

TITLE 60: BOARD OF EDUCATION

SUBCHAPTER 60-30.2

EMPLOYMENT OF CERTIFIED PERSONNEL REGULATIONS

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Subchapter Authority: CNMI Const., art. XV; 1 CMC §§ 2251-2273; 3 CMC §§ 1101-1192.

Subchapter History: Amdts Adopted 39 Com. Reg. 39765 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39656 (May 28, 2017); Amdts Adopted 38 Com. Reg. 38408 (Aug. 28, 2016); Amdts Proposed 38 Com. Reg. 37963 (May 28, 2016); Amdts Adopted 36 Com. Reg. 35893 (Dec. 28, 2014); Amdts Proposed 36 Com. Reg. 35641 (Oct. 28, 2014); Amdts Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Amdts Proposed 33 Com. Reg. 31693 (June 27, 2011); Amdts Proposed 32 Com. Reg. 30354 (May 21, 2010);+ Amdts Adopted 32 Com. Reg. 30635 (Sept. 22, 2010); Amdts Proposed 32 Com. Reg. 30566 (July 15, 2010); Amdts Emergency 32 Com. Reg. 30422 (June 25, 2010)(effective from June 25, 2010); Amdts Adopted 31 Com. Reg. 29884 (Sept. 28, 2009); Amdts Proposed 31 Com. Reg. 29740 (July 23, 2009); Amdts Adopted 31 Com. Reg. 29536 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29215 (Feb. 25, 2009); Amdts Adopted 31 Com. Reg. 29534 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29207 (Feb. 22, 2009); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22580 (May 24, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004); Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003); Amdts Proposed 22 Com. Reg. 17253 (June 20, 2000);* Amdts Adopted 20 Com. Reg. 15966 (June 15, 1998); Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

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+ As of August 31, 2011, an adoption notice had not been published.

*A notice of adoption for the June 2000 proposed amendments was never published.

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: Title 3, division 1 of the Commonwealth Code contains the education laws of the Commonwealth. PL 6-10, the “Education Act of 1988,” codified as amended at 1 CMC §§ 2251-2273 and 3 CMC §§ 1101-1192, took effect on October 25, 1988. PL 6-10 § 1 created the Public School System as a nonprofit corporation within the Commonwealth government, headed by the Board of Education. See 1 CMC §§ 2251 and 2261. The Board of Education is empowered to formulate policy and exercise control over the Public School System and to establish rules, regulations and policies for the operation of the Public School System. See 1 CMC § 2268(b).

PL 6-10 repealed and reenacted PL 3-43 (effective Jan. 19, 1983), a comprehensive revision of the Commonwealth’s education laws. See the commission comment to 3 CMC § 1101.

Prior to October 25, 1988, the Commonwealth government included a Department of Education and Board of Education, which are the predecessors of the current Public School System and Board of Education. See PL 1-8 (effective August 10, 1978) and PL 3-43. Throughout the development of education law in the Commonwealth, the Board of Education has been the entity with the authority to promulgate rules and regulations.

Part 001 - General Provisions

[Reserved.]

Part 100 - The Hiring Process

Subpart A - Recruiting and Interviewing

§ 60-30.2-101 Purpose

The recruiting process often focuses on the selection of qualified individuals for employment and forgets that the interviewer also communicates important information about the job and the employer to the applicant. An applicant’s first impressions about salary, employment terms, and the equal opportunity for employment are formed during this process. Miscommunication and misunderstanding can create problems and lead to litigation. This can be avoided by providing clear information in writing, standardizing the process, and permitting only trained persons to serve as recruiters.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-102 PSS Recruiters

(a) Only those persons designated as a “PSS recruiter” shall be authorized to interview applicants for employment.

(b) The Commissioner shall designate in writing those persons authorized to serve as PSS recruiters specifying the period of time and the geographic area (e.g. Guam, Hawaii, mainland U.S.) of the authorization. The original of this designation shall be kept by the Commissioner and copies shall be provided to the PSS recruiter, Human Resources Officer and legal counsel.

(c) The Commissioner shall only designate those persons to be PSS recruiters who have been trained by the Equal Employment Officer or the legal counsel on the legal restrictions and requirements of the interview process.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-104 The Interview

(a) The PSS recruiter shall take charge of representing PSS during the interview. While other PSS personnel, such as principals, specialists or administrators may participate in the interview, the interview shall be controlled by the PSS recruiter.

(b) All job applicants shall be presented with a copy of the regulations in this subchapter when they receive the application form.

(c) The PSS recruiter shall obtain from the applicant, at the minimum, a resume and a completed application form at the interview. The application form that shall be used is exhibit “A,” [reprinted] at the end of this subchapter.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The 1997 amendments amended subsection (c).

§ 60-30.2-106 Background Investigation

(a) If the PSS recruiter determines that the applicant will be recommended for employment, then it will be necessary to verify certain information in the job application for classification and certification.

(1) Teaching Certificate: The applicant, if certified, shall provide the PSS recruiter with a certified copy of his or her teaching certificate.

(2) Transcript: The applicant shall cause an official copy of his or her transcript of courses, grades, and degrees awarded in post-secondary institutions to be sent by the educational institution to the Human Resources Officer, CNMI Public School System, P.O. Box 1370, Saipan, MP 96950, if the applicant falls into one or more of the following categories:

(i) The applicant has no teaching certificate,

(ii) The applicant claims to have been awarded a post graduate degree which would impact on his or her classification, or

(iii) The applicant claims to have completed enough post graduate courses to affect his or her classification.

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(b) **Employment Verification:** The PSS recruiter shall contact one or more of the applicant's present or former supervisors and co-workers in order to obtain an opinion of the applicant's suitability for employment. The PSS recruiter shall make these contacts only after receiving a signed waiver on the application form permitting such contact. In the event that the applicant claims work experience that would affect his or her classification, then the applicant shall provide written verification from past employers for the claimed work experience.

(c) **Criminal Record Clearance:**

(1) The Human Resources Officer shall require new employees to provide the results of an inquiry on behalf of the Board of Education through the Department of Public Safety and/or the Clerk of Court of their local jurisdiction. This inquiry shall be made only after receiving a signed waiver on the application form. The Human Resources Officer shall also search the records of the National Association of State Directors of Teacher Education and Certification Clearing House for the past record of the applicant.

(2) A more complete national criminal records search by the Federal Bureau of Investigation, or a similar federal law enforcement agency, using the applicant's fingerprints will later be commenced only upon extending an offer of employment and the employee's arrival in the CNMI, and the results, due to the time involved, shall be used in determining the employee's eligibility for certification.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The original paragraphs of subsection (c) were not designated. The Commission designated subsections (c)(1) and (c)(2).

The 1997 amendments amended subsection (c).

§ 60-30.2-108 Recommendation

(a) The PSS recruiter shall recommend in writing to the Human Resources Officer whether to hire or not hire an applicant for a particular position specifying the reasons supporting the recommendation. This recommendation shall be kept confidential and shall not be available to the employee.

(b) This recommendation should not be made, whenever possible, until the PSS recruiter has verified employment and received a certified copy of the teaching certificate, if any. The recommendation shall have the certificate attached to it and shall discuss the results of the employment verification. The recommendation and attached documents may be sent by facsimile to the Human Resources Officer initially and then mailed. The Human Resources Officer may act upon receipt of the facsimile.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - The Employment Decision

§ 60-30.2-110 Purpose

(a) The Process: The decision to hire an applicant, when initially made by the Human Resources Officer, is always contingent. In itself, it never constitutes a binding promise to hire an applicant. Whether the Human Resources Officer's decision will ultimately be accepted depends upon a determination that adequate funding exists, that legal procedures have been followed and that the Commissioner will approve the decision. Thus, it is important to inform the applicant that the Human Resources Officer's decision is tentative and will not be definite until the applicant receives the signed contract. The signed contract is the official offer of employment which the applicant may accept by executing it.

(b) The Policy: PSS shall provide equal employment opportunity to all persons. This policy of equal opportunity applies to every aspect of personnel policy and practice and to all terms and conditions of employment. Every employee shall ensure that this policy is adhered to and furthered by their conduct under the regulations in this subchapter.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-112 The Decision

(a)(1) The Human Resources Officer shall create an applicant file for each job recommendation letter it receives from a PSS recruiter. The file shall contain, at the minimum, the recommendation letter, job application, resume, certified copy of the teaching certificate (if applicable), transcript (if applicable), criminal conviction clearance and any correspondence with the applicant.

(2) In the event that an applicant is not hired, the applicant's file shall be retained by the Human Resources Officer for a minimum period of two years before it is destroyed. In the event that an applicant is hired, the applicant's file shall be retained by the Human Resources Officer for a minimum period of two years after the final date of employment.

(b) The Human Resources Officer shall make the initial determination whether to extend an offer of employment to an applicant upon review of the entire applicant file.

(c) In the event that the Human Resources Officer determines that an offer of employment should be made, an intent to offer employment letter, filled out completely, shall be provided to the applicant, and a copy provided to the recruiter. The form of this letter is shown as exhibit "B" [reprinted] at the end of this subchapter.

(d) Any other communication to the applicant should emphasize that there will be no authorized offer of employment until a contract form signed by the Commissioner is presented to the applicant for his or her signature.

Modified, 1 CMC § 3806(d), (f).

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History: Amdts Proposed 32 Com. Reg. 30354 (May 21, 2010);* Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

* As of June 30, 2013, an adoption notice had not been published.

Commission Comment: The first paragraph of subsection (a) was not designated. The Commission designated subsection (a)(1) and redesignated subsection (a)(2) accordingly.

The 1997 amendments amended subsection (c).

Subpart C - The Employment Contract

§ 60-30.2-114 Purpose

The hiring process reaches the conclusion with the offer of employment in the form of a contract signed by the Commissioner and an acceptance of employment by the applicant accomplished by the applicant's signing of the contract. Prior to extending the offer, all verification must be completed, all documentation received, and all approvals obtained. The role of the Human Resources Officer is to ensure that this has been done, and the role of the legal counsel is to ensure that the contract form has been filled out correctly prior to its presentation to the Commissioner.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-116 The Contract Form

(a)(1) The Human Resources Officer shall completely fill out the employment contract for certified personnel. The form for this contract is exhibit "C" [reprinted] at the end of this subchapter.

(2) In the case of an off-island hire, the off-island hire terms and conditions, exhibit "D" [reprinted] at the end of this subchapter, shall be incorporated into the employment contract, physically attached to it, and completely filled out (with the exception of the names of the dependents of the applicant who will reside with the applicant in the CNMI).

(i) The exact off-island benefits and conditions for each employee are to be determined by reviewing the employee's initial contract with the PSS. The off-island benefits and conditions as set forth in the original cannot be changed by subsequent contracts unless the employee expressly agrees in writing to waive them.

(ii) For purposes of these regulations "initial contract" means the first contract entered into between the employee and the PSS. If an employee resigns from employment with the PSS and subsequently returns to work for the PSS, initial contract shall be defined as the first contract entered into upon the employee's return to work.

(b) The job application, resume, and a job description shall be attached to the initial contract of all employees. These documents do not need to be attached to contracts for renewal of employment.

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Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The first paragraph of subsection (a) was not designated. The Commission designated subsection (a)(1) and redesignated subsection (a)(2) accordingly. The second paragraph of subsection (a)(2) was not designated. The Commission designated it subsection (a)(2)(i) and redesignated subsection (a)(2)(ii) accordingly.

The 1997 amendment added new subsections (a)(2)(i) and (a)(2)(ii), and amended subsection (b).

§ 60-30.2-118 Routing of the Contract

(a) **Human Resources Officer:** The signature of the Human Resources Officer shall certify the correct determination of the salary offered, the receipt of a local criminal conviction clearance, if applicable, that a NASDTEC Clearing House check has been made, the verification of education and teaching experience relevant to classification and the confirmation of a teaching certificate, if applicable, and the receipt from the applicant of two completed fingerprint cards.

(b) **PSS Finance and Budget:** The signature of the Fiscal and Budget Officer shall certify the availability of the position as an FTE and the funds necessary to fund the position offered.

(c) **PSS Legal Counsel:** The signature of the legal counsel shall certify that the proper contract form has been used, that it has been filled out completely, that the job description, application and resume are attached and that the Commissioner has the legal capacity to offer employment on behalf of PSS.

(d) **Commissioner:** The Commissioner shall be the final government officer to sign the contract form. The Commissioner shall sign as the chief executive officer of PSS.

(e) **Applicant:**

(1) The applicant shall be presented with the contract form only after it has been signed by all of the government officers. The document at that point constitutes an offer of employment upon the terms and conditions expressed in that writing only. The signature of the applicant constitutes an acceptance of the offer.

(2) In the event that the applicant seeks to make, or actually makes, any modification to the contract form, this act shall constitute a rejection and a counter-offer, even though it is signed. Upon receipt, the Human Resources Officer shall review the modifications with the legal counsel and Commissioner to determine if they are acceptable. If so, then a new contract shall be prepared, re-routed for all the necessary signatures, and presented to the applicant for signing. No counter-offer shall be deemed to be accepted without following this procedure.

(f) **Records:** The applicant shall keep a copy of the employment contract and the original shall be retained by the Human Resources Officer.

(1) The application file shall be closed with a copy of the first page of the employment contract placed on top of its contents.

(2) An employee file shall be opened with the completed employment contract placed in it.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The first paragraph of subsection (e) was not designated. The Commission designated subsection (e)(1) and redesignated subsection (e)(2) accordingly.

§ 60-30.2-120 No Action Without Fully Executed Contract

The Human Resources Officer shall be responsible for ensuring that employment contracts are routed through government and transmitted to the applicant without delay. In no event shall any applicant be requested to begin employment or to travel from the point of recruitment to the CNMI to begin employment without the Human Resources Officer first having in its possession a fully-executed employment contract.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart D - The Contract Period

§ 60-30.2-122 Purpose

The growth in the number of students attending public schools has exceeded the expansion of school facilities. This has led to the use of multi-track systems in the senior high school, the junior high school and one elementary school on Saipan. This method of scheduling may be extended to other schools in the future. The multi-track system divides a school's student body into two to four groups, each with its own teachers. Each group starts and ends its school year on different dates than the other groups. Thus, administrators need flexibility in assigning teachers to groups of students. In order to accomplish this, the employment contract shall have two features:

- (a) It shall not specify the dates of actual instruction each year, and
- (b) It shall contract for teaching services for two 190 day periods which may be split up in any manner the Board decides and which may occur at any point over the two year contract term.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-124 Term of Employment

Employment contracts shall be for a two year term; however, in special circumstances the Commissioner may approve a contract for a lesser term. CNMI retirees who have received retirement benefits may not be employed for a period in excess of sixty calendar days in any fiscal year.

Modified, 1 CMC § 3806(e).

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History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-126 Dates of Instruction

(a) Employment contracts shall require instructional services for three hundred and eighty days. The 380 days shall be split into two one hundred ninety day periods. The starting and ending dates of these periods shall not be set forth in the contract, but the teacher or librarian shall be given at least thirty day advance notice of the start of any period in which (s)he is required to teach or serve as a librarian. All possible effort will be made by the PSS to give notice as early as practicable. Substitute teachers shall be assigned work on a daily basis. Teachers or librarians who are hired for a period of less than two years shall have the number of days they must teach or serve as a librarian reduced proportionally.

(b) A period of “one hundred ninety days” shall mean the one hundred eighty instructional days as defined by the Board of Education-approved school calendar plus ten non-instructional days.

(c) In the case of any CNMI government retiree who has received retirement benefits, the period of instruction per fiscal year must be limited to a maximum of sixty calendar days in order to avoid forfeiting retirement benefits.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The 1997 amendments amended subsection (a).

§ 60-30.2-128 Assignment Flexibility

The Commissioner, after consulting with the Principal, has the discretion to move teachers or librarians in and out of multi and single-track systems, transfer teachers from one track to another, transfer teachers to other schools in emergency situations, change the subject matter to be taught and change the grade of students taught as the Commissioner deems to be in the best interests of the Public School System and its students and staff.

(a) Certified contracts shall specify the school at which the teacher or librarian will be teaching during the term of their contract. A teacher or librarian may not be required by the PSS to teach at a school not included in section 1.a of their personnel contract except in emergency situations.

(b) Certified contracts for elementary school teachers shall state whether the teacher will be required to teach either:

- (1) Early childhood through third grade, or
- (2) Fourth through sixth grade.

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(c) Certified contracts for junior high school, middle school, or high school teachers shall state the subject matter(s) that they will be required to teach. This section shall not be construed to limit PSS from requiring a teacher to teach multiple subjects.

(d) A teacher or librarian may not be required to teach a grade/subject matter more than thirty-three percent of the time if it is not included in section 1.e of their personnel contract. For example a teacher on a one-hundred and eighty day, six period per day, instructional calendar may not be required to teach more than sixty days per year or, in the alternative, two periods per day of a grade/subject matter not listed in section 1.e of their personnel contract.

(e) Schools, grades or subject matter(s) to* listed in section 1.e of the contract may be changed during the term of a contract by mutual agreement between the PSS and the teacher.

*So in original.

(f) Subsections (a) through (e) of this section do not apply to CNMI retirees, substitute teachers, or substitute librarians.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The 1997 amendments added new subsections (a) through (f).

In subsection (b), the Commission changed the semi-colon after “either” to a colon to correct a manifest error.

§ 60-30.2-130 Reductions in Force

(a) Financial Exigency. Termination of an employee before the end of the specified term of their contract may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., an imminent financial crisis which threatens the survival of the PSS as a whole or a particular PSS program or school as a whole and which cannot be alleviated by less drastic means.

(1) As a first step, the Commissioner of Education shall assemble a committee (RIF Committee) with an odd number of members comprised of at least one certified teacher, one school principal, one PTA president, one central office employee, and one Board of Education member which determine whether a condition of financial exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued. PSS’s legal counsel shall advise the committee.

(2) Judgments determining where within the overall PSS or PSS program termination of appointments may occur involve considerations of educational policy, as well as of employee status, and should therefore be the primary responsibility of the RIF Committee. The RIF Committee should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

(3) The responsibility for identifying individuals whose contracts are to be terminated should be committed to a person or group designated or approved by the RIF Committee. The allocation

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of this responsibility may vary according to the size and character of the program in question, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of an employee member given notice of proposed termination of appointment will be governed by the following procedure.

(b) **Due Process.** If the administration issued notice to a particular employee of an intention to terminate their employment contract because of financial exigency, the employee will have the right to a full pre-discipline hearing in front of an impartial hearing officer pursuant to § 60-30.2-422 through § 60-30.2-430 of this subchapter. The hearing need not conform in all respects with a proceeding conducted pursuant to § 60-30.2-422 through § 60-30.2-430, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(1) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of the RIF Committee in a previous proceeding involving the same or a similar issue may be introduced.

(2) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of the RIF Committee on these matters will be considered presumptively valid.

(3) Whether the criteria are being properly applied in the individual case.

(c) **New Appointments Prohibited.** If the PSS, because of financial exigency, terminates contracts, it will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result.

(d) **Lateral Placements Preferred.** Before terminating an appointment because of financial exigency, the PSS, with RIF Committee participation, will make every effort to place the employee concerned in another suitable position within the institution.

(e) **Sixty Days Severance Pay.** In all cases of termination of employment contract because of financial exigency, the employee concerned will be paid for sixty days beyond the final day of work or until the final date of their contract, whichever is less.

(f) **Reinstatement Offers.** In all cases of termination of a contract because of financial exigency, the place of the employment concerned will not be filled with a replacement within a period of three years, unless the released employee has been offered reinstatement and a reasonable time in which to accept or decline it.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 20 Com. Reg. 15965 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997).

Subpart E - Renewal (No Tenure)

§ 60-30.2-132 Purpose

No employee has a right to the renewal of his or her contract of employment regardless of whether or not job performance during the contract period is satisfactory. The decision whether

to extend an offer for further employment is wholly within the discretion of the Public School System. No tenure of any nature, express or implied, is granted to any employee.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-134 Renewal

No employee or officer of the Public School System is authorized to indicate, expressly or impliedly, that any employee has a right to be renewed based upon their contract or job performance.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-136 Request for Renewal

If an employee wishes to be considered for an additional contract period, then notice should be given to the Human Resources Officer six months in advance of the termination date in order to be considered for renewal.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-138 Notification of Non-renewal

The PSS will notify employee in writing at least ninety calendar days in advance if it intends to not renew that employee's personnel contract.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997).

Subpart F - Core Knowledge Testing Requirement

§ 60-30.2-140 PRAXIS

All teacher and librarian applicants and current teachers and librarians, upon contract renewal, shall submit proof to PSS that he or she has received a passing grade on the PRAXIS core knowledge examinations. The PRAXIS requirement shall apply to all teacher and librarian applicants and all current teachers and librarians, except professionally licensed related services providers. Passing scores will be determined by the Commissioner of Education and announced to teachers, librarians and applicants. Once the passing scores are set by the Commissioner of Education, the passing score may only be altered with Board of Education approval.

History: Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20,

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2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The October 2004 notice of adoption changed the proposed language of this section.

The 2006 amendments added librarian(s) throughout this section.

§ 60-30.2-142 Procedure

- (a) All current PSS teachers and teacher applicants shall be required to pass PRAXIS I and PRAXIS II prior to August 1, 2006.
- (b) All current PSS librarians and librarian applicants shall be required to pass PRAXIS I and PRAXIS II prior to July 31, 2007.
- (c) The results of the PRAXIS I and PRAXIS II examinations will determine a current librarian or teacher's eligibility for contract renewal and an applicant's eligibility for employment.
- (d) A current librarian or teacher's failure to take the test or to obtain a passing score shall result in his or her employment contract not being renewed.
- (e) A teacher or librarian applicant's failure to take the test or to obtain a passing score shall result in ineligibility for employment.

History: Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The October 2004 notice of adoption changed the proposed language of former subsections (b) and (c). The September 2005 amendments deleted former subsection (a), redesignated the remaining subsections accordingly and amended subsections (a) and (b).

The 2006 amendments created a new subsection (b), redesignated the remaining subsections and added librarian(s) throughout the section.

§ 60-30.2-144 Timeline

- (a) PRAXIS testing will be offered to teachers and teacher applicants beginning in school year (SY) 2004/2005.
- (b) All newly recruited PSS teachers for SY 06/07 shall be required to have taken and passed the PRAXIS I and PRAXIS II examinations in order to qualify for employment with PSS.

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(c) Beginning August 1, 2006, all teachers employed by PSS will have taken and passed the PRAXIS I and PRAXIS II exams.

(d) Beginning July 31, 2007, all librarians employed by PSS will have taken and passed the PRAXIS I and PRAXIS II exams.

History: Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The October 2004 notice of adoption changed the proposed language of former subsections (b), (c) and (d). The September 2005 amendments deleted former subsection (c), redesignated former subsection (d) accordingly and amended subsections (b) and (c).

The 2006 amendments added subsection (d).

Part 200 - Certification

§ 60-30.2-201 Purpose

The Board of Education (BOE) and Public School System (PSS) recognize that the delivery of high-quality and equitable educational services to all students in the Public School System, is necessary, therefore, it is imperative to recruit, hire, and retain highly trained and fully certified professional employees. To ensure that its professional employees are well prepared to provide the opportunity to the students to develop into happy, self-respecting, understanding and contributing members of the society, BOE requires that all professional employees meet the certification requirements as set forth in the regulations in this subchapter. This certification is designed to promote excellence and maintain a high standard of professionalism of all full-time professional employees within the school system.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The March 2004 amendments replaced part 200 in its entirety. The history of this part prior to the March 2004 amendments is as follows: Amdts Adopted 26 Com. Reg. 21759 (Jan. 22, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21065 (Sept. 18, 2003) (effective for 120 days from Sept. 2, 2003); Amdts Proposed 22 Com. Reg. 17253 (June 20, 2000); Amdts Adopted 20 Com. Reg. 15966 (June 15, 1998); Amdts Proposed 19 Com. Reg. 15423 (Aug. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

The October 2004 amendments readopted this part in its entirety.

The Commission changed “recognizes” to “recognize” in the first sentence and “employee” to “employees” in the last part of the second sentence to correct manifest errors.

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In October 2006, this section was repromulgated in its entirety without modification when the Board of Education adopted amendments to sections § 60-30.2-210 through § 60-30.2-225 and § 60-30.2-240 through § 60-30.2-245.

§ 60-30.2-205 Definitions

(a) “School” means any public educational institution, Head Start, kindergarten to grade twelve that functions as part of the Commonwealth of the Northern Mariana Islands (CNMI) Public School System in providing educational services as established by the CNMI State Board of Education.

(b) “Librarian” means any person who is employed by the Public School System and has the primary responsibility to operate the school library services to one or more students, but excludes library aides.

(c) “Teacher” means any person who is employed by the Public School System and has the primary responsibility for the education, instruction or the provision of related services for one or more students. This definition specifically includes regular classroom teachers, vocational education teachers, special education teachers, related services providers, but excludes specialized instructors, volunteer assistants, guest lecturers, teacher aides, teaching assistants and student teachers as defined herein.

(d) “Guest lecturer” means any person who delivers lectures/presentations to students with or without compensation, but who does so in the presence of the assigned teacher for that class of students.

(e) “Student teacher” means any person who is engaged in a course of study at a college or university in the field of education and as a part of that course of study, teaches a class of students under the supervision of a certified teacher.

(f) “Teacher aide/teacher assistant” means any person who is employed by the Public School System to assist the teacher and shares the responsibility for the care of the students’ education under the direct supervision of a teacher, librarian or administrator.

(g) “Volunteer assistant” means any person who does not have an employment contract with the Public School System and without compensation assists the teacher and shares the responsibility for the care of the students’ education under the direct supervision of a teacher, librarian or administrator.

