



GOVERNING BOARD
UNIVERSITY OF PUERTO RICO

(Translation)

CERTIFICATION NUMBER 35
2018-2019

I, Luis Berríos Amadeo, Secretary of the University of Puerto Rico Governing Board,
CERTIFY THAT:

The Governing Board, at its regular meeting on Monday, September 24, 2018,
having considered the proposal of the Office of the President and the recommendations of
the Appeals and Laws and Regulations Committee agreed:

- Whereas:** On November 21, 2016, through Certification No. 43 (2016-2017), the Governing Board proposed to approve a new *Regulations for Administrative Appellate Proceedings of the University of Puerto Rico* to repeal and supersede the current regulation approved through Certification No. 138 (1981-1982) of the Council on Higher Education, as amended, Regulation No. 3902, as amended; to modernize the regulation of University appellate procedures, incorporating the amendments of the Uniform Administrative Procedure Act in force at the time and the Rules of the Court of Appeals on electronic notice, as well as the recommendations of the appellate bodies and legal advisors of the different institutional units of the University, among others.
- Whereas:** Pursuant to the Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico, Law No. 170 of August 12, 1988, as amended, the Board published on December 2, 2016, a notice on the proposed action online and in a newspaper of general circulation in Puerto Rico. A period of thirty days from the date of publication of the notice was allowed for the filing of written comments or a substantiated request for public hearing.
- Whereas:** The Governing Board, within said term and prior to making a final decision on the adoption of the aforementioned proposed Regulations, received several comments that were examined with the assistance of officials from UPR Central Administration. Subsequently, the Governing Board requested that such officials update the proposal to the provisions of the new Uniform Administrative Procedure Act, Law No. 38 of 2017, enacted on June 30, 2017.

Whereas: The Governing Board evaluated and considered the comments received and agreed to incorporate several recommendations that improved the proposal. The Governing Board also drew on its experience, technical competency, expertise, discretion, and sound judgment in reaching a decision on the final provisions of said Rules.

Wherefore: Pursuant to the above, the Governing Board resolved to:

1. Approve the new *Regulations for Administrative Appellate Proceedings of the University of Puerto Rico* to adjust the University regulations to the developments in Administrative Law in Puerto Rico; to modernize the regulation of University appellate procedures, incorporating, among other aspects, electronic notice and mediation, as well as the recommendations of the appellate bodies and legal advisors of the different institutional units of the University.
2. Repeal Certification 138 (1981-1982) of the Council on Higher Education and all amendments thereto: Certification No. 79 (1982-1983); Certification No. 138 (1983-1984); Certification No. 59 (1984-1985); Certification No. 83 (1988-1989); Certification No. 93 (1989-1990); Certification No. 91 (1999-2000); Certification No. 30 (2016-2017); Regulation No. 3902, as amended, and any rule or procedure in place at the University of Puerto Rico that in contrary to these regulations.
3. Provide that this new *Regulations for Administrative Appellate Proceedings of the University of Puerto Rico* be filed with the Department of State of the Commonwealth of Puerto Rico, pursuant to the current Administrative Procedure Act, Law No. 38 of 2017.
4. Provide that these new regulations shall take effect thirty days after its filing at the Department of State.

IN WITNESS WHEREOF, I issue the present Certification, in San Juan, Puerto Rico, this

2nd day of October 2018.



Luis Berríos Amadeo

Secretary

**UNIVERSITY OF PUERTO RICO
GOVERNING BOARD**



**REGULATIONS FOR ADMINISTRATIVE
APPELLATE PROCEEDINGS OF THE UNIVERSITY
OF PUERTO RICO**

CERTIFICATION No.35 (2018-2019)

Table of Content

	Page
SECTION 1 – TITLE	1
SECTION 2 - EXECUTIVE SUMMARY	1
SECTION 3 - LEGAL BASIS	1
SECTION 4 - PURPOSE	1
SECTION 5 - APPLICATION	2
SECTION 6 - DEFINITIONS	2
SECTION 7 - MEDIATION	4
SECTION 8 - GENERAL PROVISIONS	8
SECTION 9 - JURISDICTION OF APPELLATE BODIES.....	10
SECTION 10 - ADJUDICATION OFFICERS	10
SECTION 11 - PETITION FOR APPEAL	11
SECTION 12 - MOTION TO INTERVENE	12
SECTION 13 - ORDERS FOR PROCESSING APPEALS	13
SECTION 14 - REPLIES AND MOTIONS	13
SECTION 15 - DEFAULT	14
SECTION 16 - SUMMARY JUDGMENT.....	14
SECTION 17 - DISMISSAL OF APPEALS	14
SECTION 18 - DISCOVERY	15
SECTION 19 - ADMINISTRATIVE HEARINGS	15
SECTION 20 - TEMPORARY RELIEF.....	15
SECTION 21 - NONCOMPLIANCE WITH ORDERS	15
SECTION 22 - REVIEW OF INTERLOCUTORY ORDERS.....	15
SECTION 23 - SANCTIONS	16
SECTION 24 - ADJUDICATIVE HEARINGS	16
SECTION 25 - MOTION FOR CONTINUANCE	17
SECTION 26 - RECORD OF VISITS, MEETINGS AND CONFERENCES	17
SECTION 27 - DISPOSITION ON APPEAL.....	17
SECTION 28 - PAYMENT OF INTEREST	19
SECTION 29 - RECONSIDERATION	19
SECTION 30 - AMENDMENTS AND REPEAL	20
SECTION 31 - SEVERABILITY AND CONSTRUCTION	21
SECTION 32 - EFFECTIVE DATE	21

PART I - GENERAL PROVISIONS

SECTION 1 – TITLE

These Regulations shall be known as the Regulations for Administrative Appellate Proceedings of the University of Puerto Rico.

