Protocol Compliance Education and Training for employees on the policy of eliminating discrimination based on sexual orientation or gender identity, according to Puerto Rico Labor Law no. 22-2013
IMPLEMENTATION OF THE POLICY

It established as public policy of the Commonwealth of Puerto Rico repudiation of discrimination based on sexual orientation or gender identity in employment, public or private. This reaffirms the dignity of man is inviolable, and that all persons are equal before the law.

Is established the particular prohibition that no employer may suspend set, refuse to hire, fire or otherwise, or to prejudice in employment form to a person by reason of any of the protected characteristics mentioned above.

PURPOSE

In order to fulfill the obligation to prohibit based on gender identity and sexual orientation discrimination, according contained in Law No. 22-2013, amending various labor laws of the Commonwealth of Puerto Rico.

This protocol is to achieve the following purposes:

1. To implement the provisions of the Law No. 22-2013, related to discrimination based on gender identity and sexual orientation in the workplace in Puerto Rico.
2. Provide guidance on the obligations imposed by Law No. 22-2013 to accomplish this.
3. To educate all personnel about behaviors, expressions and actions that constitute illegal discrimination based on gender identity and sexual orientation.
4. Ensure that all individuals are treated in a consistent manner with the gender identity they have assumed, rather than be judged in the light of traditional stereotypes assigned to the categories of sex and gender.
5. Guide the process of managing internal discrimination complaints filed by gender or sexual orientation.

DEFINITIONS

1. Gender identity – Refers to the way in which a person identifies as recognized herself, as to the gender that may or may not correspond to their biological or assigned sex at birth. In order to achieve the purposes of the Act No. 22-2013, this definition shall be interpreted as broadly as necessary to extend its benefits to all citizens and all/or exposed/or an episode or pattern of discrimination and in accordance with provisions of the Federal Law Mathew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, Public Law No. 111-34 (2009).
2. Sexual orientation – Means the ability of each person to feel an emotional, affection or sexual attraction for people of a different from yours or the same gender or more than one gender. In order to achieve the purposes
of the Act. No. 22-2013, this definition shall be construed as broadly as necessary to extend its benefits to all citizens and all/or exposed/or an episode or pattern of discrimination.

GENERAL PROHIBITIONS RELATED TO DISCRIMINATION FOR GENDER IDENTITY AND SEXUAL ORIENTATION, ACCORDING TO THE PROVISIONS OF LAW AMENDED BY THE ACT NO. 22-2013

1. It shall be unlawful for any public or private employer, except for those expressly contained in Article 19 of Law No. 22-2013, to discriminate against any person in employment, by reason of their gender identity or sexual orientation. Illicit discriminatory practices including, but not limited to the following:

a. Avoid recruit, select, promote or retain candidates to any office or employment by reason of orientation or gender identity;

b. Taking into consideration the sexual orientation and gender identity in the evaluation of workers in relation to any aspect of employment;

c. Suspend, discipline, transfer or affect wages, salaries, compensation, terms, category, working conditions, or privileges of a person by reason of their sexual orientation or gender identity;

d. Depriving a person or deny employment opportunities or affect an employee, by reason of their sexual orientation or gender identity;

e. Prevent or hinder access to apprenticeship programs or training or re-training on account of sexual orientation or gender identity;

f. Publish, circulate or permit to be published or circulated advertisements, notices or any other source of diffusion denying employment opportunities, directly or indirectly, to persons on account of their sexual orientation

g. Participate or allow physical or verbal harassment or creating a hostile environment in employment by reason of sexual orientation or gender identity, whether caused by supervisors, employees, volunteers or visitors to the workplace;

SPREAD DUTY

1. All employers to whom applies Law No. 22-2013, must communicate and disseminate clear and explicitly the law and regulations related to gender identity and sexual orientation to all its administrative, supervision, employee, volunteers and visitors with whom the employee has to interact by reason of the performance of their duties.

2. Pursuant to Article 17 of Law No. 22-2013, all instrumentalities, agencies, departments, public corporations, municipalities and the Legislative Branch as well as any private employer and labor
organization, must temper their personnel regulations to make clear the Public Policy established by Law No. 22-2013.

3. All employers to which it is subject to Law No. 22-2013, must provide their employees trainings on implementation of the Law.

4. Every employer and labor organization shall post in a visible place a compendium of the law that will prepare and furnish the Secretary and Human Resources.

RECORDS OF GENDER AND NAME IN EMPLOYMENT APPLICATIONS

1. Any information relating to gender identity or sexual orientation collected during any official management in employment shall be kept confidential by the employer.