(h) “Instructor” means any person who is employed by the Public School System and who does not have a bachelor’s degree but has specialized training/experience in a particular field or has met the minimum requirements established by PSS. This individual has the primary responsibility for the education or instruction of one or more students in a specialized area such as the bilingual program, the vocational education program or the Head Start program.

(i) “Special education related services provider” means any person who is employed by the Public School System in a position from the following specialized areas: Deaf education,

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assistive technology, blind education, physical therapy, occupational therapy, educational psychology, audiology, social work, recreational therapy, speech /language pathology, behavior specialist and any other area needed to comply with the Individual with Disabilities Education Act (IDEA).

(j) “Professionally licensed related services provider” means a related services provider who is licensed by any state or appropriate professional board.

(k) “School counselor” means any person who is employed by the Public School System and provides guidance and counseling and/or any other related services for one or more students.

(l) “School administrator” means school principal or school vice principal employed by the Public School System and has the primary responsibility as an administrator and educational leader, ensuring equitable educational services to all students by implementing policies, procedures, and regulations as set forth by the Board of Education.

(m) “Non-education degree” means any B.A., B.S., master, or doctoral degree that is in any field area other than education.

(n) “States” means the 50 states of the United States, Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Territory of U.S. Virgin Islands, Territory of Guam, Territory of American Samoa, and Freely Associated States (Federated States of Micronesia; Republic of the Marshall Islands; Republic of Palau).

(o) “Equivalent courses” means courses, workshops, institutes or seminars that meet the requirement minimum of 45 contact hours sanctioned by PSS Staff Development/Human Resources Office.

(p) “Paraprofessional” means someone who provides instructional support, including those who (1) provide one-on-one tutoring is such tutoring is scheduled at a time when students would not otherwise receive instruction from a teacher, (2) assist with classroom management, such as by organizing instructional materials, (3) provide instructional assistance in a computer laboratory, (4) conduct parental involvement activities, (5) provide instructional support in a library or media center, (6) act as a translator, or (7) provide instructional support services under the direct supervision of a highly qualified teacher.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 36 Com. Reg. 035893 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35641 (Oct. 28, 2014); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The March 2004 notice of adoption changed the proposed language of subsection (i). The September 2005 amendments added new subsection (j) and redesignated subsections (k) through (o) accordingly. See also the commission comment to § 60-30.2-201.

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The Commission changed “requirement” to “required” in subsection (o) to correct a manifest error.

In October 2006, this section was repromulgated in its entirety without modification when the Board of Education adopted amendments to sections § 60-30.2-210 through § 60-30.2-225 and § 60-30.2-240 through § 60-30.2-245.

Footnote 1 of the October 2014 proposed amendments provides that subsection (p) should be designated as subsection (e) “[i]n order to maintain the definitions in alphabetical order...” As the definitions were not in alphabetical order, the Commission designated the new subsection as subsection (p) pursuant to 1 CMC § 3806(a). The Commission changed “included” to “including” in subsection (p) to correct a manifest error pursuant to 1 CMC § 3806(g).

§ 60-30.2-210 Effect on Employment Contract

(a) **Possession of Valid Certificate:** The failure of any instructor, teacher, librarian, school counselor, or school administrator to qualify to hold a valid certificate or to continue to qualify to hold a certificate during that person’s contract term shall immediately render the contract of employment null and void.

(b) **Tenure Not Created by Certification:** The granting of the basic I, specialized, basic II, standard certificate with endorsement, or professional certificate does not entitle any employee to tenure, nor does it imply, promise, or suggest continued employment with the CNMI Public School System.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: See the commission comment to § 60-30.2-201.

The 2006 amendments modified subsection (b).

§ 60-30.2-215 Alignment with PSS Classification and Salary Schedule

Certification shall be aligned with PSS compensation plan for teachers as set forth in Attachment #1 and the PSS compensation plan for counselors *The Highly Qualified Counselors (HQC) Requirements and Compensation Plan* as set forth in Attachment #2.

Modified, [1 CMC § 3806\(b\)](#).

History: Amdts Adopted 39 Com. Reg. 39765 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39656 (May 28, 2017); Amdts Adopted 31 Com. Reg. 29534 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29207 (Feb. 22, 2009); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

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Commission Comment: See the commission comment to [§ 60-30.2-201](#).

The Commission created the section title and inserted “Attachment #1” on the “Highly Qualified Teachers Requirements Compensation Plan” set forth on the next page. For the original “Highly Qualified Teachers Requirements Compensation Plan,” see 28 Com. Reg. 26303 (Oct. 30, 2006).

The 2006 amendments changed this entire section by replacing former subsections (a) through (e) and adding Attachment #1.

In codifying 39 Com. Reg. 39765, the Commission replaced Attachment 1 with the “Highly Qualified Teacher (HQT) Requirements and Compensation Plan” and Attachment 2 with the “Highly Qualified Counselor (HQC) Requirements and Compensation Plan” located at 39 Com. Reg. 39662–3.

39 Com. Reg. 39765 also included three schedules: Schedule 1, Non-Certified Salary Schedule; Schedule 2, Classroom Instructor Salary Schedule; and Schedule 3, Teacher Aide, Library Aide Salary Schedules, located at [§ 60-30.1-412](#).

Attachment 1 – Highly Qualified Teacher (HQT) Requirements and Compensation Plan

Public School System
HIGHLY QUALIFIED TEACHER (HQT) REQUIREMENTS and COMPENSATION PLAN
Approved by State Board of Education on February 22, 2017 (Replaces Public Reg. 6037-14-002)

Type of Certification	Requirements (Degree and Prerequisites)	Required Yrs of Experience	Minimum Certification	Salary	PERCENT INCREASE IN NEXT LEVEL	PERCENT INCREASE IN NEXT LEVEL	Classification	Pay Level/Step
Non-Certified (NOC)	Job New Employees Beginning Aug. 1, 2018 or later							
Public School	None	0-1 yrs	NO	\$ 33,000.00			Classroom Teacher (NOC or NMC)	1000
Public School	BAWS Prereq 1 & 2	0-2 yrs	NO	\$ 35,000.00	2,340.00	7.09%	Classroom Teacher (NOC or NMC)	1001
Public School	BAWS Prereq 1 & 2	0-4 yrs	NO	\$ 37,000.00	2,000.00	5.57%	Classroom Teacher (NOC or NMC)	1002
Public School	BAWS Prereq 1 & 2	5-6 yrs	NO	\$ 39,000.00	2,000.00	5.13%	Classroom Teacher (NOC or NMC)	1003
Classroom (C)								
Public School	Master's Certificate, BAWS - Full requirement, Prereq 1 & 2	7 to 8 yrs	YES	\$ 53,545.74			Classroom Teacher (CWA or CE)	2007
Public School	Master's Certificate, BAWS - Full requirement, Prereq 1 & 2	9 to 10 yrs	YES	\$ 57,768.87	4,223.13	7.79%	Classroom Teacher (CWA or CE)	2008
Classroom II (CII)								
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	0-1 yrs	YES	\$ 38,442.70			Classroom Teacher (CWA or CE)	1004
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	1-2 yrs	YES	\$ 41,745.83	3,303.13	8.57%	Classroom Teacher (CWA or CE)	1005
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	3-4 yrs	YES	\$ 45,048.97	3,303.14	8.04%	Classroom Teacher (CWA or CE)	1006
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	5-6 yrs	YES	\$ 48,352.10	3,303.13	6.85%	Classroom Teacher (CWA or CE)	1007
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	7-8 yrs	YES	\$ 51,655.24	3,303.14	6.81%	Classroom Teacher (CWA or CE)	1008
Public School	Standard Certificate with Endorsement, BAWS Prereq 1 & 2	9-10 yrs	YES	\$ 54,958.37	3,303.13	6.37%	Classroom Teacher (CWA or CE)	1009
Professional (P)								
Public School	Professional Certificate with Endorsement, MAWS II (a) or higher, Prereq 1 & 2	10	YES	\$ 67,001.36			Classroom Teacher (PMA or ME)	3012
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	11	YES	\$ 68,951.63	2,950.27	4.40%	Classroom Teacher (PMA or ME)	3000
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	12	YES	\$ 70,901.90	1,950.27	2.83%	Classroom Teacher (PMA or ME)	3001
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	13	YES	\$ 72,852.17	1,950.27	2.70%	Classroom Teacher (PMA or ME)	3002
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	14	YES	\$ 74,802.44	1,950.27	2.65%	Classroom Teacher (PMA or ME)	3003
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	15	YES	\$ 76,752.71	1,950.27	2.61%	Classroom Teacher (PMA or ME)	3004
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	16	YES	\$ 78,702.98	1,950.27	2.56%	Classroom Teacher (PMA or ME)	3005
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	17	YES	\$ 80,653.25	1,950.27	2.52%	Classroom Teacher (PMA or ME)	3006
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	18	YES	\$ 82,603.52	1,950.27	2.47%	Classroom Teacher (PMA or ME)	3007
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	19	YES	\$ 84,553.79	1,950.27	2.43%	Classroom Teacher (PMA or ME)	3008
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	20	YES	\$ 86,504.06	1,950.27	2.38%	Classroom Teacher (PMA or ME)	3009
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	21	YES	\$ 88,454.33	1,950.27	2.34%	Classroom Teacher (PMA or ME)	3010
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	22	YES	\$ 90,404.60	1,950.27	2.29%	Classroom Teacher (PMA or ME)	3011
Public School	Professional Certificate with Endorsement, MAWS Degree or higher, Prereq 1 & 2	23	YES	\$ 92,354.87	1,950.27	2.25%	Classroom Teacher (PMA or ME)	3012

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TITLE 60: BOARD OF EDUCATION

Attachment 2 – Highly Qualified Counselor (HQC) Requirements and Compensation Plan

Public School System
HIGHLY QUALIFIED COUNSELOR (HQC) REQUIREMENTS and COMPENSATION PLAN
 Approved by State Board of Education on February 21, 2017 (Revised from No. 2017-15-201)

Type of Certification	Requirements (Degree and Prereqs)	Required Yrs of Experience	Minimum Certification	Salary	AMP INCREASE % (NEW LEVEL)	% INCREASE % (NEW LEVEL)	Classification	Pay Level/Step
Basic I (HQC)								
For Most Employment Beginning Aug. 1, 2006 or later								
EDUC Degree	EDUC, Prereqs I & II	0-4 yrs	MS	\$ 31,888.05			School Counselor (HQC) or MS-1	MS1
EDUC Degree	EDUC, Prereqs I & II	5+ yrs	MS	\$ 32,827.44	2.54%	2.85%	School Counselor (HQC) or MS-1	MS2
EDUC Degree	MAJMS or higher, Prereqs I & II	0-4 yrs	MS	\$ 32,827.44			School Counselor (HQC) or MS-1	MS1
EDUC Degree	MAJMS or higher, Prereqs I & II	5+ yrs	MS	\$ 33,766.83	2.89%	3.20%	School Counselor (HQC) or MS-1	MS2
Basic II (HQC)								
EDUC Degree	MS or Certificate, MAJMS + 20% equivalent, Prereqs I & II	4 to 5 yrs	MS	\$ 33,766.83			School Counselor (HQC) or MS-1	MS2
EDUC Degree	MS or Certificate, MAJMS or higher, Prereqs I & II	6 to 7 yrs	MS	\$ 34,706.22	2.89%	3.20%	School Counselor (HQC) or MS-1	MS3
Master of Education								
EDUC Degree	Standard Certificate with Endorsement, MAJMS, Prereqs I & II	2 to 3 yrs	MS	\$ 34,706.22			School Counselor (HQC) or MS-1	MS3
EDUC Degree	Standard Certificate with Endorsement, MAJMS, Prereqs I & II	4 to 5 yrs	MS	\$ 35,645.61	2.54%	2.85%	School Counselor (HQC) or MS-1	MS4
EDUC Degree	Standard Certificate with Endorsement, MAJMS or higher, Prereqs I & II	6 to 7 yrs	MS	\$ 36,585.00	2.54%	2.85%	School Counselor (HQC) or MS-1	MS5
EDUC Degree	Standard Certificate with Endorsement, MAJMS or higher, Prereqs I & II	8 to 9 yrs	MS	\$ 37,524.39	2.54%	2.85%	School Counselor (HQC) or MS-1	MS6
EDUC Degree	Standard Certificate with Endorsement, MAJMS or higher, Prereqs I & II	10 to 11 yrs	MS	\$ 38,463.78	2.54%	2.85%	School Counselor (HQC) or MS-1	MS7
Professional (HQC)								
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	10	MS	\$ 47,851.14		8.200%	School Counselor (HQC) or MS-1	MS12
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	11	MS	\$ 48,790.53	1.92%	1.92%	School Counselor (HQC) or MS-1	MS13
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	12	MS	\$ 49,729.92	1.92%	1.92%	School Counselor (HQC) or MS-1	MS14
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	13	MS	\$ 50,669.31	1.92%	1.92%	School Counselor (HQC) or MS-1	MS15
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	14	MS	\$ 51,608.70	1.92%	1.92%	School Counselor (HQC) or MS-1	MS16
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	15	MS	\$ 52,548.09	1.92%	1.92%	School Counselor (HQC) or MS-1	MS17
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	16	MS	\$ 53,487.48	1.92%	1.92%	School Counselor (HQC) or MS-1	MS18
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	17 to 18 yrs	MS	\$ 54,426.87	1.92%	1.92%	School Counselor (HQC) or MS-1	MS19
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	19 to 20 yrs	MS	\$ 55,366.26	1.92%	1.92%	School Counselor (HQC) or MS-1	MS20
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	21	MS	\$ 56,305.65	1.92%	1.92%	School Counselor (HQC) or MS-1	MS21
EDUC Degree	Professional Certificate with Endorsement, MAJMS Degree or higher, Prereqs I & II	22	MS	\$ 57,245.04	1.92%	1.92%	School Counselor (HQC) or MS-1	MS22

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§ 60-30.2-220 Eligibility for All Five Certifications

- (a) **Criminal History:** The applicant must be free from any felony conviction or any crime involving moral turpitude, or indicating an unfitness to teach whether a felony or a misdemeanor. A “felony” shall mean any criminal offense punishable by one or more years of imprisonment. A “misdemeanor” shall mean any criminal offense punishable by less than one year of imprisonment.
- (b) **No Disciplinary Sanctions:** The applicant must not have had a suspension or revocation of his/her certificate or license by any other state or national agency.
- (c) **No Physical or Mental Disability Preventing Service:** The applicant must not possess a physical or mental disability that would prevent the applicant from safely and effectively performing job-related functions or that poses a significant risk of substantial harm to the health or safety of students, co-workers, or others and such risk that cannot be eliminated or reduced by reasonable accommodation.
- (d) **Core Knowledge Examination:** All certification applicants, excluding professionally licensed related services providers, must take and pass PRAXIS exams starting August 1, 2006.

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Specialized certification applicants must take and pass PRAXIS I. All basic I, basic II, standard and professional certification applications must take and pass PRAXIS I and II.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The October 2004 amendments added subsection (d). The September 2005 amendments amended subsection (d). See also the commission comment to § 60-30.2-201.

The 2006 amendments modified subsection (d).

§ 60-30.2-225 Types of Certification and Requirements

(a) A paraprofessional certificate is required of all those who fall under the definition of Paraprofessional and can require one of the following:

- (1) Completed two years of study at an institution of higher education; or
- (2) Obtained an associate's (or higher) degree; or
- (3) Met rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or as appropriate, reading readiness, writing readiness, and mathematics readiness). For CNMI PSS, employee must take and pass Praxis I (PPST).

(b) The Commonwealth shall have five general levels of certification for professionals in the field of education: basic I, specialized, basic II, standard, and professional.

(1) Basic I certificate is a two-year certificate for teachers, librarians, school counselors, related service providers, instructors, and school administrators.

(i) Eligibility Requirements

(A) The basic I certificate requires that teachers, school librarians, school counselors, school administrators and other professional applicants possess either a baccalaureate, masters, or doctoral degree resulting from a course of instruction of at least three and one-half years length at a college or university recognized by U.S. accreditation commissions approved by PSS. An applicant who possesses a baccalaureate, masters or doctoral degree resulting from a course of instruction of at least three and one-half years length at a college or university not accredited from an approved commission shall have his/her transcript of courses evaluated and certified to be equivalent to a degree conferred by accredited schools. The certification and evaluation of program equivalency shall only be conducted by the agencies identified and approved by PSS. The applicant is responsible for the cost of the program equivalency certification. Failure to obtain such certification shall render an applicant disqualified for failure to meet the education requirement(s) of the position.

(B) A basic instructor certificate may be provided to instructor applicants in specialized areas who submit the required documentation below (§ 60-30.2-225 (iii)(A), (B), (E), and (F)) and meet the minimum requirements as set forth in the PSS classification guidelines.

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(C) Submittal of documentation requirements prior to effective date of employment. Requirements include:

1. Complete and signed application form,
2. Two passport size photos,
3. Official college transcripts,
4. Teaching certificate (if any),
5. Receipt of payment from PSS Treasurer for certification processing fee, and
6. FBI fingerprint submission.
7. Effective August 1, 2006: Test result showing that an applicant has taken and passed PRAXIS I and II exams, excluding professionally licensed related services providers. Effective May 26, 2010: Alternatively, proof of passage of a rigorous content knowledge test administered by an individual jurisdiction deemed substantially equivalent to passing the PRAXIS I and II exams (as determined by the Board of Education through their representative, the Coordinator of Certification and Licensure) shall satisfy this requirement for an applicant's initial two-year Basic I certification. Any renewal of certification or subsequent application for Basic I certification shall require that the applicant show that they have passed the PRAXIS I and II exams.

(ii) Education; Certification Course Requirements

Prior to the two-year expiration date of the basic I certificate, the applicant must provide an official transcript or certificate of completion of the basic II certificate courses or applicable certification courses.

(iii) Term

The basic I certificate is invalid after its expiration date and shall not be reissued. Requirements must be satisfied to upgrade to the next certification level.

(2) Specialized Certificate

A specialized certificate is a two-year certificate specifically for instructors who do not have a bachelor's degree but have specialized training/experience in a particular field or have met the minimum requirements established by PSS.

(i) Eligibility Requirements

(A) Meet eligibility requirements for basic instructor certificate.

(B) All instructors must submit a completed and signed application form in the CNMI under the penalty of perjury for a specialized certificate within the first quarter of employment.

(C) Submit receipt of payment from PSS Treasurer for certification processing fee within the first quarter of employment.

(D) Test result showing that an applicant has taken and passed PRAXIS I.

(ii) Education; Certification Course Requirements

Prior to the two-year expiration date of the basic I certificate, the applicant must provide an official transcript or certificate of completion of specific specialized courses. Education courses for the specialized certificate are as follows:

(A) Specialized Certification in Bilingual Program

Instructors assigned to teach in a bilingual program must complete the following courses or equivalent:

1. Computer technology
2. Instruction in teaching linguistically diverse students
3. Instruction in Chamorro/Carolinian language arts
4. Instruction in planning and assessment for diverse classroom

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5. Instruction for students with disabilities
6. Instruction in lesson planning and classroom management
7. Chamorro or Carolinian orthography.

(B) Specialized Certificate in Early Childhood (Head Start) Instructors teaching in the Head Start program must complete the following courses or equivalent:

1. Computer technology
2. Curriculum in early childhood education
3. Education for parenthood
4. Guiding and nurturing
5. Safety and first aid for young children
6. Administration in early childhood education
7. Introduction to exceptional individuals.

(C) Specialized Certificate in Vocational Education

Instructors for vocational education classes must complete the following courses or equivalent:

1. Computer technology
2. Instructional strategies and classroom management
3. Instructional in teaching linguistically diverse students
4. Instruction in planning and assessment
5. Occupational competency as approved by PSS.

(D) Term

Instructors may renew the specialized certificate an unlimited number of times repeating the eligibility requirements every two years with proof of completion of 60 hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(3) Basic II certificate is a three-year certificate for teachers, librarians, school counselors, and related service providers. Basic II certificate will be issued upon submission of completed requirements. If the applicant has met all the requirements for both the basic II certificate and standard certificate with endorsement, then the standard certificate will be issued.

(i) Eligibility Requirements

(A) Applicant must meet eligibility requirements for basic I certificate.

(B) The applicant must submit a recommendation from his/her principal or supervisor, which shall be based on the performance evaluation of the employee. Should the employee's performance evaluation meet a rating of satisfactory or above, he/she shall be issued a letter of recommendation for the basic II teaching certificate.

(C) The applicant must submit a copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education.

(D) Test result showing that a teacher applicant, excluding professionally licensed related services providers, has taken and passed PRAXIS I and II exams.

(ii) Education; Certification Course Requirements

(A) Any teacher or librarian applying for the basic II certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or any identified equivalent courses as accepted by PSS, prior to the expiration date of the basic I certificate and before issuance of the basic II certificate.

1. Multi-cultural education/teaching linguistically diverse students
2. Teaching reading
3. Inclusive practice for students with learning disability

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4. Instructional strategies/classroom management
5. Internship or mentoring program
6. Computer technology.

(B) Any school counselor applying for the basic II certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or identified equivalent as accepted by PSS, before the expiration date of the basic I certificate and before the issuance of the basic II certificate.

1. Computer technology
2. Test and measurement
3. Introduction to counseling
4. Issues and philosophies of culturally diverse schools
5. Multi-cultural counseling
6. Counseling process: theory
7. Counseling process: practice.

(iii) Term

The basic II certificate shall be issued and valid for a period of three years. The basic II certificate is invalid after its expiration date and shall not be reissued.

(4) Standard certificate with endorsement is a five-year certificate for teachers, librarians, school counselors, and related service providers.

(i) Eligibility Requirements

(A) The applicant must meet eligibility requirements for the basic I certificate and the basic II certificate.

(B) Three recommendations including performance evaluations: one from an immediate supervisor or school principal, one from a colleague, and one from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.

(C) A signed application form in the CNMI under the penalty of perjury.

(D) An official transcript showing satisfactory completion of the required courses or equivalent or a certificate of completion.

(E) A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education.

(ii) Education; Certification Course Requirements

(A) Standard Certificate with Elementary Education Endorsement

Teacher teaching in elementary schools must complete the following courses or equivalent.

1. Instructional technology
2. NMI history/pacific institute (NMI)
3. Reading diagnostic
4. Tests and measurements
5. Language arts methods
6. Math methods
7. Science methods
8. Social studies methods.
9. Curriculum in early childhood education.

(B) Standard Certificate with Special Education Endorsement

Special education teachers teaching in the special education program must complete the following courses or equivalent.

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1. Instructional technology
2. NMI history/pacific institute (NMI)
3. Reading diagnostic
4. Tests and measurements
5. Student evaluation for special education
6. Behavioral modification in the classroom
7. Modification and adaptation of curriculum for special education students
8. Medical implication of special education students in the classroom
9. Current issues in special education.

(C) Standard Certification with Early Childhood Special Education Endorsement

Teachers providing education services to students in the early childhood intervention program must complete the following courses or equivalent.

1. Instructional technology
2. NMI history/pacific institute (NMI)
3. Reading diagnostic
4. Tests and measurements
5. Philosophical, historical and legal foundations of early*
6. Intervention and special education
7. Health, safety and medical aspects of children with special needs
8. Fundamentals child growth and development
9. Partnerships and families
10. Evaluation & assessment
11. Program implementation in natural environments.

(D) Standard Certificate with Early Childhood Education (Head Start) Endorsement

Teachers providing educational services to students in the Head Start program must complete the following courses or equivalent.

1. Instructional technology
2. NMI history/pacific institute (NMI)
3. Reading diagnostic
4. Curriculum in early childhood education
5. Guiding and nurturing young children
6. Education for parenthood
7. Safety, health and first aid for young children
8. Administration in early childhood education
9. Introduction to exceptional individual.

(E) Standard Certificate with Secondary Education Endorsement

Teacher teaching in the junior and senior high schools must complete the following courses or equivalent.

1. Instructional technology
2. NMI history/pacific institute (NMI)
3. Reading diagnostic
4. Tests and measurements
5. Methods in content area
6. 3 courses in the content area (9 credits).

(F) Standard Certificate with Library Science Endorsement Librarians providing library services in elementary or secondary schools must complete the following courses or equivalent.

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1. Instructional technology
 2. NMI history/pacific institute (NMI)
 3. School library administration
 4. Selection, evaluation and access of school library material
 5. Children literature or young adult literature
 6. School library material and the curriculum
 7. Technology and the school library.
- (G) Standard Certificate with Bilingual Education Endorsement
1. Teachers teaching bilingual program in the elementary or secondary schools must complete the following courses or equivalent.
 - i. Instructional technology
 - ii. NMI history/pacific institute (NMI)
 - iii. Reading diagnostic
 - iv. Evaluation and assessment in bilingual
 - v. Historical and philosophical foundations of bilingual
 - vi. First and second language acquisition
 - vii. Chamorro or Carolinian orthography.
 - (2) Any teacher who has obtained or completed the course requirements of the specialized certificate in bilingual would only need to take the following courses:
 - i. Instructional technology
 - ii. NMI history/pacific institute (NMI)
 - iii. Reading diagnostic.
- (H) Standard Certificate for Special Education Related Service Provider Endorsement
- Related services providers must obtain professional licensure and/or certification within the area of discipline or service and fulfill continuing education credits to maintain and renew their respective licenses. A copy of the professional licensure must be submitted to the Human Resources Office. The provider must complete the following courses or equivalent before the expiration date of the basic I certificate.
1. Instructional technology
 2. NMI history/pacific institute (NMI)
 3. Teaching linguistically diverse students.
- (I) Standard Certificate with School Counseling Endorsement
- School counselors providing guidance and counseling services in the elementary and secondary schools must complete the following course requirements or equivalent.
1. NMI history/pacific institute
 2. Dynamics of individual behavior
 3. Individual and group assessment
 4. Group counseling
 5. Prevention and outreach
 6. Career counseling and placement
 7. Instructional technology.
- (iii) Term
- Teachers, librarians, school counselors, and related service providers may renew the standard certificate with endorsement every five years with submittal of the eligibility requirements. In addition, there must be proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

*So in original.

