

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS



COMMONWEALTH REGISTER
VOLUME 26
NUMBER 08

AUGUST 26, 2004

COMMONWEALTH REGISTER

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

DECLARATION OF A STATE OF EMERGENCY

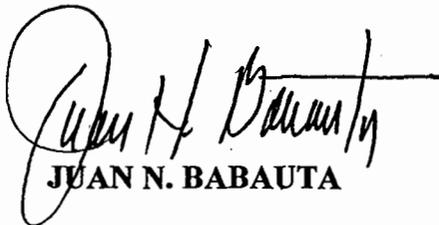
Volcanic Eruption on Anatahan

AUG 18 2004

Diego T. Benavente
Lieutenant Governor

I, JUAN N. BABAUTA, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, Section 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Natural Disaster Relief Act of 1979, declare a State of Emergency for the island of Anatahan. This Declaration of a State of Emergency is in accordance with the recommendations and justifications presented by the Emergency Management Office (EMO), Commonwealth of the Northern Mariana Islands and the United States Geological Survey (USGS) such recommendations and justifications being attached and incorporated by reference. I further declare that the island of Anatahan is unsafe for human habitation and do therefore restrict all travel to the island Anatahan except for such travel deemed to be for scientific purposes, provided however, that such scientific expeditions be permitted only upon prior notification to the Director of the EMO or his designee.

This Declaration of Emergency shall take immediately and shall remain in effect for thirty (30) days unless I, prior to the end of the thirty (30) day period, notify the Presiding Officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. The underlying justification for any such further extension, as with this Declaration of a State of Emergency, shall be set forth in a detailed communication to the Legislature.



JUAN N. BABAUTA

CC: Lt. Governor
Senate President
House Speaker
Mayor of the Northern Islands
Director, Emergency Management Office
Commissioner, Department of Public Safety
Attorney General
Secretary of Finance
Special Assistant of Management and Budget
Special Assistant for Programs and Legislative Review



Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Emergency Management Office
OFFICE OF THE GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



Rudolfo M. Pua, Director
Mark S. Pangelinan Dep., Director

MEMORANDUM

05 AUG 2004

To: Acting Governor

From: Director, Emergency Management Office

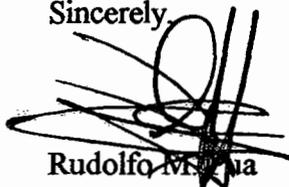
Subject: Declaration of Emergency

The EMO seismic staff and USGS, once again with close consultation has informed me that the seismicity level decreased dramatically to a very low level. However, steam and ash are like rising below two thousand feet as recorded by the seismographs at EMO.

Therefore, we are once again respectfully soliciting your assistance in extending the **Declaration of Emergency** for the island of Anatahan for another thirty (30) days and to maintain the *off limits zone from 30 nautical miles to 10 nautical miles* around Anatahan until further notice. Under these conditions, restriction of entry to the said island should continue until a thorough scientific study is done and that the findings suggest otherwise. The current **Declaration of Emergency** expired on August 06, 2004.

Should you have any question or concern, please call our office at 322-9528/29.

Sincerely,



Rudolfo M. Pua

Xc: Governor
SAA
Mayor, NI



Northern Mariana Islands Volcanic Activity

[| Anatahan Home](#) | [Current Update](#) | [Archive of Updates](#) | [Photo Gallery](#) |

Activity Update

The first historical eruption of Anatahan Volcano began suddenly on the evening of May 10. An eruption column as high as 10 km resulted in a far-reaching eruption cloud to the west. No one was directly threatened by the initial activity, because residents had long before evacuated the small volcanic island (9 km long and 3 km wide). Thus far, the eruption has consisted of a nearly continuous small eruption column (less than 5 km) punctuated by stronger explosive activity. In early June, a small lava flow erupted in the volcano's east crater, but was mostly destroyed by subsequent explosive activity.

[| Eruption Overview](#) | [Washington VAAC Volcano Ash Advisories](#) |

Anatahan Volcano Update

Anatahan Volcano Update for August 4, 2004

Submitted Wednesday, August 4, 2004 at 1230 local Anatahan time

Note: the next update will be on August 10 unless activity increases earlier.

On July 26, the seismicity level decreased dramatically to a very low level, and it remains very low. The seismic signals indicate that the frequent individual explosions have ceased. The ash plume is less than a few kilometers long and below 2000 feet.

Background:

The current eruption began this year after increased seismicity on March 31, 2004. Lava was noted in the crater on April 15 and may have extruded for a few weeks thereafter. The most energetic phase began on April 24, when a light ash cloud rose to a few thousand feet. Seismic activity peaked on April 28, then decreased slowly to about half that peak value during May. That seismicity resulted from strombolian bursts

every one to several minutes that threw material a few hundred meters out of the crater and steam and ash upward for a few thousand feet. During June, the seismicity level was higher, as a result of more frequent small explosions every few tens of seconds, and a 100-km-long, light-colored plume of steam and ash was occasionally visible. An active spatter cone has existed since at least June 10, from which continuous strombolian explosions were throwing material as high as 100 m every few tens of seconds to minutes. The inner crater filled with the spatter by about July 10.

The Emergency Management Office, Office of the Governor, CNMI, has placed Anatahan Island off-limits until further notice and concludes that, although the volcano is not currently dangerous to most aircraft within the CNMI airspace, conditions may change rapidly, and aircraft should pass upwind of Anatahan or farther than 30 km downwind from the island and exercise due caution within 30-50 km of Anatahan.

Contact persons:

Juan Takai Camacho, Geophysical Seismic Technician, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: jtcamacho@cnmiemo.gov.mp Ramon Chong, Geophysical Instrument Specialist, EMO Saipan; tel: (670) 322-9528, fax: (670) 322-7743, email: rcchongemo@hotmail.com Frank Trusdell, Geologist, USGS; tel: (808) 967-8812, fax: (808) 967-8890, email: trusdell@usgs.gov



86

BOARD OF PROFESSIONAL LICENSING

Commonwealth of the Northern Mariana Islands

P.O. Box 2078

Saipan, MP 96950

Tel. No.: (670) 234-5897

Fax No.: (670) 234-6040

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE REGULATIONS FOR REAL PROPERTY APPRAISERS

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Board of Professional Licensing, intends to adopt as permanent regulations the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC §9104(a). The Board intends to adopt them as permanent regulations after October 1, 2004, and hereby gives at least 30 days notice of its intent. The amendments would be effective 10 days after adoption. (1 CMC §9105 (b)).

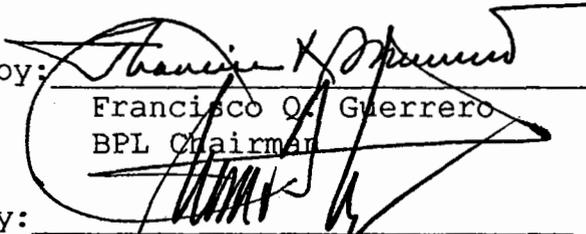
AUTHORITY: The Board shall adopt rules and regulations establishing criteria and standards regarding licensing or authorization to practice a profession over which the Board has jurisdiction pursuant to the powers granted it by 1 CMC §3105, P.L. 11-99 §3108, as amended.

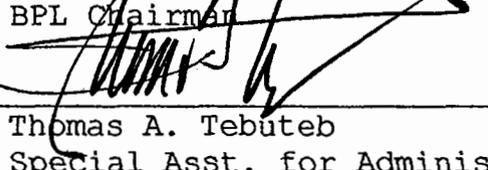
THE TERMS AND SUBSTANCE: The intent of these amendments is to update and comply with the applicable federal law, specifically the Financial Institutions Reform, Recovery and Enforcement Act of 1989 and federal regulations. By doing this, we are ensuring the highest standards of professional competence for real property appraisers as well as to protect the interest and welfare of landowners, financial institutions and the general public in the CNMI.

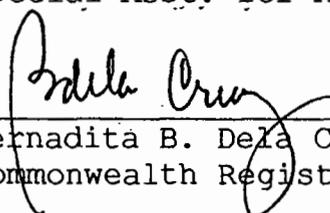
THE SUBJECTS AND ISSUES INVOLVED: These amendments are to amend, add, and delete some definitions; amend the Qualifying and the Distance Education requirements; Add under 4.3 Examination Section (4.3 (B)(3)); amend 4.4 the Qualifying Education requirements under each appraiser classification; add the Certified General Real Property Appraiser classification (4.4(D)); amend 4.5 Approved Course Providers; amend 4.6 Continuing Education, 4.6(E), 4.6(I), 4.6(J), and 4.6(M); amend 6.10(A)(1), (2); amend 7.1 Temporary License(A) and (B); amend 8.1 and 8.2 Renewal; amend 8.3(A), (B) Reinstatement of Invalid License; amend 8.4(A)(4) and 8.4(B); amend 12.1; amend 13.1; and 16.1.

DIRECTIONS FOR FILING AND PUBLICATION: These proposed amendments shall be published in the Commonwealth Register in the section under Proposed and Newly Adopted Regulations (1 CMC §9102(a)(1) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC §9104(a)(1).

