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ADMINISTRATIVE ORDER # 2012-04

**TO: ALL STAFF MEMBERS OF THE DEPARTMENT OF JUSTICE,
ATTACHED CONSTITUENTS AND SUBRECIPIENT ENTITIES,
VISITORS AND CITIZENS**

**RE: POLICY REGARDING DISCRIMINATION AND SEXUAL
HARASSMENT AND THE PROCEDURE FOR HANDLING
DISPUTES**

I. TITLE

 This Administrative Order shall be known as “Policy Regarding Discrimination and Sexual Harassment and the Procedure for Handling Disputes.”¹

II. LEGAL GROUNDS

This Administrative Order is issued per the Attorney General’s powers as set forth in Sections 5 and 6 of Article IV of the Constitution of Puerto Rico’s Government; and in Act 205-2004, as amended, known as “Organic Law of the Department of Justice”, particularly, in virtue of Articles 3, 18, 34 and 35 therein, which reiterate the Attorney General’s constitutional prerogatives as the Puerto Rico Government’s prime law enforcement authority, to promote the compliance and execution of the law in representing the Prime Executive. These same articles also enable the Attorney General to establish the internal organization and structure of the department that better responds to complying with the obligations imposed on it by the law.

¹ The wording and phrases used in this Administrative Order shall be interpreted per their common meaning and in relation with the laws and jurisprudence of Puerto Rico. Words in singular form include the plural, and pluralized words include the singular. Words of masculine gender include feminine and neutral genders and, when the meaning indicates, words in neutral gender may refer to any gender. Subrecipient entities mean organizations, agencies or entities handling federal funds to implement programs financed with such funds. The word “employee”, unless otherwise defined, includes officials, employees, contractors, agents and all other persons rendering services in, or for, the Department of Justice, their appointed constituents and subrecipient entities.

In addition, these dispositions set forth the Attorney General's authority to plan, direct and oversee the functioning of the Department as well as the staff, designated attorneys and the fixed-term officials appointed by the Governor to perform their duties within the Department. Id. On the other hand, this Administrative Order is issued in concordance with several constitutional requirements and statutes which forbid certain types of discrimination and sexual harassment in the workplace, which will be explained next.

The Constitution of the Commonwealth of Puerto Rico's Bill of Rights, in Section 1, establishes that the dignity of a human being is inviolable, that all human beings are equal before the law and no discrimination shall be made on account of race, color, sex, birth, social origin or condition, or political or religious ideas. In addition, Act 184-2004, as amended, known as "Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico", establishes the principle of merit as that which governs the actions of public service personnel. In accordance with this, the Act sets forth that all employees shall be selected, trained, promoted, treated and retained in their jobs based on his merits and abilities in consideration to their merit and capability, without discrimination pursuant to the applicable laws, including discrimination on the basis of: race; color; sex; birth; social origin or condition; political or religious beliefs; age; being a victim or being perceived as a victim of domestic violence, sexual aggression or harassment; being a veteran; or physical or mental disability.

In addition, Act 69 dated July 6, 1985, as amended, known as "Act on Job Discrimination on Grounds of Sex", requires a strict compliance with the principles of equality of employment rights, both in men and women; and forbids discrimination on grounds of gender. As a discrimination mode on grounds of gender, Act 3 of March 13, 1942, as amended, known as the "Act for the Protection of Working Mothers", prohibits discrimination of a woman on grounds of pregnancy. Act # 44 dated July 2, 1985, as amended, known as the "Act on Prohibition of Discrimination against Handicapped Persons", establishes that public and private institutions shall not exercise, enforce or use discriminatory procedures, methods or practices in the job against people with any kind of physical, mental or sensory handicap merely because of such handicap. Likewise, Act # 17 dated April 22, 1988, as amended, known as the "Act prohibiting sexual harassment in the workplace", in addition to prohibiting sexual harassment in the workplace, imposes responsibility on every employer to clearly establish a public policy against sexual harassment in the workplace, and to provide an appropriate work environment and a procedure to file complaints for the sexual harassment victims.

