

“Women’s Advocate Office Act”

Act No. 20 of April 11, 2001, as amended

(Contains amendments incorporated by:

Act No. 519 of September 29, 2004

Act No. 173 of August 6, 2008

Act No. 102 of September 27, 2009)

(Amendments non-incorporated:

Act No. 124 of August 9, 2010)

To create the Office and the position of Women’s Advocate with investigative, supervisory and quasi-judicial powers, in order to implement the public policy set forth in this Act; create the Women’s Advocate Advisory Council; provide the procedure to process claims and complaints; authorize the imposition of administrative fines and compensation for damages and establish penalties; repeal Act No. 57 of May 30, 1973, as amended, which creates the Women’s Affairs Commission, and to transfer its funds, equipment, records and personnel to the new Office.

STATEMENT OF MOTIVES

Section 1 of the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico establishes that: “No discrimination shall be made on account of race, color, sex, birth, social origin or condition or political or religious ideas. Both the laws and the system of public education shall embody these principles of essential human equality.” These constitutional guarantees were based upon the Universal Declaration of Human Rights approved by the United Nations Organization (UNO), on December 10, 1948. This Declaration affirms the principle of nondiscrimination and proclaims that all human beings are born free and equal in dignity and rights, and that every person may invoke the same without any distinction and, therefore, without sexual bias.

As a result of this Declaration, the Women’s Juridical and Social Commission was created at the UNO. The purpose of the same was to promote investigations and reports on the advancement of women’s rights and make recommendations to the various countries on the urgent problems that were affecting women politically, socially, economically, educationally, culturally, and in their civil status.

In 1975, the UNO proclaimed the Women’s International Year and Decade in order to create awareness worldwide on the status of women and demand that the member countries revise the juridical structures, public policies and programs that could restrict their civil and political rights. Puerto Rico was not unaware of this international process. Various

governmental and nongovernmental organizations of women used it as a frame of reference. A study on the status of women was conducted and legislative investigations were made whose outcome was the report of the Committee on Civil Rights in 1972, which concluded that there was a serious discriminatory situation against women because of their gender in Puerto Rico. The impact of these findings was a landmark in the recognition of the human rights of women. In addition, Act No. 57 of May 30, 1973, was approved, which created the Women’s Rights Improvement Commission, at present known as the Women’s Affairs Commission, and the Civil Code was revised concerning matters pertaining to the Person and the Family.

In the international arena, the UNO approved in 1979 the Convention on the Elimination of all Forms of Discrimination Against Women. The spirit of this document sought to extend the concept of human rights, taking gender discrimination as a standard. “This text truly constitutes the Magna Charta of women’s rights, and was the first legal instrument that defined discrimination against women, as any distinction, exclusion, or restriction based on sex whose purpose or result is to impair or disregard the recognition, enjoyment or performance by women, regardless of their civil status, based on the equality of men and women with regard to their human rights and their fundamental liberties in the political, economic, social, cultural and civil spheres, or in any other sphere.”

To reaffirm the importance of this Convention, the UNO pursued a cycle of world conferences and summits, with parallel women’s nongovernmental organization meetings. These world events have broadened the basis to reassert the rights of women as human rights, rights indispensable to achieve the objectives of equality, advancement and peace. The government of Puerto Rico participated as an observer country, and the Puerto Rican women’s nongovernmental organizations were present at the parallel forum, during the last of the conferences held in Beijing in 1995. This conference produced an Action Plan addressed to advance gender equality, which constitutes a commitment of the countries of the world towards women’s rights.

As a result of this IV World Conference on Women, the nongovernmental organizations of the Island executed an Action Plan for the women of Puerto Rico, and initiated an analysis of the advancements, obstacles, and limitations in the furtherance of the human rights of women. The achievements and advancements attained since the creation of the Women’s Affairs Commission were analyzed within this context. Some of the achievements included creating greater awareness by society on the diverse forms of discrimination and violence against women and the approval of legislation such as Act No. 102 of June 2, 1976, which declared March 8 as the International Women’s Day; Act No. 69 of July 6, 1985, on Sexual Discrimination; Act No. 77 of July 9, 1986, on the Protection of Victims and Witnesses; Act No. 18 of May 18, 1987, which declared the 25th day of November of each year as the No More Violence Against Women’s Day; Act No. 17 of April 22, 1988, to Forbid Sexual Harassment on the Job; and Act No. 54 of August 15, 1989, for the Prevention of and Intervention with Domestic Violence; Act No. 233 of August 13, 1999, which takes into consideration the previous history of domestic violence to award custody; Act No. 212 of August 3, 1999, which orders public agencies to implement Affirmative Action Plans to guarantee that there shall be no discrimination because of gender against any employee or aspirants for employment; Act No. 129 of July 17, 1998, which eliminates discriminatory practices in businesses operated by married women; Act No. 3 of January 4,