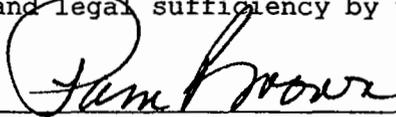
TO PROVIDE COMMENTS: Send your comments to Florence C. Sablan, Executive Director, at P.O. Box 502078, Saipan, MP 96950, or fax to ((670)234-6040 or email to nmi.bpl@vzpacifica.net If you want a copy of the proposed amendments, please come by our office located on the 2nd Floor of the Island Commercial Building, Middle Road, Gualo Rai, Saipan. Written comments regarding the proposed amendments are to be submitted within thirty (30) days of publication of this notice in the Commonwealth Register.

Submitted by:  8/05/04
Francisco O. Guerrero
BPL Chairman
Date

Received by:  8/11/04
Thomas A. Tebuteb
Special Asst. for Administration
Date

Filed by:  8/20/04
Bernadita B. Deza Cruz
Commonwealth Register
Date

Pursuant to 1 CMC §2153, as amended by P.L. 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.

 8/24/04
Pamela Brown, Attorney General
Date

MB

KUETPON I MALISENSIAN PROFESIONAT
Commonwealth I Sankattan Siha Na Islas Marianas
P.O. Box 2078
Saipan, MP 96950
Tilifon Numiru: (670)234-5897
Fax Numiru: (670)234-6040

NOTISIAN I MAPROPONE NA AMENDASION SIHA PARA I REGULASION MAN
KATKUKULA PRESION I PROPIDAT TANO

Intension para ma'adaptan i man mapropone na Regulasion siha: I Commonwealth I Sankattan siha na Islas Marianas, Kuetpon i malisensian profesionat, ha intensiona para u ma'adapta petmanente na regulasion siha ni man checheton ni man mapropone na amendasion siha, sigun i Kinalamten i Akton Administradot, 1 CMC 9104(a). I kuetpo ha intensiona para ufan ma'adapta petmanente i regulasion siha despues de Oktubre 1, 2004, ya ha nahi pot lu menos, tranta (30) diha siha, na notisian i intension. I amendasion siha u efektibu dies (10) diha siha despues de ma'adapta. (1 CMC 9105 (b)).

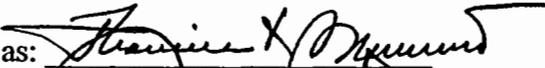
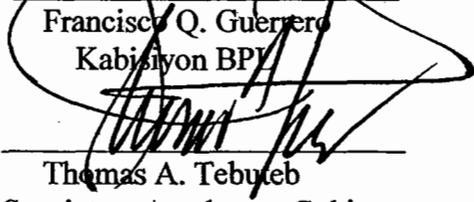
Aturidat: I kuetpo para u adapta regulasion siha pot u ma'establesi areklamento siha pot man lisensia osino man aturisa nui prinaktikan i profesion gi hilo direksion i kuetpo sigun i manahe na aturidat ginen i CMC 3105, Lai Puplico 11-99 3108, ni ma'amenda.

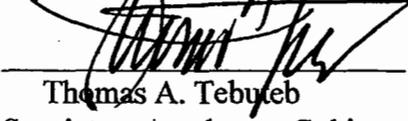
Areklamento yan Kinalamten: I intension este siha na amendasion pot para ufan ma rinueba yan u makomple i ginagagao gi lai federat, espesiatmente i Financial Institutions Reform, Akton Recovery yan Enforcement, 1989 yan regulasion federat siha. Pot este in na sigura i mas tatkilo na kinalamten profesinat na kapasidat para i man katkukula presion propidat tano yan lokkue proteksion interes yan linala duenon tano siha, institutasion finansiat siha, yan publiko hinerat gi halom i CNMI.

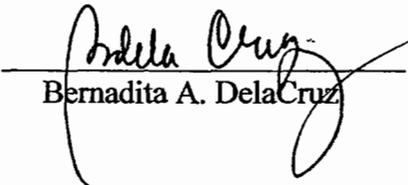
I tineteka na mansahe siha: Este na amendasion siha para ufan ma'amenda, muna halom yan malaknos difinision siha; tulaika i Qualifying yan Distance Education requirements; na halom gi papa 4.3 i Examination Section (4.3) (B) (3); tulaika 4.4 I qualifying Education requirements gi papa kada appraiser classifications; na halom i Certified General Real Property Appraiser Classifications 4.4 (d); amenda 4.5 approved course providers; amenda 4.6 continuing education, 4.6 (E), 4.6 (I), 4.6 (J), yan 4.6 (M); amenda 6.10 (a) (1), (2); amenda 7.1 Temporary License (a) yan (b); amenda 8.1 yan 8.2 Renewal; amenda (a),(b) Reinstatement of Invalid License; amenda 8.4 (A) (4) yan 8.4 (B); amenda 12.1; amenda 13.1; yan 16.1.

Direksion para muna halom yan publikasion: Este siha i man mapropone na tinilaika (amendasion) siha ufan mapublika gi halom Commonwealth Register gi papa seksionan i man mapropone yan nuebo na ma'adaptan regulasion siha (1 CMC 9102) (a) (1) yan ufan mapega gi propio na lugat siha gi Civic Center yan gi ofisinan gobietnamento gi halom kada senatorial district, gi fino English yan taotao tano, Chamorro yan Carolinian (1 CMC 9104) (a) (1).

Nina Halom Mensahe: Na halom mensahe siha guato as Senora Florence C. Sablan Direktod Eksekatibu, gi P.O. Box 502078, Saipan MP 96950, pat fax (670)234-6040 osino email nmi.bpl@v2pacific.net. Yanggen malago hao kopian i man mapropone na amendasion siha pot fabot fatto gi ofisinan mame gi 2nd Floor, Is. Com. Bldg, Middle Road, Gualo Rai, Saipan. I mensahe siha pot maproponen amendasion siha, na halom gi trenta (30) diha siha gi notisian publikasion gi Commonwealth Register.

Nina halom as: 
Francisco Q. Guerrero
Kabisyon BPY 
Fecha 8/05/04

Rinisibe as: 
Thomas A. Tebuteb
Spesiat na Ayudanten Gobietno
Fecha 8/11/04

Rinekod as: 
Bernadita A. Delacruz
Fecha 8/20/04

Sigun i CMC 2153, ni inamenda ni Lai Pupliko 10-50 i regulasion siha ni checheton man maribisa yan apreba ni sufisiente na ligat gi Ofisinan Abugado Hinerat CNMI.

Pamela Brown
Abugado Henerat
Fecha _____

MWIISCHIL PROFESSIONAL LICENSING

Commonwealth Téel Falúwasch Marianas

P.O. Box 502078

Seipél, MP 96950

Tel. No.: (670) 234-5897

Fax. No.: (670) 234-6040

**ARONGOL TOULAP REEL POMWOL LLIWEL KKAAL NGÁLI
ALLÉGHÚL SCHÓÓL ISISIWOWUL MÉÉL FALÚW**

Aghiyáhil mwoghutul reel fillóól pomwol Allégh kkaal : Commonwealth, mewóól Téel falúw kka Efáng Marianas, Mwiischil Professional Licensing, e aghiy ebwe fóscheey fillóól allégh kka e appasch, nge ebwe Pomwol lliwel, sáangi lemelemil Alléghúl Administrative Procedurs, ye 1 CMC 9104 (a). Mwiisch e aghiy ebwe fóscheey fillóól allégh kkaal mwiril Sarobwel 1, 2004, me aa ayoora, ngare mwo eliigh (30) rál reel arongol aghiyagh yeel. Lliwel kkaal ebwe allégheló seigh (10) rál mwiril fillóól. (1 CMC 9105 (b)).

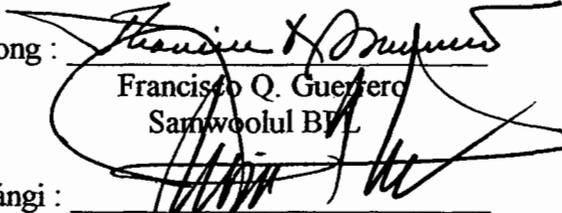
Bwángil : Mwiisch ebwe fillóóy allégh kkaal igha ebwe ayoora lemelemil me aweweel Isisiwowul lisensiya me ngare mweiti ngáli mwóghutul angaang yeel igha Mwiisch ebwe lemelem wóól sáangi bwángil ye re mweiti ngáli sangi 1 CMC 3105, Alléghúl Toulap ye 11-99, 3108, igha aa lliwel.

Aweweel kkepasal : Aghiyaghil lliwel kkaal nge ebwe fischiló me fil ngáli alléghúl federóód reel ghilighilil Financial Institutions Reform, Alleghul-Recovery me Enforcement llól 1989 me alléghúl federóód kkaal. Sáangi mwóghut yeel, si kke lugheey fischi llangal lemelemil mwóghtul angaang reer schóóy isisiwow méél falúw me bwal ammwala ghtchúur me malaweer aramas me falaweer, financial institutions me aramas toulap mellol CNMI.