On the other hand, Act # 115-1991, known as the "Witness Protection Act", mandates that no employer shall discriminate against an employee regarding job terms, conditions, compensation, location, benefits or privileges on grounds that the employee offers, or intends to offer, either verbally or in writing, whatever testimony, expression or

information before a legislative, administrative or judiciary forum in Puerto Rico; when such expressions are not defamatory or constitute a disclosure of privileged information, as established by law. In addition, Act # 62 dated June 23, 1969, as amended, known as the "Military Code of Puerto Rico", establishes that no employer may discriminate against an employee on grounds of absence caused by complying with military duty or by being a member of the Armed Forces of Puerto Rico. In addition, Act # 45-1998, as amended, known as the "Act on Labor Relations for the Public Service of Puerto Rico", establishes as an illicit practice by whatever agency or by any of its representatives to encourage or discourage joining any union or to take part in its activities through discrimination when hiring, firing or granting permanence in employment or regarding other work terms and conditions.

Furthermore, Act # 100 dated June 30, 1959, as amended, known as the "Act prohibiting discrimination on grounds of age, race, color, religion, sex, social or national origin or condition", protects company's workers and job candidates against being discriminated based on age, race, color, religion, sex, social or national origin or condition, or political or religious beliefs. By exception, this law extends its protection to the employees of the agencies or auxiliaries of the Government operating as private businesses or companies.

 In turn, we include herein the public policy established by the Bureau on Training and Counseling in Job Issues and Human Resource Management through approval of Special Memorandum # 34-2011 dated October 20, 2011, which prohibits discrimination on the public services' Human Resource management, per the essential areas of the merit principle.

In the federal sphere, Title VII of the 1964 Federal Act on Civil Rights, as amended, prohibits discrimination on grounds of sex, race, color, religion and national origin. The Civil Rights Act of 1871, as amended, establishes prohibitions similar to Title VII by forbidding discrimination on grounds of gender, race, color, national origin, religion or political beliefs by any person acting upon the authority of any statute, bylaw, regulation, practice or custom of any state or territory of the United States of America. On the other hand, Federal Public Law # 101-336 dated July 26, 1990, as amended, known as "Act on Handicapped Americans", prohibits discrimination against any qualified person on grounds of this person suffering from a physical or mental handicap, having a history of such handicap or being perceived as having a handicap.

Moreover, as a condition of accepting funding from the U.S. Department of Justice (USDOJ), the Department and its subrecipients are required to comply with applicable federal laws regarding discrimination. Regardless of race, color, national origin, sex, religion, disability, or age, individuals have the right to participate in programs and activities of the Department and of USDOJ grant subrecipients, as provided under the following laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in the delivery of services (42 U.S.C. § 2000d), and the USDOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the USDOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the USDOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the USDOJ implementing regulations at 28 C.F.R. Part 35;
- Victims of Crime Act of 1984, which prohibits discrimination on the basis of race, color, national origin, religion, sex, and disability in the delivery of services and employment practices (42 U.S.C. § 10604(e));
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities (20 U.S.C. § 1681), and the USDOJ implementing regulation at 28 C.F.R. Part 54;
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the USDOJ implementing regulations at 28 C.F.R. Part 42, Subpart I; and
- The USDOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using USDOJ federal financial assistance for inherently religious activities (28 C.F.R. Part 38, Executive Order 13279, and Executive Order 13559).

III. APPLICABILITY

This Administrative Order applies to all officials, employees, contractors, agents and

other persons providing services or benefits in, or for, the Department of Justice, its appointed constituents and subrecipient entities; to all persons applying for a job in the Department of Justice, its appointed constituents and subrecipient entities; and to all persons who go in good faith to the Department of Justice, its appointed constituents and subrecipient entities in search of services or benefits, or who visit with due authorization the facilities of the Department, its appointed constituents and subrecipient entities.

IV. STATEMENT OF PUBLIC POLICY AND PURPOSE

The Department of Justice disapproves and prohibits discrimination or unequal treatment on grounds of: sex, either in its actual modality of sexual identity or as perceived in gender identity; pregnancy; race; color; age; religious beliefs; social or national origin; social condition; physical, mental or sensory handicap; political beliefs; being a victim or being perceived as a victim of domestic violence, sexual aggression or harassment; military service; or being a veteran of the United States Armed Forces or the National Guard (hereafter jointly referred to as "protected characteristics").

