A minimum of two (2) evaluations will be completed during the probationary period. If the supervisor observes that the employee does not attain the expected level in some of the evaluation criteria, he/she shall immediately inform the employee of the performance or behavior observed. The supervisor shall provide guidance to the employee on the changes needed to meet the above criteria.
7. The final evaluation of probationary employees will be made at least ten (10) days prior to the expiration date of the probationary period
8. Any regular employee may be removed from their position during the probationary period when it is considered that their service, habits or attitudes do not warrant granting them a regular appointment. A career employee who does

not pass the probationary period for a new position for reasons other than their habits or attitudes and who immediately prior to that position held a career position in the Authority will be entitled to be reinstated in a position equal or similar to that which they held with regular status. In those cases in which said employee does not pass the probationary period due to their habits, attitudes and/or deviations from the rules of conduct, the Authority may initiate the corresponding disciplinary process with respect to their previous career position.

9. The Evaluation Procedure has the following exceptions:

- a. When an employee is transferred, promoted, or moved to another unit or when their supervisor changes, the evaluator will complete a partial or final evaluation, as appropriate to the stage of the cycle the employee is in at the time of the change. The evaluation must be discussed with the employee.
- b. In cases in which the supervisor changes work units or terminates their employment with the Authority, it is the supervisor's responsibility to complete and discuss the evaluation of the personnel in their charge prior to leaving the work unit. If they fail to do so, the reviewer will be responsible for the evaluation.
- c. In the above situations, the Human Resources Department will consolidate the evaluations and notify the employee.
- d. In the event that the employee has not been evaluated at the end of the probationary period and the supervisor and reviewer are not with the Authority, the Human Resources Department will be responsible for evaluating the employee.

10. If the appointee was satisfactorily performing the duties of the position through a temporary appointment, the period of service rendered may be credited to their probationary period. The immediate supervisor must request accreditation. An evaluation of the services rendered that are to be accredited will also be required. The final decision on the accreditation will be made by the Human Resources Department. Only services rendered in positions of the same class whose duties are the same as those of the position that the employee will hold may be accredited.
11. If the person appointed is satisfactorily performing the duties of the position on an interim basis, the period of service rendered may be credited to the probationary period as follows:
  - a. The employee must have been officially appointed to perform the duties of the position;
  - b. The employee has performed all the regular duties of the position throughout the period that is to be accredited;
  - c. At the time of appointment, the employee meets the minimum requirements of the position and he/she holds a position in the career service.
12. If for any just cause an employee's probationary period is interrupted for not more than one (1) year, the employee may be credited with the portion of the probationary period that they performed prior to the interruption. Just cause

includes, but is not limited to, some type of leave granted, temporary layoff, and promotion, transfer or demotion.

13. The probationary period in cases of Transfers and Demotions will be governed by the following:

- a. When the transfer is to a position in the same class, the status of the employees will remain unchanged. They will only be subject to a new probationary period when they move to a position in another class. In order to respond to the needs for service, the person in charge of Human Resources may waive this requirement provided that the probationary period has been completed in the original position. If the employee has not completed the probationary period, he/she may be credited with the time worked.
- b. In cases of demotions due to the needs for service, completing the probationary period will not be required. In all other cases of demotion, the person in charge of Human Resources shall determine whether the employee will be subject to the probationary period. In exercising such discretion, consideration must be given to, among others, factors such as: position classes with regular status previously held by the employee, the period of such service, the evaluations made on the efficiency and productivity, order and discipline of the employees.

14. No employee may acquire regular status only by the passage of time if the evaluation is not processed within the required time. In such cases, the Authority shall take appropriate action when it becomes aware of the situation.
15. Any employee may be removed from their position during or at the end of the probationary period, if it is determined that their progress and adaptability to the Authority's standards have not been satisfactory. Separation must be executed through an official communication signed by the Executive Director, or his/her authorized representative, delivered together with the last evaluation.
16. Any employee who satisfactorily passes the probationary period will go on to hold the position with a regular status. The change will be processed at the end of the probationary period and notice will be given to the employee together with the final evaluation.
17. In cases in which for justified reasons, such as leaves of absence or promotions, the probationary period is interrupted for a period not exceeding one year, when the employee is reinstated in the probationary position, the part that they served before the interruption may be credited. In those cases in which employees under a probationary employment contract take special leave by virtue of a law that requires the reservation of employment, once they have used that special leave, they will continue their probationary period consecutively for the time that would remain until the end of the probationary period assigned to the position. However, in the event the newly hired employee exceeds the term contemplated in the special leave without having requested reinstatement or

without being reinstated in his/her position in accordance with the provisions of the Law, the Authority may terminate their employment.

**Section 7.12 — Provisional Appointments**

Any appointment to any position created for a fixed term will be a provisional appointment.

1. Appointments to regular positions will also be provisional in the following circumstances:
  - a. The person holding the position is enjoying some type of unpaid leave;
  - b. There is an emergency in the provision of services that makes it impossible or inconvenient to certify candidates from a register of eligible candidates, in which case the appointment may not exceed six (6) months. After that period, if the Executive Director deems that the conditions that gave rise to the original appointment remain, he/she may extend the appointment for an additional six (6-)month term;
  - c. there is no adequate register of eligible candidates for a position that requires some type of license and the candidate that is to be appointed has a provisional license;
  - d. the person holding the position has been removed and has appealed this action to the Examining Officer;
  - e. the person holding the position has been suspended without pay for a certain period of time;

- f. the person holding the position goes on to hold another position through provisional appointment with the right to return to their previous position;
- g. due to the needs for service, it is essential to fill a position reserved for a scholarship recipient, in which case the provisional appointment will be extended for the duration of the scholarship;
- h. the person holding the regular career position goes on to hold a position in the trust service.

2. Provisional appointments may be made in the trust service.

3. Persons to be recruited in provisional positions will be subject to an evaluation to determine whether they meet the minimum requirements of the position and the conditions to enter into the public service.

***Section 7.13 - Recruitment and Personnel Actions Relating to Relatives***

The Authority may not authorize any selection, appointment or any other personnel action (promotions, transfers, demotions, acting appointments and others) when the work to be performed by the person places him/her in an employee-supervisor relationship or vice versa with another employee of the Authority with whom he/she is related within the fourth degree of consanguinity or second degree of affinity. In those cases in which the employees of the Authority become relatives within the aforementioned degrees and they are in an employee-supervisor relationship or vice versa on account of their jobs, the Authority must transfer one of the two employees.

## ARTICLE 8 — PROMOTIONS, TRANSFERS AND DEMOTIONS OF CAREER EMPLOYEES

### ***Section 8.1 — General Rules***

Career employees must meet the minimum requirements and pass the examination established for the class of position to which they are promoted, transferred, or demoted. In the case of a transfer or demotion due to the needs for service, the in-person examination may be dispensed with. When an employee is moved within the Authority, the basic remuneration of the position will be used to determine whether the action constitutes a promotion, a transfer or a demotion. When the mobility of an employee to the Authority is from a Municipality, Individual Administrator, Agency, Public Corporation, and Executive Branch dependencies, the Human Resources Department of the Authority shall perform and/or review the corresponding equivalence analysis and the actions that must be taken in connection therewith (e.g., new probationary period).

### ***Section 8.2 — Promotions***

The purpose of promotions is to provide advancement opportunities to career employees of the Authority who demonstrate ability in the performance of their duties, commitment to goals and objectives, and who adhere to the rules of order and discipline. The promotions of career employees will be governed by the following rules:

1. The Authority shall determine the position classes that must be filled by promoting Authority employees. Such determination must be based on the nature and specialization of the duties of the position classes and the specific needs of the Authority. In these classes, the recruitment and selection processes will be limited to employees of the Authority.

2. Employees in career positions can be promoted through written, oral or physical tests, performance exams or education and experience evaluations. The results of performance evaluations, the analysis of the employee's file and training related to the position to which he/she would be promoted may also be considered.
3. As a general rule, career employees are promoted through competition processes and examinations, so that all duly qualified candidates can compete. Promotion opportunities will be announced on the Authority's website and in the Central Job Posting Register, for which the OATRH will be notified. The effective date of promotions conducted through certification of eligible candidates will always be after the date of issuance of the certification.
4. In any case of promotion, it will be verified and certified that the candidate selected for promotion meets the minimum requirements and passed the exam to fill the position. The most recent call for examination or, in its place, the current recruitment rules will be used for this verification. In the absence of both, the class specification will be used.

### **Section 8.3 — Transfers**

Transfers will be used as a mechanism to place employees in positions where they will contribute their efforts to achieve the objectives of the Authority.

1. The transfer can take place due to the needs for service or at the request of the employee, in situations such as the following:
  - a. When there is a need for additional human resources, to implement new duties or programs, or expand the existing programs;

- b. when duties or programs are eliminated as a result of reorganizations;
  - c. when, in the process of decreeing layoffs, it becomes necessary to relocate employees;
  - d. when it is determined that an employee's services can be used more effectively in another unit because of their special knowledge, experience, skills or qualifications, especially in cases resulting from their participation in training and development activities;
  - e. when it is determined to rotate personnel to train them in other areas;
  - f. when necessary to comply with the provisions of Section 7.13 hereof regarding personnel actions relating to relatives;
  - g. for any other service need.
2. Authority employees may be transferred within the same administrative unit or between administrative units. In addition, employees may be transferred between the Authority and Municipalities, Individual Administrators, Agencies, Public Corporations, and other dependencies of the Executive Branch, and vice versa in accordance with the regulations issued by the OATRH.
3. Transfers will be governed by the following rules:
- a. Transfers must not be used as a disciplinary measure or be arbitrary or a burden for the employee.
  - b. The transfers will meet the needs for service and aspects, such as those provided below:

- i. Nature of the duties of the position to which the employee will be transferred.
  - ii. Knowledge, special skills, abilities, and experience that are required to perform the duties.
- c. When the transfer is to a position in another class, the employee must meet the requirements for the position to which he/she will be transferred.
- d. When the transfer is to a position in another class, the employee must pass the appropriate examination for the class and will be subject to the probationary period. When the transfer responds to the needs for service, the probationary period may be waived.
- e. Any case of interagency transfer due to service needs requires the consent of the agency from which the employee is being transferred.
- f. The transfer must be notified in writing. As a general rule, a transfer due to service needs will be notified thirty (30) days in advance. In unforeseen or emergency circumstances, the term may be omitted.
- g. In cases of transfer due to mobility of employees of the Authority, pursuant to Section 6.4.4 of Act 8-2017, the employee must be advised of their right to appeal to the examining officer within thirty (30) days from the date of notification of the transfer decision if they believe that the transfer violated their rights. The appeal will not have the effect of stopping the Authority's action.

## **Section 8.4 — Demotions**

1. An employee may be demoted in the following cases:
  - a. At the employee's request
  - b. when due to lack of funds or work the position held by an employee must be eliminated, the employee cannot be placed in a position similar to the one they previously held and they accept in writing a lower paid position. If the employee does not accept the demotion, they may be laid off and advised of their right to appeal to the Examining Officer within thirty (30) days from the notification of the decision of the Authority decreeing their dismissal.
2. Demotions will be governed by the following rules:
  - a. Employees who have been demoted must meet the minimum requirements of the position class to which they are demoted;
  - b. Any employee who is demoted must receive a thirty (30-)day written notice of the conditions of the demotion, including the class title, status, and salary that they will earn in the new position;
  - c. In any case of a demotion upon request, the employee shall express their agreement in writing and the demotion may take effect immediately or in a shorter period than that provided in the previous paragraph;
  - d. Demoted employees will not be subject to the probationary period.

### **Section 8.5 — Internal Administrative Details**

The Authority may administratively assign career employees, due to service needs or as a precautionary measure, to the different units or dependencies of the Authority, subject to the following rules:

- a. as a general rule, the assignment will be notified to the employee, in writing;
- b. the administrative assignment must not be a burden to the employee;
- c. As a general rule, the assignment will not exceed twelve (12) months. This term is directive and not absolute. The decisive factor in the duration of the detail assignment must be its reasonableness.

