



Regulation Against Domestic Violence in the Workplace

2020

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TABLE OF CONTENTS

ARTICLE	TITLE	PAGE
	Introduction.	3
1	Title.	4
2	Legal Basis	4
3	Purpose	7
4	Statement of Public Policy	8
5	Definitions	9
6	Acts that Constitute Domestic Violence	13
7	Signs of Domestic Violence	13
8	Appointment of Coordinator.	14
9	Intervention Protocol	16
10	When Employee commits Acts of Domestic Violence	25
11	Diffusion and Training	26
12	Disciplinary Measures	27
13	Witness Protection	27
14	Confidentiality	27
15	Repeal and Previous Provisions	28
16	Amendments	28
17	Separability Clause	28
18	Effective Date	29

ENCLOSURES

Available Legal Remedies	31
List of Support Offices	33

INTRODUCTION

Domestic violence is a serious problem in our country. Annually, thousands of women seek protective orders and resort to remedies in court to respond to the mistreatment they receive from their partners. Dozens of women die annually at the hands of their partners to the extent that domestic violence is the leading cause of violent death in Puerto Rico's female population.

About 90 percent of people who are subjected to domestic violence are women. It is therefore a problem that affects this group of the population in particular and, for the most part. On the other hand, the motivations that lead a man to physically, emotionally or sexually assault his partner are based on ideas of superiority, control and male power over women. This data leads us to conclude that domestic violence is one of the most common manifestations of gender discrimination.

On the other hand, the manifestations and effects of mistreatment against the spouse/partner transcend the "domestic" or private space of the home. Annually, dozens of acts of domestic violence occur in the workplace. Sometimes a person who engages in acts of domestic violence prevents their victim from working in order to maintain control over him. Acts of domestic violence can become deadly and pose a danger not only to the attacked person, but also to others working in the same space. In addition, the person who is subjected to domestic violence is in a situation of tension and distress that can result in low productivity, absenteeism and low quality of work.

Domestic violence in the workplace results in economic losses for employers. There is no way by which situations of domestic violence in the workplace can be avoided with absolute certainty. The correct response is an educated and prepared employer ready to take preventive and remediate measures against domestic violence situations without penalizing the victim/survivor. The Institutional Trust of the Puerto Rico National Guard, hereinafter FIGNA, has the responsibility to

establish the programs, the necessary alternatives to provide support and assistance to the people it employs, create a trusted environment for victims/survivors of domestic violence and take measures within the workplace to minimize the negative impact of domestic violence for both the employed person and the institution.

Article 1 - Title.

This regulation will be known as *the Regulations against Domestic Violence in the Workplace of the Institutional Trust of the Puerto Rico National Guard*.

Article 2 - Legal Basis.

- a. **Article II, Section 1 of the Constitution of the Commonwealth of Puerto Rico**, provides that the dignity of the human being is inviolable, that all persons are equal before the law and prohibits any discrimination on the basis of sex, among others.
- b. **Article II, Section 16 of the Constitution of the Commonwealth of Puerto Rico**, recognizes the right of any person working to be protected from risks to his health or personal integrity in his or her work.
- c. **Law No. 20 of April 11, 2001, as amended, better known as the Law for the Office of the Women's Procurator**. It establishes the full development and respect for women's human rights and the exercise and enjoyment of their freedoms as a public policy of the Government of Puerto Rico; provides that the Office of the Procurator will prioritize affirmative action by public and private organizations to ensure gender equity in areas where domestic violence persists, including manifestations of inequity and oppression; provides that the agency will have the function of monitoring compliance with public policy

established in the Act, ensuring women's rights and ensuring that public agencies comply with and adopt affirmative or corrective action programs.

- d. **Law No. 54 of August 15, 1989, as amended, better known as the Law for the Prevention and Intervention with Domestic Violence.** It establishes the public policy of the Government of Puerto Rico in relation to domestic violence, which recognizes that this is one of the most complex and serious problems facing our society and is strongly repudiated. It also recognizes that domestic violence is a manifestation of gender inequity that particularly affects women. The Act provides legal, civil and criminal remedies for individuals who are subject to acts constituting domestic violence.
- e. **Law No. 8 of February 4, 2017, as amended, better known as the Law for the Administration and Transformation of Human Resources in the Government of Puerto Rico.** It establishes the principle of merit and the prohibition of discrimination on the basis of sex. One of its objectives is to maintain a climate of harmony and satisfaction at work that benefits a high degree of motivation and spirit of service in employees. It establishes has on marginal leave and benefits for people working in the public sector; including leave to appear in administrative and judicial proceedings for domestic violence, sexual harassment in employment or gender discrimination.
- f. **Law No. 16 of August 5, 1975 (state), as amended, better known as the Occupational Safety and Health Act.** This law states that each employer must provide each of the persons it employs with a work environment free of recognized risks that are causing or that may cause death or physical harm to the persons it employs.

