



PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION

ADMINISTRACION DE ASUNTOS FEDERALES DE PUERTO RICO

REGULATION NUMBER 3

Regulations for Testing and Detection of Controlled
Substances on Officials & Employees of the Puerto Rico
Federal Affairs Administration

ORDEN ADMINISTRATIVA 09-04

ENMIENDA AL REGLAMENTO DE

LA ADMINISTRACIÓN DE ASUNTOS FEDERALES DE PUERTO RICO

“Regulation for Testing and Detection of Controlled Substances on Officials and Employees of the Puerto Rico Federal Affairs Administration”

Por la presente se enmienda el Reglamento de la Administración de Asuntos Federales de Puerto Rico, *“Regulation for Testing and Detection of Controlled Substances on Officials and Employees of the Puerto Rico Federal Affairs Administration”* de 11 de noviembre de 1999, a esta fecha vigente, a los fines de que se identifique en su primera página como Reglamento Número 3 de la Administración de Asuntos Federales de Puerto Rico.

A dichos fines la primera página de este Reglamento deberá leer, como sigue:

Regulation Number 3

(Reglamento Número 3)

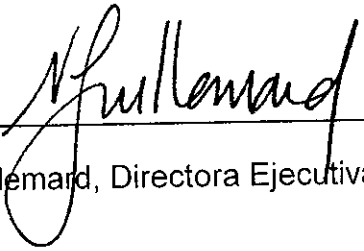
Puerto Rico Federal Affairs Administration

(Administración de Asuntos Federales de Puerto Rico)

“Regulation for Testing and Detection of Controlled Substances on Officials and Employees of the Puerto Rico Federal Affairs Administration”

(Reglamento para Realizar Pruebas y Detección de Sustancias Controladas de Oficiales y Empleados de la Administración de Asuntos Federales de Puerto Rico)

Esta Enmienda al Reglamento titulado *“Regulation for Testing and Detection of Controlled Substances on Officials and Employees of the Puerto Rico Federal Affairs Administration”*, será efectiva desde hoy, 14 de Noviembre de 2009.



Nicole Guillemard, Directora Ejecutiva

Regulation Number 3

(Reglamento Número 3)

Puerto Rico Federal Affairs Administration

(Administración de Asuntos Federales de Puerto Rico)

***“Regulation for Testing and Detection of Controlled Substances on
Officials and Employees of the Puerto Rico Federal Affairs
Administration”***

*(Reglamento para Realizar Pruebas y Detección de Sustancias
Controladas de Oficiales y Empleados de la Administración de Asuntos
Federales de Puerto Rico)*

**PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION
WASHINGTON, D.C.**

**REGULATION FOR TESTING AND DETECTION OF CONTROLLED
SUBSTANCES ON OFFICIALS AND EMPLOYEES OF
THE PUERTO RICO FEDERAL AFFAIRS
ADMINISTRATION**

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PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION
WASHINGTON, D.C.

REGULATION FOR TESTING AND DETECTION OF CONTROLLED SUBSTANCES
ON OFFICIALS AND EMPLOYEES OF THE
PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION

ARTICLE 1 - TITLE

This Regulation shall be known as Regulation for Testing and Detection of Controlled Substances in Officials and Employees of the Puerto Rico Federal Affairs Administration.

ARTICLE 2 - PURPOSE AND LEGAL AUTHORITY

The purpose of this Regulation is to establish the rules and procedures for testing and detection of controlled substances in officials and employees of the Puerto Rico Federal Affairs Administration (PRFAA) pursuant to Act No. 78 of August 14, 1997.

ARTICLE 3 - APPLICABILITY

This regulation shall apply to all officials and employees of the Puerto Rico Federal Affairs Administration.

ARTICLE 4 - CONTROLLED SUBSTANCES

The term "controlled substances," as used in this Regulation, shall mean all controlled substances included in classifications I and II of Article 202 of Act No. 4 of June 23, 1971, as amended, known as the *Controlled Substances Act of Puerto Rico*, except those controlled substances prescribed for medical reasons or any other use authorized by law.

ARTICLE 5 - PUBLIC POLICY

It is the policy of the Puerto Rico Federal Affairs Administration to assist in the fight against the illegal use of controlled substances, by implementing tests for the detection of controlled substances used by officials and employees of this Agency.

ARTICLE 6 - OBJECTIVE

The main objective of this program is to identify those officials and employees of the Puerto Rico Federal Affairs Administration working under the influence of controlled

substances and to rehabilitate them, to the extent that it is not detrimental to the effective fulfillment of the functions and duties of the position which they occupy, and with the exceptions established by this Regulation.