In the case of precautionary measures, the movement of personnel seeks to preserve a healthy and safe work environment for employees and the optimal provision of services, and does not constitute a final adjudication of any action or claim.

## **ARTICLE 9 — PROFESSIONAL TRAINING AND DEVELOPMENT**

The Authority offers training and development as essential programs aimed at strengthening the skills of its employees and adding value to the management of AAFAF as fiscal agent of Puerto Rico.

### **Section 9.1 — Training and Development**

The Authority will conduct an inventory of the training and development needs of the career personnel of AAFAF. In consideration of the personnel training needs that are identified, AAFAF will develop and implement a Three-Year Training and Development Plan. The Plan must include various training methods, such as scholarships, paid or

unpaid leave for studies, seminars or short-term courses, payment of tuition, internships and personnel exchanges abroad, and training trips abroad. The Plan must prioritize the short- and long-term needs of the Authority. It must also include its cost projection.

### ***Section 9.2 — Study Scholarships and Leaves***

The Authority may grant scholarships and paid and unpaid leaves for the purpose of meeting needs in special areas where there is a shortage of human resources or training personnel to meet the needs of AAFAF. The Authority shall adopt rules for granting scholarships and paid leave, and for establishing the obligation of the beneficiary to render services to the Authority after completing the studies for which the scholarship or paid leave was granted.

### ***Section 9.3 — Training***

1. Training will be authorized to employees for a term of not more than six (6) months for the purpose of receiving practical or technical training, or to pursue academic studies that prepare them to better perform the duties corresponding to their positions. Conventions and assemblies may be considered short-term training.
2. When an employee is authorized to participate in training under Section 9.3.1, he/she will be granted paid leave provided that a legal agreement is signed establishing that the employee must provide services for a period equal to twice the time it takes him/her to complete the training and the employee's duty to return the paid leave in the event he/she breaches said agreement. The Executive Director is empowered to authorize employees to travel abroad for the

purpose of participating in training activities subject to the regulations governing the travel of public employees abroad. Within fifteen (15) days of their return from the training facility, the employee shall submit to the Director of the Office of Administrative Affairs a complete report on the expenses they incurred, if any, and shall also submit to the Executive Director a narrative report on the training activity, including an evaluation of the content thereof and its application to the Authority. They will also submit a copy of the certificate or official document certifying their participation.

3. The employee shall be responsible for attending such trainings as authorized and paid for by the Authority. If, for reasons beyond the control of the Authority, the employee does not attend the training, he/she must return the amount paid for the cost of the training. The Executive Director may exempt the employee if he/she corroborates that there was a reasonable justification for the absence.

#### ***Section 9.4 — Other Training Activities***

The Authority shall organize and develop courses, workshops, seminars and career personnel exchanges intended to expand professional or technical experience, as well as other training activities for personnel in the service, in order to meet the specific needs of the Authority.

#### ***Section 9.5 — Training Histories and Reports***

1. History in employee files

The Authority shall maintain, in the file of each employee or in a separate file, a history of their participation in training, which may be used for reference when making decisions about promotions, transfers, work assignments, evaluations

and other personnel actions. The employee's training history may include evidence of participation in any recognized educational activity on their own initiative.

## 2. History of Activities

The Authority shall maintain records of training activities, training activity evaluations, and participating employees and resources for the purpose of evaluating the pertinent training and development programs.

## 3. Reports

The Authority shall prepare an annual report on the training activities conducted during the fiscal year. The report must contain the necessary information on the volume and types of training offered, the expenses incurred in training and the number of participating employees for the purpose of measuring the overall training and development activity of personnel in the Authority.

For the purpose of measuring the overall training and development activity of personnel in the public service, the Authority shall keep up to date the reports requested by the OATRHS on the training needs.

## ARTICLE 10 — RETENTION IN CAREER SERVICE

### **Section 10.1 — Job Security**

Career employees with regular status have job security as long as they meet the criteria of productivity, efficiency, habits, attitudes, order, and discipline that must prevail in the Authority. The above criteria are based, among other factors, on the duties of the positions and the minimum required duties and obligations are established in the

Authority's Manual of Disciplinary Procedure and General Labor Regulations, the Ethical Conduct Policy and Act 1-2011, as amended, known as the "Puerto Rico Government Ethics Act" and any other regulations established by the Office of Government Ethics. Employees must also file an income tax return with the Department of Treasury as part of the income and retention requirement. Employees are advised that failure to comply with any of the above may result in the imposition of disciplinary measures, including dismissal.

***Section 10.2 — Evaluation of Employees in Career Positions***

The Authority shall establish a performance evaluation system that is appropriate to its operational needs. The system will measure the work carried out by employees to determine their compliance with the criteria of productivity, performance, and effective compliance with the behaviors, attitudes, order, and discipline that must prevail in the Authority. The system will be developed taking into consideration the duties of the positions and the minimum essential obligations required of public employees. Evaluation systems must be established as may be necessary for the following purposes:

1. to evaluate the employee's work during the probationary period;
2. to provide employees with guidance on how to perform their work in order for the work to be considered effective;
3. to recognize highly commendable work;
4. to determine personnel development and training needs;
5. to determine eligibility for merit-based pay raises;

6. as part of the promotion exams;
7. to determine the correlative order of layoffs and priority for reemployment of employees laid off through the elimination of positions due to lack of funds or work;
8. to determine the relocation of employees to use their knowledge, skills, abilities and potential; and
9. to evaluate the work of employees with regular status.

In establishing evaluation systems, the following general rules must be observed:

1. training and information on the evaluation systems to be established will be provided to supervisors and employees;
2. every supervisor, together with their employee, shall consider the results of the evaluations; and
3. Internal review mechanisms will be established to ensure the greatest objectivity in the employee evaluation process.

### ***Section 10.3 — Corrective and Disciplinary Actions***

The rules of conduct for employees and the disciplinary actions applicable in the event of violation thereof are set out in the Authority's Manual of Disciplinary Procedure and General Labor Regulations and the Ethics Policy. Employees will be informed of the above regulations upon taking hold of their positions.

The Authority shall take the necessary corrective action when an employee's conduct does not conform to the established rules. Among other measures, verbal reprimand,

written reprimand, suspension without pay with a correction plan, and dismissal may be considered in accordance with the disciplinary procedure established in the Authority's Manual of Disciplinary Procedure and General Labor Regulations. Depending on the seriousness of the offense, steps may be omitted as established in the above manual and a suspension without pay with a correction plan or a dismissal may be implemented, even if it is a first violation.

When there is a possibility of imposing a disciplinary action against an employee, the sanction of which could result in suspension without pay or dismissal, the following procedure must be followed: as a general rule, an investigation must be conducted and it must be determined whether any disciplinary action should be taken. If such disciplinary action were taken, the employee must be notified in writing of the charges against him/her and of the intention to take the action. The Executive Director, prior to the suspension of employment without pay, shall notify the employee of the charges and the date the informal hearing will be held within ten (10) days after the notice of charges has been issued. Upon holding the informal administrative hearing, the Authority shall comply with the following:

- a. Notify the employee of the charges
- b. opportunity for the employee to express his/her side of the story

Once the hearing has been held or the term to request a hearing has elapsed without the employee requesting it, the Executive Director shall take the appropriate action. In cases in which the disciplinary action is sustained, the Executive Director shall issue charges in writing to the employee and shall advise the employee of their right to appeal to the Board of

Directors and of the deadline to submit their appeal. The appeal will not have the effect of stopping the Authority's action. The Board of Directors shall refer the appeal to an Examining Officer who shall hold a formal evidentiary hearing, as provided in these Regulations.

When the alleged conduct constitutes a real or potential danger to the operations of the Authority, and/or the health, life or morals of the employees or the people in general, the employee may be summarily suspended from employment temporarily with pay and benefits before the preliminary hearing. The investigation must begin immediately once the facts become known and, as a general rule, must be completed as soon as possible. Once the investigation is completed, charges will be brought against the employee and they must be advised of their right to an informal administrative hearing.

The Executive Director may delegate, to the Human Resources Officer, the imposition of disciplinary measures in the form of verbal reprimands (confirmed in writing), written reprimands, and suspensions without pay.

#### ***Section 10.4 — Layoffs of Employees in Career Positions***

The Authority may decree layoffs, not to be interpreted as dismissals, due to the elimination of positions as a result of organizational restructurings, lack of work or funds, or when it is determined that an employee is physically or mentally unable to perform the essential duties of the position.

1. Layoffs due to restructurings, lack of work or funds.

In cases of layoffs due to the elimination of positions for a lack of work or funds, the following rules will apply:

- a. The Department of Human Resources shall prepare, for the approval of the Executive Director, a plan to decree layoffs when necessary. The layoff plan must contain the method through which the Authority will decree the layoffs.
- b. As part of the method adopted, consideration may be given to dividing the Authority by programs and units to identify and define the areas in which layoffs will take place. The method adopted must be informed to the employees for their knowledge.
- c. In deciding how to divide the Authority for the purposes of decreeing layoffs the following factors, among others, must be considered:
  - i. Number of Authority employees that make it impracticable or unreasonable to consider the agency as a whole.
  - ii. Programs that provide essential services to the community, if any, which must continue to operate normally.
  - iii. Programs essential to the internal administration of the Authority.
  - iv. Federally funded programs that cannot be used if the program is reduced or eliminated.
  - v. The organizational structure of the Authority.
- d. Prior to decreeing layoffs due to the elimination of positions as a result of restructuring, lack of funds or work, the Authority shall exhaust the resources at its disposal to avoid layoffs. Some of the alternate actions include:

- i. Relocating personnel to positions of the same or similar classification in programs that have not been affected by the personnel reduction.
  - ii. Using the transfer or mobility mechanism.
  - iii. Furloughing in those cases in which layoffs are due to budgetary insufficiency, provided that it is certain that on a certain date there will be sufficient funds to reinstate those employees. In these cases, the order of priority established in the Layoff Plan must be observed.
  - iv. Reducing working hours, which will take place by order of the Executive Director or written request of the employee.
  - v. Relocating personnel to other agencies.
  - vi. As a last resort, demoting the employee at their request or due to the needs for service.
- e. In any of the above alternatives, the order of priority established below must be strictly observed. In cases in which the Authority is divided, because a certain work area will be eliminated, employees with more seniority will displace others with less seniority in the same classification from other areas and remain first in the available positions.
- f. Temporary employees who serve in the Authority will be separated first, probationary employees will be separated in the second place, and regular career employees will be separated last.

- g. Layoffs will be decreed within groups of employees in positions that have the same classification and/or responsibilities.
- h. For the purposes of this subsection, probationary employees who immediately before acquiring that status were regular employees will be considered as regular employees.
- i. This provision has the sole effect of protecting the right of career employees with regular status to be the last to be separated. Under no circumstances does it have the effect of considering temporary employees as employees in the career service or of granting them more rights than those granted to them by these Regulations.
- j. The determination of the order of priority in which layoffs will be decreed within each of the groups of employees listed in paragraph 6 above will be made in accordance with the following rules:

  - i. Duty performance must be taken into consideration, so that the least efficient employees are laid off first. In cases of equal efficiency, time in service will be taken into consideration, so that employees with less time in service are laid off.
  - ii. Absent valid information to establish the duty performance, the determining factor will be time in service, so that the person with the most recent appointment in the service will be the first to leave. Seniority will include any service rendered in positions with the Authority.