1998 (3 L.P.R.A. § 400), which prohibits sexual harassment of students in educational institutions; Act No. 16 of January 10, 1998, which establishes standards to be observed with regard to evidence on conduct that constitutes sexual harassment; Act No. 245 of October 28, 2000, which orders employers to pay full wages to an employee during maternity leave; Act No. 181 of July 30, 1999, equaling the right to maternity leave for adopting mothers to that of biological mothers; Act No. 188 of December 26, 1997, which imposes the penalty of suspension or revocation of their license to do business or exercise their profession on employers, in those cases whereby they dismiss a working mother because of their pregnancy or refuse to grant maternity leave, and raises to \$5,000.00 the maximum fine for violating these provisions; Act No. 123 of November 11, 1994, which eliminates the Corroboration Test as a requirement in the prosecution of the crime of rape or attempted rape, when the existence of a friendly, loving or intimate relationship with the accused is revealed by evidence; Act No. 226 of September 13, 1996, which creates a pilot program that establishes a medical protocol to attend to victims of domestic violence; and Act No. 284 of August 21, 1999, the Act Against Stalking in Puerto Rico, among others.

The Women’s Affairs Commission also promoted investigations in several important areas among which stand out studies on educational equality, which produced the curricular modules that promote gender equality in primary grades and government agency investigations on the payment of lower wages to women, which gave rise to the Executive Order to promote affirmative action plans at the government agencies.

The Women’s Affairs Commission performed a conscientious and affirmative work to eradicate domestic violence, one of the most serious forms of discrimination towards women. In spite of these significant advancements, the eradication of discrimination has not yet been achieved. There are still forms of oppression, discrimination, and alienation which highlight the resistance of the public and private sectors to comply with constitutional guarantees, the legislation in force, and public policies. This is recognized in the August 1995 Report of the Special Judicial Committee to Investigate Discrimination by Gender in the Courts of Puerto Rico.

Various forms of oppression, discrimination and alienation are still evident, such as violence against women in its various forms, less pay for equal or comparable work, sexual harassment at the workplace and in educational institutions, and the feminization of poverty which is dramatically seen with the increase of women as heads of families and teenage mothers, sexism, and sexual stereotypes in education, and sexism in the media, the promotion and exploitation of women as sexual objects, specific discrimination of women due to race and age, and the absence of an overall perspective to seek the economic development, health and other women’s rights. Finally, there remains a resistance to recognize the existence of diversity in family composition, social roles and expressions of sexuality.

The absence of mechanisms and methods of supervision that compel compliance with the existing public policies led the women’s nongovernmental organizations to propose the creation of a Women’s Advocate Office to replace the Women’s Affairs Commission. The creation of a body with sufficient autonomy and full supervisory, investigative, regulatory, and adjudicative powers was suggested to guarantee respect for the rights of women and compliance with the existing policies. This idea was incorporated in 1995 into the government programs of all the political parties.

Therefore, this Legislature, in compliance with its constitutional mandate, and seeking to strengthen and enforce compliance with the public policies that guarantee the human rights of women and that promote gender equality, hereby creates the Women’s Advocate Office and the position of Advocate, to perform concrete actions that lead to the elimination of all discrimination towards women and guarantee the protection of their human rights. Although in previous years similar proposals have been formulated, this Legislature is the one that has stated its unequivocal determination to establish the Women’s Advocate Office with institutional support and the granting of resources that will allow the full execution of its functions.

Be it enacted by the Legislature of Puerto Rico:

I. TITLE OF THE ACT AND DEFINITIONS

Section 1. — [Title] (1 L.P.R.A. § 311 note)

This Act shall be known as the “Women’s Advocate Office Act.”