SECTION 2 - EXECUTIVE SUMMARY

Achieving the academic objectives of the University of Puerto Rico requires that its officials make decisions that may generate controversies and that such controversies be resolved through appellate or informal bodies knowledgeable on University business. For such purposes, the University has adopted these Regulations for Administrative Appellate Proceedings of the University of Puerto Rico, as amended, Certification No. 138 (1981-1982), which provides the rules that will govern such procedures, allow for the informal resolution of the matters brought to its attention, and ensure the fairness of all proceedings without undermining the rights of the parties to the controversy.

This revision of the Regulations on Administrative Appellate Procedures of the University of Puerto Rico seeks to modernize University appellate procedures and adjust them to the Uniform Administrative Procedure Act, Law No. 38 of June 30, 2017, the Rules of the Court of Appeals, and the recommendations of University officials who in one way or another participate in these appellate proceedings.

SECTION 3 - LEGAL BASIS

These Regulations are adopted pursuant to the provisions of

- A. Sections 3(h) (5), 5(c)(1), and 5(c)(5) of the University of Puerto Rico Act, Law No. 1 of January 20, 1966, as amended.
- B. Chapter III, Article 14, Section 14.10.11 of the General Regulations of the University of Puerto Rico, as amended.
- C. Uniform Administrative Procedure Act, Law No. 38 of June 30, 2017.

SECTION 4 - PURPOSE

These Regulations provides the rules that will govern administrative appellate proceedings to pass on appeals filed by an individual or an entity with one or more appellate bodies of the University of Puerto Rico to challenge a decision or resolution issued by University authorities.

SECTION 5 - APPLICATION

These regulations shall apply to administrative appeals and reconsiderations filed with the University of Puerto Rico, including appeals to the appellate authorities: chancellors, University Board, academic senates, administrative boards, Retirement Board, President of the University, and Governing Board. These also include the rules and procedures for mediation.

A. The following shall be excluded from these Regulations:

1. Administrative appeals for alleged violations of the principle of merit filed by non-teaching staff. These appeals shall be governed by the Rules of the Board of Appeals for Non-Teaching Staff at the University System.
2. Appeals filed under the Rules for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico and the Rules for Awarding Permanent Improvement Projects of the University of Puerto Rico.

B. These Regulations shall be supplemental to any other procedure for administrative review at the University which is not incompatible with the specific nature of such proceedings or with special rules governing them.

SECTION 6 – DEFINITIONS

For the purposes of these Regulations, terms used to refer to a person or position include both genders and shall have the following meanings:

- A. **Appellee** - A University official or body that has allegedly rendered a decision that adversely affects the appellant's rights under the University of Puerto Rico Act or UPR regulations and files an appeal with an appellate body.
- B. **Appellant** - A person who claims to have been affected by the decision of a University official or body and files an appeal with an appellate body.
- C. **Appellate Body** - A University official or body before whom the appeal or reconsideration is filed.
- D. **Controversy** - A dispute between appellant and appellee.
- E. **Summons or Subpoena** - A document issued by a University official or body or person authorized, ordering a party or a witness to appear for a hearing or conference.
- F. **Dean** - Each of the deans of the institutional units.
- G. **Days** - For purposes of terms or deadlines, days shall be calendar days.
- H. **Administrative Judge** - Any officer or employee of the University of Puerto Rico onto whom an appellate body delegates its adjudicatory authority in an appellate proceeding.

- I. Governing Board** - Governing Board of the University of Puerto Rico.
- J. Jurisdiction** - Power or authority of a University official or body to adjudicate all manner of administrative controversies brought to its consideration.
- K. Law** - The University of Puerto Rico Act, Law No. 1 of January 20, 1966, as amended.
- L. Mediator** - A person whom an appellate body appoints in a mediation proceeding to settle a dispute, and who offers guidance to the parties involved in a case under their consideration. A mediator may be a University employee or official who has training and knowledge of mediation procedures or a person qualified by the Alternative Dispute Resolution Bureau of the Supreme Court of Puerto Rico.
- M. Mediation** - Procedure in which a mediator intervenes, without adjudicating, to assist the parties, who have the power to decide whether or not to participate in this speedy and informal proceeding, with the assistance of a mediator, as a means of exploring and reaching a mutually acceptable agreement to resolve a dispute or controversy.
- N. Notice** - A dated document that indicates when the University official or body, or person authorized, sends a paper to the parties.
- [NN]. Hearing Officer** - A person designated by the University official or body against whom an appeal or reconsideration has been filed and to whom all powers specified in these Regulations may be delegated.
- O. Interlocutory Order** - An action by the University adjudicating a right or an obligation that does not put an end to the entire controversy, but only a specific aspect thereof.
- P. Adversely Affected Interested Party** - A person who alleges a violation to one or more rights conferred by the University of Puerto Rico Act or its regulations, or any other applicable law or regulation.
- Q. President** - President of the University of Puerto Rico.
- R. Chancellor or Director** - Each of the chancellors of the institutional units of the University of Puerto Rico or any other official who reports directly to the President of the University in the discharge of their duties.
- S. University System** - It comprises the Governing Board, Central Administration, the University Board, the institutional units, and any other unit and division of the University of Puerto Rico created by law or by resolution of the Governing Board.
- T. Jurisdictional Term** - Fatal, non-extendable term that deprives the appellate body of jurisdiction to hear an appeal upon its expiration. When the last day of a jurisdictional term falls on a Saturday, Sunday, legal holiday, or a day operations are closed and granted as leave, the jurisdictional term shall expire on the next business day.