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It is set forth that all individuals are entitled to request, participate in and benefit from programs and activities managed by the Department of Justice, its appointed constituents and subrecipient entities; irrespective of sex, race, color, age, social or national origin, social condition, physical, mental or sensory handicap, or political or religious beliefs, as long as all requirements are met and they are eligible for them. The Department of Justice will not tolerate discrimination or unequal treatment in the granting or rendering of services or benefits by any of its office divisions, nor by any of its appointed constituents and subrecipient entities.

Likewise, it is established that the Department of Justice will not tolerate discrimination or sexual harassment against its employees or the employees of its appointed constituents and subrecipient entities by any person, including supervisors, other employees of the Department, its appointed constituents and subrecipient entities. The Department of Justice will also not tolerate discrimination or sexual harassment towards any visitor or citizen from its employees or the employees of its appointed constituents and subrecipient entities.

The Department is committed to maintain a workplace where the employees are free of the fear, disturbance and discomfort that sexual harassment may create. Every proposition of a repeated sexual nature or of undesirable verbal or physical character, sexually explicit commentary or sexual insinuation made by someone in the workplace, which is offensive or objectionable for the recipient, is absolutely prohibited.

The practices of sexual harassment and discrimination in the allocation or rendering of services in the workplace, prohibited by this Administrative Order, are illegal and

undesirable, and threaten the dignity of the human being. In addition, these practices are contrary to the standards of proper behavior, courtesy and respect, which govern public service, and go against the invariable standard prevailing in this agency of offering equal opportunities in the workplace without discrimination. Accordingly, these are highly censurable behaviors and foreign to the best interests of all the constituents of the Department of Justice and its subrecipient entities, because they are illegal and affect productivity, efficiency, harmony, workplace satisfaction and everyone's safety.

The Department of Justice requires that all of its personnel act according to the highest principles of human coexistence to ensure equality in employment opportunities for the benefit and satisfaction of everyone, and to protect the efficiency and quality of the public services and benefits we are entrusted to provide. We all are entitled to work in a place guaranteeing us an environment of mutual dignity, respect, tranquility and seriousness, and to request the services and benefits offered by the Department of Justice, its appointed constituents and subrecipient entities, with no fear of being excluded for discriminatory reasons.

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No employee of the Department of Justice has the authority to submit another employee to any type of discrimination or sexual harassment which is prohibited by this Administrative Order, either by himself or via another employee. Likewise, every employee should feel free to denounce any type of discrimination or sexual harassment, regardless of the position or rank of the alleged harasser or discriminator. Whosoever should engage in behavior contrary to that which is established herein, will be acting in violation of the policies of the Department of Justice, and therefore will be acting outside of his capacity or role as a Department employee. Given that such conduct is illegal and damaging to the Department of Justice, it does not bind it in any manner. Therefore, the Department will act swiftly and vigorously against these persons.

The Department of Justice will ensure that the subrecipient entities comply with the applicable federal and state laws regarding discrimination in the workplace, and in providing services and benefits to clients, beneficiaries, and participants.

According to our policy, which prohibits sexual harassment and discrimination by the protected conditions or characteristics described in the previous paragraphs, the Department of Justice establishes the following Administrative Order. This document's purpose is to expressly prohibit said conduct and to establish in writing the procedures to be followed in the Department of Justice when it receives a discrimination complaint about the awarding or provision of services and benefits, or regarding discrimination in the workplace, filed by an employee, client, applicant, beneficiary or participant of the Department of Justice, or by any employee, client, applicant, beneficiary or participant of any of the subrecipient entities of the Department of Justice which receives federal funds to implement the programs subsidized by such funds. Those in charge of managing or

supervising workspaces are responsible for enforcing compliance of the policy established herein and to report any action deemed contrary to it.

V. DISCRIMINATION IN THE OFFERING OF SERVICES AND BENEFITS

The procedures set forth in this Administrative Order will apply to any complaint filed by clients, applicants, beneficiaries or participants in the programs offered by the Department of Justice, its appointed constituents and subrecipient entities, in which actions of discrimination or unequal treatment are alleged when awarding or providing any type of service or benefit offered by the aforementioned agencies.

