

(H. B. 2501)

**(No. 85-2020)**

(Approved August 4, 2020)

**AN ACT**

To amend Sections 3.2., 3.4, 3.9, 3.14, 3.15, and 3.16 of Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act,” in order to allow service of notice of adjudicative proceedings before the agencies by electronic communication; and for other related purposes.

**STATEMENT OF MOTIVES**

Act No. 38-2017, as amended known as the “Government of Puerto Rico Uniform Administrative Procedure Act, (UAPA)” was enacted for the purpose of establishing a uniform set of minimum rules that every agency shall observe when adopting rules and regulations that define the rights and legal duties of a particular class of individuals. It also contains a different set of rules that govern the determinations of agencies in adjudicative proceedings when an order or decision that defines the rights and legal duties of specific individuals is entered.

The UAPA also provides a uniform procedure to request judicial review of an action taken by an agency when adopting a regulation or adjudicating a case. In addition, it provides for the maximization of informal adjudication proceedings prior to resorting to formal adjudication.

Certainly, the intent of this Act is to provide the People with high-quality, dedicated, efficient, and prompt public services and shall be applied and interpreted liberally to achieve the said purposes under the basic safeguards of due process of law.

Swiftness and cost efficiency should be promoted in administrative actions; therefore, we must take advantage of technological advances that promote these pillars of effective justice. The use of electronic communication methods affords immediacy and cost efficiency to these processes by reducing dispute resolution time, mailing costs, and promoting effectiveness and efficiency. Furthermore, the COVID-19 emergency has validated the importance of providing agencies with statutory authority to use electronic communication methods, in lieu of or in addition to regular mail at any stage of the adjudicative proceedings, always safeguarding the parties' right to timely notice of charges, complaints, or claims.

For all the foregoing, this Legislative Assembly deems it necessary to incorporate electronic communication methods into the adjudicative proceedings provided under Act No. 38-2017, as amended, always safeguarding the parties' right to timely notice of charges, complaints, or claims as required by law. It is our duty to establish public administration rules that reflect the reality of the 21<sup>st</sup> century Puerto Rico.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Section 3.2 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.2.- Adjudicative Proceeding.

Except as otherwise provided by law, an agency may commence an adjudicative proceeding *motu proprio* or upon filing a complaint, application, or petition, whether in person or in writing, within the period prescribed by law or regulation with respect to a matter within the agency's jurisdiction.

Every agency shall adopt regulations to govern their adjudicative proceedings.

If a person with profound, severe, moderate, or mild hearing loss or with hypoacusis or any other hearing disorder that prevents such person from communicating effectively, is a party to an adversary proceeding brought before an

administrative agency in accordance with this Act, or any special law, the agency shall provide a sign language interpreter and/or oral interpreter, or any other reasonable accommodation that ensures effective communication, in accordance with the “Americans with Disabilities Act” (Public Law 101-336, as amended) and Act No. 136-1996.

Agencies may use electronic communication methods, in lieu of, or in addition to, regular mail, at any stage of the adjudicative proceeding, always safeguarding the parties’ right to timely notice of charges or complaints, claims or allegations.”

Section 2.- Section 3.4 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.4.- Information Required Upon Filing a Complaint; Application or Petition.

(1) Complaints Filed by the Agency. - Every agency may file complaints with their administrative forum for violations of the laws or regulations they administer. The complaint shall contain:

(a) The name and mailing address of the respondent, and if known, the respondent’s email address or addresses.

(b) The facts constituting the violation.

(c) The statutory or regulatory provisions allegedly violated. It may contain also a proposed fine or penalty to which the respondent may agree and report compliance therewith or payment thereof, as the case may be.

(2) Complaints Filed by a Person outside of the Agency. - Any person bringing an action before an agency shall include the following information in the complaint, application, or petition:

(a) The name and mailing address of all parties and if known, their respective email address or addresses.

- (b) The facts constituting the claim or violation.
- (c) The reference to the applicable statutory provisions, if known.
- (d) The relief requested.

(e) Optionally, the age of the complainant or petitioner, at his discretion, if claiming the benefits under the “Expedited Administrative Procedures for Older Adults Special Act.”

- (f) The signature of the complainant.”