- k. The Executive Director shall notify in writing any employee to be laid off at least thirty (30) days prior to the effective date of the layoff. The notification shall also inform the employee of his/her right to appeal to the Examining Officer in accordance with Article 15 of these Regulations. No layoff may be effective unless the notification requirement is met in the manner set forth herein.
2. Layoffs may also be decreed in the following situations:
- a. When it is established that there are grounds to assume that the employee is physically or mentally impaired to perform the essential duties of their position, with or without reasonable accommodation. The Authority may require the employee to undergo a medical examination if there is evidence of problems in the performance of duties or security problems, or when so required under other federal laws, to determine their ability to perform the duties of the position, and when medical examinations are required as part of health programs. The following may constitute, among others, reasons or elements of judgment to presume the employee's physical and/or mental impairment to perform the duties of their position: notable drop in productivity, absenteeism marked by illness, irrational behavioral patterns. The Authority shall select the physician and bear the costs. The employee's refusal to undergo the medical examination thus required may be the grounds to presume that they are impaired to perform the essential duties of the position. The employee will be notified of this action and advised of their right to request an informal administrative hearing. If, after the hearing,

it is determined that the employee is not qualified to perform the essential duties of the position, with or without reasonable accommodation, the Authority may decree their layoff, by notifying them in writing of the decision at least thirty (30) days prior to the effective date of the layoff. The notice must advise the employee of their right to appeal to the Examining Officer, as provided in Article 15 of these Regulations.

- b. When the employee is disabled due to a work-related accident and undergoing medical treatment with the State Insurance Fund for a term greater than twelve (12) months as of the date of the accident, pursuant to Section 5-A of Act No. 45 of April 18, 1935, as amended, known as the “Work-Related Accident Compensation Act,” and there is no reasonable accommodation that allows the employee to return to work, or the reasonable accommodation offered has been rejected by the employee, a layoff process will be initiated. The employee will be notified of their right to request an informal administrative hearing. If, after the hearing, it is determined that the layoff is in order, the Authority may decree the employee’s layoff, by notifying them in writing of the decision at least thirty (30) days prior to the effective date of the layoff. The notice must advise the employee of their right to appeal to the Examining Officer, as provided in Article 15 of these Regulations.

**Section 10.5 — Separation of Employees Convicted of Crimes**

Any employee convicted of any felony or misdemeanor involving moral turpitude, or violation of their official duties shall be separated from service pursuant to Article 208

of the Political Code of Puerto Rico. In cases in which an employee has been charged with a felony or misdemeanor involving moral turpitude, corruption, or breach of their official duties, the employee may be summarily suspended without pay while the criminal case is being heard and pending issuance of the judgment. When the convicted employee receives the benefit of a suspended sentence, the Authority will subject the employee to the habilitation process established in Act 8-2017. The employee may not be separated from service until the Secretary of the Department of Labor and Human Resources issues a decision on the habilitation. A negative decision on the habilitation will result in the immediate separation of the employee.

#### ***Section 10.6 — Resignations***

Any career employee may resign from their position freely through written notice given to the Executive Director. This notice must be given at least ten (10) days prior to their last work day. The Executive Director may accept the resignation of an employee if submitted within a shorter term. The Executive Director shall, within the ten (10)-day term in which such resignation has been submitted, give written notice to the employee of whether he/she accepts or refuses the same because there are grounds which warrant an investigation of the conduct of the employee. If there are grounds for investigating the employee's conduct, an investigation will be conducted within the shortest possible time to allow the Executive Director to determine whether to accept the resignation or bring charges. Once the notice of resignation has been submitted, the employee may withdraw it only by mutual agreement with the Executive Director or his/her authorized representative.

**Section 10.7 — Separation During the Probationary Period**

A career employee may be separated from office during or upon completion of their probationary period, when it is determined that their progress and adaptability to the rules in effect have not been satisfactory,

**Section 10.8 — Abandonment of Service**

Any employee who remains absent from work without justification for three (3) or more consecutive days without authorization from their immediate supervisor will commit abandonment of service. Abandonment of service is a serious violation that entails dismissal, even in the case of a first violation.

**Section 10.9 — Separation of Provisional/Temporary Employees**

Temporary employees may be separated from their positions before the expiration of the term of their contract, when their services, habits or attitudes are not satisfactory or when the needs for service no longer exist, subject to filing of charges and holding an informal administrative hearing proceeding with the right to a formal hearing.

**ARTICLE 11 — FRINGE BENEFITS**

Fringe benefits represent an indirect financial remuneration that is perfectly quantifiable and thus provides the employee with additional income, job security and better employment conditions. The Authority is responsible for keeping supervisors and employees informed and guided about fringe benefits and the terms and conditions governing their enjoyment. The administration of fringe benefits must respond to a plan that maintains an adequate balance between the needs for service, the needs of the employee and the optimal use of available resources. In this way, fringe benefits will help establish a work climate conducive to productivity.

### **Section 11.1 — Holidays**

Employees of the Authority will be entitled only to the holidays declared as such by the Governor of Puerto Rico or established by law. The days listed below will be holidays for the employees of the Authority<sup>1</sup>.

| <i>Date</i>                        | <i>Holiday</i>  |
|------------------------------------|---|
| <i>January 1</i>                   | <i>New Year's Day</i>   |
| <i>January 6</i>                   | <i>Three Kings Day or Epiphany</i>  |
| <i>Third Monday of January</i>     | <i>Martin Luther King, Jr. Day</i>  |
| <i>Third Monday of February</i>    | <i>George Washington Day, *Presidents' Day, and Day of Great Puerto Rican Men and Women</i> |
| <i>March 2</i>                     | <i>American Citizenship Day</i>   |
| <i>March 22</i>                    | <i>Emancipation Day</i>   |
| <i>Movable</i>                     | <i>Good Friday</i>  |
| <i>Last Monday of May</i>          | <i>Memorial Day</i>   |
| <i>June 19</i>                     | <i>Juneteenth National Independence Day</i>   |
| <i>July 4</i>                      | <i>Independence Day</i>   |
| <i>July 25</i>                     | <i>Puerto Rico Constitution Day</i>   |
| <i>July 27</i>                     | <i>José Celso Barbosa Day</i>   |
| <i>First Monday of September</i>   | <i>Labor Day</i>  |
| <i>Second Monday of October</i>    | <i>Columbus Day</i>   |
| <i>Movable in November</i>         | <i>General Election Day</i>   |
| <i>November 11</i>                 | <i>Veterans Day</i>   |
| <i>November 19</i>                 | <i>Puerto Rican Culture Day and Puerto Rico Discovery Day</i>                               |
| <i>Fourth Thursday of November</i> | <i>Thanksgiving Day</i>   |
| <i>December 25</i>                 | <i>Christmas Day</i>  |

### **Section 11.2 — Leaves of Absence**

#### **1. Vacation Leave<sup>2</sup>**

Employees will be entitled to accrue and enjoy vacation leave for the number of days established by current laws. The Human Resources Department, in coordination with supervisors and employees, shall devise a Vacation Plan that establishes the period in

<sup>1</sup> In the event that by provision of law any of the holidays listed herein is modified or eliminated as an official holiday of the Government of Puerto Rico, such day will be automatically removed from the list.

<sup>2</sup> In the event that by provision of law the accrual rate for the vacation days established herein is modified, these Regulations will be automatically amended to incorporate such change.

which each employee will enjoy their vacation in consideration of the needs of the Authority. Each Department, Division and Office shall prepare its Plan and submit it to the Department of Human Resources, which shall be responsible for preparing and administering the Annual Vacation Leave Plan ("Plan") of the Authority. The Plan must be established sufficiently in advance so that it is implemented on January 1 of each year. The person in charge of Human Resources, the supervisors and the employees shall be responsible for complying with the Plan.

- a. Employees will accrue 1.25 working days for each month of service. For up to 30 days, of which not less than 10 must be accrued consecutively. Part-time employees or those with reduced work hours will accrue vacation leave proportionately to the number of hours worked.<sup>3</sup>
- b. Vacation leave shall begin to accrue upon completion of a three (3)-month work period and said leave shall be retroactive to the employment commencement date.
- c. Vacation leave may be accrued up to a maximum of sixty (60) workdays at the close of each calendar year, pursuant to Act 26-2017.
- d. Vacation leave shall be taken in accordance with the Authority's Vacation Leave Plan, which shall be structured so that employees do not forfeit their vacation leave at the close of the calendar year. The employee will be

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<sup>3</sup> On December 23, 2022, Act 119-2022 ("Act 119") was signed into law. With respect to the calculation of vacation, Act 119 provides that employees will accrue 2 working days for each month of service. Following its passage, the FOMB has on multiple occasions instructed the Government of Puerto Rico and its instrumentalities (including AAFAF) to refrain from implementing Act 119. In view of the foregoing, these Regulations make reference to the vacation calculation contemplated in Act 26-2017 (i.e., before the passage of Act 119). Any further instructions given by the FOMB with respect to the implementation of Act 119 will be timely notified to the AAFAF personnel and will be included as an amendment to these Regulations.

entitled to take their vacation leave for the period of days established by the laws in force.

- e. Exceptions to the enjoyment of vacation according to the Plan will only be authorized for service needs, upon recommendation of the Area Directors and authorization of the Human Resources Department.
- f. Employees who are unable to enjoy their vacation leave during a specific calendar year due to a need for service evidenced in writing and as required by the Authority shall be exempt from the requirement of using all their vacation days in the year in question (paragraph "c", supra). In this case, the Authority shall make the necessary adjustments so that the employee is able to enjoy at least any leave accrued in excess of the sixty (60)-day limit at the earliest date possible within the first three (3) months of the following calendar year.
- g. The Authority shall provide for the granting of the accrued vacation leave prior to a definite and permanent separation from service, and a transfer to render services at a different public agency or instrumentality.
- h. Typically, no vacation leave shall be granted for a period longer than fifteen (15) workdays per calendar year. However, the Authority may grant vacation leave in excess of fifteen (15) workdays, up to a maximum of fifty (50) days, during any calendar year, to those employees who have accrued said leave. When granting said leave, the following factors shall be considered together with the need for service:

1. The use of said leave for activities geared to the employee's self-betterment, such as travel, and education, etc.;
  2. Long-term illness of an employee after having exhausted the sick leave balance;
  3. Personal issues of the employee requiring his/her attention;
  4. If a leave of absence has been cancelled due to a need for service and as required by the agency;
  5. The total leave accrued by the employee.
- i. Due to extraordinary circumstances, advanced vacation leave may be granted to regular employees who have rendered services for over one (1) year, if there is certainty that the employee shall return to duty. The advanced vacation leave may not exceed fifteen (15) workdays. The granting of advanced vacation leave will require in all cases the previous written approval of the Executive Director who, in his/her discretion, will evaluate the circumstances giving rise to the request, as well as the operational needs of the Authority. Any employee who has been granted advanced vacation leave and separates from service before rendering services for the period needed in order to accrue the full amount of unearned leave that was granted in advance must reimburse the Authority any sum of money that is overdrawn on account of said advanced vacation leave and must authorize the Authority to recover the sum of any monies that are outstanding in the Authority for any concept.

- j. If vacation leave is authorized, at the employee's request, the advanced payment of the wages pertaining to said leave period may be also authorized. The advance payment will cover only those full payment periods within the vacation period.
- k. All employees are entitled to accrue vacation leave while taking any paid leave, provided that they return to duty at the end of the authorized leave. Vacation leave will be used only for vacations planned and authorized by the supervisor. If an employee becomes ill while on vacation, he/she must inform their immediate supervisor and attach the pertinent medical certificate. Sick days will be deducted from the employee's sick leave, unless for extraordinary reasons the Executive Director, or his/her authorized representative, authorizes a deduction from the employee's vacation leave.
- l. In the event that an employee is granted a leave without pay, said employee will not be required to exhaust the accrued vacation leave in order to use the leave without pay.
- m. The accounting of the accrued vacation leave days will be kept by calendar year. Vacation leave credits and charges will be made on an hourly or fractional-hour basis.
- n. The Authority shall accept employees that transfer or come from another government agency or entity to transfer up to sixty (60) days of vacation leave and ninety (90) days of sick leave. Overtime transfers may not be accepted.