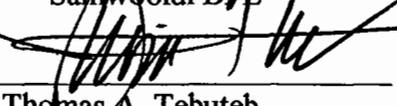
Akkatéél Aweewe me Aghiyagh : Lliwel kkaal nge ebwe lliwel, akkatéélong me akkatééwow akkáaw bwungúl ; siweli lemelemil Qualifying me Distance Education ; aschuwulong faal 4.3 Talil Examination (4.3 (B) (3) ; siweli 4.4 lemelemil Qualifying Education faal alongal appraiser classification ; aschuwulong Certified General Real Property Appraiser classification (4.4 (D) ; siweli 4.5 Approved Course Providers ; siweli 4.6 continuing Education, 4.6 (E), 4.6 (I), 4.6 (J) me 4.6 (M) ; siweli 6.10 (A) (1), (2) ; siweli 7.1 Temporary Licence (A) me (B) ; siweli 8.1 me 8.2 Renewal ; siweli 8.3 (A), (B) Reinstatement of Invalid License ; siweli 8.4 (A) (4) me 8.4 (B) ; siweli 12.1, siweli 13.1 ; me 16.1.

Afal Reel Isisilong me Akkatééwow : Pomwol lliwel kkaal nge ebwe akkatééwow llól Commonwealth Register llól táлил faal pomwol me fillóól Allégh kka e ffé(1 CMC 9102 (a) (1) me ebwe appasch llól bwuley kka e fisch mellól civic center me llól bwulasiyool gobenno llól alongal senatorial district llól kkepasal Amerikkónu me faleey, Remeraalis me Refalúwasch (1 CMC 9104 (a) (1).

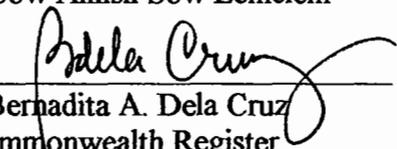
Reel Ubwe Ayoora Aghiyágh : Afanga yóómw aghiyagh ngáli, Florence C. Sablan, Samwool, reel P.O. Box 502078, Seipél, MP 96950, me ngáre fax ngáli (670) 234-6040 me ngare email ngali nmi.bpl@uzpacific.net Nágre u tipeli tilighiil pomwol lliwel kkaal, tooto reel bwulasiyo ye e lo 2nd floor, Island Commercial Building, Middle Road, Ameiraw, Seipél. Agiyágh kkaal ebwe isisilong llól eliigh (30) rál, sáangi akkatééwowul arong mellól Commonwealth.

Isaliyallong : 
Francisco Q. Guerrero
Samwoolul BVL

8/05/04
Rál

Mwir Sáangi : 
Thomas A. Tebuteb
Sów Alillsil Sów Lemelem

8/11/04
Rál

Aisis reel : 
Bernadita A. Dela Cruz
Commonwealth Register

8/20/04
Rál

Sáangi allégh ye 1 CMC 2153 iye aa liwel mereel Alléghúl Toulap 10-50, lliwel kka e appasch nge raa takkal amweri fischi me allégheló mereel CNMI Bwulasiyool Sów Bwungul Allégh Lapalap.

Pamela Brown, Sów
Bwungúl Alégh Lapalap

Rál

**REGULATIONS OF THE
BOARD OF PROFESSIONAL LICENSING
FOR
REAL PROPERTY APPRAISER**

PART I. GENERAL PROVISIONS

1.1 Purpose. The purpose of these regulations is to comply with applicable federal law, specifically the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and federal institutions, as well as to protect the interests of land owners, financial institutions, appraisers and other interested persons in the Commonwealth of the Northern Mariana Islands (hereafter "CNMI or NMI").

1.2 Intent and Effect. The receipt of a license from the CNMI Board of Professional Licensing does not permit a person to engage in business in the CNMI until such person has complied with any and all applicable laws, rules and regulations and secured all necessary licenses and permits for conducting business in the NMI. It is the intent of these regulations to ensure high standards of professional competence for real property appraisers in the CNMI and to comply with applicable federal statutes and regulations.

Due to scarcity of qualified persons in the CNMI, it is the intent of these regulations to establish two classes of approved real property appraisers:

Non-Federally Related Transactions

Licensed Residential Real Property
Appraiser
Licensed General Real Property
Appraiser

Federally Related Transactions

Licensed Real Property Appraiser
Certified Residential Real Property
Property Appraiser
Certified General Real Property
Appraiser

The first class of appraisers will qualify to do appraisals in non-federally related real property transactions and will not qualify under federal law and these regulations to perform federally related real property transactions.

The second class of real property appraisers will qualify to perform appraisals in both federally related and non-federally related real property transactions, the difference between licensed and certified status being further defined.

1.3 Authority. The CNMI Board of Professional Licensing (hereafter "Board") has the authority to regulate real property appraisers pursuant to 4 CMC, Div. 3, Section 3105 and Section 3108.

PART II. DEFINITIONS

- 2.1 Appraisal Foundation.** The Appraisal Foundation established on November 30, 1987, as a non-for-profit corporation under the laws of Illinois. **The Foundation is charged by Title XI with the responsibility of establishing, improving, and promoting minimum uniform appraisal standards and appraiser qualifications criteria.**
- 2.2 Appraisal Qualifications Board.** An independent board appointed by the Appraisal Foundation to establish criteria for licensing of appraisers.
- 2.3 Appraiser or Real Property Appraiser.** A CNMI Licensed Residential Real Property Appraiser or a CNMI Licensed General Real Property Appraiser for non-federally related transactions; or a CNMI Licensed Real property Appraiser, a Certified Residential Real Property Appraiser, or a Certified General Real Property Appraiser for federally related transactions, who is expected to perform valuation services competently and in a manner that is independent, impartial and objective.
- 2.4 Appraisal.** The act or process of developing an opinion of value.
- 2.5 Appraisal Assignment.** One or more real estate appraisals and written appraisal reports which are covered by a single contract to provide an appraisal.
- 2.6 Appraisal Consulting.** The act or process of developing an analysis, recommendation, or opinion to solve a problem, where an opinion of value is a component of the analysis leading to the assignment results.
- 2.7 Appraisal Practice.** Valuation services performed by an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting.
- 2.8 Appraisal Review.** The act or process of developing and communicating an opinion about the quality of another appraiser's work.
- 2.9 Appraisal Subcommittee.** The Appraisal subcommittee of the Federal Financial Institutions Examination Council (FFIEC) was created on August 9, 1989, pursuant to Title XI to oversee the real estate appraisal process as it relates to federally related transactions and monitors the requirements established by each state or territory's appraiser regulatory agency for the licensing and certification of appraisers.

- 2.10 Appraiser Trainee.** A person who has been issued a license to practice as a real property appraiser trainee in the Northern Marianas.
- 2.11 Certified Appraiser.** A CNMI Certified Residential or General Real Property Appraiser for federally related transactions.
- 2.12 Classroom Hour.** Sixty minutes, of which at least fifty minutes are instruction attended by the student. The prescribed number of classroom hours includes time devoted to examinations.
- 2.13 Complex One-To Four Family Residential Property Appraisal.** One in which the property to be appraised, market conditions, or form of ownership is a typical and which have a significant value contribution. For example, unusual factors may include but are not limited to:
- (a) architectural style;
 - (b) age of improvements;
 - (c) size of improvements;
 - (d) size of lot;
 - (e) neighborhood land use;
 - (f) potential environmental hazard liability;
 - (g) leasehold interests;
 - (h) limited readily available comparable sales data; or
 - (i) other unusual factors.
- 2.14 Continuing Education.** Education that is creditable toward the education requirements that must be satisfied to renew licensure as a Licensed Real Property Appraiser, Certified Residential Real Property Appraiser, or a Certified General Real Property Appraiser.
- 2.15 Direct Supervision.** To actively and personally review the appraisal report of an appraiser trainee, to accept responsibility for the appraisal, and to sign the report attesting to the acceptance of the appraisal as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).
- 2.16 Distance Education.** Any educational process based on the geographical separation of learner and instructor (e.g., CD Rom, on-line learning, correspondence courses, video conferencing, etc.).
- 2.17 Federally Related Transaction.** The term "federally related transaction" means any real estate-related financial transaction which:

- (a) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and
 - (b) requires the services of an appraiser.
- 2.18 License.** The document indicating that the person named thereon has satisfied all requirements for licensure as a CNMI licensed or certified appraiser for federally or non-federally related transactions.
- 2.19 Licensed Appraiser.** Licensed Residential Real Property Appraiser or a Licensed General Real Property Appraiser for non-federally related transactions; or a Licensed Real Property Appraiser for federally related transactions.
- 2.20 Market Analysis.** A study of market conditions for a specific type of property.
- 2.21 Market Value.** A type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.
- 2.22 Mass Appraisal.** The process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.
- 2.23 Non-Federally Related Real Estate Transaction.** Any transaction which does not meet the definition of a federally related transaction.
- 2.24 Personal Property.** Identifiable tangible objects that are considered by the general public as being "personal" – for example, furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.
- 2.25 Probation.** A condition placed upon an individual's practice that obligates they meet various conditions and further demonstrates that they have maintained a satisfactory performance in their practice over a specific period of time.
- 2.26 Qualifying Education.** Education that is creditable toward the education requirements for initial licensure under one or more of the three real property appraiser classifications.
- 2.27 Real Property.** The interests, benefits, and rights inherent in the ownership of real estate.