Section 2. — [Definitions] (1 L.P.R.A. § 311)

The following terms shall have the meaning stated below:

- (a) *Public agency.* Is any department, board, commission, division, office, bureau, administration, public corporation or subsidiary thereof, municipality or instrumentality of the Commonwealth of Puerto Rico, including any of its officials, employees, or members that act or purport to act in the performance of their official duties.
- (b) *Private entity.* Is any association, organization, institute or natural or juridical person, that performs, offers or renders any service or activity, or administers any program that addresses the needs of women and families. It shall also include any association, organization, institute or natural or juridical person in which a woman works; as well as any private, elementary, middle or high school, university, institute, vocational or technical school, whether recognized or not by regulatory bodies which offer study or skill programs for children, youths or adults in Puerto Rico.
- (c) *Advisory Council.* Is the Women's Advocate Advisory Council created by virtue of this Act.
- (d) *Advocate.* Is the Women's Advocate of the Commonwealth of Puerto Rico, position created by virtue of this Act.
- (e) *Office or Advocate's Office.* Is the Commonwealth body created by virtue of this Act.
- (f) *Governor.* Is the Governor of the Commonwealth of Puerto Rico.
- (g) *Commonwealth.* Is the Commonwealth of Puerto Rico.

II. PUBLIC POLICY

Section 3. — [Purpose] (1 L.P.R.A. § 311 note)

The public policy of the Commonwealth of Puerto Rico is to guarantee women the fulfillment and respect of their human rights and the exercise and enjoyment of their fundamental freedoms. In recognizing that women continue being the subject of significant discrimination, oppression, and alienation which violate the principles of equal rights and respect for human dignity and hinder their participation in political, social, economic, cultural and civil endeavors, it becomes necessary to bolster and consolidate the instruments and mechanisms available to the State for the effective implementation of said social and gender equality, and respect for plurality, differences and diversity. It is an essential aspect of this public policy to guarantee said rights and ensure that all women, regardless of their geographic location, age, race, ethnic origin, civil status, sexual preference, social and financial status, physical capabilities, and political and religious affiliation, are able to participate in all processes conducted by the Advocate’s Office in the discharge of its duties.

In fulfilling this public policy, the importance of the participation and contribution of nongovernmental organizations and women’s coalitions committed to the attainment of gender equality is hereby recognized, for which reason maximum participation and cooperative efforts with said organizations shall be guaranteed as part of said public policy.

In order to oversee the implementation of the referred public policy as well as its compliance by public agencies and private organizations, the Office and position of the Women’s Advocate is hereby created. This Advocate’s Office is entrusted with educational, investigative, supervisory, regulatory and quasi-judicial duties, in order to investigate and provide remedies and corrective measures that may be necessary due to any actions or omissions that may impair women’s rights. Likewise, this Advocate’s Office is empowered to act per se or in representation of women individually or as a class for the defense of their rights, as well as to approve regulations to supervise and oversee that government agencies and private entities or institutions comply with the public policy and the objectives of this Act.

The priority of the Advocate’s Office shall be to obtain affirmative action from public and private organizations to guarantee gender equality in those areas where oppression, discrimination and alienation persist, such as violence against women in its various manifestations, less pay for an equal or comparable job, sexual harassment at the workplace and in educational institutions, the feminization of poverty, sexism and gender-related stereotypes in education and the media, the promotion and exploitation of women as sexual objects, the particular discrimination of women because of race and age, and the absence of an integrated perspective to address the financial advancement, self-management, health and other rights to which women are entitled, among others.

Gender equality is understood to be the fair treatment that women deserve according to their particular circumstances in such a manner that their special needs and claims be met. In attention to those needs, the public policy of the Commonwealth of Puerto Rico is to take into consideration those particular needs in planning the development of policies and decisions adopted regarding the social, economic, cultural and political aspects so as to overcome the inequality between men and women, which is rooted in cultural models and

discriminatory economic and social practices. The Women’s Advocate Office will ensure compliance with the same.

The Women’s Advocate Office shall oversee compliance with the above-stated, and shall likewise combine efforts to prevent violations of women’s rights as well as gender discrimination in public and private agencies and institutions, and ensure that women are treated fairly and equally, thus assuring full respect of their human rights.

III. CREATION OF THE OFFICE AND THE POSITION OF WOMEN’S ADVOCATE

Section 4. — [Creation] (1 L.P.R.A. § 312)

The Women’s Advocate Office is hereby created as a juridical entity separate and independent from any other agency or public entity. The Office shall be directed by the Women’s Advocate, who shall be appointed by the Governor with the advice and consent of the Senate, for a term of ten (10) years and until her successor is appointed and takes office.

The salary of the Women’s Advocate shall be fixed by the Governor according to the salaries established for the Secretaries of Executive Departments. The appointee shall be a woman of recognized professional capability and independent criteria, who has excelled in her commitment to uphold women’s rights, in the struggle to banish all manifestations of oppression and alienation, in her respect for women’s differences and diversity, and who is aware of the need for an ongoing analysis of the situation of women from a gender perspective. Furthermore, she shall be domiciled in Puerto Rico for at least (5) years immediately prior to the date of her appointment. A person who has held an elective or executive position requiring Senate confirmation may not be appointed during the term for which she was elected or designated to hold the office of Women’s Advocate.