- U. **Institutional Unit** - Each one of the following: Río Piedras Campus, Mayagüez Campus, Medical Sciences Campus, or any of the institutional units at Cayey, Humacao, Arecibo, Bayamón, Ponce, Aguadilla, Carolina, and Utuado, and those that may be created by law or by decision of the Governing Board.
- V. **University** - The University of Puerto Rico.
- W. **Administrative Hearing** - Hearing held in certain appellate proceedings, according to the procedure established herein.

PART II - MEDIATION RULES AND PROCEDURES

SECTION 7 - MEDIATION

A. General Provisions

1. The University of Puerto Rico states its public policy to encourage the informal solution of administrative controversies through mediation so that the parties involved may reach an agreement voluntarily without necessarily applying formal dispute resolution methods.
2. Mediation is an alternative procedure to an administrative appellate proceeding to dispense justice more quickly and economically. This section does not require or force any party to submit to and resolve disputes through mediation.
3. Mediation will promote the participation of individuals in the resolution of disputes and that the parties involved assume responsibility for the fulfillment of the agreements reached.
4. The parties have the power to decide whether or not to participate in mediation.
5. Once the case is referred to mediation, the parties are not obliged to reach an agreement, but if they do, once the stipulation is signed, they cannot refuse to fulfill their agreements.

B. Cases Included and Excluded

1. In selecting cases to be referred to mediation, the appellate body shall use the criteria provided in this section.
2. The following may not be referred or heard through mediation:
 - a. cases in which either party has no interest in participating in mediation or the appellate body considers if any of the parties considers that the facts to be too sensitive;

- b. cases in which a party is unable to effectively protect their interests during the negotiation process;
- c. cases filed pursuant to institutional policies or protocols concerning sexual harassment, sexual violence, sexual discrimination, and other modalities in which any of the parties has a certain degree of vulnerability; and
- d. cases involving a civil rights claim or issues of high public interest, where life and/or property is at risk, except with the express consent of the parties, or their legal representatives and with the authorization of the appellate body.

C. Referral to Mediation

The appellate body may refer a case brought to its attention, or part thereof, to mediation when deemed pertinent, provided that the parties voluntarily decide or authorize to submit to the process to resolve their disputes and assume the responsibility to comply with this section.

D. Appointing a Mediator

As provided above, where mediation is an alternative and the parties involved establish their interest in resolving the situation or controversy informally, the appellate body shall appoint a mediator by selecting any individual or public or private entity that provides mediation services. University staff may serve as mediators provided they have training and are knowledgeable about the process.

E. Responsibilities of the Mediator

1. The mediator shall have the qualifications and comply with duties and ethical responsibilities set forth in this section and any other rules approved by the Judicial Branch concerning qualifications, duties and ethical obligations of neutral intervenors.
2. The mediator shall maintain an image of impartiality and shall act in accordance therewith with all parties involved in the dispute. The mediator will equally assist all parties in reaching a mutually satisfactory agreement without advocating for the interests of any party in the mediation process.

F. Powers of the Mediator

The mediator may not compel the parties in a dispute to reach any particular agreement, but shall be empowered to:

1. Conduct joint or separate meetings (caucus) with the participants;

2. Request the advice of other experts on technical aspects of the dispute, on their own initiative or at the request of any of the parties, and require payment for their services, after consulting the parties and entering into an agreement. Payment for such services will be reasonable and in strict compliance with University regulations on employee personnel or payment of services, as applicable, and with the Government Ethics Act of the Government of Puerto Rico.
3. Maintain order during mediation and require participants to comply with mediation rules and procedures;
4. Establish such rules as may be appropriate to achieve the objectives of mediation;
5. Postpone sessions as may be appropriate or pertinent, considering the interest of the parties;
6. Make recommendations on alternatives for agreements, which shall be in writing; and
7. Terminate mediation at any time.

G. Time and Place of Mediation

1. Initial Summons

The mediator, in all case referred to mediation, shall summon the parties in dispute promptly to an orientation session to provide a speedy resolution to the dispute and fulfill the objective of this section.