- 2.28 Real Property-Related Financial Transaction.** Any transaction involving:
- (a) the sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof; or
 - (b) the refinancing of real property or interests in real property ; or
 - © the use of real property or interests in real property as security for a loan or investment, including mortgage backed securities.
- 2.29 Real Estate.** An identified parcel or tract of land, including improvements, if any.
- 2.30 Report.** Any communication, written or oral, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment.
- 2.31 Residential Property.** Any parcel of real property, improved or unimproved, that is utilized for one-to-four family purposes and where the highest and best use is for one-to-four family purposes. A residential unit in a condominium, townhouse or cooperative complex is considered to be residential real property. Residential property does not include subdivisions wherein a development analysis or appraisal is necessary or utilized.
- 2.32 Reinstate or Reinstatement.** The granting of permission to perform appraisal work by the Board to a person whose license or certificate has been previously suspended.
- 2.33 Revocation.** A termination of a license to practice. Such action should require that the licensee surrender any and all license or wallet-size card issued by the Board. In order for a licensee to reinstate a license that has been revoked, the licensee is required to apply as a new applicant.
- 2.34 Suspension.** A suspension terminates a license privileges for a limited time. The license may be reinstated after the licensee fulfilled conditions imposed by the Board.
- 2.35 Temporary Appraiser's License.** A license for one specific appraisal assignment, issued to a Licensed or Certified appraiser not residing in the CNMI or who has no established business in the CNMI.
- 2.36 Tract Development.** A project of five units or more that is constructed or is to be constructed as a single development. A tract development may be units in a subdivision, condominium project, time share project, or any similar project meant to be sold as

individual units over a period of time. A project is deemed to be a tract development whether it currently is or is intended to sell as a single development.

- 2.37 Uniform Standards of Professional Appraisal Practice or USPAP.** Standards of appraisal practice developed by the Appraisal Standards Board (ASB) of the Appraisal Foundation.
- 2.38 Value.** The monetary relationship between properties and those who buy, sell, or use those properties.
- 2.39 Years of Experience.** A year is defined in terms of hours within a calendar year. One thousand (1,000) hours constitutes a year of appraisal experience.

PART III. POWERS AND DUTIES OF THE BOARD

- 3.1 Powers and Duties of the Board.** In addition to those powers and duties specifically enumerated by law, the Board shall have the following powers and duties:
- (a) to grant, deny, **suspend, revoke, place on probation**, renew, or refuse to renew permission to practice as a Licensed or Certified real property appraiser in the CNMI;
 - b) to adopt, amend, or repeal rules and/or regulations as necessary to effectuate fully the law;
 - (c) to enforce the law and rules and regulations adopted pursuant thereto;
 - (d) to discipline a real estate appraiser to any cause prescribed by law or for any violation of the rules and regulations and refuse to grant a person permission to practice as a real property appraiser for any cause that would be grounds for disciplining a real property appraiser;
 - (e) to act as the designated representative of the CNMI to exempt, waive or implement the requirements of 12 U.S.C. §3301 et seq.;
 - (f) to revoke or suspend the permission to practice as an appraiser or otherwise condition the scope of the license of the appraiser for any violation of the law or these regulations;
 - (g) to impose continuing education requirements as a prerequisite to renewal of a license, as necessary;
 - (h) to issue an annual statement describing the receipts and expenditures in the administration of these regulations during each fiscal year;
 - (i) to compel the attendance of witnesses and production of books, documents, records, and other papers; to administer oaths; and to take testimony and receive evidence concerning all matters within their jurisdiction. These powers may be exercised directly by the Board or the Board's authorized representative acting by authority of law;

- (j) to contract with qualified persons, including attorneys, hearing officers, accountants, investigators, and other necessary personnel to assist the Board in exercising the Board's powers and duties;
- (k) to contract with a professional testing agency to develop and administer examinations;
- (l) to do all other things necessary to carry out the provisions of these regulations and to meet the requirements of federal law where necessary regarding licensing of appraisers that the Board determines are appropriate for Licensed and Certified appraisers in the CNMI.

PART IV. REQUIREMENTS FOR LICENSURE

- 4.1 Requirements for Licensure.** It shall be unlawful for an individual who is not licensed in the CNMI to prepare or hold oneself out as being able to prepare an appraisal in connection with a real property related transaction. It shall be unlawful for a person with one class of license to perform an appraisal requiring a different class of license.

- 4.2 General Requirements.** All applicants for a license shall possess a reputation for honesty, trustworthiness, fairness, and financial integrity; meet educational and experience requirements; and shall pass an examination approved by the Appraiser Qualifications Board of the Appraisal Foundation and not have been convicted of a crime related to real property appraisal profession. Applicants for the non-federally related appraiser license must take and pass the local appraisal examination as part of the requirement.

- 4.3 Requirements for Real Property Appraiser, Federally Related Transactions.** All applicants for a Real Property Appraiser license must meet the following requirements:
 - A. Education.**
 - 1. Classroom Hour.
 - a. A classroom hour is 60 minutes, of which at least 50 minutes are instruction attended by the student. The prescribed number of classroom hours includes time devoted to examinations **which are considered to be part of the course.**

 - 2. Credit for the classroom hour requirement may be obtained only from the following institutions:
 - a. Colleges or Universities
 - b. Community or Junior Colleges
 - c. Real Estate Appraisal or Real Estate Related Organizations

- d. State or Federal Agencies or Commissions
 - e. Proprietary Schools
 - f. **Providers approved by the Board**
 - g. AQB approved course providers
3. Credit toward the classroom hour requirement may be awarded to instructors of appraisal courses.
4. Experience may not be substituted for education.
5. Qualifying Education (QE).
- a. **Applicant must have completed courses in subjects related to real property appraisal which shall include coverage of the 15-hour National USPAP Course and pass the 15-hour National USPAP Course Examination. USPAP qualifying education credit shall only be awarded when the class is instructed by an AQB Certified Instructor (s) and the class is instructed by at least one residential or general state certified appraiser.**
 - b. Classroom hours may be obtained only where the minimum length of the education offering is at least 15 hours and the individual successfully completes an approved closed-book examination pertinent to that education offering.
 - c. Courses taken for QE must not be repetitive in nature. **USPAP Courses taken in different years are not repetitive.**
6. **Distance Education to meet Qualifying Education Requirement**
Distance education is defined as any educational process based on the geographical separation of learner and instructor (e.g., CD Rom, on-line learning, correspondence courses, video conferencing, etc.).
- a. For QE, distance education must provide interaction between the learner and instructor and include testing.
 - b. A distance education course may be acceptable to meet the classroom hour requirement, or its equivalent, provided that the course is approved by the Board, and meets the following conditions:
 - (a) The course has been presented by an accredited college or university accredited by the Commission on Colleges or a regional or national association, that offers distance education programs in other disciplines and meets the following requirements:

- i) **The learner successfully completes a written exam proctored by an official approved by the college or university; and**
- ii) **The course meets the requirements for qualifying education established by AQB and is equivalent to the minimum of 15 classroom hours;**
- (b) **The course has been approved under the AQB Course Approval Program and meets the following requirements:**
 - i) **The learner successfully completes a written exam proctored by an official approved by the college or university; and**
 - ii) **The course meets the requirements for qualifying education established by AQB and is equivalent to the minimum of 15 classroom hours;**

B. Examination.

1. Each applicant for a license shall successfully pass the appropriate examinations of the AQB approved Uniform Appraiser Examination. The examination must be successfully completed. There is no alternative to successful completion of the examination.

2. Passage of an examination taken in another jurisdiction may be approved as meeting the examination requirement provided the examination is the AQB approved Uniform Appraiser Examination.

3. **Examinees who fail the 15-hour National USPAP Course Examination are allowed to re-take the examination up to three times without re-taking the course. Each time the examination is re-taken the examinee must be administered a different version (there are three versions) of the examination. After three unsuccessful attempts the examinee must re-take the course.**

C. Experience.

1. Education may not be substituted for experience.

2. Acceptable appraisal experience includes, but is not limited to the following:

- a. Fees and staff appraisal
- b. Ad valorem tax appraisal

- c. Condemnation appraisal
- d. Technical review appraisal
- e. Appraisal analysis
- f. Real estate consulting
- g. Highest and best use analysis
- h. Feasibility analysis/study

3. The verification for experience credit claimed by an applicant shall be on forms prescribed by the Board which should include:

- a. Type of property
- b. Date of report
- c. Address of appraised property
- d. Description of work performed
- e. Number of work hours

4. Experience obtained after January 1, 1991 shall comply with the Uniform Standards of Professional Practice (USPAP).

5. There is no time limit during which experience may be obtained. Hours may be treated as cumulative in order to achieve the necessary hours of appraisal experience (i.e. Year 1-200 hours, year 2-800 hours, etc.).

D. Compliance with USPAP

Appraisers in all classifications shall perform and practice in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as amended.