The Governor, without impairing his/her constitutional prerogatives, may request and receive recommendations from the government sector and groups identified with women’s rights and gender equality, as well as from the nongovernment sector on possible candidates for the office.

The Governor, upon due notice and hearing, may declare the office of Advocate vacant for reason of physical or mental disability which prevents the appointee from performing the functions of the office, for negligence in the performance of or failure to comply with her duties.

Section 5. — [Assistant Advocate] (1 L.P.R.A. § 313)

The Advocate, upon consultation with the Governor, may appoint an Assistant Advocate and delegate on her any of the functions provided in this Act, except the appointment of personnel and the adoption of the regulations needed to comply with the purposes of this Act. The person appointed as Assistant Advocate must meet all the requirements stated in this Act for the office of Advocate, and shall assume all her functions, duties, and powers in the event of illness, disability, temporary absence or when a vacancy arises, until her successor is appointed and takes office. When the office of Advocate becomes permanently vacant prior to the expiration of the term of her appointment, her successor shall be appointed for the remainder of the term of the person creating said vacancy.

IV. CREATION AND FUNCTIONS OF THE ADVISORY COUNCIL

Section 6. — [Creation] (1 L.P.R.A. § 314)

A Women’s Advocate Advisory Council is hereby created, to be constituted by seven (7) persons appointed by the Governor. Said persons shall be of proven capacity and leadership and be identified by their respect for the rights and diversity of women, and be able to demonstrate that they have an awareness of gender. Of these persons, five (5) must be women, and at least one (1) of them shall be a resident of the Municipalities of Vieques or Culebra. Of the initial appointees, two (2) shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, and the other two (2) for a term of three (3) years each. Upon the expiration of the initial terms, subsequent appointments shall be made for terms of three (3) years each. The person appointed by the Governor to fill a vacancy shall perform his/her functions for the remainder of the term of the member of the Advisory Council that caused said vacancy.

The Governor, without impairing his/her constitutional prerogatives, may request and receive recommendations from the government sector and the groups from the nongovernmental sector identified with women’s rights. The members of the Advisory Council shall elect their Chairperson from among its members. Five (5) members shall constitute quorum to hold the meetings of the Advisory Council and their agreements shall be adopted by the majority of those present. The Advisory Council shall adopt by-laws to rule their works, deliberations and the execution of their functions. The Women’s Advocate shall provide the Advisory Council with the facilities, equipment, materials and human resources needed to comply with the functions assigned by this Act. The Advisory Council shall meet as many times as deemed necessary, but not less than once every three (3) months.

Section 7. — [Functions] (1 L.P.R.A. § 314)

The Advisory Council shall have the following functions without it being understood as a limitation:

- (a) To hold an annual congress that may be convened to be conducted throughout the Island simultaneously or by region, in which the public shall have the opportunity to state their points of view on the diverse situations, needs, and problems women face. To that effect, it shall publish the corresponding notification in at least two (2) newspapers of general circulation, at least ten (10) days prior to the date said congress is to be held, and through the other media as necessary and reasonable. Furthermore, the Council shall give women’s groups, organizations and coalitions written notice not later than thirty (30) days prior to the assembly to ensure the attendance and participation of women and women’s organizations in all their diversity, to include their geographic location, among others. Said Council may enter into agreements of collaboration with the Municipal Governments to publicize the holding of this assembly, and achieve the largest attendance at its activities. The Advisory Council shall keep a record of the attendance and recommendations submitted by the public.
- (b) To advise the Office in all matters related to women in all social, political, economic and cultural endeavors, as well as on cases of discrimination, oppression, or alienation of women.
- (c) To develop proposals to guarantee women the full enjoyment of their human rights.

(d) To evaluate the public policy related to the situation of women in the fields of education and training, employment, self-management, economic development, housing, health and reproductive rights, among others, with the purpose of promoting actions that contribute to ensure the participation of women in all social, political, economic, and cultural endeavors.

Section 8. — [Per diems] (1 L.P.R.A. § 315)

The members of the Advisory Council shall be entitled to receive per diems equal to the minimum per diems fixed for the members of the Legislature of Puerto Rico for each meeting they attend or for each day in which they perform any task entrusted by the Council’s Chairperson with regard to the functions assigned to the Advisory Council by this Act. Furthermore, they shall be entitled to reimbursement for the necessary expenses in which they actually incur in the performance of their official duties pursuant to the regulations adopted by the Office for such purposes.