- g. **Law No. 100 of June 30, 1959, as amended.** This law protects employed persons and job seekers from discrimination on the basis of sex, among other reasons. This Act applies to government agencies that function as businesses or private companies.
- h. **Law No. 69 of July 6, 1985, as amended.** It requires strict compliance with equal employment rights for both men and women and prohibits discrimination on the basis of sex. This Law applies to private employers as well as to government agencies and instrumentalities.
- i. **Title VII of the United States Code (USC), better known as the Federal Civil Rights Act of 1964,** prohibits discrimination in employment on the basis of sex, among other reasons. The U.S. Supreme Court has interpreted sexual harassment at work as a manifestation of discrimination covered by this Act.
- j. The **Occupational Safety and Health Act of 1970 (OSHA) (Federal) provides** that every employer is responsible for offering its employees a workplace free of known hazards that are causing or likely to cause death or serious physical harm.
- k. **Law No. 538 of September 30, 2004.** This law amends Law No. 54 and provides that an employer may apply for a protective order on behalf of one of its employees, visitors or any other person in the workplace if a person of his employees is or has been a victim of domestic violence or criminal conduct, as typified by Law No. 54, and acts of conduct constituting domestic violence have occurred in the workplace. Before initiating this procedure, the employer must notify of his/her intention to seek the protective order from the employee who is or has been a victim of domestic violence or conduct constituting a crime as typified in Law No. 54.

- I. **Law No. 542 of September 30, 2004.** This amendment to Law No. 54 provides that when the Court understands this or when it issues a protective or stalking order, it will immediately instruct the ordered party to hand over to the Puerto Rico Police for safekeeping, any firearm belonging to the ordered party and on which it has been issued a license to have or possess, or to carry, or target practice, hunting or otherwise, as the case may be. The order for the surrender of any firearm, as well as the suspension of any type of firearms license will be put compulsorily into effect . Furthermore, when that order is issued by a Court, that ruling shall have the effect of suspending the relevant license even if it is part of a defendant's job requirement. This restriction shall apply at least for the same period of time in which the order is extended. Federal Firearms Ban, 18 U.S.C. 922 (g)(8) and (9).
- m. The **Violence Against Women Act of 1994 (VAWA)** is a federal legislation that provides legal protections for abused women. It prohibits a person against which a protective order has been issued and any person who has been convicted of a misdemeanor of domestic violence from possessing firearms and ammunition. However, there are exceptions for "official use" to such prohibitions. Federal statute is retroactive, so it applies to convictions that occurred before the law took effect.

Article 3 – Purpose.

- a. This Regulation is intended to prevent and combat domestic violence in the workplace, the Institutional Trust of the Puerto Rico National Guard, in accordance with our laws. In addition, it establishes the internal protocol to help address possible domestic violence

situations and implement an education and advisory program on the Trust's public policy in this regard.

- b. This Regulation has been evaluated and approved by the Board of Directors. The Executive Director or his authorized representative shall inform the Chief Executive Officer of any situation, action or possible circumstances that occur related to this regulation and/or subject matter.

Article 4 – Statement of Public Policy.

- a. Law No. 54 of 1989, as amended, and better known as the Law on Prevention and Intervention with Domestic Violence, establishes the public policy of the Government of Puerto Rico regarding domestic violence.
- b. Article 1 of that law states: "The Government of Puerto Rico recognizes that domestic violence is one of the most serious and complex problems facing our society. In the development of public policy on this issue, we must emphasize addressing the difficulties that domestic violence situations present particularly to women and minors in order to preserve their physical and emotional integrity, ensure their safety and save their lives. Domestic violence is one of the most critical manifestations of the effects of inequity on male-female relationships. As a public policy, the Government of Puerto Rico strongly repudiates domestic violence as contrary to the values of peace, dignity and respect that this people want to uphold for individuals, families and the community at large."
- c. This public policy should be reflected in the responsibility of us as employer to ensure the welfare of our employees, especially staff who are subjected to domestic violence. It is our

commitment as government representatives to keep the workplace safe for all personnel, to assist and support those facing these acts of violence.

- d. Domestic violence is not an exclusive matter of the home or family unit, it is also a work problem. Like so many other health and safety problems in employment, domestic violence should not be ignored and can be prevented. Taking into account that our employees spend much of their day in their work, are exposed to such risks and as an employer we must be prepared to provide help and support in case of a situation of a violent nature, whether verbal or physical, as defined by the applicable legislation. It is with the firm purpose and commitment to provide violence-free and safe stations for victims, co-workers, clients and the general public that the present body of rules is put into effect to properly manage domestic violence situations in the workplace. Our institution is committed to maintaining complete confidentiality and will not take any unfavorable action toward an employee because he or she is facing a domestic violence situation.
- e. In cases involving contractors, service suppliers, guests or visitors, FIGNA shall not be liable unless the following conditions are present:
 - 1. FIGNA has been notified of offensive conduct;
 - 2. FIGNA is in a position to take action on such conduct;
 - 3. FIGNA does not take immediate and appropriate corrective action towards the situation.