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(5) Professional certificate is a ten-year certificate for qualified teachers, school counselors, and librarians and related service providers. Upon completion of the standard certificate with endorsement, an applicant may pursue the professional certificate. For school administrators, the professional certificate is a four-year certificate.

(i) Eligibility Requirements

(A) Meet the eligibility requirements of a standard certificate with endorsement.

(B) A signed application form.

(C) Three recommendations including performance evaluations: one from an immediate supervisor or school principal, one from a colleague, and one from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.

(D) Proof of current membership of professional education association and specialized endorsement.

(E) A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education.

(ii) Education; Certification Course Requirements

(A) The applicant must provide a certified copy of the transcript of courses showing satisfactory completion of a master or doctorate degree in the field of education; or a masters or doctorate degree in a specialized field area. The specialized field areas shall include any of the following for classroom teachers, librarians, school counselors, and school administrators:

1. Secondary education masters in specialized content area
2. Special education
3. Early childhood education
4. Counseling
5. Education: administration and supervision
6. Other specialized area in education.

(B) The applicant must provide a certified copy of the transcript of courses showing satisfactory completion of a master or doctorate degree in the field of special education; or a masters or doctorate degree in a specialized field area. The specialized field areas shall include any of the following for related service providers:

1. Audiology
2. Speech language pathology
3. Physical therapy
4. Occupational therapy
5. Deaf and hard of hearing
6. Education psychologist.

(C) Any school principal or school vice principal applying for the administrators' professional certificate must satisfactorily complete and submit official transcripts of the following course requirements or identified equivalent as accepted by PSS, before the expiration date of the basic I certificate and before the issuance of the professional certificate.

1. Introduction to school administration
2. Instructional supervision and evaluation (clinical supervision)
3. School law/education law
4. School personnel
5. School finance
6. Instructional leadership & supervision seminar

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7. Facilitative leadership seminar.

(iii) Term

Teachers, librarians, school counselors, and related service providers may renew the professional certificate every ten years with submittal of the eligibility requirements. School administrators may renew the professional certificate every four years with submittal of the eligibility requirements. In addition, all qualified applicants must provide proof of completion of 60 hours (120 hours for administrators) per year of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

Modified, 1 CMC § 3806(a), (c), (e), (f), (g).

History: Amdts Adopted 36 Com. Reg. 35893 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35641 (Oct. 28, 2014); Amdts Adopted 32 Com. Reg. 30635 (Sept. 22, 2010); Amdts Proposed 32 Com. Reg. 30566 (July 15, 2010); Amdts Emergency 32 Com. Reg. 30422 (June 25, 2010)(effective from June 25, 2010); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 27 Com. Reg. 24774 (Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Proposed Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The Commission struck the figure “2” from subsection (a)(1) pursuant to 1 CMC § 3806(e). In December 2014, the Commission inserted the new section as subsection (a) and moved the remaining material to subsection (b), as set forth in the footnote 2 to the October 2014 proposed regulations, which were adopted in December 2014. The Commission renumbered the subsections in both (a) and (b) for consistency. The Commission comments below refer to the pre-2014 version of the section.

In the first sentence of subsection (a)(1)(i), the Commission deleted the “to” before “possess” to correct a manifest error. The Commission changed “bachelors” to “bachelor’s” in subsection (b) to correct a manifest error. The Commission changed “jury” to “perjury” in subsection (b)(1)(ii) and “instructional” to “instruction” in subsection (b)(2)(ii)(C) to correct manifest errors. In subsections (c)(1)(iii) and (e)(1)(v), the Commission deleted the last word in the sentence, “certification,” to correct manifest errors.

The Commission made “test and measurement” in subsection (c)(2)(ii)(B) and “measurement” in subsection (d)(2)(v)(D) plural to correct manifest errors. The Commission made “method” in subsection (d)(2)(i)(E) and “foundation” in subsection (d)(2)(vii)(A)(5) plural to correct manifest errors. The Commission changed “specialized fields area” to “specialized field areas” in subsections (e)(2)(i) and (e)(2)(ii) to correct a manifest error. The Commission added final periods in numerous subsections.

The March 2004 notice of adoption changed the proposed language of subsection (a)(1)(i), added a new subsection (a)(1)(ii) and redesignated subsection (a)(1)(iii) accordingly. The October 2004 amendments added new subsections (a)(1)(iii)(G), (c)(1)(iv) and (e)(1)(i), redesignated the provisions of subsection (e)(1) and amended subsections (c)(1)(i) and (d)(1)(i).

See also the commission comment to § 60-30.2-201.

The August 2005 amendments amended subsections (d)(3) and (e)(3). The September 2005 amendments added new subsection (b)(1)(iv) and amended subsections (a)(1)(iii)(G), (c)(1)(iv), (d)(3) and (e)(3).

The amendments adopted in August 2006 amended section (c)(1)(iv). The October 2006 amendments changed “provisional” to “basic” and “basic” to “basic II” throughout this section and created a basic instructor certificate (subsection(a)(1)(ii)).

§ 60-30.2-230 Burden of Proof

The Commissioner of Education or Certification Officer may request additional proof of eligibility before making any certification determination. The burden of providing requested documentation is on the applicant.

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: See the commission comment to § 60-30.2-201.

In 2006, this section was repromulgated in its entirety without modification when the Board of Education adopted amendments to sections § 60-30.2-210 through § 60-30.2-225 and § 60-30.2-240 through § 60-30.2-245.

§ 60-30.2-235 Renewal or Re-application

An applicant applying for a new certificate or the renewal of a prior certificate must comply with the procedures set out in this part as though applying for the first time, except that the Commissioner or designee may waive the submission of documents, which are already on file and which do not need to be updated (e.g. college transcripts).

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: See the commission comment to § 60-30.2-201.

In 2006, this section was repromulgated in its entirety without modification when the Board of Education adopted amendments to sections § 60-30.2-210 through § 60-30.2-225 and § 60-30.2-240 through § 60-30.2-245.

§ 60-30.2-240 Certification Decision

(a) The Commissioner of Education shall appoint a Certification Officer. The Certification Officer shall act on behalf of the Commissioner of Education for certification decisions.

(b) The Certification Officer shall render a decision on an application for a specialized, basic II, standard with endorsement or professional certificate within thirty calendar days of receiving a completed application. The employee/applicant will be notified and the decision shall take effect immediately.

(c) In the case of the denial of a certificate, the decision shall be placed in writing. It shall give written notice of the reasons for denial by citing the requirement(s) not met and explaining the evidence against the applicant.

(d) The denial of any application may be appealed to the Commissioner of Education pursuant to the hearing procedures set forth herein.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: See the commission comment to § 60-30.2-201.

The 2006 amendments changed “basic” to “basic II” in subsection (b).

§ 60-30.2-245 Revocation and Suspension of Certificates

(a) Grounds for Revocation and Suspension

The Commissioner of Education shall have the authority to suspend or revoke any certificate, whether basic I, specialized, basic II, standard with endorsement or professional upon receipt of evidence that suspension or revocation is necessary.

(b) Mandatory Revocation or Suspension

The Commissioner or designee must revoke any certificate when the holder has committed a material deception or fraud on his/her application for employment with the Public School System or on his/her application for certification, or has been convicted of any felony indicating an unfitness to teach or a crime of moral turpitude. These offenses include but are not limited to:

- (1) Violent felonies in which an individual threatens to cause, attempts to cause or causes serious bodily injury;
- (2) Sexually violent offenses as defined by CNMI law;
- (3) Criminal sex offense against a minor as defined by CNMI law;
- (4) Child abuse or neglect as defined by CNMI law or similar offenses in other jurisdictions;
- (5) Violations of the CNMI Minor Children Firearms Control Act or similar offenses in other jurisdictions;
- (6) Distribution to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions;
- (7) Criminal histories may be evaluated based on the nature and severity of the incident; the identity of the victim; the length of time since the incident; whether any specific pattern of criminal behavior exists; and specific efforts the individual has made towards rehabilitation.

(c) Grounds for Discretionary Action

The Commissioner of Education may suspend or revoke a certificate, if appropriate, upon the following grounds:

- (1) Immoral conduct;
- (2) Unprofessional conduct;
- (3) Incompetence;
- (4) Defiance of and refusal to obey the policies, rules, regulations and laws governing the duties of PSS certified personnel; and

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(5) Substantial evidence of the commission (evidence of conviction not necessary) of a crime of moral turpitude or a felony indicating an unfitness to teach.

(d) Complaints

(1)(i) An action to suspend or revoke a certificate must be initiated by a written complaint filed by the Commissioner or designee and served upon the employee. The complaint shall give written notice of the charges by:

- (A) Citing any regulation violated, or any misconduct of the employee;
- (B) Explaining the evidence against the employee;
- (C) Stating the proposed sanction; and
- (D) Informing the employee of the opportunity for a formal hearing.

(ii) The employee shall receive the complaint twenty days prior to any suspension or revocation action pursuant to 3 CMC § 1183(e). The notice and opportunity for a hearing regarding a suspension or revocation must comply with 1 CMC § 9111.

(2) In the case of a denial of a certificate by the Certification Officer under § 2305* hereof, the decision shall be placed in writing. It shall give written notice of the reasons for denial by citing the requirement(s) not met and explaining the evidence against the applicant.

*The reference to § 2305 is in error. It appears to be a reference to the regulations in effect prior to March 23, 2004, when this part was replaced in its entirety.

(e) Interim Suspension

(1) No suspension or revocation shall take effect until a hearing, if requested, has reached a final judgment, pursuant to 1 CMC § 9111(a).

(2) If the Commissioner finds that public health, safety, or welfare imperatively requires it, the emergency summary suspension of a certificate may be ordered pending proceedings for revocation or other action pursuant to 1 CMC § 9111(b).

(f) Opportunity for Formal Hearing

The employee/applicant shall be provided with an opportunity to have a formal hearing regarding any denial, suspension or revocation of a certificate. The hearing will be held before the Board of Education and the majority of Board members at the hearing will make any suspension decision. The employee/applicant must request a formal hearing in writing within ten days of the receipt of his/her complaint or notice of the denial of certificate. The request shall be addressed to the Chair-person of the Board of Education.

(g) Scheduling the Hearing

(1) The PSS legal counsel shall represent the Commissioner/designee in presenting a complaint for revocation or suspension and in presenting the evidence supporting the denial of a certificate.

(2) The employee/applicant is entitled to retain counsel at his or her own expense or to represent him or herself in the proceeding.

(3) The Chairperson of the Board of Education shall schedule a hearing date within forty-five days of the employee's request for a hearing. The date shall be set with due regard for the need of PSS to take action on the suspension or revocation and for the need of the employee to have sufficient time to adequately prepare a defense. The hearing shall not be scheduled for a date

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earlier than twenty days after providing notice of the proposed action, as required by 3 CMC § 1183(e).

(4) The Chairperson shall provide a date for the exchange of witness lists and documents intended to be introduced at the hearing. The Chairperson may also hold a pre-hearing conference to accomplish one or more of the following tasks:

- (i) Decide the issues for the hearing;
- (ii) Stipulate as to uncontested facts;
- (iii) Estimate the length of the hearing;
- (iv) Mark exhibits; or
- (v) Determine the admissibility of contested evidence.

(h) **Burden of Proof**

The Commissioner/designee or the Certification Officer shall have the burden of proving the charge or decision by a preponderance of the evidence.

(i) **Conduct of Hearing**

(1) The hearing shall commence with a reading of the complaint or the decision of the Commissioner/designee or Certification Officer.

(2) Each side shall be permitted to make an opening statement. The PSS legal counsel shall present evidence to support the findings of the Commissioner/designee subject to cross-examination.

(3) The employee/applicant may present evidence to rebut the charges, or findings, subject to cross-examination. Each side may present rebuttal evidence.

(4) After all the evidence has been presented, a closing argument may be offered on behalf of the Commissioner/ designee or Certification Officer. The employee/ applicant may then present a closing argument, followed by the final summation on behalf of the Commissioner of Education/designee or Certification Officer.

(5) Proceedings hereunder shall be conducted consistent with the requirements of 1 CMC § 9109.

(6) A recording shall be made of the proceeding to serve as the official record.

(j) **Evidence**

(1) The formal rules of evidence do not apply. Any relevant evidence of probative value is admissible with only the weight assigned to it affected by its nature.

(2) A notary shall administer oaths to witnesses.

(3) Hearsay evidence shall be admissible and may constitute sufficient evidence if relevant and probative, of a kind that responsible persons are accustomed to relying upon in serious affairs, and such that a reasonable mind would accept the evidence as adequate to support a conclusion of ultimate fact.

(4) Where suspension, revocation or the denial of a certificate depends upon the proof of the commission of a crime, proof need only be by substantial evidence and not proof beyond a reasonable doubt. An acquittal on criminal charges is not a bar to a certificate's denial, suspension or revocation. A certified copy of conviction shall constitute prima facie evidence of the commission of the crime, which may be rebutted by a substantial showing of circumstances tending to disprove its commission.

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(k) Decision

- (1) The decision-making process must comply with 1 CMC § 9110.
- (2) The attorney for the Commissioner/designee shall not participate in the private deliberations of the Board of Education.
- (3) The Commissioner or Certification Officer shall issue a written decision with findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact and law presented on the record and an appropriate order invoking or denying a sanction, or in the case of a review, affirming or reversing a certification decision.
- (4) The written decision and order shall be served on the employee/applicant within forty-five days of the completion of the hearing process.

(l) Appeal

The employee/applicant may appeal the Board of Education's decision pursuant to the procedures and time restrictions set forth in 3 CMC § 1183(e).

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The original paragraphs of subsection (d)(1) were not designated. The Commission removed the comma after "Commissioner/designee" in subsection (h) to correct a manifest error. The Commission designated subsections (d)(1)(i) and (d)(1)(ii). See also the commission comment to § 60-30.2-201.

The 2006 amendments changed "provisional" to "basic" and "basic" to "basic II" in subsection (a).

Part 300 - Standards of Conduct for Employees

Subpart A - Health Standards

§ 60-30.2-301 Purpose

The regulations in this subpart seek to ensure that a teacher not be permitted to continue to serve as a teacher when such service would endanger the health of the students and co-workers or when a disability is such that it would interfere with the effective performance with the teacher's professional duties despite reasonable accommodations.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-302 Limitation

Nothing stated herein is intended to reduce the rights of disabled employees under the Americans with Disabilities Act (ADA). The regulations in this subpart are to be construed, to the maximum

extent possible, so that they are consistent with the ADA. To the extent it is not possible, the inconsistent portion shall be severed and the remainder of the regulations shall be given effect.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-304 Medical Examination at Start of Contract

Upon the execution of an employment contract, the employee shall be required to undergo a physical examination at a health care provider acceptable to the Human Resources Officer prior to the commencement of the contract term. The results of the examination shall be provided to the Human Resources Officer prior to the commencement of the contract term and to the Board of Education pursuant to § 60-30.2-214 hereof.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-306 Qualifications

An employee must not have a physical or mental impairment that:

- (a) Prevents the employee from being able to safely and effectively perform all essential job-related functions once reasonable accommodations are provided by the employer, or
- (b) Poses a significant risk of substantial harm to the health or safety of the employee or other people in the workplace that cannot be eliminated or reduced by reasonable accommodation.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-308 Scope of Medical Examination

The initial employment examination by the Division of Public Health or other medical clinic or medical practitioner licensed in the CNMI shall be limited to a physical examination necessary to develop an opinion as to whether the employee is physically qualified under § 60-30.2-306.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-310 Effect on Contract

If it is determined by qualified medical personnel that a physical disability exists that causes the employee to be unable to meet the qualifications set out in § 60-30.2-306, then the Commissioner shall declare the contract void and terminate employment.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-312 Medical Examination During Contract Term

(a) If the Commissioner determines, after consultation with the employee and the employee's supervisor, that there is reasonable doubt about the employee's continued ability to physically or mentally qualify under § 60-30.2-306, then the employee may be required to undergo a medical examination at the Division of Public Health.

(b) If it is determined by qualified medical personnel that a physical or mental disability exists that causes the employee to be unable to meet the qualifications set out in § 60-30.2-306, then the Commissioner shall institute proceedings to suspend or terminate employment, as appropriate.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-314 Restriction on Employment Action

No action shall be taken under §§ 60-30.2-310 or 60-30.2-312 without first consulting the PSS legal counsel to ensure that the requirements of the ADA will be met by the proposed action.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-316 Confidentiality of Medical Reports

The records of any medical examination shall be strictly confidential. The records shall be maintained sealed by the Human Resources Officer and shall be disclosed only to managers and supervisors who need to know of any work restrictions or accommodations, first aid and safety personnel who need to know in order to render emergency services, government officials who are investigating compliance with the ADA, the workers' compensation board pursuant to the Commonwealth's workers' compensation laws, and those persons who must review the records in order to determine whether to take action and to be able to take action under §§ 60-30.2-310 or 60-30.2-312 herein.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - Alcohol Use and Alcoholism

§ 60-30.2-318 Purpose

There is a distinction between alcohol use in the workplace or being intoxicated while at work and an employee having the medical condition of alcoholism. The regulations in this subpart are intended to set forth clear rules on the use of alcohol that affects job performance while recognizing the protection accorded to those suffering from alcoholism under the ADA.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-320 Use of Alcohol

No employee shall use alcohol in a manner that poses a direct threat to the health and safety of other persons in the workplace.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-322 Intoxication

No employee shall be intoxicated while discharging the duties of employment.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-324 Possession of Alcohol

No employee shall bring any alcoholic beverage to the workplace.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-326 Alcoholism

An employee shall not be disciplined or dismissed because he or she is an alcoholic. Reasonable accommodations shall be made in order for the employee to receive medical treatment to the same extent permitted for other diseases or health problems.

(a) An alcoholic may be disciplined or discharged to the same extent as any other employee for violating §§ 60-30.2-320, 60-30.2-322 and 60-30.2-324 herein.

(b) An alcoholic may be disciplined or discharged if he or she can no longer safely and effectively perform job-related functions or if he or she poses a significant risk of substantial harm to the health and safety of employees or others that cannot be eliminated or reduced by reasonable accommodations.

Modified, 1 CMC § 3806(c).

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History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-328 Action by Supervisor

If a supervisor forms the opinion after continued observation of an employee's job performance that the employee may suffer from alcoholism, he or she should discuss the matter with the employee in order to determine what reasonable accommodations (e.g. medical intervention or leave for treatment) can be provided.

(a) If the employee refuses reasonable accommodations and the supervisor still holds the opinion that the employee is an alcoholic, the matter shall be referred to the Human Resources Officer. The Human Resources Officer shall counsel the employee and seek to establish a program of reasonable accommodations. If the accommodations offered are refused, the employee shall be warned that he or she may be disciplined or dismissed if his or her conduct rises to the level of violating § 60-30.2-326(b) hereof.

(b) If the employee indicates an interest in accepting reasonable accommodations, then the supervisor and the employee shall meet with the Human Resources Officer to design a program of reasonable accommodations to meet both the needs of PSS and the employee.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart C - Illegal Drugs

§ 60-30.2-330 Purpose

Unlike alcoholics, illegal drug users are not protected by the ADA. Only former users of illegal drugs are protected from discrimination. Therefore, the regulations in this subpart are intended to clearly set forth that no illegal drug usage will be tolerated by PSS.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-332 Drug-free Workplace

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance by any employee is prohibited in the workplace. Violation of this rule will result in the dismissal of an employee.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-334 Intoxication

No employee shall be under the influence of drugs while in the workplace.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart D - Teaching Performance

§ 60-30.2-336 Duty of Competent Instruction

A teacher must possess detailed knowledge and understanding of the subject matter to be taught, be able to communicate effectively with his or her students and must effectively teach the assigned subject matter to the students.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-338 Duty of Care

A teacher must use due care to organize materials, prepare for classes, maintain harmony in the classroom and school grounds and employ effective teaching techniques to ensure that the assigned teaching goals are met.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-340 Absence from Work and Tardiness

An employee must attend his or her regularly scheduled classes, remain at the school during preparation periods, attend in-service meetings as scheduled, arrive promptly at his or her workplace and attend other required functions, such as evening open houses. An intentional disregard of repeated directives to attend or continuous tardiness despite repeated directives to be prompt may result in dismissal from employment.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-342 Insubordination

(a) An employee is expected to carry out the announced policies and programs of PSS. While policies which relate to the employee's duties are under consideration, the employee may, and is expected to, express his or her opinions concerning its merits. Once, however, a decision has been rendered by a person with authority, the employee will be required to unreservedly assume the success of the program or policy which he or she is responsible to effectuate.

(b) If an employee willfully or intentionally disobeys a reasonable order of a superior or the lawful regulation or policy of PSS, he or she may be subject to appropriate disciplinary action, including dismissal.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-344 Cruelty to Students

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A teacher has the right to exercise *in loco parentis* authority over students and may control, restrain and correct them to further educational purposes; however, such actions are subject to, but not limited to, the following limitations:

- (a) Corporal Punishment: Teachers are forbidden to use corporal punishment on any student.
- (b) Psychological Harm: Teachers are forbidden to engage in any act of psychological cruelty which inflicts emotional trauma on a student.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-346 Religious Instruction

- (a) The First Amendment of the U.S. Constitution and article I, § 2 of the CNMI Constitution prohibit government action that establishes religion. The required separation between church and state prohibits school activities that aid one religion, aid all religions, or prefer one religion over another. Therefore, no employee may engage in religious instruction while performing his or her duties.
- (b) Teaching about religion is permissible if it is objective, historical, non-devotional and its primary effect is not to promote religious beliefs.
- (c) Employees may not require, sanction, consent to or concur in the recitation of prayer in school.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart E - Personal Conduct

§ 60-30.2-348 Private Employment

- (a) Private employment is not permitted if it interferes with the performance of teaching duties by diverting time, interests, talents or energies from employment with PSS, or if it creates a possible conflict of interest with teaching.
- (b) Private employment is prohibited when:
 - (1) It may reasonably be construed by the public that the work done is an act performed for PSS,
 - (2) The employee requires the use of information obtained by the employee in the course of his or her PSS duties,
 - (3) The work required is the same task or tasks closely related to those performed for PSS,
 - (4) The work in any way involves the facilities, equipment or supplies of PSS, or
 - (5) The work would tend to influence the impartial judgment of the employee on matters arising in the course of his or her employment with PSS.

(c) Before engaging in any private employment of any kind, an employee must first provide to his or her principal, or immediate supervisor if there is no principal to which one reports, and to the Human Resources Officer a written description of the nature of the employment activities, the location of the work site, the estimated work schedule and the expected duration of the employment.

(d) The term “private employment” includes self-employment and the operation of a business as well as work performed for others.

(e) Employees may tutor students privately subject to the restrictions set out in this section.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-350 Conflict of Interest

No employee shall engage in any activity or have a direct or indirect financial interest in any activity that creates an interest or constitutes an interest that conflicts with the employee’s duties under his or her contract of employment or the regulations in this subchapter. Nor shall any activity or financial interest be permitted if it could reasonably raise a question whether there would be a conflict of interest with the employee’s contract duties or duties established by regulation.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-352 Gifts and Gratuities

(a) General Rule: No employee may receive, directly or indirectly, any gift, gratuity or item of economic value under circumstances where receipt might reasonably be interpreted by others as affecting the employee’s performance, or impartiality in the performance, of his or her duties to PSS.

(b) The receipt of promotional items, ordinary commercial loans, gifts from immediate family members and ordinary meals on an infrequent basis will be rebuttably presumed to not be reasonably interpreted as affecting job performance or impartiality.

(c) No employee shall present a gift to a superior where the superior’s receipt of such a gift might reasonably be interpreted by others as affecting the superior’s impartiality in the performance of his or her duties.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-354 Endorsements

No employee shall recommend specific products or individuals for purchase or hire by virtue of their relationship with PSS or past employment with PSS.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-356 Nepotism

It is the policy of PSS to secure and maintain staff on the basis of ability, not on the basis of marriage or family relation. Thus, no employee shall supervise a member of his or her immediate family, except in an emergency. “Immediate family” shall mean any person or that person’s spouse who is within the second degree of relationship of the supervising employee or that employee’s spouse. The following is a list of second degree relationships: parents, grandparents, uncles, aunts, siblings, children and grandchildren.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-358 Unprofessional Conduct

No employee shall engage in unprofessional conduct. “Unprofessional conduct” shall mean conduct such as to indicate unfitness to teach.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-360 Dishonesty

No employee shall engage in any dishonest act while performing the duties of his or her employment. Examples of such conduct include, but are not limited to, misreporting sick leave, sign-in times or facts related in the application for employment or certification.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-362 Criminal Conduct

- (a) The commission of a crime of moral turpitude or a felony indicating an unfitness to teach will result in dismissal.
- (b) Proof of the commission of a crime requires only substantial evidence, not proof beyond a reasonable doubt. An acquittal on criminal charges is not a bar to dismissal. A certified copy of a conviction shall constitute *prima facie* evidence of the commission of the crime which may be rebutted by a substantial showing of circumstances tending to disprove its commission.
- (c) Crimes of moral turpitude which will result in dismissal include, but are not limited to, illegal drug use, sexual misconduct, bribery and theft.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-364 Immoral Conduct

(a) Any employee who engages in immoral conduct which creates a significant danger of harm to students or co-workers, or which is known among his or her students and will impair the ability to teach those students is a ground for dismissal.

