

ESTADO LIBRE ASOCIADO DE PUERTO RICO
GOBIERNO MUNICIPAL AUTÓNOMO DE PONCE

Legislatura Municipal

APARTADO 331709
PONCE PR 00733-1709

**ORDENANZA NÚMERO 1
SERIE DE 2014-2015**

PARA ADOPTAR EL REGLAMENTO PARA EL PROCESAMIENTO DE QUERELLAS (“GRIEVANCE PROCEDURES”) POR DISCRIMEN POR IMPEDIMENTO A PARTICIPANTES DE PROGRAMAS FEDERALES DE VIVIENDA ADMINISTRADOS POR EL MUNICIPIO AUTÓNOMO DE PONCE AL AMPARO DE LA SECCIÓN 504 DE LA LEY FEDERAL DE REHABILITACIÓN DE 1973 (“REHABILITATION ACT OF 1973”); Y PARA OTROS FINES

POR CUANTO: La Sección 504 de la Ley Federal de Rehabilitación de 1973 (“*Rehabilitation Act of 1973*”) prohíbe el discrimen por impedimento físico o mental contra participantes de programas y actividades, tanto públicas como privadas, que reciben asistencia financiera federal;

POR CUANTO: El día 12 de junio de 2012, el Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos (“*U.S. Department of Housing and Urban Development*” o “*HUD*”) verificó el cumplimiento de todos los programas administrados por la Secretaria de Vivienda y Desarrollo Socioeconómico del Municipio Autónomo de Ponce;

POR CUANTO: A raíz de dicha revisión, la agencia federal le remitió al Municipio Autónomo de Ponce una carta sobre hallazgos de incumplimiento (“*Letter of Findings of Noncompliance*”), en el cual se señaló la ausencia de un procedimiento de querellas sobre discrimen por impedimentos para aquellos participantes de los programas de vivienda administrados por el Municipio;

POR CUANTO: En aras de corregir las deficiencias señaladas en dicha comunicación, el día 16 de enero de 2014 el Municipio y *HUD* suscribieron un acuerdo en el idioma inglés denominado

*ya
J. R. P.
may*

"Voluntary Compliance Agreement" o "VCA", entre cuyas disposiciones, requiere la adopción e implementación de un procedimiento de querellas;

POR CUANTO: El inciso (o) del Artículo 2.001 de la Ley 81-1991, según enmendada, conocida como la "*Ley de Municipios Autónomos del Estado Libre Asociado de Puerto Rico*", reconoce entre los poderes de los Municipios la facultad de ejercer sus poderes legislativos y ejecutivos en todo asunto de naturaleza municipal que redunde en el bienestar de la comunidad y en su desarrollo económico, social y cultural, en la protección de la salud y seguridad de las personas, que fomente el civismo y la solidaridad de las comunidades y en el desarrollo de obras y actividades de interés colectivo, con sujeción a las leyes aplicables;

POR CUANTO: El inciso (c) del Artículo 3.009 de la mencionada Ley de Municipios Autónomos, según enmendada, faculta al Alcalde o Alcaldesa a "[p]romulgar y publicar las reglas y reglamentos municipales".

POR TANTO: **ORDENASE POR LA HONORABLE LEGISLATURA MUNICIPAL DE PONCE, PUERTO RICO:**

SECCIÓN PRIMERA: Adoptar el Reglamento para el Procesamiento de Querellas ("Grievance Procedures") por Discrimen por Impedimento a Participantes de Programas Federales de Vivienda, a ser implementado a la Secretaria de Vivienda y Desarrollo Socioeconómico del Municipio Autónomo de Ponce, cuyo texto en el idioma inglés se hace formar parte de esta Ordenanza.

SECCIÓN SEGUNDA: La presente Ordenanza comenzará a regir inmediatamente después de su aprobación por esta Legislatura Municipal y la Alcaldesa de Ponce.

SECCIÓN TERCERA: Si cualquier disposición de esta Ordenanza fuese declarada inconstitucional o nula por un tribunal con jurisdicción, la sentencia dictada a ese efecto no afectará, perjudicará o invalidará el resto de la Ordenanza, quedando sus efectos limitados a la disposición que así fuere declarada.

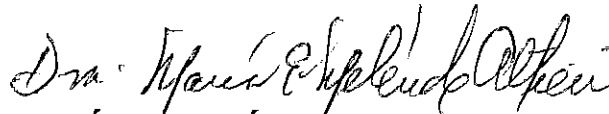
SECCIÓN CUARTA: Copia debidamente certificada de esta Ordenanza será remitida a la Secretaría de Vivienda y Desarrollo Socioeconómico, las Oficinas de Servicios Legales y de Auditoría Interna, así como a la Secretaria Municipal del Municipio Autónomo de Ponce, para su conocimiento y acción correspondiente.

APROBADA ESTA ORDENANZA POR LA LEGISLATURA MUNICIPAL DE PONCE, PUERTO RICO, A LOS 14 DÍAS DEL MES DE JULIO DE 2014.


