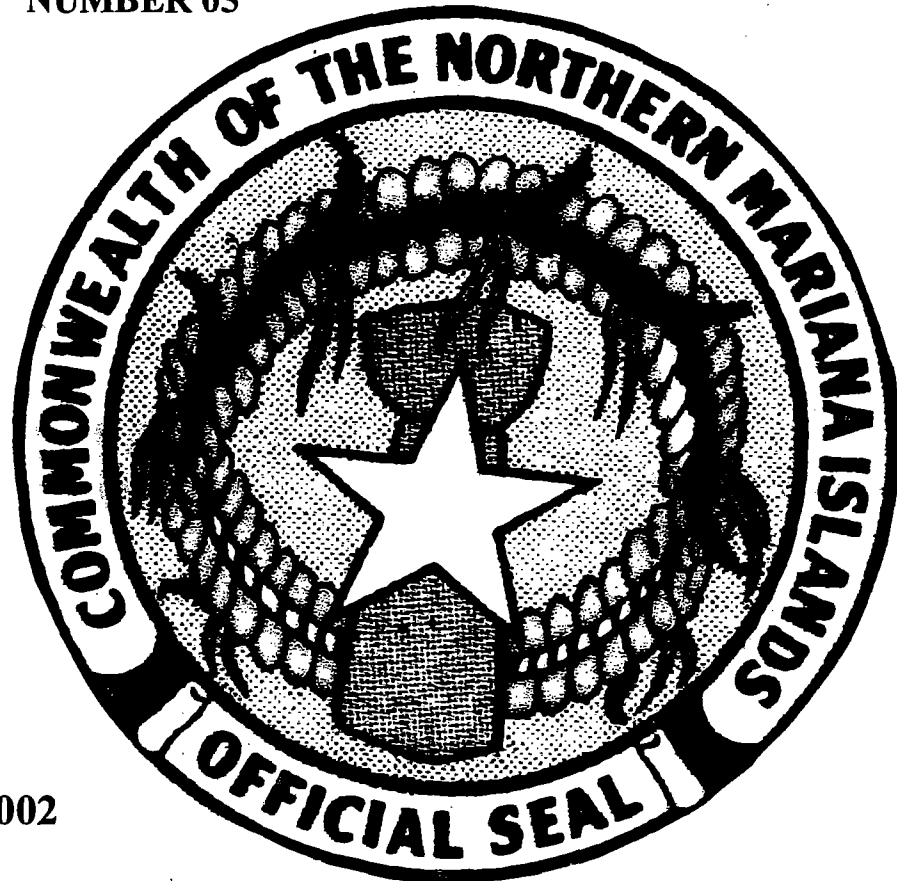


COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, MARIANA ISLANDS 96950

VOLUME 24 NUMBER 05



MAY 20, 2002

COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER

Volume 24 Number 05

MAY 20, 2002

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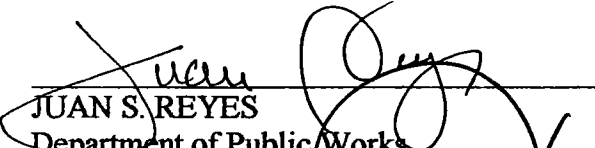
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**PUBLIC NOTICE OF PROPOSED
REPEAL AND RE-ENACTMENT OF SOLID WASTE COLLECTION
DISPOSAL REGULATIONS, SECTION 2.**

The Commonwealth of the Northern Mariana Islands, Department of Public Works hereby notifies the general public that it proposes to adopt Repeal and Re-enactment of Solid Waste Collection Disposal Regulations, Section 2 consistent with the Solid Waste Collection Disposal Regulations and the Commonwealth Solid Waste Management Act of 1989. These regulations increase fees for the disposal of solid waste at Commonwealth Solid Waste Disposal facilities.

All interested persons wishing to make comment may submit written comments about the proposed Repeal and Re-enactment of Solid Waste Collection Disposal Regulations, Section 2 to the Department of Public Works, Solid Waste Program Manager, Lower Base, Saipan, MP 96950, or by fax (670) 322-3547, not later than thirty (30) days from the date of this publication in the Commonwealth Register.

Dated this 17th day of May, 2002.

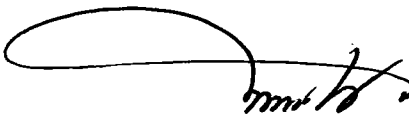

JUAN S. REYES
Department of Public Works

Received by:


THOMAS TEBUTEB
Special Assistant for Administration

5/20/02
Date

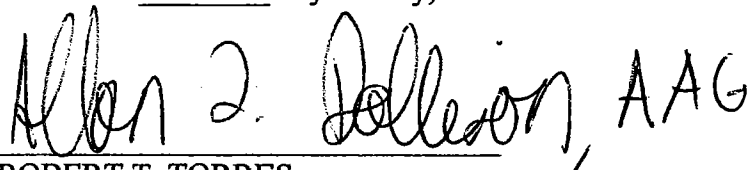
Filed and Recorded by:


SOLEDAD B. SASAMOTO
Registrar of Corporations

5/20/02
Date

Pursuant to 1 CMC §2153, as amended by Public Law 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

Dated this 20th day of May, 2002.

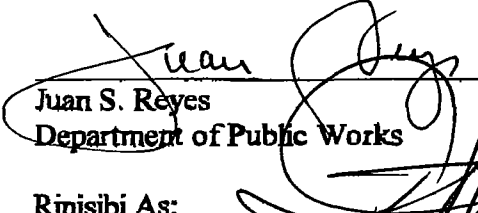

ROBERT T. TORRES
Attorney General

**NUTISA POT PARA U MA AKSEPTA I MA PROPONE NA AMENDASION GI
AREGLAMENTON I MAN RIKOHI YAN MAN YUTI BASULA (SOLID WASTE
COLLECTION AND DISPOSAL) SECTIONA 2**

I Dipattamenton I Public Works ha mana'e nutisai i publicko na ha propone para hu aksepta amendasion nu i areglamenton Rikohi Yan Man Yuti Basula, Sectiona 2 (Solid Waste Collection Disposal Regulations, Section 2) cumo taimanu i areglamenton man rikohi yan man yuti basula sigun I ginagagao gi efektibu na lai ni mafanana'an Commonwealth Solid Waste Management Act of 1989. Esti na areglamento para hu ma uksu I prisu man yuti basula gi Commonwealth Solid Waste Disposal facilities.

Todo I man intirisau pot esti na propone amendasion I areglamenton man rikohi yan man yuti basula, sectiona 2, hu fan na'halom guatto gi Dipattamenton I Publicko Works, Solid Waste Program Manager, giya Lower Base, Saipan, MP 96950, taya' mas ki trenta (30) dias desdi I fecha anai ima publika guine gi Commonwealth Register.

Ma Fecha guinc gi 17th na dia gi Mayo, 2002


Juan S. Reyes
Department of Public Works

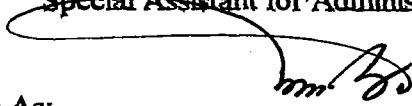
Rinisibi As:


Thomas Tebuteb
Special Assistant for Administration

5/20/02

Fecha

Ma Rehista Halom As:


Soledad B. Sasamoto
Registrar of Corporation

5/20/02

Fecha

Sigun I CMC Section 2153, Kuma tinilaika ni Lai Publiko 10-50, I ma propone siha na areglamenton ni chechetton guine, esta man ma inan maolek yan inaprebe para u fotma ligat yan suficiente ginen I Ofisinan I Attorney General giya CNMI.

Ma fecha guine gi 20 ma dia gi Mayo, 2002

/s/ ALLAN DOLLISON

Robert T. Torres
Attorney General

PUBLIC NOTICE

DEPARTMENT OF PUBLIC WORKS REPEAL AND RE-ENACTMENT OF SOLID WASTE COLLECTION DISPOSAL REGULATIONS, SECTION 2.

Citation of

Statutory Authority:

Pursuant to 2 CMC §3514 of the Commonwealth Solid Waste Management Act of 1989 and 2 CMC §3517.

Short Statement of

Goals and Objectives:

To repeal and re-enact Section 2 of the Solid Waste Collection Disposal Regulations to increase the fees on disposal of solid wastes as defined in Section 1 of the regulations. The increase in the fees charged to a disposer more accurately reflects the actual costs of management of solid waste which may include recycling as required by 2 CMC §3517. Further, the increase brings the fees charged by the Commonwealth more into line with fees charged in similar jurisdictions including Guam and Hawaii.

**Brief Summary of
the Rule:**

Provides an increase in the fee schedule for the disposal of municipal and commercial waste, garment waste, and hazardous waste as each is respectively defined in the Section 1 of the regulations. The varied schedule reflects the increased costs, in manpower and equipment terms, of handling garment and hazardous waste. The increased fees shall apply to the management of solid waste in Saipan, Commonwealth of the Northern Mariana Islands at any solid waste management facilities. The fee schedule continues to exempt small loads to minimize the costs to most residential disposers.

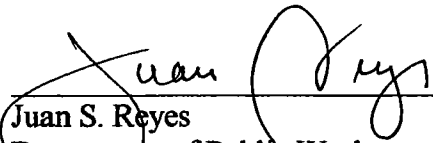
**For Further
Information Contact:**

Alberta Carpenter, Solid Waste Program Manager,
Department of Public Works, telephone no. 322-2745 or
fax 322-3547.

**Citation of Related and/or
Affected Statutes,**

Regulations and Orders: Solid Waste Collection and Disposal Regulations

Submitted by:



Juan S. Reyes
Department of Public Works

MAY 17th, 2002

Date

REPEAL AND RE-ENACTMENT OF SOLID WASTE DISPOSAL AND
COLLECTION REGULATIONS, SECTION 2

Section 2. Tipping Fees at Commonwealth Solid Waste Facilities.

For the receipt and disposal of solid waste delivered to Commonwealth solid waste management facilities by any business, industry, governmental agency, or educational institution, a tipping fee, based on weight, if the facilities are equipped with operable vehicle scales or based on volumetric assessment, if the facilities are not equipped with operable vehicle scales, shall be charged to the disposer as specified in subsection a. through c. inclusive.

The tipping fees for Commonwealth Solid Waste Facilities not equipped with operable vehicle scales are based on base fee rates of approximately \$25.00 per ton for municipal and household waste, \$35.00 per ton for garment waste, and \$35.00 per ton for hazardous waste and standard volumetric solid waste conversions of 250 lbs./cu.yd. for uncompacted waste and 500 lbs/cu.yd. for compacted waste. For loads above 2 cubic yards, the charges above will be imposed based on the capacity of the vehicle regardless of whether it is fully loaded or not. The tipping fees for Commonwealth Solid Waste Facilities equipped with vehicle scales are based on base fee rates of \$25.00 per ton for municipal and household waste, \$35.00 per ton for garment waste, and \$35.00 per ton for hazardous waste. Separate fees shall be assessed for a trailer and the vehicle towing it if both the trailer and the towing vehicle are carrying solid waste.

a. Municipal and Household Solid Waste - \$25 per ton

<u>Typical Vehicle or Container Type</u>	<u>General Volume</u>	<u>Tipping Fee</u>
55 gal. drum (approx. 1/3 cubic yard)	3 or less drums	\$2.00
	4 to 6 drums	\$5.00
	7 to 8 drums	\$10.00
	more than 8 drums	\$5.00 / 2 drums
Pick up truck or other passenger Vehicle	less than 1 cubic yard	\$2.00
	1 to 2 cubic yards	\$5.00
	2 to 4 cubic yards	\$10.00
Flat bed, trailer, or overloaded pick up truck	less than 3 cubic yards	\$10.00
	3 to 5 cubic yards	\$15.00
	5 to 8 cubic yards	\$25.00
Dump truck or large trailer	less than 5 cubic yards	\$15.00
	5 to 10 cubic yards	\$30.00
	10 to 15 cubic yards	\$45.00
Compactor truck	less than 5 cubic yards	\$25.00
	5 to 10 cubic yards	\$50.00

	10 to 20 cubic yards	\$100.00
Roll-off container	less than 10 cubic yards	\$30.00
	10 to 20 cubic yards	\$55.00
	20 to 30 cubic yards	\$80.00
	30 to 40 cubic yards	\$105.00

b. Garment Waste - \$35 per ton

<u>Typical Vehicle or Container Type</u>	<u>General Volume</u>	<u>Tipping Fee</u>
55 gal. drum (approx. 1/3 cubic yard)	3 or less drums	\$4.00
	4 to 6 drums	\$7.00
	7 to 8 drums	\$14.00
	more than 8 drums	\$7.00 / 2 drums
Pick up truck or other passenger Vehicle	less than 1 cubic yard	\$4.00
	1 to 2 cubic yards	\$7.00
	2 to 4 cubic yards	\$14.00
Flat bed, trailer, or overloaded pick up truck	less than 3 cubic yards	\$14.00
	3 to 5 cubic yards	\$22.00
	5 to 8 cubic yards	\$35.00
Dump truck or large trailer	less than 5 cubic yards	\$22.00
	5 to 10 cubic yards	\$42.00
	10 to 15 cubic yards	\$64.00
Compactor truck	less than 5 cubic yards	\$35.00
	5 to 10 cubic yards	\$70.00
	10 to 20 cubic yards	\$140.00
Roll-off container	less than 10 cubic yards	\$42.00
	10 to 20 cubic yards	\$77.00
	20 to 30 cubic yards	\$112.00
	30 to 40 cubic yards	\$147.00

c. Special Waste and Construction and Demolition Waste - \$35 per ton – provided, however, that \$35.00 fee for dead animal disposal per animal regardless of weight and volume.

<u>Typical Vehicle or Container Type</u>	<u>General Volume</u>	<u>Tipping Fee</u>
55 gal. drum (approx. 1/3 cubic yard)	3 or less drums	\$4.00
	4 to 6 drums	\$7.00
	7 to 8 drums	\$14.00
	more than 8 drums	\$7.00 / 2 drums

Pick up truck or other passenger Vehicle	less than 1 cubic yard	\$4.00
	1 to 2 cubic yards	\$7.00
	2 to 4 cubic yards	\$14.00
Flat bed, trailer, or overloaded pick up truck	less than 3 cubic yards	\$14.00
	3 to 5 cubic yards	\$22.00
	5 to 8 cubic yards	\$35.00
Dump truck or large trailer	less than 5 cubic yards	\$22.00
	5 to 10 cubic yards	\$42.00
	10 to 15 cubic yards	\$64.00
Compactor truck	less than 5 cubic yards	\$35.00
	5 to 10 cubic yards	\$70.00
	10 to 20 cubic yards	\$140.00
Roll-off container	less than 10 cubic yards	\$42.00
	10 to 20 cubic yards	\$77.00
	20 to 30 cubic yards	\$112.00
	30 to 40 cubic yards	\$147.00

\$35.00 flat fee for dead animal disposal

PUBLIC NOTICE

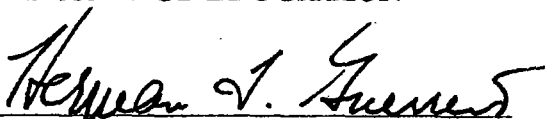
PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATION 3430 REGARDING TRAVEL

The Board of Education for the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intention to revise Board of Education Regulation 3430 regarding travel. The revisions to this regulation are attached and the specific changes are noted in *Italics* and/or lined through in the text of the regulations. The proposed amendments to Regulation 3430 are promulgated pursuant to the authority provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 within thirty (30) calendar days following the date of the publication of this Notice in the Commonwealth Register.

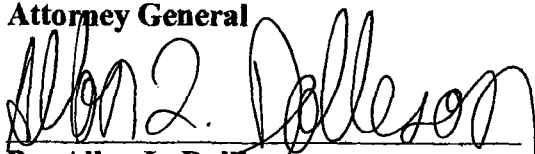
Dated this 13th day of May 2002, at Saipan, Northern Mariana Islands.

BOARD OF EDUCATION


By: 
HERMAN T. GUERRERO
Board of Education Chairperson

The revised regulations proposing to amend certain Board of Education regulations, copies of which are attached hereto, have been reviewed and approved by the Attorney General's Office.

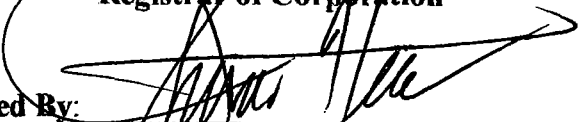
ROBERT T. TORRES
Attorney General


By: **Allan L. Dolkison**
Assistant Attorney General

Date: 5/20/02

Filed By: 
SOLEDAD B. SASAMOTO
Registrar of Corporation

Date: 5/20/02

Received By: 
THOMAS TETUTEB
Special Assistant for Administration

Date: 5/20/02

NUTISIAN PUBLIKU

**PRONOPONEN RIBISION GI REGULASION TRAVEL 3430 KUETPON
EDUKASION**

I Kuetpon Edukasion Commonwealth I Sumangkattan Siha Na Islas Marianas, ginen este, ha infotma I pupblikun hinerat put intension-ña para u ribisa I regulasion kuetpon Edukasion 3430. I ribision este siha na regulasions chechetton yan I manma espisifika man ma nota gi italics yan/osino manma raya gi suhetun I regulasion. I mapropopone siha na amendasion manma cho'gue sigun gi aturidat Attikulu XV Kanstitusion CNMI, Lai Pupliku 6-10 yan I CNMI Administrative Act.

Todo ayu siha I man interesante siha na petsona siña ma eksamina I mapropone siha na amendasion ya hu ma satmiti halom komento put pusision, sinangan kao mafabot pat makontra I mapropone siha na amendasion ya u manahanao guatu para Kabesiyon Kuetpon Edukasion, P. O. Box 1370 CK, Saipan, MP 96950 halom trenta dias (30) dispues di mapublika este na Nutisia ge Rehistran Commonwealth.

Mafecha guine gi mina' 13 na dia guine na mes Mayo, 2002 giya Saipan, I Sumangkattan Siha Na Islas Marianas.

KUETPON EDUKASION

Ginen: Herman T. Guerrero
HERMAN T. GUERRERO Date
Kabesiyon, Kuetpon Edukasion

I maribisa na regulasion ni mapropopone para u amenda otro siha na regulasion Kuetpon Edukasion guaha koopia chechetton guine, esta manmaribisa yan apreba ginen Ofisinan Abugadon Henerat.

ROBERT T. TORRES

Attorney General

Ginen as: /s/
Allan L. Dollison
Assistant Attorney General

Fecha: 5/20/02

Pine'lo as: Soledad B. Sasamoto
SOLEDAD B. SASAMOTO
Rehistradoran Kotporasion

Fecha: 5/20/02

Rinisibi as: Thomas Teeuteb
THOMAS TEEUTEB
Espisiat Na Ayudanten Administration

Fecha: 5/20/02

ARONGORONGOL TOULAP

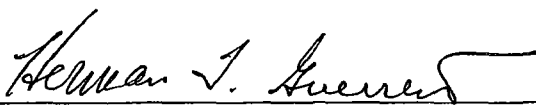
POMWOL FFEERUL LLIWEL MELLOL AUTOL ALLEHGUL BOARD OF EDUCATION IYE 3430 REEL FAREGH

Board of Education-il Commonwealth metawal Wool Faluw kka Marianas nge arongaar toulap igha ekke pomwoli bwe ebwe liwili Alleghul Board of Education iye 3430. Lliiwel kkaal nge ikka e schuu ngali arongorong yeel nge eyoor milikka e lliiwel iye e italics me/ngare e rooza autol allegh. Pomwol ffeerul lliiwel kkal nge effer sangi bwangil Talil XV Ilol CNMI Constitution, Alleghul Toulap 6-10 me CNMI Administrative Act.

Alongeer aramas kka re tipali nge emmwel schagh bwe rebwe lo amwuri fischiiy pomwol ffeerul lliiwel kkaal reel meta mangemangiir me tipeer ngare re tipali ngare saabw nge rebwe ischiitiw nge ra afanga ngali Chairman, Board of Education, P.O. Box 1370 CK, Seipel, MP 96950 eliigh (30) ral sangi igha e rongolo Arongorong yeel Ilol Commonwealth Register.

E ffeer raalil ye 13th maram ye Mo'oro, 2002, wool Seipel, Faluw Kka Afang mellol Marianas.

BOARD OF EDUCATION

Mereel: 
HERMAN T. GUERERO
Board of Education Chairman

Lliiwelil allegh kka nge ebwe liwili akkaaw alleghul Board of Education, iye eyoor kopiyaal ye e schuu me scheel tiliigh yeel nge a takkal mwir sangi Bwulasiyool Attorney general bwe e fil me anguungu.