Article 5 – Definitions.

For the purposes of this document the following words and phrases have the meanings expressed below. Any provision of this regulation referring to male persons shall be deemed to include females and vice versa or persons of the same sex.

- a. **"Cohabitation"** – It means sustaining a consensual relationship of a couple similar to that of spouses in terms of the aspect of coexistence, regardless of sex, marital status, sexual orientation, gender identity or immigration status of any of the persons involved in the relationship.
- b. **"Contractor"**- Any person, natural or legal, its representatives or employees who have a contractual relationship with FIGNA, including staff for contract of miscellaneous services and those who work under professional and advisory contracts.
- c. **"Legal Division"** - Support unit involved in the process related to the establishment of a grievance or claim of alleged conduct of corruption or unethical conduct.
- d. **"Executive Director"** - official responsible for the administration of the Trust.
- e. **"Employee"** or **"Official"** - Any person who works for the Trust and receives compensation for it. For purposes of this regulation, the term employee includes persons shortlisted for employment by the Trust. Means any person who provides service to any person, company or corporation employing one or more persons under any contract of services express or implied, oral or written, including among them expressly or those or those whose work is accidental.
- f. **"Trust"** or **"FIGNA"** - Institutional Trust of the Puerto Rico National Guard.
- g. **"Serious Emotional Damage"** – Means and arises when, as a result of domestic violence, the person who is the subject of the behavior recurrently manifests one or more of the following characteristics: crippling fear, feelings of helplessness or hopelessness, feelings of frustration and failure, feelings of insecurity, disability, isolation, weakened self-esteem or other similar behavior, when the result of repeated acts or omissions.

- h. **"Intimidation"** – Means any action or words that manifested on a recurring basis has the effect of exerting moral pressure on the mood of a person, which, for fear of suffering any physical or emotional harm in his person, his property or in the person of another, is obliged to carry out an act contrary to his will.
- i. **"Workplace"** – Any space in which a person performs functions as an employee and the surroundings of that space. When it comes to a building or physical structure it includes surrounding spaces, such as gardens and parking.
- j. **"Complaints Officer"** - Person responsible for receiving and guiding the complaining person and performing the other functions set out in those mentioned in this document.
- k. **"Protection Order"** – Means any mandate issued in writing under the seal of a court, in which measures are issued to a person who engages in acts of domestic violence to refrain from engaging in or engaging in certain acts or conduct constituting domestic violence.
- l. **"Employer"** – Institutional Trust of the Puerto Rico National Guard.
- m. **"Person who engages in acts of domestic violence"** – A person who employs physical force or psychological violence, intimidation or persecution against his/her partner.
- n. **"Persecution"** or **"Chasing"** – Means keeping a person under constant or frequent surveillance with presence in immediate or relatively close places to home, residence, school, work or other places frequented by that person or in the vehicle in which the person is located, so that he or she can instill fear or fear in the mood of an average person.
- o. **"Couple's Relationship"** - Means the relationship between spouses, ex-spouses, persons who cohabit or have cohabited, those who support or have sustained an intimate consensual relationship, those who have procreated a son or daughter to each other, and

those who sustain or have sustained a courtship relationship. It includes relationships between people of the opposite sex and people of the same sex.

- p. **"Sexual Relationship"** — Means any sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental.
- q. **"Supervisor"** - Any official or employee of the Trust who exercises any control or whose recommendation is considered for the hiring, classification, dismissal, promotion, transfer, setting of compensation or other working conditions, such as schedule, place of work, tasks or functions performed by an employee or group of employees or on any other terms or conditions of employment, or any person who day-to-day performs supervisory tasks.
- r. **"Visitor"** - Non-employee person who goes to the Trust in any capacity.
- s. **"Victim"** or **"Survivor"** – Any person who has been the subject of acts constituting domestic violence.
- t. **"Domestic Violence"** – Means a pattern of consistent use of physical force or psychological violence, intimidation or persecution against a person by his spouse, former spouse, a person with whom he cohabits, with whom he sustains or has maintained a consensual relationship or a person with whom a daughter or child has been procreated, regardless of sex, marital status, sexual orientation, gender identity or immigration status of any of the persons involved in the relationship to cause physical harm to a person, his property or someone else's or to cause this person serious emotional harm.
- u. **"Psychological Violence"** – Means a pattern of constant conduct exercised in dishonor, discredit or contempt of personal worth, unreasonable limitation of access to and management of common property, blackmail, constant surveillance, isolation, deprivation

of access to adequate food or rest, threats to deprive the custody of children or property or destruction of precious objects by the person, except those that belong privately to the aggressor.