2. Orientation

At the orientation session, the mediator shall comply, at least with the following:

- a. Obtain the necessary information in the Acceptance of Mediation Services form provided by the appellate body, as indicated in the Appendix to these Regulations;
- b. Inform participants that mediation is voluntary and that the mediator is an impartial facilitator who has no power to impose agreements;
- c. Inform participants that a mediator does not represent or advise any of the parties;
- d. Orient participants on their right to seek and obtain independent legal advice if they do not have counsel;

- e. Disclose the nature and extent of the relationship with any of the parties and any personal, financial interest or otherwise that may result in prejudice the parties or produce a conflict of interest;
- f. Assist participants evaluate the benefits, risks, and costs of mediation;
- g. Define and describe mediation services and their privileged and confidential nature; and
- h. Define and describe the nature and extent of the confidential and privileged nature of the sessions.

H. End of Mediation

1. Mediation may be terminated at any time, either by any of the parties involved or by the mediator.
2. Once mediation has been accepted, it may be terminated for any of the following reasons:
 - a. the parties reached an agreement;
 - b. the parties failed to reach an agreement;
 - c. one of the parties does not appear for the hearing;
 - d. one or both parties withdrew from the process;
 - e. the period of time granted for mediation by the appellate body expired and the parties did not request an extension or, if requested, it was denied; or
 - f. when the mediator believes that mediation has not been beneficial.
3. Termination of mediation at any stage of a proceeding will not preclude a referral to mediation at a later time if circumstances are favorable.

I. Communications with the Appellate Body

In cases referred by the appellate body, after mediation has been terminated, the mediator shall inform the appellate body in writing of the following:

1. If the parties reached an agreement;

2. If any of the parties failed to appear for the orientation session or if both parties failed to attend; in which case the name of the party who failed to appear or the names of the parties who attended shall be specified.
3. If any of the parties failed to appear for any other mediation session after having appeared for orientation; the party or parties who failed to appear shall not be named.
4. If the term granted by the appellate body has expired.
5. If one or both parties withdrew from mediation; the party who withdrew shall not be named.
6. If the mediator believes that mediation has not been beneficial.
7. The parties are responsible for informing the appellate body of an agreement, according to the criteria set forth in this section.

J. Participation of Attorneys in Mediation

1. As a rule, the assistance of counsel is not required, except when it is deemed indispensable to protect the rights of the parties. In such cases, the role of attorney in the joint mediation sessions should be limited to providing advice and information, making suggestions, and clarifying doubts about the solution alternatives to their clients.
2. If the participation of attorneys in joint sessions is accepted, the mediator shall require that each party be represented by counsel, and the same rules that apply to the parties shall apply to attorneys.

PART III - ADMINISTRATIVE APPELLATE PROCEDURE

SECTION 8- GENERAL PROVISIONS

A. Matters not Included Herein

Any other matter subject to an administrative appellate procedure not included herein will be governed by the provisions of the Uniform Administrative Procedure Act, Law No. 38 of June 30, 2017.

B. Term to Dispose of Appeals

All appeals referred to in these Regulations shall be decided within six months since it was filed, unless extraordinary circumstances intervene.

C. Service

Any paper filed by the parties during the administrative appellate proceeding shall be served on all parties on the same day it is filed with the proper appellate body by delivering a true and exact copy of the filing personally, by mail, fax, or email. The manner of service shall be stated in the very filing.

D. Written Decisions

Any decision rendered pursuant to these Regulations shall be in writing and served on all parties concerned.

E. Date of Filing

An appeal or any other document in an appellate proceeding shall be deemed to have been filed on the day it was received at the office of the official or body to which it is addressed. The date an appeal was deposited in the mail is not the filing date.

F. Information and Document Corroboration

1. Upon filing an appeal with the proper appellate body, the office receiving will corroborate that it contains all the necessary information and documents. If omissions or mistakes are found, the appellant will be asked to correct them and shall be required to send the full and revised document within 10 days of notice.
2. Once the record is complete, the appeal shall be deemed perfected as of the date of filing of the original appeal.

G. Right to the Assistance of Counsel

At all administrative proceedings or hearings under the provisions of these Regulations, both the appellant and the appellee shall have the right to appear represented by an attorney.

H. Amendments to Papers

Before a hearing on the merits and on motion of a party, the appellate body or representative may allow amendments to the appeal and other papers filed at any stage of the proceedings.

I. Appearance of Witnesses

1. The appellate body or representative may subpoena witnesses insofar as it is reasonable, relevant, material and not cumulative.
2. Having met these factors, the time a witness may spent testifying at a hearing will not be charged to any leave.

J. Oath of Witnesses

At all administrative hearings in which testimony will be heard, witnesses shall testify under oath or affirmation.

K. Records

In any appellate proceeding, the appellant is entitled to receive a copy of the case file, upon payment of fees for the reproduction of copies, as provided in Section 17 of the Regulations on Access to Official Documents at the University of Puerto Rico.

L. Numbering

All appeals filed with an appellate body of the University System shall be assigned an identification number that pertains to the calendar year and origin, following the format established by the Office of Legal Affairs at Central Administration.

SECTION 9 - JURISDICTION OF APPELLATE BODIES

A. Appeals Filed with the Chancellor

Decisions entered by the deans or any other official who reports directly to the chancellor in the performance of their duties may be appealed to the chancellor. The chancellor shall hear and decide appeals filed by any interested party who is adversely affected by the decision issued by any of the aforementioned officials.