- o. The employees of the Authority may donate, as an exception, up to a maximum of five (5) days of accrued vacation leave to another employee of the Authority when:
  - i. The leave recipient has worked uninterruptedly for at least one (1) year in any government agency;
  - ii. The leave recipient has not shown a pattern of unscheduled absences, which constitutes noncompliance with the rules of the government entity;
  - iii. The leave recipient has exhausted all the leave to which they are entitled due to an emergency;
  - iv. The leave recipient or their representative has shown attesting evidence of the emergency and the need to be absent in excess of the leave accrued and already exhausted, and accepts the donation in writing;
  - v. The leave donor has accrued at least fifteen (15) days of vacation leave in excess of the amount of leave to be donated;
  - vi. The leave donor has submitted a written authorization consenting to the leave donation, and
  - vii. The leave recipient or their representative has accepted the proposed donation in writing.

## 2. Sick Leave

Employees are entitled to accrue and use sick leave at the rate and subject to the following rules:

- a. Employees will accrue one and a half (1.5) days of sick leave for every month of service. Employees appointed after February 4, 2017 will accrue one (1) day per month.
- b. Part-time employees or those with reduced work hours will accrue sick leave proportionately to the number of hours regularly worked.
- c. Said sick leave will be used when the employee is sick, has a disability, or has been exposed to a contagious disease which requires them to be absent from work in order to protect their health or the health of others.
- d. Time used by the employee for medical appointments or medical procedures will also be charged to their sick leave.
- e. Whenever its use can be anticipated, sick leave must be requested in advance with the required supporting documentation.
- f. Sick leave will be accrued up to a maximum of ninety (90) workdays. Sick leave will begin to accrue upon completion of a three (3)- month period and said leave shall be retroactive to the employment commencement date.
- g. All employees may use up to a maximum of five (5) days per year of the accrued sick leave, insofar as they maintain a balance of at least twelve (12) days, for the purpose of requesting a special leave to be used:
  - i. To care and tend to their sick children.
  - ii. To conduct any transactions relating to or to care for sick elderly persons or persons with disabilities within their family circle, that is, up to the fourth degree of consanguinity, second degree of affinity,

persons living under the same roof, or persons of whom an employee is the legal guardian or has legal custody.

Provided, that the transactions to be conducted are consistent with the purposes for which the sick leave was granted, that is to say, that are related to the health care and attention of the persons mentioned herein.

- iii. For the first appearance of any petitioner, victim, or claimant in any administrative and/or judicial proceedings before any Department, Agency, Public Corporation, or Instrumentality of the Government of Puerto Rico in any actions related to child support, domestic abuse, sexual harassment in the workplace, or gender discrimination. The employee shall furnish attesting evidence of said appearance as issued by the concerned authority.
  
- h. The Authority is required to make all the necessary adjustments in order to allow employees to use all the sick leave accrued during any calendar year at the time they need it. The employee may exhaust the sick leave accrued during any calendar year.
  
- i. If an employee were absent for over three (3) days due to an illness, a medical certificate may be required to attest to:
  - i. The employee actually being ill, suffering from a contagious disease, or being unable to work during the period they were absent;
  
  - ii. The illness of the employee's children;

- iii. The illness of elderly persons or persons with disability within the employee's family circle, that is, up to the fourth degree of consanguinity, second degree of affinity, persons living under the same roof, or persons of whom the employee is the legal guardian or has legal custody.

The supervisor may also request a medical certificate for absences of less than three (3) consecutive days when the circumstances so warrant and/or when there is reasonable suspicion of abuse or misuse of the sick leave benefit.

- j. In the event that an employee is sick and has no sick leave accrued, up to a maximum of eighteen (18) workdays of advanced sick leave may be granted to any employee who has served in the Authority for not less than one (1) year, if there is certainty that the employee will return to duty. Any employee who has been granted advanced sick leave and separates from service, voluntarily or involuntarily, before rendering services for the period needed in order to accrue the full amount of unearned leave that was granted in advance must reimburse the Government of Puerto Rico any sum that has been paid on account of said advanced leave.
- k. In the event of a long-term illness, once the sick leave is exhausted, an employee may exhaust their accrued vacation leave upon authorization from his/her immediate supervisor. Should the employee exhaust both leaves and he/she were still sick, the Executive Director, in the sound exercise of his/her discretion and after evaluating the employee's duly

accredited health condition and the operational and service needs of the Authority, may grant a leave without pay not to exceed one (1) year.

- l. In cases of non-occupational disability, any employee that has exhausted his/her sick and vacation leaves and remains ill, he/she will be entitled to Temporary Non-Occupational Disability Insurance (SINOT, by its Spanish acronym) benefits. While covered by this insurance, the employee may be authorized leave without pay.
- m. Any employee who is reported to the State Insurance Fund Corporation must submit to the Department of Human Resources copies of the treatment forms and decisions made by the Corporation. When the Corporation authorizes the discharge, the employee must submit the form authorizing them to work within five (5) working days of receiving the notification. The Human Resources Department will coordinate the employee's return to their work area.
- n. When an employee returns to work after a leave of absence due to a communicable disease or mental illness or other long-term illness, they must submit a medical certificate specifying that they are able to work and that their presence at work does not represent a danger to the safety or health of their coworkers or visitors to the Authority. In these cases, the Authority may require the employee to undergo a medical examination, with a physician selected by the Authority, to ensure their return. The Authority shall pay the cost of the exam. This requirement will not apply

when the employee's reinstatement occurs after having availed themselves of the benefits of the State Insurance Fund Corporation.

- o. All employees are entitled to accrue sick leave while taking any paid leave, provided that they return to duty at the end of the authorized leave.

3. Special leave for employees with catastrophic illnesses

- a. Any employee who suffers from one of the serious illnesses of a catastrophic nature listed by the Special Coverage of the Puerto Rico Health Insurance Administration may avail themselves of a special paid leave of up to a maximum of six (6) workdays per year in addition to those they are entitled by law for sick leave.
- b. Every employee must have exhausted his/her sick leave in order to use this special leave and the Authority may not force an employee to take this special leave without first exhausting his/her sick leave.
- c. Only employees who have worked for the Authority for a period of at least twelve (12) months will be entitled to the six (6) days granted for this leave.
- d. The six (6) days granted for this special leave may be used in each calendar year and may not be cumulative or transferable to the following calendar year.
- e. The use of this leave by an employee will be considered time worked for purposes of accruing all of their benefits.
- f. The employee must submit to the Authority a medical certification issued by the health care professional who is providing the medical treatment,

certifying that the employee is diagnosed with one of the catastrophic illnesses and continues to receive treatment for that illness. This medical information request must comply with all the protections of the right to privacy and the principles of confidentiality established in the "Health Insurance Portability and Accountability Act", also known as the HIPAA.

#### 4. Work Injury Leave

- a. In the event that the employee experiences an accident or injury on the job or suffers a work-related illness, he/she will be referred to the State Insurance Fund ("SIF"). During the use of this leave, the employment must be held for up to a maximum of twelve (12) months, in accordance with and subject to compliance with the requirements established by Law No. 45 of April 18, 1935, as amended, known as the Compensation System for Work-Related Accidents Act ("Act 45").
- b. The employee must immediately notify his/her supervisor and the Human Resources Department of any work-related injury, accident, or illness.
- c. Upon returning to work, always within the time frame and the period the employment is held as established by Act 45, and before resuming work, the employee must immediately submit to the Human Resources Department the SIF's CT document (that is, authorization to work while in treatment) or the documentation related to his/her definite discharge certifying that he/she can return to work.

- d. It is very important that the employee keeps in touch with his/her supervisor and/or the Human Resources Department to notify when he/she expects to return to work, as well as complies with the requirements established by Act 45 regarding this leave.
  - e. During the use of this leave, the employee will receive the compensation provided for by Act 45.
5. Non-Occupational Accident or Illness Leave (SINOT)
- a. In accordance and subject to compliance with the applicable legal requirements, an illness, accident or non-occupational disability must be covered by the leave provided by Law No. 139 of June 26, 1968, as amended ("Act 139"), known as the Temporary Disability Benefits Act ("SINOT").
  - b. During the use of this leave, employment will be held for up to twelve (12) months in accordance and subject to compliance with the requirements established by Act 139.
  - a. Upon returning to work, always within the time frame and the period the employment is held as established by Act 139, and before resuming work, the employee must immediately submit to the Human Resources Department a medical certificate stating that he/she has been discharged and is authorized to return to work.
  - c. The employee shall submit to their supervisor and/or the Human Resources Department any medical certificate changing or extending their leave period.

- d. Failure to keep the Authority informed of disability periods through the pertinent medical certificates may lead to the application of disciplinary measures in accordance with the Manual of Disciplinary Procedure and General Labor Regulations.
- e. It is very important that the employee keeps in touch with their supervisor and/or Human Resources Department to notify when they expect to return to work, as well as to comply with Act 139 requirements on this leave. During the use of this leave, the employee will receive the compensation provided for by Act 139.

6. Maternity Leave

The maternity leave will comprise the prenatal and postpartum rest period to which expectant employees are entitled. Likewise, it will comprise the period to which a female employee who has adopted a child is entitled, in accordance with the applicable legislation.

- a. Every expectant employee will be entitled to a four (4)-week rest period before childbirth, and eight (8)-week rest period after childbirth. Provided, that the employee may enjoy four (4) additional weeks to care and tend to the child.
- b. During the maternity leave, the employee will earn her full wages.
- c. The employee may choose to enjoy only one (1) week of prenatal rest, and extend up to eleven (11) weeks the postpartum rest period to which she is entitled, or up to fifteen (15) weeks if the four (4) additional weeks to care

and tend to the child are included. In these cases, the employee may submit to the agency a medical certificate attesting to the fact that she is able to work up to one week before childbirth.

- d. The Authority shall authorize the full payment of any wages corresponding to the maternity leave period on the date the employee begins to enjoy said leave.
- e. If childbirth occurs before the four (4)-week prenatal rest period elapses or before the employee began to enjoy her prenatal rest period, said employee may choose to extend the postpartum rest period for a period of time equivalent to that which she did not enjoy before childbirth.
- f. When the estimated date of delivery was miscalculated and the employee has enjoyed her four (4) weeks of prenatal rest period without going into labor, said employee will be entitled to an extension of the prenatal rest period with full pay until childbirth. In this case, the employee will be entitled still to enjoy the eight (8)-week postpartum rest period from the date of delivery as well as the four (4) additional weeks to care and tend to the child.
- g. In the event of premature birth, the employee will be entitled to enjoy the twelve (12) weeks of maternity leave from the date of premature birth as well as the four (4) additional weeks to care and tend to the child.
- h. Any employee who suffers a miscarriage may claim up to a maximum of four (4) weeks of maternity leave. However, in order to avail herself of said benefit, the miscarriage must produce the same physiological effects that usually

arise as a result of childbirth, according to the determination and certification of the attending physician during the miscarriage.

- i. In the event that an employee suffers any postpartum complications that prevents her from returning to work once the rest period after childbirth (postpartum) and the four (4) additional weeks to care and tend to the child have elapsed, the agency shall grant a sick leave to said employee.
- j. In these cases, a medical certificate will be required stating the condition of the employee and the estimated duration thereof. If the employee has exhausted her sick leave, vacation leave must be granted. In the event that the employee has exhausted both the sick and the vacation leaves, leave without pay may be authorized for the period recommended by the physician.
- k. Any female employee who adopts a preschooler, that is, a minor who is five (5) years of age or younger, who is not enrolled in any school, in accordance with the legislation and legal procedures in effect in Puerto Rico or any U.S. jurisdiction will be entitled to the same benefits of maternity leave with full pay of an employee who gives birth. In the event that a female employee adopts a minor who is six (6) years of age or older, said employee shall be granted maternity leave with full pay for a term of fifteen (15) days. This leave will begin to elapse from the date on which the employee officially receives the minor, which must be certified in writing.