A member who receives a pension for merit or for years of service or an annuity from the Commonwealth of Puerto Rico Employees Retirement Systems Administration or from any of its agencies, instrumentalities, public corporations or political subdivisions, shall be entitled to the payment of per diems without impairing his/her rights to the retirement pension or annuity.

V. FUNCTIONS AND DUTIES OF THE OFFICE

Section 9. — Functions and duties. (1 L.P.R.A. § 316)

The Office shall have the following duties and functions, in addition to others provided in this Act or in the laws and programs whose administration or implementation it is charged with:

(a) To conduct and promote studies and investigations, as well as compile and analyze statistics on the situation of women, analyze the factors that affect the rights of women in all social, political, economic, cultural and civil endeavors, as well as the causes for inequality in the treatment, access and participation in matters regarding education and training, health, employment, self-management, economic development, and in general, in the exercise of their civil, political, social and cultural rights, including participation in decision-making processes at all levels, among others.

(b) To oversee compliance with the public policy established in this Act, watch over the rights of women and assure that the public agencies comply with, and adopt affirmative or corrective action programs, promote that private entities incorporate the same, and evaluate the already existing programs in order to achieve the eradication of discrimination and inequality, and propitiate the fullest citizen participation of women.

(c) To file, at its discretion, before the courts, administrative forums and instrumentalities and political subdivisions of the Commonwealth, per se or in representation of the interested party, be it of women as individuals or as a class, the actions that it deems pertinent to attend to violations of the public policy established in this Act. The Office shall be exempted from the payment and cancellation of all types of stamps, fees and charges required to file and process any documents, actions or proceedings, or to obtain copies of any document filed

before the courts of justice and administrative agencies of the Commonwealth of Puerto Rico.

(d) To conduct an ongoing review and assessment of the activities conducted by public agencies and private entities to prevent violations of the rights of women and to make feasible systematic advisory processes with private and nongovernmental women's entities for the purpose of ensuring that the activities of the Office respond at all times to the needs, demands and aspirations of all women sectors in the Island.

(e) To promote actions which contribute to solving the problem of violence against women in all manifestations. The Office shall establish an information network and adequate support resources to tend to young and adult women who have been victims of domestic violence, to wit: medical, psychological, educational, and assistive services, among others, to promote women's integrated development and self-sufficiency.

(f) To consider the effect of new advancements on the methods used for the promotion and defense of women's rights and provide the pertinent corrective action to be implemented.

(g) To cooperate with, and establish work and information and experience exchange networks with private women's entities and nongovernmental organizations of the Island and abroad, and with state, municipal and federal agencies engaged in the development and promotion of women's rights.

(h) To assess international agreements, norms and directives on women's rights and investigate concrete controversial arguments that shed light on problems of general importance, and recommend remedies directed to assuring gender equality and the participation of women in all social, political, economic and cultural endeavors.

(i) To propose the legislation it deems pertinent for the effective development of the public policy established in this Act and the rights that the Constitution of the Commonwealth and the laws recognize for women, as well as to ascertain that the public policy is guided by a perspective based on gender and that the initiatives, statements and bills directed specifically to women are assessed and implemented with a nonsexist and nonpaternalistic vision.

(j) To coordinate efforts for community education on women's rights and related matters, and carry out throughout the Island awareness, guidance and educational campaigns on the problem of discrimination against women and to promote the values and practices on which equality among human beings is based.

(k) To take all those necessary measures to propitiate the individual and socioeconomic development of women.

(l) National and international organizations. The Women's Advocate of the Commonwealth of Puerto Rico may be a member of, and represent Puerto Rico before the various national and international organizations that bring together Women's Advocates and that promote the human rights of women as well as concrete actions that seek to eliminate any discriminatory action towards these.

VI. GENERAL POWERS OF THE ADVOCATE

Section 10. — [Powers and functions] (1 L.P.R.A. § 318)

The Advocate, in order to comply with the purposes of this Act, shall also have the following powers and functions:

(a) To attend to, investigate, process and adjudicate complaints regarding the actions and omissions which impair women’s rights, deprive them of the benefits and opportunities to which they are entitled and affect women’s benefits programs; and grant the pertinent remedies under the law, as well as order corrective action to any natural and juridical person, or to any agency that denies, obstructs, violates or impairs women’s rights and benefits.

(b) To take measures for processing claims that propitiate the attainment of the ends of this Act, including legal representation or other expertise or support services for the processing of these claims. For such purposes, the Advocate may provide, directly or through contracts or referrals, at her discretion, legal, professional, medical, expert or technical services, or appear on behalf and in representation of women who qualify to obtain a certain benefit or right under the laws and regulations of the Commonwealth of Puerto Rico or municipal ordinances and Federal laws, before any Court, administrative or mediation forum, board, commission or office.

