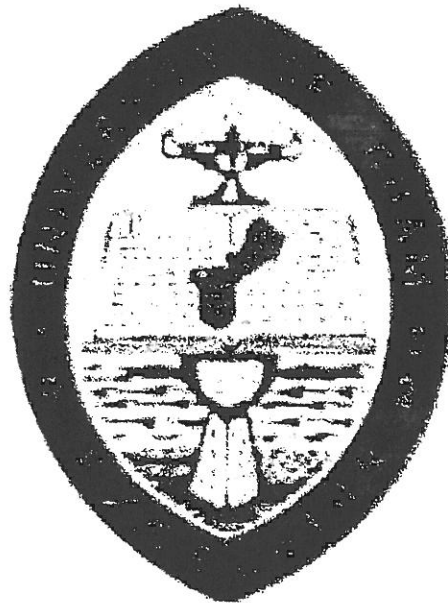


**UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN**

**INTERIM
PERSONNEL
RULES & REGULATIONS**



**For
Classified Service Employees**

**Approved by the BOARD OF REGENTS on June 19, 2003
Resolution No. 03-17**



University of Guam
Unibetsedåt Guahan
BOARD OF REGENTS

RESOLUTION NO. 03-17

RELATIVE TO ADOPTING *INTERIM PERSONNEL RULES & REGULATIONS*
FOR CLASSIFIED SERVICE EMPLOYEES

WHEREAS, the *Personnel Rules & Regulations for Classified Service Employees (PR&R)* at the University of Guam was last adopted in January 1984; and

WHEREAS, an amended and updated *PR&R* has been drafted and patterned after those approved by the Civil Service Commission (CSC) for the Department of Administration and the Port Authority of Guam; and

WHEREAS, it has been determined that it would be most efficient first to seek review by the CSC of the draft *PR&R* prior to Board's review and adoption, however such CSC review may take months to complete; and

WHEREAS, the current *PR&R* at the University of Guam reflects outdated practices and inapplicable law, thereby is an unreliable and irrelevant document and poses as a possible liability to the University operations; and

WHEREAS, the CSC has recommended to the University administration that an interim *PR&R* be adopted by the Board of Regents in order to avoid problems in the application of rules and regulations; and

WHEREAS, the most recent CSC-approved *PR&R* was for the Port Authority of Guam in January 2001; and

WHEREAS, the Academic, Personnel and Tenure Committee of the Board of Regents have considered the recommendation of the CSC via the University administration to adopt an interim *PR&R*.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Regents hereby adopts the Personnel Rules and Regulations, Port Authority of Guam, effective immediately; and


BE IT FURTHER RESOLVED, that the Board of Regents directs the University administration to forward forthwith the draft *PR&R* to the CSC for their review.

Adopted this 19th of June, 2003



Ronald H. Leach, Chairman

ATTESTED:



Harold L. Allen, Executive Secretary

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CHAPTER 1

PURPOSE AND SCOPE OF PERSONNEL RULES AND REGULATIONS

STATEMENT OF POLICY

This chapter establishes the fundamental character of the system of personnel administration governed by these rules and regulations, consistent with the merit principles and the principles of equal employment opportunity; provisions of Title 4 of the Guam Code Annotated (GCA); Section 10111 of Title 12 of GCA and other paramount laws pertaining to the employment in the Port Authority of Guam.

1.000 COVERAGE

- A. These rules shall apply to all employees occupying classified positions employed by the Port Authority of Guam, hereinafter referred to as "Authority".
- B. Unclassified employees occupying unclassified positions are not governed by these rules and regulations, unless otherwise identified.
- C. These rules and regulations may be supplemented by administrative policies and procedures established by the General Manager.

1.100 GUIDING PERSONNEL PRINCIPLES

The following merit system principles shall guide personnel administration:

- A. recruiting, selecting applicants and advancing employees on the basis of their skills, knowledge, and abilities;
- B. providing a uniform compensation policy;
- C. training employees to improve performance;
- D. retaining employees based on their performance;

- E. classifying positions systematically through job evaluation; and
- F. providing fair, expedient and responsive processes for grievance, adverse action, and conflict resolution.

1.200 **EQUAL EMPLOYMENT OPPORTUNITY**

- A. It is the policy of the Authority that there shall be no discrimination in employment against any person on the basis of race, color, creed, religion, age, sex, political affiliation, marital status, national origin, or disability, except for bona fide occupational qualifications or legal requirements.

Sex discrimination includes sexual harassment. Sexual harassment is defined as "unwelcomed sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission of such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
 2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
 3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working performance.
- B. The General Manager shall implement Equal Employment Opportunity (EEO) programs pursuant to the guidelines of the Civil Service Commission.
 - C. The EEO program calls for positive results-oriented action toward equal opportunity. Affirmative efforts will be made by the General Manager to assure equal opportunity in employment and to assure non-discrimination in programs and activities offered and/or conducted by the Authority.
 - D. In order for this EEO program to become a management objective, all levels of management which includes the first line supervisors will continue to be trained in the legal requirements of equal employment opportunity.

1.300 PENALTIES

Any penalty imposed on any employee for violation of these rules shall be in accordance with applicable rules, regulations and statutes.

1.400 GENDER

Words used in the masculine gender include the feminine.

1.500 CIVIL SERVICE COMMISSION

Nothing in these rules and regulations is intended to limit or deprive the Civil Service Commission of jurisdiction or authority vested by the Organic Act or the laws of Guam. The Civil Service Commission is hereafter referred to as "Commission" in these rules and regulations.

1.600 STATUTORY CONFLICT

In the event any rule or regulation is in conflict with statute, the statute shall prevail to the extent of inconsistency.

1.700 SEVERABILITY

If any part of the Personnel Rules and Regulations are held inorganic, then the remaining Personnel Rules and Regulations shall continue in force and effect.

CHAPTER 2

ADMINISTRATION

STATEMENT OF POLICY

This policy sets forth the responsibilities of the General Manager in the implementation of Title 4 of the GCA, these Personnel Rules and Regulations, Section 10111 of Title 12 of the GCA and other laws.

2.000 RESPONSIBILITY OF THE GENERAL MANAGER

- A. The provisions of Title 4 of the GCA and these rules and regulations, and other applicable statutes shall control the personnel administration in the Authority.
- B. The General Manager shall:
 - 1. Be responsible for the enforcement of these Personnel Rules and Regulations and all other applicable statutes.
 - 2. Advise the Board of Directors, hereinafter referred to as "Board", the Governor, the Commission, and employees on policies and procedures concerning personnel management matters.
 - 3. Maintain an adequate monitoring system to ensure statutes, executive orders, rules, regulations and standards relating to personnel management are properly carried out. Whenever the review with established policies, rules, regulations and standards reveal that there have been infractions, the General Manager shall take such affirmative resolution as may be appropriate to obtain compliance therewith.
 - 4. Exercise and provide leadership in personnel matters.
 - 5. Develop and promulgate policies, rules, regulations and standards to promote the efficiency of services.
 - 6. Maintain complete employment records of all employees.

7. Maintain the position classification and pay plan.
8. Carry out such other personnel administration activities as are necessary to assure the promotion of merit based personnel systems.
9. Provide for initial and periodic orientation to all employees concerning the provisions of these rules and regulations, and the training of all supervisors and managers in their specific responsibilities for advising employees on requirements and provisions of these rules and regulations.
10. Assure that each supervisor and manager is provided a copy of these rules and regulations, and any subsequent changes.
11. Assure that each employee is provided a copy of the Authority's Employee Orientation Handbook.

CHAPTER 3

CODE OF CONDUCT

STATEMENT OF POLICY

All employees are expected to maintain the highest standards of conduct to ensure that the services in the Authority are properly administered.

3.000 ETHICAL CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

- A. Public service is a public trust. Employees are expected to be loyal to the U.S. Constitution, the Organic Act of Guam, and to perform their duties and responsibilities ethically and in accordance with laws.
- B. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- C. Employees shall not engage in financial transactions using confidential or non-public government information or allow the improper use of such information to further any private interest.
- D. An employee shall not, except as permitted by statute or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the Authority, to include persons whose interests may be substantially affected by the performance or non-performance of the employee's duties, or that of the Authority.
- E. Employees shall put forth honest effort in the performance of their duties.
- F. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Authority.
- G. Employees shall not use public office for private gain.
- H. Employees shall protect and conserve public property and shall not use it for other than authorized activities.

- I. Employees shall not engage in unauthorized outside employment or activities, including seeking or negotiating for employment that conflicts with official government duties and responsibilities.
- J. Employees shall, in good faith, disclose waste and abuse and corruption to appropriate authorities, and in doing so shall be protected from reprisal.
- K. Employees shall respect the rights and privacy of other employees and shall not use their position, authority or other means, to injure another person or employee for personal reasons or malicious purposes.
- L. Employees shall refrain from unlawful use of drugs and alcohol. Drugs shall mean those identified in the Drug-Free Workplace Program Operating Procedures (DFWPOP).
- M. Employees shall be courteous and helpful to clients and members of the public.
- N. Employees shall be courteous to other employees and respect supervisory authority.

3.100 OATH OF OFFICE

All persons employed by the Authority or accepting employment with the Authority shall subscribe and certify to the prescribed loyalty oath. This oath may be administered by the General Manager or the officers, or the employees designated by him at the time of employment processing. Failure to take such oath, or certifying falsely to such oath, shall be cause for disciplinary action, dismissal or rescindment of employment offer.

3.200 NEPOTISM

- A. Spouses and persons within the first degree of relation, such as, brother/sister or parent/child, may not be employed with the Authority in a direct supervisor-subordinate relationship in the classified or unclassified service. Exception to this rule may be made when it is for the good of the service and upon the approval of the Commission.
- B. The spouse of the General Manager may not be employed with the

Authority:

- C. Whenever there are already two or more members of an immediate family in the public service under the Authority, no other members of such family shall be eligible to appointment; provided, however, that such prohibition shall not apply to employees in the medical, paramedical or teaching professions. As used in this Section, "immediate family" means a collective body of persons living together in the same house.

3.300 CONVICTED FELONS

- A. In accordance with Section 4203.1 of Title 4 of the GCA, no person shall be employed as a peace officer in the law enforcement positions with the Authority who has been previously convicted of a felony.
- B. In accordance with the Family Violence Act, after August 14, 1998, no person thereafter who is convicted of a felony concerning family violence (not a misdemeanor) is eligible to hold the following positions:
 - 1. General Manager,
 - 2. Deputy General Manager,
 - 3. Managerial or supervisory position.

CHAPTER 4

FILLING POSITIONS IN THE AUTHORITY

STATEMENT OF POLICY

This policy implements a system of recruitment and selection of employees of the Authority in accordance with the merit system principles and equal employment opportunity guidelines.

4.000 APPOINTMENT THROUGH THE MERIT SYSTEM

4.001 Recruitment and Examinations

Recruitment of persons for employment in the classified service shall be accomplished consistent with the merit principles of recruiting, selecting applicants, and advancing employees on the basis of their relative knowledge, ability and skill.

4.002 Filling of Vacancies

- A. No person shall be appointed to, or employed in, or paid for service in any classified position until that position has been established, funded, and allocated to its proper class by the General Manager. Nor, shall any person be allowed to begin work before such person submits an employment application, is placed on the eligibility list as "eligible" for the position applied for, and is certified, selected and processed by competitive examination. This applies to all original, initial and promotional appointments. Exception to the establishment and certification requirement may be made for reemployment, transfers, demotions, reinstatement immediately after active military service, and temporary appointments consistent with these rules.
- B. Competitive examinations shall also apply to the following:
 - 1. demotion to a position with known promotion potential within a class series;

2. transfer to a position with known promotion potential within a class series;
 3. reinstatement or reemployment to a position with known promotion potential within a class series; or
 4. appointment to a position with known promotion potential within a class series.
- C. Applicants selected for and offered employment with the Authority shall undergo and pass a mandatory drug test before being employed. Failure to submit to, or pass such drug test shall be grounds for rescinding the offer of employment, unless the applicant is undergoing treatment through a rehabilitation program approved or recognized by the Department of Mental Health and Substance Abuse, in which case the applicant must successfully complete the program within the prescribed time before being employed.

Employees selected for Testing Designated Positions (TPD's) will be tested as provided in the DFWPOP.

4.003 Maintenance List of Authorized Positions

- A. The General Manager shall maintain a list of authorized positions for each organized unit within the Authority, showing by class of positions those that have been established and the current status of the positions. No change in the numbers of authorized positions shall be made except upon approval of the Governor or his duly authorized representative.
- B. The procedure for authorizing additional positions shall be subject to the approved budget by the Board of Directors. Filling of vacancies shall not be more than the number of authorized positions within its Full-Time Equivalency (FTE) ceiling, except as authorized by law as follows.
 1. Part-time employees may be counted as a fraction, which is determined by dividing 40 hours into the average number of hours of such employees' regularly scheduled workweek.

2. The number of employees may be increased beyond the number authorized for a period of no longer than 90 days in the event Guam is declared to be a condition of disaster or emergency by the Governor, or by the President of the United States.

4.004 Certification from Eligibility Lists

All original, initial and promotional appointments to positions shall be made through certifications from eligibility lists resulting from competitive examinations and for selections covered under the Merit Career Plan.

4.005 Order of Use and Limitation on the Establishment of Lists

The order listed below shall be followed in the use of the eligibility lists, and the General Manager shall be restricted to selection from the top five/10 found on these lists in the order of precedence herewith established:

A. Authority-wide

1. Priority Placement/Lay-off Reinstatement List
2. Promotional List

B. Government-wide or Open

1. Preferential/Priority Placement/Lay-off Reinstatement Lists
2. Re-employment List
3. Promotional List/Open Competitive List

4.100 RECRUITMENT

4.101 Announcement of Recruitment and Examination

- A. Whenever there is a need to establish a list of eligibles, the General Manager shall publish and disseminate announcements of recruitment and examination on an Authority-wide, Government-wide and/or Open competitive basis, and shall cause such announcements to be posted throughout the Authority, Government of Guam instrumentalities, departments

and agencies. Other methods of announcing examinations may be used at the discretion of the General Manager, so as to better disseminate information to the employees and the public.

1. Authority-wide competitive examinations shall be held to allow all interested and qualified permanent status employees occupying classified positions within the Authority the opportunity to compete for vacant positions.
 2. Government-wide or open competitive examinations may be held when, in the judgment of the General Manager, there are insufficient number of qualified applicants within the Authority for adequate competition and flexibility of selection. The General Manager shall determine the need for open competitive announcements.
- B. Open competitive examinations may be re-announced when the General Manager determines that there are less than five/10 individuals meeting the qualifications for the class. The General Manager may request for certification of eligibles regardless of the number of eligibles in the eligibility listing.

4.102 Maintenance of Distribution Lists

The Personnel Services Administrator, upon the approval of the General Manager, shall establish and maintain distribution lists of public and private agencies or groups, by occupation or other appropriate categories, to which appropriate examination announcements or other information regarding prospective examinations shall be sent for further dissemination to prospective applicants.

4.103 Content of Recruitment and Examination Announcements

Each recruitment and examination announcement for an original appointment or promotion shall contain the title of the class, applicable pay grade, selective certification when applicable, area of consideration, character of duties and responsibilities and examples thereof, closing date and place for filing applications, minimum qualifications for entry into the position, and other information deemed necessary by the General Manager. Appointments other than from an eligibility list, for example by transfer, demotion, or reinstatement shall

be bound by the minimum qualification requirements.

4.104 Minimum Period of Recruitment

- A. Job announcements shall be posted for at least 10 working days.
- B. The General Manager may post job announcements on a continuous basis. Notice of the final closing of such announcement shall be sent to the original distribution list at least one week prior to the final closing date for receipt of applications.
- C. The General Manager may extend the period for receipt of applications. Announcement of such extension shall be disseminated to the original distribution list for posting.

4.105 The Application Form

- A. The General Manager shall prescribe a form to be used by applicants, which shall require information covering experience, training, and other pertinent data, indicated as being necessary in the examination announcement. Applications shall be signed and the truth of all statements therein certified to by such signature.
- B. The General Manager may not make any pre-employment inquiry about a disability, or about the nature or severity of a disability on application forms, job interviews, or in background or reference checks.
- C. Medical information received on an employee as a result of an employment requirement shall be filed separate and apart from the employee's active personnel records.

4.106 Acceptance of Employment Applications

- A. Applications for competitive examinations shall be accepted only during the filing period specified in the examination announcement. All applications submitted shall be date stamped to indicate the date received by the Human Resources Division.

- B. Applications submitted by mail must be postmarked by midnight of the announced last day for filing applications in order to be accepted.
- C. Late applications for competitive examinations may be accepted if the examination has not been administered and an eligibility list established. This is provided that the late filer is a Government of Guam employee who can establish to the satisfaction of the General Manager that he was not aware of the job announcement and unable to file a job application due to factors beyond his control (i.e., official off-island training, on extended annual or sick leave, etc.).

4.107 Evaluation of Applications

- A. An eligibility list shall be established no later than one month after the closing date of the position announcement. Failure to establish an eligibility list within one month of the closing date will require that the position be re-announced with a new closing date and that all applications previously received shall be re-stamped and re-accepted to coincide with the new announcement period.
- B. The closing date of the announcement shall be the ending date to credit the job applicant's education, experience and training for the position applied for. For continuous job announcements, the ending date to credit the job applicant's education, experience and training shall be the date of application.

4.108 Rejection of Applicants

The General Manager shall not be required to accept applications or, after acceptance and evaluation, establish an applicant as eligible on an eligibility list or allow an applicant admission to an examination when any of the following conditions exists:

- A. Conviction of a crime within seven years from date of application, which bears a nexus to the position, applied for, unless otherwise required by statute.
- B. Refusal or failure to furnish documents required verifying any statements made in the application.

- C. Intentional false statements or deception or fraud in the application process.
- D. Failure to attest to the accuracy of information presented on the application.
- E. Failure to submit an application within the announcement period, with exception of Rules 4.106B and 4.106C.
- F. Evidence that the applicant has been removed from the position with the Authority, other Government departments or agencies, or otherwise for reasons which would render him unsatisfactory for the position in the Authority's services for the class for which he is applying.
- G. Failure to submit to a drug test for a position with the Authority or successfully complete the drug rehabilitation program.

When such finding is made, the General Manager may reject the application and notify the applicant of such action.

4.109 Notification of Rejection of Applicants

- A. A rejected applicant shall be notified promptly of such action and reasons for rejection within 10 workdays of the rejection.
- B. Whenever an application has been rejected prior to a schedule examination (assembled), notice thereof, with the reason or reasons for such rejection, shall be given ample time to permit the applicant to respond in writing, or to amend an incomplete or defective application at least three days before the date of the examination. If sufficient time is not available for this purpose, the applicant may be admitted to the examination with the condition that the applicant shall not be certified as eligible until all the established requirements for eligibility are met.

4.200 **EXAMINATIONS**

4.201 Scope and Character of Examinations

- A. Competitive examinations shall be held for original

appointments and promotions and shall be job-related in nature and designed to reveal the capacity and fitness of the applicant to satisfactorily perform the characteristic duties of the class or position for which the examination is held.

- B. Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of skill, knowledge, ability, intelligence or aptitude; medical examinations, appraisals of personal suitability; and any other matters that the General Manager deems appropriate.
- C. All examinations shall be either or both:
 - 1. Assembled, wherein the applicants assemble in a designated place at a specific time to take written, oral or performance tests pertinent to the position(s) sought; or
 - 2. Unassembled, wherein interested persons responding to an examination announcement, submit to designated places and by designated times, their records of education, training, experience and such other information as requested in the announcement be evaluated and rated by a qualified analyst or by a board of rating examiners.

4.202 Parts of Examination

- A. The parts of total examination may consist, in various combinations of such selection devices as work sample and performance tests, written tests, individual or group oral examinations, assessment center exams, medical examinations, rating of training and experience and background and reference inquiries. Examination parts will be appropriately weighed.
- B. An applicant for any examination must pass all parts of that examination in order to qualify for appointment to a position.

4.203 Education and Experience

If education and experience form a part of the total examination, the General Manager shall determine a procedure for the evaluation of the

education and experience qualifications of the various applicants. The formula used in appraisal shall give regard to recency and quality, as well as, quantity of experience and to the pertinency of the education. This procedure shall allow for the substitution of the education for experience, and experience for education within the limits stated in the class standards.

4.204 Development and Validation of Tests

Tests for each examination shall be developed and validated in compliance with EEO objectives and merit system principles, and in accordance with professionally approved validation strategies, such as, content, criterion-related or construct validation where it is technically feasible.

4.205 Admission to Compete in Assembled Examinations

Persons submitting applications during the period specified in the examination announcement shall be admitted to compete in the examination provided, it is clearly shown that requirement for admission is met. Where doubt exists as to whether or not the applicant meets the minimum requirements for admission to the examination, the General Manager may authorize conditional admission. Such action shall not be construed as entitling the applicant to certification or appointment until the General Manager has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

4.206 Conduct of Examinations

- A. Examinations shall be held at the time and place which is most practical and meets the need of the service, and shall be administered by an authorized representative designated by the General Manager.
- B. If an assembled examination is to be administered, qualified applicants shall be notified of the date, time and place of the examination. The General Manager shall not be responsible if a notice is lost or delayed in the mail, or sent to an applicant's former address through failure of the applicant to inform the Authority of a change of address.

- C. No applicant shall be entitled to take an examination at a date, time or place other than that stated in his notification, except as the General Manager may authorize.
- D. All applicants for examinations involving physical ability or performance tests may be required to sign a waiver of liability.
- E. All reasonable precautions shall be taken to protect the confidentiality of information about applicants.
- F. Applicants with disabilities shall be given reasonable accommodation in the administration of tests.

4.207 Assembled Examinations for Closed and Continuous Announcements

- A. For announcements having a specific closing date, and closed announcements, an examination shall not be administered until after the closing date and until such time all applications have been evaluated. Applicants applying under a closed announcement may take the required examination only once and only one eligibility list established.
- B. For continuous announcements, the following provisions shall prevail:
 - 1. No examination shall be administered until 10 workdays after the date of the announcement.
 - 2. Candidates who fail an examination may retake the same examination after 30 days have elapsed. Exception to this rule may apply when the General Manager has certified that there are less than five eligibles for each vacancy in a given class of position.
 - 3. An applicant who has passed all parts of an examination for a particular position and who requests to retake the examination for the purpose of upgrading his final earned rating, may retake the examination provided that 30 days have elapsed since his last examination, and provided the announcement has not been closed. The higher score shall be used to determine the final earned rating.

4. When a closing date is announced, a final eligibility list shall be established and no examinations shall be administered thereafter.

4.208 Ratings of Examinations

- A. Appropriate psychometrics and measurement techniques and procedures shall be used in evaluating the results of examinations, and in determining the minimum rating by which eligibility may be achieved, and the relative rank of candidates.
- B. The General Manager shall set the minimum ratings for each part of an examination. All candidates shall be required to obtain the set minimum passing score for each part of the examination in order to proceed to each successive test. In order to receive a final passing rating, the final earned rating of each applicant shall be determined by combining the earned rating of each part of the examination in accordance with the weights established for each part.