VI. JOB DISCRIMINATION AND ITS MODES

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Discrimination is known by many as the act of treating a person or group inferiorly based on illegal motives, injustices or stereotypes. This procedure may be reflected in many ways. However, there are certain actions which have been historically recognized as constituting discrimination. In particular, it is established that no employer may suspend, refuse to employ, fire or harm any employee with respect to the terms and conditions of his employment on grounds of any of the protected characteristics mentioned in the public policy statement included in Section IV of this Administrative Order. Likewise, it will be considered as discrimination when the employer limits, segregates or classifies its employees or applicants in whatever fashion which prevents or may prevent them from an employment opportunity or which may affect their status as employees due to any of the protected characteristics. The publication or circulation of notices, advertisements or any other form of dissemination denying equality in employment opportunities, directly or indirectly, because of possession of one of the protected characteristics, constitutes an act of discrimination.

Any type of discrimination in the application of the principle of merit, in its different aspects, is absolutely prohibited, regardless of whether it is a public servant or a job applicant. In this fashion, every public servant or candidate for a public job will be hired, selected, trained, promoted, retained and treated based on merit and capability, without being discriminated against in any of the aforementioned ways. However, we recognize as an exception to such mentioned behaviors the instances where a protected characteristic is a "bona fide" occupational requirement, reasonably necessary for the agency to function well.

Regarding practices which may have an adverse effect upon any of the legally protected groups, there are two discrimination theories:

- **Unequal treatment** – This mode is present when a person, due to possession of a protected characteristic, is denied a job opportunity which is awarded to a person not possessing such a characteristic.
- **Unequal impact** – This occurs when an employment standard or practice, which prima facie appears neutral, in its application creates an unequal impact upon the employees who possess a protected characteristic. The determination of existence of this unequal impact is accompanied by an analysis of the alternatives, which exist to eliminate the impact and the actions taken by the employer in that respect.

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The information set forth in the previous paragraphs is offered only as an illustration, and does not purport to provide a precise list of the actions which may constitute workplace discrimination. Therefore, whatever action has the effect of disfavoring an employee on grounds of possessing a protected characteristic, compared with another not having the latter, is prohibited in the Department of Justice, its appointed constituents and subrecipient entities and said employee or candidate has at his disposition the procedure established in the Administrative Order to denounce such an act. This will allow taking the corresponding measures to remedy the situation.

VII. SEXUAL HARASSMENT AT THE WORKPLACE AND ITS MODES

In most cases, a healthy common sense, politeness and respect to others should indicate when certain behavior has the potential to become illegal sexual harassment. However, it is not so easy to identify in other cases. Therefore, in order to orient our staff, visitors and citizens, we provide the following information which will serve as a guide to identify illegal behavior:

Sexual harassment in the workplace consists of any type of undesirable sexual approach, requirements of sexual favors and any other verbal or physical behavior of a sexual nature which may be reproduced using any means of communication including, but not limited to, the use of multimedia tools via the internet through the cyber-network or by any other electronic means. Such behavior may include one person's actions or acting against a member of the opposite or the same sex, and may occur in any workplace relationship. Sexual harassment may be expressed in different ways. Both law and jurisprudence have recognized two modes of sexual harassment:

A. ***Quid pro quo, or "a favor for a favor"***

Quid pro quo is a Latin phrase meaning "one thing in exchange for another". In this mode, submission or rejection to the behavior of a sexual nature becomes the basis or factor to make decisions, either favorable or not, about topics related to

conditions of employment of the person to whom the conduct is addressed toward. In other words, in this case, an implicit or direct promise is made to the victim, preferential treatment is offered or given, or the victim is threatened with negative consequences related to employment conditions such as increases in salary, promotions, job grading, transfers, among others, in exchange for accepting a sexual request. Therefore, submission to such behavior turns into, either implicitly or explicitly, a term or condition of employment of the person.