B. Appeals Filed with the University Board

The University Board shall hear and decide appeals filed by any interested party who is adversely affected by the decision issued by the Administrative Board or the Academic Senate.

C. Appeals Filed with the President of the University

The president shall hear and decide appeals filed by any interested party who is adversely affected by the decision issued by a chancellor or director.

D. Appeals Filed with the Governing Board

The Governing Board shall hear and decide appeals filed by any interested party who is adversely affected by the decision issued by the President of the University of Puerto Rico, the University Board, the Retirement Board, or the Board of Appeals for Non-Teaching Staff at the University System.

SECTION 10 - ADJUDICATION OFFICERS

A. The appellate body may delegate, in whole or in part, its powers in an appellate proceeding to a hearing officer, a panel of examiners, one of its committees (in the case of collegiate bodies), or an administrative judge, who shall act as its representative. The panel of

examiners shall comprise no less than three members appointed by the appellate body and shall be used when the appeal concerns matters that require expertise or when it is deemed to be the most appropriate way to hear the appeal. When the appellate body is a collegiate body, it may delegate its powers to a committee, comprising no less than three of its members who will submit their recommendations concerning the appeal, when it is deemed to be the most appropriate way to hear the matter. The committee may be assisted by a hearing officer or legal advisor and executive staff of the body. As for the administrative judge, one or more officers or employees shall be appointed to the position of administrative judge, but such appointment does not vest any acquired right to that position.

- B.** The hearing officer, the panel of examiners, the committee, or the administrative judge share authorized to:
 - a. Order the filing of documents or records.
 - b. Issue protective orders, pursuant to the Rules of Civil Procedure.
 - c. Summon the parties and subpoena witnesses.
 - d. Receive evidence, both oral and documentary.
 - e. Presiding over hearings.
 - f. Take all reasonable steps to effectively dispose of the appeal.
- C.** In the event of noncompliance with an order or requirement issued under this section, the University of Puerto Rico may file a petition to request an order in aid of its jurisdiction with the competent Court of First Instance, which Court may issue
- D.** an Order compelling the person concerned to comply under penalty of contempt of court if he/she fails to comply with such order.
- E.** Once the case is submitted for adjudication, the hearing officer, the panel of examiners, or the committee will render a report with its recommendations, findings of fact, and conclusions of law to the proper appellate body.
- F.** The appellate body may adopt, in whole or in part, the report and/or its recommendations. The report may be amended, supplemented, or rejected. If rejected, a new report may be submitted.

SECTION 11 - PETITION FOR APPEAL

A. Form of Commencement of an Appeal

An appeal is commenced by filing a petition for appeal with the proper appellate body within the jurisdictional term of thirty (30) days from the date on which written notice of the decision

was served. The appeal will have been filed upon compliance with all the requirements and conditions set forth herein.

B. Content of the Appeal

1. The petition for appeal shall contain:
 - a. name(s) of the appellant(s) and mailing and email address(es) to which the party wishes to be served notice;
 - b. decision or ruling or part thereof from which appeal is taken;
 - c. question(s) raised, when required by law or regulation;
 - d. brief and concise statement of the facts and legal grounds for the appeal;
 - e. relief sought; and
 - f. signature of the appellant or legal counsel.
2. The petition for appeal must include a copy of the ruling or decision from which appeal is taken.

C. Service

The appellant, on the same date on which the appeal was filed, shall send a true and exact copy of the petition to the parties and to the official or body whose decision is being appealed. The petition for appeal shall be served personally, by mail, fax, or email. The manner of service shall be stated in the very filing and proof of service shall be produced upon request of the appellate body.

SECTION 12 - MOTION TO INTERVENE

- A.** Any person with a legitimate interest in an adjudicative proceeding may file in writing a duly grounded motion requesting permission to intervene or participate in the proceeding. The appellate body may grant or deny the request, at its discretion, taking into consideration the following factors:
1. Whether the interest of the person seeking intervention may be adversely affected by the adjudicative proceeding.
 2. Whether there are other legal means through which the person seeking intervention may adequately protect their interest.
 3. Whether the interest of the person seeking intervention is already adequately represented by the parties to the proceeding.

4. Whether the participation of the person seeking to intervene may reasonably assist in preparing a more complete record of the proceeding.
 5. Whether the participation of the person seeking to intervene may excessively protract or delay the proceeding.
 6. Whether the person seeking intervention represents or is a spokesperson for other community groups or entities.
 7. Whether the petitioner can provide information, expertise, specialized knowledge, or technical advice that would not otherwise be available during the proceeding.
- B.** The appellate body shall apply the above factors liberally and may require additional evidence to pass on the motion to intervene.
- C.** If the appellate body denies the motion to intervene in an adjudicative proceeding, the person seeking intervention shall be served written notice of the decision, the grounds for the decision, and the available review proceedings.

SECTION 13 - ORDERS FOR PROCESSING APPEALS

Once an appeal has been filed, the appellate body or its designated representative may issue such orders as may be necessary for the proper handling of the appeal, including an order to transmit the record of the case.

SECTION 14 - REPLIES AND MOTIONS

A. Answer

The appellee shall file an answer to the appeal or a responsive pleading within 20 days after the date the appeal was filed.