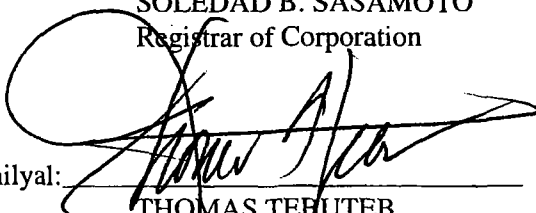
ROBERT T. TORRES
Attorney General

By: /S/
Allan L. Dollison
Assistant Attorney General

Ral: 5/20/02

Isaliiyal: 
SOLEDAD B. SASAMOTO
Registrar of Corporation

Ral: 5/20/02

Bwughilyal: 
THOMAS TEEUTEB

Ral: 5/20/02



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



STATE BOARD OF EDUCATION
PUBLIC SCHOOL SYSTEM
P.O. BOX 501370 CK
SAIPAN, MP 96950

Herman T. Guerrero
Chairman

Roman C. Benavente
Vice Chairman

Esther S. Fleming
Secretary/Treasurer

~~Member~~
Francis Diaz
Marja Lee C. Taitano

Scott Norman
Non Public School Rep.

Franklin Keiper
Teacher Rep.

Tracy Lynn D. Del Rosario
Student Representative

Commissioner of Education
Rita Hocog Inos, Ed.D

PROPOSED AMENDMENTS TO BOARD OF EDUCATION REGULATION 3430 REGARDING TRAVEL

Statutory Authority: The proposed amendments to Regulation 3430 are promulgated pursuant to the Board of Education's (Board) authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

Goals and Objectives: The Board believes that the proposed amendments to travel regulation 3430 will minimize the Public School System's (PSS) accounting costs associated with reviewing travel documents and collecting advances from travelers and create a more efficient system for travel under the Board and PSS.

Brief Summary of Proposed Amendments: The proposed amendments, among other things, accomplish the following: reduce travel advances from 100 % of the anticipated travel costs to 90%; amend the requirements for submission of receipts after travel; establish per diem rates as the standard form of travel reimbursement; and require employees to submit detailed trip reports supporting the purpose and benefit of the travel to PSS.

Contact Person: All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950, call 664-3727 or fax 664-3711 within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments to Regulation 3430.

Dated this 17th day of May 2002, at Saipan, Northern Mariana Islands.

BOARD OF EDUCATION

By: Herman T. Guerrero
HERMAN T. GUERRERO
Board of Education Chairperson

Accounting and Reporting

Travel and Reimbursement

(a) Applicability

This regulation applies to official travel performed in the interest of the Public School System by Public School System employees and the Board of Education where specified. Other individuals covered by this section include consultants, employees eligible for repatriation and individuals, *such as students and parent chaperones*, who are traveling on official business for the Public School System. This regulation shall not apply to travel for repatriation or other travels for which additional regulations may be established and approved by the Board of Education.

(b) General Rules

Only official travels that are considered necessary to accomplish a specified purpose shall be authorized.

(c) Travel Authorizations (TA)

1. All official travel shall be authorized with an approved "Travel Authorization" (TA). Situations requiring emergency official travel shall be permitted upon approval of a written justification.
2. Trip-by-trip authorization shall be issued to allow an individual to perform official travel. This authorization shall include:
 - A. Specific Purpose
 - B. Itinerary (schedule of departure, arrival and destination)
 - C. Estimated Cost
3. All travel within the CNMI for PSS employees, students, parents and appropriate consultants and guests shall be requested by the principal or program manager and authorized by the Commissioner.
4. All travel outside of the CNMI by PSS employees, students, parents and appropriate consultants and guests shall be requested by the principal or program manager through the Commissioner and authorized by the Chairperson of the Board or his designee as the approving officer.

5. All travel (within and outside of the CNMI) by the Commissioner, BOE key staff, and BOE members other than the Chairperson of the Board of Education shall be signed by the traveler as requester and the Chairperson of the Board or his designee as the approving officer.
6. All travels by the Chairperson of the Board shall be requested by the Chairperson of the Board and approved by the Vice-Chairperson of the Board of Education.
7. The following information must be attached to the TA before being presented to the Chairperson of the Board and to the Commissioner as appropriate:
 - A. Justification memorandum for the travel
 - B. Document of invitation and/or agenda
 - C. Specific Purpose
 - D. Itinerary (schedule or departure, arrival and destinations)
 - E. Estimated Cost
8. Within CNMI travel requests shall be submitted to the Commissioner no later than 5 working days prior to the travel date. Out of CNMI travel requests shall be submitted to the Commissioner or the Chairperson of the Board of Education, as appropriate, no later than 10 working days prior to commencement of travel.
9. Instructions for travelers shall be attached to all approved travel authorizations notifying travelers of their responsibilities in accounting for all procurement documents such as unused tickets, coupons, receipts, and other documents that will be required for completion of vouchers or for accounting for travel cancellations.
10. TA's shall not be issued if there is an outstanding voucher or if an outstanding expense by the traveler has not been *verified paid*. Exceptions to this rule may be made at the discretion of the Commissioner or the Chairperson of the Board, as appropriate.

11. TA's may be amended only upon approval by the requesting and approving officials. A justification memorandum for the amendment must be attached. Any diversion from what was specified on the approved TA must be presented as an amended TA and shall be approved by the appropriate requesting and approving officials. Amendments to TA's must be in the interest of the Public School System.

(d) Travel Expenses

Expenses anticipated in the fulfillment of an official travel may include the following:

1. **Transportation:** PSS will authorize the mode of transportation which will result in the greatest advantage to the PSS considering factors such as per diem, overtime, lost work-time, transportation costs, distance of travel, number of travelers, and stopovers. Travel by common carrier, which is most efficient and economical to the PSS, shall be selected unless this will impose undue hardship upon the traveler or would seriously interfere with the performance of business by the traveler.
2. *Payment for ground transportation may be provided ~~Car rental may be authorized if it is essential~~ for the performance of official business and if a PSS owned vehicle is not available. The ground transportation payment rate shall be established by the Board using a car rental rate for economy cars taking into consideration the federal rate and the location of the rental. When more than one PSS traveler is taking the same trip, one traveler will be issued a car rental advance at a rate that takes into consideration the location of the rental and the size of the car necessary to transport other PSS travelers. When a ground transportation/car rental advance is issued for a group of PSS travelers, the traveler must use the advance for car rental. Submission of car receipts will not be required.*

- ~~3. Privately owned vehicles shall be authorized only if it is absolutely necessary in the performance of official business and it is more economical than other methods of transportation. Authorization to use a privately owned vehicle shall be included in the TA. If a traveler chooses a privately owned vehicle as a matter of personal preference and it is compatible with the performance of official business, such use may be authorized for reimbursement only upon the approval of the authorizing official on the TA. Transportation by bus, train, taxi between lodging and place of business is allowed as transportation expense. Receipts for expenses above \$5.00 must be submitted for reimbursement. Transportation to obtain meals at the nearest suitable place will be reimbursed only if a statement justifying this need is attached to the voucher.~~
3. Termination of travel due to illness may be authorized prior to completion of temporary duty assignment. Termination of travel as a result of the traveler's own misconduct shall be at the expense of the traveler.
4. Travel routes other than what was authorized shall be allowed if it can be established as necessary and will not incur additional expense to the PSS and if the trip is related to official business to be performed by the traveler.
5. Insurance for collision damage and liability shall be paid by PSS for official travel requiring the use of a vehicle and as authorized in the TA. Travelers are required to obtain collision damage and liability insurance when renting or otherwise obtaining a vehicle. Damages to rented vehicles may be paid up to the deductible amount shown in the rental contract if it can be proven that the damage occurred while the vehicle was used for official business only. Personal accident insurance is reimbursable.
6. Expenses incurred due to cancellation of flights by the airline shall be the responsibility of the airline. Lodging and meal expenses incurred as a result of flight cancellation shall be the responsibility of the airline. It is the responsibility of the traveler to ensure that the airline covers these costs.

7. Voluntary cancellation of reservation on the part of the employee shall be at the expense of the employee and not the PSS. Employees on official travel status shall not voluntarily cancel their reservations if it will interfere with performance of official duties. Employees who voluntarily delay their travel while on official duty enroute to home destination shall be charged annual leave for additional hours or days that they miss as a result of voluntary postponement of travel, if approved in advance per the annual leave regulations. Those employees who voluntarily delay their travel while on official duty enroute to home destination without prior approval will be charged absence without leave (AWOL) and may be otherwise disciplined, including losing future travel privileges.
8. Miscellaneous expenses such as excess baggage, communication costs, gasoline, baggage transfer and others that are incidental to performance of official business shall be reimbursed only when authorized and when accompanied by explanation for each expense item.
9. Per Diem rates shall be established by the Board of Education in accordance with Board Policy and CNMI Law. *Per diem rates shall be the standard form of travel reimbursement for PSS travelers unless otherwise requested and authorized. It is assumed that the per diem rate will cover all expenses other than airplane transportation and ground transportation. Expenses covered by per diem include charges for lodging, meals, fees and tips, laundry, and transportation between lodging and places where meals are taken unless otherwise noted.*
10. Actual Subsistence rates may be requested, if appropriate for the nature of business to be conducted, and must be authorized by the Commissioner or Chairperson of the Board. Appropriate circumstances may include conferences held in hotels where the per diem rate would not be sufficient to cover traveler's expenses. To determine the actual subsistence rate, reasonable cost of lodging for the number of days authorized plus the amount established by the Board for meals per day. Cost of ground transportation related to official business activity may be reimbursed in addition to the set amount per day for meals and miscellaneous subsistence expenses. Receipts for ground transportation expenses shall be attached to the voucher for reimbursement. Actual subsistence reimbursement shall not

exceed 55% of the established per diem rate. Lodging, transportation and receipts for any claimed miscellaneous expenses other than for meals must be submitted with the travel voucher.

- 11 Whenever a traveler interrupts his/her travel for personal reasons or due to illness or injury not due to his/her own misconduct, the proper leave application must be filed with the voucher and approved by the authorized official.

(e) Travel Authorization with no Expense to PSS

Travel sponsored by agencies other than PSS must be approved with a Travel Authorization showing zero travel expense. All travel performed by PSS staff at the expense of agencies other than the PSS must be in the interest of the PSS. Proper leave must be applied if the traveler requires additional days from duty station for personal reasons not related to the purpose of the travel. The leave application must be attached to the TA.

(f) Travel Advance

1. **General Rules:** A travel advance form shall be filed by the traveler to authorize release of checks. The travel advance form shall be submitted with the TA.
2. Travel advance checks shall be released on a timely basis. Ninety percent (90%) ~~One hundred percent (100%)~~ of the travel advance allowed shall be issued to the traveler. *The remaining ten percent (10%) shall be issued only upon traveler's completion and filing of the appropriate support documents with the Fiscal Office within fifteen (15) working days upon completion of travel.*
3. Travel advances should be considered as a loan to the traveler until proper reconciliation of approved travel expenses has been authorized and no outstanding amount is due to either the traveler or the PSS.

(g) Travel Voucher

1. **General Rules:** *Travelers must file a travel voucher with supporting documentation within fifteen (15) working days upon completion of travel. Travelers who fail to meet this deadline will forfeit the remaining ten percent of the cost of travel. Travelers who fail to submit travel vouchers and supporting documentation will be subject to payroll deduction of the entire amount of the*

2. The traveler must submit *complete and file* a travel voucher form following these procedures.
 - A. Front page (self explanatory)
 - B. Reverse page: Complete the form by filling in the appropriate space the local date, time of arrival and departure, and location. Note any departure from approved travel routes and delays.

3. *For travelers using the per diem rate, the following items must be submitted with the voucher: ~~Itemize and justify expenses to be reimbursed to the traveler and attach receipts as appropriate. Receipts for expenses beyond \$5.00 must be attached. Example of expenses may include:~~*
 - ~~A. Taxi receipts must show the date, points of departure and destination as well as the total amount. Taxi expenses for business other than to conduct official business will not be reimbursed and should be covered by the per diem allowed. *An approved detailed trip report explaining the purpose of the travel, the event or meeting attended (if appropriate) and the benefit to the traveler and the PSS. All trip reports must be submitted to the traveler's supervisor for approval before submission to the Fiscal office. The sufficiency of the trip report shall be determined by the traveler's supervisor, who shall approve the report and return to traveler for submission to the Fiscal office if the report is sufficient. If insufficient and not approved, the supervisor shall return the trip report to the traveler and request more information from the traveler for resubmission to the supervisor;*~~
 - B. Airline ticket stub; ~~and car rental receipts if authorized on the TA.~~
 - C. ~~Gasoline receipts, bus fares, traveler's check fees official communication expenses if authorized, parking or toll fees related to the conduct of official business, fees for transfer of baggage, etc. Conference receipt, if applicable; and~~
 - D. ~~Statement on mileage expenses for the use of a private vehicle when authorized on the TA. Any unused ticket coupons.~~

4. *For traveler's using the actual subsistence rate, the following documents must be submitted with the travel voucher:*
 - A. *An approved detailed trip report following the same procedures set forth above in (g)3(A) above;*
 - B. *A detailed statement justifying why the actual subsistence rate is/was necessary for the business conducted;*
 - C. *Airline ticket stub;*
 - D. *Conference receipt, if applicable;*
 - E. *Lodging receipt;*
 - F. *Car rental receipt;*
 - G. *Receipts for any claimed miscellaneous expenses other than for meals; and*
 - H. *Any lack of receipts must be fully explained.*
5. **TA's approved by PSS but at the expense of agencies other than PSS require submission of a voucher and a detailed trip report upon completion of travel.**
7. ~~Traveler must submit a detailed trip report describing the benefits of the trip with the Travel Voucher and to all supervisors who recommended and/or approved of the travel.~~
6. **Traveler must submit any appropriate leave applications.**
7. **Within fifteen (15) working days after the voucher was or should have been submitted, the travel section of the Fiscal and Budget Office will issue the employee a statement notifying him/her of any discrepancies in the submitted documents and all amounts owed to PSS. This statement shall include the following:**

- A. the date of each travel resulting in an outstanding balance;
 - B. the place of each travel resulting in an outstanding balance;
 - C. the amount advanced for each trip;
 - D. the amount owed for each trip;
 - E. the total amount owed;
 - F. any discrepancies or problems with the submitted documents;
and
 - G. notification that the amount will be deducted from the employee's paycheck for the next pay period unless resolved.
8. In no case shall a payroll deduction exceed more than thirty percent (30%) of the employee's gross paycheck unless the employee is leaving PSS. Payments owed to PSS may be deducted over several pay periods, if necessary.
9. If the travel advance exceeds reimbursement due, the balance will be deducted from the traveler's paycheck subsequent to the notice of the balance due, but no later than fifteen (15) days after traveler has been officially notified of amount due to PSS.
10. If travel is cancelled for any reason, immediate refund of the travel advance must be made. Employee must notify the travel section that the travel was cancelled and the purchased tickets or unused GTR's must be returned to PSS. Employee will be notified that a payroll deduction shall be made from the employee's next paycheck and the deduction shall be made no later than 15 days after the notice.
11. Responsibility for careful examination of voucher *and supporting documentation* rests with the Fiscal staff of the PSS. ~~Each voucher must be examined to ensure that it is properly prepared according to procedures before the appropriate program manager, the Commissioner and/or the Chairperson of the Board review it. Certification for payment must be made after the signatures of appropriate officials are completed.~~ Vouchers must be accurate and expenses claimed authorized. ~~The following information must be submitted with vouchers.~~

- ~~A. Receipts;~~
- ~~B. Justification statements;~~
- ~~11. Trip reports;~~
- ~~12. Original TAs;~~
- ~~13. Unused tickets if any; and~~
- ~~8. Any other documents necessary to support the voucher.~~

If necessary, the voucher examiner shall initiate the voucher for review by the appropriate officials. Notes shall be made by the examiner if any discrepancy exists and forwarded to the traveler for clarification or correction ~~before it is routed to the officials for signature and approval. Upon signature by appropriate officials, any refund due to PSS or to the traveler shall be processed by the Fiscal Section no later than five (5) working days.~~ Employee must respond with the requested supporting information to avoid forfeiture of the 10% and/or to avoid any paycheck deductions.

- 12. Appropriate procedures including possible legal action may be initiated in case of fraudulent claims. Documentation of this process must be made in writing by the Fiscal Section and the appropriate official of PSS.

CIVIL SERVICE COMMISSION

**NOTICE OF PROPOSED AMENDMENT TO THE
PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS**

Under the authority of 1 CMC §8117, the Civil Service Commission hereby notifies the general public that it proposes the following amendment to the Personnel System Rules and Regulations, amending parts III and IV of the Personnel Service System Rules and Regulations.

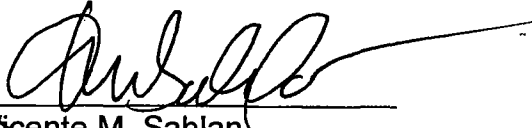
The public is encouraged to submit written comments on the proposed amendments by mail, delivery of facsimile. The comment period will be closed thirty (30) days after publication of this notice. Address your comments to:

**Chairman, Civil Service Commission
P.O. Box 5150, CHRB
Saipan, MP 96950**

**Building No. 1211, Capitol Hill
Facsimile: (670) 322-3327**

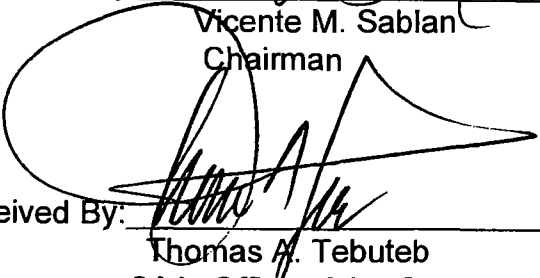
Date: 4/10/02

Submitted By: _____


Vicente M. Sablan
Chairman


Date: 5/20/02

Received By: _____


Thomas A. Tebuteb
SAA, Office of the Governor

Date: 5/20/02

Filed By: _____


Soledad B. Sasamoto
Registrar of Corporation

Pursuant to 1 CMC §2153, as amended by PL 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

Robert T. Torres
Attorney General

Date: 5/20/02

By: 
Assistant Attorney General

KUMISION SETBISIUN SIBIT

NUTISIA PUT PRINIPONEN AMENDASION GI AREKLAMENTO YAN REGULASION SISTEMAN SETBISIUN PETSONAT

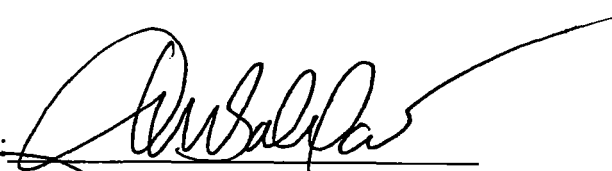
Sigun aturidat 1 CMC §8117, I Kumision Setbisiun Sibit ginen este ha nutitisia i pupbliku put ha' propopone i sigiente siha na amendasion gi Areklamento yan Regulasion Sistemana Setbisiun Petsonat, para u ma amenda patte III yan IV gi Areklamento yan Regulasion Sistemana Setbisiun Petsonat.

I pupbliku manma sosoyo' para u fan satmiti halom komento gi tinege' put i priniponen amendasion ya sina ha' manahanao mail, machule guato osino ma fax guato. I tetminum muna' halom komento u mahuchom trenta (30) despues di mapublika este na nutisia. Todo komento u manma hanao guato para i sigiente na adres:

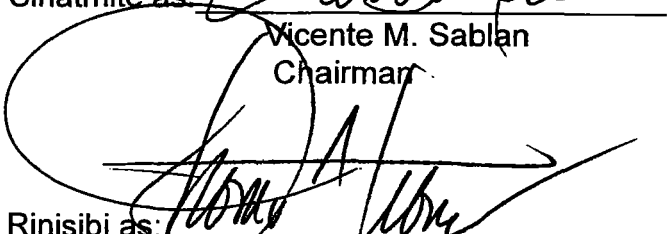
**Chairman, Civil Service Commission
P.O. Box 5150, CHRB
Saipan, MP 96950**

**Building NO. 1211, Capitol Hill
Telephone: (670) 322-6954/4363
Facsimile: (670) 322-3327**

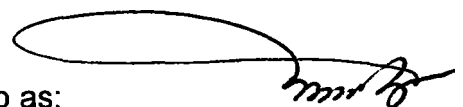
Fecha: 4/12/02

Sinatmite as: 
Vicente M. Sablan
Chairman

Fecha: 5/20/02

Rinisibi as: 
Thomas A. Tebuteb
SAA, Ofisina Gubetno

Fecha: 5/20/02

Pine'lo as: 
Soledad B. Sasamoto
Rehistradoran Kotporasion

Sigun 1 CMC §2153 ni inamenda ni Lai Puplicu 10-50, i areklamento yan regulasikon siha ni chechetton guine esta manma ribisa yan aapreba ginen Ofisinan Abugadon Henerat para CNMI.

Robert T. Torres
Attorney General

Ma Fecha: 5/20/02

Ginen: /s/ ALLAN DOLLISON
Assistant Attorney General

CIVIL SERVICE COMMISSION

**ARONBORONG REEL POMWOL FFEERUL LLIWEL MELLOL
AUTOL ALLEGHUL PERSONNEL SERVICE SYSTEM**

Reel bwangil 1 CMC §8117, nge Civil Service Commission ekke arongaar toulap igha ekke pomwoli bwe ebwe ayoora lliiwel kka faal mellol autol Alleghul Personnel Service System, ebwe lliiwel peighil kka III me IV mellol Alleghul Personnel Service System.