B. Hostile environment

In this mode, the effect or goal of the harasser's behavior is to unreasonably interfere in the harassed person's job performance, reducing or being able to reduce the personal productivity or the time available to work on assigned tasks. In addition, it tends to create an uncomfortable, intimidating, displeasing or offensive work environment based on the harassed person's gender (sex). A hostile environment may be generated among colleagues with conversations, jokes in bad taste, offenses, expressions of any type, either obscene or offensive, suggestions, requests or demands of sexual favors, physical contacts, repeated attentions or flirtatious comments of a sexual nature, among other types of conduct which is undesirable or makes any other employee uncomfortable, regardless of whether it is addressed to him/her or not. This includes verbal abuse or joking in a sexual manner which another person may deem unacceptable. A very common situation arises when an employee makes a comment on a person's shape or appearance and such comments go well beyond a mere courtesy. In addition, sexual harassment will be considered in any situation arising when a relationship exists between a supervisor and the supervised person: which affects the rights, benefits or opportunities available to the other employees not having this type of relationship with their supervisor; or which results in the granting of rights, benefits or opportunities for the employee having such a relationship with his/her supervisor when such rights, benefits or opportunities are not available to the other employees who do not have this type of relationship with their supervisor.

To determine whether the alleged behavior constitutes sexual harassment or not in the workplace, all circumstances in which the facts occurred will be considered, based on the legal status in force in such a matter. Normal, polite and pleasant interactions among employees which are welcome by both parties are not considered sexual harassment.

VIII. PROCEDURE TO FILE, INVESTIGATE AND RESOLVE COMPLAINTS

The following procedures will be applied to the filing and follow-up of discrimination complaints in the adjudication or rendition of services and benefits

unto the clients or participants in the programs of the Department of Justice, its appointed constituents and subrecipient entities, as set forth in Part V.

Likewise, the following procedures will apply to the filing and follow-up of job discrimination complaints by employees or applicants in the Department of Justice and subrecipient entities, as set forth in Parts VI and VII.

The Department of Justice's subrecipient entities shall establish their own procedures to answer discrimination complaints directly filed by clients, participants, beneficiaries, or applicants of the programs offered by such organizations, or by employees and job applicants in them.

The subrecipient entity may investigate the complaint and directly respond to the complainant about it, or refer it to the Department of Justice for follow-up conforming to the procedure established herein.

A. Filing of the complaint

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1. Any person who believes that he has been the object of an action, which may be considered as discrimination or sexual harassment, from any employee in the Department of Justice, its appointed constituents and subrecipient entities, both in the award or provisioning of services and in the workplace, as prohibited herein, or knowing of a behavior violating this Administrative Order, is called upon to file a complaint, in writing, before the Assistant Secretary of Human Resources, who coordinates the complaint process described in this Administrative Order. Contact information for the Assistant Secretary of Human Resources is as follows:

Department of Justice
Assistant Secretary of Human Resources
Floor 4
Axtmayer Street, Olimpo Corner
Pda. 11, No. 601, Miramar
San Juan, Puerto Rico

Prompt action and denouncement of the situation is requested, to thusly avoid developing into severe, repetitive or prevailing behavior.

2. Every complaint should indicate:
 - a. the date the complaint is filed;
 - b. who is filing it;
 - c. who is the alleged victim;
 - d. who is the alleged harasser or discriminator;
 - e. since when the alleged violation or behavior has been occurring which, if not corrected, may turn into a violation;
 - f. who knows about the facts;
 - g. where, or in which place(s) the behavior has been observed or has occurred; and
 - h. a description of the behavior which allegedly constitutes a violation or the behavior which, if not corrected, may give rise to a violation.

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If an employee of the Department of Justice other than the Assistant Secretary of Human Resources receives a complaint covered by this Administrative Order, he will submit the complaint to the Assistant Secretary of Human Resources within five business days of receiving the complaint.

3. Once the complaint is filed, it and the ensuing procedure will be of a confidential nature.
4. Any person who, although not being the party directly harassing or discriminating another, cooperates, incites or covers up in any manner whoever does so, may be subject to corresponding disciplinary measures.
5. Any retaliation against anyone by the Department of Justice, its appointed constituents and subrecipient entities on grounds of having properly filed a complaint of any type of discrimination or sexual harassment, or because he provides information referring to such complaints is strictly prohibited. As necessary, the corresponding cautionary measures will be taken to protect such persons. The employee who proceeds in a manner contrary to the aforementioned, will be subjected to the corresponding disciplinary measures or to a corresponding legal process.