B. Motions

In the processing of the case, the parties may file such motions as they deem necessary or as required by the appellate body. Any party may file a reply to a motion within 10 days after the date the appeal was filed.

C. Service

Any paper filed by the parties after the filing of the appeal shall be served on all parties on the same day it is filed personally, by mail, fax, or email. The manner of service shall be stated in the very filing and proof of service shall be produced upon request of the appellate body.

SECTION 15 - DEFAULT

- A. If the appellee fails to file an answer within the term provided, the appellate body may enter default against that party and continue without the participation of the appellee but shall notify said party in writing of its decision, the grounds in support thereof, and the available review proceedings.
- B. When so decided by the appellate body or its representative, the participation of the party in defaulting during hearings may be limited to witnessing the same, examining the documentary or physical evidence presented therein, and raising objections to the admissibility of the evidence presented by the opposing party, which shall be resolved pursuant to these Regulations and the provisions of the Uniform Administrative Procedure Act; and to cross-examine witnesses. The party in default may not be allowed to present any manner of evidence but shall be served written notice of the decision rendered, the grounds in support of the same, and the available review proceedings.

SECTION 16 - SUMMARY JUDGMENT

- A. The appellate body, on its own initiative or on motion of a party, may render summary judgment to dispose of the appeal if the administrative record of the case in question shows that there is no genuine and substantial dispute as to any material fact that would warrant a formal administrative hearing.
- B. The appellate body or its representative may not issue summary orders or rulings where (1) material facts are in dispute; (2) the complaint raises affirmative allegation that have not been contested; (3) the documents attached to the petition for appeal show there is a genuine dispute as to a material fact; or (4) it does not lie as a question of law.

SECTION 17 - DISMISSAL OF APPEALS

- A. Either party may move to dismiss an appeal and the appellate body may dismiss an appeal on its own initiative for any of the following reasons:
 - 1. the appellate body lacks jurisdiction to hear the appeal;
 - 2. the appeal has not been perfected under the University of Puerto Rico Act or its regulations;
 - 3. the appeal is frivolous;
 - 4. the appellant has not proceeded with due diligence;
 - 5. when the appellant or appellant's counsel fails to comply with an order duly issued by the appellate body or authorized representative, or fails to appear at a duly notified hearing, or to show good cause for such failure, subject to the provisions of Section 21; and/or

6. any other reason that warrants the dismissal of the appeal.
- B.** The appellate body shall order the dismissal of any pending appeal where no action has been taken by either party during the last six months unless such inactivity is timely justified. Motions to suppress evidence, to transfer a hearing, or for an extension of time shall not be considered as an action for the purposes of this section.

SECTION 18 - DISCOVERY

The Rules of Civil Procedure on discovery shall not apply to appeals under these Regulations. However, the appellate body may allow such discovery mechanisms as it may deem appropriate and relevant to ensure the due process of law and the speedy, fair and inexpensive solution of controversies. The mechanisms allowed, where applicable, shall safeguard the confidentiality of information and the interest of ensuring the speedy and economical solution of controversies.

SECTION 19 - ADMINISTRATIVE HEARINGS

The appellate body or its authorized representative may schedule pretrial hearings, meetings or conferences with the parties and their counsel to define the controversy(s) to be resolved, facilitate the stipulation of facts, exchange of information, and settlement agreements between the parties, or any other purpose it may deem appropriate for the speedy resolution of the appeal.

SECTION 20 - TEMPORARY RELIEF

Any appellate body is authorized to provide such temporary or interlocutory remedies as may be necessary to protect the interests and rights of the parties and the University.

SECTION 21 - NONCOMPLIANCE WITH ORDERS

- A.** After a first unjustified noncompliance with a duly notified order of hearing, the appellate body shall order appellant express in writing their interest in proceeding with the appeal, advising such party that failure to reply within 10 days after the date of service of such order, the appeal will be dismissed with prejudice.
- B.** Subsequent instances of unjustified noncompliance, the appellate body may dismiss the appeal without further notice.

SECTION 22 - REVIEW OF INTERLOCUTORY ORDERS

- A.** Any interlocutory order issued by an appellate body may be reviewed by filing a written petition with that body. The petition shall be drafted in accordance with the provisions of

Section 11(B) of these Regulations and shall be served on the parties and the appellate body.

- B.** The filing of a petition for review of an interlocutory order shall not toll the administrative proceedings in the case, except when the corresponding appellate body has issued an order to that effect pursuant to these Regulations. A petition for review filed under this section shall be deemed rejected outright if the Proper University appellate body does not expressly notify its intention to review within 10 days after the date on which the petition is filed.

SECTION 23 - SANCTIONS

The appellate body or its representative may impose sanctions in the following cases:

- A.** The party bringing the action or the respondent fails to comply with the rules and regulations or any order issued by the appellate body or its representative, on its own initiative or on motion of a party, may order said party to show cause why a sanction should not be imposed. The order shall inform of the rules, regulations or orders that have not been met and shall grant 20 days from the date of service of the order to show cause. Failure to comply or to show good cause as not shown will result in a monetary sanction, that will not exceed \$200 for each separate count, in favor of the University of Puerto Rico or any party and against the party or the party's counsel, if the latter is responsible for the noncompliance.
- B.** The dismissal of the action in the case of the party bringing the action, or the striking of allegations in the case of the respondent may be ordered, if after having imposed and served notice of monetary sanctions on the corresponding party, the party continues to disregard the orders of the appellate body or representative.
- C.** Impose costs and attorney's fees in the same instances, as provided in Civil Procedure Rule 44, as amended.

