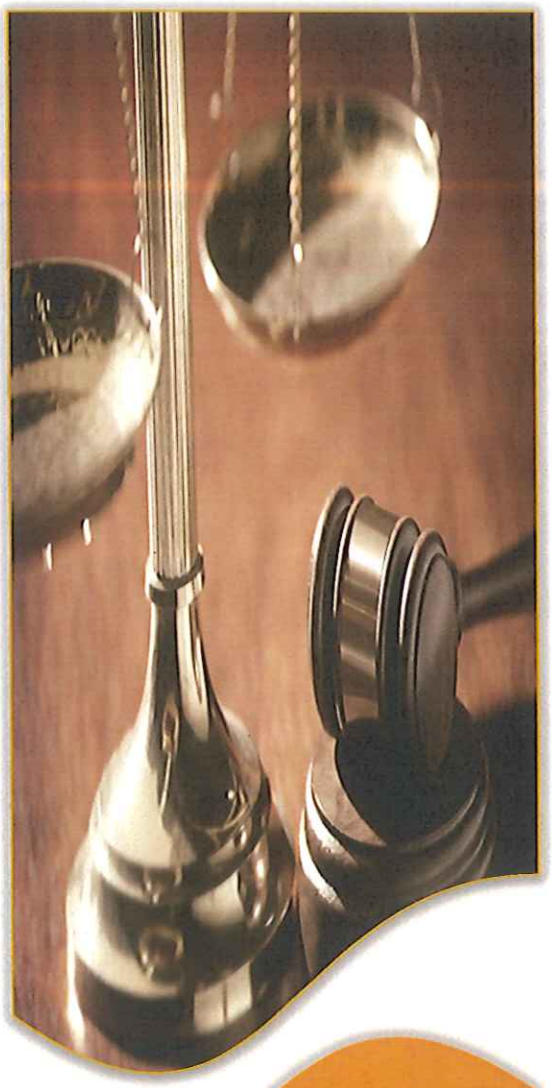




2016

OFFICE OF EXAMINING OFFICERS

DEPARTMENT OF STATE
No: 8975
Date: June 19, 2017
Approved . Hon. Luis G. Rivera Marín
Secretary of State

By Eduardo Arosemena Muñoz
Assistant Secretary

Regulations for Awarding Procedings

AUXILIARY OMBUDSMAN OF PROTECTION AND DEFENSE

TABLE OF CONTENTS

Regulations for Awarding Proceedings
from the Office of the Ombudsman for the Elderly People

Rule 1. Title 1

Rule 2. Legal Base 1

Rule 3. Scope 2

Rule 4. Purpose 2

Rule 5. Definitions 2

Rule 6. Jurisdiction 11

Rule 7. Presentations of Complaints– General Dispositions 12

Rule 8. Amendments to Complaints 15

Rule 9. Consolidation of Complaints 15

Rule 10. Appearance – Legal Representation 16

Rule 11. Notification of Complaints 18

Rule 12. Closing of Case; Dismissal or Withdrawal 20

Rule 13. Examining Officer 21

Rule 14. Administrative Hearings Proceedings 23

Rule 15. Conference Before Hearing 30

Rule 16. Emergency Awarding Proceeding 31

Rule 17. Notification of Administrative Hearings 32

Rule 18. Suspension or Transferences of Administrative Hearings 33

Rule 19. Report of Examining Officer – Official File 34

Rule 20. Resolution 35

Rule 21. Release of Resolutions and Corrections of Errors 36

Rule 22. Reconsideration and Revision 37

Rule 23. Sanctions 39

Rule 24. Remedies..... 40

Rule 25. Confidentiality of File 41

Rule 26. Separability 41

Rule 27. Derogatory Clause 42

Rule 28. Amendments 42

Rule 29. Validity 42

Signature 42

OFFICE OF THE OMBUDSMAN FOR THE ELDERLY PEOPLE

REGULATIONS FOR AWARDING PROCEEDINGS

OFFICE OF EXAMINING OFFICERS

RULE 1. TITLE

These Regulations will be known with the name of *Regulations for Awarding Procedures of the Office of the Ombudsman for the Elderly People.*

RULE 2. LEGAL BASE

These rules are enacted under the protection of the powers conferred to the Office of the Ombudsman for the Elderly People under Act. No. 76 of July 24, 2013, known as the *"Law of the Office of the Ombudsman for the Elderly People"* that authorizes to regulate and monitor the compliance of the public policy in public or private entities Act No. 170 of August 12, 1988, as amended, known as *"Law of Uniform Administrative Procedure";* Public Act No. 89-73 of July 14, 1965, as amended, known as the *"Older Americans Act of 1965"* and Act No. 121 of July 12, 1986, as amended, known as the "Bill of Rights of the Elderly People"; and the *"Regulations for Awarding Proceedings* of the Office of the Ombudsman of the Elderly People ".

RULE 3. SCOPE

These rules will govern the administrative and awarding proceedings for the imposition of administrative fines and sanctions, for infractions of the laws, and regulations under the jurisdiction of the Office.

RULE 4. PURPOSE

These Regulations are issued with the purpose of establishing clear parameters that allow to impose administrative fines uniform to the people who infringe one or more legal and regulating dispositions under the jurisdiction of the Office of the Ombudsman for the Elderly People.

RULE 5. DEFINITIONS

The *following* terms will have the meaning expressed below:

5.1 **Awarding** Ruling through which an agency determines the rights, obligations, and privileges that correspond to a party.