B. Investigation procedure

1. Once the complaint is received, the Assistant Secretary of Human Resources will inform the complainant about receipt of the document and about the initiation of the investigation, in the corresponding cases.
2. The Assistant Secretary of Human Resources will appoint a person as Complaint Investigator, who will promptly investigate the corresponding investigation.
3. In cases of sexual harassment, this investigation will begin within fifteen (15) calendar days, counted from the filing of the complaint. In all other cases, the investigation will commence within a period of forty-five (45) calendar days, counted from the filing of the complaint.²
4. The investigation shall include all accusations and may include taking sworn declarations of the complainant, of the respondent and of all persons who know the alleged facts or who are possible witnesses identified throughout the course of the investigation.
5. The investigation will be conducted in all rigor, regardless of the cessation of the behavior.
6. Employees of the Department of Justice employees shall fully cooperate with the investigation performed in such cases. Any employee of the Department of Justice who obstructs an investigation related to a complaint filed based on this Administrative Order will be in violation of the applicable behavior rules, including, but not limited to, those set forth herein and in the regulation bodies in force in the Department of Justice, as applicable.
7. The investigation procedure will be conducted as confidentially as possible in order to safeguard the rights of the affected parties.

² It is necessary to clarify that the terms set forth to begin the investigation are of a directive nature and their sole objective is to streamline the Department of Justice's internal procedure. Therefore, in no manner will the non-compliance with said terms automatically affect the adjudication of the complaint. In no manner will it be understood that this disposition creates substantive or procedural rights for the complainants or defendants.

8. The investigation will be carried out as quickly as possible. A term of sixty (60) calendar days, from the date the investigation commences, is established to submit a written Report about it. However, in every case, the Attorney General may establish a different term, when deemed necessary and appropriate.

C. Cautionary measures

1. The Attorney General, the Assistant Secretary of Human Resources or the Investigator, as a cautionary or temporary measure, and in light of the complaint, in any moment during the investigation or in any later stage, may take whatever measure deemed necessary to secure the public interest and the protection of the involved parties. These determinations will not be considered as disciplinary measures or awards based on the complaint. They will also not affect the involved parties' acquired rights.

D. Report, recommendations and determinations

1. Once the complaint investigation is completed, the Investigator shall submit a Report in writing about his findings and present the corresponding recommendations to the Attorney General. This Report shall include fact determinations based on the available information and alleged facts, legal conclusions and the recommendation of whether there is sufficient cause to begin disciplinary procedures or to take otherwise applicable measures, per the law. The Report shall be accompanied by those communications which, regarding the recommendation, may be sent to the corresponding parties to notify them of the status of the matter.
2. The Attorney General, after receiving and considering the submitted Report, will issue the final decision he/she deems as appropriate for the case. The Attorney General's decision will be submitted to the parties in writing as soon as possible. The Attorney General may adopt, modify or dismiss the Investigator's recommendations, taking into account the applicable laws, the fact determinants and the nature or severity of the alleged behavior.
3. If it is determined that a person acted contrary to this Administrative Order, such person may assume the consequences of his/her actions, which may be: a referral for a psychiatric or psychological

evaluation, or to receive counseling; imposition of disciplinary measures; dismissal; suspension of job and salary; denial of right to visit the Department of Justice facilities; or any other measures the Attorney General deem pertinent to the particulars of this case. The severity of the measure or penalty shall depend on the severity of the behavior the harasser or discriminator has engaged in.

4. If there are reasonable grounds for applying a disciplinary measure, they will be applied to the party who has engaged in the forbidden behavior, at the Attorney General's discretion and, if applicable, based on Law # 205-2004, as amended, known as "Department of Justice's Organic Law"; in Law # 184-2004, as amended, known as the "Act on Human Resource Management in the Public Service of the Commonwealth of Puerto Rico"; in the personnel regulations for the career and confidence services of the Department of Justice; in Administrative Order # 2003-05, Department of Justice (June 17, 2003), known as "Behavior Standards, Corrective Measures and Disciplinary Actions"; in Administrative Order # 2002-04, Department of Justice (October 24, 2002), known as "Inspector General of the Department of Justice"; in the Regulation for Disciplinary Procedures against Prosecutor(s) and Attorney(s) of the Puerto Rico Department of Justice, Department of Justice (May 7, 2007); in Regulation for disciplinary procedures to field complaints against Registrar(s) of the Department of Justice of Puerto Rico, Department of Justice (January 29, 2008); and in any other normative body the Department of Justice may implement in the future.
5. The Department of Justice will not allow false or malicious accusations against its personnel. In accordance with this, it is established that whoever knowingly files a false or malicious complaint based on the Administrative Order, will engage in a grave offense, and will be subjected to disciplinary measures.
6. If it is determined that the prohibited behavior comes from third parties who are not employees of the Department of Justice, or not under its direct control, the Attorney General will take the corrective measures within his/her reach and which are lawfully appropriate.
7. The Investigator will keep the complaint files in a separate file and they will be considered as confidential.