(b) Teachers and librarians should serve as examples to their students. Conduct which offends the moral standards of the community and impedes an employee's effectiveness at school is "immoral conduct." For example, immoral conduct may involve sexual misconduct or the unjustified use of profanity or offensive language.

(c) It shall be considered immoral conduct for a teacher or librarian to make sexual advances towards any students or engage in sexual conduct with any student, regardless of the age of the student involved.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-366 Discrimination

Employees shall not participate in, or permit others to engage in, any act of discrimination against students or coworkers as a consequence of that person's sex, sexual orientation, race, color, religion, national origin, age, or disability, or in retaliation for the exercise of any of these listed rights. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, employees are required to treat all persons equally.

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-368 Political Activities

(a) Employees may speak out on political issues as citizens, but they may not be involved in political activities which disrupt the education process.

(b) No employee may use his or her position at PSS to promote a particular political outcome.

(c) No teacher may use the classroom for political purposes.

(d) No employee may be involved in any political activity that will detract from job performance.

(e) No employee may solicit or receive political contributions from another while performing the duties of employment or while present at the workplace

(f) No employee may campaign for any candidate, party or issue while engaged in work or while at the workplace.

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History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-370 Internet Usage

The Public School System (PSS) offers internet access for employee and student use. The Board of Education recognizes that it is important for students to have access to electronics-based research tools for their application to learning, problem solving, production of work, and presentation of information. The Board also recognizes that while these resources represent extraordinary learning opportunities and enriching educational materials, they also offer persons with illegal or unethical motives avenues for reaching students, teachers, parents/guardians and members of the community. Additionally, these resources present tempting opportunities for users to explore areas that are either confidential, have restricted access or are inappropriate to the classroom or workplace. The regulation in this section outlines acceptable student and employee behavior with respect to use of PSS technology and electronic resources. It may be referred to as the “Acceptable Use Regulations” for the employee’s use of Public School System Educational Systems Network (PSS-ESN).

(a) Purpose

(1) The term “educational purpose” in the policy and regulations in this section includes use of the system for classroom activities, professional or career development, and limited high quality self-discovery activities. Students will limit their use of the system for self-discovery purposes to no more than 10 hours per week.

(2) The PSS-ESN has a limited educational purpose. The purpose of the PSS-ESN is to assist in preparing students for success in life and work in the 21st century by providing them with electronic access to a wide range of information and the ability to communicate with people from throughout the world.

(3) The system will be used to increase PSS intra- communication, enhance productivity, and assist PSS employees in upgrading their skills through greater exchange of information with their peers. The PSS-ESN will also assist the PSS employees in sharing information with the local community, including parents, social service agencies, government agencies, and businesses.

(4) Users may not use the PSS-ESN for commercial purposes, defined as offering or providing goods or services or purchasing goods or services for personal use. PSS procurement rules will be followed for purchase of goods or services for PSS through the PSS-ESN.

(5) Users may not use the system for political lobbying.

(6) PSS employees and students for school related purposes may use the system to communicate with their elected representatives.

(7) The provisions set forth in the “Children’s Internet Protection Act” (U.S. Pub. L. 106-554), apply to all users of the PSS-ESN.

(b) PSS Responsibilities

(1) The Commissioner of Education will serve as the coordinator to oversee the PSS-ESN and will work with the CNMI local government as necessary.

(2) The school principal will serve as the school-level coordinator for the PSS-ESN, will approve school-level activities, ensure teachers receive proper training in the use of the system and the requirements of the policy and regulations in this section, establish a system to ensure adequate supervision of students using the system, maintain executed user agreements, and be responsible for interpreting the PSS acceptable use policy and regulations at the school level.

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(3) The PSS technology coordinator will establish a process for setting-up individual and class accounts, set quotas for disk usage on the system, establish a retention schedule, establish a virus protection process, and other related activities.

(c) Technical Services Provided through PSS-ESN

(1) E-mail. E-mail will allow employees and students to communicate with people from throughout the world. Users will also be able to subscribe to mail lists (listserv) to engage in-group discussions related to educational subjects.

(2) World Wide Web. The web provides access to a wide range of information in the form of text, graphics, photographs, video, and sound, from throughout the world. The web is a valuable research tool for students and employees.

(3) Telnet. Telnet allows the user to log in to remote computers.

(4) File Transfer Protocol (FTP). FTP allows users to download large files and computer software.

(5) Newsgroups. Newsgroups are discussion groups that are similar to mail lists (listserv). The PSS will provide access to selected newsgroups that relate to subjects that are appropriate to the educational purpose of the system.

(6) Internet Relay Chat (IRC). IRC provides the capability of engaging in “real-time” discussions. The PSS will provide access to IRC only for specifically defined educational activities.

(7) Blocking Software. The CNMI Public School System will acquire software designed to block access to certain sites.

(d) Access to the System

(1) Employee & Student Use. The PSS acceptable use policy & regulations, set forth in this section and PSS Rules and Regulations § 60-20-540 (student use), will govern all use of the PSS-ESN. Board, PSS and school policies and regulations regarding student and employee conduct will also govern the use of the system.

(2) World Wide Web. All PSS employees and students will have access to the web through the PSS’s networked computers. Parents may specifically request that their child(ren) not be provided such access by notifying the school principal in writing. For information regarding parent notification and student accounts, refer to PSS Rules and Regulations § 60-20-540(c) and subsection (e) of this section.

(3) Classroom Accounts. Elementary age students will be granted e-mail access only through a classroom account. Elementary students may be provided with an individual account under special circumstances at the request of their teacher and with the approval of their parent and the school principal. An agreement will only be required for an individual account, which must be signed by the student and his or her parent. Parents may specifically request that their child(ren) not be provided access through the classroom account by notifying the school principal in writing.

(4) Individual E-mail Accounts for Students. Secondary students may be provided with individual e-mail accounts. Secondary students may have dial-up access to the system at the recommendation of the teacher and school principal. An agreement will be required for an individual e-mail account. The student and his or her parent must sign this agreement before the account may be used.

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(5) Individual E-mail Accounts for PSS Employees. PSS employees will be provided with an individual account and will have dial-up access to the system. Employees must sign the employee account agreement before the account may be used.

(6) Guest Accounts. Guests may receive an individual account with the approval of a school administrator or program manager if there is a specific, PSS-related purpose requiring such access. Use of the system by a guest must be specifically limited to the PSS-related purpose. An agreement will be required and parental signature will be required if the guest is a minor (e.g. PSS may allow home school students to obtain access through the PSS-ESN). Guest accounts are only temporary and will only be active for only the period of time that is approved.

(e) Parental Notification and Responsibility

(1) The PSS will notify the parents about the PSS network and the policies and regulations governing its use. Parents must sign an agreement to allow their student to have an individual account. Parents may request alternative activities for their child(ren) that do not involve internet access.

(2) Parents have the right at any time to review the contents of their child(ren)'s e-mail files. Parents have the right to request the termination of their child(ren)'s individual account at any time.

(3) The PSS acceptable use policy and regulations in this section contain restrictions on accessing inappropriate material. There is a wide range of material available on the internet, some of which may not be fitting with the particular values of the families of the students. It is not practically possible for the PSS to monitor and enforce a wide range of social values in student use of the internet. Further, the PSS recognizes that parents bear primary responsibility for transmitting their particular set of family values to their children. The PSS will encourage parents to specify to their child(ren) what material is and is not acceptable for their child(ren) to access through the PSS-ESN.

(4) The PSS will provide students and parents with guidelines for student safety while using the internet.

(5) If dial-up access is provided parents are responsible for monitoring their student's use of the internet when they are accessing the system from home.

(f) PSS Limitation of Liability

The PSS makes no warranties of any kind, either express or implied, that the functions or the services provided by or through the PSS-ESN will be error-free or without defect. The PSS will not be responsible for any damage users may suffer, including but not limited to, loss of data or interruptions of service. The PSS is not responsible for the accuracy or quality of the information obtained through or stored on the system. The PSS will not be responsible for financial obligations arising through the unauthorized use of the system.

(g) Due Process

(1) PSS will cooperate fully with local, state, or federal officials in any investigation related to any illegal activities conducted through PSS-ESN.

(2) In the event there is a claim that a student violated PSS Rules and Regulations § 60-20-540 or other PSS, Board or school policy or regulation in his or her use of the PSS-ESN, he or she will be provided the due process and hearing rights set forth in such regulations. Additional restrictions may be placed on the student's use of the internet account.

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(3) Student disciplinary actions will be tailored to meet specific concerns related to the violation and to assist the student in gaining the self-discipline necessary to behave appropriately on an electronic network. If the alleged violation also involves a violation of other provisions of the student code of conduct, the violation will be handled in accord with the applicable provision of the student disciplinary regulations.

(4) Employee violations of the PSS acceptable use policy will be handled in accord with Board, PSS and school policies and regulations.

(5) Any PSS administrator or program manager may terminate the account privileges of a guest user by providing notice to the user. Guest accounts not active for more than 30 days may be removed, along with the user's files without notice to the user.

(h) Search and Seizure

(1) System users have a limited privacy expectation in the contents of their personal files on the PSS-ESN.

(2) Routine maintenance and monitoring of the system may lead to discovery that the user has or is violating the PSS acceptable use policy and regulations, the student disciplinary regulations, PSS personnel regulations, or the law.

(3) An individual search of an employee or student account will be conducted if there is reasonable suspicion that a user has violated the law or PSS, Board or student policies and regulations. The nature of the investigation will be reasonable and in the context of the nature of the alleged violation.

(4) PSS employees should be aware that their personal electronic files may be discoverable in legal actions.

(i) Copyright and Plagiarism

(1) PSS policies and regulations and federal law on copyright will govern the use of material accessed through the PSS-ESN. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. Because the extent of copyright protection of certain works found on the internet is unclear, employees will make a standard practice of requesting permission from the holder of the work if their use of the material has the potential of being considered an infringement. Teachers will instruct students to respect copyright and to request permission when appropriate.

(2) PSS policies, regulations and procedures regarding plagiarism will govern use of material accessed through the PSS-ESN. Teachers will instruct students in appropriate research and citation practices.

(j) Academic Freedom, Selection of Material, Student Rights to Free Speech

(1) Board, PSS and school policies and regulations on academic freedom and free speech will govern the use of the internet.

(2) When using the internet for class activities, teachers will select material that is appropriate in light of the age of the students and that is relevant to the course objectives. Teachers will preview the materials and sites they require or recommend students access to determine the appropriateness of the material contained on or accessed through the site. Teachers will provide guidelines and lists of resources to assist their students in channeling their research activities effectively and properly. Teachers will assist their students in developing the skills to ascertain the truthfulness of information, distinguish fact from opinion, and engage in

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discussions about controversial issues while demonstrating tolerance and respect for those who hold divergent views.

(k) PSS Web Site

(1) PSS Web Site. The PSS will establish a web site and will develop web pages that will present information about the PSS. The PSS technology coordinator or his/her appointee, will be designated the webmaster, responsible for maintaining the PSS web site.

(2) School or Class Web Pages. Schools and classes, upon approval from the principal, may establish web pages that present information about the school or class activities. The school principal will designate an individual to be responsible for managing the school web site. Teachers will be responsible for maintaining any class sites.

(3) Student Web Pages. With the approval of the school principal, students may establish personal web pages. The principal will establish a process and criteria for the establishment and posting of material, including pointers to other sites, on these pages. Material presented in the student's web site must be related to the student's educational and career preparation activities. Student web pages must include the following notice: "This is a student web page. Opinions expressed on this page shall not be attributed to the PSS."

(4) School or Extracurricular Organization Web Pages. With the approval of the school principal, extracurricular organizations may establish web pages. The principal will establish a process and criteria for the establishment and posting of material, including pointers to other sites, on these pages. Material presented on the organization web page must relate specifically to organization activities and will include only student-produced material. Organization web pages must include the following notice: "This is a student extracurricular organization web page. Opinions expressed on this page shall not be attributed to the school or PSS."

(l) Unacceptable Use

The following uses of the PSS-ESN are considered unacceptable:

(1) Personal Safety

(Restrictions are for students only. Teachers should ensure that students follow these restrictions.)

(i) Users will not post personal contact information about themselves or other people. Personal contact information includes address, telephone, school address, work address, etc.

(ii) Users will not agree to meet with someone they have met online without their parent's approval and participation.

(iii) Users will promptly disclose to their teacher or other school employee any message they receive that is inappropriate or makes them feel uncomfortable in any way.

(2) Illegal Activities

(i) Users will not attempt to gain unauthorized access to the PSS-ESN or to any other computer system through the PSS-ESN, or go beyond their authorized access. This includes attempting to log in through another person's account or access another person's files. These actions are illegal, even if only for the purposes of "browsing."

(ii) Users will not make deliberate attempts to disrupt the computer system's performance or destroy data by spreading computer viruses or by any other means. These actions are illegal.

(iii) Users will not use the PSS-ESN to engage in any other illegal act, such as arranging for a drug sale or the purchase of alcohol, engaging in criminal gang activity, threatening the safety of person, etc.

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(3) System Security

- (i) Users are responsible for the use of their individual account and should take all reasonable precautions to prevent others from being able to use their account. Under no conditions should a user provide their password to another person.
- (ii) Users will immediately notify the school system administrator if they have identified a possible security problem. Users will not go looking for security problems, because this may be construed as an illegal attempt to gain access.
- (iii) Users will avoid the inadvertent spread of computer viruses by following the PSS virus protection procedures if they download software.

(4) Inappropriate Language

- (i) Restrictions against inappropriate language apply to public messages, private messages, and material posted on web pages.
- (ii) Users will not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language.
- (iii) Users will not post information that, if acted upon, could cause damage or a danger of disruption.
- (iv) Users will not engage in personal attacks, including prejudicial or discriminatory attacks.
- (v) Users will not harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If a user is told by a person to stop sending them messages, they must stop.
- (vi) Users will not knowingly or recklessly post false or defamatory information about a person or organization.

(5) Respect for Privacy

- (i) Users will not re-post a message that was sent to them privately without permission of the person who sent them the message.
- (ii) Users will not post private information about another person.

(6) Respecting Resource Limits

- (i) Users will use the system only for educational and professional or career development activities (no time limit), and limited, high-quality, self-discovery activities. For students, the limit on self-discovery activities is no more than three hours per week.
- (ii) Users will not download large files unless absolutely necessary. If necessary, users will download the file at a time when the system is not being heavily used and immediately remove the file from the system computer to their personal computer.
- (iii) Users will not post chain letters or engage in “spamming.” Spamming is sending an annoying or unnecessary message to a large number of people.
- (iv) Users will check their e-mail frequently, delete unwanted messages promptly, and stay within their e-mail quota.
- (v) Users will be subscribed only to high quality discussion group mail lists that are relevant to their education or professional/career development.

(7) Plagiarism and Copyright Infringement

- (i) Users will not plagiarize works that they find on the internet. Plagiarism is taking the ideas or writings of others and presenting them as if they were original to the user.
- (ii) Users will respect the rights of copyright owners. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. If a work contains language that specifies acceptable use of that work, the user should follow the expressed

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requirements. If the user is unsure whether or not they can use a work, they should request permission from the copyright owner.

(8) Inappropriate Access to Material

(i) Users will not use the PSS-ESN to access material that is profane or obscene (pornography), that advocates illegal acts, or that advocates violence or discrimination towards other people (hate literature). For students, a special exception may be made for hate literature if both the teacher and the parent approve the purpose of such access to conduct research and access. PSS employees may access the above material only in the context of legitimate research.

(ii) If a user inadvertently accesses such information, they should immediately disclose the inadvertent access in a manner specified by their school or department. This will protect users against an allegation that they have intentionally violated the acceptable use policy & regulations.

(9) Consequences for Unacceptable Uses

(i) Your supervisor, the technology coordinator or the COE may revoke your privilege under the acceptable use policy & regulations for any unacceptable uses, including uses not specifically listed herein.

(ii) Unacceptable use by an employee or an employee's failure to respond to the unacceptable use of a student may result in disciplinary action or even termination.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

Commission Comment: The Commission moved the close quotation mark in subsection (a)(7) from after the close parenthesis to after the word "Act" pursuant to 1 CMC § 3806(g). In subsection (l), the Commission corrected the spelling of "unacceptable." In subsection (l)(2)(i), the Commission inserted the final period. In subsection (l)(6)(iii), the Commission moved the period after "spamming" inside of the closing quotation mark. In subsection (l)(6)(v), the Commission changed "subscribe" to "subscribed" to correct a manifest error.

The following form appears after this section in the original regulations:

Employee Account Agreement

Name _____
Position _____
School or Department _____

I have read the PSS Acceptable Use Regulation. I agree to follow the rules contained in this Regulation. I understand that if I violate the rules, I may face disciplinary action, including termination, in accord with the CNMI, the Board of Education, the Public School System (PSS) Personnel Regulations and the Acceptable Uses Policy and Regulations.

I hereby release and agree to indemnify the Board, PSS and the CNMI, their personnel, and any institutions with which they are affiliated, from all claims and damages of any nature arising from my use of, inability to use, or improper or illegal use of the PSS system, including, but not limited to claims that may arise from the unauthorized use of the system to purchase products or services.

Signature _____ Date _____

See 26 Com. Reg. at 21708 (Jan. 22, 2004).

Part 400 - Employee Discipline

Subpart A - Forms of Discipline

§ 60-30.2-401 Formal Reprimand

A formal reprimand is delivered by a written letter that instructs the employee that there has been one or more deficiencies in performance, describes the misconduct and warns that a failure to improve may result in more serious discipline. A copy of the letter is provided to the Human Resources Officer for posting in the employee's file. Reprimands are to be used only for minor misconduct.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-402 Reduction in Rank or Pay

A reduction in rank or a reduction in pay may be accomplished only by an official personnel action. A reduction in rank occurs when one's relative standing in the organizational structure has been lowered.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-404 Suspension

A suspension occurs when an employee is placed in a non-duty and non-pay status for a portion of the contract term that counts as part of the three hundred eighty days assigned for work. There is no distinction any longer between suspensions for five days and those for more than five days in the procedure followed for implementation.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-406 Dismissal

A teacher is dismissed when his or her contract of employment is terminated. Dismissal is referred to herein by various terms, such as discharge and termination.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - Who May Initiate Discipline?

§ 60-30.2-408 Principals

The authority to initiate the discipline of teachers and librarians is granted to the principals or program directors to whom they are assigned.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-410 Human Resources Officer

The authority to initiate the discipline of any employee not supervised by a principal or program director is granted to the Human Resources Officer.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-412 Management Official

The person with the authority to initiate discipline shall be referred to herein as the “management official.”

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart C - When Discipline is Warranted

§ 60-30.2-414 Standard

Discipline may be imposed for the violation of any standards of conduct set forth in the regulations in this subchapter or for the failure to continue to remain qualified for certification under these regulations. The statement in some sections that a violation may lead to dismissal is not intended to suggest that dismissal may not be warranted for the violation of any other section.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-416 Factors to Be Considered in Initiating Discipline

- (a) Discipline is warranted only when the conduct is such that it has or will have an adverse effect on the employee’s ability to perform his or her duties and responsibilities.

- (b) In this regard, the management official, in determining whether to initiate discipline and what level of discipline is warranted, should consider the following factors:
 - (1) The age and maturity of the students that may be affected by a violation,
 - (2) The size and population of the school and its community,
 - (3) The likelihood that the employee’s conduct has had, or will have, an adverse effect on students, other employees, or the school community,
 - (4) The effect on student-teacher relationships,
 - (5) Any disruption of the educational process,
 - (6) The severity of any adverse effect,
 - (7) The proximity or remoteness in time of the conduct,
 - (8) Any extenuating or aggravating circumstances surrounding the conduct,
 - (9) The likelihood the conduct would recur,
 - (10) The impact of publicity,
 - (11) The motive for the conduct, and

(12) The extent to which disciplinary action may have an adverse or chilling effect upon the exercise of constitutional rights by other employees.

(c) The management official shall not file any notice of charges without those charges being reviewed and approved first by the Equal Employment Officer (EEO).

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart D - When Disciplinary Measures Must Be Followed

§ 60-30.2-418 Not for Reprimands

Before any employee is dismissed, suspended, reduced in rank or reduced in pay the disciplinary procedure set forth in this subchapter must be followed. A formal reprimand does not require that these procedures be followed.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-420 Not for Non-renewal

The non-renewal of an employment contract does not require compliance with the disciplinary procedures.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart E - Initiating Discipline

§ 60-30.2-422 Notice of the Charges

The management official must provide written notice to the employee of the charges by citing the regulation violated, explaining the evidence against the employee and stating the proposed disciplinary action. The employee must also be informed, in writing, of the opportunity to be heard in a pre-discipline hearing. A copy of the notice shall be provided to the Commissioner and the EEO.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-424 Pre-discipline Hearing

A hearing shall be held within ten days of delivering notice to the employee. The date set shall take into consideration how much time may be needed by the employee to prepare for the pre-discipline hearing. The hearing shall be before the Commissioner or his or her designee. At the hearing, the employee shall have the opportunity to present his or her side of the story, to convince the Commissioner that the proposed discipline is a mistake, or that the reasons for the

discipline are either not supported by the facts or are less compelling than they appear. The employee may waive this hearing or decide only to present his or her position in writing rather than in person.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-426 Commissioner's Decision

The Commissioner, or his designee, who conducted the pre-discipline hearing shall decide in writing within ten days of the hearing whether any regulation has been violated, the facts that support the finding of a violation, whether discipline is warranted and, if so, what discipline is appropriate. The decision shall state when the discipline takes effect. Only the charges contained in the notice can be the basis for any disciplinary action.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-428 Suspension Pending Decision

The employee cannot be suspended without pay before the pre-discipline decision. The management official should permit the employee to continue to work during this period, utilizing a temporary reassignment, if necessary. In the event that continued employment will pose a risk of harm to students or co-employees, or a risk of disrupting the educational process, then the management official may suspend the employee with pay.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-430 Discipline After Decision

Once the pre-discipline decision has been rendered, the disciplinary action can take place even though a formal due process hearing is requested. The Commissioner has the discretion whether to postpone the discipline, whether suspension is appropriate (with or without pay) or whether to effectuate the decision prior to the formal hearing.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart F - Formal Due Process Hearing

§ 60-30.2-432 Opportunity for Formal Hearing

(a) The employee shall be provided with an opportunity to have a formal hearing before a hearing officer to review the pre-discipline decision.

(b) The employee shall have ten days from receipt of the decision to make a request for a hearing in writing and to deliver the request to the Commissioner.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-434 Scheduling the Hearing

(a) The Chairman of the Board of Education, or its designee, shall appoint an impartial hearing officer without unreasonable delay. The hearing officer shall be a CNMI licensed attorney or a former judge of the CNMI.

(b) The hearing officer shall schedule a hearing date, after consultation with the parties, within forty-five days of the employee's request for a hearing. The date shall be set with due regard for the need of PSS to take action on suspension or revocation and for the need of the employee to have sufficient time to adequately prepare a defense.

(c) The PSS legal counsel shall represent the Commissioner, as the employer, during the formal hearing process. The employee is entitled to retain counsel of his or her choosing, at his or her own expense, or to represent himself or herself.

(d) The pre-discipline decision shall serve as the notice of grounds for discipline. While the grounds may not be changed, the employer is not limited in the presentation of its evidence to matters that were presented at the pre-discipline hearing.

(e) The hearing officer shall provide a date for the exchange of witness lists and documents intended to be introduced at the hearing. The hearing officer may also hold a pre-hearing conference to accomplish one or more of the following tasks:

- (1) Identify the issues for the hearing,
- (2) Stipulate as to uncontested facts,
- (3) Estimate the length of the hearing,
- (4) Mark exhibits, and
- (5) Determine the admissibility of contested evidence.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-436 Burden of Proof

The employer shall have the burden of proving its charge by a preponderance of the evidence.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-438 Conduct of Hearing

(a) The hearing shall commence with a reading of the charges and the employee shall either admit or deny them.

(b) Each side shall be permitted to make an opening statement.