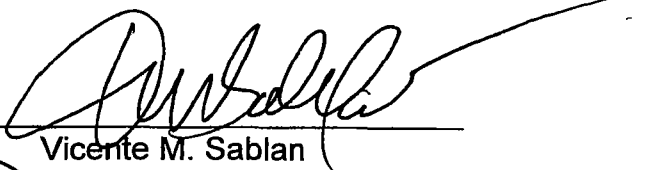
Rekki tingor ngalliir toulap bwe rebwe atotoolong meta mangemangiir me tipeer reel pomwol ffeerul lliiwel kkaal nge rebwe ischiitiw nge emmwel schagh rebwe afanga lloil mail, ngare iir shcagh rebwe bwughilo me ngare rebwe Fax-li, Aighuughul igha rebwe atotoolong mangemang me tiip nge elligh (30) ral sangi igha e rong lo arongorong yeel. Rebwe afanga ngali address ye faal:

**Chairman, Civil Service Commission
P.O. Box 5150, CHRB
Saipan, MP 96950**

**Building No. 1211, Capitol Hill
Facsimile: (670) 322-3327**

Ral: 4/10/02

Mereel:


Vicente M. Sablan
Chairman

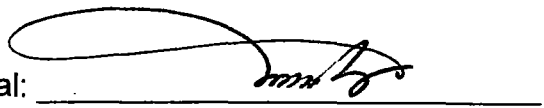
Ral: 5/20/02

Bwughiiyal:


Thomas A. Tebuteb
SAA, Bwulasiyool Soulemelem

Ral: 5/20/02

Isalliial:


Soledad B. Sasamoto
Registrar of Corporations

Sangi bwangil 1 CMC §2153, igha Alleghul Toulap ye 10-50 e liwili, nge allegh kka e schuu ngali schee yeel nge a takkal mwir me anguungu sangi Bwulasiyool Attorney General CNMI.

Robert T. Torres
Attorney General

E ffeer raalil ye: 5/20/02

Ginen: /S/ ALLAN DOLLISON
Assistant Attorney General

**CIVIL SERVICE COMMISSION
PROPOSED AMENDMENT TO THE
PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS**

<i>Statutory Authority:</i>	1 CMC §8117
<i>Short Statement of Goals and Objectives:</i>	To establish rules of procedure for hearings before the Civil Service Commission.
<i>Brief summary of the Proposed Rules and Citation of Related and Affected Statutes & Regulations</i>	<p>Amendments to Part III & IV of the Personnel Service System Rules and Regulations</p> <p>General amendments to change references to Personnel Office to Office of Personnel Management.</p> <p>Part III.A16B Require a list of eligible candidates to be supplied to the Commission</p> <p>Part iii.A19 requires selective certification lists to be supplied to the Commission</p> <p>Part III.A20B requires Commission approval for exceptions from use of eligibility list.</p> <p>Part III.A22 Changes order of priority on re-employment priority list.</p> <p>Part III.A23 defines persons eligible for re-employment priority list.</p> <p>Part III.B3C restricts use of Limited Term Appointments</p> <p>Part III.B3D eliminates provisional appointments.</p> <p>Part III B3G reduces the period of acting appointments from 6 months to 30 days.</p> <p>Part III B4 & B5 are amended to refer to the urine test as a pre-employment condition</p> <p>Part III B6 eliminates the authority o the Director of Personnel to make retroactive personnel actions.</p> <p>Part III B7 relating to re-employment is eliminated and replaced with amended Part III A23.</p> <p>Part III C8, D1D & D2L eliminates the references to the ADA.</p>

Part III D2I reduces the period for job abandonment from 10 days to any number of days.

Part III D2M clarifies the procedures for taking adverse action.

Part III E2 Redefines the employees subject to reduction in force.

Part III E3 requires a hiring freeze upon notice to take RIF action.

Part III E4 limits credible service to employment with the CNMI government.

Part III F is replaced with a new Sub Part F

Part IV A2 Definitions is deleted since the definitions are included in the definition section.

Part IV A5 classification maintenance is a new provision

Part IV B7 guidelines for acting assignments and the provision requiring resignation prior to assuming an acting assignment are deleted.

Part IV B14 is amended to delete the provision for within-grade increases for employees with excessive AWOL and leave without pay.

Part IV B16.E5 the transition provision relating to compensatory time is deleted.

Part IV B20 is amended to be consistent with 1 CMC §8215.

Part IV B21.D Typhoon Emergency is clarified.

Part IV 25A The provision relating to "acting" timekeepers is eliminated.

***For Further Information
Contact:***

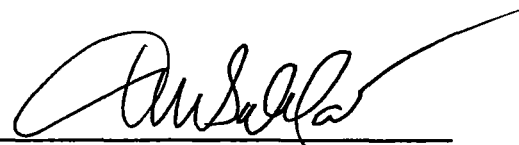
Norbert S. Sablan, Executive Director
Civil Service Commission
Building Number 1211, Capitol Hill
Phone 322-4363 Fax 322-3327

***Need for Emergency
Adoption:***

None

Date: 4/10/02

Submitted by:



Vicente M. Sablan, Chairman
Civil Service Commission

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III STAFFING

This part covers the staffing elements necessary to acquire, maintain, reassign, promote and release employees of the Personnel Service System. The sub-parts treat specifically and in detail the regulations which govern in the execution of the respective functions. Merit principles, open competition and, in specific applications, employee seniority, shall underlie all considerations in implementing these staffing functions.

Appointing Authorities are Executive Department, Activity Heads and other public officials who are authorized to expend appropriated funds pursuant to law. Non-Commonwealth employees shall not be delegated the authority to effect changes in Personnel Actions.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III, SUB-PART A EXAMINATIONS

This sub-part prescribes the examining system to be used in the Personnel Service System. It describes the several types of examinations, the assembly of eligible lists and the referral of eligibles from those lists to selecting officials.

III.A1 COMPETITIVE EXAMINATIONS

All examinations shall be competitive and open to the public except where specifically exempted. All examinations shall be either:

- A. Assembled, wherein the applicants assemble in a designated place at a specific time to take written or performance tests that fairly measure the knowledge, skills, or abilities required by the particular position (or class of positions) sought. Assembled examinations shall be conducted under conditions affording maximum security at all times to protect the confidential nature of examination questions and related documents.
- B. Unassembled, wherein the candidates responding to an examination announcement submit, to designated places and by designated times, their records of education, training, experience and such other information as requested in the announcement, to be evaluated and rated by a qualified analyst or by a board of rating examiners. The examination shall stipulate the dates of opening and closing of the examination, the forms to be used for filing, and the places to which the forms and associated information shall be sent.

III.A2 NON-COMPETITIVE EXAMINATIONS

Non-competitive examinations, either assembled or unassembled, may be used when, in the judgment of the Personnel Officer, one of the following conditions or circumstances occurs:

- A. The position to be filled requires rare or special qualifications or training which do not permit competition;
- B. There is a lesser number of qualified applicants than there are positions to be filled;
- C. To determine the qualifications of an employee to be placed as a redress for error or omission in processing under the Merit Promotional Program;

- D. To determine qualifications as part of the in-service placement process, or for placement of persons with reinstatement eligibility.

III.A3 EXAMINATION ANNOUNCEMENTS

Examination announcements shall contain, as a minimum, the following information:

- A. Class title, pay and pay level of the position;
- B. Brief description of the duties and responsibilities;
- C. Geographical and organizational location of the position;
- D. Minimum bona fide occupational qualifications for the position to include general experience, specialized experience, and such qualitative evaluation elements as may be deemed appropriate and necessary;
- E. Instructions on how to apply for the examination including place to apply, form of application required, and documentary support required; and
- F. Period of the announcement. In no instance shall this be less than fifteen (15) calendar days. This period may be extended by the Director of Personnel if the response has been inadequate, provided that the extension shall be announced in the same manner as the original announcement.

III.A4 PUBLICITY

Optimum publicity shall be given to examination announcements through posting in the Personnel Office and ~~at such other places as may be designated by the Director of Personnel (e.g., official bulletin boards in offices or work places).~~ In addition, public announcements through the news media, trade publications and jobline may be used. ~~Department directors~~ Appointing authorities shall make every effort to bring announcements to the attention of all personnel under their jurisdiction.

III.A5 CONTENT OF EXAMINATIONS

Examinations shall be practical and reasonable and shall examine for the bona fide occupational qualifications necessary to perform the duties of the positions to be filled. Any acceptable method of examination may be used, including verification and evaluation of education, training, experience, aptitude and character of the applicants and any other accepted examination method deemed appropriate by the ~~Personnel Officer~~ Office of Personnel Management.

III.A6 CONTINUOUS EXAMINATIONS

When difficulty is experienced in attracting sufficient numbers of qualified applicants for vacancies in the Personnel Service System, the Personnel Officer may issue a continuous examination. Notice of closing of a continuous examination shall be posted at least fifteen (15) calendar days prior to the final closing date for such examination.

III.A7 ADMISSIONS TO EXAMINATIONS

Applications for examination shall be made on forms prescribed by the Personnel Officer. Proper completion of applications and submission of supplemental information shall be accomplished in accordance with the examination announcement and established procedures. Applications shall be signed and such signature shall certify to the truth of all statements contained therein. A knowingly false answer or statement shall be grounds for denying admission to the examination, removal from the eligibility list, or for dismissal from the Personnel Service System if the person is employed prior to the discovery of a false answer or statement. The Personnel Officer shall designate persons authorized to accept applications. Applications for specific positions shall be accepted only during the period specified on the examination announcement. Applications submitted by mail shall be postmarked no later than the announced closing date. Late applications will not be accepted unless approved by the Personnel Officer because of unusual circumstances. Such determination shall be made a matter of record and similar circumstances in other examinations shall be treated equally.

III.A8 DISQUALIFICATION OF APPLICANTS

The Personnel Officer may refuse to examine an applicant for failure to meet requirements for admission to the examination. Applicants who do not meet the minimum qualifications shall be notified as soon as practical. If an applicant is disqualified following placement on an eligible list, the applicants's name shall be removed from the eligible list.

III.A9 NOTIFICATION OF ACCEPTANCE FOR ASSEMBLED EXAMINATION

Each applicant who has been accepted shall be given sufficient advance notice of the date, time and place of an assembled examination; inclusion of the requisite information on the examination announcement meets this notification requirement. No applicant shall be entitled to take an assembled examination at a date, time and place other than that stated in the notification unless specifically authorized by the Personnel Officer. The Personnel Officer shall not be responsible if a notice is lost in the mail or sent to an applicant's former address through failure of an applicant to report a change of address. Where mail service is not adequate to meet these notification appointments, oral notification in person, by telephone or by radio may be given if the foregoing time and content provisions are met and if such oral notification is properly documented.

III.A10 CONDUCT OF ASSEMBLED EXAMINATIONS

The Personnel Officer shall appoint a representative to administer the examinations at a time and date designated in the notification of acceptance for examination or the examination announcement.

III.A11 CANCELLATION OF EXAMINATIONS

Examinations may be canceled at any time by the Personnel Officer if there is no longer need for eligibles covered by the examination, or if the examination no longer meets the expressed requirements of the government.

III.A12 RATING OF EXAMINATIONS

- A. Examinations shall be rated by a qualified rating examiner from the Personnel Office.
- B. Appropriate statistical techniques and procedures shall be used in scoring and rating examinations and determining the relative ranking of candidates on competitive examinations. The final rating required to pass an examination shall be set by the ~~Personnel Officer~~ Commission who may also set minimum ratings for each part of the examination when the examinations are arranged in readily identifiable parts. The final earned ratings of each candidate shall be determined by combining the earned ratings of each part of the examination in accordance with the weights established for each part.

III.A13 REVIEWS OF EXAMINATION RESULTS

Any applicant may request a review of his/her rating within ten (10) calendar days following notification of examination results. Such request for review shall be addressed to the Personnel Officer, who shall comply with the request and make whatever changes, if any, the facts warrant.

III.A14 CHANGES IN RATING

Changes in rating may be made as a result of correction of errors in the scoring or rating process, or as a result of a request for review wherein the facts warrant a change. Correction of errors shall be applied equally to all participants. An amended notice of rating shall be reported to the applicants affected by such change in rating.

III.A15 ESTABLISHMENT OF ELIGIBLE LISTS

- A. Following the completion of an open competitive examination and rating process, the Personnel Officer shall establish eligible lists called "Registers of Eligibles", in which all candidates who receive an eligible or passing rating on the examination shall be

listed. The Register of Eligibles shall list the candidates in order of their respective ratings, highest rating first. When the Personnel Officer provides a list of eligibles to a management official, the names of those candidates with the highest rating shall be certified first. A Register of Eligibles shall be considered "established" when approved by the Personnel Officer.

- B. In the event a list of eligibles for any position contains less than five (5) names and the appointing authority deems the range of choice to be inadequate, the Personnel Officer shall announce a new examination.
- C. In the event two or more applicants have identical ratings, their names shall be placed according to their scores on the most heavily weighted portion of the examinations. If all portions are identical, the receipt time of their applications will determine priority. An open competitive list shall be certified by the Personnel Officer only after it has been determined that a qualified candidate is not available through the reemployment priority list or promotional examinations.

III.A16 CERTIFICATION FROM ELIGIBLE LISTS

- A. Appointments and promotions in the Personnel Service System shall be made from certified eligible lists resulting from examinations, except as otherwise provided by these regulations. The process of providing a list of eligible candidates to a selecting official is known as "Certification of Eligibles". A Certificate of Eligibles shall be drawn from among the highest rated candidates in precise numerical order, highest rate first. Where a list of eligibles exceeds five (5) names, only the top five (5) names shall be certified. The appointing authority shall be entitled to the certification of not less than five (5) eligibles for each vacancy, however, when less than five (5) persons comprise a list of eligibles, the appointing authority may accept the lesser number or return the list until sufficient names are available. If a selecting official intends to fill more than one position from the same examination at the same time, the number of names certified shall be increased by one eligible for each additional position to be filled, where possible.
- B. Requests for eligibles shall be made on forms prescribed by the Personnel Officer Director and shall clearly identify the position to be filled, including its position number. The Personnel Director shall furnish a list of eligibles to the Commission.
- C. The selecting official shall justify, in writing, to the Personnel Officer the non-selection of any Eligible with a higher rating than the candidate selected. Such requirement creates no special standing for the candidate(s) with a higher rating.

No person shall report to work nor receive a salary unless an appropriate personnel action has been

approved by the Personnel Officer or authorized representative.

III.A17 PROCEDURE WHEN ELIGIBLES ARE REQUIRED

Whenever eligibles are required, the Personnel Officer shall:

- A. Prepare the Examination Announcement;
- B. Administer the examination; and
- C. Establish an eligible list, as determined by the examination results.

III.A18 REMOVAL OF NAMES FROM ELIGIBLE LISTS

The Personnel Officer may remove the name of any person who has been disqualified under Part III.A8. The name of any person may also be removed if:

- A. The eligible candidate fails to respond within fifteen (15) calendar days from the date of dispatch of an inquiry as to availability for employment, provided that the name may be restored for reasons deemed sufficient by the Personnel Officer.
- B. The person is appointed from that list to a permanent position in the Personnel Service System.
- C. The eligible voluntarily withdraws.
- D. **There is evidence of physical or mental unfitness to perform the duties of the position, as indicated by appropriate medical examination.**
- E. **The eligible fails to report for duty within the time prescribed by the selecting official.**
- F. **The eligible is found to be no longer qualified to perform the duties required of the class of position.**
- G. **Intentional false statements, deception or fraud are included in the application or in the examination process or appointment.**

III.A19 SELECTIVE CERTIFICATION

Where the ~~Personnel Officer~~ OPM determines that a position has a special requirement which is not a general qualification requirement for that class of position, he may certify from the appropriate class eligible list those eligibles who meet that specific requirement. The list must be approved by the Commission.

III.A20 USE OF ELIGIBLE LISTS

Whenever a vacancy arises in the Personnel Service System, the official responsible for initiating the process to fill that position has the following options:

- A. When the position has promotional potential, the first option shall be to fill the position under the provisions of the Merit Promotion Program.
- B. When the position to be filled does not have promotional potential, the selecting officer may request certification from the appropriate reemployment priority list or eligible list or choose to redefine the position at a lower level and fill it through the Merit Promotion Program. If the position is in an established career ladder, it must be filled at the entry level unless there are overriding reasons not to do so. The Personnel Officer is authorized to grant exceptions to this procedure upon proper justification and approval from the Commission. Promotional examinations and Open examinations may be announced concurrently but the promotional list will be used first. Appropriate records of such approvals and associated material shall be maintained by the ~~Personnel Officer~~ OPM.

III.A21 DURATION OF ELIGIBLE LISTS

The life of an eligible list, other than the reemployment priority list, shall be for one (1) year, unless extended by the Personnel Officer. An eligible list may be extended up to one (1) year beyond its original expiration date. No person shall be retained on an eligible list beyond the period of extension of the original list. Remaining eligibles shall be combined with those on the new list for the remainder of the term of the original list. An open examination eligible list and a non-competitive examination eligible list shall be combined only as a non-competitive eligible list. If an eligible candidate successfully participates in a subsequent competitive examination and the resulting eligible list is combined with that of a previous competitive examination eligible list bearing the candidate's name, that eligible candidate may elect to have his/her name retained on a combined list, either at the position and for the remainder of the term of the original list or of the subsequent list, but not at both positions.

III.A22 ORDER OF USE OF ELIGIBLE LISTS

The following order shall be followed in the use of eligible lists:

- A. ~~Reemployment Priority List~~ Promotional List
- B. ~~Promotional List~~ Reemployment List
- C. Open Competitive List

III.A23 REEMPLOYMENT PRIORITY LIST

Any person who has held a permanent position in the Personnel Service and has resigned in good standing, terminated for medical reasons, or has been demoted or terminated through reduction-in-force shall be ~~permitted to have his/her name placed on a the~~ -reemployment priority list ~~(provided such person so requests in writing to the Personnel Officer) for the same or related class of position as such person last held under a permanent appointment.~~ The name of such person shall be placed on the reemployment priority list for the same or related class of position as such person last held under a permanent appointment. Names shall be arranged on the reemployment priority list in the chronological order of their separation from their respective competitive levels. Names shall be removed from the reemployment priority list at the expiration of three (3) years from the date of separation or demotion, or sooner if such person is reemployed in a position at the same or higher pay level as that such person formerly held in the Personnel Service System. The individual may be removed from the list if such person refuses a reasonable offer of employment. A reasonable offer is of the same position or one equivalent to that last held in the Personnel Service. For reemployment, the individual must be certified by the Director of Personnel as meeting the current minimum qualification requirement for the class to which reemployment is requested.

For purposes of being placed on the Reemployment Priority List, an employee employed under an excepted service contract shall be considered to be a person who has held a permanent position in the Personnel Service and has resigned in good standing, provided:

1. The employee was employed at the time of separation by a department, agency or instrumentality of government within the civil service system;
2. The employee termination of contract non-renewal was not for cause;
3. The basis for exemption from the civil service was 1 CMC subsection 8131(a)(2), Executive Order 94-3 Sec. 509(a) as it applies to division directors, or Executive Order 94-3 Sec. 509 (c).

III.B7 REEMPLOYMENT (Delete)

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PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III, SUB-PART B
POSITIONS AND APPOINTMENTS

III.B1 TYPES OF POSITIONS

All positions in the Personnel Service shall be identified in the records of the Office of Personnel Management as permanent, or such other status as is authorized by law.

III.B2 PERMANENT POSITION

A permanent position is a full-time position which is established based upon the continuing need of the Government and which is authorized to continue longer than one (1) year.

III.B3 TYPES OF APPOINTMENTS

Appointments in the Personnel Service System are placed in the classes defined in the following:

- A. Probationary Appointment. An appointment in which the appointee is selected from an eligible list resulting from an open examination to fill a permanent position. The appointee shall serve a period of ~~six (6) twelve (12) months and not more than twelve (12) months~~ from the beginning of the probationary appointment and shall demonstrate the capacity for ~~26~~ 52 consecutive weeks of satisfactory performance before being eligible to be converted to a permanent appointment. Separations during a probationary appointment are not processed under adverse action procedures or reduction-in-force (RIF).
- B. Permanent Appointment. An employee who has been appointed to a permanent position and who has satisfactorily completed a probationary period is entitled to the full benefits of these Regulations. Permanent appointment may be made to less than full-time positions with a regularly scheduled tour of duty.
- C. Limited-Term Appointment. A Limited-Term Appointment is to be used to fill positions for which there is a temporary need, to fill positions which have been funded for a limited period and projects with specific completion dates. A limited term appointment is not to be used to fill an FTE for a permanent position unless approved by the Commission.