- l. The maternity leave may not be granted to employees who are enjoying any other leave with or without pay. Any employees who are enjoying sick or vacation leave, or leave without pay due to pregnancy complications will be exempt from this provision.
- m. Any expectant employee or any female employee who has adopted a minor is required to notify the agency in advance of her plan to enjoy maternity leave and to return to her duties.
- n. The agency may authorize the advanced payment of any wages corresponding to the maternity leave period, insofar as the employee so requests in advance, as appropriate. If the employee returns to her duties before the postpartum rest period elapses, the employee will be required to reimburse the balance pertaining to the unused maternity leave.
- o. In the event that the newborn dies before the maternity leave period elapses, the employee will be entitled to claim only the portion of the postpartum rest period up to the first twelve (12) weeks of unused maternity leave. Provided, that the four (4)-week additional period benefit to care for and tend to the child shall cease as of the date on which the child died. In this case, the employee may avail herself of any other leave to which she is entitled.
- p. The employee may request to return to her duties before the postpartum rest period elapses, insofar as the employee submits to the agency a medical certificate attesting to her ability to return to her duties. In this case, it will be

understood that the employee is relinquishing the balance of unused maternity leave to which she is entitled.

- q. Maternity leave shall be concurrent with the Federal Family Medical Leave Act, 29 U.S.C. § 2601, et seq.

7. Breastfeeding Leave

- a. Breastfeeding mothers who return to work after enjoying maternity leave will be granted the opportunity to nurse their children for a period of one (1) hour during each fulltime work day, which may be divided into two (2) thirty (30)-minute sessions or three (3) twenty (20)-minute sessions, to go where the child to be breastfed is being cared for, should the company or employer have a child care center in its facilities, or to express breast milk at the place provided for such purposes in the workplace. Said places shall guarantee nursing mothers privacy, safety, and hygiene. Said place must have electrical outlets and ventilation. If the employee is working on a part-time basis and the work day exceeds four (4) hours, the period granted shall be thirty (30) minutes for every consecutive four (4)-hour working period.
- b. Within the workplace, the breastfeeding period will have a maximum duration of twelve (12) months, to be counted as of the date the employee returns to her duty.
- c. Employees who wish to avail themselves of this benefit shall submit to the agency a medical certificate, during the period corresponding to the fourth (4<sup>th</sup>) and the eighth (8<sup>th</sup>) months of age of the infant, attesting to the fact

and certifying that she is breastfeeding her baby. Said certificate must be submitted not later than five (5) days before each period

- d. The Authority shall designate an area or physical space that guarantees the privacy of the breastfeeding mother, as well as her safety and hygiene, without this entailing the creation or construction of physical or organizational structures, contingent upon the availability of resources.

## 8. Paternity Leave

- a. The paternity leave shall comprise a period of fifteen (15) workdays from the date of birth of a child.
- b. When claiming this right, the employee shall certify that he is legally married or cohabitates with the mother of the child and that he has not committed domestic abuse. Said certification must be made by submitting the form required by the agency for such purposes, which will also include the signature of the mother of the child.
- c. The employee shall request the paternity leave and submit the birth certificate as soon as possible.
- d. The employee shall earn his full wages during the paternity leave period.
- e. In the case of an employee with a provisional appointment, the paternity leave may not exceed the appointment period.
- f. The paternity leave may not be granted to employees who are enjoying any other type of leave with or without pay. The employees who have been granted vacation or sick leave will be exempt from this provision.

- g. Any male employee who, together with his spouse or domestic partner, adopts a preschooler, that is, a minor who is five (5) years of age or younger, who is not enrolled in any school, in accordance with the legislation and legal procedures in effect in Puerto Rico or any U.S. jurisdiction will be entitled to a paternity leave that will comprise a fifteen (15)-day period to be counted from the date on which he officially receives the minor, which must be certified in writing. In the event that an employee adopts a minor who is six (6) years of age or older, said employee will be entitled to paternity leave with full pay for a term of fifteen (15) days. When claiming this right, the employee shall certify that he is legally married, if applicable, and that he has not committed domestic abuse, or a sexual- or child abuse-related offense. Said certification must be made by submitting the form required by the agency for such purposes, which must also include the signature of his spouse.
- h. Any male employee who individually adopts a preschooler, that is, a minor who is five (5) years of age or younger, who is not enrolled in any school, in accordance with the legislation and legal procedures in effect in Puerto Rico or any U.S. jurisdiction will be entitled to eight (8) weeks of paternity leave which will begin to count from the date on which he officially receives the minor, which must be certified in writing. In the event that an employee adopts a minor who is six (6) years of age or older, said employee will be entitled to paternity leave with full pay for a term of fifteen (15) days.

- i. When claiming this right, the employee shall certify that he has not committed domestic abuse, nor a sexual- or child abuse-related offense.
- j. Paragraphs (d), (e), and (f) of this subsection will apply equally in the event that an employee requests the leave benefits set forth in previous paragraphs.
- k. The employee may request to return to his duties before the paternity leave period to which he is entitled elapses. In this case, it shall be understood that the employee is relinquishing the balance of unused paternity leave to which he is entitled

#### 9. School Visitation Leave

Employees will be granted leave for school visits to the schools where their children study as follows:

- a. four (4) working hours, without pay or leave balances reduction, during the beginning of each school semester and four (4) working hours at the end of each school semester to visit the educational institutions where their children study and learn about their children's school performance. Notwithstanding the foregoing, any employee whose children are registered in the Special Education Program of the Department of Education will have up to ten (10) hours per semester so that they can go to take care of matters related to their children.
- b. When both parents are employees of the Authority, leave shall be granted to one of the parents.

- c. Employees who have legal custody of a minor are eligible for this leave.
- d. The employee must submit evidence that he/she used the leave for the above purposes. In the event employees fail to submit the evidence required, the time used will be charged to their vacation leave balance or deducted from the salary if they do not have accrued balance.
- e. The Authority may verify by any means that this leave is used for the above purposes.

#### 10. Leave for Child Immunization

Employees will be granted leave to vaccinate their children in accordance with the following rules:

- a. Up to a maximum of two (2) hours are granted to any employee upon request, to vaccinate their children in a government or private institution, every time vaccination is necessary, as indicated on the child's immunization card. The employee must submit a certification of the place, date and time in which their child or children were vaccinated, in order to justify the time used, as established for this type of leave. Otherwise, the time used will be charged to vacation leave or deducted from the salary. This leave will be granted for each vaccination.
- b. Employees who have legal custody of a minor are eligible for this leave.
- c. The Authority may verify by any means that this leave is used for the above purposes. Misuse of this leave may result in disciplinary action.

#### 11. Military Leave

Military leave will be granted as follows:

- a. Leave under the Puerto Rico Military Code;

Any employee who belongs to the Puerto Rico National Guard or any other component of the Puerto Rico Military Forces<sup>4</sup> will be entitled to be granted up to a maximum of forty-five (45) days of paid military leave each year when they are doing federal or local military service in or outside the jurisdiction of Puerto Rico when they have so been ordered or authorized by virtue of the provisions of the laws of the United States of America or Puerto Rico. This provision will also include when the employee is in military training periods, military schools, courses or seminars ordered as part of their military service or training.

When such federal or state military service is in excess of forty-five (45) days, the employee may serve such excess period using any accrued vacation leave, if requested, or an unpaid leave.

- b. Military Training (Organized Reserves of the Armed Forces)

Any employee in the Organized Reserves of the Armed Forces of the United States will be entitled to be granted up to thirty (30) days of paid leave each year when serving in the military as part of training or to attend camps and exercises as required.

- c. Active Military Service

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<sup>4</sup> Military Forces of Puerto Rico means the National Guard of Puerto Rico, both its land and air components, and the State Command of the State Guard of Puerto Rico ("Puerto Rico State Guard"), as well as any military force organized under the Laws of Puerto Rico.

(1) Leave Without Pay

Public employees who are members of the Armed Forces<sup>5</sup> and who are ordered to perform active military service shall be granted military leave without pay for the duration of the order. This leave will also be granted to those employees who voluntarily enter the Armed Forces.

The Military Leave without pay will apply to those cases in which the employee is doing active military service under the Federal Selective Service Act, for a period of four (4) years and up to a maximum of five (5) years, as long as this additional year is officially required by the Army Division that he/she joined. If the employee voluntarily extends military service, after the end of the above periods of service, it will be understood that he/she resigns from their position which will be left vacant. Employees must submit a copy of the military order issued in their name.

These employees will retain accrued sick and vacation leave until their return from active military service. However, initial absences after the military order may be charged to the employee's accrued vacation leave, provided that the employee voluntarily requests it in writing. In the event that the reservist or National Guard employee requests to be allowed to enjoy the vacation leave that he/she has accrued before the unpaid military leave, the Authority may grant it as long as it does not exceed sixty (60) workdays during the calendar

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<sup>5</sup> Pursuant to the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), Public Law 103-353 of October 13, 1994 (38 U.S.C. 4303 (16)), the Armed Forces comprise the following agencies: Army, Navy, Marine Corps, Air Force, Coast Guard and their corresponding Reserve Corps; National Guard and Air National Guard; Commissioned Corps of the Public Health Service and any other category of persons appointed by the President in time of war or emergency.

year. The Authority may also grant the excess vacation leave accrued and not taken due to service needs, both the one corresponding to the previous calendar year and the excess of sixty (60) days that the employee has during the calendar year in which he/she was called to active service.

Any paid leave granted shall precede any unpaid military leave. Once the latter has been granted, it shall remain in force without interruption for the duration of the military order. Sick leave, by its nature, will remain accrued while the employee is on active military duty.

No person, regardless of their relationship to the employee called to active duty, may act, sign, or authorize any act on behalf of the employee, except if he/she has been officially designated as the employee's legal representative by virtue of a duly granted military power of attorney. If any regular or probationary employee called to active duty is on unpaid leave granted to occupy another permanent position or a fixed-term position with temporary status, this leave will be cancelled and the employee will be reinstated in the position he/she holds officially prior to granting him/her military leave without pay.

(2) Paid Leave

Pursuant to Law No. 218 of August 28, 2003, known as the United States Armed Forces Members Protection Act, any career public employee who is not in a probationary period, nor working under temporary contracts, whose net income for active service in any branch of the United States of

America Uniformed Services<sup>6</sup>, the United States Army Corps of Engineers, or the National Disaster Medical System is less than the net salary earned in their civilian employment in the Authority will be entitled to receive the difference between his/her net salary as a public employee and the net income to be received during his/her active military service.

For purposes of this paid leave, active military service is that rendered when (i) managing a disaster (ii) state security (iii) international or domestic national security emergency, (iv) humanitarian missions, (v) peacekeeping and stabilization missions or (vi) as part of a war effort in one or more theaters of operations.

The joint submission of the following original documents will constitute evidence of service:

- (1) Military identification.
- (2) Document awarding any decoration or any order delivered, if applicable, for having rendered such service or for having been in active service during the concerning dates.
- (3) Form DD-214 (Department of Defense Form 214) or the NG-22 (National Guard Form 22).
- (4) Commander's Verification of Deployment.
- (5) A copy of the Official Personnel Orders.

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<sup>6</sup> Please refer to the text of Act 218-2003 to determine the components of the armed forces and uniformed services entitled to this license.

(6) Permanent Change of Station Orders-PCS Orders.

A letter of recommendation certified by the components and corps listed in subsections (a), (f), (g), (h), and (n) of Article 2 indicating that the service member has in fact met the requirements to avail him/herself of the provisions of any of the Articles of this Law will also be accepted as evidence of eligibility.

(3) Reinstatement

Any employee who has left their position to enter active service with the Armed Forces, at the conclusion of military service, has the right to reinstatement to his/her position or to another of equal or similar classification, status, and remuneration as established in USERRA, the Military Code of Puerto Rico for the 21<sup>st</sup> Century, and the New Bill of Rights of the Puerto Rican Veteran for the 21<sup>st</sup> Century, as applicable.