Article 6 - Acts That May Constitute Domestic Violence.

The following are some signs of an aggressor's behavior, if a person approaching the work area exhibits behaviors such as those described below is most likely to have aggressiveness issues:

- a. Calling or visiting the victim's workplace without authorization, when there are isolated or common domestic violence incidents.
- b. The person prowls in and out areas, parking areas and any other area frequented by the victim.
- c. The person is altered when denied or banned access to the victim.
- d. The person tries to circumvent security by accessing the workplace by entrances other than the main or authorized entrance to the general public or tries to enter outside of regular working hours.
- e. The person speaks disparagingly of the victim with supervisors and/or co-workers.
- f. The person asks other employees for information related to the victim's schedules.

Article 7 – Signs of Domestic Violence.

Signs of domestic violence such as the following should be observed:

- a. Request to change workspaces.
- b. Person has bruises or marks and offers explanations that don't match the circumstances.
- c. Seems distracted or has trouble concentrating.

- d. Frequent phone calls from partner that cause anxiety or that make the person (victim) nervous.
- e. Person has frequent justified or unjustified absences.
- f. Shows stress, fear, worry, anxiety, frustration or depression.
- g. The quality of work decreases for no apparent reason.
- h. Demonstrates discomfort when communicating with others.
- i. Reflects a tendency to remain isolated from co-workers or is reluctant to participate in social events.
- j. If you notice a physical deterioration or change in their personal appearance. Noticeable change in the use of makeup, glasses, caps and / or clothing to cover bumps, bruises, scratches, etc.
- k. Inadequate clothing and accessories (glasses inside the building or cover-up shirts even when it's hot).
- l. Frequent financial problems that may be indicative of low money accessibility.
- m. Has panic attacks and use tranquilizers or pain medications.
- n. Abrupt visits from current ex-partner or partner that cause uneasiness.

Article 8 - Appointment of Coordinator against Domestic Violence

- a. The Executive Director of FIGNA will appoint a person responsible for implementing our business policy against domestic violence under this protocol, known as the Coordinator against Domestic Violence.
- b. Their name, position and telephone number will be published in all FIGNA work areas.

- c. The Coordinator will receive training to understand the complex problem of domestic violence and to gain the skills to interact with victims in a safe and confidential manner. Domestic violence training should include at least the topics set out in the Protocol Manual for Government Agencies of Puerto Rico, which includes the Guidelines for the Implementation of Public Policy on this topic.
- d. Their duties will be as follows:
 - 1. Coordinate education and training management and supervisory staff on how to react and address the problem of domestic violence.
 - 2. Coordinate educational programs for all FIGNA personnel on domestic violence and its manifestations.
 - 3. Support management and oversight staff in the handling of domestic violence situations.
 - 4. Help prepare the safety plan with the supervisor and the employee affected by the domestic violence situation.
 - 5. Ensure compliance with the security plan and compliance with the specific measures taken in particular cases, together with the supervisor and the employee affected by the domestic violence situation.
 - 6. To inform the victim of any leave that may be applicable and on possible temporary arrangements in functions or schedules that propel the victim's safety.
 - 7. Provide advice and guidance to employees who request it.
- e. In compliance with Law 538 of 2004, the Coordinator against Domestic Violence will evaluate the possibility of applying for a protective order on behalf of any employee who is the victim

of a domestic or psychological violence at work, prior to notifying the victim and provided there is reliable evidence and corroborated that the act took place in the workplace.

Article 9 – Intervention Protocol.

a. If the act of violence occurs in the workplace:

1. Immediately inform the supervisor. This will help to take the necessary safety measures for the victim and other employees or employees in the workplace.
2. Call the Police (911) to request support services.
3. Identify a place that provides safety for the victim.
4. Accompany the victim and provide support.
5. You must ensure that the victim receives the necessary medical care.
6. Provide the police with as much cooperation as possible to work with the incident.

b. Victim or potential victim notification:

1. Any employee who believes they are confronting a situation of domestic violence or psychological violence at work may go to any supervisor to request assistance in the management of the situation and to request that measures be taken that ensure your safety and that of your co-workers. The employee may appeal to any supervisor even if he or she is not their direct supervisor.
2. The supervisor will immediately turn to the person appointed to handle domestic violence issues. He/she, in turn, will inform the Executive Director and the Chief Executive Officer always safeguarding the confidentiality of the situation.
3. The following means can be used to notify:

(a) *Report Personally at Central Offices.*

Hours:	7:00 a.m. to 3:30 p.m.
Physical Address:	Institutional Trust of the Puerto Rico National Guard Muñiz Air Base, Building 27 Carolina, Puerto Rico

(b) *By Regular Mail.*

Postal Address:	Institutional Trust of the Puerto Rico National Guard PO Box 12000 San Juan, Puerto Rico 00922
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(c) *By Phone.* (787) 253-4040, extension 4005