(c) To conduct investigations, on her own initiative or with regard to complaints under investigation, obtain relevant information, hold administrative hearings and conduct on-site inspections. The hearings held at the Advocate’s Office shall be public, unless public interest reasons justify a hearing to be held in private.

(d) To adopt the rules and regulations needed to carry out the purposes of this Act.

(e) To take oaths and statements per se or through her authorized representatives.

(f) To inspect records, inventories, documents, and the facilities of public agencies and of private persons and entities when deemed pertinent and necessary for an investigation or complaint before her consideration.

(g) To order the appearance and testimony of witnesses and require the presentation or reproduction of any paper, book, document and other evidence germane to an investigation or complaint before her consideration.

When a duly summoned witness fails to appear to testify or does not produce the evidence required, or when he/she refuses to answer any question or to allow the inspection requested pursuant to the provisions of this Act, the Advocate may require per se or request the aid of any Court of First Instance for the appearance, testimony, reproduction, or inspection thus required. The Secretary of Justice shall provide the Advocate with the legal aid necessary for such purpose if it were to be required by the Advocate, who may choose to appear through her attorneys. The presentation of the testimony, as well as the information and the inspection, shall be subject to the provisions of Act No. 27 of December 8, 1990.

(h) To impose and collect administrative fines for up to a maximum of \$10,000 per action or omission that impairs women’s rights protected by the Constitution and the laws of the Commonwealth of Puerto Rico, and fix compensation accordingly for damages caused, in cases where it is in order.

(i) To impose on the party that does not prevail in a quasi-judicial procedure the obligation to pay attorney fees and costs, when in order according to the law.

VII. ADJUDICATIVE PROCEDURES

Section 11. — [Claims and Complaints] (1 L.P.R.A. § 319)

The Advocate is hereby empowered to establish the systems needed to access, receive and process claims and complaints filed by women when they allege any action or omission by government agencies and private entities that impair the rights recognized to them by the Constitution of the Commonwealth and the laws and regulations in effect.

Section 12. — [Investigations] (1 L.P.R.A. § 320)

All complaints filed pursuant to the provisions of this Act shall be handled in the manner provided by regulations that to such effect is approved in compliance with Act No. 170 of August 12, 1988, as amended, known as the Commonwealth of Puerto Rico Uniform Administrative Procedures Act. The Advocate shall notify the complainant of her decision to investigate the alleged facts, and on the same date on which she processes the corresponding notice, she shall so notify the agency or private person or entity, as the case may be, stating the facts alleged in the complaint and citing the Act that confers upon her the power to conduct said investigation. She shall also notify the complainant of her decision not to investigate the complaint in question when deemed pertinent, and shall state the reasons for so doing and advise the person of her right to request a reconsideration and review of said determination.

However, the Advocate shall not investigate complaints when:

- (a) They refer to a matter outside the scope of her jurisdiction.
- (b) They lack merit.
- (c) The complainant has voluntarily desisted thereof.
- (d) The complainant does not have legitimate grounds to file the same.

In those cases in which the complaint filed does not involve a controversy that may be adjudicated or that refers to a matter outside the scope of the jurisdiction of the Office, the Advocate shall offer guidance to the complainant and refer the complaint to the pertinent agency, should it be necessary.

Section 13. — [Examining officials] (1 L.P.R.A. § 321)

The Advocate, in the exercise of the adjudicative powers conferred to her by this Act, may designate examining officials to preside over the administrative hearings to be held. The adjudicative procedures shall be governed by the provisions of Act No. 170 of August 12, 1988, as amended, known as the Commonwealth of Puerto Rico Uniform Administrative Procedures Act, and the regulations to be adopted by the Office for such purpose, including matters germane to the recourse for the reconsideration and review of the adverse determination of the Advocate and her power to impose and collect administrative fines for up to ten thousand (10,000) dollars, as well as compensation for damages caused, including, among others, emotional damages.

VIII. ADMINISTRATION AND OPERATION OF THE OFFICE

Section 14. — [Internal organization] (1 L.P.R.A. § 322)

The Advocate shall determine the internal organization of the Office and establish the necessary systems for its proper functioning and operation. To such ends, the Advocate shall be responsible for planning, organizing and directing the affairs and operations regarding human resources, contracting of services, budget appropriations, purchases, use and control of equipment, materials and property, reproduction of documents and other materials, and other matters, transactions and decisions pertaining to the management and internal control of the Office. The Advocate shall attend to the claims and complaints filed by women when they allege inaction by government agencies, private entities and persons in the compliance with the public policy established in this Act to protect the rights that have been recognized to women by the Constitution and the laws and regulations in effect. The Advocate shall sanction violations thereof pursuant to the provisions of Sections 13 and 20 of this Act.