5.2 **Agency** Will mean any department, board, commission, office, division, bureau, administration, public corporation, or its subsidiary, authority, instrumentality of the Commonwealth of Puerto Rico including any of its officials, employees or members that act or appear to

act in the performance of their duties.

5.3	**Infringement Notice**	Notice issued by the Ombudsman for the Elderly People and/or authorized representative, in which the person is accused of committing or omitting some actions that constitute a violation of a law or regulation under the authority of the Office and the fine to be imposed.
5.4	**Orientation Notice**	Written notice issued by the Office in which people are informed about practices or acts that can constitute violations of any of the laws and regulations under the authority of the Office or the orders that have been issued, as well as a warning to the effect of notifying which would be the fine or sanction that entails that practice, act, or omission, if it is incurred again.
5.5	**Case**	Each situation reported or detected by the representative of the office in the benefit of an elderly person that includes one (1) or more complaints or problems that require to open a file and includes carrying out an investigation, collection of data, establishing an objective and/or strategies for its solution or follow-up through a mediation process or administrative hearing.
5.6	**Citation**	Document issued by the Ombudsman or authorized

representative where a petitioner or complainant, witness, petitioned party or defendant is ordered to appear at the Office, as well as a document where the orders are issued for the production of documents, materials or other objects.

5.7 **Coordinator of Services** — Employee or Officer of Office with the power delegated by the Ombudsman to investigate and/or verify that every natural or legal person meets the dispositions of the laws and regulations administered by this Office. As well as, require information, documents, and other evidence to the Persons and/or Institutions or Entities providers of services. This term includes the Auxiliary Ombudsman for Protection and Defense and the Ombudsman of Long-Term Care Facility Resident.

5.8 **Day** — Calendar day, unless specified to the contrary.

5.9 **Emergency** — Situation in which there is an imminent danger to the health, safety, or wellbeing of an elderly person, which requires immediate action.

5.10 **State of Emergency** — Condition of imminent danger called by the Office to a public or private institution that to the judgment of the Office, places at risk the assignment of funds destined

for the public of private institution or, the health and safety of the elderly people participants of the programs and benefits provided by the agency and that require an immediate action form the State.

5.11 **File** Official file of all the documents and materials related with a specific issue gathered in each awarding proceeding that is or has been before the consideration of the Office in accordance to what is established in these regulations.

5.12 **Incompetent** Elderly person who has been declared incompetent by a competent Court.

5.13 **Offender** Person who has been accused of violating any of the laws and/ or regulations under the jurisdiction of the Office, as well as any order issued by it.

5.14 **Interested Party** That person who is not an original party in an awarding proceeding before the Office of the Ombudsman for the Elderly People and who has demonstrated an active legitimation or interest in the proceeding complying with the requirements outlined in section 3.5 of Act No. 170 of August 12, 1988.

5.15 **Inspection** Action of examining, evaluating, and studying the physical, operational, and functional conditions of a

determined issue or matter.

5.16 **Institution or Entity** Is any association, corporation, organization, institution, natural or legal person, public or private, that offers, or provides a service or activity, or administers, or develops a program related with t elderly people, as such term is defined in these regulations and/or that receives some economic contribution from the government of the Commonwealth of Puerto Rico or that receives funds form the programs of the government of the United States of America that for the benefit, attention, and protection of such persons are contemplated in the federal and state laws.

5.17 **Fine** Sanction of monetary type that is imposed when a party does not comply with a resolution or order issued by the Ombudsman for the Elderly People and or authorized representative, or when the party is notified of an orientation notice for having incurred in a violation of a law or regulation under the authority of the Office.

5.18 **Notification** Communication of the Office to the parties where the decision to investigate the allegations of the complainant or petitioner, are informed, or of

dismissing them for not having constituting elements that justify the concession of the remedy requested.

5.19 **Examining Officer** Officer who presides the administrative hearing and who will present to the Ombudsman a report containing the finding of facts, legal conclusions, and recommendations for approval at the end of the awarding proceeding.

5.20 **Office** Office of the Ombudsman for the Elderly People.

5.21 **Interlocutory Order** That action in the Office, within an awarding proceeding, that provides a procedural component but does not provide for the controversy in its merits.

5.22 **Final Order or Resolution** Final decision or action that awards the rights and obligations of the parties, or that it imposes the course to follow, penalties, sanctions, or grants any other administrative remedy.

5.23 **Partial Order or Resolution** Action of the Office, within an awarding proceeding, that provides a right or obligation but that does not end the total controversy, but a specific aspect of it.

5.24 **Order to Show Cause** Action promoted or originated by the Office on its own initiative or request of the parties, directed at the other party to show cause for why a sanction for not complying with the rules and regulations or with any

		Order of the Ombudsman or Examining Officer should not be imposed.
5.25	**Party**	All natural or legal person who the action is addressed to, or who is allowed to intervene or participate in it, or who has been presented with a petition for revision or compliance with an Order, or who is designated as a party in such proceeding.
5.26	**Person**	Every natural or legal person of private o public nature, including but not limited to, government instrumentalities, municipalities, societies, public corporations, and trusts.
5.27	**Elderly Person**	Any person who is sixty (60) years or older in age.
5.28	**Expedited or Immediate Action Proceeding**	All actions form the Office of the Ombudsman for the Elderly People, through which an order is issued in accordance to section 3.17 of Act No. 170 of August 12, 1988, as amended.
5.29	**Formal Proceeding**	Public Hearing celebrated before an Examining Officer, which must be recorded or in shorthand, and in which the officer who presides it will prepare a report for the consideration of the Ombudsman.