In order to accomplish this objective, PRFAA encourages its officials and employees to consider the health and security risks involved with the illegal use of controlled substances. Furthermore, PRFAA will make available an Orientation, Treatment and Rehabilitation Program for those officials and employees who receive a corroborated positive test result and otherwise qualify. All PRFAA supervisors will also be required to participate in a training program regarding how to identify possible signs that may give rise to individualized reasonable suspicion that an official or employee may be working under the influence of controlled substances.

ARTICLE 7 - EFFECTIVE DATE

This Regulation shall be in effect thirty (30) days after written notification is provided to the officials and employees of this Agency. Notification shall include information regarding the Liaison Officer and the Orientation, Treatment and Rehabilitation Program that will be provided.

ARTICLE 8 - LIAISON OFFICER

- a. The Executive Director and General Counsel shall designate a Liaison Officer who shall coordinate all the services provided under the drug testing program.
- b. The Liaison Officer shall have the following duties:
 1. provide information to all PRFAA personnel about the drug testing program;
 2. determine the date, time, and place of the drug tests with the entity contracted to provide the service;
 3. receive the test results;
 4. notify corroborated positive test results;
 5. hold administrative hearings;
 6. refer officials and employees to the Orientation, Treatment and Rehabilitation Program and follow up with the participants;
 7. recommend to the Executive Director and General Counsel appropriate disciplinary measures;
 8. ensure and maintain confidentiality of all documents related to the drug testing program; and
 9. carry out any other function assigned by the Executive Director and General Counsel.
- c. The Office of the Liaison Officer shall be within the Office of the Executive Director and General Counsel, and shall have the necessary personnel to fulfill

its functions.

- d. The Liaison Officer may also provide services, in accordance with the available resources, in other situations that may affect the physical and mental health of PRFAA officials and employees, as in the case of alcohol abuse.

ARTICLE 9 - EMPLOYMENT REQUIREMENT

- a. PRFAA shall require every candidate preselected to occupy a position within the Agency to take a controlled substance detection test as part of a general medical examination, in order to determine that the candidate is physically and mentally capable of carrying out the functions of the position.
- b. The tests shall be administered no later than twenty-four (24) hours from notification of the candidate's preselection. A candidate's refusal to submit to the test, or a corroborated positive test result, shall be sufficient cause to deny employment.

ARTICLE 10 - ADMINISTRATION OF DRUG TESTS

- a. The Executive Director and General Counsel may order tests for the detection of controlled substances to officials and employees of PRFAA in the following circumstances:
 1. When an accident occurs during working hours, which may be directly attributed to an official or employee of PRFAA, in which case the test shall be administered no later than twenty-four (24) hours from the time of the accident. If the official or employee is unconscious or deceased, a blood or any other sample may be taken to detect the presence or absence of controlled substances.
 2. When there is individual reasonable suspicion on the part of two (2) supervisors (one of which should be the direct supervisor) in which case the test shall be administered no later than thirty-two (32) hours from the time they last observed abnormal or erratic conduct on the part of the official or employee that generated individual reasonable suspicion.

Any one of the two supervisors should keep a confidential file, which shall be in the custody of the Liaison Officer, and which shall document all incidents generating reasonable suspicion that an official or employee is carrying out his/her functions and duties under the influence of controlled substances. The files of those officials or employees who have not been subject to a test for the detection of controlled substances in the six (6) months following the first incident included in the file shall be destroyed.

3. When an official or employee occupies a sensitive position with PRFAA as defined in Art. 4 of Act No. 78 of August 14, 1997, including but not limited to the position of chauffeur.
 4. When an official or employee obtains a corroborated positive result on a first test and additional follow up tests are required.
 5. When the tests are part of the Orientation, Treatment and Rehabilitation Program.
 6. When an official or employee submits voluntarily to the test, without having been requested to do so.
- b. The terms "accident," "individual reasonable suspicion" and "sensitive position," as used in section (a), will be defined as established in Article 4 of Act No. 78 of August 14, 1997.

ARTICLE 11 - REBUTTABLE PRESUMPTION

The unjustified denial of an official or employee to submit to a test for the detection of controlled substances when so required, pursuant to this Regulation, will give rise to the rebuttable presumption that the result of such test would have been positive, and will be subject to disciplinary action.

ARTICLE 12 - PROCEDURE

- a. Testing for the detection of controlled substances will be administered by personnel from a qualified entity contracted by PRFAA for such purposes, or the Forensic Science Institute, or the Mental Health and Anti-Addiction Services Administration in Puerto Rico.
- b. Urine tests will be performed, pursuant to scientifically accepted analytical methods, and the chain of custody of the samples will be maintained.
- c. The urine samples shall only be used for the detection of controlled substances, and the samples which render a positive result in the first analysis will be subjected to a second analysis for corroboration, which will be reviewed and certified by a qualified physician.
- d. The Liaison Officer will keep the records of the officials or employees who have submitted to the testing, the records of proceedings and the corroborated positive results, but will destroy the negative results within thirty (30) days from receipt.