12. Court Leave

Court leave will be granted as follows:

a. Witness Leave

The days and hours when the employee is duly summoned by the Prosecutor's Office or by a court to appear as a witness in a criminal case will not be deducted.

The employee shall submit evidence that proves the dates and times he/she was summoned and the time he appeared to serve as a witness. The Authority may verify by any means that this leave is used for the above purposes.

b. Jury Duty Leave

Any employee who is summoned to appear as a juror will be entitled to paid leave and compensation from their employer for food and mileage, in accordance with the regulations established in each agency, instrumentality or public corporation, as if it were an official duty of such employee or officer.

c. Other Court Leave

Any employee officially summoned to appear before any Court of Justice, Prosecutor's Office, administrative, governmental body or government agencies will be entitled to take paid leave for the time he/she is absent from work on account of such summonses.

The employee must submit evidence that proves that they were summoned and the time they were absent due to the summonses. The Authority may verify by any means that this leave is used for the above purposes.

13. Special Sports Leave

A special leave is established for any public employee who is duly certified by the Puerto Rico Olympic Committee as an athlete to represent Puerto Rico in the Olympic Games, Paralympic Games, Pan American Games, Central American Games or in regional or world championships. The special sports leave will have a cumulative duration that will not exceed thirty (30) working days per calendar year. Any request by the athlete employee that exceeds the thirty (30)-day limit may be authorized and charged to his/her vacation leave.

The term athlete includes athletes, judges, umpires, technicians, delegates, and any other person certified in such capacity by the Puerto Rico Olympic Committee and persons with disabilities certified as athletes by the Secretary of Recreation and Sports.

#### 14. Sports Leave Without Pay

Unpaid sports leave is granted to all employees who are duly selected and certified by the Board for the Development of Full-Time High-Performance Puerto Rican Athletes as an athlete-in-training and coach for Olympic, Paralympic, Pan American, Central American and Regional or World Championships. This leave will have a duration of up to one (1) year with the right to renew it as long as it is approved by the Board and the employer is notified on or before thirty (30) days of its expiration. This leave allows eligible athletes and coaches to be absent from work without losing time and it guarantees employment without affecting the benefits and rights acquired during the period in which they were participating in such training and/or competitions.

During the leave period, the Board will be responsible for paying the salaries of the participants. Therefore, it must send the employer the amount corresponding to the legal deductions that were made up to that moment to the employee so that the employer can continue to cover the payments corresponding to said contributions.

#### 15. Leave for Volunteer Emergency Services

Employees who are certified disaster service volunteers for the American Red Cross may take paid leave from work for a period not to exceed thirty (30) calendar days in a twelve (12) month period to take part in specialized disaster service duties. This leave may be used consecutively or intermittently or in fragments, but is not to exceed thirty (30) calendar

days during the above period. To take advantage of this leave, the employee must previously obtain the approval of the Authority, for which he/she must submit the following:

- a. Official evidence that they are a certified volunteer in American Red Cross disaster services.
- b. Communication issued by the American Red Cross requesting their services.
- c. After rendering the services, the employee will submit to the person in charge of Human Resources a certification issued by the American Red Cross accrediting the services rendered and the time served.

#### 16. Blood Donation Paid Leave

Paid leave of absence for a period of four (4) hours per year to donate blood is granted to any employee who requests it pursuant to Law No. 154 of August 11, 2000, as amended, the "Law Granting Public Employees a Leave to Donate Blood." The employee must submit evidence that he/she used the time for this purpose. The Human Resources Department may corroborate by any means that this leave has been used for the above purposes.

#### 17. Leave for Municipal Legislators<sup>7</sup>

Employees of the Authority elected as municipal legislators are entitled to a leave of up to ten (10) annual working days for the purpose of performing municipal legislative activities such as attending sessions or visual inspections. The Municipal Legislator shall submit the summons and proof of appearance to the Authority in order for the leave to

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<sup>7</sup> See Law No. 22 of January 5, 2002.

be granted. The first five (5) days of leave will be paid, and the next five (5) days will be without pay.

18. Leave to Renew Driver's License

Any employee may use up to two (2) hours of their working day, without charge to any leave and with pay, to renew their driver's license, provided that holding a driver's license is essential for their work due to its nature.

19. Paid leave to serve on detail in other government entities of the Commonwealth of Puerto Rico

Paid leave will be granted to employees to serve in other governmental entities for a term of twelve (12) months subject to the following rules:

- a. The appointing authority of the government entity that needs the services of the employee shall make the request to the Executive Director of the Authority, indicating the project, program and duties to be carried out by the employee. The request must also include the proposed date for the employee to begin providing services, the name of the person who will be his/her immediate supervisor, the period of the assignment, and the contribution or benefits that the government entity will obtain from the assignment.
- b. The purpose of any administrative assignment is for the Authority's employees to contribute their special knowledge and skills to other government entities. Therefore, it must not be used arbitrarily.

- c. Employees on administrative assignment will maintain all of their employment conditions and benefits including job security, seniority, experience accumulation, compensation, and fringe benefits.
- d. The working day will be 7.5 hours per day. Attendance must be recorded using the time attendance system clocks installed on each floor of the building where the Authority is located or electronically through the attendance portal, in the event that the employee is working remotely.
- e. The administrative assignment may be extended, reduced or terminated at any time by agreement between the Executive Director of the Authority and the Appointing Authority of the governmental entity where the employee is detailed.
- f. This leave may be authorized on the condition that the Authority's services are not adversely affected.
- g. The government entity interested in the assignment will execute a Collaboration Agreement agreeing to reimburse the Authority for the employee's salary and benefits. The Executive Director has the authority to authorize the detail without reimbursement in consideration of the fiscal situation of the requesting government entity.
- h. When the employee on detail assumes responsibilities of considerable complexity and impact, the Executive Director may grant additional compensation for the term of the detail upon recommendation by the Human Resources Department.

### **Section 11.3 — Leaves Without Pay**

A leave without pay may be granted to the employee to be absent from work for a certain period. In addition to the leaves without pay provided in other sections of these Regulations, at the Discretion of the Appointing Authority, depending on the service needs, the following may be granted:

1. To career employees with regular status, to render services in other agencies of the Government of Puerto Rico or in a private entity.
2. To career employees with regular status, to protect their status or the rights to which they may be entitled in cases of a disability claim before the Retirement System of the Government of Puerto Rico or other entity, when the employee has exhausted his sick and vacation leaves.
3. To employees who request it after the birth of their child. Provided, that this type of leave without pay may be granted for a period of time which may not exceed six (6) months as of the date on which it is authorized.
4. To employees with regular status who are transferred to positions of trust in the Office of the Governor or in the Legislative Assembly while rendering said services.
5. To employees with a regular status who have been elected in the general elections or have been selected to fill a vacancy of an elective public office within the Executive or Legislative Branch, including the offices of Resident Commissioner in the United States and Mayor, while rendering said services. In other meritorious situations, when determined by the Executive Director in the best interests of public service.

Leaves without pay are governed by the following rules:

- i. As a general rule, a leave without pay may be granted for a period not to exceed one (1) year; however, it may be extended at the discretion of the Authority when there is a reasonable expectation that the employee will return to work.
- ii. If the cause for which the leave was granted ceases, the employee shall report for duty immediately or notify the Executive Director of the reasons why they are unavailable, or of their decision not to return to work.
- iii. Requests to renew a leave without pay must be submitted to the person in charge of Human Resources on or before thirty (30) days of its expiration.
- iv. The person in charge of Human Resources may cancel a leave without pay at any time, if he/she determines that the leave does not meet its objective. In this case, the employee must be notified five (5) days prior to the effective date of the cancellation and informed of the reasons for the cancellation.
- v. The employee must notify the Authority of any change in the situation that led to granting their leave without pay or of their decision not to return to work at the end of their leave.

#### **Section 11.4 — Family and Medical Leave**

Family and Medical Leave will be granted under the federal Family and Medical Leave Act ("FMLA") of up to twelve (12) weeks of unpaid leave during any twelve (12) month period. To be eligible for the benefits of this leave, the employee must have worked for the Authority for at least twelve (12) months and a minimum of 1,250 hours during the twelve (12) months prior to the date of the request.

If both spouses work at the Authority, they are jointly entitled to a combined total of twelve (12) weeks of this leave for one or more of the reasons mentioned in FMLA. Some of these are:

1. To care for a newborn child of the employee or to process an adoption or fostering;
2. To care for their spouse, son or daughter, or parent of the employee who has a serious health condition;
3. To take medical leave when a serious health condition prevents the employee from performing their job;
4. For pregnancy-caused disability, prenatal medical care, or childbirth.

For purposes of this leave, serious health condition means an illness, injury, impairment or condition of a physical or mental nature involving:

- a. Any period of disability or treatment that requires confinement for one night or more in a hospital, hospice, or residential health care institution;
- b. any period of disability that requires an absence of more than three (3) days from work, school, or other regular daily activities that also requires ongoing treatment by or under the supervision of a health care provider; or
- c. ongoing treatment, including prenatal care, by or, under the supervision of a health care provider for a condition that is incurable or so severe that if left untreated it would likely result in a period of disability of more than three (3) days.

Family and Medical Leave may be used intermittently, under certain circumstances, that is, fragmented, as well as through reduced daily or weekly work schedule. In addition, vacation or sick leave may be used in full or partial substitution of the Family and Medical Leave. The Authority may require employees to request this leave thirty (30) days in advance, when the need is foreseeable. They must submit medical certificates certifying the need for the leave due to a serious health condition affecting the employee or members of their immediate family. This leave will be concurrent with other leaves. The Human Resources Department shall establish a procedure for assessing the employee's eligibility in accordance with the law.

**Section 11.5 — General Provisions on Leaves**

1. The Executive Director may cancel a leave without pay at any time if he/she determines that it does not meet its purpose. In this case, the employee must be notified five (5) days in advance and informed of the reasons for the cancellation.
2. The employee must notify the Executive Director of any change in the situation that led to granting their leave without pay or of their decision not to return to work at least ten (10) days prior to the end of the leave.
3. Unpaid leave must not be granted if the employee intends to use it to try their luck in other employment opportunities.
4. If the cause for which the leave was granted ceases, the employee shall report for duty immediately or notify the Executive Director of the reasons why they are unavailable, or of their decision not to return to work.

5. In cases of unpaid sick leave, the Executive Director may demand the employee to undergo periodic examination by a physician designated by the Executive Director to determine the employee's health condition. If the employee refuses to submit to a medical examination, the Executive Director may begin a process to decree their layoff.
6. Rest days and holidays will not be considered for purposes of calculating paid leaves, with the exception of maternity leave.
7. Days when public services are suspended by the Governor without charge to vacation leave will be counted as days off only for personnel who are on active duty and not for personnel who are on any type of leave.
8. The Human Resources Department will ensure that leaves are not used for purposes other than those for which they were granted.
9. Employees shall accrue sick and vacation leave during the time they are on any type of paid leave, provided that they are reinstated with the Authority at the end of the leave of absence. In these cases, the leave credit will be made when the employee returns to work.
10. Disciplinary sanctions may be imposed on an employee for abusing any of the leaves to which they are is entitled.
11. In the case of employees whose appointment is for a definite duration, leave may not be granted for a period exceeding the term of the appointment.

## ARTICLE 12 — WORK SCHEDULE AND ATTENDANCE

### **Section 12.1 — Work Schedule**

1. The regular workweek for employees must not exceed forty (40) hours nor be less than thirty seven and a half (37 ½ ) hours, on the basis of five (5) workdays, except as otherwise provided by special laws. The workday must not exceed eight (8) hours. Employees shall be granted two (2) consecutive rest days for each regular workweek. However, if due to a precarious economic situation, caused by reduction and loss of revenue in the treasury or other sources of revenue, it is necessary to lay off employees, the regular workday or workweek of employees may be furloughed as an action to prevent layoffs.
2. The regular workweek for employees will consist of the number of hours that, within a period of seven (7) consecutive days, the employee is under the obligation to render services, pursuant to their regular work schedule. Typically, the regular workweek will be from Monday through Friday, and Saturday and Sunday will be rest days. To address needs for service, however, a regular workweek may be established, for all or part of the personnel, beginning and ending on any day of the week, insofar as said week includes five (5) workdays and two (2) consecutive rest days.
3. When a furlough has been established as a measure to prevent layoffs, a schedule of less than five (5) workdays may be established. Within the aforementioned limits, the workweek and workday that will apply to employees will be established, taking into account the needs for service.