5.30	**Ombudsman**	Ombudsman for the Elderly People or authorized representative, in virtue of Act No. 76 of July 24, 2013.
5.31	**Person**	All natural or legal person of private or public nature including but not limited to, government instrumentalities, municipalities, societies, public or private corporations, and trusts, profit or non profit.
5.32	**Elderly Person**	Any person who is sixty (60) years or older in age.
5.33	**Complaint or Petition**	Claim presented by a natural person or by the Office, against another natural or legal person, requesting that his right is acknowledged and a remedy is granted, including fines. Also, it means the process initiated by the Office for the violation to the established laws, regulations, or procedures.
5.34	**Complainant or Petitioner**	Any elderly person that on their own, or by their guardian, authorized representative, or particular person, presents before the Office a complaint or petition against another person where there is an alleged violation of the rights provided in virtue of the state and federal laws related to elderly people.
5.35	**Defendant or Petitioned**	Natural or legal person to whom the Office or another person accuses of a violation or infringement to the

current laws or regulations. It will also mean, that person who is being an object of investigation by the Office.

5.36 **Reoccurrence** It will be understood that a defendant or offender is repeat offender when they incur in a violation of a law or regulation administered by the Office, or of an order for which they have already been fined, by final and firm resolution. If five (5) years have passed since the violation was committed, they will not be considered.

5.37 **Rules** Those regulating dispositions contained in these regulations titled *Regulations for Awarding Proceedings of the Office of the Ombudsman for the Elderly People.*

5.38 **Authorized Representative** That person to which the elderly person granted a specific mandate, in writing, to present in the Office a complaint or petition on their behalf.

5.39 **Sanction** Consequence or effect that constitutes a violation to a party not complying with any resolution or order issued by the Ombudsman and/or authorized representative.

5.40 **Guardian** That person who a competent Court has granted the guardianship of the person or goods, or both, for its administration, in favor of the person who has been declared unfit, as defined in the Civil Code of Puerto

Rico.

5.41 **Urgency** Situation in which the safety and wellbeing of an elderly person is threatened, although there is not an immediate imminent danger.

5.42 **Administrative Hearing** Quasi-judicial proceeding in which the allegations of both parties are aired, it is presided by an Examining Officer, and after which an Order or Resolution will be issued for the evaluation and consideration of the Ombudsman or his/her authorized representative.

RULE 6. JURISDICTION

The Office may receive, address, investigate, proceed, resolve, and ward complaints related to the actions and omissions that violate the rights of the elderly people residents in Puerto Rico; denial of benefits and opportunities that they have a right to and affect the the benefit programs. Also, it may grant the pertinent remedies in accordance to the Law; compensations in damages; order corrective actions to any natural or legal person, or any agency that denies, obstructs, violates, or undermines the rights and benefits of the elderly people residents in Puerto Rico.

RULE 7. PRESENTATION OF COMPLAINTS- GENERAL DISPOSITIONS

7.1 Any natural or legal person or government agency that has knowledge or suspicion of an action or omission, under the jurisdiction of the Office, that a natural or legal person has carried out in violation of the Regulations or dispositions of law administered by the Office, may present a petition or complaint before the Office.

7.2 Requirements of the Complaint or petition made by the elderly person

1. If the complaint or petition is presented personally, via phone call, or e-mail or via fax it must contain the following information:
    a. Identification of the Parties – Complete name of the parties, including both last names or in their absence any fact that can identify them. If it is a corporation, special or professional partnership, it will include their legal name; the name under which they do business; name of the president, director, or supervisor; and if known, the name of the resident agent.
    b. Address and telephone number- all physical, postal addresses emails, telephone and fax numbers of all the parties in the complaint, as well as any other information that identifies them and can verify their identity.
    c. Date of the incident.
    d. Succinct and clear relation of the constitutive facts of the claim or violation.

e. A detailed relation or description of the documents available to sustain the allegations, with copies of them along with the complaint or petition.

f. Reference to the applicable legal dispositions, if known.

g. Remedy requested with a detailed description.

h. Signature of complainant or petitioner or authorized representative. If the complaint is presented by an authorized representative, this person will have to demonstrate his or her capacity of representation in writing, except in the case of attorneys.

i. When a fax or e-mail is used to present a complaint, the date of submission will be the confirmation with date and time of transmission of the document.

2. If the complaint is presented by the Office, it must contain:

a. Identification of the parties – Complete name of the parties, including both last names, or in their absence any fact that can identify them. If it is a corporation, special or professional partnership, it will include their legal name; the name under which they do business; name of the president, director, or supervisor; and if known, name of the resident agent. In the case that the defendant is a Government Agency, the related information must be notified to the Director of the Legal Division.

b. Address and telephone – All physical, postal, e-mail addresses must be included, and the telephone numbers and tele-copiers of all parties of the complaint, as well as any other information that identifies them and that can verify their identity.

c. Date of the incident.

d. Succinct and clear relation of the constitutive facts that originate the petition or complaint.

e. The legal and regulatory dispositions that they are accused of violating.

f. A detailed relation or description of the documents available for sustaining the allegations, along with a copy of them with the complaint or petition.

g. Remedy requested with a detailed description.

h. Proposal of Sanctions, if applicable.

i. Name and signature of officer who represents the Office.

7.3 The presentation of complaints or petitions that do not substantially comply with what is stated in the sections above will not be permitted, as the case may be.