SECTION 24 - ADJUDICATIVE HEARINGS

A. Factors for Holding Adjudicative Hearings

1. The appellate body or its authorized representative shall determine whether it is necessary or required by applicable law or regulation to hold adjudicative hearings as part of the procedure to dispose of the appeal. Whether a previous hearing had been held and was recorded shall be considered but are not determining factors to decide whether to hold adjudicatory hearings before other appellate body.
2. Consideration will be given as to whether the record is incomplete or serves the best interests of justice to expand the record of the case.

B. Notice of Adjudicative Hearing

1. If the appellate body or its representative determines that an adjudicative hearing is necessary, it may summon all parties or their authorized representatives and intervenors, either on its own initiative or on motion of a party, to a prehearing conference for the purpose of reaching a settlement or to simplify the issues or evidence to be considered at the hearing. Stipulations may be accepted, provided it is in the best public interest.
2. The appellate body or its authorized representative shall notify the parties or their counsel of record in writing of the date set for the adjudicative hearings at least 15 days in advance, unless, for good cause, the term must be shorter. The notice of hearing shall provide the following information:
 - a. date, day, time, and place where the hearing will be held;
 - b. warning that the parties may appear pro se or assisted by counsel;
 - c. nature and purpose of the hearing;
 - d. citation of the statutory or regulatory provisions that authorize the hearing;
 - e. warning of the measures the appellate body may take if any of the parties fails to appear for the hearing;
 - f. that the parties may present any testimony or documentary evidence at the hearing that is relevant to their case; and
 - g. warning that the hearing will not be suspended unless for cause, as provided in Section 25.
3. If the appellate body or its representative determines that an adjudicative hearing is not required, on motion of a party and after examining the documents included with the motion for summary order or judgment and the documents included with the motion in opposition, as well as the record of the case, it may issue summary orders or judgments, whether final or partial, in which case the partial judgment shall resolving any controversy between the parties that are separable from the controversies, except where otherwise provided by law.

C. Presentation of Evidence

The Rules of Evidence shall not strictly apply at adjudicative hearings. However, the appellate body or its representative shall determine the order for the presentation of evidence and shall adopt the rules it may deems appropriate to efficiently conduct of the hearings, without prejudice to the rights and interests of the parties.

D. Memorandum of Authorities

The appellate body or its representative may request the parties to submit a Memorandum of Authorities simultaneously or alternately either before or after the adjudicative hearings.

SECTION 25 - MOTION FOR CONTINUANCE

- A.** When any of the parties have good cause to request a continuance a duly notified hearing, they must do so in writing before the proper appellate body. Save for extraordinary circumstances, the motion shall be filed no later than five days in advance of the date set for the hearing. The motion for continuance shall state the reason(s) for the suspension and provide at least three alternate dates within the next 30 days to give all parties the options of available dates for a new hearing.
- B.** The party requesting a continuance shall not be excused from appearing for the hearing unless notified that a continuance was granted. The granting a continuance for any hearing shall be discretionary.

SECTION 26 - RECORD OF VISITS, MEETINGS AND CONFERENCES

A. Minutes

Minutes shall be taken for each hearing, meeting or conference held during the proceeding on appeal. The original copy of the minutes shall be entered to the case file. A copy of the minutes shall be served on all parties within 15 days from the date of the hearing, meeting or conference. The parties shall have 10 days from the date of notice to present their objections or to propose amendments. Objections or amendments shall be submitted to the appellate body for resolution and approval. If no objections or amendments to the minutes are filed within the 10-day term provided, the party will be deemed to accepted it.

B. Recording

1. Per agreement of the parties or as decided by the appellate body or its representative, any hearing, meeting, or conference may be recorded or reported by a stenographer, unless at the beginning of the hearing, meeting or conference or during the course of the same the parties waive their right to have the proceedings recorded, except for the hearing on the merits, which shall be recorded. The recording or reporting by a stenographer of any hearing other than the hearing on the merits will be subject to the availability of equipment and materials and of the necessary staff to perform such tasks. Where a hearing, meeting or conference is to be recorded or reported by a stenographer, the taking of minutes as provided in this section will not be required.
2. Any party wishing to submit the record of a hearing in subsequent proceedings shall assume the cost of its transcription.

SECTION 27 - DISPOSITION ON APPEAL

- A.** The decision to be entered concerning the appeal shall be based exclusively on the record of the appeal.