(d) *By Email.* coordprev@figna.pr.gov

- c. The supervisor shall be duly trained to deal with the situation and shall attend to the situation reported by the employee. As a next step, you will immediately go to the Domestic Violence Coordinator to report the situation.
- d. Any and all information provided by the employee shall be kept under the strictest confidentiality. Any meeting or discussion on the subject should take place in a private place without the intervention of third parties who contribute nothing to the process.
- e. The security measures to be taken will be discussed with the employee and the input of the employee will be taken into account when determining them.
- f. If available, the violence victim will be referred to the Employee Assistance Program.
- g. Employee Assistance Program.
 - 1. Law No. 167 of August 11, 2002, allows for government agencies to provide their personnel with an Employee Assistance Program. Employee Assistance Programs (EAPs) are an effective cost alternative to promote a better work environment.

2. The Employee Assistance Program (EAP) is an in-place workplace program designed to help senior management, supervisors, the employee and their immediate family prevent, identify at an early stage, and solve productivity issues associated with labor or personal issues and, in addition, promote healthy lifestyles that stimulate employee productivity.
 3. The employee's participation in the Program is voluntary. In the case of the internal EAP, the employee may select service providers to meet their situation according to the program parameters or may select other service providers, available in the non-program help process.
 4. Coordination to use the EAP will be done the Internal Coordinator of the EAP (employee with who will be responsible for coordinating the services of an external EAP and evaluating the performance of the contract, if used as an alternative with the private EAP).
- h. Responsibilities of Supervisors.
1. Oversight personnel are responsible for receiving training on how to care for survivors of domestic violence, identify their needs such as preparing safety plans, and resources available to victims. These trainings will be provided by the Trust.
 2. The supervisor is responsible for receiving the information and being aware of domestic violence situations faced by the people he/she oversees.
 3. Supervisors shall be responsible for attending to matters related to domestic violence that any employee is going through and who is being affected by this type of situation, even if they are persons who are not under their supervision.

4. The supervisor will be in charge of guiding the employee, performing an analysis of their needs and designing a safety plan, together with the employee for whom they must have the support and advice of the person in charge of domestic violence matters.
 5. The supervisor who fails to comply with this Protocol shall be disciplined in accordance with the Law and Internal Regulations of the Trust establishing corrective and disciplinary measures.
- i. Interview with employee or employee victim:
1. If the supervisor notices that an employee may be going through a domestic violence situation or if they know what is happening, they should talk to the person about the matter. You must ensure the most complete confidentiality and let them know that it is the supervisor's responsibility to look for ways to support them and identify what actions can be taken for their safety and what administrative alternatives exist so that they can manage the situation by reducing the adverse impact on your work. It is very important that the supervisor maintain written evidence of all arrangements it makes to help the victim (document cases).
 2. Supervisory staff should promote an environment in which the survivor feels comfortable and safe to discuss the domestic violence situation. The environment where the conversation takes place should be private without the presence of third parties unless you are the person in charge of handling domestic violence cases in the agency. The victim/survivor may experience fear, anxiety, courage, shame, humiliation, sadness. These feelings may not allow you to feel confident enough to speak openly about the situation so the supervisor should handle the matter very sensitively. In

addition, you should have knowledge of strategies to make the survivor feel comfortable expressing themselves.

3. If the person has expressed being a survivor of domestic violence, the following should be done:
 - (a) Respect their need for confidentiality.
 - (b) Listen to the person without judging. Their experience must be validated by letting them know that no one deserves to be assaulted, that all people have the right to live in peace, that it is not their fault, and that there are people who can help them or help you including the supervisor or supervisor.
 - (c) Ask if they have been physically assaulted and if they need medical help. If so, you should guide them to get medical help. Research at the Human Resources Office, with the liaison person to address these cases, regarding available sick leave balance sheets or any other that you can use to receive medical help.
 - (d) Explore whether the aggressions have caused any temporary or permanent impediments, whereby any accommodation has to be made in the work of the employee.
 - (e) Explore the level of risk, asking if there are firearms in the house, or if the aggressor can obtain them easily, if they have received death threats from their partner, whether directed to them, their children, or other family members; if the person who assaults you uses alcohol or drugs; if they are jealous of him; whether the frequency and severity of aggression has increased; if he threatens to commit

suicide if he is abandoned; whether it is defiant to authorities such as the police or the courts; if they have previous arrests for domestic violence or other assaults.