7.4 It will be the complainant or petitioner's responsibility to present all needed documentation to the Office for processing their complaint or petition.

7.5 When a complaint is filed before the administrative forum the Office will assign a file and a case number which will indicate the letter of the region

where the complaint was initiated, the year it was presented, and the chronological number in order of submissions corresponding to that year.

RULE 8. AMENDMENTS TO COMPLAINTS

Amendments to the allegations will be authorized liberally, in the justice interest. Liberal means all amendment that rises form new facts or evidence that a party receives or that it helps to a better comprehension of the facts. The amendment to the complaint initiates again the terms to resolve it. The amendment to the complaint must be notified to the other party, if it is done after the *Notification of Complaint* on behalf of the Office. The complaint can be amended during the Administrative Hearing, to adjust it to the evidence presented, except in cases that are celebrated by default.

RULE 9. CONSOLIDATION OF COMPLAINTS

9.1 When several complaints state common factual and legal issues, even if they are against different parties, or several complaints are discussed against the same defendant party, they may be consolidated in a single case and celebrate only one administrative hearing of any or all the litigious issues

covered in such complaints; and could sentence, to that respect, those orders that prevent unnecessary expenses or delays.

9.2 When a consolidation of the complaints is determined in accordance with what it is stated in this Rule, the Office may proceed to issue the parties a Notification of the Consolidation of Cases. The Notification will include the following:

1. Legal basis that promotes the Consolidation
2. The right that the party has to request in writing an exclusion from the Consolidation and the reason to justify it.
3. The parties may request to appear on their own or may appear assisted by an attorney, but are not obligated to be there represented, including the cases of corporations and partnerships.

9.3 The Examining Officer, once the awarding proceedings has begun, Motu Proprio or by request of a party, may exclude a party or all form the consolidation of cases in order to insure an awarding in its merits, just, quick, economic, and impartial, for the excluded and/ or for all the parties.

RULE 10. APPEARANCE – LEGAL REPRESENTATION

10.1 The parties may appear to the proceedings on their own or represented by attorneys.

10.2 The parties and their representatives must observe due decorum and respect towards the Examining Officer and towards the parties.

10.3 The attorneys who present before an administrative forum must faithfully follow the current Cannons of Professional Ethic.

10.4 If a party decides to represent itself in any, or all, the phases of the process, this will not be a justified reason to try to litigate again issues already awarded during the hearing proceeding or in a proceeding before the hearing, in which a Resolution has already been pronounced.

10.5 The party who is interested in exercising their right to auto-representation must meet the norms of procedural and substantive law applicable to the process.

10.6 In the cases of corporations and societies it will not be a requirement to appear through a lawyer, but they must appear represented by an official authorized to make decisions on behalf of the entity they represent. Such delegated representation and authority must be certified by a Corporate Resolution.

10.7 In the case that the petitioner or complainant does not have the economic means to hire the services of an attorney to represent them in the administrative hearing or other awarding proceeding; or if the petitioner or complainant requests legal representation the following procedure will be followed:

1. A referral to the Office of Legal Affairs of OPPEA will be made, which will include personal information of the elderly person, and information and documents related to the case.

2. The Director of the Office of Legal Affairs will evaluate the referral and will determine if the service will be provided according to the availability of the attorneys, the merits of the case, and the standards of eligibility established by the Office.

RULE 11. NOTIFICATION OF COMPLAINTS

11.1 The office will notify all defendants, of the complaint presented against them. This notification will be done in writing, by certified mail with acknowledgement of receipt, in which the reasons for the presentation of the complaint will be stated. The defendant must answer the complaint in a term of twenty (20) days starting from the receipt of the notification. The notification will consist of a copy of the complaint, a written notice of any hearing indicated by the Office, and a warning that an absentia can be documented in case that the defendant does not present an answer in the term of twenty (20) days and the consequences.

11.2 The notification of the complaint may be done personally when the circumstances merit it. In case of a personal notification, the person who delivers it must certify its delivery, recording the date, time, exact physical address of delivery, and will identify by name the person to whom it was

delivered. A notification can be delivered to the people who may be summoned in accordance to the current Rules for Civil Procedure.

11.3 The procedures related to the complaint that follow, including the answer must be filed in the Office by regular mail, personally, fax, or e-mail. The evidence of personal submission or by ordinary mail will be the stamp of the Office of Examining Officers at the time of receipt. The submissions made via fax or e-mail will be understood as filed with the confirmation of date and time of transmission of the document. Document that does not have evidence of submission will be understood as not received.

11.4 The Notifications in the administrative forum following the notification of the complaint will be by regular mail. Nevertheless, the notifications may be made via fax or e-mail when the parties request it through a Motion, and when the resources and facilities are available in the Office to carry them out. When these mechanisms for notification are used, it will be understood that the party that is requesting it, waives the notification by regular mail. Nevertheless, the Office may notify a document through regular mail when there are technical difficulties for the transmission or the documents of the notification are too extensive.

11.5 Once the proceeding is initiated, it will be a continuous obligation of the parties to notify the Office in writing of any chance of address or telephone during the term of three (3) business days of having occurred that change.

Not complying with this notification may be subject to an imposition of sanctions.

11.6 All attorneys who assume legal representation and/or renounce to it, are obligated to notify it in writing to the administrative forum, and all the complainant parties, as well as all the documents filed.