4.209 Notification of Examination Results

Each applicant who participates in an examination shall be given written notice, in person or by mail, of his examination results. The record of ratings, as well as, examination papers, shall be held as official records for the life of the resulting eligibility lists.

4.210 Inspection of Written Examination Papers

The General Manager shall, upon request of a candidate, authorize such candidate to inspect his own written examination papers, within 30 days of the date of examination and in the presence of a representative of the Personnel Division, except that when a candidate is scheduled to retake the same examination, inspection shall not be allowed more than five work days prior to the examination date. The privilege of inspection shall not be deemed to include authorization to copy examination papers, or to inspect or to copy examination instructions, questions, or answers.

4.211 Administrative Review of Examination Rating

An applicant may request administrative review of his rating assigned

in an examination by submitting to the General Manager, in writing, information to substantiate his request within 10 workdays following the date of his examination notice was postmarked. Certification of eligibles is authorized only after the administrative review period has elapsed. Unless the General Manager determines that a delay in services will hamper the operations of a division, certification of eligibles is authorized only after the administrative review period has elapsed.

4.212 Changes in Rating

- A. Changes in rating may be made as a result of a discovery of errors in the rating or scoring process, or as a result of an administrative review wherein the facts warrant a change.
- B. Rating errors may be corrected throughout the life of the eligibility list.
- C. Any such changes shall be reported to the applicants affected.
- D. Changes in rating that generally will not affect a certification already issued, or invalidate an appointment already made from the eligibility list.

4.213 Duration of Examination Ratings

- A. Examination ratings are good only for the life of the eligibility list and shall not be carried over to a new eligibility list for the same position after a period of one year.
- B. Exceptions to this rule shall also apply when minimum qualifications are amended or when written, oral or performance examinations are likewise amended. In this event, the existing eligibility list will be invalidated and candidates must take and pass any and all new examinations, both assembled and unassembled, in order to remain eligible for certification.

4.214 Security of Tests

Examination questions shall, at all times, be maintained under conditions affording maximum security. All precautions to safeguard the confidential nature of examination materials shall be taken. No

information concerning the nature of the tests shall be divulged to any person prior to the examination. Proved disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.

4.215 Protection of Confidentiality of Materials

- A. Because of the continuing use of the examination materials prepared by the Human Resources Division, and where exposure would jeopardize the confidentiality of the examination questions, the review of such test materials shall not be permitted.
- B. All examination materials relating to a particular applicant, or applicants including, but not limited to reports of character and material regarding personal suitability of the applicant, shall be considered confidential material. Such examination material shall be maintained for a period of one year from date the eligibility list was established.

4.216 Special Provisions

Special arrangement for examinations on a non-competitive basis, such as, upon reallocation of position, temporary appointments and for employment of personnel to entry level labor/custodial and waterfront positions, may be made by the General Manager subject to the limitations which follows:

A. Non-competitive Examinations

The General Manager may authorize non-competitive examinations under the following conditions:

1. No more than one person applies who meets the minimum qualification requirements.
2. Examination given is to test the fitness of an employee who has a permanent appointment and who seeks transfer to a position in a class in the same pay grade, but which requires a skill not required in the present classification. However, the provisions of the Merit Career Plan shall apply to a transfer to a position with known

promotion potential (KKP).

3. The examination is to test an employee who has a permanent appointment in a position, which has been reallocated to a class requiring a new skill.
4. When a permanent position is to be filled by a temporary appointment.
5. To facilitate the employment of qualified persons with disabilities consistent with provisions of law and these rules.
6. Examination given is to test the fitness of a permanent employee who has been previously selected under an announcement for a position with Known Promotional Potential (KKP) and who is promoted to a higher grade position.

B. Labor/Custodial and Waterfront Positions

Examinations of applicants for entry level labor/custodial and waterfront positions shall be governed by the following regulations:

1. Each applicant for these classes shall, prior to appointment, qualify by examination, which shall consist of completing an application form. The General Manager shall certify the names of the 10 top applicants in order of date receipt of application.
2. Notwithstanding the limitation of this rule, the General Manager may at any time prescribe such additional tests for applicants in these classes, as he shall deem practical and feasible to assure equitable consideration of all applicants.

C. Appointment of Qualified Individuals with Disabilities

1. The Authority shall employ at least two percent of the work force with severe disabilities and certified by the Division of Vocational Rehabilitation of the Department of

Integrated Services for Individual with Disabilities. Such employment shall be on a temporary limited-term appointment not to exceed a total of six months regardless of whether the position being filled is budgeted as temporary or permanent.

2. All such individuals with disabilities shall possess the qualifications for the position to which appointed. Eligibility lists shall be developed for the various positions for which individuals with disabilities are certified.
3. Nothing contained in this section shall be construed to deter or prevent the General Manager from employing:
 - a. Individuals with disabilities when available and eligible for permanent employment.
 - b. Individuals with disabilities employed pursuant to the provisions of 4.216.C.2, if such persons qualify for permanent employment before the termination of their temporary appointment.
 - c. If such individual is appointed pursuant to this section to a permanent position during or immediately after the six month period, such six months or portion thereof shall be credited toward such employee's probationary period.
 - d. Appointment of individuals with disabilities to permanent positions must be consistent with the merit system requirements. In this exception, if the immediate supervisor determines satisfactory performance either prior to, or after the expiration of the six months appointment, the position occupied by the person with a disability(ies) shall be converted to permanent employment.

4.300 PREFERENCE

4.301 Preference Credit for Individuals with Disabilities

Residents of Guam who have physically or mentally disabilities, but

are physically or mentally able to perform efficiently and safely the duties of the position applied for, as certified by the Director of Public Health and Social Services, shall receive a preferential credit of five points which shall be added to their passing examination score for initial appointment only to a position. The preference credit does not apply to subsequent applications for employment in the Government after separation.

4.302 Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol

Veterans of the Armed Forces of the United States, or former members of the Guam Police Combat Patrol, as certified by the Chief of Police, shall receive a preferential credit of five points which shall be added to their passing examination score upon initial employment only. Such veterans, or former members who are disabled as a result of their services in the Armed Forces or Combat Patrol, shall receive a preferential credit of 10 points which shall be added to their passing examination scores upon initial employment only. The preference credit does not apply to subsequent applications for employment in the Government after separation.

4.303 Proof of Eligibility for Veteran's Preference Credit

Persons claiming veteran's status must submit their DD Form 214, Armed Forces of the United States Report of Transfer or Discharge. A person must have completed at least 180 consecutive days of service in the Armed Forces of the United States and must have received other than a dishonorable discharge from such service to be eligible for veteran's preference.

4.304 Offer of Employment for Preference Credit Recipient

When two applicants are equally qualified for the position to be filled and one is a recipient, pursuant to Rule 4.301 or 4.302, while the other is not, the former shall be given the first offer of position.

4.305 Preferential Hiring of a Recipient of an Award or Scholarship

Residents of Guam who have completed their post-secondary education assisted by the award of educational scholarships or loans from the Government of Guam, shall be given preference to jobs within

the Government of Guam instrumentalities, departments and agencies for which they have applied and are qualified. Such preference shall be applicable only in selection for initial employment. The preference does not apply to subsequent applications for employment after separation or after an initial job offer is declined.

4.400 CERTIFICATION

4.401 Eligibility Lists

Employees shall be selected from among the eligibles on appropriate eligibility lists, established and maintained by the General Manager, except those employees who are demoted, transferred, reinstated or re-employed. Within the limitations found elsewhere in these rules, qualified applicants shall be placed on eligibility lists as a result of examinations. When more than one competitive examination, or area of consideration is announced simultaneously for a particular class, an appropriate eligibility list shall be established for each competitive or area of consideration for that class.

4.402 Establishment of Eligibility Lists

Names of candidates shall be placed on the eligibility lists in rank order of qualifying scores after appropriate examination. This list shall be designated as an "Eligibility List" for that class of position and area of consideration. After the General Manager has approved the eligibility list, it shall then be considered "established".

4.403 Ranking of Eligibles

After each examination, the General Manager shall prepare a list of persons with passing scores. The names of such persons shall be placed on eligibility lists in order of their final earned rating, starting with the highest. Prior eligibility lists resulting from a continuous examination announcement shall be merged by ranking the names of all successful applicants in order of their final earned rating.

4.404 Determination of Rank in Event of Tie

Final earned ratings shall be calculated in two decimal places and ranked from highest to lowest. When, upon certification of eligibles in accordance with Rule 4.410 a tie score occurs, such tied scores shall

not be broken and all such eligibles shall be certified as being the fifth/10th eligible.

4.405 Duration of the Eligibility List

An eligible on a Authority-wide, Government-wide, or open competitive eligibility list, shall have eligibility for employment consideration for one year from the establishment date of the eligibility list. Once a list is established, its life should be viable for one year. Whenever a position is re-announced at the discretion of the General Manager, and a new eligible is established, the names of eligibles on a former list, which has yet to expire, shall be combined with those on a new list according to the final score.

4.406 Authority-wide Competitive Eligibility Lists

Authority-wide competitive lists shall be established consistent with Rules 4.402 and 4.403 and selections shall be made in accordance with the Merit Career Plan.

4.407 Government-Wide Competitive Eligibility Lists

Government-wide competitive lists shall be established consistent with Rules 4.402 and 4.403 and selections shall be made in accordance with the Merit Career Plan.

4.408 Open Competitive Eligibility Lists

Open competitive eligibility lists shall be established consistent with Rules 4.402 and 4.403.

4.409 Certification of Eligibles

Certification of eligibles shall consist of five (10 for entry level labor/custodial or waterfront positions) or such fewer eligibles as may be available for the class. Eligibles shall be certified in the order that they appear on the eligible list provided that:

- A. eligibles with reemployment rights shall be accorded priority certification.
- B. when the fifth/10th eligible to be certified is one of two or more

eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five/10 persons are thereby certified to fill a vacancy.

- C. for unskilled entry level labor and custodial or waterfront positions, the top 10 eligibles on the eligibility list shall be certified.
- D. in the event one or more eligibles decline or fail to respond to an employment interview, the Division Manager shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.412, Supplemental Certification.)
- E. if the Division Manager rejects one or more of the eligibles certified, he shall submit in writing to the General Manager the reasons for rejection. If the rejections are approved by the General Manager, the Division Manager shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.412, Supplemental Certification.)
- F. a certification of eligibles shall be effective for no more than 30 days after the date of certification, unless extended by the General Manager.

4.410 Certification of Eligibles from a Multiple List

After eligibility lists are established for a particular job announcement with multiple competitive examinations or areas of consideration, the General Manager may request to certify in one of two ways:

- A. Merge the lists and certify according to Rules 4.410 and 4.412; or
- B. Certify, in accordance with Rules 4.410 and 4.412 from each list in the following order: Authority-wide, Government-wide, and Open. Each list must be exhausted in accordance with these rules before certification from the next list will be authorized.

Merging Open competitive lists with Authority-wide or Government-wide competitive lists is prohibited.

4.411 Certification of Eligibles for More than One Vacancy

- A. For more than one vacancy, the General Manager shall certify an additional eligible for each additional vacancy.
- B. When the last eligible to be referred is one of two, or more eligibles who have identical examination scores such two or more eligibles shall also be certified.
- C. For example, when certification is made for two vacancies, certification of eligibles will appear as follows:

First Ranked Eligible
Second Ranked Eligible
Third Ranked Eligible
Fourth Ranked Eligible
Fifth Ranked Eligible
Sixth Ranked Eligible

The General Manager shall make his selection according to the following:

1. The General Manager may select two persons from the six certified to fill two vacancies.
2. Should the General Manager decide to fill only one of two vacancies is to be filled, he shall be restricted to select from the first five eligibles on the certification and may not select the sixth ranked eligible.
3. Should an additional vacancy exist and certification was not made for such vacancy, the General Manager may not select from among the six eligibles to fill the third vacancy. He must request an additional eligible and then make the selection for the third vacancy from among the seven certified eligibles.
4. If the General Manager does not wish to select any of the eligibles certified, he must document the reasons for non-selection of each eligible, before a new certification is authorized.

4.412 Supplemental Certification

The Personnel Services Administrator may submit a supplemental certification of eligibles to provide the General Manager with a full certification.

- A. The supplemental certification may be used only upon failure to appear for an interview, refusal of appointment by eligibles, or the rejection of eligibles by the General Manager for cause.
- B. The additional eligibles to be certified shall be of such number that will provide the General Manager with a full certification.
- C. The General Manager shall contact eligibles in descending order to ascertain their interest in the vacant position. If the last eligible contacted is one of two or more eligibles with identical examination scores, such two or more eligibles shall also be contacted.

4.413 Selective Certification

- A. Upon approval of the General Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, skills and abilities pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining qualifications on a selective factor basis, applicants must have at least six months of work experience in the particular selective knowledge, skill or ability or the equivalent in education.
- B. Selective certification may also be made which specifies a Bonafide Occupational Qualification Requirement (BFOQ) when justified. For example, certification based on sex is a BFOQ when duties and responsibilities involve certain institutional or custodial services, which can be properly performed only by a member of the same sex as the recipient of the services.
- C. All selective certifications must be indicated on the proper job announcement and be job-related.

4.414 Interview of Eligibles and Notification of Selection / Non-Selection

- A. The General Manager shall establish procedures for interviewing certified eligibles for selection.
- B. Within 30 calendar days from the date a selection is made, the General Manager shall notify, in writing, all eligibles certified as to whether they were selected or not.

4.415 Suspension and Removal of Eligible from Competitive List of Eligibles; Restoration to List

- A. The General Manager may suspend or remove an eligible from an Eligibility List for any of the following reasons:
 - 1. Refusal to two offers of permanent employment in the class of position for which eligibility has been established.
 - 2. Failure to reply within 15 calendar days to a written inquiry relative to availability for employment.
 - 3. Appointment to a permanent position for the class.
 - 4. Failure to report after two days after notice, or failure to report for duty within the prescribed time.
 - 5. In the case of Authority-wide or Government-wide lists, termination of service with the Government.
 - 6. When further investigation of eligible's suitability needs to be conducted.
 - 7. Withdrawal by the eligible.
 - 8. Findings of deception and fraud in the employment process.
 - 9. Conviction of a crime, which bears a nexus to the position, applied for.
 - 10. Advocates, aids or belongs to any party, organization or

association which advocates the overthrow of the Government of Guam or United States.

11. Refuses or ignores the requirement to take a drug test without cause or the verified drug test result is found to be positive and the applicant is not participating in a rehabilitation treatment program.

In the event, the eligible has already received an appointment, the General Manager shall take appropriate action to ensure the termination of the employee.

B. The following eligibles, upon their request, may have their names restored to the list of eligibles if the list is still active:

1. A probational employee who is separated without cause.
2. An eligible who had been removed from the list under A.7. above, and who then makes himself available for employment.
3. An eligible who received an appointment as a result of this list, then resigned in good standing and wishes to be placed on the list for future consideration. This provision applies only to open competitive eligibility lists.
4. An eligible who had been removed from the list as a result of a positive drug test, and who then submits documentation that he has successfully completed a rehabilitation program.

4.416 Notification of Disqualification of Eligibles

An eligible who is disqualified pursuant to Rule 4.415 shall be notified in writing of such action and the reasons of disqualification within 10 workdays of the action.

4.417 Cancellation of Competitive Eligibility Lists

The General Manager may cancel an eligibility list for any of the following reasons:

- A. Changes in the minimum qualifications or classification standards of a class of position.
- B. Abolishment of the class for which the list of eligibles was established.
- C. All eligibles on the list are unavailable for employment.

4.500 NON-COMPETITIVE ACTIONS

4.501 Transfer

A. Transfer Defined

A transfer is defined as a change from one position to another position of the same class, or a change to a related position in another class, which carries the same pay grade and substantially the same qualification requirements.

B. Involuntary Transfer

No employee may be involuntarily transferred to a position, which is unrelated with respect to duties and responsibilities to the position occupied by the employee before the transfer.

C. Intra-departmental and Inter-departmental

Upon the approval of the General Manager, employees may transfer within the Authority or from another Government of Guam department or agency when the following conditions are met:

1. the employee meets the minimum qualification requirements for the position which he seeks movement, including any assembled examination requirements.
2. movement is within the same class of position or from one class of position to another class of position having comparable duties and responsibilities and qualification requirements.
3. any such transfer shall require the clearance of the

General Manager and the consent of the employee. The employee shall give the releasing division reasonable notice of the transfer. Prior approval of the transfer is not required by the releasing division or department/agency. The releasing division or department/agency cannot require the employee to resign.

4. any employee affected by this section shall not have affected adversely his government service, retirement credits, sick or annual leave and other fringe benefits normally granted to an employee of the Government.
5. The General Manager may require a transferred employee to serve a probationary period.

D. Inter-Government

The transfer of an employee of any Federal, State or other local government to the Authority may be made when the following conditions are met:

1. the position requires highly developed skills and technical abilities as determined by the General Manager.
2. the employee meets the minimum qualification requirements for the position, including any assembled examination requirements.

4.502 Reemployment

A permanent classified employee who separated through resignation or retirement while in good standing may be eligible for reemployment, without competition to the same or comparable position within the Authority within four years from the date of separation, except that law enforcement personnel who have retired and are granted honorary promotions shall have reemployment rights to their former permanent positions, prior to the honorary promotion. For reemployment, the General Manager must determine that the person has met the current minimum qualification requirements for the class to which reemployment is requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described

in these rules. Former employees covered by this rule shall not be affected by the Merit Career Plan requirements.

4.503 Reinstatement Immediately After Active Military Service

To be entitled to reinstatement rights at the Authority, a veteran must meet the following requirements:

- A. Leave a classified position at the Authority for the purpose of entering the Armed Forces, voluntarily or involuntarily.
- B. Have completed his original probationary period.
- C. Serve for not more than four years plus any involuntary service thereafter, plus a one year additional voluntary extension of active duty, if this is at the request and for the convenience of the Federal Government.
- D. Satisfactorily completed the period of active duty and has a certificate of discharge under honorable conditions.
- E. Be qualified to perform the duties of his position. If the employee is disabled during military service and cannot perform the duties of his former position, the employee may be entitled to the nearest comparable job he is qualified to perform.
- F. Prior to enlistment in the Armed Forces, the employee must have submitted a military leave without pay request to the General Manager for approval accompanied with a copy of the military orders or other appropriate documents authorizing such duty.
- G. Make timely application for reinstatement within 90 days after discharge from military service.

Upon meeting the foregoing requirements, the veteran employee shall be entitled to reinstatement to his previous position or its equivalent, in the step within his former pay, to which such employee would attained before military service. In the event, the veteran employee's former position is reallocated to a higher or lower pay grade, appropriate pay adjustments shall be made. An employee on military leave without pay forfeits his reinstatement rights if he re-enlists or voluntarily extends the original tour of active duty, except as

authorized in C above.

4.504 Voluntary Demotions

A voluntary demotion may be made when the following conditions are met:

- A. The employee meets the minimum qualification requirements of the position to which he seeks movement, including any assembled examination requirements.
- B. The employee to be demoted is a permanent employee and the movement is from a position in which he last held permanent appointment.
- C. Such demotion shall require the prior approval of the General Manager with the consent of the employee.

4.505 Developmental Promotions under Known Promotional Potential (KPP) Conditions

- A. Promotions without competition may be made where at an earlier date, an employee was selected under an announcement (competitive examination) for a position with known promotion potential (KPP) and the employee is now to be promoted to the higher level position, provided the employee:
 - 1. has completed the probationary period in the position he currently holds;
 - 2. meets the minimum qualifications of the higher grade position including any assembled examination requirements; and
 - 3. meets management's developmental criteria guidelines for advancement to the higher grade position.
- B. The types of KPP are:
 - 1. KPP within a class or related class series not to exceed the highest non-supervisory level position within the series.

2. KPP within a class series up to the supervisory position within the series (first line), provided the KPP position is no more than two levels below the supervisory position.
3. KPP within an organizational program for supervisory positions not to include the managerial position ultimately responsible for the operational or conceptual integration, or coordination of activities within the organizational program.

(NOTE: Organizational charts shall be utilized to determine the position for KPP.)

- C. To be eligible for promotion without competition when the position is upgraded under these conditions, an employee must continue to perform the same basic functions; and his former position must be absorbed in the new one. When an additional position is created, or when the new position is not a clear successor to the former position, non-competitive promotion is not authorized and the provisions of the Merit Career Plan must be complied with.

4.506 Detail Assignments

- A. A detail is a temporary assignment to meet management needs of an employee to another position or to a group of specific duties and responsibilities for a specified period with the employee returning to his regular duties at the end of the detail. A position is not filled by a detail as the employee continues to be the incumbent of the position from which he is detailed, and his salary during the detail does not change. For details to unbudgeted positions, the division head must provide to the General Manager a position description and justification for such detail prior to the detail appointment.
- B. Details shall be made only for meeting temporary needs of the Authority's programs, such as:
 1. Emergency details - to meet emergencies occasioned by abnormal workload, change in organization, or unanticipated absences; or

2. Pending description and formal classification of a new position; or
 3. To replace an incumbent who is undergoing training.
- C. All details commencing on the first calendar day must be documented and submitted to the General Manager prior to the effective date of the detail for approval. No personnel action shall be transacted unless proper documentation is provided.
 - D. An employee shall not be detailed while serving a probationary period.
 - E. No employee shall be temporarily assigned or detailed to a position nor, shall the employee assume the duties and responsibilities of a position other than the one to which he has been appointed for a period in excess of 120 days within a calendar year, unless the General Manager obtains an exemption upon written application to the Commission. Such exemption shall not extend beyond the additional 120 days within that calendar year.
 - F. An employee in the unclassified position, or an individual employed under a contract will not be detailed to a position in the classified service.
 - G. Nothing in this regulation is intended to infringe on management's prerogatives in day-to-day operational activities which may occasionally require that an employee be assigned, for brief periods immediately on the first calendar day.
 - H. Employees serving on a detail on the first calendar day in a position having a higher pay grade than his regular position, shall receive a payment differential in accordance with Rule 6.009, provided the detail appointment is consistent with classification principles as determined by the General Manager.
 - I. Employees serving a detail on the first calendar day in a position having a lower pay grade shall not have their pay adjusted to the lower pay.
 - J. An employee may not be detailed beyond 120 calendar days to

any classified position, unless the employee has met all of the qualification requirements of the position.

4.507 Acting Capacity as General Manager

- A. The Board, at its discretion, may appoint a classified or unclassified employee to serve temporarily in an acting capacity as General Manager not to exceed one year.
- B. An employee so appointed has the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the one year period is exhausted. The time limitation of this section may not be circumvented by an interruption in the appointment to an acting capacity or the position the employee held before the appointment for a period of less than 30 days.
- C. Such employee shall receive a payment differential according to Rule 6.009.

4.600 **TYPES OF APPOINTMENTS**

4.601 Permanent Appointment

A permanent appointment is granted to an employee after successfully completing a probationary period in the permanent position.

4.602 Probationary Appointment

A. Probationary Period

The probationary period shall be utilized as fully as possible to determine the fitness of the employee for the position.