- (f) Know if the employee has a valid restraining order. If they don't have one, explore if they need one and if the employee wants to request one. They should be guided on what a restraining order is and the procedure for applying for it. If the act constituting domestic violence occurs in the vicinity of the workplace (Trust), the employer may request such a restraining order for the benefit and protection of his/her employee.
 - (g) Ask if the employee lives with their partner. If so, it is important that they know that they must act cautiously and should refer to a service agency.
 - (h) They must refer to the liaison person to coordinate the necessary assistance directed by the Employee Assistance Program, if this program is available.
4. If the person has not expressed that he or she is going through a domestic violence situation, the supervisor must be sensitive and ask direct questions that are not threatening to the employee. You can address the topic by commenting that you have noticed certain situations in the person's employment or in the performance of work that are out of the ordinary, so it's deduced that they may be going through some delicate personal situation. Assure them that your responsibility is to ensure their safety in the workplace and that no measures will be taken that will harm your employment.
 5. If the employee, after receiving this orientation refuses to receive the services offered to them, depending on the severity of the domestic violence and if the domestic violence has manifested itself in the workplace, the employer will proceed to inform them that

he will request a restraining order, as provided for in Law No. 538 of 30 September 2004.

j. Safety Plan

When a supervisor receives information that someone, he or she is supervising is a victim/survivor of domestic violence, a safety plan should be prepared. This plan is a tool that helps victims/survivors develop strategies that provide security. Such a plan does not guarantee absolute protection from the violent behavior of the aggressor that the person who engages in acts of domestic violence may have, but it is a practical tool of empowerment, and helps the person feel less victimized and more likely. In addition, it can reduce the risks of being objects of other assaults of the surviving person and the rest of the staff.

A safety plan should be prepared according to the needs of the victim/survivor. For each area of need, an action to be taken by the employee and the Trust will be identified.

The supervisor will be responsible for the safety plan being prepared within 72 hours of becoming aware of the domestic violence situation. There will not be a need for a protective order issued on behalf of the victim/survivor for the safety plan to be prepared.

Any action plan should take into account the degree of danger of the person who engages in acts of domestic violence.

1. The preparation and coordination of a security plan is the sole responsibility of the Coordinator against Domestic Violence and the supervisor of the person in conjunction with the person affected by the situation. It will be prepared when a supervisor receives

information that someone he/she supervises is a victim/survivor of domestic violence.

This plan is a tool that helps victims/survivors develop strategies that provide security.

2. The safety plan should be designed and put into effect within a maximum period of seventy-two (72) hours taking into account the dangers of the situation.
3. Factors to consider in the plan:
 - (a) Fix the place and way in which the location of people who are harassed, threatened or stalked is arranged. These should never sit backing a door, lobby or window that accesses the street.
 - (b) Putting barriers between the victim/survivor and entry in such a way as to prevent or make it difficult for the person engaged in domestic violence to be accessed.
 - (c) The victim/survivor may move to a safer location in an alternate workspace, if facilities allow it and the employee agrees.
 - (d) If necessary, changes must be made to the person's schedule. People who are stalked may need to have their routine changed from time to time so that the person stalking them cannot overtake the place and time where they can get it. Hours of check-in and exit are a routine known to the person who engages in acts of domestic violence and should consider schedule change arrangements.
 - (e) Move the employee to another region or town if possible. This transfer requires the consent of the employee.
 - (f) Assisting the surviving person in compiling information that can serve as evidence for legal proceedings.

- (g) Consider whether the victim/survivor should travel to work with someone else and change the route to work.
 - (h) Offer the option for security personnel to accompany the victim/survivor to the parking lot to their vehicle and to exit or enter the building.
4. Any safety plan must take into account access to the FIGNA offices and areas, as well as to the work areas and it should be extended to the place or physical space where the victim works, taking into account the following:
- (a) Instruct security personnel not to provide access to the abuser and whether it is possible to provide a photo or description of them.
 - (b) Rearrange the work area so the victim doesn't turn their back on a door.
 - (c) If it is feasible to allow the victim to, temporarily, park closer to the facilities where they work.
 - (d) If facilities permit, move the employee to a safer place within the employer's premises.
 - (e) Instruct personnel answering the phones to block calls from the abuser.
 - (f) Keep any documents, faxes or emails from the abuser for use as evidence in any proceeding.
 - (g) If there is a restraining order to keep it in a confidential place and instruct security personnel of it and to prevent entry of the abuser and call the police if needed; as well as to give the police feedback in cases that may degenerate into violence at the workplace.

(h) The safety plan should be prepared according to the needs of the victim/survivor.

For each area of need, an action to be taken by the employee and the agency will be identified.

(i) Include actions to take if foreseeable complications arise such as contacting relevant agencies and aid institutions.

Article 10 - When the employee commits acts of domestic violence.