RULE 12. CLOSING OF CASE; DISMISSAL OR WITHDRAWAL

12.1 The office will have no competency to address those cases that, to their judgment:

1. Refer to an issue outside their scope of jurisdiction;
2. It is frivolous or there is no evidence of the situation;
3. The complainant or petitioner desists or retires voluntarily;
4. Of the alleged facts it cannot be proved that the complainant or petitioner has a right to a concession of a remedy;
5. The complainant or petitioner does not have the capacity to file the complaint or petition;
6. The complaint or petition is being investigated by another agency or office and to the judgment of the ombudsman it represents a duplicity of efforts to act upon it;
7. For lack of interest of the complainant or petitioner;
8. For any other legally valid reason.

12.2 Dismissal or Withdrawal of Complaints

The office may order the complainant to show cause for why the complaint should not be dismissed, by initiative of the Office or by request from the defendant, if the complaint does not present a claim that justifies the concession of a remedy, because it does not merit it, for lack of jurisdiction, or for any other basis that the Law allows. In the case of dismissal, the Office will guide the complainant about the legal remedies available to protect their interests. Against such determination a request for reconsideration or revision will proceed, as stated in these Regulations.

12.3 The complainant may withdraw the complaint, by presenting a notice of withdrawal or through stipulations of the parties in any phase of the proceedings. The withdrawal will be without perjury, unless the notice or the stipulation expresses to the contrary. It will be with perjury if the complainant had desisted before on the same claim or the defendant had fulfilled the obligation.

RULE 13. EXAMINING OFFICER

13.1 Every agency can designate examining officers to preside the awarding procedures celebrated before them.

13.2 The examining officer will have the authority, among other powers, to:

1. Preside the Hearings and guide the proceedings;
2. Take oath;
3. Appoint Hearings and Ocular Inspections;

4. Take official knowledge;
5. Summon witnesses;
6. Issue Orders for the production of documents, information, materials, objects, among others, when such information is directly or indirectly related to the case, at risk of sanctions;
7. Declare a non- complying party in contempt of court;
8. Declare the payment of legal fees, expenses, and costs in accordance to the current Rules of Civil Procedure;
9. Issue protection orders in cases of emergency where the life, safety, health and/or wellbeing of the elderly person is at risk;
10. Grant the remedies deemed in accordance to what it is established in these regulations and the applicable laws and regulations.

13.3 If any party or authorized representative does not comply with any of the dispositions of these regulations or any Order form the Examining Officer of the agency, by the examining officer's own initiative or requested by a party, may order them to show cause for not imposing sanction, the order will inform the rules, regulations, or orders that have not been met, and will concede a term of twenty (20) days, starting form the date of the notification of the order, to show cause. If the party does not comply with this order, or it is determined that there was no cause to justify the infringement, then the Examining Officer may impose a monetary sanction of two hundred ($200.00) for each incompliance separately. The sanction may be directed

against the party or the attorney, if the last one is responsible for the incompliance, and the payment can be determined in favor of the agency or of any of the parties.

13.4 In case of incompliance with any order issued by the Examining Officer, the Office may present a request for assistance to the Court of First Instance with competence, and the Court may issue a judicial order in which it orders the appearance of the person in question or the compliance of what was ordered under warning of incurring in contempt of courts if they do not comply with such order.

13.5 The Examining Officer will have the obligation of providing a report of all the hearings celebrated before them.

RULE 14. ADMINISTRATIVE HEARINGS PROCEEDINGS

14.1 *Guaranteed Rights*

In every awarding proceeding of quasi-judicial nature, the following rights will be safeguarded:

1. The right to a timely notification of, the complaint or claim against another party.
2. Right to present evidence.
3. Right to an impartial awarding.
4. Right for the decision to be based on the file.

14.2 *Procedure during hearing*

The Examining Officer will preside the hearing within a frame of relatively informality, will offer all parties the necessary extension for a complete disclosure of all the facts and issues in discussions, the opportunity to respond, present evidence, and argue, conduct a cross-examination, and submit evidence in rebuttal, except if they have been restricted or limited by the stipulations in the initial hearing and status conference.

14.3 *Motions*

All motions must be filed in the Office of Examining Officers in original with copy to the other parties in the case. All documents will be written on white copy paper, size 8 1/2 x 14, font no smaller than 10" or bigger than 14".

14.4 *Intervention Request*

1. Any person who has a legitimate interest in an awarding proceeding before the Office, may submit a request in writing and duly substantiated to be permitted to intervene or participate in such proceeding.
2. The Office may grant or deny such request, at its discretion, taking into consideration the fallowing factors:
    a. That the interest of the petitioner may be adversely affected by the awarding proceeding;
    b. that there are no other means in Law for the petitioner to adequately protect their interest;
    c. that the interest of the petitioner is already properly represented by the parties in the proceeding;

d. that the participation of the petitioner can reasonably help to prepare a more complete file of the proceeding;

e. that the participation of the petitioner can excessively extend or delay, the proceeding;

f. that the petitioner represents or is a spokesperson of other groups or entities of the community;

g. that the petitioner can contribute information, expertise, specialized knowledge or technical guidance that would not be available otherwise in the proceeding.

3. The Office may require that additional evidence be submitted for issuing a corresponding determination regarding the request for intervention.

4. A refusal from the Office before a request for intervention in an awarding proceeding, must be notified in writing to the petitioner and must have the basis for the determination and the available resource for revision.

14.5 *Language*

All phases of the proceedings will be conducted in Spanish. Any party that does not know or dominate the language, or requires assistance to understand the hearings because of a hearing limitation, may appear with the assistance of an interpreter.