ARTICLE 13 - RIGHTS

- a. Testing for the detection of controlled substances will be provided free of charge for all PRFAA officials and employees, during working hours, and the time that is necessary to administer such tests will be considered time worked.
- b. Prior to submitting to a test, the official or employee may indicate if he/she has taken any medications that may have an effect on the test results.
- c. Every official or employee will be advised that, upon request, part of the sample will be handed to a laboratory of his/her choice, in order to enable an independent analysis at his/her own cost.
- d. The officials or employees who submit to testing will be guaranteed their right to privacy. An observer will not be present while the sample is taken.
- e. The official or employee who submits to testing will have the right to obtain a copy of the report which contains the results of the analysis.
- f. When a corroborated positive result is obtained, the official or employee will have the right to an administrative hearing to challenge such result and to present evidence to demonstrate that he/she has not made illegal use of controlled substances.

ARTICLE 14 - CONFIDENTIALITY

- a. All formularies, reports, files and other documents used in relation to the program, including the results of the testing for the detection of controlled substances, will be confidential, and may not be used as evidence against an official or employee in any administrative, civil or criminal proceeding, except when the findings are challenged, or when disciplinary action is taken.
- b. Access to the information mentioned in section (a) is limited to the Executive Director and General Counsel, the Liaison Officer and the official or employee (who shall have access to his/her own tests) and their respective authorized representatives.

ARTICLE 15 - REFERRALS

- a. When a corroborated positive result is first obtained, the official or employee will be suspended, with pay, and will be notified in writing the date, time and place of an administrative hearing before the Liaison Officer, which will take place no later than twenty (20) days from the notification.

- b. If after the hearing takes place the test results are confirmed, the Liaison Officer will refer the official or employee to an Orientation, Treatment and Rehabilitation Program designated by PRFAA. The official or employee may choose a private entity's program, at his/her expense.
- c. Disciplinary action will not be taken against an official or employee who participates in the Orientation, Treatment and Rehabilitation Program, and that abstains from illegal use of controlled substances, except in the circumstances set out in Article 16 of this Regulation.
- d. When the Liaison Officer refers an official or employee to the Orientation, Treatment and Rehabilitation Program, the Executive Director and General Counsel, in his discretion, can authorize that he/she continue working, if that ~~he/she~~ does not pose a risk to the health and security of the employee, or that he/she takes it as sick leave, compensatory time, annual leave or leave without pay for up to six months, in that order, except in the circumstances set out in Article 16 of this Regulation.

ARTICLE 16 - DISCIPLINARY ACTION

- a. The Executive Director and General Counsel may suspend an official or employee, without pay, under the following circumstances:
 - i. upon failure to submit to testing for the detection of controlled substances;
 - ii. upon obtaining a corroborated positive result and upon denial to participate in the Orientation, Treatment and Rehabilitation Program.
 - iii. upon continued illegal use of controlled substances when participating in the Orientation, Treatment and Rehabilitation Program, pursuant to corroborated positive results in follow up tests.
- b. The Executive Director and General Counsel may dismiss an official or employee from his/her position under the following circumstances:
 - i. upon relapse in conduct set forth in section (a).
 - ii. upon failure to submit to testing for the detection of controlled substances where the employee occupies a sensitive position in the Agency.
 - iii. when occupying a sensitive position and a corroborated positive result has been obtained. The illegal use of controlled substances is incompatible with the effective discharge of the functions and duties of a sensitive position, as defined in Article 4 of Act No. 78 of August 14, 1997.
- c. When disciplinary action is taken, the official or employee will be notified in writing of the date, time and place of an administrative hearing before the Liaison Officer, which will take place no later than twenty (20) days from the notification.

ARTICLE 17 - APPEAL

After the hearing takes place and the disciplinary action is affirmed, the decision shall be notified in writing and he/she will be advised of his/her right to an appeal, pursuant to Article 17 of PRFAA s Personnel Regulation.

ARTICLE 18 - SANCTIONS AND PENALTIES


A violation of any part of this Regulation will result in administrative sanctions and penalties for felonies as established in Article 20 of Act No. 78 of August 14, 1997.

ARTICLE 19 - SEPARABILITY

If any article or part of this Regulation were to be declared null or void by a court with jurisdiction over the matter, such ruling would not affect its other articles or parts which shall remain in effect.

ARTICLE 20 - EFFECTIVE DATE

This Regulation will come into effect on November 11, 1999.



Alcides Ortiz
Executive Director and General Counsel

10/12/99

Date

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