B. Original Probationary Period

An original probationary period shall be required when an individual who has not obtained permanent status is appointed a permanent position. This also applies to former employees who have not been employed in the Government of Guam service after four years of separation in good standing.

C. Duration of Probationary Period

1. Original probationary periods will be for six months, except that service as a result of the six months employment program provided for placement of persons with severe disabilities may be credited consistent with statute. Employees holding classified positions under temporary employment, who are subsequently appointed to the same position under a permanent appointment, shall be credited for time served towards their probationary period under temporary appointment.
2. In entry level trainee positions, the probationary period may be established at not more than 12 months, upon the request of the Division Manager and approval of the General Manager.
3. Upon the request of the Division Manager, the General Manager may extend an original probationary period not to exceed a total of 12 months. The General Manager prior to the expiration of the probationary period shall give written notice of extension to the employee.

D. Discontinuance of a Probationary Appointment

If the employee fails to render satisfactory service during the original probationary period, the General Manager may dismiss him provided he has served a probationary period of at least three months. The Division Manager shall submit a recommendation for dismissal, together with the employee's performance evaluation report, to the General Manager for his approval. The dismissal notice shall indicate the effective date of the action. Failure by the General Manager to submit a probationary letter to the employee prior to the expiration of the established end date of the probationary period does not grant him permanent status.

Employees dismissed while completing an original probationary period may appeal the dismissal only if the employee alleges that the dismissal was discriminatory based on sex, race, color, creed, religion, age, marital status, political affiliation, disability, or national origin. Submission of such appeals shall be in

accordance with the EEO Discrimination Complaint Procedures adopted by Commission.

4.603 Temporary Appointment

A. Limited-Term Appointments

1. Limited-term appointments may be made to fill temporary vacancies in permanent positions, where there are no eligibles or an insufficient number of eligibles for that particular position.
2. Where limited-term appointments are proper, the appointments shall not be made until the General Manager certifies the candidate has qualified for the position.
3. Limited-term appointments are for a specified period not to exceed one year.
4. Limited-term appointments may be made without competition, except that any person appointed on a limited-term basis must meet all qualification requirements including any assembled examinations.
5. Limited-term appointments are unclassified appointments and may be terminated at any time prior to the expiration of one year.
6. Employees appointed on a limited-term basis shall be given the usual employee benefits.
7. Limited-term employees do not serve a probationary period.

B. 120-Day Appointments

Temporary appointments shall be consistent with the provisions of GCA, Title 4, Rules 4102(a)(6) and 4103(e) as follows:

1. A person may not be temporarily employed in a non-professional capacity for more than 120 work days or

960 hours in any calendar year.

2. A person may not be temporarily employed in a professional capacity for more than 120 work days or 960 hours except, upon a contract in writing and a determination in writing by the General Manager that such employment is critical to either the public health, safety or welfare of the community. (A person is employed as a professional if the person's job description in the Dictionary of Occupational Titles published by the U.S. Department of Labor, has as its first digit zero or one. Any person whose job description does not have as its first digit zero or one shall be deemed to be a non-professional employee.)
3. The following provisions shall apply to appointments made consistent with Sub-rules 1 and 2 above:
 - a. A classified employee who fills a temporary classified or unclassified position has classified employment status absent other controlling legislation.
 - b. A newly hired employee who fills a temporary classified or unclassified position has unclassified employment status.
 - c. Such temporary appointments shall be made without competition, except that any person appointed on a temporary basis must meet the minimum qualification requirements and satisfy all examination requirements for the position as determined by the General Manager prior to appointment.
 - d. A person appointed on a temporary basis shall not perform the duties and responsibilities of a position other than that to which he was appointed.

4.604 Contracts for Personnel Services

- A. Contracts shall not be used as a substitute for merit system

employment. The Authority will not contract for personnel services, which normally are performed by employees under the merit system, unless every effort has been exhausted to recruit on-island. Such effort must be documented to prove there was lack of qualified individual on-island.

- B. Contracts for personnel services may be used only when the use of a contract is in accordance with all legal provisions, including the merit system, laws, and rules.
- C. All contracts shall, after approval by the Board, the Commission, and Attorney General, be submitted to the Governor for his signature. All contracts of whatever nature shall be executed upon the approval of the Governor.
- D. Factors to be considered which could provide an adequate justification for using contracts with individuals for services include:
 - 1. emergency short-term (less than two months) normally exempt from competitive appointment methods;
 - 2. part-time professional work;
 - 3. inability of the Authority's merit personnel system to provide qualified employees;
 - 4. contract for expert consultation services not available in the Authority, when full-time employment is not needed or practical, or when the need is intermittent or for a short period of time. Such an expert might provide views or recommendations, but would not perform or supervise the performance of any of the Authority's functions;
 - 5. part-time services of a medical, dental, or other professional specialists; and
 - 6. contract with an individual to produce a product such as an individual research paper.

4.605 Vacation Employment for Students

The General Manager may employ during the vacation period between school years, at a rate not exceeding the minimum wage specified any applicable Federal or Guam law, students of the various public or private schools in Guam who are at least 16 years of age, provided that such employment may not exceed eight hours in one day and five days in one week and that such employment may not be of a hazardous nature or in any way injurious to, or endangering the student. Students employed under the authority under this section shall not be eligible for retirement, sick, or annual leave benefits.

CHAPTER 5

POSITION CLASSIFICATION SYSTEM AND COMPENSATION PLAN

STATEMENT OF POLICY

The purpose of this chapter is to develop and maintain a system for the objective, consistent and timely classification of all classified positions and for the reasonable and consistent assignment of classes of positions to pay grades.

Compensation of position classes shall be based on Know-How, Problem Solving, and Accountability. Where not otherwise specified by laws, pay relationships shall take into consideration prevailing wage in the primary area of recruitment for the same or related classes of positions.

5.000 POSITION CLASSIFICATION SYSTEM

5.001 The Official Classification Plan

Title 4, Chapter 6 of the GCA established the "Uniform Position Classification and Salary Administration Act of 1991".

5.002 Preparation and Publication of Classification Standards

Classification standards established by the Commission placed positions in their proper classes and pay grades to:

- A. define the various classes of positions that exist in the classified service in terms of duties, responsibilities and qualification requirements. Standards may be created, amended or abolished;
- B. establish the official class titles; and
- C. set forth the pay grades.

5.003 Delegation of Classification Authority and Responsibility

The General Manager, as delegated by the Commission, is authorized

to classify individual positions under its jurisdiction, subject to

- A. existing policies and procedures;
- B. class standards published by the Commission;
- C. post-audit by the Commission; and
- D. classification appeal by the employee.

The General Manager may review published standards and submit amendments to the standards for approval by the Commission.

5.004 Classification Maintenance

- A. The Commission may review positions in the Authority to determine whether positions are allocated to classes and grades in conformance with, or consistent with the uniform and unified system of position classification and compensation.
- B. Positions shall be placed in its appropriate class and grade, provided that if a position is downgraded, the position title and pay grade shall not be applicable to an incumbent until the expiration of two years from the date of downgrade. The General Manager shall take action in accordance with such determination.
- C. Whenever the Commission finds that the positions are not placed in classes and grades in conformance with the uniform and unified system, it may prescribe, revoke or suspend in whole, or in part the classification authority of the General Manager. Further, the Commission may require its prior approval be secured before an action placing a position in a class and pay grade becomes effective for payroll and other purposes. The Commission may at any time restore such authority to the extent that it is satisfied that subsequent actions placing positions in classes and pay grades will be taken in conformance with the Classification Plan.

5.005 Class Standards

The class standards shall be considered in allocating positions and

shall be applied as follows:

- A. Class standards are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration of duties, qualification requirements or other attributes shall not be regarded as excluding others not mentioned which are of similar nature.
- B. In determining the class to which any position shall be allocated, the standards for each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, minimum qualification requirements, and relationships to other classes consistent with statutory provisions.
- C. A class standard shall be construed as general description of kinds of work characteristic of positions that are properly allocated to that class, and not as prescribing what the duties or responsibilities of any position shall be; nor as limiting or modifying the authority which the General Manager has to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities; to assign duties or delegate responsibilities to employees; or direct and control their work.
- D. The fact that all of the actual tasks performed by the incumbent of a position do not appear in the standards of a class to which the position has been allocated, shall not be taken to mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to the other parts of the specification be construed as determining that a position should be allocated to the class.
- E. The statement of minimum qualification is to be construed as an expression of the minimum knowledge, abilities and skills, and experience and training which would be required of any appointee to a position in the class as partial evidence of his ability to perform the work satisfactorily.
- F. Qualification requirements in the standard for any class, as interpreted herein, shall constitute the basis for other tests to be included in examinations for the class, and for the evaluation of qualifications of applicants.

5.006 Title of Positions

The assigned class title shall be the official title for the purpose of personnel actions, and shall be used on payroll, budget, and official records and reports. This requirement, however, shall not prevent the use of organizational or other titles for internal administration, public convenience, law enforcement, or similar purposes.

5.007 Position Description

- A. The Authority must prepare a written description of duties and responsibilities of each budgeted position on a form prescribed by the Commission. A group of like positions may be covered by a single description. The employee, supervisor and/or position classifier may prepare the description. However, the major responsibility to insure accurate descriptions is on the supervisor.
- B. The supervisor must certify as to the accuracy of the duties assigned and such certification should be authenticated by the Division Manager and the General Manager. The position classifier must certify as to the proper classification of the position. Copies of the position description must be filed with the Commission, the Authority's Human Resources Division and the respective division concerned.
- C. The position description must be amended whenever significant changes occur that would affect the recruitment and classification of a position, and must be promptly reported to the General Manager so that a review of the position can be made to determine the proper classification of the position.

5.008 Authority Responsibilities

- A. The Authority shall insure that the duties and responsibilities assigned to each of its positions are accurately reflected in an official position description. Amended descriptions should be submitted on a timely basis if significant changes in the duties and responsibilities of a position are made.
- B. The Authority shall not use the classification process to evade

the principles of the merit system and effect personnel changes for which other personnel processes exist.

5.009 Periodic Review of Descriptions and Classifications

In addition to the day-to-day work of describing and classifying new or changed positions to reflect current duties assigned and reported by division managers, supervisors, or employees, the General Manager must review, at intervals not exceeding two years, all positions of the classified service within the Authority to insure that the official position descriptions accurately reflect the work being performed and that the positions are properly classified, and shall take appropriate action as necessary.

5.010 Determination of Proper Allocation for Newly Budgeted or Vacant Positions

When a new position is to be established/budgeted or vacant position is to be filled, the Division Manager shall submit a position description to the General Manager in order that a determination of proper classification may be made. The General Manager will submit the position description to the Personnel Services Administrator, who will recommend an allocation. After the General Manager approves the allocation, he shall notify the Division Manager affected, in writing, of the approved allocation. No position may be filled until the General Manager certifies that the position is properly classified. Copies of all classification reviews shall be filed with the Commission for post-audit purposes.

5.011 Reclassification/Reallocation of Positions

- A. The Personnel Services Administrator may, upon his own initiative, or upon the written request of a permanent employee, the Division Manager, or General Manager, review the duties of any position to determine if it is properly classified; and shall take appropriate action as necessary, in accordance with the Commission's regulations, policies and procedures.

In making a request for the review of a position, the employee, Division Manager or General Manager shall set forth the changes that have occurred in the particular position since the

last review or other factors which in his opinion warrant reclassification provided, that such changes in duties and responsibilities have been acquired or performed for at least three months and are not temporary in nature.

- B. The Personnel Services Administrator shall, after a thorough review of position, notify the General Manager and employee affected of the classification study result within 20 work days from the completion of the audit. A copy of the study, documented in a form prescribed by the Commission, and the personnel action shall be filed with the Commission for post-audit purposes.

5.012 Effective Date of Reclassification of Positions

- A. When a position is reclassified to a class of the same or higher pay grade, the effective date of such reclassification shall not be prior to the date of the General Manager's approval.
- B. When a position is reclassified to a class of a lower pay grade, the effective date of such reclassification shall not be applicable to an incumbent until the expiration of two years from the date of downgrade.

5.013 Status of Incumbents when Positions Are Reallocated

- A. When a position is reallocated as a result of gradual accretion of duties and responsibilities, the employee in the position shall be entitled to serve in that class provided he continues to perform the same basic functions and meets the minimum qualifications for the class to which the position is reallocated. Reallocation within a series of positions that is non-supervisory shall be without competition.
- B. When a position is reallocated as a result of planned management action, the requirements of the Merit Career Plan must be complied with. The employee holding a permanent position shall retain the position currently held should the requirements of the Merit Career Plan result in his non-selection.
- C. If ineligible for reallocation to the position as reallocated, the

employee may be transferred, promoted, or demoted to an appropriate class by appropriate action in accordance with the provisions of these rules.

- D. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted. This salary adjustment is subsequent to Rule 5.012.B.

5.014 Administrative Review

- A. An administrative review may be requested by an employee of the position, his designated representative acting on his behalf or, the Division Manager in which the position is located under.
- B. All requests for administrative review must be in writing, shall contain the specific reason(s) for disagreement with the classification action taken by the General Manager, and shall state the action requested and the reasons the action is deemed more appropriate.
- C. An administrative review consists of a reevaluation of a classification action and is, therefore confined to the duties and responsibilities assigned to the position at the time the description was prepared, and which were the basis for the classification action. Subsequent changes in duties and responsibilities cannot be the basis for a request for administrative review, but must be reported on a new description and submitted for another classification action.
- D. The Division Manager shall notify the affected employees of the original notice of classification action immediately upon receipt from the General Manager. Requests for administrative review shall be filed with the General Manager within 20 calendar days of the date of notice of classification action was received by the employee.
- E. The General Manager shall take such action as he deems appropriate, which may include rescinding the earlier action and taking a different classification action. The affected employee and Division Manager shall be notified of the action taken.

- F. Any permanent employee whose position is reviewed may appeal to the Commission. The employee may file a written appeal with the Commission within 15 calendar days upon receipt of the General Manager's decision.

5.015 Creation of New Positions and Classes of Positions

- A. Pursuant to Section 6303, Title 4, GCA, new positions or classes of positions may be created by the Governor when necessary for the efficient performance of the duties and functions of the Authority. The position description of the created positions shall be submitted to Commission within 30 calendar days after creation. The position shall be terminated unless approved by the Commission within 90 days after submission. No newly created position shall be filled in the absence of appropriations to pay the salary of the proposed position. This provision shall not apply to any and all positions specifically required by law to be confirmed by the Guam Legislature.
- B. Any request for creation of a new class or classes of positions must be submitted in accordance with the Commission's policies and procedures.

5.100 **COMPENSATION PLAN**

5.101 Assignment of Classes to Pay Grades

Pay grades for all classes of positions are assigned by the Commission.

5.102 Evaluation of Classes for Assignment to Pay Grades

- A. Classes shall be evaluated on the basis of job know-how, problem solving and accountability consistent with the Hay Methodology of Position Classification and Salary Administration Guidelines.
- B. The assignment of classes of pay grades shall be in accordance with policies and standards established in conformance with statute and the following principles:
 - 1. Classes, which are related and are substantially equal,

shall be assigned to the same pay grade.

2. Significant differences between related classes in job know-how, problem solving and accountability shall be reflected in the relative difference in assignment to pay grades.

CHAPTER 6

PAY ADMINISTRATION

STATEMENT OF POLICY

It is the policy of the General Manager to provide a uniformed pay administration to facilitate pay actions, while ensuring the proper compensation of employees and to provide the opportunity for the Authority to carry out its mission.

These pay administration rules are subject to the Commission's policies and procedures.

6.000 PAY ACTIONS RELATED TO APPOINTMENTS

6.001 Compensation at Initial Appointments

All initial appointments shall be made at the first step of the appropriate pay grade, except as provided below:

- A. The General Manager may, with the approval of the Commission, authorize initial employment in a position at a higher step not to exceed Step 10 of the pay grade, if such action is warranted by recruitment difficulties or exceptional qualifications. This petition to the Commission shall be made before the applicant is hired.
- B. The increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above-step.

The Commission may establish policies to administer this action.

6.002 Compensation Adjustment Following a Promotion

- A. An employee, when promoted from one class to another of a higher pay grade, shall receive a salary increase closest to and not less than a two-step salary increase in the pay grade held prior to the promotion.

- B. For employees on Step 20 or beyond prior to the promotion, an equivalent rate increase provided in Rule 6.002.A is added to the salary held prior to the promotion for the purpose of determining the employee's salary in the higher grade.

6.003 Compensation Adjustment Following a Voluntary Demotion

The minimum reduction shall be to the salary in the new pay grade closest to, but not more than, the employee's salary at the time of demotion.

6.004 Compensation Adjustment Following an Involuntary Demotion

- A. Employees demoted for adverse action shall have their compensation reduced at least one step and may, upon the discretion of the General Manager, have their compensation reduced to the lowest step on the pay grade of the position to which they are demoted.
- B. Employees demoted involuntarily due to fiscal constraints or lack of funds shall be compensated at a rate, which is less than the rate held prior to the demotion.

6.005 Compensation Following a Non-Service Connected Disability Demotion (Medical Condition)

Employees who are unfit to perform the duties and responsibilities of their position due to a medical condition, may be demoted up to the salary that is closest to, and not more than their current salary; provided that the maximum salary authorized shall not exceed Step 20 of the demoted position.

6.006 Compensation Adjustment Following Reemployment

A person who is reemployed under the provisions of Rule 4.502, shall be paid at the rate to which he would have been entitled had he remained in service, but that no credit shall be given toward progressive salary step increases within the pay grade.

6.007 Compensation Following a Transfer

An employee who is laterally transferred shall continue at the same

pay grade and step.

6.008 Compensation Following a Detail Appointment

- A. Employees serving a detail appointment, consistent with Rule 4.506 in a position having a higher pay grade than his regular position, shall receive a salary increase closest to and not less than a two step increase in the current pay grade. Payment of differential shall begin on the first calendar day the employee is serving in a detail.
- B. At the discretion of the General Manager, employees detailed to an unclassified position, whose detailed step does not exceed Step 10, may receive up to Step 10 of the unclassified position or the difference in the amount between the step in the pay grade he holds and the salary paid.

6.009 Compensation Following Appointment in an Acting Capacity

An employee who is appointed by the Board to serve temporarily in an acting capacity as the General Manager shall be compensated during the period of such services by a payment differential to be added to his base rate of pay, measured by the difference in the amount between the step in the pay grade he holds and the salary paid the General Manager position. Payment differential shall begin on the first calendar day the employee is serving in the acting appointment.

6,100 PAY ACTIONS RELATED TO REALLOCATION OF POSITIONS

6.101 Compensation Following Reallocation of Position

- A. When a position is reallocated to a class of a higher pay grade, the employee shall receive a salary increase closest to, and not less than a two-step increase in the pay grade held prior to reallocation.
- B. When a position is reallocated to another class of the same pay grade, the salary of the incumbent shall remain unchanged.
- C. When a position is reallocated to a class of a lower pay grade, the implementation shall not be effected until the expiration of the two year waiver, as provided for in Rule 5.012.B.

6.102 Salary Adjustment upon Demotion Due to Position Reclassification Action

- A. The salary in the new grade that is closest to, and not more than the incumbent's salary shall be identified as the incumbent's step in the new pay grade.
- B. Implementation of the reclassification in terms of position title shall be made upon approval of the reclassification determination by the General Manager.
- C. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted.
- D. The salary increment anniversary date before reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade. Where there is no change in the waiting period, the salary increment date and the pay grade before the reclassification shall be maintained.

Where there is a change to a shorter waiting period (Steps 1 - 7), the salary increment date before the reclassification shall be maintained. Where there is a change to a longer waiting period (Steps 8 - 10, 11 - 20), the new waiting period shall be applied.

6.200 **PAY ACTIONS RELATED TO PAY GRADE REASSIGNMENT**

6.201 Pay Grade Reassignment

Any employee and/or supervisory official may initiate a written request for consideration of an amendment to the pay grade allocation for the class of position with justification to the General Manager. If the findings of the General Manager indicate the need to amend the pay grade allocation, he shall submit a written request with justification to the Commission in accordance with the Commission's policies and procedures. Changes adopted shall become effective as directed by the Commission.

6.202 Pay Adjustment Following Pay Grade Reassignment

When a pay grade for any class is reassigned to a higher or lower pay grade and there is no change in the position classification, the pay adjustment shall be consistent with current Commission's policies.

6.300 PAY ACTIONS RELATED TO INCREMENTS

6.301 General Provisions Relating to Salary Increment Increases

- A. Salary increment increases shall be granted as authorized by law.
- B. Increment Status upon Demotion Due to Position Reclassification:

The salary increment anniversary date before the reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade. Where there is no change in the waiting period, the salary increment date in the pay grade before the reclassification shall be maintained. Where there is a change to a shorter waiting period (Steps 1-7), the salary increment date before the reclassification shall be maintained. Where there is a change to a longer waiting period (Steps 8-10, 11-20), the new waiting period shall be applied.

- C. Personnel Actions Not Affecting Increment Anniversary Dates:

The following personnel actions shall not change increment anniversary dates:

1. the pay grade for a class or classes of positions have been reassigned;
2. pay adjustments from statutory amendments to the pay grade schedule;
3. detail appointment;
4. transfer from one position to another of the same or related class of position while retaining the same salary rate upon transfer;

5. involuntary demotion for other than adverse or disciplinary reasons;
6. reclassification to a class of the same pay grade or lower while the employee retains the same salary rate;
7. salary increment freeze; and
8. other situations as may be determined by the Commission.

D. Voluntary Demotion to the Same or Related Class of Positions:

The employee's next salary increment shall include the period served prior to the voluntary demotion; and provided that work performed is satisfactory.

E. Creditable Service Upon Reemployment:

Permanent classified employees who separated with the Authority in good standing shall be credited for time served in the increment held prior to separation when exercising their reemployment rights.

6.302 Salary Increment - Procedure

Employees entitled to an increment increase shall receive such increase according to the following schedule and upon certification by the General Manager that satisfactory service has been rendered for the performance rating period preceding such increase:

- A. Employees at Steps 1 through 6 shall be entitled to one step adjustment after 12 months of satisfactory performance;
- B. Employees at Steps 7 through 9 shall be entitled to one step adjustment after 18 months of satisfactory performance;
- C. Employees at Steps 10 through 19 shall be entitled to a one step adjustment after 24 months of satisfactory performance.
- D. Employees at Step 20 shall be entitled to a pay increment

equivalent to 3.5 percent of an employee's base salary after 24 months of satisfactory performance.

When a Division Manager determines that a particular employee shall not be granted a salary increment, the Division Manager shall notify the General Manager of such denial prior to the employee's anniversary date. If the General Manager does not receive a performance report or a notification of denial of an employee's salary increment, no action will be taken to adjust the employee's pay.

CHAPTER 7

HOURS OF WORK, OVERTIME AND PREMIUM PAY

STATEMENT OF POLICY

The purpose of this Chapter is to establish the standard for hours of work, wages, overtime compensation, compensatory time-off in lieu of overtime pay, observance of holidays and a system under which the pay of certain employees shall be adjusted for certain hours, days or conditions of work. These provisions shall be in compliance with the Fair Labor Standards Act (FLSA).