14.6 *Recording*

1. All administrative hearing will be recorded by the Examining Officer, which will constitute the official record of the proceedings.

2. The use of recorders is not allowed by any person in the room of the hearings or during any awarding proceeding, other then the one of the Examining Officer.
3. The recording will not be transcribed or reproduced for the parties, unless the Ombudsman, prior substantiated petition in writing by the interested party, authorizes it, or a Court with competency orders it.
4. The interested party must indicate in their petition for a re-recording of the hearing the day and time that it was celebrated, the issue addressed, and the basis to justify the request for re-recording. The copy of the recording will be produced in the same means in which the hearing was recorded. The interested party will provide the mechanism where the hearing will be recorded.

14.7 *Public Hearing*

All hearing will be public unless a party presents a request, in writing, duly substantiated for the hearing to be private, and the Examining Officer who presides the hearing, authorizes it, in the use of his full discretion if it is understood that it can cause an irreparable damage to the petitioner party.

14.8 *Application of the Rules of Civil Procedure and Evidence*

Ordinarily, the Rules of Civil Procedure nor the Rules of Evidence will be applied in the awarding proceedings. Nevertheless, the fundamental principles of both rules may e used in a flexible manner, addressing the

circumstances of each particular case, to achieve a quick, just, and economic solution, of the complaint presented.

14.9 *Exclusion of Evidence*

The Examining Officer that presides the hearing may exclude that impertinent, non-material, repetitive, or inadmissible evidence for constitutional or legal grounds based on evidentiary privileges recognized by the Courts.

14.10 *Discovery of Evidence*

Ordinarily the procedures of discovery of evidence will not be applied to the cases of administrative awarding, unless that the Examining Officer who presides the hearing authorizes it. Nevertheless, of what is stated above, all defendant or petitioned party is guaranteed the mechanism of discovery of evidence for the cases that the awarding proceeding is initiated by the Office.

14.11 *Transaction*

The defendant party may make a transaction offer at any time of the proceedings, without understanding with this that the proceedings are paralyzed. All transaction must be in writing and with the details of their terms, conditions, and actions for infringement. The transaction must be signed by the parties involved and notify a copy to the administrative forum and other parties of the case.

14.12 *Ocular Inspections*

The Examining Officer who presides the hearing may, at any time, carry out ocular inspections *motu proprio* or by request of any party.

14.13 *Official Knowledge*

The Examining Officer may take official knowledge about certain facts and circumstances susceptible to immediate corroboration which accuracy or source cannot be reasonably questioned.

14.14 *Proposal of Findings of Facts and Conclusions of Law*

Once the awarding hearing has concluded, the Examining Officer may grant a term of fifteen (15) days for the parties to present proposals of findings of facts and conclusions of law.

14.15 *Documentary or Testimonial Evidence*

1. The evidence to be presented for sustaining a case will only be done while the awarding process lasts. After having filed the case the Examining Officer will proceed to write the report taking into consideration only that document and/or testimony that is in the official file.
2. All documents offered as evidence must be presented in original, with copy to the Office and all the parties. Then after verifying their authenticity, and that the copy that will remain in the file is a true and exact copy of the original, the original document will be returned to the party that produced it.

14.16 *Citations*

The Ombudsman or authorized representative will issue citations ordering a petitioner or complainant, witness, petitioned or defendant party their appearance to the Office, as well as issue documents where orders are issued to produce documents, materials, or other objects. In the cases where a duly summoned witness does not appear to testify or does not produce an evidence that is required through the citation, or when they refuse to answer any question or allow the inspection requested, the Office may seek assistance from the Court of First Instance to make them comply with the citation or order.

14.17 *In Absentia*

If a duly summoned party does not appear to a hearing, without a just cause, the Examining Officer who presides it may declare the party in absentia and continue the proceeding without their participation. Such party will be notified in writing of the the determination in absetntia, the basis for it, and the available revision resource, if applicable.

14.18 *Duration of Process*

Every case filed for an awarding proceeding before the office must be resolved within a term of six (6) months, since its submission, except in exceptional circumstances.

RULE 15. CONFERENCE BEFORE HEARING

15.1 After presenting the complaint or petition, if the Office determines that it is necessary to celebrate an awarding proceeding, it may summon all parties or authorized representatives and interested parties, on the Offices' initiative or by petition of any of the parties, to a conference before the hearing, with the purpose of reaching a definite agreement or simplify the issues or the evidence to be considered in the hearing. Stipulations between the parties may be accepted to resolve controversies as long as the Office determines that it serves the best public interests.

15.2 Before the celebration of the hearing, the parties will meet with the purpose of identifying the central dispute of the case, simplify the issues to be stated in the hearing, stipulate the facts, stipulate the evidence, and study all the possibilities of reaching a transaction that ends the presented issue with the hope of minimizing the dispute.

15.3 As a product of the meeting between the parties, a Joint Report will be written stating: the facts and theory of the case, the dispute, the stipulations of facts, lists of witnesses, list of evidence to be presented by each party, and list of stipulated evidence and the legal basis that sustain their theory. The report must be filed within five (5) before celebrating the hearing.

15.4 If from the face of each evidence presented, a reason is not shown for its production, without having to mediate inference by the evaluator, then it

should be presented with a brief description to explain its meaning or purpose.

RULE 16. EMERGENCY AWARDING PROCEEDING

16.1 The Office may use emergency awarding procedures in a situation in which there may exist an imminent danger to the public health, safety, and wellbeing or requires an immediate action from the agency.