- a. Some people who engage in domestic violence behavior exhibit this type of behavior in the workplace. This can occur when acts originate from the workplace addressed to another person outside the work center, such as the use of the fax, phone or email from work to stalk, intimidate or threaten your partner who does not work in the same place; or when both the person engaged in domestic violence behavior and their partner work in the same workplace or for the same agency.
- b. When the couple does not work in the same place and a supervisor knows that the employee is committing acts from the workplace, appropriate disciplinary action must be taken for committing a crime, in addition to using the government's resources to do so. Guidance will be provided to refer to voluntary programs in the re-education and retraining community. The need to review roles and responsibilities in the work they carry out, such as direct services, work with women or potential victims, will be assessed.
- c. In cases where the couple works for the same agency, the supervisor must take immediate corrective action. For example, you can relocate the work area of one of the parties, in this case the person who is the aggressor. The supervisory staff of both employees must be

notified to take security measures. Possible disciplinary action should be evaluated if the aggressor commits the incidents in the workplace.

- d. An employee will be reported when using his or her authority in the workplace to commit or assist in committing acts of domestic violence or to adversely affect a surviving person. Existing regulations will be used to impose adverse sanctions.
- e. An employee authorized to carry a firearm who is convicted of a misdemeanor offence to Art. 2.1 of Domestic Violence, must be relieved of it. It will be evaluated whether the employee can be relocated or assigned to another workspace. For employees convicted of crimes contained in Law No. 54, above, the procedures previously stated must be followed in accordance with the law and the rules in the regulation on disciplinary actions.

Article 11 - Diffusion and Training.

- a. This protocol will be given to all FIGNA employees, as well as to new-recruit employees.
- b. This protocol will be placed in visible locations throughout the Trust's facilities.
- c. The Coordinator against Domestic Violence and supervisors will receive at least a semi-annual training brief on the use and scope of this protocol.
- d. The protocol will include, and training will cover all the external resources available to help the problem of domestic violence.
- e. The Coordinator against Domestic Violence will coordinate the offering of information to raise staff awareness of the problem of domestic violence at work and as a social problem.

Article 12 - Disciplinary Measures.

In cases where the person with aggressive conduct is employed by FIGNA and violence is generated against a co-worker, those protective measures that are necessary will be taken, as well as those disciplinary sanctions deemed appropriate considering the circumstances of the case.

Article 13 - Witness Protection.

Any person who has given a statement or who in any way cooperates in the investigation of a domestic violence complaint in the workplace shall have the following rights and should be warned about them during the investigation:

- a. Their participation in the investigation will not be recorded in their personnel file.
- b. You may file a complaint if decisions are made about your employment status or when it is affected by the actions of supervisors or co-workers due to your participation in the investigation.

Article 14 – Confidentiality.

- a. Any employee or official of the Trust who takes part in the proceedings related to the establishment or processing of a domestic violence complaint will keep the matter strictly confidential to safeguard the rights of the parties. The intentional or malicious disclosure of information acquired as part of the process established through this regulation for the establishment and processing of claims on this subject may be sanctioned in accordance with the ethical conduct provisions of the Trust Regulations.

- b. Nothing in this Article shall be construed as limiting or preventing you from collaborating in the investigation process of a complaint or serving as a witness in the investigation or award of a claim under this Regulation.

Article 15 – Repeal and Previous Provisions.

The "Domestic Violence in the Workplace Regulation" of June 30, 2015 is repealed. Any prior communication, verbal or written or part thereof that conflicts with this Regulation, is void after it enters into force.

Article 16 – Amendments.

The provisions in this Regulation may be amended at any time, as required by the Trust's operations and in accordance with the provisions of Law No. 38 of 2017, as amended, known as the "Law on Uniform Administrative Procedures for the Government of Puerto Rico".

Article 17 - Separability Clause.

If any part of this Regulation is annulled or declared unconstitutional, the decision, opinion or judgment for that purpose has been delivered shall not affect, prejudice or invalidate the remainder of this Regulation. The effect of that judgment shall be limited to the part thereof which has thus been annulled or declared unconstitutional. If the application to a person or a circumstance of any part of this Regulation is invalidated or declared unconstitutional, the decision, opinion or judgment for that effect given shall not affect or invalidate the application of the remnant of this Regulation to persons or circumstances in which it can be validly applied.

Article 18 – Effective Date

Upon approval by the Board of Directors, this Regulation will take effect immediately upon completion of the state department filing process, in accordance with the provisions of Law No. 38 of 2017, as amended, known as the "Law for Uniform Administrative Procedures for the Government of Puerto Rico".

APPROVED:

José J. Reyes Peredo
President
Board of Directors
Institutional Trust of the
Puerto Rico National Guard

I, Andrés Ruíz, Secretary of the Board of Directors of the Institutional Trust of the Puerto Rico National Guard (FIGNA), **certify** that this Regulation was duly approved by the Board of Directors of FIGNA at the meeting held on February 12, 2020. As provided by the State Department, it shall enter into effect immediately after its proper filing in the State Department, in accordance with the provisions of Law No. 38 of 2017, as amended, known as the "Law of Uniform Administrative Procedures of the Government of Puerto Rico".