7.000 GENERAL PROVISIONS

7.001 Work Week

- A. The basic work week is 40 hours. Alternatively, a workweek is a regular recurring period of 168 consecutive hours--seven consecutive 24-hour periods. The workweek need not coincide with the calendar week. It may begin any day of the week and any hour of the day, but it must in each case, be established in advance. The workweek may be changed, but only if the change is intended to be permanent and is not made to evade overtime requirements or policies.
- B. An employee's work week may be in accordance with office hours, with designated shifts, or with such flexible or variable hours program as are implemented by the Authority provided that the Authority shall not operate less than a 40 hour work week, except as provided by law.

7.002 Break Periods

A full-time employee may be allowed a 15 minute break period in the first half and second half of the work day, except for law enforcement employees subject to Section 7(K) of the FLSA provided further that:

- A. No single work break shall exceed 15 minutes absence from the employee's workstation.

- B. An employee may not accumulate unused work breaks.
- C. Work break time shall not be authorized for covering an employee's late arrival on duty or early departure from duty.

7.003 Meal Periods

- A. Full-time employees shall be allowed a minimum of 30 minutes and up to a one-hour meal period during each workday of more than five hours.
- B. When a work day of not more than six hours will complete the day's work, the meal period may be waived by mutual consent of the employee and the Authority.
- C. Meal period shall not be considered "on duty" or counted as time worked, unless the nature of work prevents an employee from being relieved of duty.

7.004 Work Week Schedule

- A. The schedule of workweek for shift workers shall be prepared and prominently posted at least two weeks in advance so that the employees affected will be informed. Such schedules shall not be less than two weeks and shall not be changed, except for good cause and provided affected employees are given at least 24 hours prior notice. Whenever possible, work schedules should permit an employee to enjoy a holiday on the day it is observed.
- B. The General Manager may permit flexible work schedules as may be appropriate.

7.005 Safe Hours of Work

- A. To ensure that the employee's work is performed in a safe manner, the following maximum hours of work will be observed:
 - 1. An employee shall not be allowed to work more than 16 hours consecutively, or in one 24-hour day.
 - 2. An employee shall not be authorized to work more than 84

hours total within a single seven-day period.

3. An employee shall not be required to work more than 28 hours within a time span of two days.

B. Exceptions to the above may be made only:

1. if the employee volunteers his services and has the specific approval of his Division Manager; or
2. in cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities or emergencies.

Should such an occasion for Item 1 arise, written documentation must be submitted by the Division Manager to the General Manager within 48 hours of such occurrence.

7.100 MINIMUM WAGE

Employees shall be paid not less than the established minimum wage for Guam.

7.200 HOURS WORKED

A. As a general rule, hours worked will include:

1. All time during which an employee is required to be on the Authority's premises or at a prescribed work place.
2. All time during which an employee is suffered or permitted to work, whether or not required to do so. The determination of an employee's working hours will include, in the ordinary case, all hours from the beginning of the work day to the end of the work day, with the exception of periods when the employee is relieved of all duties for the purpose of eating meals.

7.300 HOURLY RATE OF PAY

The hourly rate of pay is the rate published by the Commission.

7.400 OVERTIME

7.401 Coverage

- A. Upon the occurrence of overtime work, covered classified employees shall be entitled to receive overtime compensation calculated at the rate of 1 and ½ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- B. In determining the number of hours worked by an employee within a given workweek or work period, time spent off on annual, administrative, sick, compensatory time-off, other leave (with or without pay), or holidays will not be counted as time worked. Such time off with pay shall be included in the straight time pay, but it is not included in computing whether a covered employee has worked in excess of 40 straight time hours in a workweek.
- C. Any fraction of an hour of overtime worked shall be converted to the nearest 15 minutes.
- D. Covered employees, include those classes of positions that are not in the executive, administrative, and professional categories, in accordance with the FLSA.

7.402 Occurrence of Overtime Work

- A. Overtime work may be authorized by the General Manager in cases of emergency, or when the best interests of the Authority indicate that overtime work is required.
- B. The General Manager shall hold hours worked by the employees to the Authority's established 40-hour work week standard, except in those cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities, or emergencies.
- C. It shall be the responsibility of each supervisory official to determine that the provisions of overtime pay are administered in the best interest of the Authority's services. Recognizing that

the General Manager is responsible for the manner in which overtime work is authorized, it is especially important to control unauthorized overtime.

- D. Each Division Manager is responsible for internal controls, which will provide a means of reviewing and evaluating the use of overtime. The practice of overtime work will be subject to review by the General Manager.
- E. Overtime work will occur when an employee renders service under any of the following conditions:
 - 1. The employee renders service in excess of 40 straight time hours per workweek.
 - 2. The employee renders service on the employee's scheduled day off and there has been no change, by mutual consent or by due prior notice, in the work schedule.

7.403 Emergency Situations Defined

The General Manager shall arrange the employment and work programs of the Authority in such a way that overtime is not required except in emergency situations.

Overtime work may be required for any covered employee in emergency situations as described below:

- A. Where an established post of duty must be covered 24 hours per day, and an employee is not available to cover that post on a given shift.
- B. When danger to life, health, or well-being of the public, employees or other persons could occur if an employee is not required to be on duty or where danger to property is eminent.
- C. Other situations where the General Manager determines that the responsibilities prescribed for the Authority cannot be accomplished unless overtime work is authorized.
- D. Employees who work during emergency periods as declared by the Governor of Guam.

7.404 Compensation for Overtime Work

- A. Payment for overtime work shall be made no later than the next pay period after the overtime work is performed.
- B. Overtime compensation shall be at the rate of 1 and ½ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- C. An employee who is subject to the maximum 240 (480 for law enforcement) hours of compensatory time under the FLSA, as amended, shall be paid cash wages of time and one-half the regular rate of pay for overtime hours in excess of this maximum. Overtime must be authorized in advance and applicable only for the pay period.
- D. The requirement that overtime must be paid after 40 hours a week may not be waived by an agreement between management and the employee except provided in Rule 7.405.
- E. Consistent with Section 4105 (e), Title 4 of the GCA, no person shall be required to work overtime unless the employee has received certification by the General Manager that funds for overtime pay are available.
- F. Employees, who work during emergency periods as declared by the Governor of Guam, shall be compensated in the following manner.
 - 1. Employees occupying permanent positions in the classified service or the unclassified service, except for the General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work fall within such an emergency period, but whose presence is not required at work, shall be granted administrative leave. Employees not occupying permanent positions are not eligible positions are not eligible for administrative leave.
 - 2. Employees not occupying permanent positions in the classified service, who were required to report to, and did

work during such an emergency period, shall be entitled to overtime pay for all such hours worked.

3. Employees occupying permanent positions in the classified service or unclassified service, except for General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work fall within such an emergency period, and who are required to report for, and be on duty during such emergency period, shall be entitled to overtime pay for all such hours worked, in addition to full compensation for any administrative leave taken.
4. Employees occupying permanent positions in the classified service or the unclassified service, except the General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work do not fall within such an emergency period, but who are required to report for, and be on duty, shall be entitled to overtime pay for all such hours worked, including overtime, but not for administrative leave.
5. In the event that a typhoon emergency period includes a legal holiday, then such employees required to report for and be on duty, shall be entitled to overtime pay for all hours worked, including overtime, in addition to full compensation for holiday leave.

7.405 Compensatory Time Off in Lieu of Overtime Pay

- A. In the absence of any funds for overtime compensation, compensatory time off shall be granted in lieu of overtime pay by mutual agreement between the employee and management, before the work is performed. A record of this agreement must be kept with Financial Affairs Division, Payroll Section.
- B. The number of hours of overtime work shall be converted to compensatory time credit at the rate of 1 and ½ hours for each hour of overtime work, or portion of the hour consistent with Rule 7.401.
- C. Employees engaged in law enforcement work may accrue not

more than 480 hours of compensatory time. Employees engaged in non-law enforcement work may accrue not more than 240 hours of compensatory time.

- D. Any additional overtime work performed by employees, who have already accumulated the maximum 240 of compensatory time off, or 160 hours of actual overtime work, (480 for law enforcement), compensatory time off credits shall be compensated not later than the pay period immediately following the period during which the overtime was worked.
- E. When sickness lasting one or more days occurs during a scheduled compensatory time off, and the employee substantiates such to the satisfaction of the General Manager, the employee shall be charged for sick leave and permitted to reschedule his compensatory time off. Application for such substitution of sick leave for compensatory time off shall be made within three workdays upon return to duty and shall be in conformance to applicable provisions of the sick leave policies and rules and regulations.
- F. An employee who has requested the use of compensatory time-off shall be permitted to use such time, within a reasonable period after making the request, if the use of the compensatory time does not unduly disrupt the operations of the Authority.
- G. An employee on compensatory time off shall be deemed to be on official leave with pay status.
- H. The General Manager may require an employee to use any accumulated compensatory time off credits upon mutual agreement with the employee as to the schedule and use of these credits.

7.406 Conversion of Compensatory Time Off to Cash

- A. The General Manager may direct, at the option of the employee, payments for accrued compensatory time earned, at any time, in any combination, and which shall be paid at the regular rate earned by the employee at the time the employee receives such payment.

B. At the time of separation, the employee shall be paid in cash for all unused compensatory time credit earned at a rate of compensation not less than:

1. the average regular rate received by such employee during the last three years of the employee's employment; or
2. the final three regular rate received by such employee, whichever is higher.

7.500 NON-OVERTIME WORK WEEKS

When an employee is on non-duty pay status for less than 40 hours during a work week, such work week shall be considered a non-overtime work week and all hours shall be paid at the regular rate in accordance with established personnel policies except as provided by law.

7.600 UNAUTHORIZED WORK

All hours exceeding the 40-hour workweek worked by an employee must have the General Manager's authorization. Unrecorded hours worked during a workweek or work period by an employee at the job site, or at his home or other duly authorized designated place, must be counted as hours worked if the General Manager has reason to know of such practice. The General Manager must enforce his no-work rule and may not unjustly benefit from work performed without his knowledge.

7.700 HOLIDAY PAY

- A. When an employee is absent from duty at the close of the work day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to have been on leave without pay status, the employee shall not be eligible for compensation for the holiday under these rules, but shall be considered as on leave without pay status.
- B. Employees who are required, because of an emergency or other reasons, to work on holidays (or their equivalent day) shall be paid at the rate equivalent to double their hourly rate of pay exclusive of any additional pay, except as otherwise provided by statute.

- C. For purposes of these rules, holidays are declared to be those identified in rules.

7.800 NIGHT DIFFERENTIAL PAY

Work performed between the hours of 6:00 p.m. to 6:00 a.m. shall be compensated as follows:

- A. Any employee (except the General Manager and Deputy General Manager) who works between the hours of 6:00 p.m. to 6:00 a.m. shall be entitled to night differential pay, calculated at the rate or their regular wage plus 10% for all periods worked between the hours of 6:00 p.m. and 6:00 a.m., except as otherwise provided by statute.

7.900 DUAL EMPLOYMENT

No employee of the Authority may be employed on a full-time, part-time, or contractual basis by more than one department, agency, or branch of the Government of Guam at any time, except for:

- A. Persons serving as part-time teachers, and instructors for the Guam Community College and University of Guam and instructors who may be employed during the summer.
- B. Persons employed by the Youth Congress.
- C. Persons employed on a part-time basis by boards or commissions.
- D. Persons employed as nurses, physicians, and as ancillary health professionals in the Guam Memorial Hospital's Ancillary Services Department.
- E. Attorneys engaging in the active practice of law, or part-time judges or part-time referees.
- F. Persons employed on a part-time or contractual basis who are individuals and family counselors or chemical dependency specialists.

7.950 OUTSIDE EMPLOYMENT

Employees may be permitted to work at outside private employment not in conflict with their service to the Authority, nor such as would bring the

Authority or its employees into disrepute. Any employee may undertake outside employment only if such is not in conflict with his work assignments and duly scheduled hours of work with the Authority and only with the consent in writing of the General Manager. Consent may not be unreasonably withheld. The General Manager may review the adequacy of such request and the approval shall be renewed on an annual basis. In the case of an employee placed on furlough, the Furlough Policy shall govern.

7.960 RECORD KEEPING

Records of hours worked and wages paid are required to be kept for each employee subject to this policy. The General Manager is responsible for making available the following information for review by the Federal Wage and Hour Division. Records must be preserved for at least three years.

- A. Name
- B. Home Address
- C. Date of birth
- D. Sex and position classification in which employed
- E. Time and day of work, the workweek or work period begins
- F. Total wages paid each pay period
- G. Date of payment and pay period covered
- H. Basis on which wages are paid
- I. Regular hourly rate of pay for any week in which overtime is worked
- J. Amount and nature of each payment excluded from regular rate
- K. Hours worked each work day and total hours worked each workweek
- L. Total daily or weekly straight time earned or wages
- M. Other records or information as the General Manager may require.

7.970 OFFICIAL PERSONNEL FOLDER

An official personnel folder shall be maintained for each employee by the Human Resources Division. The folder shall contain the employee's employment application, employment history, pertinent letters and papers, personal data, and any training and education records sponsored by the Authority or other educational training or institutions. Employees are required to keep the Human Resources Division informed of name, address, telephone number and next of kin changes.

7.980 IDENTIFICATION CARDS

Any person accepting employment with the Authority shall be required to

possess and display an identification card. Identification cards will be on a form prescribed by the General Manager and will be initially issued at no cost to the employee. If the employee loses his identification card, he will be charged a replacement fee. Identification cards will be surrendered to the Authority upon separation from employment.

CHAPTER 8

LEAVES OF ABSENCE

STATEMENT OF POLICY

The purpose of this Chapter establishes a uniform and equitable system where employees may be reasonable excused from work for rest, recreation, health, education, welfare and other purposes without any appreciable decrease in the productivity of and services provided by the Authority.

The Procedures for Leave Sharing may be used to augment the provisions of this Chapter.

8.000 GENERAL PROVISIONS FOR LEAVE OF ABSENCE

8.001 Leave of Absence Defined

A leave of absence is an approved absence from duty, by the General Manager or his designated representative, for a prescribed period of time, with or without pay.

8.002 Revocation of Leave

Approved leave may be revoked by the General Manager or any delegated authority when the good of the service requires it, or when evidence shows that the employee on leave is engaged in activities for which the leave would not have been granted.

8.003 Denial of Leave of Absence

- A. No leave of absence, with or without pay, shall be authorized where it appears or was discovered that it was requested for the purpose of:
 - 1. Allowing the employee to work at his outside employment.
 - 2. Engaging in prohibited or unlawful activities.
- B. Leave may also be denied when the loss of the employee's

services on days for which leave is requested would result in discontinuance of critical services to the public.

8.004 Form of Leave Application

Application for leave of absence shall be made in the form prescribed by the General Manager.

8.005 Failure to Return

Failure to report for assignment at the expiration of leave of absence without acceptable excuse shall be subject to Employee Disciplinary Action pursuant to Chapter 11.

8.100 ANNUAL LEAVE

8.101 Policy

- A. It shall be the policy of the Authority to afford an opportunity for employees to take leave, and particularly to avoid, whenever possible, loss of leave by forfeiture. However, leave may be denied by the General Manager or delegated authority when the services of the employee are required after good faith consideration of the employee's request and operational requirements.

8.102 Request for Annual Leave

Requests for annual leave shall be submitted to the appropriate supervisor by the employee, at least 48 hours in advance, for leaves in excess of 40 consecutive hours; and 24 hours in advance for leaves less than 40 hours, in order to avoid unnecessary disruption of work. Reasonable consideration shall be afforded for emergency situations.

8.103 Minimum Charge for Annual Leave

An employee who uses annual leave in the amount of time which is less than a full hour, shall be charged leave daily according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

8.104 Accrual of Annual Leave

- A. Employees occupying permanent positions shall accrue annual leave in accordance with the following schedule:
 - 1. One-half day (four hours) for each full bi-weekly pay period in the case of employees with less than three years of service.
 - 2. Three-fourths day (six hours) for each full bi-weekly pay period except that the accrual for the last full bi-weekly pay period in the year shall be one and one-fourth day (10 hours) in the case of employees with three, but less than 15 years of service.
 - 3. One day (eight hours) for each full bi-weekly pay period in the case of employees with 15 or more years of service.
- B. Annual leave earned during any pay period shall be credited to the employee's account on the last day of that pay period or, in case of separation, the last day the employee is on the payroll.
- C. An employee shall continue to earn annual leave credits during leave of absence with pay for each bi-weekly pay period, otherwise there shall be no accrual for such period.

8.105 Determination of Years of Service for Annual Leave Accrual Purposes

Computation of years of service as a basis for the rate of accrual of annual leave shall be in accordance with the following:

- A. In determining the years of service prior to the 1961 leave year, employees shall be credited with:
 - 1. All periods of employment to include service with the Naval Government of Guam, or with other Federal

instrumentalities or agencies within Guam prior to August 1, 1950.

2. Period of service with the Armed Forces of the United States subsequent to August 1, 1950.
- B. In determining years of service commencing with the 1961 leave year, employees shall be credited with:
1. All service for which annual leave shall accrue.
 2. Full-time employment in the Judicial or Legislative branches.
 3. Service with the Naval Government of Guam, or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three years of service shall be credited to any individual for purposes of this Section. Years of service shall include one year for each year served as a school year employee.

8.106 Carry Over and Accumulation of Annual Leave

- A. Annual leave accrued and unused in a leave year may be accumulated and carried over to the next leave year except that total accumulation by such carry-over shall not exceed 480 hours. Annual leave in excess of 480 hours shall be automatically credited to accumulated sick leave, provided that not more than 100 hours shall be credited to sick leave. All other excess annual leave accrued and unused in a leave year shall be automatically forfeited at the end of such leave year.
- B. Exception to the 480 hours annual leave maximum accumulation may be made upon the approval of the Board. The Board may authorize a total accumulation of up to 720 hours of annual leave when it is determined that the additional accumulation results in the continued service of an employee, and is in the best interest of the Authority's operational requirements.

- C. All other excess annual leave accrued beyond 720 hours and unused in a leave year, shall be automatically forfeited at the end of such leave year and shall not be credited to sick leave. However, employees should be given an opportunity to exhaust excess leave. Leave year commences on October 1 and ends September 30.

8.107 Avoiding Forfeiture of Annual Leave

- A. Employees shall submit advance requests for planned annual leave which will be earned in the current leave year to preclude forfeiture of annual leave.
- B. Supervisors share the responsibility with employees for avoiding forfeiture of annual leave. Supervisors shall develop by the end of the first quarter of each leave year, a schedule of annual leave for employees under their supervision. Employees shall be expected to submit reasonable estimates for use of their leave for the current leave year.

8.108 Liberal Consideration of Annual Leave Requests upon Birth or Adoption of a Child

Employees may, upon the birth or adoption of a child, submit a request on the appropriate leave form for annual leave for the purposes of assisting or caring for the child. Such requests should be liberally considered by supervisors and for other leaves set forth in the Family and Medical Leave Act (FMLA).

8.109 Annual Leave Requests to Participate in a Athletic Contingent Recognized by the Guam National Olympic Committee

An employee, who is a participating athletic, coach or administration in an athletic contingent recognized by the Guam National Olympic Committee representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the Committee, shall be granted leave by the General Manager for the time it takes to complete both competition and any necessary travel, not to exceed 15 working days, provided that his accumulated annual leave or compensatory time is charged with the hours he is absent from duty. The employee must request such leave in writing 30 calendar days prior to his first day of leave. If the employee has

exhausted his annual leave, or chooses not to use such, he shall be granted leave without pay. The employee may be granted said leave for competition not more than three times in a calendar year.

8.110 Advance Annual Leave Credit Not Permitted

Annual leave shall not be granted in advance of being earned. If an employee has insufficient leave credit to cover a period of absence, the employee shall be placed on leave without pay status or request for leave sharing provided that all requirements are met under the Leave Sharing Policy.

8.111 Advance Lump Sum Payment for Annual Leave

In accordance with Section 4111, Chapter 4 of Title 4 of the GCA, an employee may, prior to taking authorized annual vacation leave, receive a lump sum payment in advance for the period of leave authorized. If any such employee returns to work status prior to the expiration of the leave period for which he received a payment in advance, he shall reimburse the Authority for any portion of such period which shall not have expired no later than the pay period following the return to work status and shall be credited with the unused annual leave for future use.

8.112 Lump Sum Payment for Annual Leave upon Separation or Transfer

- A. When an employee is separated from the Authority's service, he shall be given a lump sum payment for any accrued and unused annual leave as of the date of separation. In computing lump sum payment, leave on leave shall not be allowed.
- B. Any employee who transfers from a branch of the Government of Guam to another, or from one department, agency, instrumentality, or corporation of the Government of Guam to another department, agency, instrumentality or corporation at his option, may accept cash value of his earned leave at the time of transfer, or transfer his accumulated annual leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reappointment.
- C. Any employee who has been authorized to accumulate annual

leave beyond 480 hours and who has earned more than 720 hours of annual leave, shall be entitled to a lump sum payment for the earned leave upon separation if such separation occurs prior to the end of the leave year.

8.200 SICK LEAVE

8.201 Purpose and Eligibility

- A. Sick leave shall be allowed to an employee when the employee:
1. receives medical, dental or optical examination or treatment, or any mental health examination, counseling or treatment;
 2. is incapacitated for the performance of duties by sickness, injury, complications due to pregnancy, medical confinement; or would jeopardize the health of others by his presence at his duty assignment because of exposure to a contagious disease; or
 3. gives birth or becomes a father pursuant to maternity or paternity statutes.
 4. to provide health care for a member of the employee's immediate family as a result of serious illness or injury and the employee has exhausted all annual leave and compensatory time available.
 - a. "serious illness or injury" means an urgent condition that is certified by the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support.
- B. Sick leave with pay shall be allowed during leaves of absence or vacations, provided, however, that any sick leave taken by an employee while on vacation must be supported by a certificate issued by a licensed physician.
- C. Responsibility for administration of this section shall remain

with the General Manager, subject to such audit as ordered by the Commission.

8.202 Notification of Sickness

Notification of absence on account of sickness shall be given to the immediate supervisor or Division Manager on the first day of absence, or if impracticable, as soon thereafter as circumstances permit. If such notification has not been given in accordance with this section, the employee may be subject to disciplinary action.

8.203 Application for Sick Leave

- A. Application for sick leave shall be filed on a form prescribed by the General Manager.
- B. Sick leave shall be granted in accordance with statute, rules, policies and procedures.

8.204 Sick Leave Charged Only for Working Hours

An employee shall be charged for sickness for only those hours for which he was, or would have been scheduled to work.

8.205 Accrual of Sick Leave

Employees occupying permanent positions shall accrue sick leave at the rate of one-half day (four hours) for each bi-weekly pay period in which the employees are on pay status for the entire 10 days, otherwise there shall be no accrual.

8.206 Minimum Charge for Sick Leave

An employee who uses sick leave in an amount of time, which is less than a full hour shall be, charged leave according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

8.207 Accumulation and Carry Over of Sick Leave

Unused sick leave may be accumulated and carried over to succeeding leave years without limitation.