4.4 Real Property Appraiser Classifications

A. Trainee Real Property Appraiser Classification

The scope of practice for this classification is the appraisal of those properties which the supervising appraiser is **permitted** to appraise. The appraiser trainee shall be entitled to obtain copies of appraisal reports he or she prepared. The supervising appraiser shall keep copies of appraisal reports for a period of five years, or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

1. Qualifying Education

a. As a prerequisite for application, an applicant must have completed 75 classroom hours in subjects related to real estate appraisal which shall include the 15-hour National USPAP Course and examination.

b. Subjects related to real estate appraisal shall include the following topics listed below:

- (a) Influences on Real Estate Value
- (b) Legal Considerations in Appraisal
- (c) Types of Value
- (d) Economic Principles
- (e) Real Estate Markets and Analysis
- (f) Valuation Process
- (g) Property Description
- (h) Highest and Best Use Analysis
- (i) Appraisal Statistical Concepts
- (j) Sales Comparison Approach
- (k) Site Value
- (l) Cost Approach
- (m) Income Approach
- (n) Valuation of Partial Interest
- (o) Appraisal Standards & Ethics

c. Qualifying education must have been obtained within the five year period immediately preceding application for licensure.

2. Examination

There is no examination requirements for this classification but the trainee shall pass examinations in the prerequisite courses.

3. Experience

No experience is required as a prerequisite for this classification.

4. Training

a. The appraiser trainee shall be under the direct supervision of a Licensed or Certified appraiser.

b. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the appraiser trainee by:

- i) accepting responsibility for the appraisal report by signing and certifying the report is in compliance with USPAP;

- ii) reviewing and signing the appraiser trainee appraisal report(s); and
- iii) personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent, in accordance with the **Competency Provision** of the USPAP for the property type.
- c. The appraiser trainee is permitted to have more than one supervising appraiser.
- d. An appraisal log shall be maintained by the appraiser trainee and shall, at a minimum, include the following for each appraisal:
 - i) Type of property
 - ii) Date of Value
 - iii) Address of appraised property
 - iv) Description of work performed by the trainee and scope of the review and supervision of the supervising appraiser
 - v) Number of works hours
 - vi) Signature and license number of the supervising appraiser
- e. The supervising appraiser shall be in good standing in the CNMI, not subject to any disciplinary action within the last two years.
- f. **Separate appraisal logs shall be maintained for each supervising appraiser, if applicable.**

5. Continuing Education

- a. Fourteen (14) continuing education hours for each year (28 hours); and
- b. Successful completion of the 7-hour National USPAP Update Course, at least once every two years.

B. Licensed Real Property Appraiser Classification

This classification applies to the appraisal of non-complex one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than \$250,000.

1. Qualifying Education

- a. **The prerequisite for taking the examination is completion of Ninety (90) classroom hours in subjects related to real estate appraisal, which shall include completion of the 15-Hour National USPAP Course and Examination.**
- b. **Subjects related to real estate appraisal shall include the following topics listed below:**

- (a) **Influences on Real Estate Value**
- (b) **Legal Considerations in Appraisal**
- (c) **Types of Value**
- (d) **Economic Principles**
- (e) **Real Estate Markets and Analysis**
- (f) **Valuation Process**
- (g) **Property Description**
- (h) **Highest and Best Use Analysis**
- (i) **Appraisal Statistical Concepts**
- (j) **Sales Comparison Approach**
- (k) **Site Value**
- (l) **Cost Approach**
- (m) **Income Approach**
- (n) **Valuation of Partial Interest**
- (o) **Appraisal Standards & Ethics**

2. **Examination**

The AQB approved Uniform State Licensed Real Property Appraiser Examination must be successfully completed.

3. **Experience**

Two thousand (2,000) hours of appraisal experience is required.

4. **Continuing Education**

a. Fourteen (14) continuing education hours for each year (28 hours); and

b. Successful completion of the 7-hour National USPAP Update Course, at least once every two years.

C. Certified Residential Real Property Appraiser Classification

This classification applies to the appraisal of one to four residential units without regard to transaction value or complexity.

1. **Qualifying Education**

a. **The prerequisite for taking the examination is completion of One hundred twenty (120) classroom hours, which may include the 90 classroom hour requirement for the Licensed Real Property classification, of courses in subjects related to real estate appraisal,**

which shall include completion of the 15-Hour National USPAP Course and Examination.

b. Subjects related to real estate appraisal shall include the following topics listed below:

- (a) Influences on Real Estate Value
- (b) Legal Considerations in Appraisal
- (c) Types of Value
- (d) Economic Principles
- (e) Real Estate Markets and Analysis
- (f) Valuation Process
- (g) Property Description
- (h) Highest and Best Use Analysis
- (i) Appraisal Math and Statistics
- (j) Sales Comparison Approach
- (k) Site Value
- (l) Cost Approach
- (m) Income Approach
- (n) Valuation of Partial Interest
- (o) Appraisal Standards & Ethics
- (p) Narrative Report Writing

2. Examination

The AQB approved Uniform State Certified Residential Real Property Appraiser Examination must be successfully completed. The Certified General Real Property Appraiser Examination is not equivalent to this examination.

3. Experience

Two thousand five hundred (2,500) hours of experience obtained during no fewer than twenty-four (24) months is required. The hours may be cumulative, but the required number of months of real estate appraisal experience must accrue before an individual can be certified.

4. Continuing Education

- a. Fourteen (14) continuing education hours for each year (28) hours; and
- b. Successful completion of the 7- hour National USPAP Update Course, at least once every two years.

D. Certified General Real Property Appraiser Classification

This classification applies to the appraisal of all types of real property.

1. Qualifying Education

a. The prerequisite for taking the examination is completion of One hundred eighty (180) classroom hours, which may include the 90 classroom hour requirement for the Licensed Real Property classification, or the 120 classroom hour requirement for the Certified Residential Real Property Classification, of courses in subjects related to real estate appraisal, which shall include completion of the 15-hour National USPAP Course and Examination.

b. Subjects related to real estate appraisal shall include the following topics listed below:

- (a) Influences on Real Estate Value**
- (b) Legal Considerations in Appraisal**
- (c) Types of Value**
- (d) Economic Principles**
- (e) Real Estate Markets and Analysis**
- (f) Valuation Process**
- (g) Property Description**
- (h) Highest and Best Use Analysis**
- (i) Appraisal Math and Statistics**
- (j) Sales Comparison Approach**
- (k) Site Value**
- (l) Cost Approach**
- (m) Income Approach**
- (n) Valuation of Partial Interest**
- (o) Appraisal Standards & Ethics**
- (p) Narrative Report Writing**

2. Examination

The AQB required Uniform State Certified General Real Property Appraiser Examination must be successfully completed.

3. Experience

Three Thousand (3,000) hours of experience obtained during no fewer than thirty (30) months is required, of which, 1,500 hours must be in non-residential appraisal work. The hours may be cumulative, but the required number of months of real estate appraisal experience must accrue before an individual can be certified.

4. Continuing Education

- a. Fourteen (14) continuing education hours for each year (28) hours; and**
- b. Successful completion of the 7- hour National USPAP Update Course, at least once every two years.**

4.5 Approved Course Providers

A. Colleges, universities and community and junior colleges accredited by the Commission on Colleges, a regional or national accreditation association, or is on the U.S. Secretary of Education's approved accreditation list.

B. Real property appraiser or real estate related organizations, proprietary schools, and others shall be approved provided that the course provider have been approved by the Board, or have obtained approval of their course(s) under the Appraisal Qualifications Board (AQB) Course Approval Program (CAP).

4.6 Continuing Education (CE)

The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his/her skill, knowledge and competency in real estate appraising.

A. The equivalent of fourteen (14) classroom hours of instruction in courses or seminars for each year during the period preceding the renewal is required. (For example, a two-year licensing term would require twenty-eight (28) hours). These hours may be obtained anytime during the two-year term.

B. Credit towards the continuing education hour requirements for each appraiser classification may be granted only where the length of the educational offering is at least two hours.

C. Credit for the classroom hour requirement may be obtained only from the following institutions:

- a. Colleges or Universities**
- b. Community or Junior Colleges**
- c. Real Estate Appraisal or Real Estate Related Organizations**
- d. State or Federal Agencies or Commissions**
- e. Proprietary Schools**
- f. Providers approved by the Board**

g. AQB approved course providers

D. Credit may be granted for education offerings that are consistent with the purpose of continuing education and cover those real property related appraisal topics, including, but not limited to:

- a. Ad valorem taxation
- b. Arbitration, dispute resolution
- c. Courses related to the practice of real estate appraisal or consulting
- d. Development cost estimating
- e. Ethics and standards of professional practice, USPAP
- f. Land use planning, zoning, taxation
- g. Management, leasing, timesharing
- h. Property development, partial interests
- i. Real Estate financing and investment
- j. Real Estate law, easements and legal interests
- k. Real estate litigation, damages, condemnation
- l. Real estate appraisal related computer applications
- m. Real estate securities and syndication

E. Appraisers must successfully complete the 7-Hour National USPAP Update Course, at least once every two years. **USPAP continuing education credit shall only be awarded when the class is instructed by an AQB Certified Instructor (s) and the class is instructed by at least one residential or general state certified appraiser.**

F. Qualifying education courses are acceptable as continuing education courses as long as they are not a duplicate.

G. An appraiser who has successfully completed an approved course to meet any part of such appraiser's continuing education requirements may not repeat that course unless at least one full year has passed since the completion of that course.