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- (c) The employer shall present evidence to support its charges, subject to cross-examination.
- (d) The employee may present evidence to rebut the charges or mitigate their gravity, subject to cross-examination.
- (e) Each side may present rebuttal and surrebuttal evidence.
- (f) After all the evidence has been presented, the employer may offer a closing argument. The employee may then present a closing argument, followed by the final summation of the employer.
- (g) Proceedings hereunder shall be conducted consistent with the requirements of 1 CMC § 9109.
- (h) A recording shall be made of the proceeding to serve as the official record of all of its events.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-440 Evidence

- (a) The formal rules of evidence do not apply. Any relevant evidence of probative value is admissible with only the weight assigned to it affected by its nature.
- (b) The hearing officer shall administer oaths to witnesses.
- (c) Affidavits under penalty of perjury may be admitted.
- (d) Hearsay shall be admissible and may constitute sufficient evidence if relevant and probative, of a kind that responsible persons are accustomed to relying upon in serious affairs, or such that a reasonable mind would accept the evidence as adequate to support a conclusion of ultimate fact.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-442 Decision

- (a) The decision-making process must comply with 1 CMC § 9110.
- (b) The attorney for the employer shall not participate in the private deliberations of the hearing officer.
- (c) The hearing officer shall issue a written decision with findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law and discretion presented on the record and the appropriate order affirming or rejecting the discipline.
- (d) The written decision and order shall be served on the employee and Commissioner.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-444 Appeal

The employee may appeal the agency decision pursuant to the procedures and time restrictions set forth in 1 CMC § 9112.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Part 500 - Employee Grievances

Subpart A - Scope of this Subchapter

§ 60-30.2-501 Included Matters

All complaints regarding an employee's contract, violations of regulations by other than the employee, formal reprimands, performance evaluations, classification, within-grade increases and any form of discriminatory treatment in employment on the basis of sex, sexual orientation, race, religion, national origin, age or disability shall be brought as grievances pursuant to the procedures set forth in this part.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-502 Excluded Matters

Specifically excluded from these procedures are appeals from employee discipline, comments on PSS regulations and discretionary decisions of assignment, transfer, promotion and non-renewal.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - Employee Protection

§ 60-30.2-504 Restraint or Retaliation

Employees will be free from restraint, interference, coercion, discrimination, reprisal and retaliation in the filing and prosecution of their grievances.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-506 Representation

Employees have the right to be represented by counsel or other representative of their choosing in prosecuting a grievance.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart C - First Step: Consultation with Supervisor

§ 60-30.2-508 Prerequisite

- (a) All grievances shall be initiated by the employee discussing the grievance first with his or her supervisor.
- (b) If the employee believes that his or her relationship with the supervisor is such that the matter cannot reasonably be discussed with the supervisor, then he or she may discuss it with a person at the next level of supervision.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-510 Duty of Supervisor

- (a) The supervisor shall have the duty to:
 - (1) Listen carefully to the employee's grievance and take careful notes of what is said,
 - (2) Obtain sufficient information from the employee or others to determine the merits of the grievance,
 - (3) Inform the employee of the supervisor's decision of the merits, and
 - (4) If action is warranted, take or recommend, according to one's ability depending upon the supervisor's authority and position, whatever action is appropriate without unnecessary delay.
- (b) The supervisor shall inform the employee of the estimated time needed to take action and shall inform the employee of the results of his or her action immediately after it is taken.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart D - Filing of the Complaint and Mediation

§ 60-30.2-512 When Filing is Permitted

If the employee is unable to settle the grievance by consulting his or her supervisor, a grievance action may be commenced by filing a written complaint.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-514 Contents of Complaint

The complaint must specify:

- (a) The identity of the aggrieved employee and the employee's work assignment,
- (b) The details of the grievance,

- (c) The corrective action desired, and
- (d) The outcome of the employee's discussion with his or her supervisor.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-516 Filing of the Complaint

The complaint must be filed with the Equal Employment Officer (EEO). There is no time limit for the filing of complaints; however, unreasonable delay in filing may reflect poorly on its merits or its importance to the employee.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-518 Equal Employment Officer

- (a) The EEO shall be responsible for the coordination and management of the grievance system.
- (b) The Commissioner shall designate no fewer than five program specialists from PSS to serve as counselors. The EEO shall establish a training program on mediation, discrimination, the PSS regulations, the standard employment contract and other topics likely to arise within the scope of grievances for the counselors. Each of the designees shall complete the course of training to qualify as a counselor.
- (c) Upon receipt of a complaint, the EEO shall immediately assign a qualified counselor to the matter.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-520 Mediation

- (a) The counselor shall review the complaint, meet individually with the employee and supervisor, review the employee's personnel file and contract, interview co-workers and administrators, if appropriate, and do all acts necessary and proper to understand the grievance and its circumstances prior to any mediation. When he or she deems it to be more productive, the counselor may decide to conduct the mediation without the presence of the supervisor.
- (b) The counselor may seek advice at any time from the EEO. Prior to any mediation meeting, a counselor shall confer with the EEO regarding the goals and objectives of the meeting and obtain prior approval for any proposed resolution.
- (c) The counselor shall set a mediation meeting for a date within fourteen days of the receipt of the complaint by the EEO and shall notify the employee, the supervisor, and any involved PSS

administrator or employee of the time and place of the meeting. A person shall be considered “involved” if it is that person’s action or inaction that is the subject of the complaint.

(d) The counselor shall meet with the employee, supervisor and involved person, together, and, through mediation, attempt to bring about a speedy and just resolution to the grievance through facilitating the formation of an agreement among the affected individuals.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-522 Report

The counselor shall prepare a written report to the EEO on whether or not an agreed disposition of the matter was reached, the nature of the disposition, the reasons for any failure to resolve the problem and if it was not resolved, the issues raised by the grievance and how the counselor believes they should be resolved. This report shall be confidential and shall not be provided to the parties or be made a part of any employee’s personnel file.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart E - Commissioner’s Review

§ 60-30.2-524 Request for Review

In the event that mediation fails to result in an agreed disposition, an employee may request that his or her grievance be reviewed by the Commissioner. Such a request must be made in writing by the employee to the EEO within thirty days of the mediation meeting.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-526 EEO Report

The EEO shall, based upon the report of the counselor, conduct any necessary follow-up investigation in order to prepare a report and a recommendation of an appropriate resolution to the Commissioner. The report shall be submitted to the Commissioner within thirty days of receiving the request for a review. This report shall be confidential and shall not be provided to the parties or be made a part of any employee’s personnel file.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-528 Commissioner’s Decision

Based on the EEO report and a meeting with the employee in which the employee may present his or her grievance, the Commissioner shall review the grievance and determine an appropriate resolution. The decision of the Commissioner shall be in writing and shall be issued within fourteen days of receiving the EEO report.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart F - Employee Appeal

§ 60-30.2-530 Notice of Appeal

If the employee is not satisfied with the resolution provided for in the Commissioner's decision, then he or she may file a notice of appeal with the Chairperson of the Board of Education within thirty days of receiving the decision. Failure to appeal will result in the decision of the Commissioner becoming the final resolution of the problem.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-532 Hearing Panel

Upon receipt of the notice of appeal, the Chairperson shall without unreasonable delay appoint three Board members to sit as the hearing panel. The three members shall appoint one of their number to sit as the hearing officer.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-534 Scheduling the Hearing

The hearing officer shall schedule a hearing, after consultation with the parties, to be held within forty-five days of the employee's request for a hearing.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-536 Legal Counsel

- (a) The employer shall be represented by PSS legal counsel.
- (b) The employee is entitled to retain counsel or his or her choosing at his or her own expense.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-538 Pre-hearing Conference

The hearing officer shall provide a date for the exchange of witness lists and documents intended to be introduced at the hearing. The hearing officer may also hold a pre-hearing conference to accomplish one or more of the following tasks:

- (a) Decide the issues for the hearing,
- (b) Stipulate as to uncontested facts,
- (c) Estimate the length of the hearing,
- (d) Mark exhibits, and
- (e) Determine the admissibility of contested evidence.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-540 Burden of Proof

The employee shall have the burden of proving its grievance by a preponderance of the evidence.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-542 Conduct of Hearing

- (a) The hearing shall be presided over by the hearing officer, but any decision on the merits of the grievance shall be made by a majority vote of the hearing panel. All three panel members must attend the hearing.
- (b) The hearing shall commence with a reading of the grievance.
- (c) Each side shall be permitted to make an opening statement with the employee proceeding first.
- (d) The employee shall present evidence to support his or her grievance, subject to cross-examination.
- (e) The employer may present evidence to rebut the grievance, subject to cross-examination.
- (f) Each side may present rebuttal and surrebuttal evidence.
- (g) After all the evidence has been presented, the employee may offer a closing argument. The employer may then present a closing argument, followed by the final summation of the employee.

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- (h) Proceedings hereunder shall be conducted consistent with the requirements of 1 CMC § 9109.
- (i) A recording shall be made of the proceeding to serve as the official record of all of its events.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-544 Evidence

- (a) The formal rules of evidence do not apply. Any relevant evidence of probative value is admissible with only the weight assigned to it affected by its nature.
- (b) The hearing officer shall administer oaths to witnesses.
- (c) Affidavits under penalty of perjury may be admitted.
- (d) Hearsay shall be admissible and may constitute sufficient evidence if relevant and probative, of a kind that responsible persons are accustomed to relying upon in serious affairs, or such that a reasonable mind would accept the evidence as adequate to support a conclusion of ultimate fact.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-546 Submission on Stipulated Facts

- (a) If the parties agree or stipulate to the basic facts of the grievance, they are encouraged to set the stipulation out in writing and submit it to the hearing panel rather than conduct a hearing to develop the facts. The hearing panel may, however, after reviewing the stipulation, determine that a hearing is necessary, but shall limit the scope of the hearing to the issues that require evidence.
- (b) If the case is submitted on stipulated facts, both parties shall be given the opportunity to argue the law and the facts, both orally and in writing, before the hearing panel.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-548 Decision

- (a) The decision-making process must comply with 1 CMC § 9110.
- (b) The attorney for the employer shall not participate in the private deliberations of the hearing panel.
- (c) The hearing panel shall issue a written decision with findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law and discretion presented on the record and the appropriate order affirming or rejecting the discipline.

(d) The written decision and order shall be served on the employee and Commissioner.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-550 Appeal

The employee may appeal the agency decision pursuant to the procedures and time restrictions set forth in 1 CMC § 9112.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Part 600 - Equal Employment Opportunity

Subpart A - Equal Employment Opportunity

§ 60-30.2-601 Policy

The PSS shall provide equal employment opportunity to all people. This policy of equal opportunity applies to every aspect of personnel policy and practice and to all terms and conditions of employment. It is each and every employee's responsibility to understand and comply the PSS's equal employment opportunity policy.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-605 Discrimination and Harassment Prohibited

No employee may discriminate or harass another person on account of that person's sex, sexual orientation, race, color, religion, national origin, age, disability or in retaliation for the exercise of any rights protected by this part.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-610 Discrimination Defined

Discrimination is the singling out of a person or persons for different treatment, regardless whether good or bad, based on the factors listed in § 60-30.2-605.

Modified, 1 CMC § 3806(c).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-615 Harassment Defined

(a) Verbal or physical conduct towards a person based on any of the factors listed in § 60-30.2-605 which has the purpose or effect of creating an intimidating, hostile or offensive work

environment constitutes harassment. Examples of this form of harassment include, but are not limited to, jokes, comments, slurs, epithets and disparaging remarks.

(b) Sexual harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when either:

(1) Submission to such conduct is made explicitly or implicitly a term or condition of employment,

(2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting the 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 work environment.

(c) Sexual harassment can include, but is not limited to, jokes, comments, touching, and pressure for dates or sexual activity.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - Violations and Employee Discipline

§ 60-30.2-620 Reporting Violations

Any employee who believes that he or she is a victim of discrimination or harassment in connection with employment at the PSS should report the matter immediately as a grievance under part 500 of these regulations. A grievance under this section shall be investigated promptly and with an effort to protect the privacy of those involved.

Modified, 1 CMC § 3806(d).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-625 Employee Discipline

An employee who is determined to have violated the provisions of this part shall be subject to appropriate disciplinary action, up to and including termination of employment. Although not necessarily rising to the level of discrimination or harassment, other inappropriate or offensive actions will not be tolerated and may form the basis for appropriate discipline.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The Commission corrected the spelling of "appropriate."

Part 700 - Employment Benefits

Subpart A - Insurance

§ 60-30.2-701 Medical and Life Insurance

Medical and life insurance are made available to PSS employees by the Commonwealth government. Such insurance is made available in the form of group policies in which the employee, at his or her discretion, may wish to participate. Participation is on a shared basis where the PSS pays a portion of the insurance premium and the employee pays the remainder. If the employee chooses to participate, then PSS will contribute to premiums on the same basis as the Commonwealth government contributes for its employees.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart B - Retirement

§ 60-30.2-705 Retirement Fund

PSS employees are required by law to be contributing members of the CNMI's Retirement Fund. Thus, it is mandatory that the PSS withhold a certain portion from each employee's paycheck and deposit it with the Retirement Fund. The PSS is also required to contribute additional funds on the employee's behalf. The Retirement Fund is responsible for administration of all aspects of PSS employee participation in the fund and any questions regarding PSS employee participation or benefits should be brought directly to the fund. The PSS bears no responsibility for any money deposited in the fund.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Subpart C - Leave

§ 60-30.2-710 Purposes of Leave

The purpose of providing leave to PSS employees is to allow them personal time to take care of non-PSS related business, to relax, and to recuperate from illness or injury. The importance of an employee being allowed time to take care of personal business, to relax, and to recuperate from illness or injury is recognized by the PSS. Employees whose personal lives are in balance are better able to handle the requirements of their job at the PSS.

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The Commission corrected "Employee's" to "Employees" pursuant to 1 CMC § 3806(g).

§ 60-30.2-715 Annual Leave

(a) Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for annual leave with pay. A certified employee shall be given 5

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days annual leave upon hire, per school year. Employees working a 190-day per year schedule, such as teacher aides, will also be given 5 days annual leave per school year.

(b) Employee requests to use annual leave must be made in advance of the period of time it is to be used and should be made in writing and as early as possible. Annual leave requests must be submitted in advance to the employee's direct supervisor and may only be used if it is approved by the direct supervisor.

(c) Requests for the use of annual leave by certified employees during instructional time are discouraged and should be made infrequently. Such requests will only be approved in rare circumstances.

(d) The maximum accumulation of annual leave shall be forty hours per school year. Annual leave shall be cashed out at the end of each school year. Any leave accrued before August 1, 2004 shall not be lost and may be used after the annual forty hours is exhausted or may be cashed out upon separation from PSS. Separation shall mean that the employee will not work for PSS for at least six consecutive months, unless waived by the Commissioner of Education subject to approval of the Board of Education. The cash value of one hour of annual leave shall equal 1/2,080th of the employee's annual salary at the time of separation.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22580 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004); Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The 1997 amendments added new subsection (d). The May 2004 amendments deleted former subsection (d), added new subsection (c), amended subsections (a) and (b) and redesignated and amended former subsection (c). The May 2004 notice of adoption changed the proposed language of subsection (d). The October 2004 amendments amended subsection (d).

Public Law 15-57 (effective April 25, 2007), codified at 1 CMC §§ 82601-82605, addresses maximum annual leave accumulation (360 hours) for excepted service employees and lump sum payments for unused annual leave to all government employees. PL 15-57 prohibits reemployment with the CNMI government "until a period equal to the period of annual leave paid in lump sum has elapsed" or the employee elects to pay the equivalent amount "consistent with CNMI regulations." 1 CMC § 82604. PL 15-57 also prohibits the conversion of sick leave to annual leave and any compensation for unused sick leave hours upon separation from employment for all government employees. 1 CMC § 82603. The provisions of PL 15-57 supersede subsection (d) to the extent that they conflict.

§ 60-30.2-720 Sick Leave

(a) Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for sick leave with pay. Certified employees will accrue 5 days sick leave upon hire, per school year. Sick leave shall have no cash value at any time and unused portions shall carry over from year to year. Employees working a 190-day per year schedule, such as teacher aides, will also be given 5 days sick leave per school year.

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(b) The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental or optometry examination, or if (s)he and/or his/her immediate family are under a doctor ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment. Doctor's notes may be required by the employee's direct supervisor in their discretion prior to approving payment for the use of sick leave.

(c) Whenever possible, sick leave shall be requested in advance of when it is needed and medical appointments shall be scheduled on employee's own time. Except in emergency situations sick leave shall always be requested by the employee before 5:00 a.m. of the day it is to be used.

(d) The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of their sick and annual leave already. The commissioner is hereby vested with the power to create the policies needed to regulate the universal sick leave pool.

(e) Sick leave records shall be retained for a period of three years after the employee separates from the PSS. If the employee becomes re-employed during that three year time period the sick leave balance shall be re-credited to the employee. If the employee does not again begin employment with the PSS within three years of separation the sick leave shall be lost.

History: Amdts Adopted 26 Com. Reg. 22580 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004); Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The 1997 amendments deleted former subsection (a) and added new subsections (a) through (e). The 2004 amendments amended subsections (a), (b) and (c).

Public Law 15-69 (effective June 5, 2007), codified at 1 CMC § 8276, authorized government employees to apply for sick leave to attend to an immediate family member who is sick. Public Law 15-116 (effective Nov. 29, 2007), codified at 1 CMC §§ 8265-8267, which repealed and reenacted PL 15-69, requires that sick leave requests to attend to immediate family members in excess of two days must be supported by a certified medical statement. The provisions of PL 15-116 supersede subsection (b) to the extent that they conflict.

§ 60-30.2-725 Compassionate Leave

In the case of a death of an immediate family member, the Commissioner of Education may grant a certified employee compassionate leave with pay for up to forty hours. Immediate family member shall be defined as the employee's father, mother, spouse, child, brother, sister, grandmother, grandfather, mother in law, or father in law. Compassionate leave must be requested in writing in advance and may not be granted more than two times in a year.

Modified, 1 CMC § 3806(e).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-730 Military Training Leave

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Military training leave with pay may be granted to certified employees who are members of the National Guard or any reserve components of the United States Armed Forces and are directed to training or other military activities by proper military authority. Military training leave may not exceed 120 hours in a year and administrative leave may not be used in its place or in conjunction with it.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-735 Administrative Leave

Administrative leave with pay may be granted under emergency conditions beyond the control of management, such as typhoons, or for civic observations of interest to the PSS, or for PSS related examinations, or for travel related to PSS business, or during disciplinary investigations, or for other such reasonable events as the Commissioner of Education determines. Copies of the documentation granting administrative leave must be provided by the Commissioner to the Board of Education immediately.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-740 National Holidays

Certified employees shall receive holidays off with pay for the following CNMI National Holidays as scheduled by the PSS: New Year's Day, Commonwealth Day, President's Day, Covenant Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Citizenship Day, Veterans Day, Thanksgiving, Constitution Day, and Christmas. FLSA non-exempt personnel shall receive double time pay if they are required to work on any of these days.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-745 Court Leave

Certified employees who are required to serve as jurors may receive court leave with pay for the period of time that they do so. A request to receive court leave with pay must be approved in advance by the Commissioner of Education and will be subject to the condition that all fees paid to the employee by the court for serving as a juror must be provided to the PSS. Court leave may also be approved by the Commissioner for instances when an employee is subpoenaed to testify in a court or administrative hearing on behalf of the PSS or the CNMI government.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-750 Maternity/Paternity Leave

Maternity/paternity leave may be granted by the Commissioner of Education to an employee who is the father or mother of a newborn child or is the father or mother of a newly adopted child. A maximum of 80 hours of paid maternity/paternity leave may be granted to an employee

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in any calendar year. Maternity/paternity leave may only be used within one month after the birth or adoption of a child. Please also see § 60-30.2-760, Family and Medical Leave.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-755 Training & Education Leave

Leave with pay for the purpose of job-related training and education may be granted to certified employees for a period not to exceed one year. The Commissioner of Education is charged with the responsibility of approving or disapproving such leave requests. The Commissioner is granted the authority to create guidelines regarding the use and approval of training and education leave and also to establish a committee to review the applications according to those guidelines.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-760 Family and Medical Leave

(a) Certified employees who have been employed with the PSS for at least one year, and have worked for at least 1,250 hours during the preceding twelve month period are eligible for family and medical leave. All employees, except for those who are defined by the Family and Medical Leave Act as “highly compensated employees” who take family and medical leave will be returned to the same or an equivalent position upon their return from family and medical leave. Family and medical leave will be unpaid leave. If family and medical leave is requested for a serious health condition,¹ the employee must first use all of his or her accrued annual leave and sick leave. If family and medical leave is requested for any of the other purposes listed below, an employee must first use all of his or her annual leave.

¹Serious Health Condition: The term “serious health condition,” for purposes of family and medical leave, means an illness, injury, impairment, or physical or mental condition that involves either: (A) inpatient care in a hospital, hospice, or residential medical care facility; or (B) continuing treatment by a health care provider.

(b)(1) All employees who meet the applicable time of service requirements may be granted a total of twelve weeks of unpaid family and medical leave and paid sick and annual leave combined, during any twelve month period for the following reasons:

- (i) The birth of the employee’s child and in order to care for the child;
- (ii) The placement of a child with the employee for adoption or foster care;
- (iii) To care for a spouse, child, or parent who has a serious health condition; or
- (iv) The employee suffers from a serious health condition that renders the employee incapable of performing the functions of his or her job.

(2) The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve months from the date of the birth or placement.

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(c)(1) To request family and medical leave for the care of a child, parent, or spouse with a serious health condition, a statement and additional documentation containing the following information must be provided to the Commissioner of Education. Certification from a health care provider which includes:

- (i) The date on which the condition commenced,
- (ii) The probable duration of the condition,
- (iii) The appropriate medical facts within the knowledge of the health care provider regarding the condition,
- (iv) An estimate of time needed to care for the individual involved (including and recurring medical treatment), and
- (v) A statement that the condition warrants the employee's participation to provide care.

(2) To request family and medical leave for the care of any employee's personal serious health condition, a statement and additional documentation containing the following information must be provided to the Commissioner of Education. Certification from a health care provider which includes:

- (i) The date on which the condition commenced,
- (ii) The probable duration of the condition,
- (iii) The appropriate medical facts within the knowledge of the health care provider regarding the condition, and
- (iv) A statement that the employee is unable to perform the functions of their position due to the condition.

(3) Additional certification in the form of the following is required for intermittent leave or for leave on a reduced leave schedule. Certification from a health care provider:

- (i) The necessity for the intermittent leave or reduced schedule and the expected duration of such necessity, and
- (ii) A listing of the dates of the planned medical treatment and the duration of the treatment(s).

(d)(1) Employees who serve principally in an instructional capacity, who request family and medical leave that is foreseeable based on planned medical treatment for more than twenty percent of the total number of working days in the period during which the leave would extend for care of a child, parent, or spouse who has a serious health condition or because the employee has a serious health condition may be required to elect either:

- (i) To take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment, or
- (ii) To transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that has equivalent pay and benefits, and better accommodates recurring periods of leave than the regular employment position of the employee.

(2) Under certain conditions defined by the Family and Medical Leave Act the PSS may require an instructional employee who requests family and medical leave during the last five weeks of an academic term to continue the leave through the end of the term.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

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Commission Comment: The original paragraphs of subsections (b), (c) and (d) were not designated. The Commission designated subsections (b)(1) and (b)(2), (c)(1) through (c)(3), and (d)(1) and (d)(2).

In footnote 1, the Commission moved the comma after “condition” inside of the closing quotation mark. In subsection (d)(1)(ii), the Commission inserted the final period.

§ 60-30.2-765 Unpaid Training and Educational Leave

PSS employees who are either ineligible for paid training and educational leave or who wish to pursue their education on a full-time basis without financial assistance from the PSS, may be granted a leave of absence for a period of time not to exceed one year. Such employees shall have the right to return to a similar position as the one they previously held, upon the satisfactory completion of their leave. The employee will receive no service credit for the period of time spent on unpaid training and educational leave. The employee must receive prior, written approval from the Commissioner of Education before taking such leave.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-770 Leave Without Pay (LWOP)

The Commissioner of Education, if it is in the best interests of the PSS, may grant limited periods of leave without pay to employees who have used up all of their annual and any other leave and need more time away from work. The employee will receive no service credit for the period of time spent on leave without pay. Leave without pay must be approved in writing by the Commissioner of Education before it is taken, otherwise it will be considered absent without leave.

Modified, 1 CMC § 3806(f).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-775 Absent Without Leave (AWOL)

Absent without leave is absence from work without prior, appropriate authorization. Employees who are absent from work without prior approval, except in instances of serious bona fide emergencies, shall not be paid for that time and may be subject to discipline, up to, and including possible employment termination. Tardiness shall be charged as AWOL.

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

§ 60-30.2-780 Advance Annual Leave

The Commissioner of Education may, for good reason, grant an employee who has been employed by the PSS for over three years, advance annual leave of up to a maximum of one-half of the total earnable leave credits for one year from the date the application is made. Subsequent earnings shall serve to replace the amount of advance leave granted and taken. An employee shall not be granted advance annual leave unless they have already exhausted all of their sick and annual leave.

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Modified, 1 CMC § 3806(g).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997).

Commission Comment: The Commission corrected the spelling of “grant” and “half.”

§ 60-30.2-785 Advance Sick Leave

The Commissioner of Education may, for good reason, grant an employee advance sick leave of up to a maximum of one-half of the total earnable leave credits for one year from the date the application is made. Subsequent earning shall serve to replace the amount of advance leave granted and taken. An employee shall not be granted advance sick leave unless they have already exhausted all of their sick and annual leave.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997).

Subpart D - Other Compensation

§ 60-30.2-790 Pay Differentials

(a) After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, and have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation. Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.

(b) Proposed differentials:

- | | |
|--------------------|---|
| (1) Coaches: | \$300/sports season |
| (2) After-school: | \$30/daily (not to exceed 2 hrs) |
| (3) Saturday: | \$60/half day session |
| (4) Before school: | \$15/daily session (not to exceed 1 hr) |
| (5) Summer school: | \$100/full day (6 periods)
\$60/half day (up to 4 periods) |

(c) Professional development differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This

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professional development differential shall be \$100/day for Saturdays (four hours or longer seminar, workshop or training) and \$30/evening (two hour or longer workshop or training after working hours).

(d) Teachers who take and pass the National Teacher Exam (NTE) are eligible for a one time pay differential of \$3,000.

(e) Principals, vice principals, program managers and teacher aides who take and pass both the PRAXIS I and applicable PRAXIS II exams are eligible for a one time pay differential of \$3,000.

(f) Pay Differentials for Hard to Fill Special Education Positions.