8.208 Vesting of Sick Leave

Sick leave accrued for service with the Government of Guam or any of its instrumentalities, branches, authorities or any entity, corporation or agency, shall vest in the employee upon accrual and shall remain vested in such employee while he is employed by the Government notwithstanding the fact, that from time to time, he may be transferred from one branch to another or to autonomous agency, authority or entity within the Government of Guam. Sick leave accrued and unused at the time of separation from Government shall remain credited to the employer if such employee returns to Government service. An employee, approved for disability retirement, shall exhaust his accrued sick leave prior to effecting his retirement.

8.209 Advance of Sick Leave

- A. An employee who has suffered a serious illness or ailment and has exhausted his sick leave and who intends to return to work, may submit a written request, for advance of sick leave to the General Manager. Each request for advance of sick leave must be accompanied by a certification of incapacitation for duty by the employee's physician. An advance of sick leave may not exceed 13 days, and shall be subject to the approval by the General Manager.
- B. If an employee is separated from service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due him at the time of separation, an amount equal to his salary for the period of unearned sick leave allowed and taken.
- C. If the employee is medically certified as being unable to return to work after all accrued and/or advanced sick leave credits have been used, the employee shall be allowed to use any accrued compensatory or annual leave credits before being placed on leave without pay.

8.210 Physician's Certification of Incapacitation

- A. An employee who is absent because of illness, injury, or quarantine in excess of three consecutive days, or for the full day immediately before or after a holiday, weekend, day off or vacation, may be required to furnish a certification as to the incapacitation by a licensed physician or furnish administratively acceptable evidence. The General Manager or his delegated authority may require certification for such other periods of illness he deems advisable. Supervisors shall apply reasonable judgment when requesting a doctor's certification.
- B. If the certification required is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.
- C. If the medical certification furnished by the employee is not acceptable, the General Manager may require the employee to submit a medical examination which shall be paid for by the Authority. Based on the medical certification, the General Manager:
 - 1. shall not approve further use of sick leave if the employee is medically evaluated as fit to return for work.
 - 2. shall allow the employee to use accrued sick leave if the employee is medically evaluated as unfit to return to work. In the event, the employee exhausts his sick leave, the provisions of these rules shall apply.
- D. An employee who, upon a written request by the General Manager, refuses to comply with these rules shall not be eligible to use accrued sick leave credits and any absence from work shall be handled in accordance with Rule 8.700.

8.211 Lump Sum Payment for Sick Leave Prohibited

No employee who separates from the Authority for any reason may receive a cash payment for sick leave accrued at the time he leaves such service, except that upon the death of the employee, a lump sum payment of unused sick leave shall be made in accordance with Section 7102, Title 4 of the GCA.

8.300 ON-THE-JOB INJURY

8.301 Policy

It is the policy of the Board that all employees are provided with safe working conditions. This policy is intended as an employee benefit separate and apart from Workers' Compensation Law (Title 22, GCA, Section 9101). Unless otherwise provided by statute or the Commission, this policy shall control in the event of conflict with other rules or policies.

8.302 Definitions

- A. Classified employee: A probationary or permanent status employee occupying a classified position.
- B. Day: A calendar day unless otherwise specified.
- C. Death: Death resulting from an on-the-job injury.
- D. Disability: Physical or mental incapacity due to an on-the-job injury, which prevents the employee from performing the essential functions of the employee's regular position or other temporary duties.
- E. Essential Functions: Those that an employee must be able to perform in the employee's regular position, with or without reasonable accommodation.
- F. Lateral Position: A position with substantially comparable minimum qualifications or equivalent pay grade as the employee's regular position.
- G. Management Official: Official with supervisory or management responsibilities.
- H. On-the-Job Injury: Injury or death arising out of and in the course of employment, including an accidental injury or injury caused by the willful act of a third person directed against an employee because of his employment, and such occupational disease or infection as arises naturally out of such employment,

or as naturally or unavoidably results from such accidental injury.

- I. Personal Leave: Annual or sick leave or compensatory time off.
- J. Physician: A person licensed to practice medicine in the United States or its territories or in other medical licensing jurisdictions recognized by the American Medical Association or other practitioners of the healing arts recognized by the Workers' Compensation Commission.
- K. Public Employment: Employment by a department, agency, or instrumentality of the Government of Guam.
- L. Reasonable Accommodation: A modification or adjustment to the employee's regular position, the work environment, or the way things are usually done that enables the employee to perform the essential functions of his regular position.
- M. Regular Position: The position for which the employee was hired.
- N. Temporary Duties: Specific duties of limited duration assigned to the employee during the work-injury period in lieu of the regular duties of the employee.
- O. Unclassified Employee: An employee occupying an unclassified position or one employed on a temporary or limited term status.
- P. Work-Injury Leave: Leave with pay granted by the General Manager under the provisions of Rule 8.300.
- Q. WCC: Workers' Compensation Commission

8.303 Coverage

- A. A classified or an unclassified employee who suffers an on-the-job injury will be eligible for work-injury leave for up to 60 days without charge to personal leave, beginning the day of the injury, provided:
 - 1. The employee is unable to perform the essential functions

of the employee's regular position, or temporary duties, during the 60-day period, or portions thereof, as certified to by the employee's physician, the General Manager shall refer the case to WCC for further medical evaluation to include any necessary tests or testing such as laboratory tests of radiological, sonographic, and computerized axial tomography, and magnetic resonance imagery evaluation. The decision of the WCC shall be final. The General Manager with the approval of the Commission shall identify the essential functions of the employee's position for the purpose of this section.

2. The injury results in the death of the employee. In this event, the employee's designated beneficiary or beneficiaries, or if there are none, the estate of the employee, shall be entitled to a lump sum payment for the entire 60 day work-injury period, or, that portion of the work-injury period that the employee would have been entitled to had the employee survived.
- B. If an employee is able to perform at least the essential functions of his position or undertake temporary assignments as provided in Rule 8.303.A.1, but requires follow-up medical treatment for injuries, the employee shall be allowed work-injury leave for this purpose. The administration of this provision shall be closely monitored by the General Manager or delegated authority and coordinated with the WCC.
 - C. An employee who is absent from work due to a work-injury and has completed a minimum of 50% of the performance rating period will be evaluated on his performance for that period. The employee will be entitled to a salary increment upon receiving a satisfactory rating.
 - D. The employee on work-injury leave will continue to accrue annual and sick leave as provided in Title 4, GCA, Sections 4108 and 4109.
 - E. Employment insurance benefits will continue pursuant to contract provisions in effect for the group life and health insurance program.

- F. Work-injury leave will not be allowed if the death or injury of the employee was self-inflicted or the result of the employee's use of illegal drugs, intoxication, recklessness, gross negligence, criminal conduct, or the result of disciplinary action against the employee.
- G. To prevent dual compensation, work-injury leave will not be allowed if the employee is receiving workers' compensation.

8.304 Responsibilities

- A. An employee's responsibilities include:
 - 1. Immediately reporting the injury to the employee's supervisor. If the supervisor is not available, the employee shall report the injury to the Authority's safety personnel or any available management official within the Authority.
 - 2. Pursuing a workers' compensation claim in an expedient and timely fashion prior to the expiration of the approved work-injury leave period or converting to other leave status at the end of the leave period.
 - 3. Acting in good faith in pursuing work-injury claims. Any employee who engages in fraud, misrepresentation, or abuse, shall be subject to discipline, prosecution, and be required to provide restitution for all monies and benefits received under Rule 8.300.
 - 4. Obtaining physician's certification to include medical evaluation and physician's detailed recommendation.
- B. Management's responsibilities include:
 - 1. Completing all work-injury reports, including the supervisor's portion of the worker's compensation form, to be distributed as follows:
 - a. The original to WCC.
 - b. One copy to the employee, the employee's division,

the Guam Occupational Safety and Health administration, and to the Authority's Personnel Division for placement in the employee's medical jacket.

2. The supervisory official who receives the employee's report must take immediate and expedient action to provide necessary medical treatment and prepare and submit injury report to the General Manager and other parties specified in Rule 8.304.B.1.
3. In cases requiring immediate treatment, medical assistance shall be sought for the employee at the nearest available medical facility. If the employee is not ambulatory, or otherwise should not be moved without medical intervention, an ambulance shall be called to transport the employee. A supervisory official or safety personnel shall accompany the injured employee to the medical facility for medical treatment as may be determined by the treating physician. Prompt notification of the employee's immediate family shall be made by the supervisor, Division Manager, Deputy General Manager, or General Manager.
4. Completion of all work-injury reports and immediate submission to the Division Manager, who shall submit such reports to the General Manager within five working days following the date of notification of injury.
5. Notifying the General Manager if the employee is absent from work without authorization after the expiration of the approved work-injury leave period.
6. Immediately notifying the WCC that an employee is on work-injury leave status for the approved period.
7. Placing the employee on personal leave status pursuant to the provisions of these rules after the expiration of the approved work injury leave period. The type of personal leave to be taken is at the employee's option.
8. Obtaining from the employee per Rule 8.303.A.1. a

doctor's certification of the employee's capacity to perform the essential functions of the employee's regular position, along with any specified mental/physical restrictions (e.g., no lifting over 20 pounds, no prolonged walking, standing, bending, stooping, no climbing of ladders, etc.), and recommendations of the physician as to other temporary duties which may be assigned without aggravating the existing condition.

9. Acting in good faith.
10. Complying with all applicable rules and regulations.

8.305 Employment Status

- A. A classified employee, who as a result of an on-the-job injury becomes disabled and is unable to perform the essential functions of his regular position within six months after the date of injury may, if eligible, retire from the Authority.
- B. If the classified employee is ineligible or declines to retire, the General Manager may allow the employee to exhaust personal leave; otherwise, the employee shall be placed in lateral or lower vacant position to which the employee qualifies, or be downgraded to a position needed by the Authority for which the employee qualifies, at the discretion of the General Manager. If the employee assumes the lateral position, the employee shall maintain his current salary. If the employee is downgraded or placed in a lower position, the employee shall maintain the current salary for one year.

If there is no vacant position to which the employee qualifies, or the General Manager determines that a downgrade is not proper, the General Manager shall exercise expedient and good faith efforts to place the employee in a position in which he qualifies in another division. If placement is unsuccessful, the General Manager shall immediately notify the employee in writing that the employee will be terminated within 60 days from the receipt of the notice by the employee. The notice shall include the employee's right to appeal under Rule 8.306. If the employee is unavailable for personal service, service may be made by certified mail to the last known address, provided management

has made reasonable good faith efforts to personally serve the employee. In cases of service by mail, the 60 days begin to run on the date of the mailing.

8.306 Appeal

A classified employee who is terminated in accordance with Rule 8305.B may appeal the termination to the Commission within 20 days from the effective date of the termination in accordance with Commission's appeal procedures. The Commission may uphold the termination or take whatever action or remedies it deems appropriate. The Commission's decision is final, but subject to judicial review within 30 days after the losing party receives the Commission's written decision.

8.400 EXCUSED ABSENCES/ADMINISTRATIVE LEAVE

8.401 General Provision

An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave.

Supervisors and employees will apply the following procedures for excused absences.

8.402 Attendance at Official Meetings/Conferences On or Off-Island

- A. Employees shall initiate a written request via his supervisor and division manager for an excused absence citing the purpose of the meeting/conference, dates involved, and costs, if any, to the General Manager.
- B. The General Manager will evaluate the relative costs, availability of funds, potential for the employee's development, and desirability of the Authority's representation when approving the attendance at on or off-island meetings/conferences.
- C. Upon approval of the request, a copy shall be provided to both the employee and Payroll Section.

8.403 Jury Duty

- A. An employee who is called for jury duty in any court in Guam, shall be excused from duty with full pay and without charge to leave for all hours required for such duty, not to exceed the number of hours in the employee's normal work day. However, if the jury duty does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called for jury duty is required to show the Jury Duty Call Notification to his immediate supervisor.
- C. Supervisors are responsible for advising employees that all compensation earned for such jury service, except allowances for travel, must be paid to the Authority, in accordance with Section 6505, Chapter 6, Title 4 of the GCA. An employee may elect to request for annual leave for the purpose of jury duty service, in which case the employee may keep the compensation earned for such jury duty.

8.404 Witness Leave

- A. Employees who are called to testify or produce official records on behalf of the Government of Guam in any court in Guam shall be excused for duty with full pay and without charge to leave required for such service, not to exceed the number of hours in the employee's normal work day. However, if the witness service does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called to serve, as a witness is required to show the notification to his supervisor. The employee must provide to his immediate supervisor a certificate or certificates showing the time devoted to witness service. The fees shall be the same as the fees of witnesses before the Superior Court, except if the witness is a government employee no witness fees shall be given.

8.405 Participation as a Competitor in a Government of Guam Personnel Examination or Interview

- A. Employees who are participating in a competitive examination

or interview for Government of Guam employment, shall be excused from work with pay and without charge to leave for the time required for the examination or interview. Employees are required to report to their work location after completion of the examination or interview.

- B. Employees must advise their supervisor in advance of the need for excused absence to participate in a scheduled examination or interview. This notice should be given as soon as the employee receives information of the scheduled date and time of examination or interview.

8.406 Participation in Examinations for Military Service

An employee, who is scheduled to appear for an examination for entrance into the United States military service, shall be excused from work with pay and without charge to leave for the time required for the examination. The employee shall submit written confirmation of scheduled examination to his immediate supervisor.

8.407 Military Training Leave

- A. An employee who is a member of a Reserve Component of the Department of Defense or Transportation, including but not limited to, the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, Army National Guard, Air National Guard and U.S. Coast Guard, shall be entitled to military training leave with pay, without charge to annual leave not to exceed 15 working days per fiscal year. The leave not used in a fiscal year will be transferred to the next fiscal year until it totals 15 days at the beginning of the fiscal year.
- B. The employee shall submit a copy of his military orders or other documents which place the employee on military training, to the General Manager.
- C. A copy of the official orders shall be filed in the employee's personnel files.
- D. Any absence in excess of 15 work days may, upon request by the employee and approval of the General Manager, be covered by accrued annual leave credits or accrued compensatory leave

credits. If not requested by the employee or approved by the General Manager as annual or compensatory time off leave, such absences in excess of 15 work days shall be considered as leave without pay.

8.408 Disabled Veteran's Re-examination or Treatment

An employee, who has been rated by the Veteran's Administration to have incurred a service-connected disability and has been scheduled by the Veterans Administration to be re-examined or treated for such disability shall, upon presentation of written confirmation of having been so scheduled, be excused from duty without charge to leave for such re-examination or treatment. Excused absences shall not exceed five workdays in a calendar year. Thereafter, the employee may utilize other forms of leave as provided in these rules.

8.409 Natural Disasters and Other Emergency Conditions

- A. Excused absence with pay and without charge to leave shall be granted to employees when natural disasters or other emergency conditions create unsafe working conditions.
- B. Excused absence, for natural disaster or other emergency conditions, may be granted only when there has been an official proclamation of the hazardous conditions by Executive Order, or an equivalent announcement by the Governor.
- C. When the Governor declares a State of Emergency, the General Manager shall determine whether affected facilities or portions thereof, which are located in the area covered by the Executive order or proclamation, are to be closed. With the exception of the following:
 - 1. Employees determined by the General Manager as non-essential for the cause in such emergency situation shall be released from duty with pay, without charge to leave, for the period the facility is closed.
 - 2. Employees, required to remain on duty to provide essential services, shall be paid at double the regular rate, or granted compensatory leave credits for the hours worked during the period the facility is closed and the

other employees are on excused leave.

- D. Employees who are on annual or sick leave status when an emergency condition is declared by Executive Order, or announcement by the Governor and are not required to report to duty, shall be considered as released from duty with pay without charge to leave for the period the work facility is closed.

8.410 Volunteer Services During Disasters/Emergencies

An employee who performs volunteer services, privately or as a member of an organization, in times of civil unrest, disasters, search and rescue operations, and other civil emergencies shall be excused from duty with pay, without charge to accrued leave not to exceed two work days.

8.411 Participation in Officially Sanctioned Events

An employee, who is a participating member of an official Guam delegation which is sanctioned by the Governor, shall be excused from duty with pay and without charge to leave for a period not to exceed five work days in a calendar year.

8.412 Absence Pending Formal Investigation

An employee, who is under formal investigation by the Authority for misconduct, or violation of a rule or statute, may be placed on excused absence from duty without charge to leave, not to exceed 20 work days when the employee's absence from the work location is essential to the investigation.

8.413 Bereavement Leave

- A. An employee, upon request, shall be granted two days of excused absence with pay, and without charge to leave upon the death of any member of the employee's immediate family as defined in these rules and regulations.
- B. Each employee requesting bereavement leave due to a death in the immediate family, shall submit a request to the General Manager stating the name of the deceased and the relationship to the deceased.

8.414 Paternity Leave

- A. Paternity leave shall be granted to a male employee occupying a permanent position upon the birth of a child, or children by his wife, including common-law.
- B. Paternity leave shall not exceed five days of paid leave and must encompass the date of childbirth.
- C. Additional leave taken for such purpose may be charged against accumulated sick leave, or may be unpaid leave. Total leave, whether paternity, sick or unpaid leave, shall not exceed two months without approval of employee's supervisor.

8.415 Maternity Leave

A. General Provisions of Leave Related to Pregnancy

1. A pregnant employee is responsible for notifying her supervisor, in advance of her intention to request leave for maternity purposes including the type of leave, approximate dates and anticipated date of return to duty, to allow the Authority time to prepare for any staffing adjustments which may be necessary.
2. The supervisor is responsible for providing gainful employment and making use of her skills for as long as the employee is not incapacitated for duty.
3. Sick leave shall be made available during pregnancy to cover for physical examinations and periods of incapacitation based on certification by the employee's physician.
3. An employee may request for annual or sick leave, or leave without pay (in addition to the authorized maternity leave) to provide for a reasonable period of adjustment, or to make arrangements for the care of the child. Additional leave requirements for maternity purposes must be supported by physician certification or furnish other

administratively acceptable evidence of fitness for duty and approved by the General Manager.

5. An employee who wishes to return to work following delivery or confinement shall be assured continued employment in her position or a position of like seniority, status and pay upon presentation of her personal physician's certification of fitness for duty or furnish other administratively acceptable evidence of fitness for duty.
6. The marital status of the pregnant employee shall not adversely affect her right to continued employment or use of leave.

B. Granting of Maternity Leave

1. Maternity leave shall be granted to a female employee occupying a permanent position who is absent from work as a result of childbirth. Such maternity shall not exceed 20 work days encompassing the date of childbirth. Any additional leave taken for such childbirth purpose, may be charged against accumulated sick leave, or may be unpaid leave, at the option of the employee.
4. Total leave, whether maternity, sick or unpaid leave, shall not exceed six months without approval of the employee's supervisor.

8.416 Participation in a Medical Examination Requested by the Authority

An employee who is required to undergo a medical examination, such as, to determine fitness for the job, shall be excused from work with pay and without charge to leave for the time required for the examination.

8.417 Educational Leave Without Pay

- A. In the event, the Authority is desirous of establishing a program where employees are allowed to take educational leave with pay must have the program approved by the Board.
- A. An employee may be granted excused absence from duty with

pay, and without charge to leave, to attend on a full-time basis, a college, university, or training academy for not more than the equivalent of 2,080 hours of pay status for the purpose of receiving training that is of clearly foreseeable benefit to the Authority.

- B. The granting of educational leave without pay shall be in accordance with the Authority's approved training program.
- C. Only employees who have completed their original probationary period are eligible to participate in this program.

8.418 Parental Involvement Initiative Leave

- A. An employee, who is a parent and who is not otherwise prohibited from such contact with his child by order of a court, may use up to four hours every two pay periods to meet with a teacher or other school official concerning the employee's child's performance or to volunteer parental-involvement time at his child's school.
- B. The four hours every two pay periods may be utilized at the arrangement of the employee with the employee's supervisor, and may be split into smaller separate segments over the two pay periods. Such leave hours is not be accumulative.
- C. An employee requesting such leave shall submit a request to his supervisor in advance and is required to obtain from his child's teacher or school official signed certification that the employee has visited the school for a conference, a function, or as a volunteer to assist in the child's school activities.

8.500 HOLIDAYS

8.501 General Provisions

- A. Employees may absent themselves from duty on the holidays established by these rules, provided, however, that work assignments may be required to be carried out if previous notification is given by the General Manager.
- B. When an employee is absent from duty at the close of the

working day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to have been on a leave without pay status, the employee shall not be considered eligible for compensation for the holiday under these rules but shall be considered as on leave without pay status.

8.502 Legal Holidays

- Every Sunday
1. Christmas Day.....December 25
 2. New Year's Day.....January 1
 3. Martin Luther King Jr.'s Birthday.....3rd Monday in January
 4. President's Day.....3rd Monday in February
 5. Guam Discovery Day.....1st Monday in March
 6. Good Friday.....Friday before Easter Sunday
 7. Memorial Day.....Last Monday in May
 8. Independence Day.....July 4
 9. Liberation Day.....July 21
 10. Labor Day.....1st Monday in September
 11. Columbus Day.....1st Monday in October
 12. All Soul's Day.....November 2
 13. Veteran's Day.....November 11
 14. Thanksgiving Day.....4th Thursday in November
 15. Lady of Camarin Day.....December 8
 16. Every day on which an election is held throughout Guam, except for elections to the Guam Youth Congress.
 17. Every day appointed by the President of the United States or the Governor of Guam as a public fast, Thanksgiving day, or holiday.

Island-wide Election Day, except elections for Youth Congress, and other days as may be designated by proclamation of the Governor or the President of the United States shall be paid holidays. If any of the numbered holidays listed above falls on a Sunday, the following Monday is a holiday, and if any of such holidays falls upon a Saturday, the preceding Friday is a holiday.

8.503 Legal Holiday for Irregular Hours of Duty

For employees whose workweek is other than Monday through Friday, and whose holiday falls on a non-workday, their holiday shall be

determined as follows:

A. Sunday Holiday

1. When an employee's workweek does not include Sunday, and a holiday falls on Sunday, his next regular workday within his workweek is his holiday.
2. When an employee's workweek includes Sunday and a holiday falls on the day that has been designated as his non-workday in lieu of Sunday, his next regular workday after his "in lieu of Sunday" within his work week is his holiday.

B. Other Holidays

When a holiday falls on an employee's non-workday other than Sunday, the regular workday preceding the employee's non-workday is his holiday.

8.600 LEAVE WITHOUT PAY

8.601 Leave of Absence Without Pay

- A. Employees may request leave without pay for good cause when their current authorized annual or sick leave with pay will not cover the total period of requested leave. Leave without pay may be granted for a period not to exceed one year. For extenuating circumstances, the General Manager may extend the leave without pay for an additional year. No extension may be granted thereafter.
- B. When an employee is on leave without pay status, accrual of sick, annual, or retirement credit is not allowed.

8.602 Request by the Employee

Leave without pay is temporary non-pay status and absence granted in response to an employee's request. Leave without pay covers only those hours, which an employee would otherwise work or, for which he would be paid.