H. The Board, in its discretion, may require the completion of an examination at the end of any continuing education course.

I. Continuing education credit may also be granted by the Board for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined by the Board to be equivalent to

obtained continuing education. Credit for instructing any given course or seminar can only be awarded once during a continuing education cycle.

J. Credit awarded for the continuing education requirement may also be awarded for the qualifying education classroom hour requirement when an individual seeks a different classification than that held, providing the educational offering meets the criteria established.

K. Continuing education credit hours in excess of the twenty-eight (28) continuing education hours for every two year renewal period shall not be credited to satisfy continuing education hours for the next two year renewal period.

L. As a prerequisite to renewal of a license, a real property appraiser shall present satisfactory evidence of having met the continuing education requirements.

M. Distance Education to meet Continuing Education Requirement

1. A distance education course is acceptable to meet the continuing education requirements provided the course provides interaction between the learner and the instructor, is a minimum of two classroom hours, meets the requirements for continuing education courses established by AQB and meets the following conditions:

- a. The course is approved by the Board or AQB through the AQB Course Approval Program; or
- b. The course has been presented by an accredited college or university accredited by the Commission on Colleges or a regional or national association, that offers distance education programs in other disciplines.

PART V. APPRAISERS-NON-FEDERALLY RELATED TRANSACTIONS

5.1 Education/Experience Requirements for Non-Federally Related Transactions. Applicants must meet the following requirements for licensing as a CNMI Licensed Residential Real Property Appraiser or CNMI Licensed General Real Property Appraiser, non-federally related transactions or for renewal:

A. Licensed Residential Real Property Appraiser - Non-Federally Related Transactions classification - includes the appraisal of vacant or unimproved land of one to four residential units. This classification does not include the appraisal of subdivisions wherein a development appraisal is necessary and utilized. This appraiser is not qualified

under the law and these regulations to perform federally related real property transactions. At least 50% of the experience claimed must have been in major residential appraisal work.

B. Licensed General Real Property Appraiser - Non-Federally Related Transactions Classification - This classification requires that at least 50% of the experience claimed must have been in non-residential appraisal work and can do appraisals of all real estate transactions without regard to transaction value or complexity. This appraiser is not qualified under the law and these regulations to perform federally related real property transactions.

C. Education and Experience

1. One Hundred (100) classroom hours in courses related to real estate appraisal with six (6) years experience as an appraiser; or

2. An AA in Business Administration with seventy-five (75) classroom hours in courses related to real estate appraisal with (4) years experience as an appraiser; or

3. A Bachelor's degree or higher with fifty (50) classroom hours in courses related to real estate appraisal and two (2) years experience as an appraiser.

D. All applicants must take and pass the local appraisal examination approved by the Board. The examination shall be based upon recognized appraisal standards, to be selected and administered by the Board pursuant to its rulemaking power.

E. Police clearance from all states where licensed or presently or formerly residing shall be furnished as a condition to apply for a license or renewal.

F. To verify appraisal experience as required in Section (C), the applicant must submit at least one appraisal report he or she has written for each of the required years of experience above mentioned.

PART VI. APPLICATION

6.1 Application for Licensure. Application for licensure shall be made under oath or under penalty of perjury as permitted under CNMI law on a form to be furnished by the Board. The form may require the applicant to provide:

- A. The applicant's full name;
- B. A statement that the applicant has attained the age of majority (18);
- C. The applicant's current business or mailing address or publication, and the applicant's current resident address;
- D. The applicant's social security number;
- E. The applicant's employment history during the five years preceding the date of the filing of the application, with names and addresses of each employer;
- F. The date and place of any conviction of felony or any crime in any way related to any appraisal practice;
- G. Information regarding any disciplinary proceedings or disciplinary actions taken by any jurisdiction;
- H. A designation in writing appointing the Board to act as the applicant's agent upon whom all judicial and other process or legal notices directed to the applicant may be served. The applicant shall agree that service upon the Board shall have the same legal force and validity as if personally served upon the applicant when such judicial or other process or legal notice is related directly or indirectly to a license issued by the Board. This procedure is for informational purposes only and is not intended to be, and of itself does not constitute, valid, legal service upon the licensee who must be served on a basis consistent with applicable CNMI laws, rules, regulations and/or Rules of Court. The Board shall immediately forward such judicial or other process or legal notice to the licensee by the mailing of such document certified mail, return receipt requested, to the last address which the licensee has provided to the Board. The Board's compliance with the notification requirement as provided herein shall conclude the Board's liability and notification responsibility of the licensee.
- I. A photograph of the applicant for identification purposes;
- J. Any other information the Board may require to investigate the applicant's qualifications for licensure.

6.2 Supporting Documents Required. Every applicant shall furnish the following with the applicant:

- A. The appropriate fees;
- B. Proof that the applicant has met the educational, examination, and experience requirements;
- C. Notarized statement of experience or under penalty of perjury as permitted by applicable CNMI law;
- D. Three reference from lenders or other individuals who have had dealings relating to the applicant's appraisal assignments attesting to the applicant's experience and reputation for honesty, truthfulness, fairness, and financial integrity;
- E. If requested, proof that the applicant is a CNMI or United States citizen or a non-U.S. citizen authorized to work in the CNMI; and
- F. If requested, appraisal reports or file memoranda.
- G. Other additional information as the Board from time to time deems appropriate or necessary.

6.3 Reputation for Honesty, Truthfulness, Fairness and Financial Integrity. Applicant shall demonstrate, as set forth in 6.2 (D) that the applicant possesses a good reputation for honesty, truthfulness, fairness and financial integrity.

6.4 Issuance of License. The CNMI appraiser license shall be issued upon the applicant meeting all appropriate requirements and must be renewed as required by the CNMI law and provided herein every two years from the date of issuance or renewal.

6.5 License. A CNMI license shall only be issued to individuals and the license shall not be transferable.

6.6 Filing of Current Address. Every licensee shall provide written notice to the Board of any changes of the licensee's mailing, business, or residence address within ten days of the change. Any requirements that the Board provide notice to licensed appraisers shall be deemed met if notice is sent to the address on file with the Board.

6.7 Responsibility of Applicant to Furnish Information and Documentation. It shall be each applicant's responsibility to furnish the information and documents requested. In the

event of any change of information provided, the applicant shall notify the Board in writing within thirty days of any change.

6.8 Signing and Verification of Application. Every application and all references shall be signed and notarized or signed under penalty of perjury as permitted by applicable CNMI law by the applicant or the person attesting to the experience and reputation of the applicant.

6.9 Application for Temporary Practice. Application for a temporary license will be processed and issued within five (5) business days after receipt of a complete application for a temporary license.

6.10 Application for Certified Real Property Appraiser, Federally Related Transactions from Licensed Real Property Appraiser, Federally Related Transaction.

A. An individual holding a current real property appraiser, federally related transaction license may apply for certified real property appraiser, federally related transactions status upon submittal of the following:

1. Certified Residential Real Property Appraiser:
 - (a) appropriate fees;
 - (b) proof that the applicant has met the education requirement of 120 classroom hours, which may include the 90 classroom hours requirements for licensed classification, or courses in subjects related to real property appraisal which shall include the 15 hour National USPAP Course and examination and successful completion of the AQB approved Uniform State Certified Residential Appraiser Examination; and
 - (c) proof that the applicant has performed at least 2,500 hour of major residential appraisal work obtained within 24 months.

2. Certified General Real Property Appraiser:
 - (a) appropriate fees;
 - (b) proof that the applicant has met the education requirement of 180 classroom hours, which may include the 90 classroom hours requirement for the licensed classification and/or the 120 classroom hours requirement for the certified residential classification of courses in subjects related to real property appraisal which shall include the 15-hours National USPAP Course and examination and successful completion of the AQB approved Uniform State Certified General Appraiser Examination; and

(c) proof that the applicant has performed at least 3,000 hours of appraisal experience obtained during no fewer than 30 months, of which 1,500 hours must be in non-residential appraisal work.

B. Credit awarded for the continuing education requirement may also be awarded for the classroom hour requirement when an individual seeks a different classification than that held, provided the education offering meets the criteria established for the classroom hour and continuing education requirements.

6.11 Criminal Conviction. When an applicant has been convicted of felony or a crime related to the appraisal profession the Board may request the following documents from the applicant: copies of any court records, orders, or other documents that state the facts and statutes upon which the applicant was convicted, the verdict of the court with regard to that conviction, the sentence imposed, and the actual terms of the sentence.

6.12 Denial or Rejection of Application.

A. An application for issuance of a license shall be denied when an application is insufficient or incomplete or when an applicant has failed to provide satisfactory proof that the applicant meets the requirements hereunder. In addition, the Board may deny issuance of a license:

1. When the applicant is known to have committed any of the acts for which a license may be suspended or revoked hereunder.
2. If the applicant fails to demonstrate that the applicant possesses a good reputation for honesty, truthfulness, fairness and financial integrity; or
3. If the applicant has had disciplinary action taken by any jurisdiction, including any federal or state regulatory body.