(1) Doctorate Degree

\$10,000.00 pay differential for a doctorate degree specialty areas including but not limited to speech pathology, audiology, occupational therapy, physical therapy, and psychology. Specialty area must be stated as the degree awarded on the diploma or as the degree major on official college transcripts. Other approved specialty areas must be approved by the Special Education Coordinator, Associate Commissioner of Instructional Services, Human Resources Director and Commissioner of Education. Specialty area must be stated on the diploma or official college transcripts as a degree major. Pay differentials in this category will be paid out on a quarterly basis, or as determined by the Fiscal Budget Officer (Finance Director). Pay differentials are subject to pro-rata calculation should a complete 190-day contract not be met.

(2) Related Service National Certification, Licensing Registration

\$8,000.00 pay differential for related service professional positions that are hard to fill, require a national registry exam for registry and licensure from a national association. Positions under this category are: ASHA certified audiologist, ASHA certified speech-language pathologist, registered physical therapist, registered occupational therapist, and registered/licensed educational psychologist. Pay differentials in this category will be paid out on a quarterly basis, or as determined by the Fiscal Budget Officer (Finance Director). Pay differentials are subject to pro-rata calculation should a complete 190-day contract not be met.

(3) Masters Degree in Special Education

\$8,000.00 pay differential for masters degree in special education, including but not limited to, specified specialty areas of special education, early intervention, early childhood special education, deaf education, visual impairments, severe disabilities, autism, multiple disabilities, serious social and emotional disturbances, behavioral and transition specialist. Specialty area must be stated on the diploma or official college transcripts as a degree major. Pay differentials in this category will be paid out on a quarterly basis, or as determined by the Fiscal Budget Officer (Finance Director). Pay differentials are subject to pro-rata calculation should a complete 190-day contract not be met.

(4) Bachelor's Degree in Special Education

\$3,000.00 pay differential for bachelors degree in special education including, but not limited to, specified specialty areas of special education, early intervention, early childhood special education, deaf education, visual impairments, severe disabilities, autism, multiple disabilities, serious social and emotional disturbances, behavioral and transition specialist. Specialty area must be stated on the diploma or official college transcripts as a degree major. Pay differentials in this category will be paid out on a quarterly basis, or as determined by the Fiscal Budget

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Officer (Finance Director). Pay differentials are subject to pro-rate calculation should a complete 190-day contract not be met.

(5) Outside of 190-day contract

\$75.00 per hour pay differential is for current and active Public School System related service professional employees, as defined under the Individuals with Disabilities Education Act of 2004 that are required to work outside the 190-day certified employment contract for example, on weekends or during non-instructional days. Category IV differential pay may be paid out provided that pre-approval of such pay is authorized by an immediate supervisor, the Human Resources Director and the Commissioner of Education.

(6) If an individual qualifies for two or more pay differentials, from the § 60.30.2-790(d)(1)-(5), only one pay differential which compensates at a higher rate will be allowed.

(g) A school employee, and who is assigned the responsibility of monitoring the school meal service at a public school, shall be eligible for a \$10 per breakfast meal service period and \$10 per lunch meal service period. This is subject to the prior approval of the Commissioner of Education. Any employee who is not exempt from the Fair Labor Standards Act, and is assigned to monitor school lunches, shall either be paid a flat fee of \$10 or overtime, whichever is greater.

(h) Head Start teachers, teacher aides, and support staff, who are current employees of the CNMI Head start program, are eligible for a one time pay differential of \$1,000 for those with two or more years of service or \$500 if less than two years of service.

(i) Special education, early childhood special education, and early intervention teachers, working on a master's degree with specialization in autism, vision, hearing impairments, emotional disturbance, speech pathology, or other related fields will be eligible for a pay differential of \$1,500 per semester for less than 12 credits per semester, or \$2,400 per semester for 12+ credits per semester, depending on the credit load completed. Payment of this pay differential is contingent upon the teacher remaining a full time teacher while pursuing a master's degree program.

(j) Principals and program managers serving as mentors and coaches for aspiring school leaders will be eligible for a \$3,000 pay differential at the end of a one year mentorship, mentoring 1-2 new and aspiring school leaders at schools beginning in SY2016-2017.

(k) New and aspiring school leaders will be eligible for a \$1,000 pay differential at the end of each year of the 3 year program and having completed the Board of Education School Administrator's certification, state-exams and required meetings and field experience.

(l) Special Education Psychologists, who are 190 day employees, will be eligible for a Summer Pay differential based on a fee for service to special children requiring psychological services during the summer as follows:

(1) Standard Evaluation for special education eligibility (children 6-21 years old) \$1,200 per child

(2) Psychological Evaluation on ability and achievement, \$150/hour

(3) Standard Child development eligibility evaluation (children birth to 5 years old), \$800 per child

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- (4) Psychological Counseling/Interventions, \$125/hour
- (5) Psychological Consultation with providers, \$150/hour

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 38 Com. Reg. 38408 (Aug. 28, 2016); Amdts Proposed 38 Com. Reg. 37963 (May 28, 2016); Amdts Adopted 31 Com. Reg. 29884 (Sept. 28, 2009); Amdts Proposed 31 Com. Reg. 29740 (July 23, 2009); Amdts Adopted 31 Com. Reg. 29536 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29215 (Feb. 25, 2009); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004).

**Due to a pagination error, page numbers 22819 through 23098 repeat in the 2004 Commonwealth Register.

Commission Comment: The Commission changed the capitalization of “Aspiring” in (k) pursuant to 1 CMC § 3806(f). The Commission inserted “year” after “each” and changed the semicolon to a period in (k), and changed “Psychologist” to “Psychologists” in (l) pursuant to 1 CMC § 3806(g).

Part 800 - Alcohol and Drug Free Workplace Policy and Regulations

§ 60-30.2-801 Policy Statement

(a) The Public School System of the Commonwealth of the Northern Mariana Islands (PSS) recognizes its commitment to our employees and the public we serve to take reasonable steps to assure safety in the workplace and in the community. PSS is concerned about the adverse affect alcohol and substance abuse may have on safe and productive job performance. We also recognize that any employee affected in his or her ability to perform safely and productively, due to physical and emotional problems or use or abuse of alcohol and other drug substances; jeopardizes the integrity of the workplace and the achievement of PSS’s mission.

(b) Accordingly, the Public School System shall implement a drug screening for all employees occupying safety sensitive positions and all prospective employees for such positions. All employees may be tested pursuant to the reasonable suspicion or post-accident requirements set forth in the accompanying regulations. PSS realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. Therefore, we encourage employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

(c) For information regarding this policy statement and the accompanying regulations in this part and for information regarding drug and alcohol abuse treatment in the Commonwealth, please contact the PSS Human Resources Officer.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 60-30.2-805 Definitions

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For the purposes of this part, the following definitions apply:

- (a) Accident. An event which causes
 - (1) A fatality,
 - (2) An injury to a person requiring professional medical treatment beyond simple at-scene first aid, or
 - (3) An economic loss, including property damage, greater than \$2,500.00.

- (b) Assessment. A determination of the severity of an individual's alcohol or drug use problem and an analysis of the possible courses of treatment, made by an expert in the field of substance abuse.

- (c) Breath Alcohol Concentration (B.A.C.). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device (E.B.T.).

- (d) Breath Alcohol Technician (B.A.T.). An individual authorized to collect breath specimens under § 60-30.2-830(b) and who operates an E.B.T.

- (e) Consulting Physician. A licensed physician retained or employed by the government to advise on drug testing.

- (f) Drug. A substance
 - (1) Recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary, or any supplement to any of them; or
 - (2) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or
 - (3) Other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or
 - (4) Intended for use as a component of any article specified in subsections (f)(1), (2), or (3) above. Devices or their components, parts, or accessories are not considered drugs under this definition.

- (g) Evidential Breath Testing Device (E.B.T.). A device which is
 - (1) Approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and
 - (2) Is on the NHTSA's Conforming Products List of E.B.T.s; and
 - (3) Conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

- (h) Illegal Drug. A drug that
 - (1) Is not obtained legally, or
 - (2) Is knowingly used for other than the prescribed purpose or in other than the prescribed manner, or

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- (3) Is a “designer drug” or drug substance not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.
- (i) Invalid Test. A breath or urine test that has been declared invalid by a Medical Review Officer (M.R.O.), including a specimen that is rejected for testing by a laboratory for any reason. An invalid test shall not be considered either a positive or a negative test result.
- (j) Medical File. The file containing an employee’s medical examination form, mental health referrals, alcohol and drug test results and other health related documents, maintained by the PSS Human Resources Office separate from an employee’s official PSS personnel folder.
- (k) Medical Review Officer (M.R.O.). A licensed physician, appointed by the PSS, with specialized training in substance abuse disorders and in the use and evaluation of drug test results. The M.R.O. shall be the only person authorized to receive laboratory drug test results and shall be the primary contact for technical inquiries to the drug testing laboratory.
- (l) Reasonable Suspicion. A perception based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an individual or on specific facts, circumstances, physical evidence, physical signs and symptoms, or on a pattern of performance or behavior that would cause a trained supervisor to reasonably conclude that the individual may be under the influence of alcohol or illegal drugs while on duty.
- (m) Safety Sensitive. A word describing activities which directly affect the safety of one or more persons, including the operation or maintenance of motor vehicles or heavy machinery or the carrying of firearms. The Commissioner of Education shall identify all positions to be considered safety-sensitive positions due to the amount of time that the employee spends performing safety sensitive functions.
- (n) Statement of Fitness for Duty. A written statement from a substance abuse professional (S.A.P.), certifying that the named employee is not dependent on alcohol or any drug to the extent such dependence will affect safe and productive work.
- (o) Substance Abuse Professional (S.A.P.). A physician, psychologist, psychiatrist, or social worker with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders; or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors.
- (p) Under the Influence. A condition where a person’s behavior, attention, or ability to perform work in the usual careful fashion has been adversely affected by the use of alcohol or drugs; intoxicated.
- (q) Vehicle. A device in, upon or by which any person or property is or may be propelled or moved on a highway, on a waterway, or through the air.

Modified, 1 CMC § 3806(c), (d), (f), (g).

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History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

Commission Comment: In subsection (m), the Commission corrected the spelling of “maintenance.”

§ 60-30.2-810 Prohibited Conduct

(a) Sale, Purchase, Possession with Intent to Deliver, or Transfer of Illegal Drugs. No employee shall

- (1) Sell, purchase, or transfer;
- (2) Attempt to sell, purchase, or transfer; or
- (3) Possess with the intent to deliver, any illegal drug while on government property, in any government vehicle or on any government business.

(b) Possession of Illegal Drugs. No employee shall possess any illegal drug on government property, in any government vehicle, or while on government business.

(c) Possession of Open Containers of Alcohol. No employee shall possess an open container of alcohol in any vehicle while on duty or in any government vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.

(d) Under the Influence of Alcohol or Illegal Drugs. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this section, alcohol includes any alcohol found in any prescription or nonprescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if

- (1) The employee has a B.A.C. of 0.02 or more;
- (2) The employee has a detectable amount of any illegal drug in his or her urine;
- (3) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform safety sensitive functions; or
- (4) The employee uses alcohol or any illegal drug within four hours prior to reporting to work and expects to perform a safety sensitive duty.

(e) Refusal to Be Tested. No employee required to be tested for drugs or, alcohol under any provision of this part shall refuse to be tested. The following conduct shall be considered a refusal to be tested:

- (1) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (2) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (3) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);
- (4) Engaging in conduct that clearly obstructs the specimen collection process;
- (5) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain

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necessary medical care or assistance in responding to the accident. If the employee leaves the scene, the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;

(6) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;

(7) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; or

(8) Failing to timely report to the specimen collection site after being informed of the requirement to be tested.

(f) Giving False Information. No employee shall give false information about a urine specimen or attempt to contaminate or alter the specimen.

(g) Refusal to Comply with Treatment Recommendations. No employee shall fail to comply with recommendations for treatment or after-care made by an M.R.O. or S.A.P. as a consequence of a prior positive drug or alcohol test result.

(h) Failure to Notify PSS of Conviction. No employee shall fail to notify the PSS Human Resources Officer of any criminal drug statute conviction, within five days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting government business, or while on or using government property.

(i) Supervisor's Responsibility for Confidentiality. The Commissioner, the Human Resources Officer and all supervisors shall not knowingly disregard an employee's right to confidentiality in matters relating to alcohol or drug testing or otherwise neglect his or her responsibilities under this part.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-815 Penalties and Consequences

(a) Disciplinary Action. An employee committing any act prohibited by § 60-30.2-810 shall be subject to an appropriate form of discipline, depending on the circumstances.

(1) Generally. Where an employee commits any act prohibited by § 60-30.2-810, without valid reason, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the prohibited act committed by the employee relates to the use or possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.

(2) First offense, under the influence. An employee found to be under the influence of alcohol or illegal drugs in violation of § 60-30.2-810(d), for a first offense, shall not be subject to removal solely for being under the influence of alcohol or illegal drugs. However, if the person is also involved in an accident, depending on the circumstances, PSS may decide to initiate an adverse action for removal, even on a first offense.

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(3) Serious offenses. The following acts, even for a first offense, will result in an immediate adverse action for removal in accordance with PSS disciplinary regulations:

- (i) The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase or transfer illegal drugs in violation of § 60-30.2-810(a);
- (ii) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of § 60-30.2-810(d);
- (iii) While performing and about to perform duties in a safety sensitive position, being under the influence of alcohol or illegal drugs, in violation of § 60-30.2-810(d);
- (iv) An unexcused refusal to be tested, in violation of § 60-30.2-810(e);
- (v) Giving false information, contaminating or attempting to contaminate a urine sample, in violation of § 60-30.2-810(f);
- (vi) Failing to notify the proper authority of conviction for a drug offense in violation of § 60-30.2-810(h);
- (vii) Testing positive for alcohol or illegal drugs within five years of a prior positive test; and
- (viii) Breaching any term of a return to duty contract executed under the provisions of § 60-30.2-820(b).

(b) Information Concerning Treatment Options. Those employees not removed from PSS service after committing any act prohibited by § 60-30.2-810 shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the PSS Human Resources Officer shall give the names, addresses, and telephone numbers of local S.A.P.s and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.

(c) Report to Department of Public Safety. An employee committing any act prohibited by § 60-30.2-810(a) or § 60-30.2-810(b) shall be reported by PSS to the Department of Public Safety for the purpose of possible criminal prosecution.

(d) Duty/Pay Status Pending Adverse Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to an adverse action for committing any act prohibited by § 60-30.2-810, except for § 60-30.2-810(g), shall be allowed to remain on the job pending resolution of any proposed adverse action but shall not be allowed to perform a safety-sensitive function, even if that means assigning to the employee duties the employee would not otherwise be performing. An employee subject to, an adverse action for committing any act prohibited by § 60-30.2-810 who was involved in a fatal accident shall be placed on leave without pay pending resolution of the adverse action for removal.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-820 Return to Work Procedures

(a) Prerequisites to Returning to Duty. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:

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- (1) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;
 - (2) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine, marijuana, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and
 - (3) Agreed to execute a return to duty contract.
- (b) Return to Duty Contract. The return to duty contract shall include the following provisions:
- (1) Aftercare. An agreement to comply with aftercare and follow-up treatment recommendations for one to five years, as determined appropriate by the employee's S.A.P.;
 - (2) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one to five years, as determined appropriate by the employee's S.A.P., but there shall be no fewer than six tests in the first year after the employee returns to work;
 - (3) Compliance with rules. An agreement to comply with PSS regulations, rules, policies, and procedures relating to employment;
 - (4) Term. An agreement that the terms of the contract are effective for five years after the employee's return to duty; and
 - (5) Breach of contract. An agreement that violation of the return to duty contract is grounds for termination.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-825 Testing Occasions

- (a) Pre-employment Tests. At the time of application, persons applying for any safety sensitive position within PSS will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with § 60-30.2-835, below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two years immediately preceding the application date.
- (1) No candidate for a safety sensitive position within PSS may be assigned to work in any position until he or she presents the results of a urine test, taken after the offer for employment has been made, that shows negative for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine.
 - (2) If the candidate's test result is positive for the presence of a tested drug, without a legitimate explanation, the offer of employment will be withdrawn.
 - (3) If the candidate presents a drug testing history showing a positive drug test within two years prior to the application date, the offer of employment will be withdrawn unless the

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candidate submits a statement of fitness for duty and agrees to execute an agreement similar to a return to duty contract described in § 60-30.2-820(b).

(b) Reasonable Suspicion Testing. Where there is a reasonable suspicion that any employee is under the influence of alcohol or drugs while at work or about to begin work, he or she shall, submit to a breath or urine test for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, and phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the PSS shall pay for the testing.

(1) Properly trained supervisor. Only a supervisor with PSS approved training in the physical, behavioral and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.

(2) Objective inquiry. The properly trained supervisor will observe the employee suspected of being under the influence of alcohol or illegal drugs. A decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Prior to making the decision to require testing, the supervisor will question the employee in a private area to ascertain whether there are any reasons other than alcohol or drug use for any behavior observed.

(3) Verification. No employee shall be required to submit to a drug or alcohol test based on reasonable suspicion unless the need for the test is verified by a second properly trained PSS employee. The required verification shall be done in person.

(4) Transportation assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(5) Duty pending test results. Until the results of the drug and alcohol test are complete and verified, no employee tested based upon reasonable suspicion shall be allowed to perform or continue to perform a safety sensitive duty.

(6) Report. The supervisor ordering reasonable suspicion testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for disciplinary action. Only at that time will the report be filed in the employee's official PSS personnel folder.

(c) Post-accident Testing. As soon as practical after an accident any employee whose action or inaction may have contributed to the accident must submit to breath and urine tests for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the PSS shall pay for the testing.

(1) Supervisor training. Only a supervisor with PSS approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions.

(2) Objective inquiry. A supervisor's decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. The properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.

(3) Transportation assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the

individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(4) Duty pending test results. Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.

(5) Report. The supervisor ordering post-accident testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for disciplinary action. Only at that time will the report be filed in the employee's official PSS personnel folder.

(d) Random Testing. During each calendar year randomly selected employees performing safety sensitive functions will be required to submit to breath tests for alcohol and urine tests for cocaine, marijuana, opiates, amphetamines, and phencyclidine. The testing will be done during on-duty time. Except as otherwise provided, the PSS shall pay for the testing.

(1) Method of selection. Employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee social security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) Number to be tested. No more than twenty five percent of all employees performing safety sensitive functions in PSS each year shall be required to submit to breath alcohol testing and no more than fifty percent shall be required to submit to urine testing. The actual percentage will be determined at the beginning of each fiscal year for each department or agency by the PSS Human Resources Officer, in consultation with the Commissioner of Education or designee and the M.R.O. after reviewing PSS's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-830 Collecting and Testing Breath Specimens

(a) Collection Site. Breath specimens shall be collected only at a site approved by the Commissioner of Education or at the scene of an accident if proper equipment and personnel can be made immediately available.

(b) Collection Protocol. Breath specimens shall be collected only by a B.A.T. trained in the collection of breath specimens at a course approved by the United States Department of Transportation in accordance with standard collection protocols as specified in 49 CFR, part 40(C) "Procedures for Transportation Workplace Drug Testing Programs - Alcohol Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

(c) Confirming Test. Breath specimens shall first be subjected to a screening test for alcohol. If that test indicates a probable breath alcohol concentration of 0.02 or greater, a second test,

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confirming the first and providing quantitative data of alcohol concentration, shall be performed. An alcohol test shall be considered positive when both the screening test and the confirming test show a B.A.C. of 0.02 or greater.

(d) Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the Commissioner of Education and the PSS Human Resources Officer.

(e) Confidentiality. Other than as specified above, no person involved in the testing process shall release the results of breath tests to any other individual without a written release from the tested employee.

(f) Invalid Test. If the Commissioner of Education determines that the test is invalid, using the factors found at 49 CFR, part 40.79, the test result shall be reported as negative.

(g) Statistical Reporting. The B.A.T. shall compile statistical data that is not name-specific, related to testing results. The B.A.T. shall release the statistical data to the Commissioner of Education upon request.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-835 Collecting and Testing Urine Specimens

(a) Collection Site. Urine specimens shall be collected only at a site approved by the Commissioner of Education.

(b) Collection Protocol. Urine specimens shall be collected by persons trained in the collection process developed by the Substance Abuse and Mental Health Service Administration, United States Department of Health and Human Services, in accordance with standard collection protocols as specified in 49 CFR, part 40(B), "Procedures for Transportation Workplace Drug Testing Programs Drug Testing" except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

(c) Splitting Sample.

(1) After collecting a sample of the employee's urine, the sample will be split into two specimens. Both specimens will be shipped to the laboratory selected for performing tests for PSS.

(2) One specimen, called the primary specimen, shall be tested for the PSS. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon request of the employee.

(d) Confirming Test. Primary urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of prohibited drug, will a second test be

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conducted on the same urine specimen to identify the presence of a specific drug or metabolite, using a gas chromatography/mass spectrometry (GC/MS) test. No drug test shall be considered positive unless both the screening test and the confirming test show the presence of one or more of the drugs tested.

(e) Results. The laboratory conducting the urine test shall give the results only to the M.R.O. The M.R.O. shall discuss the test result with the tested individual.

(f) Invalid Test. If the M.R.O. decides that the test is invalid, the candidate or employee shall immediately submit another urine specimen for testing.

(g) Employee Test. If the PSS's test shows positive for the presence of a specific drug or drugs, the employee may request that the M.R.O. have the secondary specimen tested at another laboratory certified by the United States Department of Health and Human Services, for the presence of the drug or drugs found in the primary specimen.

(1) The employee must make the request, in writing, within 72 hours of receiving notice of the result of the PSS's test.

(2) The results of the second test shall be given to the M.R.O. who shall discuss the results with the employee.

(3) The employee shall pay for the cost of the second test.

(h) Alternative Explanations for Positive Test Results.

(1) Upon receiving a report of a positive test result, the M.R.O. shall determine if there is any alternative medical explanation for the result, including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individual's medical history and records. If the M.R.O. determines it to be necessary, he or she may request pertinent analytical records from the laboratory or require a re-analysis of the specimen.

(2) The M.R.O. shall report the urine test result as negative and shall take no further action if he or she determines:

(i) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or

(ii) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the positive drug test result is scientifically insufficient for further action.

(i) Illegal Use of Opium. If the GC/MS does not confirm the presence of 6 monoacetylmorphine, the M.R.O. shall determine whether there is clinical evidence, in addition to the urine test result, of illegal use of any opium, opiate or opium derivative.

(j) Report to PSS. The M.R.O. shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the PSS Human Resources Officer and the Commissioner of Education.

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(k) M.R.O. and Confidentiality. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.

(l) Statistical Reporting. The M.R.O. shall compile statistical data, that is not name-specific, related to testing and rehabilitation. The M.R.O. shall release the statistical data to the Commissioner of Education upon request.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-840 Employee Awareness and Rehabilitation

(a) Employee Awareness Training. All employees shall receive information concerning the effects and consequences of drug and alcohol use on personal health, safety, and the work environment; the manifestations and behavioral clues indicative of drug and alcohol use; and the resources available to the employee in evaluating and resolving problems associated with the use of illegal and legal drugs and alcohol.

(b) Employees Seeking Voluntary Assistance. All employees shall be allowed to voluntarily seek assistance for alcohol or drug use at any time prior to being required to be tested under the reasonable suspicion, post-accident or random testing procedures.

(1) Referrals. Employees may request referral to an S.A.P. for treatment, may refer themselves, or may be referred by a supervisor as part of a performance counseling. Such referrals shall only be made a part of the employee's medical file and shall not be a part of the employee's official PSS personnel folder. Referrals shall be kept confidential.

(2) Voluntary referrals. Employees who voluntarily seek assistance in dealing with drug and alcohol problems or accept referrals, before job performance is compromised, shall be provided the same leave benefits for recommended treatment as provided for any other health problem.

(3) Accountability for job performance. Regardless of participation in or requests for referrals, employees shall be held accountable for acceptable job performance. In no case where job performance has been compromised will disciplinary action be waived for employees asking for assistance and referral. However, such requests may be considered a mitigating factor in determining the appropriate form of discipline.

(c) Job Security Maintained. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.

(d) Required Documentation. Although voluntary referrals or referrals made prior to testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employee's official PSS personnel folder.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-845 Disseminating Information on Regulation

(a) Distribution to Employees. All current employees shall receive a copy of the regulations in this part at least thirty days before the implementation date. New employees hired after the effective date of these regulations will be given a copy of this policy at the time of hire. Each employee shall sign a form prescribed by the PSS Human Resources Officer which acknowledges the receipt of these regulations and the employee's understanding that he or she is bound by the regulations. This acknowledgment shall be kept in the employee's official PSS personnel folder.

(b) Posting. These regulations will be posted in all workplaces for at least sixty days following their implementation.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

§ 60-30.2-850 Record Retention and Reporting Requirements

(a) Administrative Records. Records relating to the administration of the regulations in this part, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the PSS Human Resources Office and the M.R.O. for five years.

(b) Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by PSS, the M.R.O., and the specimen collector at the collection site for two years.

(c) Refusals, Referrals and Test Results. PSS shall keep a copy of all records of refusals to be tested, breath and urine test results, and referrals to an S.A.P. in the employee's medical file, not the employee's official PSS personnel folder, at least until such time as disciplinary action is taken. The M.R.O. shall keep a copy of all urine test results and the B.A.T. shall keep a copy of all breath test results in a manner to assure confidentiality. No test results shall be available for use in a criminal prosecution of the employee unless the employee consents or the court orders the release of the results.

(1) Positive test result records, records of refusals to be tested and referrals to an S.A.P. shall be kept for five years.

(2) Negative test result records shall be kept for a period of one year.

(d) Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. § 702(a)(1)(E), the Commissioner of Education shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.

