

LOCAL SOUTHEAST LABOR DEVELOPMENT AREA

Humacao, Puerto Rico



ADMINISTRATIVE ORDER NO. 2020-01

INTERNAL PROCEDURE FOR THE CREATION AND FUNCTIONING OF A REVIEW COMMITTEE TO ATTEND THE REQUESTS FOR ADMINISTRATIVE REVIEW OF THE DETERMINATIONS TAKEN UNDER THE NEW CLASSIFICATION AND RETRIBUTION PLAN

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ARTICLE I – LEGAL BASE

This internal procedure is enacted pursuant to Law No. 107 of August 14, 2020, as amended, known as “Puerto Rico Municipal Code.”

ARTICLE II – PURPOSE

The purpose of this internal procedure is to establish the guidelines that the Review Committee will follow in regard to the employees of Career Service and those of Positions of Trust of the Local Southeast Labor Development Area.

ARTICLE III - DEFINITIONS OF TERMS

To the ends of this Administrative Order, the following terms will have the meanings that are indicated below:

1. CASP (For its Spanish acronym) – Public Service Appellate Commission
2. Review Committee (the Committee) – It is the committee in charge of evaluating the review requests of the determinations taken under the new Classification and Retribution Plan.
3. Employee – It is the person that on August 31, 2020 rendered services in the Local Southeast Labor Development Area through an appointment to a position of trust or regular career position.
4. Plans - Classification and Retribution Plans for the career position personnel and position of trust personnel, which went into effect on September 1, 2020.
5. Review Request – It refers to the review request of the determinations taken pursuant to the new Classification and Retribution Plan that has been filed by the employee within fifteen (15) calendar day term as of the receipt by the Executive Director of the notification that informs this employee the assigned classification according to the Plan.
6. Claim – Any questioning, doubt or request presented to the Review Committee, which will refer to the particular claimant’s classification and retribution.

ARTICLE IV - COMPONENTS OF THE REVIEW COMMITTEE

The members of the Review Committee will be designated by the Local Board. The Committee will be composed by three (3) members from which one will be the President, another the Secretary, and other one an additional member. Insofar as the needs require it in order to expedite the process, the Local Board can designate other members until reaching five (5) members. One of the members of this Committee will be a member of the Local Board.

The review requests will be evaluated by the full Committee. Two (2) members will constitute quorum when the Committee is composed by three (3) members. There will be three (3) when the Committee functions as a group of five (5) members.

The Local Board can contract the professional services of a Human Resources Consultant, who will advise the Committee in those matters that are referred to them.

ARTICLE V - TASKS OR FUNCTIONS

The Committee will evaluate all claim or review request in accordance to the laws and regulations applicable to the Public Policy of the Local Southeast Labor Development Area.

As part of its functions, the Committee will be responsible for:

1. Classifying the requests presented by employees in order to better manage documentation.
2. Creating a file of each case, which will include as a minimum: the employee's request, a copy of the letter for the Plan implementation with the date of receipt by the employee, and any written communication on the part of the employee requesting copy of the documents that arise from the review process that the Committee will conduct.
3. Establishing a work plan in order to evaluate all the presented requests.
4. Determining the days and time that it will meet to evaluate the requests.
5. Evaluating the written communications presented in order to determine on what the employee bases the request.
6. Evaluating the issues and arguments presented by the employee within the new plans framework and determine if the request proceeds or not.
7. Preparing a report for the Executive Director of each case analyzed, in which the arguments presented by the employee, the analysis done by the Committee, and the recommendation of the action to be taken will be discussed.
8. Performing any other function compatible with the ones herein indicated that promote the cases resolution.

The Review Committee will be able to:

1. Request the employees to develop in writing all the objections and allegations on which they base their position in the case that these were not included in the review request.
2. Request the employees' additional information and documentation that give more information for their case.

3. Summon the employees to clarify the contents and scope of their review request. In these cases, the hearing must be recorded, and the employee can be accompanied by a legal counsel, if deemed necessary.
4. Consolidate requests, if the review requests ask for the same remedy, they refer to the same position classification, and the objections and reasons expressed are the same.

ARTICLE VI - DELEGATION TO DEAL WITH PROCEDURAL MATTERS

The Committee will be authorized to determine if it is necessary to hold a hearing or the matter can be resolved just with the file documentation, in order to use the necessary administrative procedures to obtain the information deemed pertinent to the case. This includes means to verify proof such as interviews, files review, documents pertinent to the matter or claim, expedition of orders and any other areas deemed necessary.

ARTICLE VII - NOTIFICATION OF THE HEARING

In the case that the Committee determines holding a hearing, the same will be notified with acknowledgment of receipt within not less than ten (10) days in advance, unless exceptional circumstances justify a shorter term. The notification will be signed by the Committee's President, or the member designated by the President, and will indicate the following information:

1. Date, time and place where the hearing will take effect.
2. Reference to the arguments exposed by the employee in the review request.
3. Admonition of the measures that the Committee could take, if the employee does not attend to the hearing.
4. Warning that the hearing cannot be suspended, except for a just cause for it.

If a duly appointed party does not appear to the hearing or does not comply with any request of the Committee, the official that presides the hearing will issue a recommendation based on the available information.

ARTICLE VIII - PROCEDURE DURING THE HEARING

1. The minutes of the hearing will register the appearing persons, the presented proof, and a brief summary of the hearing incidents.
2. The President or the person designated by the President will conduct the hearing within a framework of relative informality.

3. The employees will have a right to appear pro se, (on their own) and to present the proof deemed necessary.

ARTICLE IX - COMMITTEE'S RECOMMENDATION

1. The Committee will issue its decision in writing and by majority; such decision will be based on the case's file, and will send it to the Executive Director within a term not greater than forty-five (45) days after the conclusion of the hearing, unless this term is extended due to a just cause. The Committee will have a justification for the case decision.
2. The Executive Director must notify the employee with acknowledgment of receipt within ten (10) working days following the decision. Within that same term the Executive Director must inform the Local Board about the Committee's determination.
3. The Career Service employee that is not satisfied with the determination issued by the Committee can recur to a CASP within the thirty (30) days after receiving the notification.

ARTICLE X - CONFLICT OF INTEREST

A conflict of interest exists when a situation between the public interest and the official's private interest arises; that is to say, when the employee has personal interests that could unduly influence the performance of their duties and responsibilities.

To avoid situations that can affect the functioning of the Committee's procedural steps, if a case arises in which after the Review Committee's member is designated, the person will file an administrative review recourse before the Committee, and the Executive Director will proceed to release said person from their functions in the Committee and will designate a new member.

This determination would be taken to the ends of keeping the transparency of the processes in a situation in which, according to the individual's judgment, concerning their primary interest and the integrity of an action, tends to be improperly influenced by a secondary interest generally of economic or personal character.

ARTICLE XI - SEPARABILITY CLAUSE

If any provision of this procedure were declared null or unconstitutional by a competent court, said determination will not affect the validity of its remaining provisions.

ARTICLE XII – VALIDITY

This administrative order will take effect immediately after its approval. It will be nullified once the administrative review process is completed.

Approved in Humacao, Puerto Rico, today, October 13, 2020.

[Signed]

Luis E. González Torres
Executive Director
ALDL Sureste

[Signed]

Jesús Delgado Morales
President
ALDL Sureste