8.603 Authorization

- A. Authorizing leave without pay is a matter of administrative discretion. An employee cannot demand that he be granted leave without pay as a matter of right, except in the case of:
 - 1. disabled veterans who are entitled to leave without pay, if necessary, for medical treatment; and
 - 2. members of the Reserve Components of the U.S. Armed Forces who are entitled to leave without pay, if necessary, to perform military training duties.
- B. An employee who does not have adequate annual or sick leave credits may submit a written request for leave without pay to his supervisor, which requires the final approval of the General Manager. The employee's request should indicate the reasons and the need for leave without pay and the date employee intends to return to duty from leave.

8.604 Conditions for Approval of Leave Without Pay

- A. Each request, for extended leave without pay, should be evaluated carefully to assure that the value to the Authority or the serious needs of the employee is sufficient to offset the costs and administrative inconveniences to the Authority which results from the retention of an employee in a leave without pay status. Among these costs are:
 - 1. encumbrance of a position;
 - 2. loss of services which may be needed in the organization; and
 - 3. obligation to provide active employment at the end of the approved leave period.
- B. As a basic condition for approval of extended leave without pay, there should be reasonable expectation that the employee will return to work at the end of the approved period. In addition, it

should be apparent that at least one of the following benefits would result:

1. increased job ability.
2. protection or improvement of employee's health.
3. retention of a desirable employee.
4. furtherance of a program of interest to the Authority.

8.605 Examples of Appropriate Use of Leave Without Pay

The following examples of types of cases are not all inclusive for which approval of extended leave without pay would be proper, all other factors being favorable, are:

- A. For educational purposes, when the course of study or research is in line with a type of work which is being performed by the Authority, and completion of which would contribute to the Authority's best interests.
- B. For the purpose of recovery from illness or disability, not of a permanent or disqualifying nature, when continued employment or immediate return to employment would impact on the employee's health, or the health of other employees.
- C. For the purpose of caring for a child upon birth or adoption.
- D. For the purpose of providing care to a spouse or child who is ill or disabled, or to provide care to elderly parents or parents-in-law.

8.606 Military Leave Without Pay - Special Provision

- A. Any classified employee of the Authority, except an employee who is employed in a temporary position, who is drafted, who volunteers for active military service, or who is ordered to active duty (not active duty military training as outlined in Rule 8.413) consistent with Section 6218(d) of Title 4 of the GCA shall be granted limited leave without pay, beginning the date of induction and, not to exceed a period of four years of military

service. Active military service includes active duty with the U.S. Army, U.S. Air Force, U.S. Navy, U.S. Marine Corps, U.S. Coast Guard, National Guard of Guam or other services as provided by Guam law. Such leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's personnel file.

- B. During such leave of absence, the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with these rules.
- C. All unused leave benefits shall be retained by the employee, who shall have the same credited to the employee's record upon return to his assigned position consistent with Section 6218(d) of Title 4 of the GCA.
- D. Upon termination under honorable conditions of such active duty, the employee shall be entitled to reinstatement in his previous position provided the employee shall notify the General Manager for reinstatement within 90 days after discharge.
- E. If the employee volunteers for an additional tour of military duty, the employee shall forfeit the right to return to the position.

8.700 UNAUTHORIZED LEAVE OF ABSENCE FROM DUTY

An employee who is absent from duty without proper authorization shall be placed on unauthorized leave of absence without pay or for payroll purposes. Repeated unauthorized absences may be grounds for disciplinary action.

8.800 FAMILY AND MEDICAL LEAVE ACT

Leave of absence, for a maximum of 12 weeks during any 12 month period under the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) (Federal Regulations – 29 C.F.R. Part 825), shall be approved for an employee for reasons stipulated in Section 8.801.

8.801 Purpose

- A. The birth of a child of the employee and the care of such a child.
- B. The placement of a child with the employee for adoption or foster

care.

- C. The care of a spouse, son, daughter, or parent with a serious health condition.
- D. A serious health condition of the employee.

8.802 Eligibility

An employee must have worked for the Government of Guam for at least 12 months and for at least 1,250 hours during the year preceding the start of the leave. Temporary employees working part-time, after completion of 1,250 hours, are counted as completing the workweek even if they do no work a 40-hour workweek.

8.803 Medical Certification

A medical certification may be required by the General Manager to show dates of anticipated absence due to medical reasons or for childbirth.

8.804 Leave Status

- A. Leave for the purpose of childbirth or placement of a child for adoption or foster care shall not be taken intermittently or on a reduced leave schedule.
- B. Leave for caring for spouse, son, daughter or parent or for the employee's serious health condition may be taken intermittently or on a reduced leave schedule.
- C. When leave is taken intermittently or on a reduced leave schedule, the employee's absence under the FMLA shall not exceed the equivalence of a full-time work schedule of 12 weeks (40 hours per week x 12 weeks = 480 hours).
- D. An employee may elect to substitute the following paid leave for any, or all of the periods of leave taken under the FMLA. However, the General Manager may not require an employee to substitute paid time off for any, or all of the period of leave taken.

1. Accrued annual or sick leave, or compensatory time off (CTO) requested and approved consistent with rules governing the granted and use of annual or sick leave.
2. Advanced sick leave approved under the same terms and conditions that apply to any other employee who requests advanced sick leave.
3. Leave made available to an employee under the Leave Sharing Program.

8.805 Return to Employment

Upon completion of an employee's leave, an employee must be returned to the same position and pay, benefits and working conditions at the conclusion of the leave as applicable.

8.806 Procedures for Applying for FMLA

The General Manager shall establish operating procedures for employees in requesting for FMLA leave.

CHAPTER 9

HEALTH AND SAFETY

STATEMENT OF POLICY

The purpose of this chapter is to ensure that applicants and employees meet the health and physical requirements for the efficient performance of their duties. In addition, this chapter is to develop a safe and healthful environment for employees and for the public when using the Authority's facilities, by establishing/maintaining and properly supervising an active safety and health program tailored to meet the needs of the organizations.

9.000 MEDICAL STANDARDS

9.001 Establishment of Medical Standards

Medical standards shall include, but need not be limited to, pre-entry medical examinations, medical re-evaluations, the method of administration of medical examinations, and the consequences of failure to meet health and physical condition requirements.

The General Manager is authorized to establish medical standards in order to:

- A. Ensure that persons seeking employment with the Authority meet the health and physical requirements necessary for the safe and efficient performance of the duties of the class of position in which they seek employment, and can continue to meet the health and physical requirements for a reasonable period of time.
- B. Ensure that each employee is able to perform the duties of his position satisfactorily and without undue hazard or imminent threat to himself or others or without undue hardship on the operation of the program.
- C. After making a conditional job offer and before an individual starts work, the General Manager may request a medical

examination or ask health-related questions, provided that all candidates who receive a conditional job offer in the same job category are required to take the same examination and/or respond to the same inquiries.

9.002 Kinds of Employment Medical Examinations

The General Manager is authorized to require three types of medical examinations:

A. Pre-entry

Pre-entry physical examinations shall be required of all persons prior to initial appointment to the position.

B. Periodic

Periodic physical examinations shall be required of all employees holding positions in classes which the Division Manager and Safety Administrator certifies, and the General Manager approves, that the nature of the work performed is such that a periodic check of ability to meet the health and physical condition standards is necessary. The General Manager will determine the intervals, at which periodic physical examinations shall be taken consistent with the Authority's operational requirements. The Authority shall implement the standards imposed by the U.S. Department of Transportation and other OSHA standards applicable to periodic medical physical examinations for certain type of vehicle operations. Other OSHA standards are applicable relating to periodic medical examinations of certain vehicle operations (Chapter 87, Title 10, GCA).

C. Special

The General Manager may request the Personnel Services Administrator to authorize special medical physical or psychological examinations to determine the fitness for duty of employees to continue with their assigned duties. Special physical or psychological medical examinations shall have as their purpose the determination of whether an employee should be retired from the government service or assigned to duties and

responsibilities that are within his physical or psychological ability to perform. The Authority shall pay costs for the special medical examinations.

9.003 Administration of Employment Medical Examinations

Medical examinations shall be administered by a licensed physician or other licensed professional on forms prescribed by the General Manager. The examination form shall request a medical determination of the individual's fitness for employment in the class of position. For special medical examinations, forms shall provide a means for recommendations by the examining physician or licensed professional, as to whether the individual employee should be retired or placed in other employment more suited to his physical or mental condition and ability and for which the employee can perform the essential function of the job.

9.004 Temporary Medical Exemptions

The General Manager may determine that a position must be filled immediately, making it impossible to complete the medical examination prior to appointment. In these unusual cases, the General Manager may temporarily waive the medical examination, provided that the medical examination is completed at the earliest possible date and in no instance, later than 30 days after the appointment.

9.100 **PLACEMENT OF EMPLOYEES WHO BECOME MEDICALLY NON-QUALIFIED**

9.101 General Provisions

- A. The provisions of this section shall apply to permanent employees who become medically non-qualified and to original probationary employees with a service-connected disability.
- B. It is the responsibility of the Authority to assure, to the extent possible, the continued employment of employees who become disabled as a result of an injury, accident or illness that is not a result of misconduct or who are found to be medically non-qualified for their present position, but who are medically qualified for other types of positions within the Authority.

- C. The employee shall be examined at the expense of the Authority by a government or private physician or physicians, in such field or fields of medicine and/or psychiatry as may be applicable to evaluate the employee's qualifications for his present position, or assess his current physical and emotional capacities and/or evaluate his qualifications for a vacancy for which he is being considered under the provisions of this section.
- D. Employees affected by this rule shall be considered for those vacancies for which they qualify.
- E. In the placement of an employee with a disability, the Authority shall consider the following:
 - 1. The ability of the employee to safely perform the essential functions of the position without undue interruption to the work program and/or undue hardship on the operations of the program.
 - 2. The ability of the employee to absorb any required training or re-training; and
 - 3. The mutual interest of both the Authority and the employee.
- F. If demotion is involved, whether or not initiated by the employee, he shall be compensated in accordance with Rule 6.005.

9.102 Placement of Employees with Disabilities

After medical, physical, or psychological re-evaluation, an employee who is no longer qualified to perform the duties of his position satisfactorily within a stated reasonable period of time and in spite of reasonable accommodations due to permanent medical physical or mental incapacity, the General Manager shall take the following action (provided the employee is qualified and able to perform the new duties within the limitations established by these rules and the American with Disabilities Act (ADA)):

- A. Transfer the employee to an equivalent position elsewhere in the Authority organizational structure; or

- B. Placement of the employee consistent with Chapter 4; or
- C. If no equivalent position is available, to reassign the employee to a lower graded position, without loss of pay, elsewhere in the Authority.

9.103 Reasonable Accommodation

Every effort shall be made by the General Manager to provide reasonable accommodations to assure continued employment.

9.104 Termination of Employment

The General Manager shall terminate the employment of the employee:

- A. If no suitable placement can be made or if the employee refuses placement in a suitable position.
- B. If the employee refuses or is ineligible for retirement.
- C. If the General Manager has evidence that the employee is permanently disabled from performing the job, or will be disabled for a long time that termination is necessary in light of demonstrated business realities.

Such termination shall be consistent with the Adverse Action Procedures, Chapter 11.

9.200 SAFETY STANDARDS

The minimum safety standards shall be those as established in the Occupational Safety and Health Code (Chapter 87, Title 10 of the GCA) and administered by the Division of Occupational Safety and Health of Department of Labor.

CHAPTER 10

EMPLOYEE PERFORMANCE

STATEMENT OF POLICY

The purpose of this Chapter encourages efficiency and productivity among employees and the orderly and constructive relationships between management and employees in the interest of effective personnel management, and the efficient operation of the Authority.

10.000 EMPLOYEE PERFORMANCE EVALUATION

10.001 Performance Evaluation

The General Manager shall establish and maintain a performance evaluation system for the fair and objective appraisal of work performance of employees of the Authority. The performance evaluation system may be used to:

- A. improve individual performance.
- B. strengthen supervisor/employee relationships.
- C. recognize employee accomplishments and good work.
- D. identify job standards.
- E. identify training needs.
- F. grant or deny pay increments.
- G. determine order of layoffs.
- H. determine whether a probationary employee shall be given a permanent appointment.
- I. determine eligibility for promotion.
- J. determine whether disciplinary action is required.

10.002 Performance Evaluation Training

The General Manager shall be responsible for providing periodic training for all levels of management concerning the performance evaluation system, including the development of performance standards, performance interview techniques and performance ratings.

10.003 Performance Evaluation Records

- A. The performance evaluation report shall be transmitted to the General Manager, 30 days prior to the anniversary date. Upon receipt of the performance evaluation report and recommendations, the General Manager shall effect the appropriate personnel action in accordance with the recommendation of the supervisor and Division Manager. No action will be taken by the General Manager until receipt of the performance evaluation report.
- B. Records of the performance evaluation report shall be filed in the employee's personnel file.

10.004 General Manager's Responsibilities for Performance Evaluation

The General Manager shall be responsible for the effective implementation and administration of the performance evaluation system within the Authority. He shall approve all performance ratings made within the Authority and shall ensure that supervisory personnel receive adequate training in the performance evaluation system. He shall ensure that performance evaluations and reports are completed and submitted on a timely basis.

10.005 Supervisor's Responsibility for Performance Evaluations

- A. The performance standards shall be developed and the performance rating shall be completed by the supervisor immediately responsible for the employee's work with input from the employee. The rater should be the individual who oversees, reviews and checks the daily work performance of the employee being rated, or is the supervisor who is most closely acquainted with the employee's daily work performance. The supervisor shall also be responsible for the timely preparation and submission of performance for all employees under his

supervision. The employee's supervisor must have supervised the employee for at least 90 days to render a fair evaluation. When a supervisor retires, resigns or transfers, he shall render an evaluation for the assigned employees before leaving the Authority.

- A. For employees on temporary assignments due to work injury, disability (light duty), details, etc., for 120 days or more, the supervisor may establish additional performance standards to reflect current duties. A composite rating for the temporary assignment and permanent position may be made.

10.006 Performance Evaluation Form

Performance evaluations shall be accomplished on a form approved by the General Manager, consistent with the performance evaluation system in effect. The performance evaluation forms shall be filed in the employee's personnel file.

10.007 Performance Evaluation Period

In accordance with the system and procedures prescribed by the General Manager, supervisors shall evaluate the work performance for employees:

- A. Every 12 months of service for permanent employees in Pay Grade Steps 1 through 6; every 18 months of service for permanent employees in Pay Steps 7 through 9; and every 24 months of service for permanent employees in Pay Steps 10 through 20 to coincide with the employee's employment anniversary date or increment due date and as otherwise provided by the Commission. Supervisors may opt to conduct intermittent performance assessments of subordinates.
- B. Supervisors are required to conduct mid-term performance evaluations for all of their subordinates.
- C. No later than the end of the probationary period for those employees serving original or new probationary appointments including those probationary periods have been extended. The final Probationary Performance Report shall be submitted and received by the General Manager no later than 10 workdays

prior to the probationary period due date.

10.008 Salary Increments - Permanent Employees

Every classified employee shall be entitled to a one-step salary increment for satisfactory performance, except as otherwise provided by statute.

10.009 Performance Evaluation for Probationary Employees

- A. An overall performance rating of at least a **Satisfactory**, shall be necessary before an employee serving an original or new probationary period may receive a permanent appointment in the class of position he occupies.
- B. When an employee serving an original or new probationary period receives an overall performance rating of **Marginal**, the probationary period shall be extended for a minimum period of 60 days during which the employee has the opportunity to improve work performance, provided the total probationary period does not exceed 12 months.
- C. When an employee, serving an original or new probationary period, receives an overall performance rating of **Unsatisfactory**, the employee serving the original probationary period shall be terminated from government employment, while the employee serving a new probationary period shall be allowed to return to his former or comparable position consistent with these rules. If such position is not available, the employee shall be placed on a priority placement list and given the first offer of employment upon availability of such position.

10.100 APPEAL PROCEDURE FOR RE-DETERMINATION OF PERFORMANCE RATING

10.101 Purpose

The procedure outlines the responsibilities and procedures to be followed by management and employees in handling performance rating appeals.

10.102 Coverage

Employees covered by these procedures are those employees who have satisfactorily completed their original and new probationary period and have attained permanent status in the Authority. Such employee who feels he was unjustly rated may request for a re-determination of the performance rating. Original probationary period performance ratings are not appealable under this procedure.

10.103 Representation

An employee has the right to present an appeal with or without representation. He also has the right to be accompanied, represented, and advised by a representative of his choice at any step of the appeal proceedings.

10.104 Freedom from Reprisal or Interference

An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal.

10.105 Management's Responsibility for Timely Action

Management shall expedite the processing of an appeal and shall abide by the allotted time. Failure to render a decision within the allotted time at any step constitutes denial, and the employee may then proceed to the next step of the appeal procedure.

10.106 Informal Appeal Procedure - Division Manager

- A. After the rating conference has been held and the employee has been informed of his overall annual rating, the employee who believes he was unjustly rated shall bring the matter to the attention of his Division Manager within five work days of the conference date. The employee may present his informal appeal either orally or in writing to the Division Manager or his representative.
- B. A review of the rating shall be afforded the employee by the rater and/or higher level supervisor. Settlement of aggrieved matters shall be encouraged at the lowest administrative level and in the

shortest possible time. The employee shall be notified in writing of the decision not later than five workdays after presentation of his informal appeal to his Division Manager.

- C. If the employee's concerns are not resolved, or that a decision is not issued within five workdays, the employee may file a formal appeal to the General Manager.

10.107 Formal Appeal Procedure – General Manager/Performance Rating Board of Review

- A. Whenever resolution of a performance rating cannot be reached at the informal level, an employee may appeal to the Performance Rating Board of Review via the General Manager. The appeal shall be in writing to the General Manager and filed within 5 workdays after the employee receives the Division Manager's decision.
- B. The Board shall be appointed by the General Manager and consist of three members, who are classified employees of which one shall be at the same position level as the appellant, one shall be at the managerial level or designated official who will serve as the hearing officer. Board members shall not be from the same division where appellant is assigned. The General Manager shall appoint the Board within five workdays of receipt of the written appeal.
- C. The Board shall conduct its first hearing within five workdays of its appointment. The Board shall complete the investigation and conduct the final hearing not later than 10 workdays from the date the Board convened. The Board shall give notice of hearings and shall provide all pertinent documents related to the appeal to the employee, his representative, the rater, and all other parties concerned.

The conduct of the hearings shall be consistent with the opportunity to present all information necessary to decide the merits of the appeal. Both oral and written information, which the Board considers pertinent, shall be submitted and other information the Board requests concerning the appeal.

- D. The hearing officer shall preside and rule on all questions and

conduct of the hearing during the proceedings. Board members shall consider the case and vote objectively. They shall give consideration to the merits of the case and secure all necessary information. They shall encourage a harmonious relationship between the employees and supervisors during proceedings before the Board. All members of the Board shall be present at all times during hearings and shall participate in the decision. Hearings shall be recorded and summarized in writing.

- E. When all pertinent information in an appeal has been presented to the Board, the Board shall render a decision by majority vote. The Board may either amend the performance rating, or sustain the rating without change. When an amendment is made by the Board, to the performance rating, that amended rating shall not be lower than the original rating.

The Board shall make its final decision within five workdays of the final hearing. The Board's decision shall be in writing with the hearing officer's signature. The decision shall contain a brief summary of the facts on which the Board based its decision. The written decision shall be immediately sent to the appellant, and signed copies forwarded to the Division Manager and General Manager.

- F. When the Division Manager receives a Board decision amending the employee's rating, the Division Manager shall immediately substitute the original rating for the amended rating. The Division Manager must reconsider administrative actions based on the original rating and redetermine and adjust those administrative actions to conform to the amended rating.

CHAPTER 11

ADVERSE ACTION PROCEDURES

STATEMENT OF POLICY

This chapter sets forth the guidelines and procedures by which the General Manager may suspend, demote, or dismiss a permanent employee.

11.000 COVERAGE

This chapter shall apply to all permanent classified employees.

11.100 SCOPE

For the purpose of this Chapter, the term "dismissal" shall not be interpreted to include:

- A. Actions taken by the General Manager referenced in the Chapter on "Resignation, Termination and Clearance"; or
- B. Action taken by the General Manager in the termination of services of an original probationary employee.

11.200 EMPLOYEE DISCIPLINE

11.201 General Provisions

A. Responsibility for Discipline

The General Manager derives its authority and responsibility for employee discipline under the provisions of Section 4105, Title 4, of the GCA.

The General Manager has the responsibility to remove, suspend, or demote to another position on a fair and equal basis, any employee in the classified service whose conduct or capacity is such that his removal, suspension or demotion will promote the efficiency of government service.

B. Delegation of Authority

The General Manager may delegate responsibility for administration of day-to-day discipline to his line-management, to include such progressive discipline, as oral admonitions, letters of warning, letters of reprimands, and recommendation of adverse actions.

C. Vested Authority

The General Manager is the only official vested with the final authority to take adverse action, including removal, demotion, or suspension against an employee.

11.202 Job Protection Procedures in Employee Discipline Actions

- A. All levels of supervisory and management officials, share the responsibility for strict adherence to employee's job protection rights and considerations including:
1. Informal counseling at the first indication that an on-the-job or personal problem is affecting the employee's job performance.
 2. A reasonable opportunity for the employee to correct inadequate performance including providing specific training to the employee to improve the level of his job performance, or to correct unacceptable habits or practices, such as tardiness or lack of attention to work requirements.
 3. The right to reply to the notice of proposed adverse action that may result in a suspension, demotion or dismissal.
 4. The right to reply to the notice of proposed adverse action and careful consideration of any reply; and
 5. The right to appeal to the Commission as provided in the CSC Rules and Regulations Relative to Demotion, Suspension, Dismissal and Appeal of Adverse Actions.
- B. The General Manager shall require each supervisor and manager

receive orientation and training on the Authority's basic intent that discipline is a tool for correcting people in such a way as to produce satisfactory job performance. The use of discipline in a punitive manner is inconsistent with the Authority's concept of discipline as an opportunity to provide constructive correction.

11.300 ADVERSE ACTION PROCEDURES

11.301 General Requirements

- A. An employee must be given the final notice and statement of the charges pursuant to Title 4, GCA, Section 4406, no later than 60 days after management knew, or should have known the facts or events which form the alleged basis for the adverse action.
- B. An employee covered by the Adverse Action Procedures may be suspended for not more than 30 work days as the result of a single adverse action, nor may an employee be suspended for more than a total of 60 work days in a calendar year, as the result of multiple adverse actions taken by the Authority.
- C. Copies of the adverse action rules and appeal procedures should be made available upon request by the employee.

11.302 Definition

- A. **Suspension:** The temporary removal of an employee from his position with loss of pay as a disciplinary measure.
- B. **Demotion:** The involuntary reduction in status of an employee for disciplinary reasons from a position which he occupies in a specific class, to a position in another class, where the maximum rate of pay is less than the maximum rate of pay for the class which he had held, or a reduction to a lower salary step in the same class.
- C. **Dismissal:** The termination of an employee for authorized cause if adverse action.
- D. **Day:** Refers to calendar day unless otherwise specified.