2. Nothing herein provided shall be understood as preventing anyone identify their sexual orientation or gender identity in the workplace, if desired.

REFERENCES AND HISTORY VERIFICATION

If an entity covered by Law No. 22-2013, becomes aware through a check of references, history or any other means of sexual orientation or gender identity of an employee or applicant for employment shall not use the information to take adverse action against the person and take steps to preserve the confidentiality of information obtained measures.

HARASSMENT AND HOSTILE WORK ENVIRONMENT

1. All harassment and any action or omission that produces a hostile work environment based on gender identity and sexual orientation are prohibited, pursuant Law No. 22-2013.

2. The following behaviors may constitute evidence of unlawful harassment, although the list is not intended to cover all:

   a. Ask questions of personal nature on the body, physical changes or the sexual practices of any person;

   b. Allow the use of work equipment or material, or the work area to produce offensive material or to impair the integrity of the person by reason of gender identity or sexual orientation;

   c. Allow or make jokes or comments with the intention to mock or make fun of people on account of gender identity or sexual orientation, even when they are not directly addressed to the victim;

   d. Deny access to sanitary facilities or other facilities identified by gender employees who identify with that gender identity;
e. Require a person to dress or grooming in a way that is inconsistent with their gender identity or preventing the person from expressing their gender identity.

**ACCIONS FOR VIOLATION TO LAW NO. 22-2013**

In accordance with the above laws and applicable case law, any violation of Law No. 22-2013, or Executive Orders referred in Section 1 of this protocol can be resolved for vindication of the employee concerned or to determine the sanction to employer or employee who violates these provisions, by:

1. Appellatives procedures of human resources to relevant organisms;
2. Disciplinary action under the applicable regulations;
3. Administrative proceedings before the U.S. Equal Employment Opportunity Commission Department of Labor Human Resources;
4. Filling claims before the Court of First Instance of Puerto Rico or the Federal Court for the District of Puerto Rico, as applicable.

**INTERNAL GRIEVANCE PROCEDURE UNDER LAW NO. 22-2013**

In order to give full effect to the legislative will expressed by the Law No. 22-2013, each employer shall draw up, publish and notify your employees the internal procedure to ventilate complaints of discrimination bases on sexual orientation or gender identity. Although the employer may use the procedure for handling discrimination complaints that have already been implemented, the procedure that consign below.

1. To manage internal claims, people briefed on the matter be designated.
2. It will notify the employees that their job probation and working conditions will not be affected by the filing of a complaint and all information obtained during the investigation will be handled with confidentiality and respect.
3. The internal procedure to ventilate complaints of discrimination based on sexual orientation was activated immediately with the filing of the complaint and will be appropriate and effective.
4. The employee may file a verbal or written complaint to the designated person, unless this is the person accused of committing a discriminatory act. In this case, the complaint before the alternate designated person for such purposed is presented.
5. You must inform the complainant of their rights during the processing of the complaint and procedural alternatives to the internal procedure.
6. All complaints must be investigated. The investigation began and culminated in a reasonable time. The mere fact that the alleged acts have ceased should not be basis for concluding the investigation.
7. The file will contain the investigation, at least, the declarations signed by the complainant and/or brought as complaint persons. Will also
contain statements from anyone with personal knowledge of the allegations or other facts that may shed light on the allegations made.

8. You will inform all persons participating in the investigation that the same is confidential and that no retaliations for participating in the investigation.

9. Shall be issued a final determination and report within a reasonable time. The same will be notified to both parties.

PERFORMANCE MEASUREMENT

To ensure the effective implementation of public policy established by Act No. 22-2013, both the Office of Training and Advisory Committee on Labor Affairs and Human Resources Management [OCALARH], such as the Department of Labor and Human Resources of Puerto Rico [DTRH] designate persons responsible for the implementation of this policy in their respective public agencies. These people will be the links to:

1. Reply doubts of any supervisor, employee or employer;
   2. Provide training them when they are requirements.

INTERPRETATION OF THE PROVISIONS OF THIS PROTOCOL

All clauses of this Protocol shall be interpreted in a manner that tends to implement public policy contract discrimination based on sexual orientation and gender identity, so each one will be seen as part of a body of guidelines for the benefit of employment equity and recognition to the principle of merit and employees privacy.

Certification

I, ___________________________, personnel No. __________________ based in (Print name) Puerto Rico certified that I read an understood the protocol of Compliance Education and Training on the policy of eliminating discrimination based on sexual orientation or gender identity, according to Puerto Rico Labor Law no. 22-2013.

_____________________________ __________________________
Signature Date