A Limited-Term appointment is one in which the appointee is appointed for a specific period of not more than one (1) year. An employee serving a limited-term may serve in either a full-time or part-time position capacity. Limited-Term

Appointments are to be filled by competitive announcement. Any disciplinary action taken in respect to a Limited Term Appointee is subject to the adverse action procedure set forth in these regulations. The non renewal or reappointment of a Limited Term Appointee is not an adverse action. person given a limited term appointment must meet the minimum qualifications for the class of position to which appointed. Appointing authorities shall justify, in writing, to the Personnel Officer Management, requests for new Limited Term Appointments following expiration of one (1) year appointments. Limited Term Appointments may be converted to Permanent Appointments at the end of one year, if the position has been found to be permanent, provided that the employee has demonstrated the capacity for 52 consecutive weeks of satisfactory performance.

An employee may be reappointed or a new employee may be appointed to a Limited Term appointment following the expiration of the initial Limited Term Appointment, with the approval of the Civil Service Commission. The appointing authority shall justify, in writing, to the Civil Service Commission, requests for new Limited Term Appointments following the expiration of the term of the initial Limited Term Appointment.

After the expiration of the term of the initial Limited-Term appointment, the position filled by the Limited Term Appointment must be filled with a Permanent Appointment or a Limited Term Appointment approved by the Civil Service Commission within 180 days or the FTE position shall be eliminated in accordance with 1 CMC subsection 8135.

- D. Provisional Appointment. A provisional appointment is usually limited to ninety (90) days and is used to fill a permanent position in the absence of an appropriate eligible list. The Director of Personnel Management may authorize extension of a provisional appointment beyond ninety (90) days for a maximum of one hundred and eighty (180) days when the examination fails to make available an adequate number of qualified candidates. Any person given a provisional appointment must meet the minimum qualifications for the class of position to which appointed.
- E. Emergency Appointment. An emergency appointment may be authorized by the Director of Personnel Management for any one of the following purposes:
- (1) When a serious emergency exists; or
 - (2) To prevent stoppage of essential public services.

An emergency appointment shall be limited to thirty (30) calendar days but may be

extended by the Personnel Office Management if the appointing authority so requests in writing, when the cause is determined to be good and sufficient, and the extension does not exceed twenty (20) additional working days.

All persons receiving emergency appointments shall be required to meet the minimum qualification requirements of the class of position to which appointed.

- F. Temporary Appointment. A temporary appointment is utilized when it is anticipated that an employee will temporarily occupy a position for a period in excess of three (3) months. An employee can be temporarily promoted only if the employee meets the qualification standards of the new position. See Part IV.B6.
- G. "Acting" Appointment. An "acting" appointment is the official written ~~designation authorization that for an employee will to~~ act for a period of up to thirty (30) days ~~six (6) months~~ in place of a supervisor. When the supervisor's absence exceeds the initial thirty (30) day ~~six (6) month~~ period, a new ~~designation shall be made for an authorization for that employee to continue in the position for one additional~~ thirty (30) day ~~six (6) month~~ period may be issued or another employee may be appointed. ~~The thirty (30) day six (6) month renewal of an "acting" assignment may be repeated until the supervisor returns to the position. See Part IV.B7, for limitations on the granting of the additional six (6) months,~~ thirty (30) days.

~~Whenever the "acting" assignment exceeds ninety (90) days six (6) months, the employee shall be temporarily promoted/appointed to the position if the employee meets the qualification standards of the position. See Part IV.B7.~~

III.B4 PRE-EMPLOYMENT CONDITION STANDARDS

All persons ~~appointed~~ offered to positions in the Personnel Service System must be examined by medical personnel (see Part III.B5) and certified as physically capable of performing the duties of the position. They must be free from communicable diseases and any present or potential medical condition which would be detrimental to successful performance of duty or the health of other employees, or reflect discredit upon the Personnel Service System. ~~However, if a claim is made by a candidate or appointee that the condition constitutes a disability under the Federal Americans with Disabilities Act (ADA), the provisions of that act shall be followed, as applicable. Persons offered positions within the Civil Service must also submit to a urine test for the presence of drugs. See Part V.C6(A).~~

III.B5 ADMINISTRATION OF PHYSICAL AND MEDICAL EXAMINATIONS

Physical and medical examinations shall be administered by medical personnel authorized by the Commonwealth Government to conduct such examinations for employment purposes, and shall be recorded on forms prescribed by the Director of Personnel Management. Urine tests for candidates shall be conducted in accordance with Part V.C8.

III.B6 PROHIBITED ACTIONS

- A. Employment of any person without an approved personnel action is prohibited. Supervisors or management officials who permit an employee to report to work without an appropriate and formally approved personnel action shall be held personally liable for any claim for compensation resulting from such improper appointment as provided by 1 CMC §8101, et seq.
- B. ~~Retroactive personnel actions shall not be made unless approved by the Director of Personnel Management prior to commencement of such action.~~ No retroactive personnel action shall be approved.

~~III.B7~~ REEMPLOYMENT

~~An employee who has successfully completed a probationary period in the Personnel Service and subsequently left the Personnel Service in good standing for any reason shall may be granted reemployment eligibility for a period of four (4) years following the separation equal to the employee's total full years of creditable service with the Government. This means that the former employee may be reappointed to the former position in the Personnel Service at the same pay level and step that the employee held upon separation. For reemployment, the individual must be certified by the Director of Personnel as meeting the current minimum qualification requirement for the class to which reemployment is requested. If re-appointed to a higher or lower class, the employee shall be allowed to retain the former rate of pay.~~

~~The possession of reemployment eligibility does not thereby provide the person with any mandatory reemployment rights. This means that the individual may be considered for employment only after persons with higher rating on the reemployment priority list have been considered. If it is in the public interest, such person may be reemployed, provided such person meets the noncompetitive qualifications for the position to be filled.~~

III.B8 ORIENTATION

New employees shall receive a standardized orientation to government service as soon as is practical after being appointed, and at least within one month of appointment.

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PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III, SUB-PART C MERIT PROMOTION PROGRAM

III.C1 POLICY

To the maximum extent possible, the Personnel Service System Merit Promotion Program provides for filling vacancies above the entry level by promotion of highly qualified Personnel Service System employees. This policy does not restrict the right of appointing authorities to fill vacancies by transfer or other means when to do so is in the best interest of the government.

The Merit Promotion Program (MPP) is an integral part of the Personnel Service System manager/executive development plan and other programs in the area of staffing, training and manpower utilization.

III.C2 DEFINITIONS

- A. Position Change: A promotion, transfer or demotion during an employee's continuous service.
- B. Promotion: The change of an employee to a higher position class and pay level.
- C. Career-Ladder position: One of a group of positions in which an employee may be given successive promotions until the employee reaches the full performance level. All employees in positions in a career ladder must be given grade-building experience and training and may be promoted to the next higher level as they demonstrate ability to perform in a wholly adequate manner at the next higher level. Minimum time-in-grade requirements, where established, must be observed in making career ladder promotions.
- D. Current Competition: The selection process in which candidates compete with each other for a specific promotional vacancy.
- E. Promotion Competition: Those eligible candidates whose experience, training and potential substantially exceed the qualification standard for the position to a degree that they are likely to perform in a superior manner.
- F. Best Qualified Candidates: Those eligible candidates who rank at the top when compared with the other eligible candidates for a promotion within a general group, i.e., qualified or highly qualified.
- G. Position with Known Promotion Potential: A position which is to be filled below the specified performance level for the position. These may be trainee and understudy.

positions, career ladder positions and positions filled one or more levels below the established level.

III.C3 SCOPE AND COVERAGE

Competitive promotion procedures apply to:

- A. All competitive positions in the Personnel Service System when filled by promotion.
- B. Any position which is filled by a candidate at a basic pay level higher than the candidate's last position; and
 - (1) The position is filled by transfer;
 - (2) The position is filled by selection of a non-temporary Personnel Service employee from an eligible list following an open competitive examination; or
 - (3) The position is filled by detail for more than ninety (90) days duration. (NOTE: All periods of detail of an employee to the position during the preceding twelve [12] months, including promotion, are counted against the 90-day limitation.)
- C. Any position with known promotion potential which is filled by transfer or selection from the reemployment priority list.

III.C4 AREAS OF CONSIDERATION

As a minimum, areas of consideration should be broad enough to provide a reasonable number of highly qualified candidates and to give employees adequate opportunity for consideration for promotion.

- A. Normal Areas of Consideration. There are two different normal areas of consideration:
 - (1) Inter-island (Commonwealth-wide) for positions at pay level 22 and above; and
 - (2) Intra-island (within each island) for positions at pay level 21 and below.
- B. Broadened Area of Consideration. At the discretion of the Personnel Officer, the areas of consideration may be broadened to the extent necessary to provide a reasonable number of "highly qualified" candidates.

- C. Restricted Areas of Consideration. In exceptional circumstances, the area of consideration may be restricted upon prior approval by the Personnel Officer. For example, during a formal reorganization of one entity, the area of consideration may be restricted to the affected organization, provided no vacancies result from the reorganization.

III.C5 METHODS OF LOCATING CANDIDATES

When the Personnel Office processes a promotion request, it selects the appropriate method or combination of methods for locating candidate(s) to be entered into the promotion process record. The following methods are generally used, singly or in combination, depending upon the nature of the position and availability of candidates.

- A. Promotional Opportunity Announcement. A published announcement for posting and distribution and given maximum publicity within the area of consideration. The promotional opportunity announcement specifies:
- (1) Title, pay level and location of position(s);
 - (2) Opening and closing dates (not less than fifteen (15) calendar days);
 - (3) Area of consideration;
 - (4) Duties of the position, briefed;
 - (5) Conditions of employment, e.g., night work, hazards, standby, etc.;
 - (6) Qualification requirements, including selective placement factors, if any;
 - (7) How and where to apply;
 - (8) Non-discrimination statement; and
 - (9) Known promotional potential, if any.
- B. Restricted Area of Consideration. When positions are being filled from within a "restricted area of consideration", all eligible persons within that area must be considered.

III.C6 TRANSFER

An employee may be transferred, without change in pay level, either voluntarily or involuntarily, in order to meet changing program needs, to promote career development, to provide diversity of experience, or for other reasons. Transfers under this regulation are not subject to the promotion program unless the position to which transferred has known promotion potential. Transfers are made, wherever possible, from among employees who have requested such transfers. However, management may direct lateral transfers from among all qualified Personnel Service System employees when required by the needs of the service and in accordance with applicable personnel regulations.

III.C7 QUALIFICATION STANDARDS

The minimum qualification standards prescribed by the Personnel Officer are used for promotion purposes. Selective placement factors also may be used, but only when they are essential to successful performance in the position to be filled. When selective placement factors are used, they become part of the minimum qualifications for the position.

Qualification standards (including any selective placement factors used) must be established and made a matter of record prior to the start of the promotion process for any specific position. All employees who meet the minimum qualification standards (including selective placement factors) have basic eligibility for promotion. The standards must be applied fairly and consistently to all employees being considered. Written or performance tests shall be used if they are prescribed by the Personnel Officer.

For supervisory positions, supervisory qualifications are prescribed by the Personnel Officer. They may be supplemented by specific subject matter (non-supervisory) qualification standards for the classification series of the position.

III.C8 CONDITIONS OF EMPLOYMENT

There are conditions of employment which are considered implicit to successful performance in certain positions. These conditions may relate to hours of work, physical or medical standards, maintenance of a license, maintenance of a health standard, availability during off-hours, frequent need to travel and so on. Such conditions should be made part of the promotion record, the promotion opportunity announcement and the classification standard or, as a minimum, the position description.

Candidates selected for the position must be advised of the conditions and acknowledge those conditions in writing. ~~However, with respect to physical or medical standards, if a candidate claims a disability under the federal Americans with Disabilities Act (ADA), the provisions of that act shall be followed, as applicable.~~

III.C9 EVALUATION PROCESS

Since the Merit Promotion Policy requires that the selection be made from among the best qualified candidates, the evaluation process must go beyond basic eligibility to rank the candidates in meaningful array. When properly used, the evaluation process should:

- A. Provide a sound basis for comparing and judging candidates in relation to the knowledge, skills, abilities and personal characteristics that contribute to successful performance in the position.
- B. Identify those qualities which demonstrate a candidate's potential for future promotion, when the job being filled leads to further advancement.
- C. Distinguish between the knowledge and skills that an employee must have at the time of promotion and those the employee can acquire quickly after promotion, through experience and training.

In selecting the proper method of evaluating candidates, recognition should be given to the future staffing needs of the organization as well as the current requirements of the positions to be filled.

III.C10 EVALUATION MEASURES

The various measures for evaluating candidates are:

- A. Written Tests. A written test may be used in the evaluation process, but may not be the sole means of evaluation. Written tests must be approved by the Personnel Officer or meet such standards as established by the Personnel Officer.
- B. Appraisal of Performance. A supervisory appraisal must be obtained for every employee who is qualified. Appraisals may be obtained from supervisors other than the employee's immediate supervisor.
- C. Experience. In evaluating experience the objective is to determine how closely the experience relates to the new position or level of work. Length of service is a factor only when there is a clear and positive relationship with quality of performance.
- D. Awards. In considering awards received by the candidates, the weight assigned must be based on those elements necessary to successful performance for the position to be filled.

- E. Training. An appropriate weight is given for pertinent training, self-development and outside activities which would increase the employee's potential or effective performance in the position to be filled.
- F. Education. Education may be considered only if it is clearly job-related or if it provides a measure of the learning ability essential for genuine trainee positions.
- G. Qualifications Investigation. A qualification investigation may be used to assist in determining experience, training, degree of responsibility exercised and effectiveness. Inquiries may be made to assist in judging how well a candidate is likely to perform at a higher level or in a different kind of work.
- H. Oral Interview. Individual or group interviews may be held. Oral questions may relate either to subject matter knowledge or to other matters pertinent to the position or the candidate. If oral questions are in the nature of a test, the same questions and sequence must be asked of each candidate and a record of their answers made part of the promotion record.

III.C11 SELECTION PROCEDURE

- A. Selection is based on the selecting individual's judgment of how well the candidate will perform in the position to be filled and the candidate's potential for advancement. When there are less than five (5) names available, the selecting authority is not required to select someone from the merit promotion certificate. However, if returning the certificate the selecting authority must state how the position will be filled.
- B. If the selecting authority disagrees with the merit promotion certificate, objections must be stated in writing with a request for the Personnel Officer to review the rankings.
- C. The selecting authority notes the name of the person selected on the merit promotion certificate. Reasons for selection do not have to be cited. The Personnel Officer notifies all eligible candidates of the selection including the person selected.
- D. When the promotion involves a move between organizations, the effective date is negotiated, and barriers may not be placed against the employee's release by the losing organization. The interval between notification of selection and the release date may not be more than thirty (30) calendar days unless agreed to by the gaining organization. When the move between organizations also involves a move between islands, the appointing authority concerned must give prior approval of the selection.

- E. When a first-line supervisory position is filled, a determination is made as to the amount of supervisory training needed to meet the standard. The selecting individual and Personnel Officer will determine and, where necessary, schedule the training needed to meet the standard.

III.C12 INFORMATION TO EMPLOYEES

- A. Employees' acceptance and support of the Civil Service System promotion program depends to a large extent on how well they understand its purpose and operation and are aware of its effect on them individually. The program does not guarantee a promotion to every employee, but it does give every employee an opportunity for fair consideration.
- B. New employees will receive promotion program information as part of their orientation. All employees will receive this information from time to time.

III.C13 EMPLOYEE QUESTIONS AND COMPLAINTS

- A. Employee Questions. Any employee who has filed in response to a promotional opportunity announcement or who has been considered for promotion may present questions to the Personnel Office which handled the vacancy, within seven (7) calendar days after receipt of notification of selection. Questions may be submitted in person, in writing, or through a representative. Among other considerations, an employee is entitled to know:
- (1) The level of eligibility for a specific promotion;
 - (2) If considered for specific promotion and, if so, whether found eligible;
 - (3) If in the group from which selection was made; and
 - (4) Who was selected for the promotion.
- B. Employee Complaints. If the employee is dissatisfied and the matter cannot be resolved on an informal basis, the employee may have recourse to Part III.G, Grievance Procedure. Mere failure to be selected for promotion when proper promotion and selection procedures were used is not a basis for a formal complaint.

III.C14 REVIEW OF PROMOTION PROGRAM

The Personnel Officer appraises the operation of the Merit Promotion Program at least once a year as part of the personnel management evaluation process to assure:

- A. Promotion guidelines and plans are effective as possible;
- B. The promotion program is useful to management;
- G. Promotion actions are taken promptly and in conformance with the plan;
- D. Employee complaints are handled promptly and properly;
- E. Promotion actions are used effectively to encourage competent employees, to open expanded careers to them, and to make the best use of their skills; and
- F. Employees, supervisors and managers have a full understanding of the promotion program process.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III, SUB-PART D
SUSPENSIONS, SEPARATIONS AND DEMOTIONS

GENERAL: This sub-part applies to suspensions, furloughs, separations and demotions not resulting from reduction-in-force (RIF).

III.D1 SEPARATIONS NOT INVOLVING PERSONAL CAUSE

- A. **Resignation.** Resignations shall be in writing and shall be submitted at least fourteen (14) calendar days in advance of the effective date. The Personnel Officer may designate management and highly skilled technical classes for which this period may be extended to thirty (30) days.

The appointing authority shall submit a copy of the written resignation and the necessary terminating documents to the Personnel Office for consummation of the action. Withdrawal of a resignation may be permitted provided:

- (1) The employee's wishes are made known, in writing, prior to the effective date; and
- (2) The appointing authority agrees to the proposed withdrawal.

- B. **Exit Interview.** An exit interview shall be scheduled and conducted during working hours by the Personnel Officer or his designee for employees upon notice of resignation or retirement. Such interview shall include questions on the reasons for separation and counseling on benefits. The Personnel Officer or his designee shall not process exit documents until the interview is completed. If circumstances make such interview impractical, an employee may ask the Personnel Officer to waive this requirement.

- C. **Retirement, Voluntary.** An employee may be separated for the purpose of voluntary retirement, provided the employee meets the eligibility standards for age and service covered under the Northern Mariana Islands Retirement Program.

- D. **Termination for Medical Reasons.** When an employee contracts an infectious or contagious disease which endangers the health of others, or becomes mentally incapacitated, or is otherwise permanently physically disabled for the satisfactory performance of duties of the position to which assigned, the Personnel Officer may terminate the employee provided:

- (1) No suitable reassignment can be made within the department or location to which the employee is assigned; and

- (2) Medical examination procedures, as outlined in Part III.B5, have been complied with.

~~However, if a claim is made by the employee that the medical reason constitutes a disability under the federal Americans with Disabilities Act (ADA), the provisions of that act shall be followed, as applicable.~~

An employee whose services are terminated under this part may be eligible for disability retirement under the NMI Retirement Program. The responsibility for applying for disability retirement rests with the employee although it is the responsibility of the Personnel Officer to assure that the employee is aware of such an opportunity.

- E. Voluntary Demotion. An employee may volunteer for demotion to a lower class of position at a lower pay level. The approval of such a request by the appropriate management officials must be contingent upon the following factors:

- (1) A vacant position in the class and pay level must be available within the jurisdiction of the management official concerned.
- (2) No additional cost shall accrue to the government as a result of or incident to the demotion action.
- (3) The salary of the demoted employee in the lower level position shall be set at the same numerical step in the lower level position as the employee received in the higher position.

III.D2 FURLOUGHS, SUSPENSIONS, SEPARATIONS FOR PERSONAL CAUSE, AND DEMOTIONS FOR DISCIPLINARY REASONS (ADVERSE ACTION)

- A. Authority to take Adverse Action. Unless specified by law, the authority to hire is followed by the authority to effect adverse actions. For this purpose, appointing authorities shall include the Governor, the Lieutenant Governor, staff officers, the Personnel Officer, department directors-secretaries, resident department heads and chairpersons of boards and commissions. These persons may delegate, in writing, authority to effect adverse actions to division heads of departments, or to executive directors of boards and commissions. The authority to effect adverse actions may not be further delegated or redelegated. Throughout this part the term "appointing authority" will refer only to an individual who is specifically granted authority by this part to effect adverse actions.