- B.** The appellate body may reverse, affirm, or modify the decision or resolution from which appeal is taken. It may also set aside, affirm, or modify any action taken subsequent to the ruling or decision appealed from or which depend on the same.
- C.** To such ends, the appellate body shall issue a resolution with findings of fact and conclusions of law, which shall be notified to all parties to the case.
- D.** Said resolution shall also contain the following information:
 - 1. Availability of the remedies of reconsideration or review, as applicable.
 - 2. Official or body where to appeal to or seek review of the ruling.
 - 3. Term for filing for review or appeal.
 - 4. Term to move for reconsideration and the effect of filing the motion, as provided in these Regulations.
 - 5. Name of the parties to be notified of the petition for review.
 - 6. Signature of the appellate body.
- E.** The final order or ruling shall be issued in writing within 90 days after the end of the hearing or the filing of proposals, findings of fact, and conclusions of law, unless the term is waived or extended with the written consent of all parties or for good cause shown.
- F.** Notice of a simple copy of the final order or ruling shall be served by regular mail and certified mail on the parties and their attorneys, if any, as soon as possible. A copy of the final ruling and notice thereof shall be entered into the record.
- G.** If the date of filing of a copy of the notice of the order or ruling is different from the date notice was mailed, the term to appeal or to seek judicial review shall run from the date of deposit in the mail.

SECTION 28 - PAYMENT OF INTEREST

Any decision issued by the appellate body that orders monetary payment, interest shall accrue on said amount from the date on which payment was ordered and until it is satisfied at the current interest rate established by regulation of the Financial Board for judgments issued by the courts, as certified by the Puerto Rico [Financial] Institutions Commissioner.

SECTION 29 - RECONSIDERATION

A. Reconsideration Before Appellate Bodies

Any party may move to reconsider any partial or final ruling or order, or part thereof, issued by an appellate body within 20 days of service of notice. The appellate body shall decide, at its discretion, whether to reconsider its ruling or order as requested, in which case it shall notify

the parties within 15 days from the date of service of the motion to reconsider. Absent notice from the appellate body expressly stating its intention to reconsider its ruling, the motion shall be denied outright. Motions to reconsider shall toll the term to file an appeal with the proper forum, unless such appellate bodies decide to reconsider and notifies the parties thereof.

B. Reconsideration Before the Governing Board

1. A party adversely affected by a partial or final ruling or order of the Governing Board may file a motion to reconsider the ruling or order with the Governing Board within 20 days from the date notice of the ruling or order was filed in the record.
 2. The Governing Board shall consider the motion within 15 days of its filing. If it denies the motion outright or does not act within 15 days, the term to file for judicial review shall begin to run anew from the date of notice of the denial or from the expiration of the 15-day term, as the case may be.
 3. If a decision is entered on reconsideration, the term to file for review with the Court of Appeals shall begin to run from the date a copy of the notice of the ruling of the Governing Board definitively resolving the motion was entered in the record. Said ruling shall be issued and entered in the record within 90 days after the motion was filed.
 4. If the Governing Board grants the motion to reconsider but fails to take any action in relation thereto within 90 days after it was filed, it shall lose jurisdiction to pass on the motion and term to file an appeal with the next appellate body shall begin to run as of the expiration of those 90 days, unless the Governing Board, for good cause and within those 90 days, extends the term to issue its decision for a period that shall not exceed an additional 30 days.
- C. If the date of filing of a copy of the notice of the order or ruling is different from the date notice was mailed, the term shall run from the date of deposit in the mail.
- D. The term to file for judicial review with the Court of Appeals is 30 days from the date a copy of the notice of the final ruling, or of the ruling definitively resolving the motion to reconsider, as the case may be, was entered in the record. The party serve notice of the filing of the petition for review on the University and all parties [within] the term to file for review.

PART IV - ADDITIONAL PROVISIONS

SECTION 30 - AMENDMENTS AND REPEAL

- A. These Regulations may be amended or repealed by the Governing Board, on its own initiative or at the request of the President of the University of Puerto Rico.
- B. The President of the University, or the officer delegated, may issue, amend or repeal circular letters and procedures to enforce the provisions of these Regulations.

- C. The Rules of Administrative Appellate Proceedings of the University of Puerto Rico, approved by the former Council on Higher Education through Certification No. 138 (1981-1982) and amendments thereto contained in the following certifications: 79, (1982-1983); 138 (1983-1984) 59 (1984-1985); 83 (1988-1989); 93 (1989-1990); 91 (1999-2000), and 30 (2016-2017), and any certification, rule or procedure in place at the University of Puerto Rico or part thereof that are inconsistent with to these Regulations are hereby repealed.

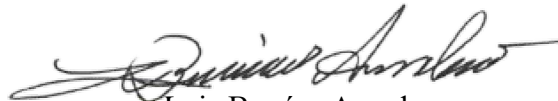
SECTION 31 - SEVERABILITY AND CONSTRUCTION

- A. The provisions of these Regulations are severable. If one or more sections, subsections or parts thereof were held to be invalid, it shall not affect the remaining provisions that can be given effect independently from those declared invalid.
- B. The President of the University of Puerto Rico shall be responsible for construing the provisions of these Regulations and for resolving any disputes in connection with its provisions or with situations not provided for. They shall be construed so as to ensure the fair solution of all proceedings, and to avoid undue delay and expense.

SECTION 32 – EFFECTIVE DATE

The Regulations shall take effect 30 days after its filing at the Department of State, pursuant to the Uniform Administrative Procedure Act.

Approved by the Governing Board of the University of Puerto Rico at its regular meeting on September 24, 2018, as stated in Certification No. 35 (2018-2019), which is attached.


Luis Berríos Amadeo
Secretary