### **Section 12.2 — Workday Schedule**

As a general rule, the workday schedule will be established on the basis of a fixed starting time and a fixed finishing time. However, the Authority may adopt a flexible or tiered schedule in accordance with the needs for service.

### **Section 12.3 — Meal Break**

1. The Authority shall grant all non-exempt employees a meal break of one (1)-hour during their regular daily work schedule. The employee shall enjoy said period after having completed the first three and a half (3½) hours but before completing the fifth (5<sup>th</sup>) consecutive hour of work. Through a written agreement between the employee and an authorized representative of the Authority, the meal-break hour may be reduced to one-half (½) hour due to needs for service or at the convenience of the employee.
2. The immediate supervisor, in emergency situations or due to needs for service, may require the employee to render services during their meal break or part thereof.

***The person in charge of Human Resources may authorize the reduction of the meal break hour by no less than one-half hour, at the request of the employee for just cause and without affecting the service.***

### **Section 12.4 — Hours Worked**

Hours worked shall comprise all the time during which an employee is required to render services or to remain in the premises or in a specific workplace and all the time during which he/she is directed and expressly authorized to work, or allowed to perform work even if it has not been authorized.

### **Section 12.5 — Overtime**

1. The work schedule will be formulated so that the need to work beyond the regular work schedule established for non-exempt employees is reduced to a minimum. The Director of each pertinent Area, Department or Office or his/her representative may require employees to render services beyond their daily or weekly work schedule, due to the special nature of the services or any emergency situation, on any holiday or on any other day when services are suspended by the Governor. In these cases, the supervisor of the employee will issue an advance written authorization therefor. The supervisors shall take measures to ensure that when a non-exempt employee remains working, the employee is doing so by virtue of an express authorization and will be responsible for the proper use of human resources outside of working hours.
2. The hours worked by non-exempt personnel, in excess of their regular daily or weekly working hours, meal time and for services rendered on holidays, on rest days, or on days when services are suspended without charge to any leave by the Governor will be compensated time and a half by payment in money.
3. Officers and managerial employees classified as directors or officers, as defined by the Fair Labor Standards Act ("FLSA") and applicable regulations, are exempt from the overtime pay provisions. The hours that exempt personnel use for personal matters that do not exceed half of their regular daily work schedule will not be charged to any of their regular leaves, provided that they complete their regular weekly work schedule of 37.5 hours, physically worked, which will be computed at the end of each week. The hours used by exempt personnel for

personal matters in excess of the regular daily workday, which prevent said personnel from complying with their weekly work schedule of 37.5 hours, will be charged to their pertinent leaves. This provision should be interpreted as an exceptional measure and in no way exempts exempt personnel from their responsibility to comply with their regular work schedule and to require authorization from their immediate supervisor for any change in their regular daily work schedule, according to the above rules. It is the supervisor's responsibility to ensure compliance with these provisions and, if necessary, to take appropriate action, including the implementation of disciplinary processes with respect to his/her subordinates.

**Section 12.6 — Internal Regulations on Work Schedule and Attendance**

The Authority shall adopt written internal regulations that are not in conflict with the applicable rules included in these regulations and the federal rules for the accrual and enjoyment of compensatory time for overtime worked, establishing rules to govern, among other aspects, the following:

1. The regular daily and weekly schedule applicable to employees, including the necessary provisions on flexible working hours, if they exist, rotating shifts and part-time schedule.
2. The criteria for excluding executive, administrative, and professional personnel from accruing overtime, in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and its regulations.

3. Method for recording attendance and forms for proper attendance record keeping.
4. Attendance control measures.
5. Records of overtime worked under the Federal Fair Labor Standards Act will be available for inspection by the U.S. Secretary of Labor or his/her authorized representative. These records will be kept for a period of three (3) years.
6. Specific disciplinary sanctions applicable to employees who violate the applicable rules and procedures.

#### **ARTICLE 13 — EMPLOYEE FILES**

The Authority shall maintain for each employee files:

1. that reflect the employee's full history from the date he/she originally entered into public service to the date of his/her final separation from service.
2. that are confidential and separate, containing medical instructions, determinations, and certifications in accordance with the federal Americans with Disabilities Act ("ADA").
3. containing a copy of all Change Reports and other documents and information required for retirement purposes.

The records of career officers and employees should reflect their full history from the date that they originally entered into the Authority through the time of their final

separation. Personnel files are confidential and the Authority shall be responsible for the preservation, custody, and maintenance thereof as provided below and in harmony with the Puerto Rico Public Records Administration Act, Law No. 5 of December 8, 1955, as amended, which created the Program for the Preservation and Disposition of Public Records and the Regulations for the Administration of Public Records of the Executive Branch (Regulation 4284), as amended on November 15, 1991.

**Section 13.1 — Classification of Files**

Employee records will be classified as either active or inactive. Those corresponding to employees who are still part of the service will be considered as active, and the files of employees who are separated from the service will be considered inactive.

**Section 13.2 — Content of the Files**

A file will be opened for any employee who receives any type of appointment. This file will be identified with the employee's full name and in it the original or copy of the following documents, among others, will be filed and preserved:

1. Personal History
2. Birth Certificate
3. Criminal Record Certificate issued by the Puerto Rico Police
4. Notice of Appointment and Oath
5. Communications regarding status, wages, classification, promotions, transfers, demotions, and other personnel transactions
6. Employee job evaluations

7. Documents reflecting any salary increase granted or any other remuneration-related aspect
8. Letters of recognition for high performance, service excellence or administrative improvements
9. Documents reflecting disciplinary actions, as well as resolutions issued by the Examining Officer and other related documents.
10. Certifications for services rendered to the government
11. Letters amending documents that are part of the file
12. Promotion, transfer and demotion communications
13. Record of training, paid leave for study and payment of registration
14. Documents related to unpaid leaves
15. Evidence of formal education in original or certified copy.
16. Certifications of experience
17. Certificate of membership in professional associations when required by the position held
18. Other documents required at the time of appointment

**Section 13.3 — Medical Record**

One medical record per employee shall be kept confidential, separate from the personnel file, and will include documents related to the State Insurance Fund, occupational accidents, medical exam to join the Authority, medical certificates and other related documents.

**Section 13.4 — Retirement File**

A retirement file will be maintained reflecting the employee's history, years of service, and salary history.

**Section 13.5 — Custody and Examination of Files**

The person in charge of Human Resources will be the custodian of the employee files.

1. Individual employee files will be confidential and may be examined only for official purposes, by order of a court or body competent to do so, or when authorized in writing by the very employee for other purposes. The custodian of the files is responsible for the confidentiality and written or oral use or disclosure of the information contained therein.
2. Every employee has the right to examine his/her file in the company of the file custodian. The employee must submit the request for examination of the file at least three (3) days in advance. In the event that the employee is incapacitated due to a physical illness that prevents him/her from attending the examination of the file in person, he/she may delegate in writing to a representative. In the event that the impairment is a mental incapacity, the file may be examined by the person who is appointed legal guardian by the pertinent Court.
3. Employees may obtain copies of the documents contained in their files by paying the cost of the copies. Copy requests will be made in writing at least five (5) days in advance. A copy of the requested document will be delivered within the stated period, provided that the needs for service allow it.
4. The custodians of the files may delegate official representation to subordinates for purposes of file examinations.

**Section 13.6 — Preservation and Disposition of Files**

All documents pertaining to the individual files of active and inactive employees must be preserved and maintained on file. Action will be taken in accordance with the Authority's Regulations for Document Disposition.

**ARTICLE 14 — PROHIBITION**

In order to ensure the faithful application of the Merit System in the Public Service during pre and post-electoral periods, the Authority shall refrain from making any personnel transaction relating to the essential areas of the Merit System: position classification; recruitment and selection; promotions, demotions, or transfers; training, retention. The prohibition will also include compensation actions and changes to position categories and employees. This prohibition will comprise the period of two (2) months before the General Elections of Puerto Rico are held.

When, due to urgent needs for service, it is necessary to carry out personnel actions in these areas, the Authority shall request advance authorization from the Director of the Government Human Resources Administration and Transformation Office.

**ARTICLE 15 — REVIEW OF PERSONNEL ACTIONS INVOLVING CAREER EMPLOYEES**

**Section 15.1 — Examining Officer**

The review process for personnel actions involving career employees in the Authority will be conducted by an Independent Examining Officer, appointed by the Board, who may not be an officer or employee of the Authority.

The Examining Officer shall:

1. Preside over the hearings.

2. Be the custodian of all documents, records and files related to the proceedings before him/her and shall certify the resolutions, determinations and orders issued by him/her.
3. Submit the calendars of the cases, notify the findings and issue the corresponding summonses.
4. Notify the determinations, resolutions or orders and prepare a record of each hearing.
5. At the request of the parties, issue certifications on determinations or resolutions regarding facts that appear in the case files or in the documents thereof.

***Section 15.2 — Powers of the Examining Officer***

The Examining Officer shall have the power to review the determinations made by the appointing authority on dismissals, suspensions, separations, layoffs, and reassignments of Career Service positions. He/she will also have jurisdiction in any case related to the essential areas of the merit system, provided that the employee's vested interest in his/her position or salary is affected.

The Examining Officer may take oaths, summon the appearance of witnesses, demand the production of books, records, documents and objects relevant to the performance of his/her official duties.

The Examining Officer shall have the power to impose on any party who willfully fails to comply with any of the obligations set forth in these Regulations, or with any order of the Examining Officer, such sanction as he/she deems appropriate, which may be, but

is not limited to the dismissal of the appeal or the continuance of proceedings without the participation of the party in violation.

### **Section 15.3 — Resolutions**

The decisions of the Examining Officer must contain the findings of fact and the conclusions of law on which they are grounded.

## **ARTICLE 16 —PERSONNEL RELATIONS**

### **Section 16.1 — Objectives**

It shall be the responsibility of the Authority to establish a Personnel Relations Program that fosters among employees the development of a full awareness and understanding of their duties and responsibilities as public servants and a sense of loyalty to the Authority that allows them to create a work environment that contributes to employee satisfaction, motivation, harmonious relationships, and mutual understanding. The Program should be geared towards the achievement of, among others, the following objectives:

1. Improving personnel relations in order to promote the development of positive attitudes among employee and in their relationships with colleagues, supervisors and supervisees.
2. Ascertaining the real expectations of employees in order to adopt measures that are aimed at achieving their greatest possible satisfaction.
3. Providing employees with all the possible help so that they receive the professional services they may need, in order to try to change attitudes and

styles of behavior that they exhibit in their relationships with their colleagues and the different levels of supervision.

4. Providing incentives such as awards and recognitions aimed at making the employee identify with the Authority and with the Public Service in general, increasing their productivity and achieving personal satisfaction in the work they perform.
5. Promoting effective communication between all hierarchical levels of the Authority in order to maintain a productive work climate.
6. Achieving preventive intervention to avoid interpersonal conflicts.
7. Creating successful spaces for effective participation that provide employees with the opportunity to express their ideas and present proposals and suggestions aimed at improving the operations of the Authority and establishing effective communication networks.

The Employee Relations Program must incorporate other programs and services for employees such as the Employee Assistance Program (known in Spanish as "PAE"), orientation and counseling in relation to work, attention to suggestions, recreational and cultural activities, awards and recognitions, and attention to proposals and complaints.