Modified, 1 CMC § 3806(d), (e), (f).

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History: Amdts Adopted 26 Com. Reg. 23010 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23035 (Aug. 26, 2004).

Commission Comment: The following form appeared at the end of this part:

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATE BOARD OF EDUCATION
PUBLIC SCHOOL SYSTEM

P.O. Box 501370, Saipan, MP 96950
Tel. Nos.: (670) 664-3727/3700
Fax No.: (670) 664-3711/3798

**ACKNOWLEDGEMENT FORM FOR THE
ALCOHOL AND DRUG FREE WORKPLACE POLICY**

I _____ do hereby acknowledge the (Applicant or Employee) receipt of the Public School System's Alcohol and Drug Free Workplace Regulations. I understand that I am required to comply with the requirements of these regulations.

Print Name & Sign

Date

Social Security Number: _____

Signature of Witness: _____
Date

Original to be filed in Employee's Personnel File. Copy to Employee.

See 26 Com. Reg. at 23025 (Oct. 26, 2004).

Part 900 - Performance Evaluation Rubric and Process for Teacher Evaluation

§ 60-30.2-901 Purpose

(a) To assess classroom teachers in relation to the CNMI Public School System "professional teaching standards" and to design a plan for professional growth. The performance evaluation shall be conducted on a yearly basis, on the respective classroom teacher's anniversary date.

(b) The principal or designee will conduct the evaluation process in which the teacher will actively participate through the use of self-study assessment, reflection, presentation of artifacts, and classroom demonstration.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

Commission Comment: The Commission designated the subsections in this section, which were not designated in the original and added the period at the end of subsection (b).

§ 60-30.2-905 Process

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The CNMI Public School System Classroom Teacher Evaluation Process shall include the following steps:

- (a) Training – before participating in the evaluation process, all teachers, principals, designated evaluators, and a peer evaluation must complete training on the evaluation process.
 - (b) Orientation – within 3 weeks of a teacher's first day of work in any school year, the principal will provide the classroom teacher with a copy of or directions for obtaining access to a copy of
 - (1) The rubric for evaluating CNMI Public School System classroom teachers;
 - (2) This policy; and
 - (3) A schedule for completing all the components of the evaluation process
 - (4) Copies may be provided by electronic means.
 - (c) Teacher self-assessment using the rubric for evaluating CNMI PSS teachers, he or she shall rate his or her performance at the beginning of the year and reflect on his or her performance throughout the year.
 - (d) Pre-observation Conference
 - (1) The first observation shall be a formal, announced observation; before the first observation, the principal shall meet with the teacher to discuss the teacher's self-assessment based on the rubric for evaluating CNMI PSS teachers; the teacher's most recent professional growth plan, and the classroom demonstration observed. The teacher will provide the principal with a written description of the lesson(s). The goal of this conference is to prepare the principal for the observation. Pre-observation conferences are not required for subsequent observations.
 - (e) Observations
 - (1) A formal observation shall last at least an entire class period
 - (2) New teachers (0-4 years) – 3 formal observations and one peer to peer
 - (3) Seasoned teachers (5 and up) – an evaluation cycle for this group of teachers must be developed to include one formal observation annually. May adjust the schedule for the summative evaluation of a seasoned teacher whenever it is deemed necessary; at least 2 observations during the employment contract of the teacher.*
- * As stated in original
- (f) Post Observation Conference – the principal shall conduct a post conference no later than ten days after the observation. During the post observation conference, the teacher and principal shall discuss the document on the rubric, the strengths and weaknesses of the teacher's performance during the observed lesson.
 - (g) Summary Evaluation Conference and Scoring the Teacher Summary Rating Form – prior to the end of the school year and in accordance with the timelines; the principal shall conduct a summary evaluation conference with the teacher. During the summary evaluation conference, the principal and teacher shall discuss the teacher's self-assessment, the teacher's most recent professional growth plan, the components of the CNMI PSS teacher evaluation process

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completed during the year, classroom observations, artifacts submitted or collected during the evaluation process and other evidence of the teacher's performance on the rubric.

- (h) At the conclusion of the CNMI PSS teacher evaluation process, the principal shall
 - (1) Give a rating for each element in the rubric
 - (2) Make a written comment on any element marked “not demonstrated”
 - (3) Give an overall rating of each standard in the rubric
 - (4) Provide the teacher with the opportunity to add comments to the teacher summary rating form
 - (5) Review the completed teacher summary rating form with the teacher; and
 - (6) Secure the teacher's signature on the record of teacher evaluation activities and teacher summary rating form
 - (7) Submit the completed evaluation form to Human Resource Office.
 - (8) The completed teacher evaluation rating forms and justification for renewal are to be attached to employment contract renewals for all teachers.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

Commission Comment: The Commission added periods at the end of each subsection but left punctuation as stated in the original for subparts of each subsection ((1), (2) etc.). The Commission designated subsections (a)(4) and (h), which were not so designated in the original. The Commission changed “teachers’ most recent” to “teacher’s most recent” in (g). The Commission changed “rubrics” to “rubric” in (h)(1) and changed “non demonstrated” to “not demonstrated” in (h)(2) to correct manifest errors.

§ 60-30.2-910 Individual Growth Plans

Teachers who are rated “proficient” on all the standards on the teacher summary rating form shall develop an individual growth plan designed to improve performance on specifically identified standards and elements with the goal of achieving a “distinguished” rating on all standards.

Modified, 1 CMC § 3806(f).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

§ 60-30.2-915 Monitored Growth Plans

- (a) A teacher shall be placed on a monitored growth plan whenever he or she:
 - (1) Is rated “developing” on one or more standards on the teacher summary rating form and he or she;
 - (2) Is not recommended for dismissal or nonrenewal.
- (b) A monitored growth plan shall, at a minimum, identify the standards and elements to be improved, the goals to be accomplished and the activities the teacher should undertake to achieve proficiency, and a timeline which allows the teacher one school year to achieve proficiency. A

monitored growth plan that meets those criteria shall be deemed to satisfy the requirements of the Teacher Evaluation System.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

Commission Comment: The Commission added periods at the end of each subsection, added the comma after “minimum” and changed “a monitored growth plans” to its singular form in subsection (b) to correct manifest errors. The Commission designated subsections (a) and (b), which were not so designated in the original.

§ 60-30.2-920 Directed Growth Plans

A teacher shall be placed on a directed growth plan whenever he or she:

- (a) Is rated
 - (1) “not demonstrated” on any standard on the teacher summary rating form; or
 - (2) “developing” on one or more standards on the teacher summary rating form for two consecutive years; and
 - (3) Is not recommended for dismissal or non-renewal.

- (b) The directed growth plan, shall at a minimum, identify the standards and elements to be improved, the goals to be accomplished, the activities that teacher shall complete to achieve proficiency, a timeline for achieving proficiency within one school year. A directed growth plan that meets those criteria shall be deemed to satisfy the requirements of the Teacher Evaluation System.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

Commission Comment: The Commission added periods at the end of each subsection and changed “one of more” to “one or more” in (a)(2) to correct manifest errors. The Commission designated subsections (a) and (b), which were not so designated in the original.

§ 60-30.2-925 Effective Dates

- (a) Effective school year 2010-2011, the PSS shall provide orientation, training seminars and establish a teacher/administrator focus group to identify artifacts and a list of evidence to be used with the Teacher Evaluation System.

- (b) Effective school year 2011 -2012, all teachers in the CNMI Public School System will be evaluated using the PSS Teacher Evaluation System and this policy.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 33 Com. Reg. 31839 (Aug. 23, 2011); Proposed 33 Com. Reg. 31693 (June 27, 2011).

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Commission Comment: The Commission added periods at the end of each subsection and changed “established” to “establish” in (a) to correct manifest errors. The Commission designated subsections (a) and (b), which were not so designated in the original.

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Exhibit A

PUBLIC SCHOOL SYSTEM
P.O. BOX 1370, SAIPAN, MP 96950

POLICY OF NONDISCRIMINATION

Public School System (“PSS”) is an equal opportunity employer dedicated to a policy of nondiscrimination in employment upon any basis, including a person’s sex, sexual orientation, race, color, religion, national origin, age disability, or in retaliation for the exercise of any of these rights. In reading and answering the following inquiries, please keep in mind that none of the questions are intended to imply any limitations, illegal preferences, or discrimination based upon any information that is not job-related.

This application will be given complete consideration, but its receipt does not imply that you will be employed. Please fill it out completely. You must also submit a resume with this application.

APPLICATION FOR CERTIFIED EMPLOYMENT

PERSONAL DATA

Name _____ Social Security No. _____

Current Address:

Street Address/Box Number City State Zip

Permanent Address:

(Leave blank if the same as your current address)

Daytime Phone at Which You Can Be Reached: (____) _____

Evening Phone at Which You Can Be Reached: (____) _____

Are you a CNMI Government retiree? ___Yes ___No

POSITION(S) APPLIED FOR:

Type of Work Desired: _____ Full Time _____ Part Time _____ Temporary (check one)

Salary Desired: \$ _____ per _____ (monthly/year/hour)

GENERAL INFORMATION

1. Have you ever applied for a job with PSS in the past? If yes, please give ___ Yes ___ No the date of application and the position for which you applied. State your

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name at the time, if different from your present name.

2. Have you ever been employed by PSS in the past? If yes, please give dates of employment, and position(s) held. State your name while employed, if different from your present name. ___ Yes ___ No

3. If hired, will you able to work during the usual hours and days required for the position(s) for which you are applying? If no, explain on a separate sheet of paper and attach it. ___ Yes ___ No

4. Do you have any commitments to another employer that might affect your employment with PSS? If yes, explain on a separate sheet of paper and attach it. ___ Yes ___ No

5. If hired, can you furnish proof that you are 18 years of age or older? If no, explain on a separate sheet of paper and attach it. ___ Yes ___ No

6. If hired, can you furnish proof that you are eligible to work in the Commonwealth of the Northern Mariana Islands as a resident worker (U.S. citizen, national, spouse of a U.S. citizen or national, or Compact of Free Assn. citizen)? If no, please indicate your citizenship: ___ Yes ___ No

7. Do you have a teaching certificate? If not, state whether you expect to be awarded one and when: ___ Yes ___ No

8. Have you ever had any adverse action or any disciplinary action with regard to your teaching certificate or employment in any teaching capacity taken or proposed against you? If yes, explain on a separate sheet of paper and attach it. ___ Yes ___ No

9. Do you have any language abilities (such as reading or speaking a language other than English) that might help you perform the job(s) for which you are applying? If yes, explain on a separate sheet of paper and attach it. ___ Yes ___ No

10. Have you ever been convicted, pled guilty, or pled “no contest” to any felony or misdemeanor? Note: a “yes” answer does not automatically disqualify you from employment since the nature of the offense, the date it was committed, and the type of job for which you are applying will be considered. If yes, explain on a separate sheet of paper and attach it. ___ Yes ___ No

11. Have you been charged with a crime that has not yet resulted in a plea of guilty or no contest by you, a trial, or a dropping of the charge: Note: a “yes” answer will not automatically disqualify you from employment. If yes, explain on a separate sheet of paper and attach it. ___ Yes ___ No

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12. Have you received a copy of the Regulations for the Public School ___ Yes ___ No System Employment of Certified Personnel?

13. EMPLOYMENT HISTORY

PRESENT & FORMER EMPLOYERS	
(List Most Recent First) ___ YES ___ NO	MAY WE CONTACT YOUR PRESENT EMPLOYER?
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving

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Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
<p>Please Account for Any Time You Were Not Employed After Leaving School in the Past Ten Years. (You need not list any unemployment periods of one month or less.)</p>	
Time Period(s)	Reason(s) for Unemployment

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IF YOU WERE UNABLE TO LIST ALL PAST JOBS OR PERIODS OF UNEMPLOYMENT ON THIS FORM, PLEASE ATTACH ADDITIONAL INFORMATION ON A BLANK SHEET OF PAPER.

14. EDUCATIONAL DATA

SCHOOLS ATTENDED	NAME OF SCHOOL AND LOCATION (HIGHEST GRADE COMPLETED)	DID YOU GRADUATE? YES NO	DEGREE/ DIPLOMA/ CERTIFICATE	GRADE POINT AVERAGE	MAJOR COURSES OF STUDY
HIGH SCHOOL(S)			DO NOT ANSWER		DO NOT ANSWER
TECHNICAL, BUSINESS OR MILITARY TRAINING					
COLLEGE OR UNIVERSITY					
GRADUATE SCHOOL					
ADDITIONAL JOB RELATED SEMINARS, SHORT COURSES, WORKSHOPS, OR OTHER EDUCATIONAL EXPERIENCES:					

15. MILITARY EXPERIENCE

- A. Have you served in the U.S. military? Yes No
- B. If so, list the branch and highest rank obtained:

- C. Dates: From _____ to _____
- D. Discharge: Honorable Other (explain)

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16. REFERENCES: LIST THREE INDIVIDUALS WHO ARE NOT FORMER EMPLOYEES OR RELATIVES

NAME	ADDRESS	PHONE NUMBER	OCCUPATION

17. Please add any additional information (except that which identifies your race, sex, age, religion, national origin, disability or other non-related personal information) that you think may be relevant to a decision to hire you.

IMPORTANT

Please Read Each Paragraph Carefully Before Your Interview. You Will Be Asked To Sign Each One To Show Your Consent During the Interview.

Representation That Application Is Filled Out Truthfully:

By my signature placed below, I promise that the information provided in this employment application and accompanying resume is true and complete, and I understand that any false information or significant omissions may disqualify me from further consideration for employment, and may be justification for my dismissal from employment if discovered at a later date.

Date: _____ Signature: _____

Consent to Investigate Criminal Records/Agreement to Notify PSS of Crime Info.:

I authorize the CNMI Public School System's investigation of all statements contained in this application and accompanying resume. I understand that this investigation will include obtaining a police clearance from the CNMI Department of Public Safety, if applicable, and a record of arrests and dispositions from the Federal Bureau of Investigation. I also agree to notify PSS within fifteen days if I should be charged or convicted of any crime, while my job application is pending or, if hired, during my period of employment.

Date: _____ Signature: _____

Consent to Review License/Credential Records & NASDTEC Records:

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I authorize the CNMI Public School System's investigation of all statements contained in this application and accompanying resume by reviewing the records of any state licensing authority under which I currently am, or formerly was, licensed and any record of employment history available from the National Association of State Directors of Teacher Education and Certification Clearing House.

Date: _____ Signature: _____

Consent to Review Employment Records:

I authorize the CNMI Public School System (PSS) to contact my present employer (unless otherwise noted in this application form), past employers, past and present co-workers, listed references and review any records of my past or present employment (unless this form indicates that the present employer is not to be contacted) that PSS finds relevant in determining my suitability for the employment position applied for.

I also authorize any person, school, current employer (except as previously noted), past employers, and organizations named in this application form and accompanying resume to provide PSS with relevant information and opinions that may be useful to PSS in making a hiring decision, and I release such persons and organizations from any legal liability in making such statements.

Date: _____ Signature: _____

Consent to Physical Examination and Review of Medical Records:

I give permission for a complete physical examination by the CNMI Public School System (PSS), including a drug screening exam and x-rays, and I consent to the release to PSS of any and all medical information, as may be deemed necessary by PSS in judging my capability to do the work for which I am applying.

Date: _____ Signature: _____

Consent to Drug Testing:

I give permission for the CNMI Public School System (PSS) and its authorized representatives to collect blood, urine, saliva, or hair samples from me and to conduct any necessary tests to determine the presence or use of drugs or controlled substances. Furthermore, I give my consent for the release of the results of such test and related medical opinion to PSS or its authorized representatives. I understand that if I refuse to consent, I may be refused employment, or if already employed, subject to disciplinary action, including discharge from employment.

Date: _____ Signature: _____

THIS IS AN APPLICATION - NOT A CONTRACT.

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I UNDERSTAND THAT THIS APPLICATION DOES NOT, BY ITSELF, CREATE A CONTRACT OF EMPLOYMENT. I UNDERSTAND AND AGREE THAT, IF HIRED, MY EMPLOYMENT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE EMPLOYMENT CONTRACT FOR CERTIFIED PERSONNEL AND THE RULES AND REGULATIONS OF THE PUBLIC SCHOOL SYSTEM.

Date: _____ Signature: _____

Agreement that C.N.M.I. Law and Courts Govern the Application Process:

I agree that the laws of the Commonwealth of the Northern Mariana Islands shall govern all aspects of my applying for a job with the PSS and that any legal or equitable action I may bring regarding my applying for a job and/or any matters related to this process shall be brought in the Commonwealth of the Northern Mariana Islands Courts of Law only.

Date: _____ Signature: _____

A MEDICAL EXAMINATION IS REQUIRED FOR THIS JOB.

IF YOU ARE HIRED, A MEDICAL EXAMINATION WILL BE REQUIRED BEFORE YOU START WORK. IF THE EXAMINATION DISCLOSES MEDICAL CONDITIONS THAT PREVENT YOU FROM SUCCESSFULLY PERFORMING THE ESSENTIAL FUNCTIONS OF THE JOB, PSS WILL ATTEMPT TO MAKE ACCOMMODATIONS TO ALLOW YOU TO WORK. IF NO REASONABLE ACCOMMODATIONS CAN BE FOUND, OR THEY CAUSE AN UNDUE HARDSHIP ON PSS, THE TENTATIVE OFFER OF EMPLOYMENT WILL BE WITHDRAWN.

Date: _____ Signature: _____

CERTIFICATION OF PSS RECRUITER

I hereby certify that I have interviewed _____ in person or via telephone (circle one) on this date and that (s)he has voluntarily executed the following waivers and notices:

1. Representation That Application Is Filled Out Truthfully.
2. Consent to Investigate Criminal Records/Agreement to Notify PSS of Crime Info.
3. Consent to Review License/Credential Records & NASDTEC Records.
4. Consent to Review Employment Records.
5. Consent to Physical Examination and Review of Medical Records.
6. Consent to Drug Testing.
7. This Is An Application -- Not A Contract.
8. Agreement that C.N.M.I. Law and Courts Govern
9. A Medical Examination Is Required For This Job.

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Executed on this ____ day of _____, 199__, at _____ (city),
_____ (state, territory or commonwealth).

Dated: _____
PSS Recruiter (Print and Sign Name)

FOR YOUR INFORMATION

Read the rules and regulations for employment:

Many of the questions you may have about employment by the Public School System will be answered in its employment regulations. These regulations, which you have received, explain the hiring process in chronological order from recruitment and interviewing, the employment decision, the employment contract, and the contract period to renewal. Teachers and librarians will have to be certified in the CNMI for their contracts to be valid. That process is described in the regulations. The regulations also set the standards of conduct for employees, discipline of employees and employee grievances. Please take the time to read them before coming to your interview. They will tell you a lot about our attitude towards the job for which you are applying.

What if your interview goes well:

In the event that the PSS Recruiter determines that he or she will recommend you for employment, then you will be asked to provide a certified copy of your teaching certificate, if applicable, to the PSS Recruiter along with a local criminal records clearance. In some cases you may also be asked to arrange to have your post-secondary institution(s) send an official copy of your transcript of courses, grades, and degrees awarded to the Human Resources Officer at the CNMI Public School System, P.O. Box 1370, Saipan, MP 96950.

The Recruiter will verify your work experience and contact your present or former supervisors and co-workers to determine your suitability for employment. The Human Resources Officer on Saipan shall seek a police clearance if a local CNMI resident applicant and shall obtain a National Association of State Directors of Teacher Education and Certification clearance for all applicants.

Your first notice -- the Intent to Offer Employment Letter:

If the decision is made to offer you employment, you will be notified by receiving an Intent to Offer Employment Letter. This letter is not a contract of employment or an offer of employment; it is notice that PSS intends to make you an offer of employment in the near future. This offer may not be made despite these intentions for various reasons, such as budgetary restraints.

When am I employed exactly?

If your application process continues to proceed favorably you will next receive an executed contract of employment. You are to sign it, keep a copy and return the original. At this point, you have been hired. However, the contract is conditioned upon a medical examination that discloses

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no conditions that will prevent you from performing the essential functions of the job or that will pose a significant risk of substantial harm to your health or safety or that of other people in the workplace that cannot be reasonably accommodated or that will cause an undue hardship on PSS. Before you commence your contract, you must undergo and submit satisfactory documentation of the results of the physical examination.

What about licensing?

Within 14 days of starting your contract, you must submit to the Board of Education a completed application for a teacher or librarian basic certificate. The results of your physical examination, a statement from a state or national education agency that you have a license and that it has not been suspended or revoked, two passport-size color photographs and completed fingerprint cards must be submitted along with a completed application form. These cards will be provided to the Federal Bureau of Identification (FBI) to do a more thorough criminal records check to be considered in determining whether to issue you a certificate as a teacher or librarian. A decision by the Certification Committee will be rendered within 60 days of the filing of a completed application along with all necessary documentation. During the interim, the Human Resources Officer will grant you a temporary certificate so that you may work. The basic certificate will be valid for a period of time equaling the term of your initial contract with the PSS, unless earlier revoked or suspended.

What benefits are given to persons who have to move to accept employment?

Persons with a point of hire that is different than the island assigned for work are referred to as “off-island hires.” These persons will be provided a contract addendum entitled “Off- Island Hire Terms and Conditions” to execute at the same time as the contract. You may ask to see the addendum during your interview. As the benefits frequently change, the addendum in use during your interview will provide the most accurate information.

In general, transportation to the CNMI is provided to off-island hires. Airfare from the point of hire to the island assigned for work and three days of hotel accommodations and meal allowances are provided for employees and up to three of their dependants who do not already have a place to stay on island. Housing allowances are no longer provided to Certified employees. There are a number of conditions attached to these benefits which are explained in the contract addendum.

How do I find out more about the CNMI?

A commercial Internet service provider maintains a home page for the CNMI on the World Wide Web at <http://www.saipan.com>. You can also write to the Human Resources Officer for the Public School System at P.O. Box 1370, Saipan, MP 96950.

You may tear off these last two pages and keep them for your information. No handwritten or oral changes to the matters herein are authorized. The information provided is for your convenience. The Public School System expressly reserves the right to change the regulations, procedures and contract at any time.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The Commission corrected the spelling of “salary,” “and,” and “determining.” The Commission corrected the URL “http\\www.saipan.com” to “http://www.saipan.com” pursuant to 1 CMC § 3806(g).

Exhibit B
Intent to Offer Certified Employment Letter

(Date)
Applicant’s Name
Street Address
City, State, Zip Code

Re: Intent to Offer Certified Employment

Dear (Applicant):

Congratulations. This letter is to inform you that the CNMI Public School System intends to make an offer of employment to you. This letter is not, however, the offer of employment. The actual offer of employment will be made when you receive a contract of employment with only your signature block left blank. You can accept that offer by signing the contract without making any alterations to it.

The purpose of this letter is to notify you that your contract is being prepared and routed through the Public School System. Before you make any major decisions, you should know that there is always a possibility that your contract may not be approved due to budget restraints or other unforeseen problems. It is best to wait until you have a signed contract in hand.

If you have any questions, please do not hesitate to contact me via telephone at (670) 664-3700 or via facsimile at (670) 664-3707.

Very truly yours,

PSS Human Resources Officer

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: The Commission corrected the spelling of “unforeseen.”

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**Exhibit C
EMPLOYMENT CONTRACT FOR CERTIFIED PERSONNEL**

THIS CONTRACT FOR SERVICES is made and entered into upon the execution of the last of all the required signatures to this contract, by and between the PUBLIC SCHOOL SYSTEM OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, P.O. Box 1370, Saipan, MP 96950, a non-profit corporation responsible as the state education agency for pre-school, elementary and secondary education at 1 CMC § 2251, hereinafter referred to as "PSS," and _____, Address: _____, hereinafter referred to as "Employee."

Terms and Conditions of Employment

1. **EMPLOYMENT:** PSS hereby employs the Employee to fulfill the duties of the following job classification: _____. The requirements of this position are described in the attached Job Description, which has been read and is understood by both parties.

a. **Location:** These services are to be performed primarily on the island of _____, at _____ school.

b. **Compensation Level:** The Employee shall receive an annual salary of \$ _____ and shall be initially classified at Grade _____, Level _____.

c. **Term:** Employment shall commence on the _____ day of _____, 199__ and shall continue to the _____ day of _____, 199__.

d. **Retiree Limitation:** The Employee _____ is _____ is not a CNMI Government retiree who has received retirement benefits from the government. If the Employee is such a retiree, then the maximum number of calendar days of employment per fiscal year must be indicated here for this Contract to be valid: _____.

e. _____ Grades/Subject _____ matter(s) _____ generally _____ to _____ be _____ taught:

2. **OBLIGATIONS:** Employee hereby agrees to be responsible for and perform all the acts and duties pertaining to the Employee's employment as a teacher or librarian during the assigned teaching period including, but not limited to, the following:

a. To teach on a full-time basis, in a faithful and efficient manner, those grades and subjects as are assigned from time to time by PSS through its Commissioner and its subordinates.

b. To conform to all lawful rules, regulations and policies of the Board of Education.

c. To make such reports as may be required by the Commissioner of Education or other members of the administrative staff.

d. To initially qualify, and remain qualified throughout the contract term, for certification as a teacher or librarian, as applicable.

e. To perform such other and further duties as required by the Commissioner of Education and his/her subordinates as may be assigned from time to time consistent herewith.