11.303 Authorized Causes for Adverse Action

The General Manager may remove an employee for such misconduct(s), which affect(s) the efficiency of the service. The authorized causes for adverse action include:

- A. Fraud in securing appointment.
- B. Refusal or failure to perform prescribed duties and responsibilities.
- C. Violation of the Authority's Drug Free Workplace Policy.
- D. Falsification of records, such as, but not limited to reports, time records, information system records, leave records, employment applications, or other official Authority documents.
- E. Insubordination, including but not limited to, resisting management's directives through actions and/or verbal exchange, or failure or refusal to follow supervisor's instructions to perform assigned work, or otherwise failure to comply with applicable established written policy(ies).
- F. Reporting to work under the influence of, or when ability is impaired by the use of alcohol or the unlawful use of controlled substance.
- G. Unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the Authority's premises including while operating the Authority's equipment.
- H. Unauthorized absence.
- I. Criminal convictions for felonies or misdemeanors while employed, including conviction of a moving traffic violation while operating the Authority's equipment.
- J. Discourteous treatment of the public, customers or other employees.
- K. Engaging in political activity prohibited by law.

- L. Misuse or theft of government property.
- M. Acts of physical violence or fighting endangering and threatening the life or safety of customers, employees, or the public.
- N. Violation of safety rules and regulations.
- O. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- P. Acts prohibited by Section 9102, Title 4 of GCA relating to strikes against the Government.
- Q. Threatening, coercing, harassing or acts of discrimination to employees, supervisor, customers or individuals, to include sexual harassment.
- R. Unsatisfactory performance.

11.304 Employees Covered

All employees in the classified service are covered by these Rules, except for the following:

- A. Contract employees whose contracts are not renewed upon expiration.
- B. Probationary employees serving original appointments.
- C. Employees on limited-term, temporary, seasonal, intermittent, part-time, provisional, or only for a specific project.
- D. Employees who are exempt by law or other legal authority from the jurisdiction of the Commission with regards to adverse actions.

11.305 Adverse Action Covered

- A. These Rules apply to the following adverse actions:
 - 1. Suspension
 - 2. Demotion (disciplinary action)

3. Dismissal

- B. The use of any combination of the adverse actions listed for the same offense is prohibited.

11.306 Notice of Proposed Adverse Action

An employee against whom adverse action is sought is entitled to immediate written notice stating any and all reasons, specifically and in detail, for the proposed action. The written notice must make it clear that it concerns only proposed action and not a matter already decided. A copy of the notice of proposed adverse action shall be submitted to the Commission. The General Manager or delegated management official may issue the proposed adverse action to the employee.

11.307 Employee's Answer

An employee is entitled to seek reconsideration of the proposed adverse action by answering any charges within 10 days after receipt of the notice. The answer may be made orally, in writing, or both. The General Manager shall be available during the notice period to meet with the employee at the designated date and time requested by the employee. The General Manager may designate a committee to hear the employee's answer. The employee may be represented by a person of his choice. The General Manager must consider the employee's answers to the charges in the proposed adverse action notice. If the employee fails to answer during the notice period, the employee's inaction shall be construed as an answer, and the General Manager may proceed with the adverse action upon expiration of the notice period. The employee is not prohibited from meeting the General Manager during the notice period.

The entire 10 days for the employee to respond to the notice of proposed adverse action must expire before a final notice of adverse action is issued.

11.308 Suspension During Notice Period

- A. An employee, against whom adverse action is proposed, must be retained in active duty status during the notice period. However, in an emergency situation, an employee may be

immediately suspended during the notice period under the following conditions:

1. The continued presence of the employee may interfere with the efficient operation of the Authority, or the health or safety of the employee or others.
 2. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property, or important documents.
 3. The employee's absence without authorized leave prevents the issuance of notice of proposed adverse action and the Authority's attempt to contact the employee was unsuccessful.
- B. Suspension under this Section is a separate adverse action and it is appealable to the Commission within 20 days of the effective date of the action. A copy of the notice of immediate suspension shall be filed with the Commission not later than the working day next following the effective date of the suspension.
- C. If the Commission sustains the Authority's action in suspending the employee during the notice period, the number of days of suspension under this Section shall be considered part of the final disciplinary penalty and in no case shall the final days of suspension be more than 30 work days.

11.309 Leave Pending Investigation

In cases requiring investigations of allegations against an employee involving misappropriation of public funds or property, mistreatment of persons in a government institution or acts which constitutes a crime, the General Manager may authorize the employee an administrative leave of absence with pay for up to 20 work days. The administrative leave may be terminated by the General Manager by giving the employee 24 hours written notice.

11.310 Employment Status During Imprisonment

- A. An employee who is incarcerated pending disposition of a case by the court, and who does not have accrued annual leave, may

be granted leave without pay at the discretion of the General Manager.

- B. The General Manager shall determine whether to take adverse action against an employee so imprisoned or take such appropriate action as he deems necessary pursuant to laws and the Authority's Personnel Rules and Regulations. Nothing in this Section shall preclude the General Manager from taking adverse action against an employee during imprisonment or upon release.

11.311 Final Notice of Adverse Action

- A. An employee is entitled to written notice of the Authority's decision within 10 days after receipt of the employee's answer to the charge(s) except as provided in the Commission's Hearing Procedures for Adverse Action Appeals, and provided further that the General Manager shall not issue a final decision during the notice period. The decision shall be made by the General Manager and shall be delivered to the employee at, or before the time the action will be made effective except as provided in the Commission's Hearing Procedures for Adverse Action Appeals. The notice shall be in writing; be dated; state the specific facts found upon which such action is based; inform the employee of his right to appeal to the Commission; and, inform him of the time limit within which an appeal may be submitted as provided in the Commission's Hearing Procedures for Adverse Action Appeals.
- B. Prior to the final notice of adverse action, the General Manager may conduct an inquiry or investigation into the charges and proposed adverse action, including calling a meeting with the employee.
- C. Copies of the final notice of adverse action shall be filed by the Authority with the Commission not later than the next work day following the effective date of the action. A copy of the final notice shall be retained by the Human Resources Division.

11.312 Appeal to the Civil Service Commission

The Hearing Procedures for Adverse Action Appeals adopted by the

Commission shall be applicable for all Adverse Action Appeals Proceedings.

11.313 Service of Proposed and Final Notices of Adverse Action

The proposed and final notices of adverse action shall be personally served upon the employee. In the event, the General Manager cannot locate the employee, after reasonable efforts have been made to locate the employee, service of the proposed or final notices may be made by leaving the notice at the employee's dwelling or usual place of abode with some person of suitable age and discretion residing therein, or by registered mailing the notice to the employee at the last known address. Service by registered mail is complete upon mailing.

11.400 GUIDELINES FOR DISCIPLINARY OFFENSES AND PENALTIES

11.401 General Provisions

- A. The list that follows is not intended to cover every possible type of offense affecting the efficiency of the service. Penalties for offenses not listed will be prescribed by the General Manager.
- B. Many of the items listed on this schedule combine several offenses in one statement, connected by the word "OR". Usage of the word "OR" in a charge makes it non-specific. Use only the items, which describe the employee's actual conduct and leave out parts which do not apply.
- C. Penalties for disciplinary offenses will, in general, range from the minimum penalty to the maximum indicated. In unusual circumstances, depending on the gravity of the offense, the past record, and the position of the employee, a penalty outside the general range maybe imposed.
- D. Suspension penalties on this schedule apply to work days and holidays.
- E. Depending on the gravity of the offenses, dismissal proceedings may be instituted against an employee for any number of offenses committed. A greater penalty may be imposed for any offense if the circumstances justify greater penalty.
- F. In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule of penalty to provide certain flexibility for management's discretion to institute progressive disciplinary action against an employee or group of employees.
- G. Documents relating to reprimand(s) shall not remain in an employee's personnel jacket for more than one year from date of issue.

(Reprimands - Suspensions - Dismissals)

- In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule to institute a progressive disciplinary action against an employee or group of employees. Reprimands shall not remain in an employee's personnel jacket for more than one year.

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
A.	Unauthorized absence.	Reprimand*	Suspension	Suspension	Dismissal
B.	Falsifying attendance record for oneself or another employee.	Reprimand*	Suspension	Suspension	Dismissal
C.	Leaving job to which assigned at any time during working hours without proper permission.	Reprimand*	Suspension	Suspension	Dismissal
D.	Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime.	Reprimand*	Suspension	Suspension	Dismissal
E.	Unexcused tardiness.	Reprimand*	Suspension	Suspension	Dismissal
F.	Actual or attempted theft of government or Authority's property or property of others.	Reprimand*	Dismissal	Suspension	Dismissal
CONDUCT					
A.	Criminal, dishonest, infamous or notoriously disgraceful conduct adversely affecting the employee/employer relationship (on duty or off duty).	Reprimand*	Suspension	Suspension	Dismissal

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
B.	Disobedience to constituted authorities, or deliberate refusal to carry out any proper order from any supervisor having responsibility for the work of the employee; Insubordination.	Reprimand*	Dismissal	Suspension	Dismissal
C.	Disorderly conduct; fighting threatening or attempting to inflict bodily injury to another; engaging in dangerous horseplay or resisting competent authority.	Reprimand*	Dismissal	Suspension	Dismissal
D.	Disrespectful conduct; use of insulting, abusive, or obscene language to or about other personnel.	Reprimand*	Dismissal	Suspension	Dismissal
E.	Falsification, misstatement, or concealment of material fact in connection with any official record.	Reprimand*	Dismissal	Suspension	Dismissal
F.	False testimony or refusal to testify in an inquiry, investigation or other official proceeding.	Reprimand*	Suspension	Suspension	Dismissal
G.	Knowingly make false or malicious statements with the intent to harm or destroy the reputation of authority, or other official standing of individuals or organizations.	Reprimand*	Dismissal	Suspension	Dismissal
H.	Gambling or unlawful betting during working hours.	Reprimand*	Dismissal	Suspension	Dismissal
I.	Promotion of gambling on Government or Authority's premises.	Reprimand*	Dismissal	Suspension	Dismissal

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
J.	Willful damage to Government or Authority's property or the property of others.	Reprimand*	Dismissal	Suspension	Dismissal
K.	Engaging in prohibited acts covered in Section 9102 of Title 4, GCA.	Penalty shall be imposed pursuant to Section 9103, Title 4, GCA.			
DISCRIMINATION					
A.	Discriminating against an employee or applicant because of race, color, religion, sex, national origin, age, disability, creed, political affiliation, or marital status or other prohibited discriminatory practices.	Reprimand*	Dismissal	Suspension	Dismissal
INTOXICANTS					
A.	Reporting for duty or being on duty under the influence of intoxicants, unauthorized possession of or attempting to bring intoxicants on Government or Authority's premises.	Reprimand*	Dismissal	Suspension	Dismissal
B.	Reporting for duty while under the influence of a narcotic or dangerous drug, or use of same on Government or Authority property or on duty.	Reprimand*	Dismissal	Suspension	Dismissal
C.	Authorized sale or transfer of narcotic or dangerous drug on Government or Authority property or during duty hours.	Reprimand*	Dismissal	Suspension	Dismissal

NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
	Minimum	Maximum	Minimum	Maximum
PERFORMANCE				
A. Careless workmanship resulting in spoilage or delay in production.	Reprimand*	Suspension	Suspension	Dismissal
B. Covering up or attempting to conceal defective work; removing or destroying same without permission.	Reprimand*	Suspension	Suspension	Dismissal
C. Failure or delay in carrying out orders, work assignments or instructions of superiors.	Reprimand*	Suspension	Suspension	Dismissal
D. Loafing, wasting time, or in-attention to duty.	Reprimand*	Suspension	Suspension	Dismissal
E. Sleeping on duty where life or property is endangered.	Reprimand*	Dismissal	Suspension	Dismissal
F. Unauthorized use or possession of, loss of or damage to Government or Authority property or the property of others.	Reprimand*	Suspension	Suspension	Dismissal
SAFETY				
A. Failure to observe precautions for personal safety posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment.	Reprimand*	Suspension	Suspension	Dismissal
B. Violation of safety regulations which endangers life or property.	Reprimand*	Suspension	Suspension	Dismissal
C. Endangering the safety of or causing injury to personnel through carelessness.	Reprimand*	Suspension	Suspension	Dismissal
D. Failure to observe no smoking regulations or carrying matches in restricted areas.	Reprimand*	Suspension	Suspension	Dismissal

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
E.	Violating traffic regulations driving on Government premises, or improper operation of government motor vehicles.	Reprimand*	Dismissal	Suspension	Dismissal

**11.500 CIVIL SERVICE COMMISSION HEARING PROCEDURES FOR ADVERSE ACTION APPEALS
(COVERING SUSPENSIONS, DEMOTIONS AND DISMISSALS).**

CHAPTER 12

GRIEVANCE PROCEDURES

STATEMENT OF POLICY

It shall be the policy of the Authority to promote favorable relations between management and its employees by resolving complaints expeditiously; prevent similar complaints; assure fair and equitable treatment of all employees; and promote harmonious working relationships among all levels of employees.

The General Manager shall develop procedures outlining the responsibilities and steps to be followed by employees in the presentation of an informal or formal grievance. All levels of management shall carefully and promptly respond to an employee's grievance and shall be guided by these procedures.

12.000 APPLICABILITY

The regulations shall apply to all permanent classified employees.

12.100 DEFINITION

A grievance is any question or complaint filed by a permanent employee alleging that there has been a misinterpretation, misapplication or violation of a personnel statute, rule, regulation, written policy which directly affects the employee in the performance of his official duties; or that he has received prejudicial, unfair, arbitrary, capricious treatment in his working conditions or work relationships.

The time frames will serve as guide and may be extended or shortened based on concurrence of the parties involved.

12.200 COVERAGE

Grievances may include, but are not limited to, such actions as employee-supervisor relationships, duty assignments not related to job classification, shift and job location assignments, hours worked, working facilities and conditions, policies for granting leave, and other related matters.

12.300 EXCLUSIONS

12.301 General Exclusions

The following actions are not covered by the grievance procedures:

- A. Disqualification of an applicant;
- B. Disqualification of an eligible;
- C. Examination ratings;
- D. Removal during original probationary period;
- E. Appeals from classification determinations;
- F. Appeals from adverse personnel actions;
- G. Allegations or complaints of discrimination; and
- H. Appeals of performance evaluations.

12.302 Grievance Procedures for Employee Organizations

The procedures are also not applicable when the employee is in a unit covered by an exclusive recognition, as an employee organization, which has negotiated grievance procedures for that unit. When negotiated procedures exist, they shall be the exclusive procedures available to public employees in the unit for settlement or group grievances.

12.303 Equal Employment Opportunity Discrimination Complaint

When an aggrieved employee submits a written allegation of discrimination on grounds of race, color, religion, sex, national origin, marital status, age, disability or political affiliation in connection with a matter which is subject to the Authority's grievance procedures, as well as, the EEO Discrimination Complaint Procedures, that allegation shall be processed under the EEO Discrimination Complaint Procedures.

12.400 GENERAL PROVISIONS FOR USE OF GRIEVANCE PROCEDURES

12.401 Freedom from Reprisal or Interference

- A. An employee and his representative shall be free to use the grievance system without restraint, interference, coercion,

discrimination, or reprisal.

- B. An employee, whether acting in an official capacity for the Authority, or on any other basis, must not interfere with, or attempt to interfere with, another employee's exercise of his rights under the grievance system. To be fully effective, the spirit as well as the letter of this non-interference requirement must be enforced. It is not enough for an official to abstain from overt threats or interference. He should refrain from making any statement or taking any action, which has the appearance or even the flavor of a threat, interference, or intimidation.

12.402 Employee's Status During Grievance Procedures

An employee's status during each procedural level shall be status quo.

12.403 Right to Seek Advice

All levels of management will provide an opportunity for an employee to communicate with and seek advice from:

- A. The Authority's Human Resources Division;
- B. The EEO Coordinator or Counselor; or
- C. A supervisory or management official of higher rank than the employee's immediate supervisor.

12.404 Representation

- A. An employee has the right to present a grievance without representation.
- B. An employee has the right to present a grievance with representation.
 - 1. An employee has the right to be accompanied, represented, and advised by a representative of his choice at any stage of the grievance proceedings.
 - 2. An employee may change his representative, but to do so, he must notify his supervisor and the General Manager of the change in writing.

3. A person chosen by the employee must be willing to represent him.

12.405 Official Time for Presentation of the Grievance

- A. An employee must be given a reasonable amount of official time to present his grievance if he is otherwise in an active duty status.
- B. An employee's representative, if he is an employee of the Government of Guam and is otherwise in an active duty status, must be given a reasonable amount of official time to present the grievance.
- C. There is no requirement that the official time for the presentation include time for investigation or preparation, or that it includes travel expense or per diem travel allowance or consultation with private attorney.

12.406 Termination of Grievance

- A. An employee who has filed a grievance may terminate the grievance at any time.
- B. Failure on the part of the employee to proceed to a higher step of the grievance procedure within the time period specified will terminate the grievance.

12.407 Management's Responsibility for Timely Action and Settlement At the Lowest Possible Level

- A. It shall be the responsibility of management to settle grievances fairly and promptly at, or near the organizational level where the employee brought the grievance to their attention.
- B. Failure by management to render a decision to the employee within the allotted time at any step constitutes denial; the employee may then proceed to the next step of the grievance procedures.

12.500 STEP 1 - INFORMAL GRIEVANCE PROCEDURES

12.501 Management Responsibility

An employee's grievance may or may not be objectively justified. What is important is that the grievance is real to the employee. When the grievance is well founded, management official has both a duty and a need to eliminate the cause. When the grievance is not well founded, it is equally important to reach an understanding based on the full facts.

Therefore, the informal procedure should assure consideration of every employee's grievance with a degree of promptness, sympathy, understanding, fairness, competence, and authority which convinces the employee that he has been treated fairly.

12.502 Settlement at the Lowest Possible Level of Management

The informal procedures should be as simple as possible consonant with bonafide consideration of grievances. It should encourage settlement of matters at the lowest possible administrative level in the shortest possible time and should not, therefore, require any written explanation from the employee. The employee may present his grievance under the informal procedures, either orally or in writing, and he should not be prevented from submitting a written explanation if he desires.

12.503 Supervisor's Responsibility

- A. Normal day-to-day discussions between employees and supervisors regarding working conditions and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships.
- B. Each employee of the Authority has the right to present matters to his supervisor, and each supervisor has the obligation to act promptly and fairly upon them, seeking advice and assistance of others when necessary.

12.504 Employee's Responsibility

- A. Each employee is expected to make a concerted effort to achieve informal settlement of his grievance. He should promptly bring

his grievance to the attention of the appropriate supervisory level.

- B. Tolling Period: In counting the number of days for each step, if the last day of the period falls on a weekend, the filing time or receipt time falls on the next working day.

12.505 Using the Informal Grievance Procedure - Step 1

- A. Initiation by Employee

In keeping with the personal nature of matters covered by grievance procedures, only employees can initiate grievances, singly or jointly. They may not be initiated by employee organizations. Employee organizations maybe permitted to present a grievance on behalf of an employee or a group of employees when requested to do so by the employee or employees.

- B. Time Limit

1. An employee may present a grievance to his immediate supervisor concerning a continuing practice or condition at any time. Grievances concerning a particular act or occurrence must be presented within 15 calendar days of that action or occurrence.
2. The immediate supervisor shall render a decision within 10 calendar days of the presentation of the grievance.

- C. Form of the Grievance

An employee may present a grievance under the informal procedure either orally or in writing.

- D. Non-rejection Provision

A grievance may not be rejected in the informal procedure for any reason.

If the grievance is not timely or consists of a matter not covered under the grievance system, the employee should be so advised

but he must be allowed to submit his grievance under the formal procedures if he insists.

E. Mandatory Use of the Informal Procedure

An employee must complete the informal procedure before the Authority may accept from him a grievance concerning the same matter under the formal procedure.

**12.600 STEP 2 - FORMAL GRIEVANCE PROCEDURES -
NEXT ADMINISTRATIVE LEVEL**

12.601: Presentation of the Grievance - Step 2

A. An employee is entitled to present a grievance under the formal procedure if:

1. he has completed the informal procedure; and
2. the grievance is not satisfactorily resolved at the informal level; and
3. the immediate supervisor failed to render a decision within 10 calendar days of the presentation of the grievance at the informal level.

B. The grievance presented in Step 2 must:

1. be in writing on a form prescribed by the General Manager;
2. contain sufficient detail to identify and clarify the basis for the grievance;
3. specify the remedy requested by the employee or the appropriate supervisory level; and
4. be submitted to the appropriate division manager who is the next higher supervisor than the immediate supervisor within five calendar days after receipt of the answer in Step 1 or after the answer was due.

12.602 Responsibility of Next Higher Supervisor

- A. The next higher supervisor must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed through the informal procedure.
- B. The next higher supervisor shall make a positive attempt to resolve the grievance. He shall render a decision, in writing, to the employee within five calendar days of receipt of the written grievance.

**12.700 STEP 3 - FORMAL GRIEVANCE PROCEDURES -
GENERAL MANAGER**

12.701 Presentation of the Grievance - Step 3

- A. An employee is entitled to present a grievance under Step 3 if:
 - 1. he has completed Step 2 of the procedures; and
 - 2. the grievance is not satisfactorily resolved at Step 2 level;
or
 - 3. specify the remedy requested by the employee; and
 - 4. be submitted to the General Manager within five calendar days after receipt of the answer in Step 2 or after the answer was due.

12.702 Authority Grievance Committee

- A. Appointment of Committee

Within three calendar days of receipt of the written grievance from the employee, the General Manager shall appoint a Grievance Committee to investigate the circumstances of the grievance and to make a recommendation as to its disposition.

B. Committee Membership

The Committee shall consist of four members who are permanent government employees; two members from the employee's peer group and two members who are permanent employees at the managerial level.

C. Responsibility of the Committee

The Committee must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed through the informal procedure.

D. Committee Inquiry

The Committee shall be expected to convene and initiate a grievance inquiry appropriate to the nature and scope of the issues involved in the grievance. The inquiry will typically include the securing of documentary evidence and personal interviews in an effort to fully understand the issues and obtain the maximum information available pertinent to the issues.

E. Grievance File

When the Committee begins a grievance inquiry, the Committee Chairperson (elected by the members of the Committee) shall establish an employee grievance file. This is an independent file, separate and distinct from the personnel folder. The grievance file must contain all documents pertaining to the grievance including:

1. statements of witnesses;
2. records or copies of records; and
3. Reports of personal interviews.

F. Open Record

The grievance file is an open record. It is open for review by the employee and his representative and must not contain any document that is not available to the employee. Information to which the Committee is exposed which cannot be made available to the employee in the form it was received must be included in

a file in a form, which the employee can review or it must not be used.

G. Committee Report

The Committee shall complete its investigation within 15 calendar days of the date the Committee was appointed and shall submit a written report of its findings and recommendations to the General Manager within two calendar days following completion of its investigation.

H. General Manager's Written Decision

The General Manager shall render a written decision to the employee within five calendar days of receipt of the written report from the Committee.