### ***Section 16.2 — Participation in Incentive Programs***

The Authority will also participate in motivational programs sponsored by the government of Puerto Rico, such as the Manuel A. Pérez Awards, Government

Excellence Program, Administrative Improvements, Interagency Sports Tournaments and Recognition for Years of Service, as well as others that may be created in the future.

## ARTICLE 17 — DETAIL ASSIGNMENTS AND ACTING APPOINTMENTS FOR CAREER EMPLOYEES

### ***Section 17.1 — External Administrative Detail***

- a. The appointing authority of the government entity that needs the services of the employee shall make the request to the Executive Director of the Authority, indicating the project, program and duties to be carried out by the employee. The request must also include the proposed date for the employee to begin providing services, the name of the person who will be his/her immediate supervisor, the period of the assignment, and the contribution or benefits that the government entity will obtain from the assignment.
- b. The purpose of the administrative detail is for the Authority's employees to contribute their special knowledge and abilities to other government entities. Therefore, it must not be used arbitrarily.
- c. Employees on administrative detail will maintain all of their employment conditions and benefits including job security, seniority, accrual of experience, compensation and fringe benefits.
- d. The working day will be 7.5 hours per day. Attendance must be recorded using the time attendance system clocks installed on each floor of the building where the Authority is located or electronically through the attendance portal, in the event that the employee is working remotely.

- e. As a general rule, the administrative assignment will not exceed twelve (12) months. However, it may be extended, reduced or terminated at any time by agreement between the Executive Director of the Authority and the Appointing Authority of the governmental entity where the employee is detailed.
- e. This leave may be authorized on condition that the Authority's services are not adversely affected.
- g. The government entity interested in the assignment will execute a Collaboration Agreement agreeing to reimburse the Authority for the employee's salary and benefits. The Executive Director has the authority to authorize the detail without reimbursement in consideration of the fiscal situation of the requesting government entity if the Authority has the budget available therefor.
- h. When the employee on detail assumes responsibilities of considerable complexity and impact, the Executive Director may grant additional compensation for the term of the detail upon recommendation by, and consultation with the Human Resources Department.

**Section 17.2 — Acting Appointments**

- a. Regular employees appointed in an acting capacity to perform the duties of a higher career position for a period of more than five (5) workdays in substitution of an employee on any type of leave or assigned for more than five (5) workdays

- to perform duties of a vacant position, will receive an adjustment in salary equivalent to that which would correspond to them if promoted to the position.
- b. The employee appointed in an acting capacity must meet the minimum requirements of education for the position.
  - c. This process does not apply to replace employees who hold positions of trust, for which an appointment by the Board of Directors of the Authority is required.
  - d. The period worked in an acting capacity will be considered as valid accredited experience.

**ARTICLE 18 — EQUAL OPPORTUNITY IN EMPLOYMENT AND WORK ENVIRONMENT**

Equal Employment Opportunity is, and will continue to be, a fundamental principle for the Authority where employment is grounded on personal abilities and qualifications without discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, age, national origin, social status, handicap, disability, veteran status, having served or serving in the armed forces, marital status, political views, being a victim or being perceived as a victim of domestic violence, sexual assault, or stalking or any other classification protected by applicable law.

All managers, supervisors, agents and employees of the Authority will have the affirmative duty of maintaining a work environment free from harassment and discrimination of any nature. All personnel are advised that the following practices or conduct are categorically prohibited and engaging in them will result in disciplinary action, up to and including dismissal.

## 1. Sexual Harassment

According to the applicable legal standards, any type of unwanted sexual approach, requests for sexual favors, or any other verbal or physical conduct of a sexual nature, constitutes harassment when one or more of the following circumstances occur:

- a. submitting to such conduct becomes explicitly or implicitly a term or condition of a person's employment; or
- b. the person's submission to or rejection of such conduct is used as grounds for making decisions in or about employment that affect that person; or
- c. Such conduct has the effect or purpose of unreasonably interfering with that person's job performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can be expressed in a variety of ways, from direct or indirect sexual advances, which can range from the most subtle and disguised acts of physical contact to sexual assault.

By way of example, this type of conduct could include, but is not limited to: proposals, flirtations, jokes and innuendos of a sexual nature, when these are not welcome or desired; graphic verbal comments in relation to a person's body; the use of sexually degrading words; and, the display in the workplace of sexually suggestive objects or illustrations.

Any complaint must be filed with the Department of Human Resources and will be handled in accordance with the Regulations for the Prevention of Sexual Harassment in the Workplace.

## **2. Other Types of Harassment for Protected Reasons**

Harassment on the basis of age, race, color, social or national origin, social status, political affiliation, political or religious beliefs, impairment, marital status, sexual orientation, gender identity, disability, veteran status, having served or serving in the armed forces, being a victim, or being perceived as a victim of domestic violence, sexual assault or stalking, or any other classification protected by applicable law is defined as unwelcome verbal or physical conduct when any of the following circumstances apply:

- a. submitting to such conduct becomes explicitly or implicitly a term or condition of a person's employment, or is used as grounds for making a decision on or about employment that affects the employee;
- b. the harassment unreasonably interferes with the employee's job performance or when it creates an intimidating, hostile, or offensive work environment.

The Authority is committed to maintaining a work environment free from harassment or discrimination of any kind. Making comments or engaging in conduct of a harassing or discriminatory nature could constitute harassment or discrimination under this policy even if such conduct does not unreasonably interfere with an individual's performance, or create a hostile environment, or reach a level of conduct that could give rise to a complaint before an administrative forum or a court of law. In

other words, it is the Authority's intent to prevent inappropriate behavior even when it does not reach levels that could be actionable under the law.

Any complaint must be filed with the Human Resources Department and will be handled in accordance with the Workplace Harassment Protocol.

### **3. Workplace Harassment/Bullying**

Workplace harassment/bullying is defined as including malicious, unwanted, repetitive, abusive, arbitrary, unreasonable and/or capricious conduct, whether verbal, written and/or physical, repeatedly performed by the employer, its agents, supervisors or employees, unrelated to the legitimate interests of the Authority, unwanted by the individual, which violates his/her protected constitutional rights, such as: the inviolability of the dignity of the person, protection against abusive attacks on his/her honor, reputation and private or family life, and the protection of the worker against risks to his/her health or personal integrity in the workplace. This workplace bullying conduct creates a threatening, intimidating, humiliating, hostile or offensive environment that a reasonable person would find unsuitable to perform their regular duties and tasks.

The Authority, in compliance with its legal responsibility, has adopted the necessary internal policies for the purpose of preventing, discouraging and avoiding workplace harassment in its work locations. In addition, it has established a procedure for investigating all allegations that are submitted to the Authority in this regard and for imposing the corresponding sanctions in those cases in which they are appropriate.

Conduct that may constitute workplace harassment/bullying includes, but is not limited to the following:

(1) Offensive, defamatory, or harmful statements about a person, using foul language.

(2) Hostile and humiliating remarks undermining the employee's performance in the presence of colleagues.

(3) Unjustified threats of dismissal in the presence of colleagues.

(4) Multiple disciplinary actions by any of the active subjects of the harassment, whose recklessness is shown by the result of the respective disciplinary processes.

(5) Discounting a person's work proposals or opinions.

(6) Making comments or jokes about the targeted employee's personal appearance or clothing, in public.

(7) Disclosing private facts about the targeted employee or their family.

(8) Assigning tasks that are beyond the employee's duties, establishing unrealistic demands for job duties, and a sudden reassignment of the work location or the contracted work without an objective reason connected to the Authority's business or services.

(9) The refusal by the employer or other employees to provide materials and information which is pertinent and necessary for discharging the employee's duties.

On the other hand, conduct that does not constitute workplace bullying includes, but is not limited to the following:

(1) Acts intended to exercise a supervisor's authority to discipline his/her subordinates.

(2) Demands for protecting the confidentiality of the services provided by the employer or the employee's loyalty toward his/her employer.

(3) The formulation or promulgation of regulations or memoranda to direct the operations, maximize efficiency, and evaluate employees' performance based on the general objectives of the employer.

(4) The assignment of additional duties, when necessary to ensure the continuity of services or to address a difficult situation involving the employer's operations and services.

(5) Administrative actions directed to the completion of an employment agreement, for cause, or for a fixed term, as provided in the code of laws of Puerto Rico.

(6) Employer's affirmative actions to enforce the provisions of a human resources regulation or clauses of employment agreements.

(7) Affirmative actions by the employer to enforce the obligations, duties and prohibitions established by law.

The Authority is committed to maintaining a work environment free from workplace harassment/bullying. Any employee who believes that he/she has been subjected to workplace harassment, as defined above, must immediately report the incident to the Human Resources Department through a written complaint. In addition, the employee must be willing to cooperate with any investigation that may be conducted.

Any complaint must be filed with the Human Resources Department, which will process it in accordance with the Workplace Harassment Protocol established by the Authority.

## ARTICLE 19 — DISSEMINATION

These Regulations must be disseminated as may be necessary so that employees covered by its provisions are aware of them.

#### **ARTICLE 20 — AMENDMENTS TO THE REGULATIONS**

These Regulations may be amended when necessary to improve the operations of the Authority, or to conform to the enactment of new laws, regulations, circular letters, and executive orders generally or specifically applicable to the Authority. Any amendments to these Regulations must be evaluated and approved by the Board of Directors of the Authority.

#### **ARTICLE 21 — RULES OF INTERPRETATION**

The words and phrases used in these Regulations must be interpreted in accordance with the context and meaning corresponding to the common and current use of the words. The words used in the present tense also include the future tense; those used in the masculine gender also include the feminine and the neutral genders, except in cases in which such interpretation would be absurd; the singular form includes the plural form and the plural form includes the singular form. When the term "days" is used in these Regulations to mean a period of time, it must be interpreted as calendar days, unless otherwise stated. Any interpretation of these Regulations must be limited to its purpose and in harmony with applicable law and jurisprudence.

#### **ARTICLE 22 — SEVERABILITY CLAUSE**

If any word, subparagraph, article, section, or part of these Regulations is declared unconstitutional or null by a Court, such declaration will not affect, undermine or invalidate the remaining provisions and parts of these Regulations, but rather its effect

will be limited to the word, subparagraph, sentence, article, section or specific part declared unconstitutional or null, and the nullity or invalidity of any word, subparagraph, sentence, article, section or part hereof so declared in any case may not be understood to affect or damage in any way their application or validity in any other case.

These Regulations are approved while the "Fiscal Plan Compliance Act", as amended, Law No. 26 of April 29, 2017 ("Act 26-2017"), is in effect. If any of the provisions of this Regulation were to contravene the provisions of Act 26-2017, while the above statute is in force, Article 1.02 thereof establishing the supremacy of Act 26-2017 over any other Act or regulation will be applicable.

#### **ARTICLE 23 — REPEAL**

These Regulations repeal the Personnel Regulations for the Career Service of the Government Development Bank for Puerto Rico of September 28, 2016, Regulation No. 8819 and the Personnel Regulations for the Trust Service of the Government Development Bank for Puerto Rico of September 28, 2016, Regulation No. 8820, as amended, and any legal norm, rule or regulation that is in conflict with its provisions.

#### **ARTICLE 24 — EFFECTIVENESS**

These Regulations shall become effective thirty (30) days after its filing with the Department of State; it is provided that prior to such a date the Authority shall comply with the regulatory procedure contemplated in the "Government of Puerto Rico Uniform Administrative Procedure Act" and that the Regulations must also be

approved by the Financial Oversight and Management Board for Puerto Rico in accordance with the FOMB Policy: Review of Rules, Regulations, and Orders.

Approved in San Juan, Puerto Rico, by the Executive Director and by the Board of Directors of the Fiscal Agency and Financial Advisory Authority, on \_\_\_\_\_, 2024.

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Omar J. Marrero Díaz, Esq.  
Executive Director of AAFAF

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Omar J. Marrero Díaz, Esq.  
Chairman, Board of Directors of AAFAF