- B. Employee Coverage. This part applies to all permanent employees of the government, as provided under Constitutional Amendment No. 41 and 1 CMC §8101, et seq., except:
- (1) Employees whose appointments must be made with the advice and consent of the Legislature;
 - (2) Employees, temporarily promoted, to be returned to their former positions from which temporarily appointed;
 - (3) Employees and appointees in positions excepted by the Commonwealth Constitution;
 - (4) Employees under the Offices of the Mayors as stated in 1 CMC §5101, et seq.; and
 - (5) Employees hired under special contracts for a specified term not to exceed one (1) year.
- C. Merit of Adverse Action. An action against an employee may not be taken under this part except for "such cause as will promote the efficiency of the service."
- D. Admonishment. An admonishment is an informal disciplinary measure. A manager or supervisor may discuss at any time minor deficiencies in performance or conduct with the objective of improving an employee's effectiveness. Admonishments shall not be made a matter of record.
- E. Reprimand. A reprimand is a formal means of calling to an employee's attention minor deficiencies in performance or conduct which, if continued, may result in further disciplinary measures. It is the first formal step in the disciplinary process. Reprimands are always in writing and should contain specific references to performance deficiencies, citations of instances of misconduct, and a warning that more stern disciplinary measures may be taken if the employee's performance or conduct is not improved. A copy of the reprimand becomes a part of the employee's Official Personnel Folder (OPF). There is no recourse to formal appeal processes as a result of a reprimand, however, an employee who feels a reprimand is not justified may resort to the Grievance Procedure. (See Part III.G.)
- F. Furlough. A furlough is an action placing an employee in a non-duty and non-pay status because of lack of work or funds. It is an adverse action if for a period of

thirty (30) calendar days or less. Furloughs of more than thirty (30) calendar days are reduction-in-force actions and shall be accomplished using reduction-in-force procedures. (See Part III.E.)

- G. Suspension Not to Exceed Three (3) Working Days. A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons for a period not to exceed three (3) working days. There is no formal appeal from such a suspension, although the employee may resort to the Grievance Procedure if the employee feels the suspension is improper or not justified. (See Part III.G.) A suspension without pay for periods less than five (5) working days shall only be imposed in respect to an employee who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA). An employee who is exempt from the overtime provisions of the Fair Labor Standard Act (FLSA) shall receive suspensions without pay for not less than five (5) working days. The period of suspension shall consist of five (5) work day periods, for example, five (5) days, ten (10) days and fifteen (15) days. Suspensions in respect to an exempt employee shall be served on consecutive days and for entire workweeks.
- H. Suspension for More than Three (3) Working Days. A suspension is an action placing an employee in a non-duty and non-pay status for disciplinary reasons. Appointing authorities authorized to take adverse actions may suspend an employee for such cause as will promote the efficiency of the government service, provided all adverse action procedures are followed.
- I. Abandonment of Job. ~~An employee absent without leave (AWOL), without valid reason, for a combined total of ten (10) working days in any twelve (12) month period may be terminated from employment for job abandonment, provided all adverse action procedures are followed.~~
Unexplained absence for any number of days from the workplace constitutes abandonment of job and is considered voluntary resignation. An employee absent without leave (AWOL) without valid reason for any number of days shall be terminated from employment for job abandonment, provided all adverse action procedures are followed.
- As of the last day of such AWOL, the employee's absence may be considered in effect a resignation. An appointing authority may cancel such termination, however, if it determines that circumstances warrant such cancellation. ~~Nothing in this section shall preclude an appointing authority from taking disciplinary action against an employee for absence without leave.~~
- J. Removals. Appointing authorities may take removal action against an employee for

just cause provided all adverse action procedures are followed.

K. Reduction in Rank or Pay. Appointing authorities may take action to reduce an employee in rank or pay for cause.

- (1) "Reduction in rank" means more than one numerical grade or pay level under the classification system. Basically, it means lowering an employee's relative standing in the organizational structure as determined by the employee's official position description. An employee's position assignment may be changed only by an official personnel action. When an employee is made the subject of an official personnel action which results in lowering the employee's relative standing in the organizational structure, a reduction in rank has occurred even though there has not been a reduction in class or pay level. Such actions may be taken only under adverse action procedures.
- (2) "Reduction in pay" means reduction in basic class and pay level of an employee. The base pay is fixed by law or administrative action. Base pay does not ordinarily encompass extra or additional payment for special conditions or duties which are generally regarded as premium pay or allowances. To reduce class and pay level for disciplinary reasons, appointing authorities authorized to take such actions must follow adverse action procedures.

L. Separation during Probation

- (1) If it becomes evident during the probationary period that the employee lacks the ability, attitude or desire to become an efficient and productive employee in the position to which appointed, or there is lack of funds or work to be done, that employee shall be separated from the service. ~~However, if the probationary employee claims that the apparent lack of ability, attitude, or desire is due to a disability under the Americans with Disabilities Act (ADA), the provisions of that act shall be followed, as applicable.~~
- (2) Appointing authorities who find it necessary to separate an employee during probation shall provide the employee with not less than fourteen (14) calendar days notice, in writing, specifying the reasons for the separation. The employee shall be afforded the right to discuss the situation with the management official next above the one initiating the separation. If such management official does not make a final decision known to the employee before the separation date, the employee may seek the assistance of the

Personnel Officer to have the separation date extended for an additional fourteen (14) calendar days. The Personnel Officer may reject such request for good cause.

- (3) Grievance, adverse action or reduction-in-force procedures do not apply to separations during probation.

M. Procedure for Taking Adverse Actions. Appointing authorities must observe certain procedural requirements when processing adverse actions covered in this sub-part. These procedural requirements are presented here in abbreviated form. A letter of the proposed adverse action, other than an admonishment or reprimand, must be reviewed by the Personnel Officer and the Attorney General, or their designees, before issuance. Procedures for removal, suspension for more than three (3) working days; reductions in rank or pay; and furlough without pay, except for furloughs due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring curtailment of activities, are as follows: and reduction in rank or pay are as follows:

- (1) The appointing authority must give the employee at least thirty (30) days advance written notice of the proposed action that an adverse action is being processed. The letter shall identify the type of action being proposed. It shall state the reasons for the proposed action, specifically and in detail. No adverse action will be considered for any reason not stated in the notice. In the event that criminal charges are filed against an employee, the employee shall be immediately suspended without pay, reassigned, or subject to such other action as management may deem necessary. In the event the charges are dismissed or the employee is found not guilty, the employee shall be reinstated with benefits and pay retroactive to the date of suspension.
- (2) ~~The notice must state any and all reasons for the proposed action specifically and in detail.~~
- (2) The employee has the right to answer the notice of proposed adverse action personally and/or in writing within twenty (20) calendar days from the date of receipt. Unless placed on leave without pay, as permitted in paragraph 4, below, during the twenty (20) day period the employee will be granted three (3) days of administrative leave. The employee shall be allowed not more than twenty (20) days to answer the notice of proposed action. Except as noted in Item 5 below, three (3) work days within the allowed twenty (20) days shall be official time in which to secure affidavits and prepare an answer. The Personnel Officer may extend official time not to exceed the administrative

leave for no more than three (3) additional work days. Extension of the administrative leave does not extend the time within which the answer is due.

- ~~(4) — If the employee answers, management must consider that answer.~~
- (3) The appointing authority must give the employee a written final decision. Although earlier delivery is encouraged, the final decision effecting an adverse action must be given to the employee no later than the end of the working day prior to its effective date, unless good cause is shown for a delay. The final decision must also:
- (a) State whether the employee submitted an answer to the notice of proposed adverse action and, if an answer was submitted, how that answer affected the final decision;
 - (b) State which of the reasons given for the adverse action are sustained and which are not sustained;
 - (c) Indicate that any answer submitted by the employee was considered and what effect that answer had on the final decision;
 - (d) State on what evidence the final decision was based; and
 - (e) Give notice of the employee's appeal rights.
- (4) If at all practicable, the employee must be kept on active duty in his or her the regular position during the notice period until the agency issues its final decision on the adverse action. In an emergency, however, the employee may be reassigned or suspended during the advance notice period and placed on Leave Without Pay (LWOP) or, with the employee's consent, carried on annual leave. The employee shall not be eligible for advance annual leave. The following situations are to be considered emergencies, however, other circumstances may also be adequate to justify leave without pay (LWOP):
- (a) If the allegations on which the adverse action is based leads to the filing of criminal charges against an employee.
 - (i) If the criminal charges are dismissed or the employee is found not guilty before the agency issues its final decision on the adverse action and the employee had been on leave without pay (LWOP), the employee

shall be reinstated with benefits and pay retroactive to the date of leave.

- (ii) If the appointing authority has already issued a final decision sustaining the proposed adverse action before the criminal charges are resolved, a suspended employee will not be reinstated, even if the resolution of the criminal charges was favorable to the employee.
 - (iii) A favorable resolution of the criminal charges does not eliminate the need to resolve the adverse action based on the same allegations.
- (b) If an adverse action is based on conduct prohibited by Part V.C3 and the employee was involved in a fatal accident. See, Part V.C4.D.
 - (c) If an adverse action is based on conduct prohibited by Part V.C3 the employee shall not be allowed to perform safety-sensitive functions. See, Part V.C4.D.
- (5) An employee may appeal the final decision on an adverse action by filing A notice of such appeal with the Civil Service Commission within fifteen calendar days after the final decision is received by the employee. See, Part III.F3.
 - (6) Management must give the employee a written decision before the adverse action is effected. The decision must state which of the reasons in the advance notice have been found sustained and which have been found not sustained.
 - (7) The decision must tell the employee of appeal rights.
 - (8) Advance written notice and opportunity to answer are not necessary if the employee is furloughed due to unforeseeable circumstances, such as sudden breakdowns in equipment, acts of God, or emergencies requiring curtailment of activities.

STEPS FOR AN ADVERSE ACTION

1. ~~ADVERSE ACTION PROCEDURAL SYSTEM~~
2. MANAGEMENT OFFICIAL'S LETTER OF PROPOSED ADVERSE ACTION
3. EMPLOYEE'S ANSWER AND/OR PRESENTATION OF EVIDENCE
4. MANAGEMENT OFFICIAL'S LETTER OF DECISION
5. EMPLOYEE'S WRITTEN APPEAL TO CIVIL SERVICE COMMISSION
6. CIVIL SERVICE COMMISSION HEARING (If requested)
7. CIVIL SERVICE COMMISSION DECISION

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PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART III, SUB-PART E REDUCTION-IN-FORCE (RIF)

GENERAL: This sub-part establishes the general regulations under which reduction-in-force shall be accomplished. These regulations concern the removal or reduction in class or pay level of employees because of lack of work or funds, ~~or other management requirements to promote efficiency, or in the interest of economy,~~ but not for disciplinary reasons. An appointing authority should exhaust all administrative alternatives to place the employee in another equivalent position before reduction-in-force procedures are instituted.

III.E1 POLICY

It is the policy of the government, within its available resources, to provide job security to every employee. When it becomes necessary to reduce the work force, every effort will be made to ensure that the reduction is accomplished with a minimum disruption in operations and a minimum negative impact on each employee affected.

III.E2 COVERAGE

This part applies to all ~~permanent employees of the government, as provided under 1 CMC §8101, et seq., and Constitutional Amendment No. 41, except:~~ Civil Service employees.

- A. ~~Employees whose appointments must be made with the advice and consent of the Legislature;~~
- B. ~~Employees, temporarily promoted, to be returned to their former positions from which temporarily promoted;~~
- C. ~~Employees and appointees in positions excepted by the Commonwealth Constitution;~~
- D. ~~Employees under the Offices of the Mayors as stated in 1 CMC §5101, et seq.;~~
- E. ~~Employees hired under special contracts for a specified term not to exceed one (1) year; and~~
- F. ~~Temporary or probationary employees.~~

III.E3 REDUCTION-IN-FORCE PLANNING

When it becomes evident that reduction-in-force (RIF) must be made, the appointing authority concerned shall provide the Personnel Officer and employees subject to RIF, written notice of intention to take RIF action at least sixty (60) days in advance. The appointing authority shall then institute administrative procedures to assure that all legitimate possibilities for reassignment have been exhausted and that formal reduction-in-force is the only remaining alternative. All departments and agencies shall be required to freeze all non-essential personnel actions on positions substantially similar or closely related to those occupied by employees who are subject to RIF. For example, if a department decides to RIF an Accountant III, there shall be no recruitment, promotion, transfer, reclassification or related action to be taken on substantially similar or closely related positions such as Accountant I and II, Accounting Technician class series, or other fiscal positions. Each department /agency head shall maintain records of RIF computations and each notice of RIF; a copy of which shall be furnished each employee who has been identified for RIF and the Civil Service Commission.

A copy of the departmental/agency RIF list shall be posted on the department's/agency's official bulletin board accessible to employees.

III.E4 COMPETITIVE PROCESSES

Detailed competitive processes shall be established by the Personnel Officer to assure equitable competition, recognition of seniority and tenure and protection of the public interest. For administrative purposes, competition shall be limited by the establishment of competitive areas and recognition of competitive levels.

A. Competitive Areas. For all positions:

- Area 1 Saipan
- Area 2 Rota
- Area 3 Tinian
- Area 4 Northern Islands

B. Competitive levels. Competitive levels are comprised of all positions within a competitive area which consist of the same or closely related duties, have essentially the same qualifications and are in the same class and pay level.

C. Competition Within a Competitive Level. When a position is abolished within a competitive level, the incumbent shall displace the employee with the lowest retention standing in that competitive level. Persons occupying positions under limited-term appointments in the competitive level shall be terminated before RIF competition is instituted.

If an employee whose position is abolished does not have sufficient retention standing to displace another employee, that employee shall be released from the competitive level to exercise retreat rights or assignment rights or be separated from the service.

D. Retreat Rights. When an employee has insufficient retention standing to compete within that employee's competitive level, the employee shall compete down the line of promotion. This is known as the exercise of Retreat Rights. An employee released from a competitive level may displace the employee with the lowest retention standing below that of the released employee in the highest competitive level from which promoted. The employee shall continue to compete at successively lower levels along the line of promotion until placed or if placement cannot be made, separated by reduction-in-force.

E. Creditable Service for Reduction-in-Force.

~~(1) Trust Territory Public Service experience since United States administration took over (including WAE until June 30, 1972).~~

~~(a) Includes trainees. Includes employment under 61 TTC, Paragraph~~

~~9(d), (f), (h), (l), (m), (n), and (o).~~

- ~~(b) By Personnel Officer memorandum dated January 26, 1972, to all Trust Territory of the Pacific Islands (TTPI) departments and districts, WAE appointments were to be terminated or converted to appointments per Administrative Directive 72-1 dated January 26, 1972. WAE appointments until June 30, 1972, are to be considered as full-time employment and service credited accordingly. After June 30, 1972, for WAE or intermittent employment, time actually worked will be used to compute creditable service.~~
- (2) ~~Marianas administration under U.S. Navy and NTTU. Until 1962, when TPI Headquarters moved to Saipan, the Marianas (Saipan and Tinian) were under Naval Administration. Rota was already included in TTPI Administration prior to 1962.~~
- ~~(3) Personnel under municipal governments.~~
- ~~(4) All employment within TTPI including: Peace Corps, Micronesian Claims Commission, National Weather Service and U.S. Coast Guard.~~
- ~~(5) U.S. military and civilian service in the Trust Territory. Active military service in United States Armed Forces; civilian service with the U.S. Armed Forces in the TTPI.~~
- ~~(6) Employees of judiciary and legislative branches (Congress of Micronesia, municipal councils and district legislatures). Judiciary, including district court judges who may have been or are presently on WAE appointments.~~
- (7) Service in the Commonwealth Government since April 1, 1976.
- ~~(8) Trust Territory Government employment under the Seaman's Act.~~
- (9) Employees of government agencies and instrumentalities within the Commonwealth.
- F. Retention Standing. Retention standing is derived by allotting (1) one point for each year of creditable service, and two (2) points for an exceptional overall rating of 4.2 or better. In competing with other employees for retention in a competitive level, the individual with lowest retention standing shall be released first. (See Part VIII.E.)
- G. Reemployment Priority Lists. Employees serving under permanent appointments who

are separated by reduction-in-force shall be placed on an appropriate reemployment priority list for three (3) years or until returned to duty in a permanent position in the Personnel Service System. An appropriate reemployment priority list is the one established for the class and pay level from which the employee was finally separated.

III.E5 LIMITATIONS ON COMPETITION

- A. Obligated positions are positions from which the incumbent is temporarily absent because of:
- (1) Approved educational leave;
 - (2) Temporary promotion; or
 - (3) Detail to another activity.
- B. Employees who are incumbents of obligated positions shall not be placed in RIF competition until they have been returned to duty in the obligated position. Similarly, obligated positions shall not be abolished until the employee returns to duty in that position. The Personnel Officer, having jurisdiction over an obligated position, must keep a record thereof in such form or manner that will assure recognition and protection of the obligated position and its incumbent.

III.E6 TENURE GROUPS

For the purposes of reduction in force, Personnel Service employees shall be classed in tenure groups as follows:

- A. TENURE GROUP I
All permanent employees.
- B. TENURE GROUP II
Employees serving in a probationary appointment.
- C. TENURE GROUP III
Employees serving in limited term or provisional appointments.

III.E7 FURLOUGH AND SEPARATION

- A. The Personnel Officer may use furloughs for more than thirty (30) days if there is reasonable assurance that the employees furloughed will be returned to duty within

the next twelve (12) months. If there is reasonable doubt regarding the return to duty of furloughed employees, then the appointing authorities concerned must separate the employees found to be in excess of managements's needs and proceed according to reduction-in-force procedures.

- B. A combination of furlough and separation may be used to clear the rolls of excess employees, provided no employee is separated while furloughed employees with lower retention standing are kept in furlough status.

- C. Furlough for thirty (30) days or less may be used for clearing the rolls temporarily, not to exceed thirty (30) days when there is positive assurance that employees so furloughed can return to duty within the 30-day period. Adverse action procedures must be used to place an employee in furlough status for thirty (30) days or less.

III.E8 VACANT POSITIONS

During reduction-in-force situations, management has no obligation to fill vacant positions by placement of employees whose positions have been abolished or who have been released from their competitive level.

III.E9 ASSIGNMENT RIGHTS (Bumping)

- A. Employees released from their competitive level who have exhausted their retreat rights without success may exercise assignment rights provided they:
 - (1) Meet the qualification requirements and other standards for the position established by the Personnel Officer;
 - (2) Meet any special qualifying condition which has previously been approved by the Personnel Officer; and
 - (3) Have the capacity, adaptability and special skills needed to perform satisfactorily the duties and responsibilities of the position without undue disruption of the activity. For the purposes of this sub-part, an undue interruption occurs only if the employee placed in a position through assignment requires more than ninety (90) calendar days training to reach the full performance level for the position. For employees in professional categories such as medical and dental doctors, attorneys and engineers, and other positions requiring, as a minimum qualification, a four-year degree from a recognized college or university, the training period may be extended to one hundred eighty (180) calendar days.

- B. An employee in Tenure Group I exercising assignment rights may displace another permanent employee with lower retention standing in another competitive level that requires no reduction or the least possible reduction, in representative rate (Step 5 in any pay level).

III.E10 TRANSFER OF FUNCTION

- A. Function defined. For the purpose of these regulations, "function" means all or a clearly identifiable segment of an entity's mission and the integral parts of that mission, regardless of how performed.
- B. Transfer of employees. Before a reduction-in-force is made in connection with the transfer of any or all of the functions of an entity to another continuing entity, each competing employee in a position identified with the function or functions shall be transferred to the continuing entity without change in the tenure of employment. An employee whose position is transferred solely for liquidation and who is not identified with an operation function specifically authorized at the time of transfer to continue in operation more than sixty (60) days is not a competing employee for other positions in the receiving entity.
- C. Change of location. A change of location of a function does not automatically qualify as a transfer of function. The function must move from its commuting area at the time of the transfer to a new commuting area. Consolidation of activities, reorganizations or other changes not involving a move to another commuting area do not qualify as a transfer of function for the purpose of these regulations. A function transferred for the purpose of liquidation is not a "function" for the purpose of this regulation and therefore should not be treated as a transfer of function.
- D. Failure to accompany a function. An employee in a position in a function which is to be transferred, who does not intend to accompany the function to the new location and so indicates in writing to management, shall be separated from the Civil Service using the adverse action procedures in Part III.D.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

**PART III, SUB-PART F
EMPLOYEE APPEALS**

III.F1 GENERAL

This sub-part establishes the Personnel Service Appeals System. Any permanent employee of the Personnel Service may appeal a decision to take adverse action resulting in dismissal, suspension (more than 3 days), demotion, reduction-in-force, and an "unsatisfactory" or "satisfactory" performance rating. The provisions of this subpart apply to appeals pursuant to 1 CMC §8116(c) and §8134(a). Any person aggrieved by any action of the Personnel Officer or management or who has been suspended, demoted, or dismissed may appeal to the Civil Service Commission for redress.

III.F2 RIGHTS OF THE PARTIES

In any appeal the appealing employee and the appointing authority have certain rights which shall not be denied. These include:

- A. Right to a Hearing. Upon the filing of an appeal by an employee, both the responsible management official and the employee are entitled to a full and fair hearing before the Civil Service Commission or a hearing officer designated by the Commission, to present evidence and to be represented by counsel

Only one (1) hearing will be held, unless the Commission determines that unusual circumstances require an additional hearing. It should be noted that the hearing provided by this sub-part is separate and distinct from the employee's answer and presentation of evidence in response to a letter of proposed adverse action. Any evidence may be presented at the hearing which the Commission or hearing officer allows, that bears on the issue of whether adverse action taken was justified and proper.

- B. Denial of a Hearing.