12.800 STEP 4 - APPEAL TO THE COMMISSION

12.801 Presentation of the Grievance - Step 4

- A. An employee is entitled to present a grievance appeal under Step 4 if:
1. he has completed Step 3 of these procedures; and
 2. the grievance is not satisfactorily resolved at Step 3 level; or
 3. the General Manager failed to render a decision within five calendar days of the submission of the written report from the Authority Grievance Committee at Step 3 level; or
 4. there has been a violation of the Government Code or Authority Personnel Rules and Regulations; or
 5. the procedural rights of the employee filing the complaint as outlined have been disregarded; or
 6. the decision of the supervisor, Authority Grievance Committee and the General Manager has been unjust, inequitable or not in accord with the facts; or

7. the General Manager fails to act on the Authority Grievance Committee's recommendations.

B. The grievance presented in Step 4 must:

1. be in writing on a form prescribed by the General Manager;
2. contain sufficient details to identify and clarify the basis of the grievance;
3. include copies of the grievance forms submitted in Steps 2 and 3;
4. specify the remedy requested by the employee; and
5. be submitted to the Commission within five calendar days after receipt of the answer in Step 3 or after the answer was due.

CHAPTER 13

RESIGNATION AND TERMINATION

STATEMENT OF POLICY

The purpose of this Chapter is to provide an orderly, uniformed and fair procedures for non-disciplinary separation of employees from the Authority's service.

13.000 RESIGNATION

13.001 Coverage

This section shall apply to all classified service employees.

13.002 Notice of Resignation

An employee may resign by giving written notice of the resignation to the General Manager. The employee shall notify the General Manager in writing at least 10 workdays before the date of separation. When a resignation letter is directed to the General Manager, it shall by its terms, be effective immediately or on a certain date. If no effective date is indicated, it shall be effective upon delivery to the General Manager.

Upon receipt by the General Manager of any resignation letter, the General Manager may make the resignation effective immediately or sooner than the effective date in the resignation letter. Such resignation shall be effective according to its terms unless the General Manager, at his discretion, makes the resignation effective immediately or at sometime sooner than the resignation letter. Acceptance of such resignation by the General Manager is not required for the resignation to become effective.

13.003 Withdrawal of Resignation

With the consent of the General Manager, the employee may withdraw a resignation at any time prior to the effective date of the resignation.

13.004 Resignation in Good Standing

A resignation shall be deemed to be in good standing when it is made voluntarily and not as a direct result of a final adverse action or criminal conviction. With the exception of an employee serving an original probationary period, an employee who resigns in good standing shall have reemployment rights consistent with Title 4, GCA and Rules 4.406 and 4.502.

13.005 Resignation Pending Adverse Action

An employee who resigns after receipt of a notice of proposed adverse action is deemed to have resigned voluntarily and has no right to appeal to the Commission. Any employee, who resigns under this section and is subsequently convicted of a crime based on the same facts, which forms the basis of the adverse action, shall be deemed not to resign in good standing.

13.100 TERMINATION OF EMPLOYMENT

13.101 Termination of Employment

The General Manager may terminate the services of an employee for any of, but not limited to the following reasons:

- A. The duration of the temporary period of employment is ended.
- B. The employee failed to demonstrate satisfactory work performance during the original probationary period or failed to satisfy other conditions of employment.
- C. For misconduct, in which case, the adverse action procedures shall be adhered to. (Refer to Adverse Action Procedures.)

13.200 EXIT INTERVIEW

A personal interview shall be conducted with each employee separating from the services of the Authority. The interview shall be held prior to the employee's effective date of separation. The interview shall be conducted in such manner as to obtain from the separating employee the true reason or reasons for his separation. Such interview shall be recorded on forms

prescribed by the General Manager and made part of the separating employee's personnel folder. A representative of the Human Resources Division shall conduct the interview.

13.201 Clearance

Each separating employee must be cleared of all obligations within the Authority no later than the employee's last working day. Final payment of wages will be withheld pending completion of exit interview and clearance of all obligations to the Authority.

CHAPTER 14

MERIT CAREER PLAN

14.000 PURPOSE

This procedure outlines the responsibilities of the General Manager when permanent classified Authority employees apply and are being considered for career opportunities.

14.100 COVERAGE OF THE MERIT CAREER PLAN

This plan applies only to permanent classified employees.

14.200 EXAMINATION UNDER THE MERIT CAREER PLAN

The same examination will be used for all persons responding to a particular Merit Career Job Announcement.

14.300 REFERRAL OF CERTIFICATION LIST

The top five (10 for entry level labor/custodial and waterfront positions) eligibles shall be furnished to the General Manager based on rank order. However, in the event of tie scores with the fifth (10th for entry level labor/custodial and waterfront positions) eligible, all eligibles with the same score as the fifth (10th for entry level labor/custodial and waterfront positions) eligible will be referred.

14.400 SELECTION INTERVIEW

The General Manager shall establish procedures for interviewing certified eligibles.

14.500 EVALUATION OF CANDIDATES DURING THE SELECTION PROCESS

- A. Evaluation of candidates shall be based on job-related criteria, which measures the knowledge, skills, abilities and personal characteristics essential to successful performance in the position to be filled. Due consideration shall be given

to formal recognition of superior performance of candidates, job-related training, and performance appraisals.

- B. Length of service, length of experience or level of formal education may be used as an evaluation factor when there is a clear and positive relationship with the requirements of the job to be performed. Length of service or experience may not be the factor given the greatest weight unless the nature of the vacant job is such that other factors cannot be expected to identify significant qualitative differences between qualified candidates.

14.600 SELECTION DOCUMENTATION REQUIREMENTS

- A. The basis for selection must be job-related. The results of the selection process must be on file with the Personnel Division. Evaluation results are confidential and form a part of the selection process for the candidates being considered for the position. The Commission reserves the right to post audit selection documentation records.
- B. The General Manager will advise all persons certified under a Merit Career Job Announcement about the selection within 10 working days of the selection.
- C. Individuals who were certified and were not selected may request the General Manager to review the adequacy of the consideration they received provided that such a request is received in writing by the General Manager within five working days after the non-selectee received the notice about the selection.

The minimum qualifications established for the position may not be contested by a competitor. The following information shall be made available to competitors under a Merit Career Job Announcement upon request, and the General Manager shall periodically publish the competitor's right to this information:

1. whether the individual was considered eligible on the basis of minimum qualification requirements for the position;
2. whether an individual was one of those in the group from which selection was made; and

3. who was selected.

14.700 HANDLING EMPLOYEE COMPLAINTS

- A. The General Manager shall respond to employee questions or complaints about the career program, or about a specific promotion action, and provide the employee with appropriate information or explanation.
- B. Issues that are not a basis for a formal complaint are:
 1. failure to be selected when proper procedures are used. A complaint may not be filed for non-selection from a group of properly ranked and certified candidates; and
 2. any action required to be taken under the provisions of the statute, or instructions of the Commission.

14.800 EXCEPTIONS TO THE MERIT CAREER PLAN

- A. The provisions of the Merit Career Plan are not required for career promotions which are:
 1. Promotions without current competition where at an earlier date an employee was selected under a Merit Career Job Announcement for a position with known promotion potential to the position to which he is being promoted. The promotion potential must have been included in the announcement, and where appropriate, the career ladder (intervening promotion) documented in the original announcement.
 2. Where the employee's position is reconstituted in a higher grade because of gradual accretion of additional duties and responsibilities and the accretion was not the result of planned management action. For example, an increase in the level of the employee's performance or change in workload, procedures, or organization that affects the grade of the positions only incidentally.

To be eligible for a career promotion when the position is upgraded under these conditions, an employee must

continue to perform the same basic function and his former position must be absorbed in the new one. When an additional position is created, or when the new position is not a clear successor to the former position, career promotion is not authorized. Similarly, a career promotion may not be made from a non-supervisory position to a supervisor or manager position because these levels of position inherently have specific administrative authority which can only be delegated by management.

B. The provisions of this Merit Career Plan are not required for the following personnel actions:

1. A transfer from a position having known promotion potential to a position having no higher promotion potential.
2. A detail appointment.
3. An action taken as a remedy for failure to receive proper consideration in a competitive promotion procedure.
4. A promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to issuance of a new classification specification (standards) or the correction of a classification error.
5. Re-promotion to a class or position from which an employee was demoted without personal cause and not at his request. Acceptance of a demotion in lieu of layoff is not a demotion at the employee's request for these purposes.

The competitive procedures of the Merit Career Plan will not be used before these individuals are accorded their rights for re-promotion.

14.900 ADMINISTRATION REQUIREMENTS

- A. The General Manager shall provide for initial and periodic orientation to all employees, supervisors and managers concerning the provisions of this Merit Career Plan and the

training of all division managers in their respective responsibilities for assuring the maximum publicity of Merit Career Job Announcements and for advising employees on requirements and provisions of this Merit Career Plan.

- B. The General Manager shall institute controls and audit procedures as deemed necessary to assure that all promotion actions are consistent with the provisions of the Merit Career Plan.
- C. The General Manager will assure that each current and future Division Manager is provided a copy of the Merit Career Plan and any subsequent changes to the Plan.

CHAPTER 15

DRUG FREE WORKPLACE PROGRAM POLICY

STATEMENT OF POLICY

The Authority is committed to maintaining a safe and healthy work environment free from the influence of alcohol and drugs. To that end, the Authority has adopted a Drug-Free Workplace Program. Compliance with the Authority's drug policy is a condition of employment. The Authority intends to take severe disciplinary action, up to including termination, against an employee who violates the Authority's Drug Free Workplace Program.

15.000 PREVENTION AND TREATMENT

The Authority encourages any employee with a drug or alcohol abuse problem to voluntarily seek treatment. The Authority has established an employee assistance program to provide counseling and referral services for employees with drug or alcohol abuse problems who voluntarily seek help.

15.100 PROHIBITED ACTIVITY

The Authority strictly prohibits unauthorized use, possession (including storage in a desk, locker, car or other repository), manufacture, distribution, dispensation or sale of illegal drugs, drug paraphernalia, controlled substances, or alcohol on the Authority's premises, in official vehicles, during working hours or any activity that compromises the integrity or accuracy of the Authority's drug and alcohol program, or any failure or refusal to abide by the Drug-Free Workplace Program, and conviction under any criminal drug statute.

15.200 TESTING

The Authority may require employees and applicants to be tested for drugs or alcohol upon hiring; when the Authority suspects that the employee's work performance or on-the-job behavior may have been affected in any way by drugs or alcohol; or when the Authority determines that an employee may have contributed to an accident involving fatality, serious bodily injury, or substantial damage to property. In addition, certain employees occupying

specifically designated sensitive positions, referred to as Testing Designated Positions, will be subject to random drug testing. Any positive drug or alcohol test is a violation of the Authority's Drug Free Workplace Program. Any test for drug or alcohol abuse will be conducted using reasonable procedural safeguards.

15.300 PROCEDURES

The procedures to effectively administer the Drug Free Workplace Program shall be those established by Department of Administration, which the Authority entered into under a memorandum of understanding.

GLOSSARY

1. **ADVERSE ACTION:** Action taken by the General Manager or his designated representative which may suspend, demote, or dismiss a permanent employee.
2. **ADMINISTRATIVE LEAVE:** Leave with pay without charge to annual leave.
3. **ADMINISTRATIVE WORKWEEK:** Consists of 40 hours of work or paid leave per workweek.
4. **ALLOCATION/CLASSIFICATION:** The assignment of an individual position to an appropriate class in the classification plan on the basis of kind and difficulty of the duties and job requirements of work performed in the position.
5. **APPOINTING AUTHORITY:** The General Manager of the Port Authority of Guam.
6. **BOARD:** Shall mean the Port Authority of Guam Board of Directors.
7. **CERTIFICATION OF ELIGIBLES:** A document containing names from which competitive appointment is made.
8. **CLASS OF POSITION:** Includes all positions, which are sufficiently similar, as to:
 - (a) kind and subject matter of work;
 - (b) level of difficulty and responsibility; and
 - (c) the qualification requirements of the work to warrant similar treatment in personnel and pay administration.
9. **CLASS SERIES:** Consists of two or more classes that are similar as to line of work but differ as to level of responsibility and difficulty.
10. **CLASS STANDARD:** An official document which describes the general characteristics of the class, including title, nature of work summary, statement of examples of typical duties performed, a statement of minimum qualifications, and the minimum knowledge, abilities, and skills needed to

perform the work which provides the criteria for placing each position in its proper class.

11. **CLASS TITLE:** The official name given to a class of positions to identify the class and all positions in the class, and shall be used for personnel, budget and fiscal purposes.
12. **CLASSIFICATION PLAN (Position Classification Plan):** A plan in which classes of positions are arranged in a logical and systematic order according to similarities and differences in duties, responsibilities, and qualifications requirements.
13. **CLASSIFIED SERVICE:** Government service of which employees have attained permanent status and cannot be removed from employment without cause.
14. **COMMISSION:** Shall mean the Guam Civil Service Commission.
15. **COMMON-LAW:** Persons who have co-habitated for at least two consecutive years and who are readily eligible for marry without emancipation under the laws of Guam.
16. **COMPARABLE POSITIONS:** Positions of equivalent or lower grade and pay in the same occupational category.
17. **COMPENSATION PLAN:** A compilation of all classes of positions in the classification plan setting forth their assignments of pay grades in accordance with Chapter 6 of Title 4 of the GCA.
18. **COMPENSATORY TIME-OFF:** Time off in lieu of overtime pay. The amount of time off shall be granted at time and one half.
19. **CREATION OF NEW CLASS OR CLASSES OF POSITIONS:** Those creations pursuant to Section 6303 of Title 4 of the GCA, because there is no existing class in the classification plan to which a position creation can be properly allocated.
20. **CREDITABLE SERVICE:** Service period for increment step increases.
21. **DEMOTION:** The change of an employee's position to a position with a lower maximum salary rate.

22. **DEMOTION (Involuntary):** Demotion of an employee for cause.
23. **DEMOTION (Voluntary):** Demotion requested by an employee in order to retain employment, when lay-off from his position is eminent, or for other reasons when the action is entirely voluntary on the part of the employee and not for cause.
24. **DETAIL:** The temporary assignment of an employee to perform a particular Function other than the position to which regularly assigned. Detail shall not be for a period of more than 120 days, except where the Civil Service Commission has granted an extension of up to an additional 120 days per calendar year.
25. **DISCIPLINE:** Corrective action(s) taken by the General Manager, which is/are necessary to maintain the efficiency of the service.
26. **DISMISSAL:** Separation, discharge or removal for cause of an employee from his position.
27. **DIVISION MANAGER:** The head of a respective division within the Port Authority of Guam.
28. **DUTY:** A task assigned to an employee by a responsible management authority.
29. **EMERGENCY:** Situations which may jeopardize human life and property or Authority's operations which require immediate action.
30. **EMPLOYEE:** Any person employed by the Port Authority of Guam.
31. **ESSENTIAL FUNCTIONS:** Those functions contained in a job specification that the General Manager believes to be important in accomplishing the purpose of the job.
32. **FIRST DEGREE OF CONSANGUINITY:** Blood relationship restricted to parent-child or sibling-sibling, to include adoptive and step-parents and children.
33. **GCA:** Shall mean the Guam Code Annotated.
34. **GOVERNMENT-WIDE:** Includes permanent status employees occupying classified positions within the Government of Guam departments and

agencies.

35. **GRADUAL ACCRETION OF DUTIES AND RESPONSIBILITIES:** The acquiring of duties and responsibilities over a period of time. The employee must continue to perform the same basic function and his former position must be absorbed in the new one.
36. **GRIEVANCE:** Complaints, which relate to the working condition and relationship to Agency policies, rules and regulations, and which cannot be resolved through informal discussions with the immediate supervisor.
37. **IMMEDIATE FAMILY:** With respect to leave, immediate family is defined as the employee's spouse, common-law, mother, father, grandparents, guardian, children, in-loco parentis, sister, brother, mother-in-law, and father-in-law. Step, adoptive, and spouse of adoptive parents, children, and grandchildren would also be considered "Immediate Family".
38. **IN-LOCO PARENTIS:** Refers to the situation of an individual who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
39. **JOB CONTENT:** Duties and responsibilities assigned to a particular position.
40. **KNOWN PROMOTION POTENTIAL:** Upward career mobility in a series of positions within the Authority without competition and where at an earlier date an employee was selected under a competitive examination.
41. **LAY-OFF:** The involuntary termination of employment as a result of reorganization or lack of funds.
42. **LEAVE YEAR:** The period from the beginning of the first complete pay period in the fiscal year commencing October 1, to the beginning of the first complete pay period in the following fiscal year.
43. **LIMITED-TERM APPOINTMENT (LTA):** An appointment to positions, which are permanent in nature, not to exceed one year.
44. **LINE MANAGEMENT:** The line of authority from the General Manager down to the first level supervisors.
45. **MEDICAL JACKET:** Includes the employee's employment medical documents and information, drug testing results, inclusive of health and life

insurance.

46. **MERIT CAREER:** Promotion within the classified service, which is covered under the Merit Career plan of these rules.
47. **MINIMUM QUALIFICATION:** Minimum experience and training requirements derived from the knowledge, abilities, and skills and other qualification required to perform the duties and responsibilities of the position.
48. **MISCONDUCT:** Any action of an employee which is of a personal nature not related to the employee's ability to perform the job, but which constitutes a violation of regulations governing expected employee conduct on the job.
49. **NEPOTISM:** Supervisor-subordinate relationship between and among spouses and persons within the first degree of consanguinity, or as prescribed in Title 4, Section 4204, of the GCA.
50. **NEXUS:** Refers to a conflicting link between a job and a criminal offense where there is a strong likelihood that employment will impair the government's ability to provide safe and efficient government services.
51. **NON-PERMANENT STATUS:** Those employees in the government's merit personnel system who do not have permanent status and are non-permanent employees until such time as they acquire permanent status.
52. **OPEN COMPETITIVE:** This is an examination, which permits the competition of persons who meets the requirements of the official announcement for the position, and is not restricted to persons currently employed in the classified service.
53. **ORIGINAL OR INITIAL APPOINTMENT:** First-time permanent appointment to the classified position.
54. **ORIGINAL PROBATIONARY PERIOD:** It is that period in which an employee initially serves to attain permanent status as a Government of Guam employee. This also applies to former employees who have not been employed in the Government of Guam service after four years of separation in good standing.
55. **OVERTIME:** Actual hours worked in excess of 40 hours in an administrative work week. For classified employees whose normal work week schedule does not consist of five working days and two days off in a work week, overtime

shall mean only hours worked in excess of their administrative workweek.

56. **PASSING SCORE:** A score of 70.00 or above.
57. **PAY GRADE:** The designated grade of compensation, as provided in the Compensation Schedule.
58. **PAY GRADE REASSIGNMENT:** Change of pay grade allocation of a class as determined by Commission.
59. **PAY GRADE SCHEDULE:** A systematic arrangement of salary grades set forth by the Commission's Unified Pay Schedule.
60. **PERMANENT APPOINTMENT:** An appointment made by the General Manager to a position subject to the probationary period requirements.
61. **PERMANENT STATUS:** Permanent status is attained once an employee completes a satisfactory original probationary period.
62. **PERSONNEL JACKET:** The file shall contain documents or information of the employee's classification, performance evaluation, training, past work experience, commendations, and disciplinary actions.
63. **PLANNED MANAGEMENT ACTION:** Refers to the pre-determination of a position via the vehicle of management budget or classification review where the new position is not a clear successor to the former position or where a promotion is recommended from a non-supervisory position to a supervisory or manager position. The requirements for competitive examinations shall apply.
64. **POSITION:** The work consisting of duties and responsibilities assigned by the Division Manager for performance by an employee whether part-time or full-time, temporary or permanent, occupied or vacant.
65. **POSITION DESCRIPTION:** A formal written record describing the essential function, scope, and principal duties and responsibilities for a position and/or employee; used as an aid in evaluation of jobs and for such other purposes as selection, development, performance appraisal, training and other similar human resource functions.
66. **PRIORITY PLACEMENT LIST:** List established for displaced permanent classified employees to be afforded first offer of employment to positions that

they previously filled, or to comparable positions they are qualified for.

67. **PROBATIONARY APPOINTMENT:** The initial appointment by the General Manager of an employee to a class of position in which the employee will commence serving a probationary period.
68. **PROBATIONARY PERIOD:** A working test period and is part of the examination process following an appointment from certification list during which an employee is required to demonstrate fitness for the position to which appointed by the satisfactory performance of the duties and responsibilities of the position.
69. **PROMOTION:** The movement of a permanent employee to a position with a higher maximum salary rate.
70. **PROMOTIONAL COMPETITIVE:** Competitive recruitment under the merit system that are only open to permanent status employees of the Government of Guam.
71. **RAW SCORE:** The numerical score, which is attained by an examinant without the application of a formula.
72. **REALLOCATION (Reclassification):** The change in the allocation of position by assigning it to a higher or lower class, or another class at the same level for any of the following reasons:
 - A. Significant changes in the nature or variety of work which influence the overall level of difficulty.
 - B. Re-determination of the initial classification judgement without a change in duties and responsibilities.
73. **RECRUITMENT:** The process of announcing positions in an effort to solicit candidates for appointments in the Port Authority of Guam service.
74. **RE-EMPLOYMENT:** A former permanent classified employee who returns to Government service within four years of separation in good standing to the same or comparable job in the Authority. The pay remains the same.
75. **REINSTATEMENT:** A permanent classified employee who returns to his former position as a result of Commission ruling, or as a result of military service.

76. **RESIGNATION:** The voluntary termination of employment by an employee without cause.
77. **REVIEW COMMITTEE (PERFORMANCE APPRAISAL):** An option which the General Manager may elect and which is comprised of at least five Port employees to make recommendations for a final decision regarding the performance elements and standards.
78. **SELECTIVE CERTIFICATION:** Certifying of eligible applicants who meet special requirements set forth and approved by the General Manager.
79. **SERIES OF CLASSES:** Consists of two or more classes that are similar as to kind of work, but differ as to level of responsibility and difficulty.
80. **SPOUSE:** Husband or wife.
81. **SUSPENSION:** The temporary removal of an employee from his position with loss of pay for cause.
82. **TEMPORARY APPOINTMENT (120 DAY APPOINTMENT):** An appointment to positions, which are permanent in nature, not to exceed 120 work days or 960 hours, whichever comes first, within a calendar year.
83. **TERMINATION:** The removal of an employee from employment for authorized cause.
84. **TRANSFER:** The lateral movement of an employee without any change in position title or salary, or from one class of position to another class of position having similar duties and responsibilities and qualification requirements, or a movement from one department to another department.
85. **UNCLASSIFIED SERVICE:** Government service of which employees serve at the pleasure of the Board and do not attain permanent status.
86. **WEIGHTED SCORE:** A product of raw score and the appropriate formula for the particular examination.
87. **WORKDAY:** A regularly recurring period of eight consecutive hours exclusive of lunch hour.

88. **WORKWEEK:** A regularly recurring period of seven consecutive 24-hour intervals. A workweek need not coincide with a calendar week. It may be any day of the week at any hour of the day. A workweek must remain the same unless any change is intended to be permanent.