B. An applicant shall be automatically rejected and the applicant shall be denied licensure when the applicant, after having been notified to do so:

1. Fails to pay the appropriate fees within sixty days from notification; or
2. Fails to submit, after notification, any of the information or documentation requested to comply with any of the requirements for licensure within sixty days of notification.

C. Any application which has been denied or rejected shall remain in the possession of the Board and shall not be returned.

D. An applicant, whose application has been denied or rejected, may file for an administrative hearing as provided under applicable law and regulations.

6.13 Term. All licenses expires two years following its issuance or renewal and becomes invalid after that date unless renewed.

PART VII. TEMPORARY PRACTICE

7.1 Temporary License. The Board may grant a temporary license to a person who desires to practice on a temporary basis, provided that such person is legally qualified and licensed in his or her jurisdiction and that his/her qualifications for obtaining the license meet those required for licensure by this Board and further provided that:

- a) the person's business is of a temporary nature; and
- b) the appraiser applies for the temporary license.

A. A temporary license shall be used to appraise only one assignment **which length of time not to exceed one year and shall provide that there is no right to practice real property appraisal with respect to any other works not set forth in the temporary license.**

B. A temporary license may be extended but only for the purpose of completing the specific job for which the original temporary license was issued.

7.2 Requirements.

A. Application for licensure for temporary practice shall be made under oath or under penalty of perjury as permitted under CNMI law on a form to be furnished by the Board. The form may require the applicant to provide items above mentioned , and in addition, the applicant shall:

- (a) submit evidence of current license from the other jurisdiction;
 - (b) submit a copy of the contract for appraisal services that requires the applicant to appraise real property in the CNMI and certify that such contract is in full force and effect;
 - (c) certify that disciplinary proceedings are not pending against the applicant in any jurisdiction;
 - (d) agree, in writing, to conform with all the provisions of these regulations;
- and

(e) file a designation in writing appointing the Board to act as the applicant's agent upon whom all judicial and other process or legal notices directed to the applicant may be served. The applicant shall agree that service upon the Board shall have the same legal force and validity as if personally served upon the applicant when such judicial or other process or legal notice is related directly or indirectly to a license or certificate issued by the Board. The Board shall immediately forward such judicial or other process or legal notice to the licensee by the mailing of such document certified mail, return receipt requested, to the last address which the licensee has provided the Board. The Board's compliance with the notification requirement as provided herein shall conclude the Board's liability and notification responsibility of the licensee.

PART VIII. RENEWAL

- 8.1 Date of Filing for Renewal.** A renewal notice shall be mailed by the Board a month before the expiration date to appraisers whose license is expiring. **All licensed appraisers shall request in writing to the Board if they wish to renew their license and must submit proof of the required completed continuing education hours and the renewal fee on or before the date of expiration. The required documents with the renewal fee sent by United States mail shall be considered timely filed if the envelope bears a postmark no later than the date of expiration.**
- 8.2 Failure to Renew.** The failure to timely renew the license, pay the applicable fees, submit the required continuing education hours, or paying fees with a check which is dishonored upon first deposit shall cause the license to be automatically **invalid**.
- 8.3 Reinstatement of an Invalid License.**
- A. Licenses which have expired for failure to renew on or before the date herein above required may be reinstated within one year of the expiration date** provided the applicant pays the appropriate fees, and submits all continuing education hours that would have been required had the licensee maintained licensure.
- B. Each individual whose license has expired and lapsed for more than one year by failure to renew must file a new application, meet current requirements and receive board approval for licensure.**
- 8.4 Board May Refuse to Renew or Reinstatement License.**
- A. The Board may refuse to renew or reinstate a license for failure or refusal of the licensee:**

1. To properly complete or timely submit the renewal application form and submit all fees and required documentation;
2. To maintain a good reputation for honesty, truthfulness, fairness and financial integrity;
3. To meet and maintain the conditions and requirements necessary to qualify for the issuance of the license; or
4. To comply with the law and these regulations.

B. An applicant, whose application has been refused by the Board to be renewed or reinstated for the above reasons may file for an administrative hearing as provided by law.

8.5 Inactive Status.

A. A license may be placed on an inactive status upon notification to the Board by the licensee in writing of the effective date of inactivation and payment of an inactive file.

B. A licensee on inactive status shall be considered as unlicensed or uncertified.

C. Failure to reactivate a license on inactive status after two years shall render the license null and void and appraiser must apply as a new applicant and meet current licensing requirements:

D. Misrepresentation of inactive status on the practice of real property appraisal shall be grounds for disciplinary action.

8.6 Requirements to Reactivate.

A. An inactive licensee may apply for reactivation upon payment of all fees due owing from time of inactivity and proof of completion of all continuing education hours the applicant would have had to submit if the applicant has maintained licensure from the date of inactivation.

B. Failure to meet the requirements for reactivation shall require a person desiring licensure to apply as a new applicant.

PART IX. SCOPE OF APPRAISERS

9.1 Supervision of Appraiser Trainees. Licensed appraisers may directly supervise appraiser trainees provided:

B. A lien on real property has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not have been more favorable than it would have been in the absence of the lien;

C. Real property is leased unless the lease is the economic equivalent of a purchase or sale of the leased real property;

D. There is a renewal of an existing transaction in which the maturity and amortization of the obligation are intentionally mismatched for re-pricing or credit quality consideration, provided that:

1. The borrower has performed satisfactorily according to the original terms;
2. No new monies have been advanced;
3. The credit standing of the borrower has not deteriorated; and
4. There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection.

E. A regulated institution purchases a loan or interest in a loan, pooled loan, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this part, if, applicable, at the time of origination.

9.4 Non-Applicability to Real Estate Brokers or Real Estate Salespersons.

These regulations shall not apply to a real estate broker or salesperson, who, in the ordinary course of the real estate broker's or salesperson's business, gives an opinion as to the recommended listing price of real property or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, provided:

A. The opinion as to the listing or the purchase price shall not be referred to as an appraisal;

B. No compensation, fee, or other consideration is charged for such opinion other than the normal brokerage fee rendered in connection with the sale of the property; or

C. No misrepresentation is made that the real estate broker or salesperson is a Certified or Licensed real property appraiser.

PART X. APPRAISAL STANDARDS

A. The appraiser trainee is a bona fide employee of the licensed appraiser, or an employee of the same entity who employs the licensed appraiser; and

B. The licensed appraiser signs the report attesting the acceptance of the appraisal as being independently and impartially prepared and in compliance with the USPAP.

9.2 Use of Terms "Licensed Appraiser", and "Certified Appraiser".

A. The terms "licensed real property appraiser," "certified residential real property appraiser", and "certified general real property appraiser" for federally related transactions and "licensed residential real property appraiser", and "licensed general real property appraiser" for non-federally related transactions, may only be used to refer to an individual who is licensed, federally or non-federally related transactions, as the case may be, under these regulations and may not be used following, or immediately in connection with, the name or signature of a corporation, partnership, association, or any group practice, or in any manner that might be interpreted as referring to anyone other than the individual who is licensed.

B. This requirement shall not be construed to prevent a licensee from signing an appraisal report on behalf of a corporation, partnership, association, or any other group practice if it is clear that only the individual is licensed and the corporation, partnership, association or group practice is not.

C. No person may assume or use the title "licensed real property appraiser", "certified residential real property appraiser", and "certified general real property appraiser" for federally related transactions, or "licensed residential real property appraiser", and licensed general real property appraiser" for non-federally related transactions, as the case may be, or any title designation or abbreviation likely to create the impression of licensure unless that person holds a current license hereunder.

9.3 Real Estate-Related Financial Transactions Not Requiring Appraisal by a Licensed or Certified Appraiser. An appraisal performed by a Licensed or Certified appraiser (federally related transaction) is not required for any real property-related financial transaction in which:

A. The transaction value is at or below the de minimus level established by a federal financial institutions regulatory agency;

10.1 Appraisal Standards for Federally Related Real Property Transactions.

A. For federally related real property transactions valued at or above the de minimus level established by a federal financial institutions regulatory agency, all appraisals shall be performed by a Licensed or Certified appraiser and shall, at a minimum:

- (a) perform and practice in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as amended.
- (b) be based upon the definition of market value as defined in these regulations;
- (c) be written and be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate; and provide detail and depth of analysis that reflect the complexity of the real property appraised which can be readily understood by a third party;
- (d) analyze and report in reasonable detail any prior sales of the property being appraised that occurred within the following minimum time periods:
 - i) for one-to-four family residential property, one year preceding the date when the appraisal was prepared ; or
 - ii) for all other property, three years preceding the date when the appraisal was prepared.
- (e) analyze and report data on current rents and current vacancies for the subject property if it is and will continue to be income-producing;
- (f) analyze and report data on current revenues, expenses and vacancies for the subject property if it is and will continue to be income producing;
- (g) analyze and report a reasonable marketing period for the subject property and disclose the assumptions used;
- (h) analyze and report on current market conditions and trends such as, but not limited to increasing vacancy rates, greater use of rent concessions, or declining sales prices that will affect projected income of the absorption period, to the extent they affect the value of the subject property;
- (i) analyze and report appropriate deductions and discounts for any proposed construction, or any completed properties that are partially leased or leased at other than market rents as of the date of the appraisal, or any tract developments with unsold units;
- (j) include in the certification required by the USPAP, an additional statement that the appraisal assignment was not conditioned upon the appraisal producing a specific value or a value within a given range or on whether a loan application is approved;
- (k) contain sufficient supporting documentation with all pertinent information reported including acceptance or rejection of a third party study and its impact on value so that the appraiser's logic, reasoning, judgment, and analysis in arriving at

a final conclusion will enable the reader to understand the reasonableness of the conclusion;

- (l) include a legal description in addition to, and not in lieu of, the description required in the USPAP of the real property being appraised;
- (m) identify and separately value any personal property, fixtures, or intangible items that are not real property but are included in the appraisal, and discuss the impact of their inclusion, or exclusion, on the estimate of the market value ;and
- (n) follow a reasonable valuation method that addresses the direct sales comparison, income,, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used.