- (1) The Commission may make the determination to deny a hearing on the appeal when a hearing is impractical by reason of unusual location or other extraordinary circumstance. In this event the Commission must notify both parties in writing of the reason(s) for denying a hearing.
- (2) If the Commission determines that no hearing is reasonably possible, the

appointing authority and the employee will be notified to submit, in writing, any additional evidence they desire to present on the issues so that a decision can be made on the record without a hearing.

- C. Freedom from Reprisal or Interference. Unless an employee feels free to use the appeal system, the system will not serve the intended purpose of giving a means for review of dissatisfaction. An employee and the employee's representative, therefore, must be free to use the system without restraint, interference, coercion, discrimination or reprisal.

An employee, whether acting in an official capacity for the government or on any other basis, must not interfere with, or attempt to interfere with, another employee's exercise of rights under this sub-part. To be fully effective, the spirit as well as the letter of the requirement must be enforced. It is not enough for an official to abstain from overt acts or interference. The official must also refrain from making any statement or taking any action that has the appearance of a threat, interference or intimidation.

- D. Employee Representation. The Employees may be represented before the Commission by an attorney or any other representative of their choice.

(1) A Representative shall enter his appearance in an action by filing with the Commission an entry of appearance which shall include the written approval of his client and shall also contain the address and telephone number of the Representative.

(2) By entering his appearance before the Commission, the Representative becomes subject to the Orders of the Commission. By agreeing to be a Representative, the Representative assumes an ethical and agency relationship with the Employee that he represents.

(3) A Representative may withdraw from representing an Employee by providing the Commission with a written notice of withdrawal containing the current telephone number and mailing address of the employee and containing a certification that the notice of withdrawal has been served on the employee.

- E. Government Representation. The appointing authority's representative at Civil Service Commission hearings must be the Attorney General or designee.

- F. Employee Entitled to Official Time to Prepare an Appeal. Employees are entitled to a reasonable amount of official time to prepare their appeal if they are otherwise

in an active duty status. If the employees' representatives are employees of the government, they are also entitled to a reasonable amount of official time to prepare the appeal if they are otherwise in an active duty status. Both the employees who appeal and the employees who act as representatives shall make arrangements with the Director of Personnel Management for use of official time. The Director of Personnel Management shall determine the reasonable amount of official time that is to be granted and will inform the supervisors of the employees and of the employees' representatives. The time to Personnel Management shall determine the reasonable amount of official time that is to be granted and will inform the supervisors of the employees and of the employees' representatives. The time to be allowed must necessarily depend on the facts and circumstances of each case, e.g., the number and nature of the reasons stated in the letter of decision, the specifics, the volume of the supporting evidence compiled by the management official, the availability of documents, witnesses, assistance at the employee's place of employment and similar considerations. If preparation requires more official time than was originally considered reasonable, the employees or their representatives may request the Director of Personnel for more time. The request should explain fully why more time is needed. The Director of Personnel will determine if the request is reasonable and should be granted. If granted, the Director of Personnel Management will make the necessary arrangements.

III.F3 EMPLOYEE APPEAL

- A. Filing of Notice of Appeal. An employee must file an appeal within fifteen (15) calendar days after receipt of notice of final decision or action being appealed. The appeal must be in writing and must be delivered personally or by Certified or Registered Mail to the Civil Service Commission. Employees located away from Saipan must also meet the fifteen (15) calendar days period for filing an appeal to the Commission. If Certified or Registered mail is utilized, the appeal must be postmarked no later than the 15th calendar days after receipt of the letter of final decision.

- B. Contents of Appeal. The Notice of Appeal shall be in the following format.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CIVIL SERVICE COMMISSION

(Name of Employee)
EMPLOYEE

No.

and
(Name of Department/Agency)
MANAGEMENT

NOTICE OF APPEAL

The Notice of Appeal shall be a brief, plain statement, either typed or hand written, stating why the Employee believes the adverse action should not have been taken against him, together with any offer of proof and pertinent documents the employee desires to submit.

The Notice of appeal should include a request for a hearing if one is desired.

The Notice of Appeal shall also contain the mailing address and telephone number of the Employee.

The parties to an adverse action appeal are to be identified as the EMPLOYEE and as MANAGEMENT.

- C. Amendment of Notice of Appeal. A Notice of Appeal may be amended by the Employee without the permission of the Commission, if it is amended within fifteen (15) days after the date it was originally filed. An Amendment after fifteen (15) days shall be made by motion.
- D. Service of Documents. All documents filed with the Commission, except for the Notice of Appeal, shall be served by the parties on each other or to the other's representative or lawyer. Service means giving a copy of a document to a party, a party's representative or lawyer.

Service may be made by the parties and Commission as follows:

- (1) Personal delivery, with a copy of the document acknowledged in writing to have been received; or
- (2) By facsimile to a party or a party's representative or attorney at their place of business with a confirmed receipt; or
- (3) Regular mail with supporting affidavit as to the date of mailing; or certified mail with a signed return receipt; or
- (4) By any method of service established by the Commonwealth Superior Court Rules of Civil Procedure.

III.F4 PRE-HEARING PROCEDURE.

- A. Upon receipt of an appeal, the Commission will transmit a copy of the appeal to the employees appointing authority, Director of Personnel and the Office of the Attorney General.

- B. **Status Conference.** Upon receipt of a Notice of Appeal, the Commission shall set the matter for a Status Conference. The Status Conference shall be conducted by the Commission Legal Counsel or in his absence, the Executive Director. At the Status Conference, the parties or their representatives shall be prepared to discuss:
- (1) The legal issues of the action;
 - (2) Pre-hearing motions;
 - (3) Witnesses and documentary evidence;
 - (4) The possibility of settlement; and
 - (5) The date of the hearing on the merits.
- C. **Prehearing Conference.** Two (2) weeks before the hearing on the merits, the parties shall meet with the Commission Legal Counsel at a pre-hearing conference to finalize witness lists and exhibits, and to discuss stipulations or other matters that may expedite the hearing on the merits.

III.F5

DISCOVERY

- A. The employee and the appointing authority will be required to furnish the Civil Service Commission and the other party the list of witnesses containing the name, location and occupation of each witness; a summary of each witnesses anticipated testimony.
- B. The Office of Personnel Management and the employee's the appointing authority shall make available to the employee and the Civil Service commission the entire adverse action file for review and reproduction. The "adverse action file" includes all reports, documents, statements and other evidence and information used as a basis for the adverse action.
- C. The employee may request that the government, at its own expense, produce at the hearing those witnesses who are employed by the government and whose testimony the employee alleges, in writing, to be pertinent to the issues and necessary to the employee's defense. The employee may include in the list of witnesses non-governmental individuals, but arrangements for their presence at the hearing are the obligation of the employee and will be at the expense of the employee unless otherwise ordered by the Commission.

III.F6

APPEAL FILE

When an employee files an appeal from adverse action with the Commission, the Office of Personnel

Management and the employee's appointing authority must immediately forward the following documents to the Commission, which shall become part of the appeal file:

- A. A copy of the delegation of authority of the management official taking the action;
- B. A copy of the letter of proposed adverse action;
- C. All material, documents and evidence relied on by the management official to support the reason(s) listed in the letter of proposed adverse action;
- D. The employee's written answer, if any;
- E. A transcript or summary of the employee's presentation of oral evidence and copies of documents presented;
- F. Any pertinent evidence developed after issuance of the letter of proposed adverse action;
- G. A copy of the letter of decision;
- H. The employee's written notice of appeal;
- I. All documents and pleadings filed by the parties with the Commission;
- J. All orders and decisions of the Commission;
- K. The transcript of the Commission hearing when a hearing is held;
- M. The proposed decision of the Commission's hearing officer, if any; and
- N. A copy of the notice of decision of the Civil Service Commission.

The employee may inspect and copy any part of the appeal file upon making request.

III.F7 PROCEDURAL DEFECTS

If at any time after the appeal has been filed, the Commission finds that the action subject to the appeal was procedurally defective because it violated personnel rules, regulations or law, it may void or revoke the action as it considers fair and equitable under the facts and circumstances of the action.

III.F8 PRE-HEARING MOTIONS

- A. The parties may file any motion regarding procedural issues or questions of law prior to the hearing on the merits. All pre-hearing motions must be in writing and must be filed and then served on all other parties. The moving party bears the burden of proof on motions by a preponderance of the evidence.
The Commission may rule on a motion without hearing oral arguments.
- B. Issues Raised by The Commission. Any Commissioner may, at any time, raise issues not raised by motion of the parties. Upon a majority vote of the Commission, such issues must be addressed by the parties and decided by the Commission.
- C. Motion Filing Schedule. Unless otherwise predetermined by an order, the moving party must file and serve a motion thirty (30) days before the hearing on the merits. A motion may be supported by affidavits or declarations. Unless otherwise predetermined by a discovery order, the opposition brief shall be filed ten (10) days before the hearing on the motion. No reply briefs shall be filed without the written approval of the Legal Counsel.
Motion documents that are not filed on time may be disregarded by the Commission.
- D. Motions to Postpone Hearings. A motion to continue a date of hearing shall set forth the factual bases for the motion.
Continuances based on illness, emergencies, or stipulation of the parties, may be granted without hearing by the Legal Counsel or in his absence by the Executive Director, if the motion is made five (5) days before the hearing sought to be postponed.
Continuances based on a motion made less than 5 days before the hearing sought to be postponed, or for the convenience of the Commission can only be granted by the Commission Chairman.
- E. Stays. The Commission's Legal Counsel is empowered to grant "stays" of actions when a motion to stay proceedings is brought by a Party on the basis that the Employee has been or may be charged with a criminal offense which arises from the same factual transaction which is the basis of the adverse action.

- F. Motions To Dismiss. Motions to dismiss an adverse action appeal may be made on the bases of lack of jurisdiction, untimely filing of the appeal, procedural defects in the proceeding or other significant reasons. The legal and factual bases of such motions must be sufficiently set forth in the motion and supporting affidavits. An Employee may dismiss his appeal with prejudice by filing a written motion to dismiss which must be signed by the Employee and his representative or attorney. The Parties may settle an action, but any settlement of stipulated motion to dismiss must be approved by the Commission before the action is dismissed with prejudice.
- G. Motion To Allow Hearing In The Absence Of The Employee. The Commission may dismiss an appeal if the Employee is not present for the hearing on the merits, unless the Employee has a reasonable excuse. A motion to permit an Employee to be absent from the hearing on the merits shall set forth the factual basis for the motion. The Commission may require affidavits in support of the motion.

III.F9 SUBMISSION OF DOCUMENTS FOR INTRODUCTION INTO EVIDENCE

- A. Time For Submission Of Documents. No later than five (5) days before a hearing on the merits or a motion hearing, each party shall submit to the Commission all documents it wishes the Commission to consider.
- B. Documents To Be Bound. The documents shall be bound into a binder or secured in a file folder and bound on the top or left side. Each document shall be indexed and tabbed. Management shall identify its documents using consecutive letters of the alphabet. Employee shall identify his documents using consecutive numbers. Each party shall submit ten (10) copies of their documents to the Commission.

III.F10 SUBPOENAS.

- A. Pursuant to 4 CMC §9235(a), the Chairperson of the Civil Service Commission or the Executive Director, upon their own initiative, or upon the request of any member of the Commission, or upon the request of any party before the Commission, may summons in writing any person to attend a meeting of the Commission as a witness and, in a proper case, to bring with him any book, record, computer print-out, paper or thing which may be deemed material evidence in the case. Subpoenas shall be served by the party who requested the issuance of the subpoena.
- B. Subpoena Fees. The fees for such attendance shall be the same as the fees of the witnesses before the Superior Court, except that if the witness is a government employee no witness fee shall be given.

The subpoena shall issue in the name of the Civil Service Commission, and shall be directed to the person and served in the same manner as subpoenas to appear and testify before the Commonwealth Superior Court.

- C. Enforcement Of Subpoena. If any person summoned to testify shall refuse or neglect to obey said subpoena, upon petition, the Commonwealth Superior Court may compel the attendance of such person before the Commission, or punish said person for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the Commonwealth Superior Court.

III.F11 HEARING ON THE MERITS

- A. Burden Of Proof. In respect to appeals of actions of the Personnel Officer and management, including adverse actions, the burden of proof on the merits is on Management to prove its allegations by a preponderance of the evidence. In respect to grievances submitted to the Commission, the burden of proof on the merits is on the Employee to prove the allegations by a preponderance of the evidence.
- B. Conduct Of Hearing. The hearing will be closed to the public unless the Employee requests that the hearing be open to the public.
- C. Right To Call Witnesses. Each party shall have the right to call, examine, or cross-examine witnesses, and introduce exhibits. Any Commissioner may direct relevant questions to a witness after examination of the witness has been completed by both parties; except that questions may be asked during examination by a Party to clarify a response by a witness. The Commission may call additional witnesses, as it may deem necessary, and require the production of documents.
- D. Order Of Presentation. The order of presentation at the hearing shall be as follows:
- (1) Opening statement of Management;
 - (2) Opening statement of Employee;
 - (3) Presentation by Management of evidence in support of the charges;
 - (4) Presentation by the Employee of such evidence in defense or rebuttal;
 - (5) Closing statement of Management;

(6) Closing statement of Employee.

The order of presentation will begin with the Employee in respect to appeals of unresolved grievances.

- E. Record Of Hearing. All hearings shall be audio tape recorded by the Commission. The Commission's recordings and the exhibits admitted during the hearing, together with all pleading and documents filed by the parties, shall constitute the official record of a hearing.
Filming, video taping, or audio recording of a hearing or other proceeding before the Commission by any person is permitted by the Commission only upon written motion or request.
Copies of the audio tape recording of hearings will be made available to the parties at cost.

III.F12

DECISION

- A. Deliberations. The deliberation of the Commission regarding the merits of actions and motions shall be made outside the presence of the public, the parties and the representatives of the.
- B. Except as provided III.F11.C below, if Management proves the charges against the Employee, the Commission shall sustain the adverse action.
If Management fails to prove the charges, the Commission shall revoke the adverse action.
- C. Modification of Adverse Action. If Management proves the charges, but the Commission finds, that because of the Employee's past record or the gravity of the offense, or the facts and circumstances of the case, that the adverse action should be modified, it may modify the adverse action accordingly. The reasons for such modification shall be stated in the decision of the Commission. Any compensation or benefits due as a result of the modification shall be restored to the Employee. The Commission may not modify an adverse action to the Employee's detriment.
- D. Entry Of Decision. A written decision shall be entered by a two-thirds majority vote of the entire Civil Service Commission Members.
A quorum of the Commission shall be four (4) members.
If a Commissioner abstains from voting, the abstention shall be counted as a vote in determining the number that constitutes a majority.

If a Commissioner has disqualified himself from an action, his presence shall be counted towards determining a quorum, but not as a vote in determining a majority. A Commissioner is present at a Commission meeting if he participates by telephonic conference and his remarks are capable of being recorded as part of the record. A Commissioner may vote on any matter if he attended all hearings on the matter or states on the record that he reviewed the record of any hearing for which he was not present.

- E. Compliance With Decision. The decision of the Commission is final, but is subject to judicial review. Compliance with any order specified in the decision is required by law. The department or agency head to whom a decision is directed must report to the Commission within thirty (30) working days after receipt of the decision that he has carried the decision into effect or has sought reconsideration or that he has filed pleadings in the Commonwealth Superior Court which seek judicial review of the decision.
If an adverse action is reversed by the Commission, all compensation and other benefits which would have accrued to the Employee from the effective date of the adverse action shall be restored to the Employee.
- F. Reconsideration. The Commission may reconsider its decision on its own motion or petition of any party. The authority of the Commission to reconsider expires thirty (30) days after the date of the decision.
- G. Judicial Review. Judicial review of the decision of the Commission may be had by filing appropriate pleadings with the Commonwealth Superior Court within thirty (30) days after the date of the final decision.

III.F13 HEARING OFFICER

The Commission may designate a Hearing Officer. When so designated, the Commission shall assign the Hearing Officer to conduct evidentiary hearings on specific issues or appeals. The issues shall be within the jurisdiction of the Commission.

Hearing Officer shall make written proposed findings of fact and conclusions of law which shall be served on the Parties.

The Parties may file written objections or other written comments regarding the proposed findings of fact and conclusions of law for the Commission's consideration. The findings and objections and comments of the parties shall then be submitted to the Commission who may

accept, reject or modify the findings or may conduct its own hearing on the issues.

III.F14 STATUS OF EMPLOYEE DURING APPEAL

If an employee appeals an appointing authority's decision given in accordance with adverse action procedures, that decision shall remain in effect unless and until the Commission has entered its findings and decision on the appeal. The Commission may enter such findings and decision on appeals decided by it as it finds the circumstances of the case require and that it deems just and proper.

III.F15 PERFORMANCE RATING APPEAL

- A. In the event an employee disagrees with a performance rating Report, such employee may appeal an "unsatisfactory" or "satisfactory" performance rating to the Civil Service Commission. The appeal to the Civil Service Commission must be in writing, stating the reasons for the appeal and must be filed to the Director of Personnel Management within thirty (30) calendar days after the date of the employee's signature on the Performance Rating Report. If a statement of disagreement is not received, the Performance Rating Form shall be processed as received.
- B. An employee has a right to representation of his choice as provided in part III.F2.D.
- C. Upon receipt of the statement of disagreement, the Director of Personnel Management will appoint an ad hoc committee of three (3) to review the rating and evaluate the objection of the employee. The ad hoc committee shall be selected from among the employees (1) who are on at least equal rank as the appellant; (2) who are not in the supervisory line above the appellant; and (3) at least one of whom must have an understanding of the work the employee is performing. The Director of Personnel Management or designee shall serve as Executive Secretary and advisor to the committee.
- D. The ad hoc committee shall review the content of the appeal, make such inquiries of the rating supervisor and the employee as are considered necessary and, in closed session, arrive at a judgment. The committee may (1) refer the rating and the appeal to the rating supervisor and the reviewing official for reevaluation, or (2) determine that the performance rating should stand.

- E. In the event the committee determines that the appeal is justified and re-rating is required, it shall direct the rating supervisor to correct the rating. The committee's original orders shall be in writing and shall state specifically where the original rating was deficient. All documentation in support of this conclusion must accompany the rating when referred back to the rating supervisor.**
- F. If the employee is not satisfied with the decision of the ad hoc committee, the employee may appeal to the Civil Service Commission, using the procedure defined in this sub-part for appeals from adverse action decisions.**

reprisal in seeking adjudication of their grievances and appeals.

III.G6 EMPLOYEE'S RIGHT TO REPRESENTATION

The government recognizes that grievances are personal in nature and that aggrieved employees or groups of employees must have the right, in presenting their grievances, to be accompanied, represented and advised by representatives of their own choosing. Thus, in the formal grievance process, as hereinafter defined, the employee or group of employees have the right to be represented by counsel or other representative of their own choosing at their own discretion. If the employee or group of employees choose to serve as their own representative or to designate a member of the aggrieved group as spokesperson, they may do so.

III.G7 ROLE OF THE CIVIL SERVICE COMMISSION

The Civil Service Commission serves as the ultimate appellate level for grievances of employees or groups of employees. It shall take under cognizance only those formal grievances which cannot be settled to the satisfaction of all concerned in accordance with Part III.G9

III.G8 EMPLOYEE'S RIGHT TO SEEK ADVICE

Sometimes an employee has a valid reason for not taking a grievance to the immediate supervisor. The grievance system, therefore, provides opportunity for an employee to communicate informally with and seek advice from the Personnel Office and/or a supervisory or management official of higher rank than the employee's immediate supervisor.

III.G9 INFORMAL GRIEVANCE PROCEDURE

- A. The grievance action shall first be initiated by the aggrieved employee who will discuss the problem informally with the supervisor, or if the employee feels the relationship with the immediate supervisor is such that the matter cannot be reasonably discussed, the employee may discuss it with the next level of supervision. A grievance concerning a particular act or occurrence must be presented within ten (10) calendar days of the date of the act or occurrence or the date the aggrieved employee became aware of the act or occurrence.

- B. If the grievance is not settled within five (5) calendar days, or if the employee is not satisfied with the decision of the immediate supervisor, the employee or representative may, within the next ten (10) calendar days, put the grievance in writing and submit it to the appointing authority as a formal grievance. The written representation must contain the following information:
 - (1) The identity of the aggrieved employee and the organization in which the employee works;

- (2) The details of the grievance;
- (3) The corrective action desired; and
- (4) The name of the employee's representative, if any.