Andrés Ruíz
Secretary
Board of Directors
Institutional Trust of the
Puerto Rico National Guard



GOVERNMENT OF PUERTO RICO
Institutional Trust of the
Puerto Rico National Guard
Box 12000, San Juan, PR 00922

ACKNOWLEDGEMENT

I certify that I received a copy of the Regulation against Domestic Violence in the Workplace from the Institutional Trust of the Puerto Rico National Guard. I accept this Regulation and understand that its strict compliance is a condition of employment, as it appears on the copy given to me.

Date

Signature

ENCLOSURES

Available Legal Remedies

1. Law No. 58 of August 15, 1989, as amended, "Law for Prevention and Intervention with Domestic Violence" provides civil and criminal remedies. Restraining orders are a legal remedy that can be obtained by the victim/survivor in the municipal court or investigative chamber of the judicial center where you reside. Law No. 54 contains the procedure for requesting them. Forms are available in the courts to apply. Remedies may include restricting a person who engages in acts of domestic violence from approaching the work area of the injured person. The employee should be directed to request that the court so provide in the restraining order. The employer may also request, upon notification to the victim, a restraining order to ensure the physical and emotional protection of their personnel. This application will be filed when the victim refuses to accept the obvious fact that they are a victim of domestic violence and the safety of the rest of the staff is at risk.

Law No. 58, *ante*, includes among its provisions remedies of a criminal nature. Five offences are included in it. The employee should be guided on his or her choice to file a criminal complaint with the Police if one of the offences covered by law has been done and if the person wishes the person to be criminally prosecuted.

Law No. 58, *ante*, does not require a criminal complaint to apply for a restraining order.

2. Law No. 538 of September 30, 2004, Amends Law No. 54, *ante*, and provides that an employer may seek a restraining order on behalf of one of its employees, visitors or any other person in the workplace if an employee is or has been a victim of domestic violence or similar conduct as typified by Law No. 54, and acts of conduct constituting domestic violence have occurred in the workplace.

Before initiating this procedure, the employer must notify of his intention to seek the restraining order from the employee who is or has been a victim of domestic violence or conduct constituting a crime as typified in Law No. 54, *ante*.

3. Law No. 542 of September 30, 2004, amends Law No.54, *ante*, and provides that when the Court understands this or when it issues a restraining or stalking order, it will immediately order the ordered party to hand over to the Puerto Rico Police for safekeeping, any firearm belonging to the defendant and on which it has been issued a license to have or possess, or to carry, for target practice, hunting or of any kind, depending on the case. The order for the delivery of any firearm, as well as the suspension of any type of firearms license will be put into effect. In addition, when that Order is issued by a Court, that opinion shall have the effect of suspending the relevant license even if it is part of the defendant's employment requirements. This restriction shall apply at least for the same period of time in which the order is extended.

4. Federal Firearms Ban, 18 U.S.C. 922 (g)(8); 18 U.S.C. s. 922(g)(9).

5. The *Violence Against Women Act of 1994* (VAWA) is federal legislation that provides legal protections for abused women. It prohibits a person against which a protective order has been issued and any person who has been convicted of a misdemeanor of domestic violence from possessing firearms and ammunition. However, there are exceptions for "official use" to such prohibitions. The Federal statute is retroactive, so it applies to convictions that occurred before the law took effect.

LIST OF SUPPORT OFFICES

1. Office of the Women's Procurator's Office
Counseling Hotline (24 horas / 7 días a la semana)
(787) 722-2977 / (787) 697-2977 free of cost/ (787) 925-7676 / (787) 938-2977
Postal Address: Box 11382, Fernandez Juncos Station, San Juan, PR 00910
Phones: (787) 721-7676 / (787) 697-7676 free of cost/ *Fax:* (787) 723-3611
2. Social Emergencies- Tel.: 1-800-981-8300 / (787) 749-1333 / (787) 548-0421
3. Casa del Peregrino – Tel.: (787) 891-0059
4. Casa Julia de Burgos – Tel.: 997-0638 / 787-723-3500 or 723-2814
5. Puerto Rico Legal Services, Inc. - Tel.: (Oficina Central) (787) 728-8686
6. Hogar Ruth - Tel.: (787) 883-1884
7. Pensamiento Mujer del Centro Home – Tel.: (787) 735-3200
8. Coordinadora Paz para la Mujer – Tel.: (787) 764-9639
9. Working Women's Puertorrican Organization – Tel.: (787) 764-9639
10. Women Issues Office (Municipality of San Juan) – Tel.: (787) 758-5400
11. House of Goodness Home – Tel.: (787) 852-7265
12. New Woman Home – Tel.: (787) 263-6473
13. Clara Lair Home – Tel.: (787) 849-3075
14. Women in cases of Domestic Violence Special Project – Tel.: (787) 764-0524