The Advocate shall appoint the personnel needed to carry out the purposes of this Act and act as an individual administrator under Act No. 5 of October 14, 1975, as amended, known as the Public Service Personnel Act, and contract the services of experts and advisors for the faithful compliance with the duties imposed by this Act.

Section 15. — [Internal regulations] (1 L.P.R.A. § 323)

The Advocate is hereby empowered to adopt the by-laws of the Office and the regulations that shall govern the operation of the programs and services established pursuant to the provisions of this Act, subject to Act No. 170 of August 12, 1988, as amended, known as the Commonwealth of Puerto Rico Uniform Administrative Procedures Act. In order to receive information and data for the studies and investigations of a general nature on the topic of women to be conducted by the Office, the regulations mentioned above shall provide for all necessary measures to comply with the following procedural requirements:

(a) Holding of public hearings, for which she may delegate on one or more of her officials and employees the function of hearing testimonies or receiving any other evidence for the Advocate’s Office.

(b) Public hearing notices shall be published ten (10) days before the holding thereof in at least two (2) newspapers of general or regional circulation distributed in the specific region or area that the study or investigation covers. They may also be announced through other media when necessary and convenient for a more effective diffusion. A detailed description of the purposes of the hearings and the subject matter to be considered shall be included.

(c) All oral statements shall be heard in public sessions. However, in those cases in which the Advocate’s Office deems that the evidence or testimony to be presented in a hearing would tend to slander, degrade or incriminate any person or breach his/her right to privacy, in order to protect his/her identity, or in those cases in which there are circumstances that so justify, an exception may be made, and the Advocate may choose to hear said testimony in executive session.

(d) Any deponent may have legal counsel, if he/she deems it convenient. He/she shall also have the right to refuse to be photographed without his/her consent, to be questioned by

his/her legal representative within the norms of the hearings and the application thereof by the Advocate, to review the transcript of his/her testimony for accuracy, to copy said transcript, and to submit brief written sworn statements to be included in the records of the hearing.

(e) Should the Advocate’s Office find that certain evidence tends to slander or incriminate a person, that person shall be given the opportunity to appear personally or in writing.

(f) The Advocate’s Office shall determine the other procedural rules to govern the public hearings, including those germane to the admissibility of evidence and to the exclusion of persons who violate the norms that should be observed at a hearing.

Section 16. — [Regional offices] (1 L.P.R.A. § 324)

The Advocate, on her own initiative or through agreements of collaboration, shall draft and enforce a plan to establish regional, district or municipal offices, in order to expedite and promote the access of women to the Office so as to comply with the purposes of this Act.

In order to develop and implement said plan during the first year after the Office has been established, the Advocate shall promote the execution of collaborative agreements at government and private levels, including, but without it being understood as a limitation, agreements with the municipal governments, entities and corporations and with nongovernmental entities and organizations identified with women’s rights, when these agreements make feasible the exercise of her responsibilities without impairing her autonomy.

Section 17. — [Services and facilities] (1 L.P.R.A. § 325)

The Office may request that private persons or institutions as well as government agencies, per se or through the Governor, provide services and facilities available to carry out the purposes of this Act.

The Office may contract or appoint any officials or employees of the Commonwealth or its agencies, with the consent of the appointing authority of the government body where the officials or employees render services. In said case, the appointing authority shall have the obligation to hold said positions or jobs for said officials or employees while rendering services to the Office.

The Office is also authorized to contract the services of any public official or employee and to pay for the additional services rendered to the Office outside of regular working hours without being subject to the provisions of Article 177 of the Political Code of Puerto Rico, as amended.

The Office may, with the approval of the Governor, commission a study or investigation, or a phase or part thereof, to any agency, or to carry out any other type of work necessary for the execution of its functions, which shall be given priority. If it should be necessary in its judgment, the agency may request and obtain from the Office a transfer of funds in the amount the Office deems reasonable, after authorization from the Governor.