YASMÍN ABAIME MALDONADO
SECRETARIA LEGISLATURA MUNICIPAL


JOSÉ GUILLERMO FIGUEROA TORRES
PRESIDENTE LEGISLATURA MUNICIPAL

SOMETIDA ESTA ORDENANZA A MI CONSIDERACIÓN A LOS 16 DÍAS DEL MES DE JULIO DE 2014 Y FIRMADA Y APROBADA POR MÍ A LOS ____ DÍAS DEL MES DE JULIO DE 2014.


MARÍA E. MELÉNDEZ ALTIERI, DMD
ALCALDESA

Revisado por: SDV
lgc





**COMMONWEALTH OF PUERTO RICO
AUTONOMOUS MUNICIPALITY OF PONCE**

Departments of Housing and Socioeconomic Development

GRIEVANCE PROCEDURES

Effective Date :

I. PURPOSE

The rules of procedures of this chapter shall govern conferences and hearings resulting from complaints filed by individual program participants and applicants of Federal Programs administered by the Municipality of Ponce.

The procedure shall provide a means for review of grievances through administrative means short of taking action through the appropriate judicial proceedings, but in no way waives the complainant's right to judicial proceeding.

The grievance procedure shall not be used to review complaints or grievances related to initiating or negotiating changes to existing policies set forth in this chapter or for class grievances.

II. FILING A COMPLAINT

Any applicant for any Federal Program, who believes that he or she is aggrieved, or adversely affected by an act or failure to act by a municipal employee or official, may file a complaint with the Municipality requesting an administrative determination of his or her rights.

III. INFORMAL SETTLEMENT OF COMPLAINTS

Within three (3) working days of receipt of the complaint, the Municipality shall schedule a conference with the complainant to informally discuss the complaint with the objective of reaching a settlement without a hearing.

The Municipality shall convene the informal settlement conference within ten (10) working days of the date the complaint was filed.

If a settlement is reached, within ten (10) working days of the conference, the terms of the settlement shall be put in writing by the Municipality, signed by each party, and made a part of the complainant's Municipality file. A copy of the settlement shall be given to the complainant.

If a settlement cannot be reached, the Municipality shall prepare and serve on the complainant a written answer to the complaint within ten (10) working days of the conference with the

complainant and the Municipality, and shall notify the complainant and the Municipality. Within thirty (30) days of the date the hearing is scheduled, OFH shall convene the hearing, unless reschedule for good cause by the assigned hearing officer.

V. SELECTION OF HEARING OFFICERS

THE Municipality shall select six (6) impartial, disinterested members in good standing of any bar to be available to serve as hearing officers. The hearing officers shall be assigned at random to hear grievances. If the complainant objects to the hearing officer, the Municipality and the complainant shall attempt to agree upon another member of the pool of hearing officers.

If the Municipality and the complainant cannot agree, the Municipality shall select any individual to serve as a member of the hearing panel, the complainant shall select any individual to serve as a member of the panel and these two (2) individuals shall select a third member. The choice of the individuals who comprise the hearing panel shall not be limited to the six (6)-member pools of hearing officers.

If the individuals selected by the Municipality and the complainant cannot agree on a third member, such a member shall be selected by an independent arbitration organization as provided in 24 C.F.R. §966.55(b) (1).

VI. AUTHORITY OF HEARING OFFICERS

The hearing officer shall have all powers necessary to conduct a fair and impartial hearing, including the following:

- (a) To administer or direct the administration of oaths and affirmations;
- (b) To examine and direct witnesses to testify;
- (c) To rule upon offers of proof and receive relevant evidence;
- (d) To regulate the course of the hearing and the conduct of the parties, other participants, and their counsel;
- (e) To arrange a conference for settlement or to simplify the issues by agreement of the parties;
- (f) To consider and rule upon procedural requests; and
- (g) To take any action authorized by this chapter. The hearing officer shall have the power to grant appropriate relief.

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- (f) To consider and rule upon procedural requests; and
- (g) To take any action authorized by this chapter. The hearing officer shall have the power to grant appropriate relief.

IX. FAILURE TO APPEAR

If either party fails to appear at a hearing, the hearing officer may do the following:

- (a) Postpone the hearing for up to five (5) working days;
- (b) With the consent of both parties, reschedule the hearing for a later date; or
- (c) Make a determination that the complainant has waived his or her right to a hearing, if the complainant fails to appear. The waiver shall not constitute a waiver of complainant's right thereafter to contest Municipality's action in an appropriate judicial proceeding.
- (d) Grant an exception if the family is able to document an emergency situation that prevented them from attending or requesting a postponement of the hearing or if requested as a reasonable accommodation for an individual with a disability.

X. ELECTION NOT TO ACT

The hearing officer, after review of the written complaint and the disposition proposed by the Municipality, may render a decision without proceeding with the hearing if the hearing officer determines that the issues have been decided previously in an earlier hearing of other complaints base on essentially the same set of facts.

When the hearing officer decides to render a decision without a hearing, he or she shall prepare a written finding citing the previous hearing or hearings involving the same issue, and shall certify these' findings and decision to the proper Municipality Officer. Parties to the proceedings shall be given copies of the hearing officer's findings and decision. Sections *Briefs in Support of or Taking Issue with the Decision of the Hearing Officer, Effect of Decision and Decision of the Municipality* of this Draft Grievance Procedures shall apply to findings and decisions rendered without a hearing.