16.2 The Office must send a notification of the declaration of an emergency hearing in writing or personally, according to the merits of the case, to the people who are required to comply with the order or resolution. The order or resolution will be effective from its issuance.

16.3 The order or resolution that will be issued will provide for the celebration of an administrative hearing in a term not greater than five (5) days starting form the date that is notified.

16.4 The Office will issue an order or resolution including a concise statement of the findings of facts, conclusions of law, and reason of public policy that justify the decision of the Office to take this immediate action. If the case merits it, the Order or Resolution will be issued Ex parte. Once the state of emergency is addressed, the ordinary process will be continued.

16.5 Any party affected by such order or resolution could request its reconsideration according to these Regulations.

RULE 17. NOTIFICATION OF ADMINISTRATIVE HEARINGS

17.1 Notification of Administrative Hearing

Once the Examining Officer receives the case, the parties and the witnesses will be summoned, with no less than fifteen (15) days prior to the celebration of the administrative hearing. The Examining Officer will proceed to summon the parties by regular mail or personally. The notification of the citation must contain the following information:

1. Name of the parties;
2. Case number;
3. Date, time, and place where the hearing will be celebrated;
4. Nature or purpose of Hearing;
5. Warnings to the parties that they can appear represented by an attorney, although they are not obligated to be represented. In the cases of corporations and partnerships it will not be a requirement to appear through an attorney, but they must appear represented by an officer authorized to make the decisions on behalf of the entity they represent. Such delegated representation and authority must be certified by a Corporate Resolution;
6. Quotation of the legal disposition or regulation that authorizes the celebration of the hearing;
7. Reference to the violated legal or regulatory dispositions and their constitutive facts;

8. Warning of the measures that the Office may take if one party does not appear, including but not limited, to the possibility of dismissal and filing of the complaint, and the imposition of fees, expenses, and costs;
9. Warning that the hearing cannot be suspended, unless it follows what it is established in these rules;
10. Warning that the hearings are recorded;
11. Warning that the hearings are public, unless they request a private one, in accordance to what it is established in these rules;
12. Safeguard of separability and independence between the Office of Legal Affairs and the Office of the Examining Officers;

17.2 Notification of Emergency Hearing

When the celebration of an emergency administrative hearing is necessary, the notification will include, in addition to the requirements mentioned before, the reason for why it is meritorious to shorten the term of fifteen (15) days established by the law.

RULE 18. SUSPENSION OR TRANSFERENCES OF ADMINISTRATIVE HEARINGS

A hearing that has already been appointed cannot be suspended or transferred, except if it is requested in writing stating the causes justifying it, and with the proposal of three (3) alternate dates within fifteen (15) days following the appointed hearing. Such request must be submitted five (5) days prior to the

date of the hearing. The petitioner party must send a copy of the request to the other parties and interested party in the proceeding, within the term indicated. Infringement of this Rule may give reason to impose monetary sanctions.

RULE 19. REPORT OF EXAMINING OFFICER-OFFICIAL FILE

19.1 Within sixty (60) days following the date in which the hearing has concluded, the Examining Officer must file a Report to the Ombudsman, which will contain the relation of findings of facts and conclusions of law, for the Ombudsman's approval and a later Resolution.

19.2 The file of the Office will constitute the exclusive basis for the awarding of the case, the resolution of the Ombudsman, and ulterior judicial revision. The file will include:

1. Notifications of all the proceedings.
2. Any interlocutory order or resolution dictated before the hearing
3. Any motion, allegation, petition, or requirement.
4. Evidence received or considered.
5. A relation of all the matters that had official knowledge.
6. Offering of evidence, objections, and their resolutions.
7. Proposals of determinations of facts, and conclusions of law, orders requested and exceptions.
8. The report prepared by the Examining Officer who presided the hearing, along with any transcription of all or part of the hearing considered

before the final disposition of the proceeding, in those cases in which the staff member who presided the Hearing does not have the power to award, they must be included in the file if it was ordered so by the Ombudsman or the Court.

9. Any final order or resolution, preliminary order, or in reconsideration.

RULE 20. RESOLUTION

20.1 The Ombudsman will issue a final Order or Resolution within ninety (90) days after the hearing has concluded or after presenting the proposals of findings of facts and conclusions of law, unless that this term is waived or extended with the written consent of all the parties or for a justified cause.

20.2 The Order or Resolution must include separately the findings of facts that were proved during the administrative hearing, if these were not waived, conclusions of law, that substantiate the awarding, and the availability of the reconsideration or revision resource according to the case. The Order or Resolution will be signed by the Ombudsman or any other employee authorized by the law.

20.3 The Order or Resolution will advice of the right to request a reconsideration or revision, stating the corresponding terms.

20.4 The Office must notify the parties the order or resolution as soon as possible, by regular mail and file a copy of it and of the evidence of the

notification. A party may not be required to comply with a final order unless that it has been notified about it.

20.5 When a party does not comply with a resolution or order issued, the affected party may request the execution of the Resolution to that effect. The Office may notify Order to Show Cause or seek assistance form the Court.

RULE 21. RELEASE OF RESOLUTIONS AND CORRECTIONS OF ERRORS

21.1 The Office may grant a celebration of a new administrative hearing to all or any of the parties, about all or any part of the contentious issues, for any of the following basis:

1. When substantial evidence is discovered, that, even though reasonable diligence, could not be discovered nor presented in the hearing.
2. When in the evidence presented during the awarding proceeding there was fraud, false representation, or other improper conduct from an adverse party.
3. When justice requires it.