Section 18. — [Funds] (1 L.P.R.A. § 326)

The Office is hereby authorized to receive and administer funds from legislative appropriations, transfers, delegations, contributions, and donations of any sort from agencies, municipal governments and the Government of the United States of America, as well as from persons, nongovernmental organizations and other private entities for the design and implementation of projects and programs to be carried out by the Office, the agencies, entities and women’s nongovernmental organizations or by the constituency. The funds thus received shall be accounted for, controlled and administered subject to the laws that regulate the use of public funds, and the legal standards, rules or agreements by virtue of which they are received by the Advocate’s Office and in accordance with the regulations adopted for such a purpose. The Office may also receive any personal property from public agencies on loan, in usufruct or by donation and shall own, administer and use the same to carry out the functions set forth in this Act.

Section 19. — [Reports] (1 L.P.R.A. § 327)

The Office shall submit an annual written report and any special reports to the Governor and to the Legislature on its activities, operations, achievements and fiscal situation, together with the recommendations it deems necessary for the continuous and efficient protection of women’s rights. After the first annual report, the Office shall include at the end of its annual reports, a summary of the recommendations it has previously made and a description of the action taken regarding said recommendations. The Office shall publish its reports after the same have been remitted to the Governor and the Legislature. It may also publish the studies and papers submitted by its advisors and consultants.

IX. PENALTIES

Section 20. — [Penalties] (1 L.P.R.A. § 328)

Any person who willingly disobeys, prevents or obstructs the discharge of the duties of the Office or of any of its authorized agents in the performance of his/her duties pursuant to this Act, or who hinders the holding of a hearing being conducted pursuant to this Act, shall be guilty of a misdemeanor and be sanctioned with a fine which shall not exceed five thousand (5,000) dollars or with the penalty of imprisonment for a term which shall not exceed six (6) months, or both penalties, at the discretion of the Court.

No evidence or testimony given at an executive session shall be made public without the consent of the Office. Any person who violates this provision shall be sanctioned with a fine, which shall not exceed five hundred (500) dollars, or with the penalty of imprisonment for a term which shall not exceed six (6) months, or both penalties, at the discretion of the Court.

X. GENERAL PROVISIONS

Section 21. — [Transfer] (1 L.P.R.A. § 311 note)

The programs, resources and facilities, including records, equipment and property, funds and appropriations of any nature that are being used by the Women’s Affairs Commission to comply with the purposes of Act No. 57 of May 30, 1973, as amended, and the personnel that performs said duties, are hereby transferred to the Advocate’s Office to be used by the latter to carry out the functions entrusted by this Act.

The personnel thus transferred shall retain all vested rights in accordance with the personnel laws and regulations in effect, as well as the rights, privileges, obligations and status with respect to any existing pension and retirement system or savings and loan fund under which they were covered prior to the approval of this Act.

It is hereby provided that every complaint, proceeding, or matter pending before the Women’s Affairs Commission or before any agency or Court as of the date of approval of this Act and that has been filed pursuant to the provisions of Act No. 57 of May 30, 1973, as amended, shall continue to be handled by the Advocate’s Office until the final determination is made in accordance with the laws and regulations in effect as of the date said complaints, proceedings, or matters have been filed.

Section 22. — [Acquired rights] (1 L.P.R.A. § 329)

None of the provisions of this Act shall be construed as to modify, alter, or invalidate any agreement, covenant, claim or contract that is in force on the effective date of this Act and that has been executed by the officials responsible for the implementation of Act No. 57 of May 30, 1973, as amended.

All regulations that govern the operation and procedures provided for by Act No. 57 of May 30, 1973, as amended, that are in force on the effective date of this Act and are not in conflict with the same, shall continue to apply until they are amended or repealed by the Advocate pursuant to the provisions of this Act.

The Advocate may use all the documents, seals, papers and office materials that bear the name of the office as set forth in the Act hereby repealed until the same have been used up completely and she is able to make the corresponding changes as to the name of the new office.

The Governor is hereby authorized to adopt those transitory measures and to make the decisions needed in order to carry out the transfers directed in this Act without interrupting the administrative procedures, the rendering of services and the operation of the programs transferred.

Section 23. — [Appropriations] (1 L.P.R.A. § 311 note)

In fiscal year 2001-2002 and in subsequent years, the funds needed to carry out the purposes of this Act shall be consigned in the General Expenses Budget of the Commonwealth of Puerto Rico.

Section 24. — [Separability] (1 L.P.R.A. § 311 note)

If any part of this Act were to be found null and void by a Court with competent jurisdiction, said finding shall not affect or invalidate the remainder thereof, and its effect shall be limited to the aspect object of the controversy.

Section 25. — [Repealing clause] (1 L.P.R.A. § 311 note)

Act No. 57 of May 30, 1973, as amended, which creates the Women’s Affairs Commission, is hereby repealed.

Section 26. — This Act shall take effect immediately after its approval.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.