Section 3.- Section 3.9 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.9.- Notice of Hearing.

The agency shall give written notice to all parties or their authorized representatives and intervenors, of the date, time, and place of the adjudicative hearing. The notice shall be served by regular or electronic mail, or in person at least fifteen (15) days before the date of the hearing, unless for duly justified reasons stated in the notice, it is necessary to reduce said period, and shall include the following information:

(a) The date, time, and place of the hearing, as well as the nature and purpose thereof.

(b) A statement that the parties, including corporations and partnerships, may appear pro se or by counsel.

(c) A statement of the legal or regulatory provision under which the hearing is to be held.

(d) A reference to the legal or regulatory provisions allegedly violated, if charged with a violation thereof, and the facts constituting such violation.

(e) A warning of the measures to which the agency may resort if a party fails to appear at the hearing.

- (f) A warning that the hearing cannot be suspended.”

Section 4.- Section 3.14 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.14.- Final Orders or Decisions.

A final order or decision shall be issued in writing within ninety (90) days from the conclusion of the hearing or upon the filing of the proposed findings of fact and conclusions of law, unless this period is waived or extended with the written consent of all parties, or for good cause shown.

The order or decision shall include, separately stated, the findings of fact, if not waived, and the conclusions of law supporting the adjudication, as well as the reconsideration or review process available, as the case may be. The order or decision shall be signed by the agency head or any other official authorized by law.

The order or decision shall notify the right to request reconsideration by the agency or to file a petition for review as a matter of law before the Court of Appeals, as well as the parties to be served with notice of said petition for review, and the pertinent time limits therefor. The aforementioned time limits shall start to run once these requirements have been met.

In the certification of its decisions or orders, the agency shall specify the names and addresses of the natural or juridical persons to whom, in their capacity as parties, notice of the decision was served so that they may effectively exercise their right to seek judicial review conferred by law.

The agency shall serve as soon as practicable a copy of the order or decision upon the parties and their attorneys, if any, by regular or electronic mail. The agency shall also file in the case record a copy of the final order or decision and proof of service. No party shall be required to comply with a final order unless said party has been served with notice thereof.

A decision issued against a person with profound, severe, moderate, or mild hearing loss or with hypoacusis or any other hearing disorder that prevents such person from communicating effectively may be void if no sign language interpreter and/or oral interpreter, or any other reasonable accommodation that ensures effective communication has been provided to such person throughout the adversary proceeding in accordance with the “Americans with Disabilities Act” (Public Law 101-336, as amended) and Act No. 136-1996.”

Section 5.- Section 3.15 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.15.- Reconsideration.

The party aggrieved by a partial or final order or decision may file a motion for reconsideration of such order or decision within twenty (20) days after the date of entry of the order or decision. The agency shall consider the motion within fifteen (15) days from filing. If the agency denies the motion outright or fails to act on it within fifteen (15) days, the time to request review shall start to run again from the date of notice of the denial or from the expiration of the fifteen (15)-day period, as the case may be. If a determination is made upon consideration, the time to request review shall start to run from the date notice of the agency’s final decision disposing the motion for reconsideration is entered in the case record. Such decision shall be issued and entered in the case record within ninety (90) days from the filing of the motion for reconsideration. If the agency grants the motion for reconsideration, but fails to act on it within ninety (90) days from filing, it shall lose jurisdiction over the motion and the time to request judicial review shall start to run upon the expiration of said ninety (90)-day period, unless the agency, for good cause and within said ninety (90) days, extends the time to dispose the motion for a period not to exceed thirty (30) additional days.

If the date on which notice of entry of order or decision is entered in the record differs from its mailing date, whether by regular or electronic mail, the time shall be computed from its mailing date, whether by regular or electronic mail, as appropriate.”

Section 6.- Section 3.16 of Act No. 38-2017, as amended, is hereby amended to read as follows:

“Section 3.16.- Termination of Proceedings.

If an agency concludes or decides not to conduct or continue an adjudicative proceeding in response to a particular case, it shall terminate the proceeding and serve notice of its determination in writing by regular or electronic mail upon the parties and their counsels, if any, stating the grounds therefor and of any review process available, including the warnings provided in Section 3.14 of this Act.”

Section 7.- This Act shall take effect upon its approval.