III.G10 FORMAL GRIEVANCE PROCEDURE

- A. The appointing authority will examine the grievance, discuss it with the grievant or representative and render a decision, in writing, within fourteen (14) calendar days after receiving the grievance. The appointing authority may have present the employee's immediate supervisor, if it deems it appropriate to the resolution of the grievance.
- B. If the appointing authority is not successful in settling the grievance to the employee's satisfaction within fourteen (14) calendar days after it is presented to the employee in writing, the employee shall, within fifteen (15) calendar days after receiving written notification of the decision, submit a grievance to the Civil Service Commission.
- C. The Civil Service Commission shall set a time for its review of the case within a reasonable time after receiving a grievance. If the Commission desires to have the grievance heard by a hearing officer, it must inform the aggrieved employee and representative as soon as possible.
- D. In hearings before the Civil Service Commission or a hearing officer, the aggrieved employee and/or representative shall be allowed to appear and present the case. An appropriate management representative shall also be allowed to appear before the Commission. Both sides shall have the right to call witnesses in support of their positions and to cross-examine witnesses for the other side. The Commission or the hearing officer shall prepare a summary of the hearing. If both parties desire a formal, written record prepared by a reporter, the cost of such services shall be shared equally. If only one side desires a formal written record of the proceedings that side shall bear the cost.
- E. The Civil Service Commission shall reach a decision and present it formally to the appropriate management official within fifteen (15) working days following the close of the formal hearing. Decision by the Civil Service Commission shall be made by a two-thirds (2/3) vote of the entire members, as required by 1 CMC §8101, et seq., and shall be final.

- F. If the aggrieved employee is dissatisfied with the decision after having exhausted all administrative appeal levels, the employee has recourse to the courts.**
- G. The Personnel Officer shall be kept informed as to the progress of a formal grievance and is responsible for assuring that the time limits established in this procedure are met. The Personnel Officer is also responsible to assure that the formal record of the grievance is assembled into one place, stored and safeguarded.**
- H. The Personnel Officer shall be the final custodian of all records of a grievance and is responsible for their prompt storage and security.**

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PERSONNEL SERVICE SYSTEM. RULES AND REGULATIONS

PART IV, SUB-PART A
POSITION CLASSIFICATION

IV.A1 GENERAL

All positions subject to the provisions of the Personnel Service System shall be classified in accordance with the approved Position Classification Plan.

IV.A2 DEFINITIONS

A. ~~Position Classification.~~ Position Classification means the process by which employment positions in an organization are identified, described and defined according to their duties and responsibilities, with like positions segregated into groups called "classes". A systematic record is made of the classes found and listing is made of the particular positions found to be of each class.

B. ~~Class.~~ Class means one position or a group of positions sufficiently similar in respect to their duties, responsibilities and authority that the same title may be used with clarity to designate each position allocated to the said class. The same standard qualifications may be required of all incumbents, the same test of fitness may be used to choose qualified employees, and the same schedule of compensation may be applied with equity under the same or substantially the same employment conditions of a given class; although sufficiently dissimilar from any position or any other group of positions to warrant exclusion from those groups of positions.

The class title assigned to a position in accordance with the Position Classification Plan shall be the official title and will be used for all personnel, budgetary and financial purposes, and should be used for all position organization charts.

C. ~~Position.~~ The work, consisting of duties and responsibilities assigned by competent authority for performance by an employee.

D. ~~Position Classification Plan.~~ Position Classification Plan means classes of positions arranged in a systematic order to reflect all of the kinds and levels of work utilized in the Civil Service.

E. ~~Appointing Authority.~~ Appointing Authority means a person or a designee of

~~such a person having power to make appointments or changes in status of an employee in the Civil Service.~~

- F. ~~Allocation. Allocation of a position means the assignment of a position to its appropriate class on the basis of analysis of the duties and responsibilities of the position.~~
- G. ~~Reallocation. Reallocation of a position is a position change resulting from a change of duties and responsibilities over a period of time, not a result of planned management decision and action.~~
- H. ~~Reclassification. Reclassification means change of a position or group of positions to a different class as a result of a change in assigned duties and responsibilities, classification standards, or as a result of correcting a classification error.~~
- I. ~~Class Specification. Class specification means an official position classification plan document description of the general characteristics of a class, and includes the official class title, a detailed description of the scope of duties and responsibilities of the class, specific examples of work or typical duties performed and statement of the qualifications required to perform the work of the class.~~
- J. ~~Occupational Group. Occupational Group means a major subdivision of a position classification plan, generally embracing several series of classes of positions in associated or related work specialties, professions or related activities. (For example, "Clerical and Machine Operation", "Administrative, Management, and Allied", and "Agricultural and Allied" are occupational groups."~~
- K. ~~Series of Classes. Series of classes means classes closely related as to occupational specialty but differing in level of difficulty, responsibility and qualifications required. (For example, the three classes of Architect I, Architect II and Architect III taken together make up a series of classes.)~~
- L. ~~Position Description. Position description means a formal, official written statement by management which documents the description, assignment or arrangement of the duties and responsibilities of a position.~~

The basic principles underlying the position classification system are:

- A. Equal pay for equal work; and
- B. Variations in pay in proportion to differences in difficulty, responsibility and qualification requirements of the work. The Civil Service System's position classification program applies these principles in response to management's expressed needs and in support of mission accomplishments. Changes in classification shall not be made for the purpose of raising or reducing pay, but only to reflect clear and significant changes in duties and responsibilities. Supervisors and managers are expected to organize the work of their organizations and structure the positions so that vacancies can be filled at the lowest level at which qualified applicants can be obtained.

IV.A4-3

RESPONSIBILITIES

- A. Personnel Officer shall have the following responsibilities
 - (1) Administers a classification program which supports management's objectives, meets legal and regulatory requirements, and promotes participation by operating officials in the classification process.
 - (2) Provides advice and assistance to management on the classification aspects of position structure needed to carry out the government's mission.
 - (3) Conducts periodic reviews to evaluate the effectiveness of the classification program and directs corrective action where appropriate, subject to the Commission's approval.
 - (4) Develops new classification standards, revises existing standards as needed, and seeks advice and counsel of appointing authorities. with the approval of the Civil Service Commission. Before new classification standards or revised existing standards are enforced, the approval of the Civil Service Commission is required.
 - (5) Groups positions into classes on the basis of their similarities in duties, responsibilities and other significant factors.

- (6) Assigns a title to each class which shall apply to all positions in the class; describes the characteristics of each class; and sets the standards for employment in any position in the class subsequent to consultation with the Civil Service Commission and the appropriate management officials.
- (7) Changes a position from one class to another where substantial changes have occurred in the duties and responsibilities is subject to the Commission's approval.
- (8) Determines the status of occupants of positions which have been changed from one class to another.

~~The personnel Officer is authorized Civil Service Commission to may delegate authority to the degree to which the Personnel Officer Director of Personnel deems appropriate, including to other qualified personnel in the Personnel Office, to identify positions which have been approved and allocated within the Classification Plan.~~

B. Appointing Authorities and Supervisors shall:

- (1) Plan, organize, develop and assign duties and responsibilities to positions, whether occupied or vacant;
- (2) Consider the mission of the organization and structure positions for accomplishment of requirements in the most effective and economical manner possible;
- (3) Assure that assigned duties and responsibilities do not duplicate or overlap those of other positions;
- (4) Assure that duties and responsibilities assigned to positions are completely and accurately described in position descriptions in full and sufficient detail for position classification and all related purposes;
- (5) Develop, prepare, maintain and submit factual and up-to-date functional statements and organizational position charts which clearly depict such information as assigned organizational and/or supervisory responsibility, organizational segment identification, employee names

with official class titles and pay levels for the positions to which assigned, the title and pay levels of vacant positions which are funded and approved, and other similar essential details; and

- (6) Assist employees to accomplish the foregoing.

IV.A5 4 POSITION PLANNING

The supervisor is responsible for position planning. The supervisor analyzes the work to be accomplished, decides on work or production methods, and determines the requirements for supervision, special technical support, qualitative and quantitative controls, and review and evaluation. A well defined position has clearly defined operation, tasks, duties, authorities, responsibilities and supervisory relationships.

IV.A6 5 CLASSIFICATION MAINTENANCE

- A. The Commission may review positions in each department to determine whether positions are allocated to classes and grades in conformance with the Classification Plan.
- B. Whenever the Commission finds that the positions are not placed in classes and grades in conformance with the Commission approved Classification Plan, the appointing authority will be held liable.

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**PART IV, SUB-PART B
COMPENSATION****IV.B1 GENERAL**

All persons subject to the provisions of 1 CMC Subsection 8101, et seq., and Constitutional Amendment No. 41 shall be compensated in accordance with such laws and the provisions of this part.

IV.B2 COMPENSATION PLAN

The classes in the position classification plan, when assigned to appropriate pay levels of the Base Salary Schedule as established, shall constitute the basic compensation plan. The Director of Personnel Management shall assign all classes in the position classification plan to appropriate pay levels in the Base Salary Schedule with the approval of the Civil Service Commission in accordance with the following:

- A. Kind and level of work;
- B. Degree of difficulty and responsibility;
- C. Kind, quality and level of qualification requirements;
- D. Relationship to other classes in its occupational group and of its occupational group to other occupational groups.

IV.B3 PERIODIC REVIEW OF COMPENSATION PLAN

The Director of Personnel Management shall periodically conduct necessary and appropriate studies of rates of compensation and compensation practices in all geographic areas from which employees are normally recruited, and shall recommend and transmit the same to the Civil Service Commission for its review. Following such review, the Commission shall submit the same, together with its comments and recommendations, to the Legislature for review and approval as stated in 1 CMC Subsection 8101, et seq.

IV.B4 ESTABLISHING SALARY UPON APPOINTMENT

- A. Salary shall be fixed at the first step of the appropriate pay level upon initial appointment. Should a higher rate be deemed necessary to recruit, and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step. Payment of salary above Step 4 5 of pay level must be approved by the ~~Director of Personnel Management~~ Commission.
- B. When a person may be reemployed after a break in service of one (1) or more days into a position in a class and pay level lower than the highest class and pay level previously held, the salary may be set at the highest previous rate held, provided the rate does not exceed the salary range of the lower pay level. (See Part III.B7.)

IV.B5 PROMOTIONS

An employee who is promoted from a position in one class to an existing position in a higher class shall be compensated at the lowest step in the new pay level which at least equals the amount of two (2) step increases in the old pay level. The rate of compensation cannot exceed the rate of the maximum step in the higher pay level. The effective date of the promotion shall be the new service anniversary date for the promoted employee. An employee shall not be promoted into a supervisory position until and unless such employee has satisfactorily completed training in workshops sanctioned by the Office of Personnel Management in the areas of Basic and/or Advanced Supervisory Management. Retroactive promotions shall not be made except when directed by a decision of the Civil Service Commission pursuant to an employee's appeal.

IV.B6 TEMPORARY PROMOTIONS

A temporary promotion is utilized when it is anticipated that an employee will temporarily occupy a position for a period in excess of three (3) months. An employee can be temporarily promoted only if such employee meets the qualifications standards of the new position. The employee temporarily promoted shall be compensated at the step in the new pay level which is at least equal to an increase of two steps at the current pay level. The employee must be informed in advance and agree, in writing, that at the expiration of the temporary promotion, the employee will be returned to the former salary (level and step) that s/he would be receiving had the employee remained in the former position. No temporary promotion shall exceed a period of one (1) year except when the temporary promotion is to replace an employee on educational leave outside the Commonwealth. In this instance, the

temporary promotion may continue for not longer than two (2) years.

IV.B7 "ACTING" ASSIGNMENT

If an "acting" appointment must be renewed for a second six (6) month period under Part III.B3.G, the following guidelines shall govern:

A. If an employee meets the minimum qualifications for the position, the employee shall be temporarily promoted to the position for another six (6) month period, unless the appointing authority chooses to appoint a different employee who is at least as qualified as the first employee. However, there will be no increase in salary if financial austerity measures are in place

B. If the employee does not meet the minimum qualifications for the position, and there is no one available who does meet the minimum qualifications, the employee may be retained in the acting assignment for a second six (6) month period or a different employee may be appointed; provided that the agency has been actively recruiting qualified individuals or training individuals to become qualified for the position. Where an employee who is not qualified for a position is serving a second six (6) month acting term, he or she shall be compensated with a two (2) step increase in pay or an increase to the maximum step available in the position, whichever is less. However, there will be no increase in salary if financial austerity measures are in place."

An "acting" assignment is the designation, in writing, that an employee will act for a period of up to thirty (30) days in place of a supervisor. When the supervisor's absence exceeds the initial thirty (30)-day period, a new designation shall be made for an additional thirty (30) days. This thirty (30)-day renewal of the acting assignment is repeated until the supervisor returns to the position. Whenever the acting assignment exceeds ninety (90) days, the employee shall be temporarily promoted if the employee meets the qualifications standards of the position. If the acting assignment exceeds ninety (90) days and the employee does not meet the qualifications standards of either the target level or the intermediate level, the employee shall be compensated with two (2) steps in the current pay level, but may not exceed the maximum step.

~~When an employee in the classified service is designated for an acting assignment in the excepted service, the employee shall be required to resign from the classified service in order to accept the said acting assignment. While in the acting assignment, the employee may be entitled to receive a salary equivalent to the salary received by the previous incumbent of the position.~~

Upon expiration of the acting assignment, the employee will be reinstated to the former position and salary (level and step) that the employee would be receiving had the employee remained in the former position.

IV.B8 DETAIL

A detail is the temporary assignment of an employee to a different position for a specified temporary time period, with the employee returning to the regular position and duties at the end of the detail. Technically, a position is not filled by a detail, as the employee continues to be the incumbent of the position from which detailed. Normally, whenever it is anticipated that the need for a detail will exceed ninety (90) days, it is more appropriate to effect a temporary promotion (See Part IV.B6) if the employee is qualified at the higher grade. Individuals who do not meet the qualification standards of the promotion at the higher grade cannot be temporarily promoted, however, and must voluntarily agree to any period for which the detail exceeds ninety (90) days. An employee also may be detailed to a set of duties, which must be specifically described in the task list, when the government's need for necessary or emergency services cannot be obtained by other desirable or practical recruitment means.

IV.B9 DEMOTION

An employee demoted because of abolishment of position or reallocation of position to a lower pay level, except at the employee's own request, shall be compensated at the salary rate which does not exceed the employee's current pay rate. Where the employee's current rate exceeds the rate of the maximum step of the lower pay level, the employee shall be compensated at such maximum step. An employee demoted as a disciplinary measure shall have his/her compensation reduced to the corresponding step of the lower pay level, and may, with the approval of the Personnel Officer, be compensated at a lower step.

An employee demoted at his/her own request shall have pay set at the step in the lower pay level which corresponds to the step held in the higher level.

IV.B10 TRANSFER

An employee who is transferred to a different position at the same pay level shall receive no change in compensation. An employee may transfer from the classified service in one branch of government to the classified service in another branch of the government with no loss of benefits. A minimum of two weeks' notice must be given the losing supervisor or appointing authority prior to effecting a transfer.

IV.B11 EFFECT ON SERVICE ANNIVERSARY DATE

An employee's service anniversary date will not be affected by a detail, acting assignment, or temporary promotion.

IV.B12 REALLOCATION/RECLASSIFICATION OF POSITION TO HIGHER PAY

An employee whose position is reallocated/reclassified to a higher class shall be compensated at the lowest step in the higher pay level which at least equals the amount of a two (2) step increase in the lower pay level. The rate of compensation cannot exceed the rate of the maximum step in the higher pay level. The anniversary date of the new reallocation/reclassification shall be recycled. The Commission must review all requests for reallocation/reclassification before processing.

IV.B13 EFFECTIVE DATE OF POSITION CHANGE

The effective date of all position changes shall be the beginning of the first pay period immediately following the approval of the action by the Director of Personnel Management. Exceptions to this rule may be made by the Director of Personnel Management only for such reasons as will expedite public business and not result in an inequitable situation.

IV.B14 WITHIN-GRADE INCREASE

- A. Within-grade increases ~~may~~ shall be granted to employees upon completion of fifty-two (52) consecutive calendar weeks of satisfactory performance.
- B. Employees who are included under the Personnel Service System and assigned to work part-time will be eligible for a within-grade increase only at such time as the cumulative total of all hours worked equates to a standard work year of 2,080 hours and such work has been satisfactory. Employees who are employed on an intermittent basis are not eligible to receive within-grade increases.
- C. The effective date of a within-grade increase shall be the first day of the first pay period following completion of the required waiting period.
- ~~D. For all positions, approved leave in a non-pay status (LWOP) and/or unapproved leave (AWOL) not to exceed eighty (80) hours, is creditable toward the waiting period for a within-grade increase. Unapproved leave (AWOL) and leave without pay (LWOP) of more than eighty (80) hours will extend the waiting period by at least one pay period or by the amount of time such AWOL or LWOP exceeds the eighty (80) hours, whichever is greater.~~
- ~~E. Time served in a LWOP status for purposes of job-related education or training is credited toward within-grade increases, the same as if the employee had been in a pay status for that period of time on LWOP, provided that the employee is a registered or enrolled student. To be creditable toward the waiting period, the education program in which the employee is enrolled must be clearly and directly applicable to the employee's present position or one to which the employee may reasonably aspire, and for which the employee is released from full-time status and placed in an approved leave without pay (LWOP) status, and in which the employee performs satisfactorily as determined by management and the Director of Personnel~~

Management.

- F. A former employee reemployed with a break in service is assigned and begins a new waiting period for a within-grade increase. No credit will be given toward the completion of this new waiting period for any time served under a former waiting period prior to the break in service.
- G. Time served during provisional status shall not be counted toward the required waiting period in receiving a within-grade step increase.

IV.B15 WORKSHOPS

An employee occupying a permanent position, who after July 1, 1983 successfully completes 120 hours of training workshops that are supervised, sponsored and/or sanctioned by the Director of Personnel Management may be given a salary increase equivalent to one (1) step.

- A. No employee may receive more than one (1) step increase under this sub-part in any one calendar year regardless of the number of training workshops that are successfully completed. Employees who are employed on an intermittent basis are not eligible to receive this increase.
- B. Upon determination of the appointing authority that such employee is eligible to receive a salary increase as provided for in this sub-part, the appointing authority shall prepare, sign and submit a Request for Personnel Action to the Director of Personnel Management for final approval.
- C. The effective date of a training workshop salary increase shall be the beginning of the pay period immediately following the approval of the Director of Personnel Management. This increase shall not affect the anniversary date of the employee.

IV.B16 OVERTIME COMPENSATION. COMPENSATORY TIME AND CONTROL

Any employee who exceeds forty (40) hours actually worked in a week shall be paid overtime at the rate of one and one-half (1-1/2) times the regular rate of pay except as provided below.

- A. Exceptions. Bona fide executive, administrative and professional employees

are exempt from payment for overtime. These terms shall have the meanings given them in the federal Fair Labor Standards Act of 1938, as amended (FLSA). Following is a summary of the FLSA criteria for these terms. However, the full explanation of these terms under federal law is extensive and complex and may change from time to time. The Office of Personnel Management and each agency not served by that office are responsible for determining whether or not a position fully meets the federal criteria for one of these categories. For such purpose, they may seek guidance from the Civil Service Commission, Office of the Attorney General, or the U.S. Department of Labor, as necessary.

(1) Executive Employees. The term executive employee generally includes employees--

- (a) whose primary duty is management of a department, division, section or other customarily recognized subdivision of the government; and
- (b) who customarily and regularly direct the work of at least two employees.

(2) Administrative Employees. The term administrative employee generally includes employees--

- (a) whose primary duty consists of (i) responsible office or non-manual work directly related to management policies or general operations of the employing agency, or (ii) responsible work in the administration of a school, educational establishment, or department (or of a subdivision thereof) that is directly related to the academic instruction or training; and
- (b) such primary duty includes work requiring the exercise of discretion and independent judgment.

Examples: Positions that often qualify under this exemption include executive and administrative assistants, such as executive secretaries and special assistants; staff employees, such as advisors, research experts, and analysts; and heads of small work units (generally those performing staff functions), including one-person units. However,

regular secretaries, clerks, bookkeepers, and most "specialists", even though they do work commonly considered to be administrative in nature, are not exempt.

- (3) Professional Employees. The term Professional generally includes employees--
- (a) whose primary duty consists of work requiring knowledge of an advanced type in a field of science or learning, e.g., physicians and attorneys, or work as a teacher in an activity of imparting knowledge, which requires consistent exercise of discretion and judgment; or
 - (b) whose primary duty is artistic work that requires invention, imagination, or talent in a recognized field of artistic endeavor.

Additional federal criteria for each category apply to any employee who receives less than \$250 a week (\$13,000 annually). No employee shall be categorized as an executive or administrative employee who is not paid a salary of at least \$155 a week (\$8,060 on an annual basis). No employee (except certain doctors, lawyers, or teachers) shall be categorized as a professional employee who is not paid a salary of at least \$170 a week (\$8,840 annually).

Every personnel action or request therefore to appoint, promote, transfer, or detail an individual to a position shall be endorsed by the Office of Personnel Management (or agency not serviced by the office) either "FLSA Covered" or "FLSA Exempt", and the latter term shall only apply to bona fide executive, administrative, or professional employees. The criteria used in justifying such exemptions must be documented in the employees' job descriptions. Every examination announcement, promotional opportunity announcement, or other vacancy announcement for a position that is FLSA Exempt shall indicate that the holder of that position is not eligible for payment for overtime. If changes in a job description effectively change an employee's coverage or exemption under the FLSA, a special personnel action shall be prepared to document such change.