3. **EMPLOYEE'S RESUME AND APPLICATION:** Employee hereby represents that all the statements made in the Job Application and the Employee's Resume are truthful and accurate. PSS has relied on these statements in making the decision to offer employment and in certifying the Employee. Any material omissions or misstatements will be a ground for termination and for

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revoking the Employee's certification. If this is an initial contract as defined by § 1302(a)(1)(i) of the Certified Regulations, the Job Application and Employee Resume are hereby attached and incorporated by this reference into this Contract. In the event that this Contract is for renewal, the Job Application and Employee Resume attached to the Employee's first Employment Contract for Certified Personnel are herein incorporated by reference as though attached hereto unless the Employee chooses to submit and attach either a new Job Application or a new Employee Resume, or both.

4. **WORK SCHEDULE:** The Employee shall work three hundred eighty (380) days ,as defined by § 1403 of the Certified Regulations, during a two-year contract term as assigned by PSS. For contracts of less than a two year period, the required number of work days shall be pro-rated at the same ratio of work days to off-track days. It is expected that these days of work shall be performed on weekdays. For other days to qualify, permission must be received in writing in advance from the Commissioner. PSS may, in its sole discretion, assign the Employee to a multi-track school year, a conventional school year, or to two school years in immediate succession, of either or both types, during the contract term.

5. **COMPENSATION:** As compensation for the services to be provided hereunder, Employee shall be paid the total sum stated in § 1(b) per annum for two years, which total sum shall be payable in 52 equal bi-weekly installments. If the contract is for less than two years the employee shall be paid a prorated portion thereof as determined by the number of days to be worked multiplied by 1/190th of the annual salary listed in § 1(b). In the event that the Employee is discharged for sufficient and just cause in accordance with the PSS regulations, or shall have such Teacher's or Librarian's certificate suspended or revoked, the Employee shall not be entitled to any compensation from and after such dismissal or certificate suspension.

a. **Within-Grade Increase:** PSS may, in its sole discretion, grant an approximately 5% within-grade increase, in salary during the second year of this contract if the Employee receives a satisfactory job evaluation for services performed during the first year.

b. **Overtime:** The Employee shall not be eligible for overtime pay or compensatory time. Work done by certified personnel is professional in nature and is paid for on a salary basis.

6. **RESTRICTION ON HIRING OF CNMI GOVERNMENT RETIREES AND SUBSTITUTE TEACHERS AND LIBRARIANS:** Pursuant to 1 CMC § 8392(c), any person who has retired and received retirement benefits from the Government of the Northern Mariana Islands who is hired by PSS as a teacher cannot be employed for more than sixty (60) calendar days in any fiscal year without forfeiting any retirement benefits. The Employee understands that this Contract does not change that law.

a. The following Contract modifications apply to CNMI Government Retirees, Substitute Teachers and Substitute Librarians:

(1) Section 1(b): Compensation shall be paid on a daily basis for each calendar day, or portion of a calendar day in which the Employee is assigned to work. The compensation for one day's work shall be 1/190 of the annual salary listed in § 1(b).

(2) Section 4: The number of days to be worked shall be determined by the Human Resources Officer up to a maximum number of days per fiscal year as written in § 1(d). Work is assigned on a daily basis.

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(3) Section 5: Compensation shall be paid bi-weekly for any week in which work has been assigned and performed. No within grade increases shall be awarded because of the limited nature of this Contract. The Employee shall not be eligible to receive overtime pay or compensatory time leave.

(4) Section 9: No insurance benefits are granted under this Contract, nor are any existing rights to insurance coverage or benefits affected hereby.

(5) Section 10: No right to receive leave is granted under this Contract.

(6) Section 11: There shall be no liquidated damages awarded to PSS in the event of a resignation.

7. WORK ASSIGNMENT: Employee may be assigned by PSS to teach at any school, to teach any grade and to teach any subject matter as listed in § 1(a) & (e) of this contract, subject to the requirements set forth in § 1404 of the Certified Regulations.

8. RENEWAL: There are no tenured employment positions offered by PSS. This contract is only for the term stated in § 1(c) and no right to renewal is granted, expressly or impliedly, by PSS to the Employee regardless of whether job performance during the contract term is satisfactory. An offer for continued employment is completely within the discretion of PSS. If the Employee wishes to be considered for an additional contract period, then notice should be given to PSS six (6) months in advance of the termination date for consideration.

9. INSURANCE BENEFITS: The Commonwealth government, not the PSS, makes available health insurance and life insurance coverage for its employees. These are group policies in which the Employee, at his or her discretion, may wish to participate. Participation is on a shared basis where the employer pays a portion of the insurance premium and the employee pays the remainder. The Commonwealth government permits PSS employees to participate in these group plans. If the Employee chooses to participate, then PSS will contribute to premiums on the same basis as the Commonwealth government contributes for its employees.

10. LEAVE: An employee who has been employed by PSS for six years or less shall accrue annual leave at the rate of two (2) hours per pay period. An employee who has been employed by PSS for more than six years shall accrue annual leave at the rate of three (3) hours per pay period. The use of annual leave is subject to the conditions set forth by regulation or executive order. One hour of unused annual leave will be paid for at the rate of 1/2,080th of Employee's annual salary upon the accumulation of 360 hours of annual leave or upon Employee's separation from PSS.

11. RESIGNATION: The Employee may resign during the term of this contract only if accepted or agreed to by PSS. It is the practice of PSS not to accept any resignation unless or until a satisfactory replacement assumes the Employee's duties.

a. If the Employee abandons or leaves employment during the contract term within the first two years of employment with PSS without the concurrence of PSS, the Employee shall pay Ten percent (10%) of the Employee's annual salary, as set forth in section 1(b) of this contract, as liquidated damages together with any attorneys' fees or costs incurred by PSS to collect the same. This amount may be withheld from any payments due to the Employee from PSS, including, but not limited to, paychecks or lump sum annual leave payments. The parties

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stipulate and agree that the amount so fixed is a reasonable forecast of just compensation for the harm caused by such breach and the harm caused by the breach is one that is incapable or very difficult of accurate estimation. This liquidated damages provision shall not be construed to grant the Employee the right to resign. The PSS shall concur with an employee's request to abandon or leave employment with the PSS if, the reason the employee is leaving employment with the PSS is because of the death of their spouse, child, sibling, or parent or because the employee or their spouse, child, sibling or parent is domiciled with them and suffers from a "serious health condition" as defined by § 7311 of the Certified Regulations, which cannot be adequately treated in the Commonwealth. By concurring, the PSS agrees not to seek compensation for the ten percent liquidated damages or expatriation expenses owed pursuant to the Off-Island Hire Terms and Conditions.

12. **OTHER LAWS AND RULES:** This Contract is not intended to set forth all of the various duties and obligations of the parties hereto, but rather is made subject to the PSS rules and regulations, as amended from time to time. The Employee has been presented with a copy of the PSS's certified rules and regulations concerning standards of conduct for teachers.

13. **SEVERABILITY:** The clauses, sentences and parts of this Contract are severable to the extent found to be unlawful or ineffective, by a court of competent jurisdiction, but the illegality or ineffectiveness of any such clause, sentence or part shall not affect any other clause, sentence or part of this Contract. Rather, the remaining provisions hereof shall remain in full force and effect.

14. **ENTIRE AGREEMENT:** This Contract, together with any exhibits or documents identified or referred to herein, such as the job description and the off-island hire terms and conditions, if applicable, contains the entire agreement of the parties with respect to the matters covered herein as of the date of execution hereof, and no other agreement, statement, or promise made by any party, or to any agent of any party, prior to the date of this Contract shall be binding or valid.

15. **MODIFICATION:** This Contract is not subject to modification except in writing, duly signed by the parties to be charged thereunder.

16. **GOVERNING LAW:** The laws of the Commonwealth of the Northern Mariana Islands and the Regulations for the Public School System Employment of Certified Personnel shall govern the validity, construction, and effect of this Contract. Any action brought for the enforcement of this Contract shall be brought in the courts of the Commonwealth of the Northern Mariana Islands only.

17. **GRIEVANCE PRIOR TO LAWSUIT:** The Employee hereby agrees that prior to filing any legal or equitable claim in court, he or she will first file a grievance with PSS and prosecute it to a conclusion pursuant to Chapter 5 of the Certified Regulations. Furthermore, the Employee agrees to act in good faith in pursuing the grievance remedy. If upon conclusion of the grievance proceedings, the Employee is not satisfied with the determination, then an action at law or equity may be filed in court to remedy the grievance. The Employee understands that this is a limitation on its right to sue and that a lawsuit cannot be filed until complying with this section of the Contract. These requirements do not preclude Employee from filing a complaint with a

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government agency charged with enforcing provisions of law (such as the EEOC), prior to completing the prosecution of a grievance through the PSS's grievance process.

18. OFF-ISLAND HIRE: If the Employee's point of hire was outside of the island which is the place of work assignment in § 1(a) and this is the first contract the employee is entering into with the PSS, then the Off-Island Hire Terms and Conditions of Employment, which must be attached hereto, apply to this Contract. Off-island terms and conditions carry over from contract to contract, regardless of whether they are attached to renewal contracts. Employee is not entitled to receive any housing benefits.

19. FORMATION OF CONTRACT: This contract form is not valid unless signed by all the parties indicated by the signature blanks. All PSS signatures must be executed first. At that time, the Contract form constitutes an offer of employment to the Employee. When the Employee signs the Contract without alteration, a contract of employment is established. Any alteration or modification of this Contract form by the Employee will constitute a rejection of the Contract, regardless of whether or not it is signed by the Employee.

20. MEDICAL EXAMINATION: If this contract is not for renewal of employment with the PSS this offer of employment is tentative. A medical examination will be required before the Employee starts work. If the examination discloses medical conditions that prevent the Employee from successfully performing the essential functions of the job, PSS will attempt to make accommodations to allow the Employee to work. If the examination discloses a medical condition that poses a significant risk of substantial harm to the health or safety of the employee or other people in the workplace, PSS will attempt to make accommodations to allow the Employee to work. In either case, if no reasonable accommodations can be found, or if they cause an undue hardship on PSS, the parties agree that this contract will be void.

IN WITNESS WHEREOF, the parties hereto have executed this Employment Contract on the dates noted by their respective signatures.

HUMAN RESOURCES OFFICER

I hereby certify that this person is qualified for a temporary certificate, that I have received verification of education and teaching experience and a criminal conviction clearance, or their substitute as provided for in the regulations, and that I have correctly classified the Employee and correctly determined the appropriate salary level. This Employee ____ is or ____ is not an Off-Island Hire entitled to benefits under § 18.

Date: _____
PSS Human Resources Officer

FISCAL AND BUDGET OFFICER

I hereby certify that this position is within the FTE requirement of PSS under the appropriation act of P.L. No. _____ and that there are sufficient funds available in Account No. _____ for the a total obligation of \$_____ required for this contract.

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Date: _____
PSS Fiscal and Budget Officer

LEGAL COUNSEL

I hereby certify that this is the proper contract form for this employment position, that the Commissioner has the legal capacity to execute contracts to employ PSS personnel, that this form has been filled out completely, and that the job description, application, and resume are attached if required.

Date: _____
PSS Legal Counsel

CONTRACTING PARTIES

FOR PSS:

Date: _____
COMMISSIONER OF EDUCATION

FOR THE EMPLOYEE:

Date: _____
EMPLOYEE

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 19 Com. Reg. 15452 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15228 (Apr. 15, 1997); Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: In section (1)(d), the Commission corrected the spelling of “calendar.”

Exhibit D
OFF-ISLAND HIRE TERMS AND CONDITIONS

for _____
(Employee’s Name)

This is an addendum to the Employment Contract for Certified Personnel. It provides additional benefits to those Employees whose point of hire is different than the island assigned for work. In order for this to be applicable to an Employee, the Human Resources Officer must certify in the contract that the Employee is an Off-Island Hire.

This additional portion of the Contract shall be referred to herein as the “Addendum.”

1. Definitions:

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a. "Off-Island Hire" shall mean an Employee whose point of hire is certified by the Human Resources Officer in this Addendum to be other than the island assigned for work.

b. "Dependent" shall mean the lawfully married spouse or children (natural children, legally adopted children and step-children) under 18 years of age or under guardianship who shall primarily reside with the Off-Island Hire Employee while in the CNMI:

(1) Determination of Dependents: The identity of dependents shall be determined upon the execution of this Addendum. Their names shall be filled in by the Employee on the last page.

c. "Early Termination" shall mean the termination of the contract prior to the end of its term due to resignation, repeated failure to report to work or dismissal.

d. "Expatriation" shall mean the initial travel at the commencement of the contract term from the point of hire to the island assigned for employment. Expatriation shall occur only once per person during a contract term.

2. Expatriation: An Off-Island Hire Employee and a maximum of three (3) of his or her dependents shall be expatriated to the island of the work assignment from the point of hire at the expense of PSS subject to the following restrictions:

a. Transportation shall be by coach or tourist class air transportation by the least expensive carrier and shall be arranged by PSS.

b. Any dependent whose transportation costs are to be reimbursed by PSS under this section shall travel to the CNMI within six months of expatriation, respectively, of the Employee; provided however, that the amount of the reimbursement shall be no greater than the cost of travel would have been had the dependent traveled with the Employee.

c. The Employee shall be responsible for the costs of ground transportation, food and lodging during travel for expatriation.

d. The Employee shall be responsible for the costs of shipping any items between the point of hire and the place of work assignment, including but not limited to, household effects.

3. Early Termination of Contract:

a. First Year of Employment: In the event of an early termination within the first year of employment with PSS, the Employee will be required to repay all expatriation costs for the Employee and his or her dependents. This is in addition to the consequences provided by contract and other law and those remedies specifically provided for in the Employment Contract for Certified Personnel, such as liquidated damages for resignation in § 11.

These additional terms and conditions shall apply to the above-named Employee under the Employment Contract for Certified Personnel and are agreed to by both the Employee and the Employer. This document consists of three pages.

For the Employer:

Commissioner of Education

Date: _____

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This Data Must Be Filled Out Before The Employee Signs The Addendum

Point of Hire: _____ (To be filled out by Human Resources Officer.)

Dependents:

	Name	Age	Relationship
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

I hereby agree to the terms and conditions of this Addendum and certify that the above information is true and correct. I understand that a misstatement of fact in the Contract or Addendum may affect the validity of the agreement and be a basis for dismissal.

Employee

Date: _____

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Exhibit E
APPLICATION FOR TEACHER & LIBRARIAN CERTIFICATION

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION
Attention Certification Committee
P.O. BOX 1370CK
SAIPAN, MP USA 96950

The following information is designed to help you complete the application form properly and to understand the certification process. Please remove the instruction pages from the actual application and keep them with a photocopy of the complete application packet until your certificate is approved and in your possession.

Applications not completely and accurately filled out and accompanied by all required supporting documents may be returned to the sender for completion. If you are applying for a Basic Certificate, in addition to a completed application packet and supporting documents you are responsible for providing two passport-size color photographs of yourself, documentation of satisfactory results of a proper medical examination, written verification from the PSS Human

TITLE 60: BOARD OF EDUCATION

Resources Office that you have submitted two complete fingerprint cards to them previously, and a \$35 check or money order written to the “CNMI Board of Education Certification Fund”. If you are applying for an Intermediate Certificate and have applied for a Basic Certificate and submitted all of the above information previously, please see § 2303 of the Certified Employee Personnel Regulations regarding what needs to be submitted. Please note that we do not maintain pending files and cannot match pieces of an application that arrive separately so make sure that everything is submitted together.

SECTION 1: PERSONAL INFORMATION

Type or print, using black ink, all information required on the application. Use your full legal name. You must also list all former names, including your maiden name. If your address changes before you get your certificate, be sure to notify us in writing of the change and include your full name and social security number on the correspondence. Fill in your sex, height, weight, and eye and hair color. This information should be identical to the information that you previously provided on the fingerprint cards.

SECTION 2: CHARACTER AND FITNESS

Read the questions carefully before you answer them. If you answer “yes” to any question, you must submit a full explanation and your application will be referred to staff working with the Certification Committee for evaluation of your fitness to teach, or be a librarian, or fitness or competence to perform other duties which would be authorized by the certificate.

Note: Information that you provide is subject to investigation of your moral character and true identity by means of review of information, reports, records, and other data from any agency or department of the Commonwealth or any other jurisdiction when secured by the Certification Committee for such purposes.

SECTION 3: OATH, AFFIDAVIT AND RELEASE

Every person applying for a certificate must complete the “Oath and Affidavit,” without alteration, and sign his or her full legal name as printed at the top of page 1 of the attached application. If you do not sign the attached “Oath and Affidavit,” your application will be rejected.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION**

ATTENTION CERTIFICATION COMMITTEE

**P.O. BOX 1370CK
SAIPAN, MP 96950
011 (670) 664-3711**

APPLICATION FOR BASIC OR INTERMEDIATE TEACHING CERTIFICATE

SECTION 1. PERSONAL INFORMATION

TITLE 60: BOARD OF EDUCATION

(PLEASE PRINT OR TYPE USING BLACK INK)

Social Security Number _____ - _____ - _____

Date of Birth _____

Applicant's Full Legal Name _____
First Middle &/or Maiden Last

Former Name(s):
(Including first, last, or Maiden) _____

Mailing Address _____
Street or P.O. Box Number City State Zip Code

Home Phone (____) _____

Work Phone (____) _____

Sex _____ Height _____ Hair Color _____ Weight _____ Eye Color _____

Circle which Certificate you are applying for. BASIC INTERMEDIATE

SECTION 2. CHARACTER AND FITNESS

Answer each question by checking the "yes" or "no" line, whichever is true. If you answer yes to any question please attach a full explanation of your answer.

YES NO

1. Have you ever held a C.N.M.I. Basic Teaching Certificate Before? _____

2. Have you ever held or do you presently hold a credential or license authorizing you to teach in public schools in another state? _____

If you answered Yes you must complete a "Verification of Good Standing" form for each jurisdiction you have been credentialed or licensed in and return it with this application.

3. Have you ever been convicted of any felony or misdemeanor offense, including pleading nolo contendere, in the CNMI or in any other state or place? If you answered Yes you must complete the "Criminal Conviction" form for each conviction and return it with this application. _____

4. Do you have any mental or physical disability or communicable or contagious disease which would prevent you from teaching or being a librarian? _____

TITLE 60: BOARD OF EDUCATION

5. Are you addicted to the use of alcohol? _____

6. Are you addicted to the use of any narcotics or drugs? _____

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION

ATTENTION CERTIFICATION COMMITTEE

P.O. BOX 1370CK
SAIPAN, MP 96950
011 (670) 664-3711

7. Have you ever had any credential, including but not limited to any Certificate of Clearance, permit, credential, license, or other document authorizing school service or teaching, suspended, revoked, voided, denied, and/or otherwise for cause in any state or other place? _____

8. Have you ever had any application for a credential, including but not limited to any Certificate of Clearance, permit, credential, license, or other document authorizing school service or teaching denied and/or rejected for cause in any state or other place? _____

9. Have you been dismissed, resigned from, entered into a settlement agreement, or otherwise left school employment to avoid investigation for alleged misconduct and/or dismissal in any state or other place? _____

10. Are you now the subject of any inquiry, review, or investigation by a teacher licensing agency in connection with any alleged misconduct; or is any disciplinary action now pending against you in any school district or before any teacher licensing agency or court in any state or other place; or is any adverse action now pending against any credential you hold, including but not limited to any Certificate of Clearance, permit, credential, license or other document authorizing school service or teaching, before any teacher licensing agency or court in a state or other place? _____

11. Do you currently have any outstanding criminal charges pending against you in any state or place?
If you answered Yes you must complete the "Criminal Conviction" form for each pending criminal charge and return it with this application. _____

12. Have you ever had any disciplinary action, (including an action that was stayed by the licensing agency) taken against any professional or vocational license in any state or place? _____

13. Have you ever been a member of the armed forces? _____

14. If you answered yes to #13, were you discharged honorably?

TITLE 60: BOARD OF EDUCATION

If you answered other than honorably you must submit complete documentation as to the circumstances of your discharge. _____

SECTION 3. OATH, AFFIDAVIT AND RELEASE

By my signature placed below, I promise that the information provided in this application is true and complete, and I understand that any false information or significant omissions may disqualify me from further consideration for certification and may result in disciplinary action being taken against me, including the possible termination of my employment, civil penalties, and criminal prosecution.

By signing this form I authorize the Certification Committee to investigate all aspects of the statements contained in it and the accompanying documents. I understand that this investigation will include obtaining a record of arrests and dispositions from the Federal Bureau of Investigation and the Commonwealth Department of Public Safety, a record of prior certification actions through the National Association of State Directors of Teacher Education and Certification Clearinghouse, may include contacting past employers, co-workers, acquaintances, and state certification personnel regarding my previous personal and employment history, and also medical personnel regarding my physical examination and pertinent medical records.

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION**

***ATTENTION CERTIFICATION COMMITTEE*
P.O. BOX 1370CK
SAIPAN, MP 96950
011 (670)664-3711**

By signing this form I further consent to the release of any and all information from any of the above mentioned agencies and individuals to the Commonwealth of the Northern Mariana Islands Board of Education Certification Committee and the Public School System for the purposes of ascertaining my fitness to teach, moral character and true identity.

Date _____ City/Village Signed _____

Signature _____
Sign your full name as printed at the top of Page 1

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION**

***ATTENTION CERTIFICATION COMMITTEE*
P.O. BOX 1370CK
SAIPAN, MP 96950
011 (670)664-3711**

VERIFICATION OF GOOD STANDING (CREDENTIAL(S) HELD IN OTHER STATES)

TITLE 60: BOARD OF EDUCATION

SECTION A To be completed by the applicant and included with the application. Do not send this form to the state(s) where you have been certified or credentialed. The Committee will request the information.

Social Security Number _____ - _____ - _____
Date of Birth _____

Applicant's Full Legal Name _____
Former Name(s) _____
First Middle &/or Maiden Last

Mailing _____ Address _____

Street or P.O. Box Number City State Zip Code

State _____ Type of Credential _____

I declare under penalty of perjury that the foregoing is true and correct. I hereby authorize the above mentioned state(s) to release any information concerning my certification to the Commonwealth of the Northern Mariana Islands Board of Education Certification Committee and the Public School System.

Date _____ Signature _____

Section B To be completed by the state credentialing office.

1. Is this individual the subject of any inquiry, review or investigation in connection with alleged misconduct? Yes ___ No ___

2. Is this person currently, or has this person ever been, subject to any type of disciplinary or adverse action against any credential held by this individual authorizing school teaching or service? Yes ___ No ___

3. Has this individual ever had any credentials authorizing school teaching or service reproved, suspended, revoked, voided, denied, and/or otherwise rejected for cause? Yes ___ No ___

4. Are you aware of any information which indicates that this employee left employment to avoid dismissal? Yes ___ No ___

Agency _____ Date _____ Signature _____

TITLE 60: BOARD OF EDUCATION

Address

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
BOARD OF EDUCATION
ATTENTION CERTIFICATION COMMITTEE
P.O. BOX 1370CK
SAIPAN, MP 96950
011 (670)664-3711

CRIMINAL CONVICTION FORM

(To be completed only if you answered “Yes” to questions 3 or 11 of the application.) If you checked “Yes” to questions 3 and/or 11 of the application you must provide the documents listed below, and fully complete the reverse side of this form for each conviction. You may use a photocopy of this form if you have more than one conviction to report.

The following documentation is required before your file can be reviewed:

Conviction of a Crime

1. Certified copy of the complete investigative or arrest report(s) from the investigating or arresting law enforcement agency.
2. Certified copy of the court documents showing the charges filed against you, including the criminal complaint or information.
3. Certified copies of the complete court docket showing the plea you entered, sentencing and verification that the conditions of probation were satisfied.

*Note: if any of these records have been purged, an original statement verifying that fact must be received from the court, or law enforcement agency, on official letterhead
Alcohol or Drug Offense

1. All information listed above under “Conviction of a Crime.”
2. Certified copies of the certificate(s) of completion for each rehabilitation program attended.
3. Letter(s) from program counselor(s), on official letterhead, verifying successful completion, indicating the type of treatment received, the duration, and the status of your rehabilitation at the time of completion.
4. Printout of Department of Motor Vehicles Record.

*Note: if any of these records have been purged, an original statement verifying that fact must be received from the court, or law enforcement agency, on official letterhead

Optional Information

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You may also wish to submit acceptable, documented evidence of rehabilitation. Examples of such rehabilitative evidence include:

- recent, dated letter from applicant describing rehabilitative efforts or changes in life to prevent future problems;
- letters on official letterhead from professional counselors, instructors, employers, probation or parole officers;
- letters from recognized recovery programs and/or counselors attesting to current sobriety and length of time of sobriety, if there is a history of alcohol/drug abuse;
- proof of community work, schooling, or other self improvement efforts;
- certified court order expunging record or certificate of rehabilitation.

CRIMINAL CONVICTION

Complete a separate form for each conviction or pending charge.
(You may photocopy this form.)

Convictions or Outstanding Charges (indicate which):

Date of Offense: _____

Name and Address of Arresting/Investigating Agency (Police or Sheriff's Office):

Plea and Conditions of Probation, if any:

Details of the incident:

(You may attach further documentation and explanation of the incident if you wish)

I declare under penalty of perjury that the foregoing, including any attachments, is true and correct. I authorize the above listed courts and law enforcement agencies to release any information concerning me to the Commonwealth of the Northern Mariana Islands Board of Education Certification Committee and the Public School System.

Date: _____ Signature: _____

TITLE 60: BOARD OF EDUCATION

Printed Name:

Modified, 1 CMC § 3806(g).

History: Adopted 19 Com. Reg. 14943 (Jan. 15, 1997); Proposed 18 Com. Reg. 14484 (Nov. 15, 1996).

Commission Comment: In the first paragraph of page 1 of exhibit “E,” the Commission corrected the spelling of “certification.”