21.2 Form errors in the resolutions or documents of the file, and that they appear inadvertently or by omission, may be corrected by the Office at any time, by the Office's initiative, or by motion of a party. During the process of revision these errors may be corrected before taking the file to the

competent Court, and afterwards, they can only be corrected with the permission of the competent court. Such corrections will be notified to the parties.

21.3 The Office may release a party form the effects of a resolution, order or proceeding for the reasons indicated in the current Rules of Civil Procedure.

RULE 22. RECONSIDERATION AND REVISION

22.1 Reconsideration

1. The party adversely affected by a Resolution or Order of the Ombudsman may present a motion of reconsideration within a term of twenty (20) days staring from the date of filing the notification of the Resolution or Order in the case file. The motion must be duly substantiated and will be simultaneously notified to the parties.
2. Once the motion is presented it must de considered. If it is rejected immediately or it is not acted within fifteen (15) days, the term to request revision will start again from the time that the negative decision is notified or when those fifteen (15) days expire, according to the case. If a determination is taken for its consideration, the term to request revision will start to count from the date that a copy of the notification of the resolution of the Office definitively resolving the reconsideration motion is filed. Such resolution must be issued and

filed in the case file within ninety (90) days after filing the motion for reconsideration. If the Office accepts the motion for reconsideration, but does not take any action regarding the motion within the ninety (90) days of having been submitted, it will lose jurisdiction over it and the term to request judicial revision will start upon the expiration of such term, unless the Office, for just cause and within those ninety (90), extends the term to resolve it for a period that will not exceed thirty (30) additional days.

22.2 Revision

1. An adversely affected party by a Final Order or Resolution of the Office and that it has exhausted all the remedies provided by the Office may present a request for revision before the Court of Appeals within a term of thirty (30) days, starting from the date that that the notification of the final Order or Resolution of the Office is filed, or starting form the applicable date of those established in these Regulations; when the term to request a judicial revision has been interrupted by a timely presentation of a motion for reconsideration. The party will notify the presentation of the request for revision to the Office and to all the parties within the term to request such revision.

2. Form errors may be corrected by the Office at any moment, by the Office's initiative or by a Motion from any party. Such corrections will be notified to the parties.
3. The submission of a request for judicial revision will not suspend the effects of a final resolution of the Office, the decision of the Ombudsman will remain in full validity and effect until there is a decision from the Court of Appeals leaving it without effect.

RULE 23. SANCTIONS

23.1 If the party which against the Order or Resolution is issued does not comply with it, or stops complying the rules and regulations of this Office, the party may be sanctioned, prior notification, upon the Office's initiative or by request form a party. The Order will inform the rules, regulations, or orders which have been violated, and will grant a term of twenty (20) days, starting from the date of the notification of the order, to show cause. If this order is not followed, or if it is determined that there was no cause to justify the violations, the party or their attorney will be sanctioned, if the latter was responsible for the non-compliance, with a fine of two-hundred ($200.00) for each violation separately.

23.2 A dismissal of the complaint can be ordered in the case that the petitioner or complainant, or eliminate the allegations in the case of the defendant or

accused, if after the economic sanctions are imposed and having notified the corresponding party, such party continues in infringement.

23.3 Administrative fines may be imposed and charged up to a maximum of ten thousand dollars ($10,000) for actions or omissions that injure the rights of the elderly people covered by the Constitution of the United States of America, in the Constitution of the Commonwealth of Puerto Rico, and the laws of the Commonwealth of Puerto Rico.

23.4 Similarly, attorney costs and fees may be imposed, in the same cases that are established in the current Rules of Civil Procedure.

23.5 In any case, the Ombudsman, or delegated employee, may resort to a competent Court for it to issue an order under warning of contempt, or to present any other resource that proceeds in the law.

RULE 24. REMEDIES

The Office may grant as a remedy established by law, the compensation to a party for damages suffered, including moral damages.

RULE 25. CONFIDENTIALITY OF FILE

25.1 The files in this Office are protected by the rules of confidentiality established in the laws that protect the elderly people.

25.2 Any of the parties may, on their own or through their authorized representative, examine or copy the file or files, as well as the recordings in

file, that are kept in the Office about the complaint or petition; except for that written document product of the intellectual work of any employee of the Office (e.g.: notations, internal memorandums, internal reports, among others). As well as through a written order of any competent Court.

25.3 In the case of a party that wants to examine or copy a file or certain document in particular, it must be requested in writing prior to the hearing, or verbally, if it is done during the administrative hearing.

RULE 26. SEPARABILITY

In case that a competent Court declares any disposition in these regulations invalid, null, or ineffective, the rest will keep governing with all the force of the law.

RULE 27. DEROGATORY CLAUSE

Hereby Regulation No. 7099 is abolished, *Regulations for the Awarding Proceeding of Complaints before the Office of the Ombudsman for the Elderly People*, filed on March 2, 2006, before the Department of State, with effective date of March 31, 2006.

RULE 28. AMENDMENTS

The proposals of amendment to these regulations will be submitted to the Ombudsman, or designated person for this, for their evaluation. It will be the Ombudsman prerogative to approve them.

RULE 29. VALIDITY

29.1 These rules will start to govern thirty (30) days after their submission in the Department of State.

29.2 With the approval of these Regulations all previous Regulations related to this topic are overridden.

SIGNED

IN San Juan, Puerto Rico, today October 10, 2016.

Carmen D. Sánchez Salgado, Ph.D.
Ombudsman