In addition to the above exceptions, no employee shall be eligible to receive overtime pay for any hour for which the typhoon emergency differential is

paid.

- B. Hours Actually Worked. Overtime compensation will only be paid for hours actually worked in excess of forty (40) hours a week. Paid leave shall not be included in the computation of hours actually worked, except for administrative leave allowed pursuant to Part VII.A4(G)(1) or VII.A4(g)(4). Time during which an employee is required to remain at a prescribed workplace shall be included in the hours actually worked, even if no work is performed.
- C. Payments Included in Determining Regular Rate of Pay. The regular rate of pay shall include consideration of the following compensation for employment:
- (1) Basic pay (one-eightieth of biweekly salary) for the first forty (40) hours actually worked in the workweek, including work on a holiday (but not the amount also paid for holiday leave), and including basic pay for work during a typhoon emergency (but not the amount also paid for administrative leave), regardless of whether actual compensation during such emergency is higher because any such work was performed outside of regular duty hours ; and
 - (2) Any hazardous work differential earned during the workweek; and
 - (3) Any night work differential (which can only be earned during regular duty hours); and
 - (4) Any premium earned for remaining on call for duty during a regularly scheduled period in excess of a forty (40) hour week; and
 - (5) Payment for housing or transportation to and from work provided to the employee, or the fair value of those benefits if they are provided directly by the government, pro-rated to determine the amount for that workweek. The fair value shall be the amount specified by the Secretary of Finance for tax purposes.
- D. Calculation of Regular Rate of Pay and Overtime. The computations set forth below are guidelines that describe how overtime generally is computed under the FLSA as of the effective date of this provision. However, there are

numerous official federal interpretations that may be applicable in individual cases. Also, as a result of federal statutory or regulatory changes or as a result of court rulings, the computations may change from time to time. In case of any discrepancy, applicable federal law, regulations, and interpretations shall be followed in lieu of these guidelines. All payroll offices are required to become knowledgeable and keep current regarding applicable overtime regulations under the FLSA. Guidance should be sought, as necessary, from the U.S. Department of Labor.

- (1) The regular rate is an hourly rate. Except as described in subparagraph (2) below, the items of compensation for the week in question included pursuant to subparagraphs (1) through (5) of Part IV.B16.C shall be added together and then divided by forty (40) to determine the regular rate. For the week's work, the employee shall receive cash wages including all amounts under subparagraphs C(1) through C(4), plus any cash payment under subparagraph C(5), plus payment for each hour in excess of forty at one and one-half times the regular rate for that workweek.
- (2) If any hazardous work differential is earned during overtime hours, federal regulations require that a special calculation be made as follows: first compute the basic hourly rate (generally one-eightieth of the biweekly salary); multiply this by the total number of hours actually worked during the workweek (including overtime hours) and add all amounts under subparagraphs C(2) through C(5). This is the regular pay for all hours. Then divide this regular pay amount by the total number of hours actually worked to determine the regular rate. For the week's work the employee shall receive the regular pay for all hours as computed above, plus an overtime premium for each hour worked in excess of forty at one-half such regular rate. Cash wages would be this amount less the value of any benefit under subparagraph C(5) received in kind. Any payroll office, at its option, may use this method for all overtime calculation.

Example for Paragraph D(2): An employees who earns \$640 biweekly works 46 hours in a workweek. The employee is entitled to hazardous work differential for 16 of these hours, 10 during regular duty and all 6 of the overtime hours. The employee's regular rate of pay would be computed as follows: 46 hours at \$8 (\$368), plus hazardous work differential at 25% of \$8 for 16 hours (\$32), for

regular pay for all hours of \$400. Divide this by 46 hours for a regular rate of pay for all hours of \$8.70 per hour. For the week's work, the employee would receive regular pay for all hours of \$400 plus a 50% overtime premium for the 6 overtime hours at \$4.35 (\$26.10) for a total of \$426.10. Note that the overtime hours are considered twice--once at straight time and once at a 50% premium, for a total of time-and-a-half.

- E. Compensatory Time. If funds are not available for overtime compensation, compensatory time off may be granted at the rate of one and one-half hours for each hour actually worked of overtime, provided that:
1. The employee signs a statement agreeing to compensatory time in place of overtime; and
 2. The maximum authorized accumulation of compensatory time is eighty (80) hours. When an employee has accumulated eighty (80) hours of compensatory time off, all overtime must be paid in cash; and
 3. An employee's request to use compensatory time off must be granted within a reasonable time unless the responsible official determines the time off would be unduly disruptive to operation of the activity; and
 4. Accrued balances of compensatory time off at the termination of employment must be paid at the average basic pay of the employee over the last three years of employment or the final basic pay, whichever is higher.
 5. ~~Transition Provision. All compensatory time off carried "off the books: through an in-house agreement or arrangement shall be converted to official compensatory time off as of the effective date of the amendment. The approving official shall be personally liable for any compensatory time off granted through a non-official in-house agreement or arrangement after the effective date of this amendment. An employee who has a balance of more than eighty (80) hours of compensatory time because of this transition provision must be paid immediately for the balance exceeding eighty (80) hours. If funds are not available for such immediate payment, the balance will be converted to annual leave.~~

F. Reduction and Control of Overtime. Intelligent and responsible control of overtime is a continuing management function and certain steps are to be taken by all appointing authorities and supervisors to reduce overtime. Overtime work should be directed to a specific objective or goal, and should not be work that can be completed during the regular workday, nor postponed to the following day or days. Management should:

- (1) Ensure that every effort is made to improve management of the worker-hours available during the 40-hour work week; eliminate unessential or low priority work; make certain that reasonable discipline is maintained with respect to hours of work, leave, punctuality, industry and individual productivity.
- (2) Examine the purpose of overtime to determine whether the work to be accomplished requires immediate completion. No overtime should be approved to complete any work that could be delayed without undue hardship.
- (3) Where recurring overtime appears necessary, compare the relative cost of additional personnel versus the current cost of overtime. Where additional personnel would result in less cost to the government, reassign employees in less essential positions, wherever possible.
- (4) Pool clerical personnel and loan employees from one activity to another as the needs require. No situation should be allowed to exist wherein employees are not fully occupied in necessary work the full eight hours a day.
- (5) Use available recognition devices, merit increase, performance awards and priority consideration for promotion to reward employees who make extra efforts on behalf of their organizations. This will encourage other employees to raise their sights.
- (6) Ensure that timekeeping duties are accomplished during regular working hours. Overtime shall not be authorized for timekeeping.
- (7) Minimize use of compensatory time off. Excessive use of compensatory time will take employees away from the workplace in

the future and create a need for more overtime.

- G. Approval of Overtime. Overtime must be approved, in advance, by the appropriate management official on forms prescribed by the Director of Personnel Management. Such officials are Secretaries or their equivalent, or Directors or their equivalent when this authority is delegated.
- (1) An employee who is suffered or permitted to work overtime without authorization shall be paid, because the time represents an obligation of the government.
 - (2) The responsible management official has an obligation to discourage overtime which is not approved, and must take disciplinary action, when appropriate, against an employee who works overtime without authorization. The Director of Personnel Management may request documentation of the steps taken by management to control unauthorized overtime.
 - (3) As a general policy, an employee who has taken annual or sick leave or who plans to take annual or sick leave within the same work week will not be scheduled to work overtime.
- H. Supervisors working overtime. As a general policy, management officials should refrain from directing supervisory personnel to work overtime.
- I. Supervision of Overtime Work. In the event three or more employees are directed to work overtime, a supervisor must be present to ensure proper utilization of the overtime period.

IV.B17 STANDARD WORK WEEK

The standard work week commences on Monday at 7:30 a.m. and ends on the following Friday at 4:30 p.m. of each week. For FLSA purposes, including the computation of overtime pay, the workweek is the 168-hour period beginning at 12:01 a.m. on Sunday, unless a different FLSA workweek is specified for a particular position.

IV.B18 USE OF NON-STANDARD WORK WEEK

Non-standard work weeks may be used to provide continuity of service or to fulfill other

needs of the public interest. Schedules for non-standard work weeks shall be devised, in advance, by the appointing authority, not to exceed forty (40) hours per week. When it becomes necessary to change an employee from a standard work week to a non-standard work week, the employee shall be given notice ten (10) working days in advance of the effective date of the change. If an employee is not given the required notice of change in schedule of work, the employee shall be compensated at the overtime rate for those days worked within the first ten (10) working days which do not fall within the standard work week.

IV.B19 HOLIDAYS

All government employees shall receive leave with pay on each legal holiday.

- A. Payment for Work on Holidays. An employee required to work on a legal holiday shall be compensated at the base salary rate or the adjusted base salary rate for the hours actually worked, and shall also be paid for the holiday leave with pay.
- B. Holiday Pay in a Non-Standard Work Week. When holidays fall on a regular non-work day for employees whose basic work week is other than the standard work week, the work day immediately preceding or succeeding the holiday shall be designated (as determined by the department head) as the holiday in lieu of such holiday which occurs on the employee's scheduled non-work day.
 - (1) Such employees who have designated holidays in lieu of the official holiday shall, if possible, be excused from duty on the designated holiday.
 - (2) Such employees who are required to work on their designated holidays shall receive the basic salary rate for work performed on that day, and shall also receive holiday leave with pay.

IV.B20 MERIT INCREASE

An employee who completes fifty-two (52) consecutive calendar weeks of sustained superior work performance and receives at least four (4) exceptional ratings on a performance evaluation shall be considered an "outstanding/exceptional" employee, and shall

be granted no more than a one (1) step merit increase in base salary.

~~An employee with a minimum of four (4) exceptional ratings may additionally be granted a merit increase not to exceed one (1) step increase in the base salary upon completion of fifty-two (52) consecutive calendar weeks of sustained superior work performance. Such additional merit increase shall not alter the waiting period required for qualifying for the next within-grade step increase. No employee shall be compensated above the maximum step prescribed for the employee's pay level except where the employee was receiving such compensation pursuant to law.~~

A request for merit increase is initiated and signed by the supervisor, attached to an approval recommendation from the appointing authority, and then forwarded to the Director of Personnel for review and final approval.

The effective date of all merit increases shall be the beginning of the pay period immediately following the final approval of the Director of Personnel Management. Exceptions to this rule may be made by the Director of Personnel Management only for such reasons as might expedite public business and not result in an inequitable situation

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IV.B21 PREMIUM PAY

See Part IV.B22 for approval of proposals to provide premium pay or differentials.

- A. Hazardous Work. All employees meeting the qualification criteria below, whose occupation involves unusual and extreme hazards to their health and safety, shall be paid a differential of twenty-five percent (25%) of their base salary rate for any hour actually worked while exposed to the hazard. Eligibility will be for a specified period up to 90 days, and any renewal must be reviewed in the same manner and for the same maximum period as an original request for the differential. To qualify for a payment of a hazardous work differential, the following conditions of work must be met:
- (1) The conditions of unusual and extreme hazard to the employee's health and safety must be clearly evident and fully defined;
 - (2) The hazard, on which a request for payment of such differential might be based, has not previously been recognized in the establishment of the pay level for the class which covers the position(s) and work involved;
 - (3) Exposure to the particular unusual and extreme hazard must constitute a reasonable amount of time so as to be clearly recognizable. For example, several repeated exposures to such a hazard may occur for a brief period of time, but collectively measured over a period of time, e.g., one day, may possibly provide a valid basis for recognition of the hazard. Conversely, clear and sustained exposure to an unusual and extreme hazard is readily more recognizable and measurable.
 - (4) Upon receipt of a request to renew a hazardous differential, the Director of Personnel Management shall:
 - (a) Review the pay level assigned to the class which covers the position involved and the hours actually worked by employees with that classification while exposed to the hazard involved, and determine whether the pay level should be adjusted for the entire class; and
 - (b) Review the justification provided by management to

determine whether the employee is still eligible for the hazardous work differential.

B.B. Night Work. Additional compensation in the form of a night work differential of fifteen percent (15%) of base salary rate or adjusted base salary rate is paid for all hours worked between 4:30 p.m. and 7:30 a.m., when such hours are included within a regularly scheduled tour of duty.

- (1) **Control Criteria.** To be eligible to receive payment of a night work differential, the following criteria must be met:
 - (a) Payment will be made only for actual hours worked which fall between 4:30 p.m. and 7:30 a.m.
 - (b) The above is restricted to include only those regularly scheduled work hours within the specified time period which constitute all or a part of the employee's regular hours of duty.
- (2) **Non-payment of Night Work Differential.** Payment of a night work differential will not be made for the following situations:
 - (a) An employee whose regular hours of duty included scheduled hours during the period of 4:30 p.m. to 7:30 a.m., is absent and does not actually perform work for the hours involved;
 - (b) An employee required to perform work during the hours of 4:30 p.m. to 7:30 a.m. which is not a part of the employee's regularly scheduled hours of night work duty; or
 - (c) An employee who is paid for remaining on call to duty in excess of the normal forty (40) hour work week shall not be eligible for payment of night differential for any work performed while on call.

C. On-call. Employees who are required to remain on-call to duty outside of their regular working hours shall be fit to report for duty while on call and shall be paid a premium of one dollar and fifty cents (\$1.50) per hour they are scheduled to be on-call, provided that:

- (1) Employees shall be compensated for hours actually worked instead of

- receiving an on-call premium for all hours in which they are required to be at a prescribed work place; and
- (2) Hours of on-call duty must be for a regularly scheduled period of time in excess of the regular forty (40) hour work week. On-call schedules must be submitted to the timekeeper before the beginning of the work week involved; and
 - (3) There is a bonafide reason for the employee to be on call; and
 - (4) Eligibility to be placed on-call is for a period of one (1) year and may be renewed for additional one (1) year periods.

D. Typhoon Emergency. Employees who are required by the government to work in a location and during a period of time in which a typhoon or tropical storm emergency has been declared by the Governor shall be compensated as follows:

- (1) ~~For the employee's regularly scheduled work hours during which other government employees are released from work as a result of the emergency, the employee shall receive pay for administrative leave, and shall also receive pay for the actual hours worked; and~~

Except for those employees determined by the appointing authority released from duty and placed on administrative leave for the period hours worked before the Governor declared the emergency.

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- (2) ~~For all other hours such employees are required to work while such declaration of emergency shall remain in force~~ Those employees required to remain on duty to provide essential services, compensation shall be at the rate of two and one-half (2-1/2) times the base salary rate. Employees being paid typhoon emergency differential are not eligible to receive any other premium pay or overtime pay for the same period.

E. Outside Commonwealth Service. An employee of the Civil Service residing in the Commonwealth and assigned a permanent change of duty station to work at locations outside the geographic boundaries or administrative control limits of the Commonwealth shall receive, in addition to base salary, fifty percent (50%) of the base salary. Employees receiving housing benefits shall

- not be eligible for this differential.
- F. Special Medical. A Medical Officer or Dental Officer who occupies a position with duties predominantly clinical, as opposed to administrative in nature, shall receive, in addition to the base salary, a Special Medical Differential of thirty percent (30%) of the base salary for the pay level and step of the position.
- G. Advanced Professional. An employee who has achieved advanced professional preparation through obtaining an L.L.B. or J.D. Degree, a Doctorate in Medicine or Dentistry, or an earned doctorate in any other field from an accredited United States university or any other university accredited in the United States, and who is employed in a position having a requirement for such degree, shall receive, in addition to the base salary, a premium of fifty percent (50%) of the base salary for the pay level and step of the position.

IV.B22 APPROVAL OF PREMIUM, PAY OR DIFFERENTIALS

Proposals to either begin or discontinue premium pay differentials shall be submitted on a Request for Personnel Action to the Director of Personnel Management for review and approval. The request must be accompanied by a letter of justification addressing each of the criteria required to support the particular differential. Discontinuance of differentials does not constitute a "reduction in pay" and does not require a formal adverse action under Part III.D.

IV.B23 BAR TO DUAL COMPENSATION OR DUAL EMPLOYMENT

No employee shall receive compensation for two positions or two appointments in the Civil Service. When an employee is engaged in government work other than in the employee's regular position, such employee shall be placed in LWOP from the regular position, or (2) continue the government salary and reject the salary for the second position, whichever is to the employee's personal advantage.

Exception: When an employee is engaged as a classroom teacher outside the employee's regular work day to teach Adult Basic Education or classes for the Northern Marianas College, such employee shall be paid for work as a teacher at the prevailing rate. Other exceptions may be made upon proper justification with the specific written approval of the Director of Personnel Management.

IV.B24 SEVERANCE PAY

Employees who are separated from the Civil Service by reduction-in-force (RIF), not eligible to receive immediate retirement pay, are entitled to severance pay computed as follows:

- A. For each full year of creditable service with the government, the employee is entitled to one-half ($\frac{1}{2}$) of the employee's biweekly pay rate in effect upon separation by RIF.
- B. For each full three (3) months of service beyond the total full years of service, the employee is entitled to twenty-five percent (25%) of the pay for a biweekly period at the rate in effect upon separation by RIF. Not more than seventy-five percent (75%) of the pay for one biweekly period shall be paid under this part-year provision.

Severance pay is paid at the regular biweekly sequences until the entitlement is exhausted. If an employee separated by RIF is reemployed by the government in any capacity before the allowable severance pay liability is satisfied, the employee sacrifices the unpaid balance upon return to duty. If the employee's total creditable service is less than one (1) full year, there is no entitlement to severance pay.

IV.B25 TIMEKEEPERS

It is essential that the Civil Service Commission and the government have available accurate data concerning the time and attendance of employees. This information assists forecasting of future personnel needs and analysis of current practices. To provide the needed information, it is necessary that competent timekeepers be appointed and certified.

- A. Appointment and Certification of Timekeeper. Each appointing authority shall appoint timekeepers from among the employees assigned to such office. Each timekeeper shall be assigned designated employees for whom the timekeeper will be responsible. Every employee (classified service and excepted service) shall be required to be assigned a timekeeper. Upon the appointment, each timekeeper will undertake a course of instruction in timekeeping procedures as specified by the Director of Personnel Management and the Secretary of Finance. ~~Upon satisfactory completion of such instruction, the Director of Personnel Management may certify as acting~~

~~timekeeper an employee who has not yet completed the required instruction, where circumstances dictate.~~ No person may perform the duties of timekeeper without certification.

- B. Duty of the Timekeeper: Each timekeeper will be responsible for recording and certifying time and attendance records of the assigned employees. Timekeeping duties shall be accomplished during regular working hours. Overtime shall not be authorized for timekeeping. The timekeeper will also record and certify leave time taken by any assigned employee. The method of recording and certifying time, attendance and leave shall be prescribed by the Director of Personnel Management and the Secretary of Finance.

Time and attendance records, kept by the Timekeeper, are subject to audit by the Director of Personnel Management or his designee at least once a year. Non-compliance to this part shall subject the Timekeeper to immediate de-certification and appropriate disciplinary action(s).

- C. Protection of the Timekeeper. It is essential that timekeepers be able to fulfill their duties without harassment. No person may attempt to coerce, threaten or otherwise attempt to hinder the timekeeper. Any person violating this provision shall be reported promptly by the timekeeper to the Director of Personnel Management. Any person violating this provision may be subject to disciplinary and/or criminal sanctions.
- D. Employees' Rights to Challenge Timekeeping Records. Any employee who wishes to challenge the accuracy of any timekeeper's records may institute an employee appeal under the Grievance Procedure, Part III.

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BOARD OF PROFESSIONAL LICENSING

Commonwealth of the Northern Mariana Islands

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Saipan, MP 96950


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**NOTICE AND CERTIFICATION OF ADOPTION
OF REGULATIONS OF THE
BOARD OF PROFESSIONAL LICENSING FOR
ENGINEERS, ARCHITECTS, LAND SURVEYORS
AND LANDSCAPE ARCHITECTS**

I, Elizabeth S. Balajadia, Chairwoman of the Board of Professional Licensing which is promulgating the Regulations for Engineers, Architects, Land Surveyors and Landscape Architects published in the Commonwealth Register Volume 24 Number 02 on February 28, 2002 at pages 19025 to 19031, by signature below hereby certify that as published such Regulations are a true, complete and correct copy of the Regulations for Engineers, Architects, Land Surveyors and Landscape Architects previously proposed by the Board of Professional Licensing which, after the expiration of appropriate time for public comment, have been adopted with no changes. I further request that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 8th day of May, 2002 at Saipan, Commonwealth of the Northern Mariana Islands.

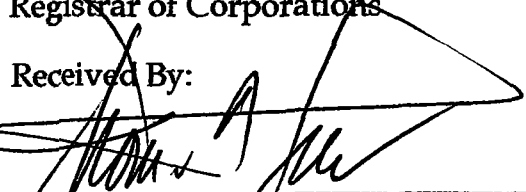

Elizabeth S. Balajadia
Chairwoman

Filed By: 

Soledad B. Sasamoto
Registrar of Corporations

5/20/02
Date

Received By:


Thomas A. Tebuteb
Special Assistant for Administration

5/20/02
Date