XI. HEARING PROCEDURES

At the hearing, the complainant shall make a showing of entitlement to the relief sought. If, in the opinion of the hearing officer, the complainant fails to do so, the hearing officer may render a decision in favor of the Municipality without further presentation of evidence.

If the hearing officer decides the complainant has made a sufficient showing, the Municipality shall justify the action or inaction against which the complaint is directed or the proposed deposition in its answer to the complaint.

XIV. BRIEFS IN SUPPORT OF/ OR TAKING ISSUE WITH THE DECISION OF THE HEARING OFFICER

Any party may file a brief with the office of the Municipality's Section 504IADA coordinator in support of or in opposition to the hearing officer's decision within ten (10) working days after service of the decision.

XV. EFFECT OF DECISION

A decision of the hearing officer which is in favor of the Municipality, or denies the complainant his or her requested relief in whole, or in part, shall not constitute a waiver of, or affect in any manner whatever, rights the complainant may have to a trial *de novo* in judicial proceedings which may be later brought in the matter.

In a *de novo* judicial proceeding, neither party shall be limited to invoking against the other the grounds originally relied on in the administrative proceedings.

XVI. DECISION OF THE MUNICIPALITY

Within seven (7) working days after expiration of the time for filing briefs as provided in Section *Briefs in Support of or Taking Issue with the Decision of the Hearing Officer*, the Municipality, upon consideration of the record, together with any briefs, shall make a determination of the enforceability of the hearing officer's decision as provided in Section *Decision of the Hearing Officer* (a) and (b).

The Municipality may modify or set aside, in whole or in part, the decision of the hearing officer. In any case in which the Municipality proposes to modify or set aside all or any part of the hearing officer's decision, the Municipality shall serve on each party a proposed decision, including findings of fact and conclusions of law.

1». - The parties shall be given fourteen (14) days from the date of receipt of the Municipality's proposed decision to file exceptions. The Municipality shall make a final decision within fourteen (14) days after exceptions to the proposed decision have been filed, and an oral argument held, if requested. Copies of the final decision shall be served on all parties.

CERTIFICACIÓN

YO: YASMÍN ADAIME MALDONADO, SECRETARIA DE LA LEGISLATURA MUNICIPAL DE PONCE, PUERTO RICO:

CERTIFICO: Que la precedente *Ordenanza Número 1, Serie de 2014-2015; PARA ADOPTAR EL REGLAMENTO PARA EL PROCESAMIENTO DE QUERELLAS ("GRIEVANCE PROCEDURES") POR DISCRIMEN POR IMPEDIMENTO A PARTICIPANTES DE PROGRAMAS FEDERALES DE VIVIENDA ADMINISTRADOS POR EL MUNICIPIO AUTÓNOMO DE PONCE AL AMPARO DE LA SECCIÓN 504 DE LA LEY FEDERAL DE REHABILITACIÓN DE 1973 ("REHABILITATION ACT OF 1973"); Y PARA OTROS FINES;* fue aprobada en la *Sesión Ordinaria celebrada el día lunes, 14 de julio de 2014;* con los votos afirmativos de los siguientes Legisladores a saber:

HON DOMINGO CHARDÓN FELICIANO

HON ANTONIO QUILICHINI TEISSONNIERE

HON JUSTINIANO DÍAZ MALDONADO

HON VÍCTOR REYES CABEZA

HON JOSÉ GUILLERMO FIGUEROA TORRES

HON ERASTO RODRÍGUEZ MARTÍNEZ

HON FERNANDO GONZÁLEZ CÁMARA

HON JUAN FRANCISCO ROSADO ORTIZ

HON CARMEN GISELA MELÉNDEZ DE LÓPEZ

HON GIORDANO SAN ANTONIO MENDOZA

HON RAFAEL ARTURO MATEU CINTRÓN

HON LUCÍA DE LOS ÁNGELES VELÁZQUEZ PAGÁN

HON LUIS ANTONIO YORDÁN FRAU

**Los Honorables Luis M. Irizarry Pabón, Gaddiel Morales Olivera y Janice V. Torres Torres estuvieron ausentes excusados.*

Esta Ordenanza fue firmada por el Presidente y la Secretaria de la Legislatura Municipal, el día **miércoles, 16 de julio de 2014**, debidamente sometido a la Alcaldesa el día **viernes, 18 de julio de 2014** y ésta lo firmó el día **jueves, 24 de julio de 2014**.

CERTIFICO: Además, que de acuerdo con las Actas bajo mi custodia, aparece que todos los Legisladores fueron debidamente citados para la referida Sesión en la forma que determina la Ley.

Y, PARA QUE ASÍ CONSTE, y a los fines procedentes, expido la presente con mi firma y el Sello Oficial del Municipio Autónomo de Ponce, hoy día **martes, 29 de julio de 2014**.


YASMÍN ADAIME MALDONADO
SECRETARIA LEGISLATURA MUNICIPAL

SELLO OFICIAL