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IX. OTHER LEGAL REMEDIES

Although the Department of Justice promotes complaint resolution of job discrimination in the workplace or in the awarding or provision of services and benefits in an internal fashion within the Department itself, according to the procedure set forth in this Administrative Order, these procedures do not intend to undermine any other legal remedy available to the discrimination victim under federal or state laws. As a result, the filing of a complaint with the Department of Justice does not preclude the complainant from filing a complaint with a federal agency. If the parties cannot resolve a complaint, the Department will notify the complainant of any right he may have to file the complaint with an appropriate external federal agency.

As an alternative or in addition to filing a complaint with the Department of Justice, an individual may wish to file a complaint with an appropriate external federal agency for investigation.

A complainant may file certain employment discrimination complaints with:

 U.S. Equal Employment Opportunity Commission
Miami District Office
One Biscayne Tower
2 South Biscayne Blvd., Suite 2700
Miami, Florida 33131
Phone: (800) 669-4000
TTY: (800) 669-6820
<http://www.eeoc.gov/field/miami/>

A complainant may also file certain employment or services discrimination complaints with:

U.S. Department of Justice
Office of Justice Programs
Office for Civil Rights
810 7th Street, N.W.
Washington, D.C. 20531
Phone: (202) 307-0690
TTY: (202) 307-2027
<http://www.ojp.usdoj.gov/about/ocr/complaint.htm>

If the Department of Justice elects to investigate a complaint that involves a federal civil rights law over which the USDOJ has jurisdiction, the USDOJ retains the authority (1) to conduct supplementary or *de novo* investigations; (2) to approve, modify, or reject

recommended findings; (3) to approve, modify, or reject proposed voluntary resolutions; and (4) to initiate formal enforcement action.

X. TRAINING AND SUBRECIPIENT MONITORING

The Department of Justice will provide annual training to all employees on this Administrative Order. The training will include an overview of complaint policies and procedures, including an employee's responsibility to refer potential discrimination issues and discrimination complaints from employees, applicants, clients, beneficiaries, and participants to the Assistant Secretary of Human Resources.

Through its compliance monitoring process, the Department of Justice ensures that subrecipients have procedures in place for responding to discrimination complaints that employees, applicants, clients, beneficiaries, or participants file directly with the subrecipient. The Department also ensures that subrecipients notify their employees, applicants, clients, beneficiaries, and participants of prohibited discrimination and the procedures for filing an employment or services discrimination complaint.



XI. PUBLICITY

A copy of this Administrative Order will be placed in the Department of Justice notice boards, in a place prominent and accessible to all employees and visitors in general. Likewise, this Administrative Order will be available in the Department of Justice website, for easy access by the general public. Finally, a copy of this Administrative Order will be delivered to all Department of Justice employees and officials, to all recently hired employees and officials, to all Department of Justice contractors (upon signing the services or professional services contract) and to all subrecipient entities receiving federal funds from the Department of Justice.

XII. SEPARABILITY

If any part, article, section, paragraph or item in this Administrative Order is declared as void by a competent jurisdictional court, such sentence shall not affect the remainder of this Administrative Order, but its effect shall be limited to the part, article, section, paragraph or item in this Administrative Order declared void.

XIII. DEROGATORY CLAUSE

Department of Justice Administrative Order No. 2011-04 (October 27, 2011) is hereby repealed, as well as any other administrative order, circular, memorandum, written communication or previous instruction in whatever is incompatible with this Administrative Order.

XIV. VALIDITY

This Administrative Order shall immediately enter into force.

In San Juan, Puerto Rico, this 19 day of June of 2012.



Guillermo A. Somoza Colombani
Attorney General

Authorized by the State Election Commission, CEE-C-12-034, submitted the certification by December 23, 2011.