B. If information required or deemed pertinent to the completion of an appraisal is unavailable, that fact shall be disclosed and explained in the appraisal report.

C. An appraiser shall perform all appraisals, reviews, or consultations with impartiality, objectivity, and independence, without any direct or indirect interest in the property.

10.2 Signature on Appraisal Reports.

A. If an appraisal report is prepared and signed by CNMI Licensed appraiser, the appraisal report shall state, immediately following the signature on the report, "CNMI Licensed Appraiser" and the appraiser's license number and expiration date.

B. If an appraisal report is prepared and signed by a CNMI Certified appraiser, the appraisal report shall state, immediately following the signature on the report, "CNMI Certified Appraiser" and the appraiser's license number and expiration date.

C. Appraisal reports prepared by an appraiser trainee shall be approved and signed by a Licensed or Certified appraiser.

10.3 Records and Appraisal Report Retention Requirement.

A. Every licensed appraiser shall retain originals or true copies of appraisal contracts, appraisals, and all supporting data and documents for a period of five years.

B. The five-year period shall commence upon date of delivery of the appraisal report to the client, provided that; if the appraiser is notified that the appraiser or appraisal report is involved in litigation, the five-year period shall commence upon the date of the final disposition of the litigation.

C. The appraiser shall make all records available, upon request, to the Board or the Board's authorized delegate.

PART XI. ADVERTISING PRACTICES

11.1 Advertising Practices. A licensee advertising through any media shall be identified as a Licensed Real Property Appraiser - Federally Related Transactions, Certified Residential Real Property Appraiser - Federally Related Transactions, Certified General Real property Appraiser - Federally Related Transactions, Licensed Residential Real Property Appraiser - Non-Federally Related Transactions, or Licensed General Real Property Appraiser - Non-Federally Related Transactions by listing the appropriate designated licensed or certified status and the appraiser's license number. For purposes of this section, "media" includes, but is not limited to, newspapers, magazines, calling cards, and directories, including all listing in telephone directories.

PART XII. GROUNDS FOR REVOCATION, SUSPENSION, PROBATION, REFUSAL TO RENEW OR REINSTATE, DENIAL OR CONDITIONING OF LICENSES

12.1 Grounds for Revocation, Suspension, Probation, Refusal to Renew or Reinstatement, Denial, or Conditioning of Licenses.

In addition to any other acts or conditions provided by law, the Board may revoke, suspend, place on probation, refuse to renew or reinstate, deny, or condition in any manner, any license for any one or more of the following acts or conditions:

- A. Procuring a license through fraud, misrepresentation, or deceit; or
- B. Failing to meet or maintain the requirements or conditions necessary to qualify for licensure; or
- C. Acting negligently or incompetently or failing without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal; or
- D. Failing to comply with the Uniform Standards of professional Appraisal Practice, as amended: or
- E. Performing for any valuable consideration, an appraisal assignment that is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion or

upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment; or

F. Conviction of, or pleading nolo contendere to any felony or any crime that is related to the qualification, functions, or duties of an appraiser; or

G. Entrance against the appraiser of a civil or criminal judgment on grounds of fraud, misrepresentation, or deceit in the development or communication of an appraisal; or

H. Committing any act or omission in the practice of real property appraising which constitutes dishonesty, fraud, or misrepresentation with the intent to substantially benefit the appraiser or another person or with the intent to substantially injure another person; or

I. Accepting an appraisal assignment if the employment or fee is contingent upon:
1. The appraiser reporting a predetermined estimate, valuation, analysis, or opinion; or
2. The consequences resulting from the appraisal assignment.

J. Engaging in the business of real property appraisal under an assumed or fictitious name not properly registered; or

K. Paying a finders or a referral fee to a person who is not a licensed appraiser or in connection with appraisal of real property in the Commonwealth; or

L. Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications; or

M. Aiding or abetting an unlicensed person to directly or indirectly evade these regulations; or

N. Violating any conditions or limitations upon which the license was issued; or

O. Failing to report to the Board, in writing, any disciplinary decision issued against the licensee in another jurisdiction; or

P. Violating the provisions of the law or these regulations or any order of the Board.

- 12.2 Hearings.** Any proceeding before the Board to take disciplinary action or other sanctions against a licensed appraiser shall be conducted pursuant to 1 CMC, Section 9109 Administration Procedures - Conduct of Hearings.

PART XIII. REINSTATEMENT OF LICENSE

- 13.1 Reinstatement of Suspended License.** A person whose license has been suspended may apply for **reinstatement** of the license upon complete compliance with any term or condition imposed by the order of suspension. The application for **reinstatement** shall be accompanied by the appropriate fees, application, required continuing education hours, and/or any other additional documents or information the Board deems appropriate.
- 13.2 Revoked License.** Upon the expiration of at least two years from the effective date of the revocation of the license, a person may apply for a new license by filing an application and complying with all current requirements for new applicants. The granting or denying of such application shall be at the discretion of the Board after evaluating such application consistent with the statutory and regulatory requirements relating thereto.
- 13.3 Relinquishment No Bar to Jurisdiction.** The forfeiture, non-renewal, surrender, or voluntary relinquishment of a license by an appraiser shall not bar jurisdiction by the Board to proceed with any investigation, action, or proceeding against the appraiser to revoke, suspend, condition or limit the appraiser's license.
- 13.4 Judicial Review.** Any person aggrieved by a final decision and order of the Board in a contested case is entitled to judicial review thereof according to law.

PART XIV. UNAUTHORIZED PRACTICE AS AN APPRAISER

- 14.1 No Compensation for Unauthorized Activity; Civil Action.** The failure of any person to maintain a current and valid license prior to engaging in any activity requiring licensure by the Board shall prevent such person from recovering in a civil action for work or services performed on a contract or on any legal basis to recover the reasonable value thereof.

PART XV. PUBLICATION OF ROSTER

15.1 Publication of Roster. The Board shall prepare annually, a roster showing the name and place of business of each individual holding a license as a CNMI Licensed appraiser or a CNMI Certified appraiser. The roster shall be sent to the Appraisal Subcommittee by January 15 of each year.

PART XVI. FEES

16.1 Fees. The fees for licensure shall be as follows:

- A. Application Fee \$100.00
- B. Licensure Fee \$100.00
- C. Registry Fee (2-year period) \$ 50.00
To be transmitted to the Appraisal Subcommittee.
- D. Temporary Practice Application & License Fee \$125.00
- E. Renewal Fee \$100.00
- F. Inactive Fee. \$ 50.00
- G. Reactivation Fee \$100.00
- H. **Reinstatement Fee**..... \$100.00
- I. Examination Fee shall be as provided by contract with a professional testing Organization.
- J. Local Examination Fee..... \$100.00

The application fees shall be nonrefundable. The registry fees may be increased if the Appraisal Subcommittee so informs the Board of the increase, and may be imposed on licensees without hearing. Failure to pay an increase of the registry fee within sixty days of notification to do so shall result in **license automatically invalid**.

16.2 Form of Fee. The fees, if in the form of money order or check, shall be made payable to the CNMI Treasurer.

16.3 Dishonored Checks Considered Failure to Meet Requirements.

The dishonoring of any check upon first deposit shall be considered a failure to meet requirements.

16.4 Fees Deposited; Transmittal Appraisal Subcommittee

- A. All fees shall be deposited in the general fund of the CNMI.
- B. The registry fees shall be transmitted by the Board to the Appraisal Subcommittee annually as required by law.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE CIVIL SERVICE COMMISSION



P.O. BOX 5150 CHRB
SAIPAN, MP 96950
TEL. NOS. (670) 322-4363/6954
FAX NO.: (670) 322-3327



Pamela S. Brown
Attorney General
2nd Floor Juan A. Sablan Memorial Building
Capitol Hill
P.O. Box 10007
Saipan, MP 96950

JUL 13 2004

SUBJECT: Proposed Amendments to the
Personnel Service System Rules and Regulations

Dear Ms Brown:

Proposed amendments to the Personnel Service System Rules and Regulations have been filed with the Commonwealth Registrar.

The proposed amendments have been withheld from publication by the Office of the Attorney General under the belief that further proposed amendments would be forth coming and that all proposed amendments could be published at one time.

No further proposed amendments to the Personnel Service System Rules and Regulations have been adopted by the Commission and no additional amendments are under review by the Commission at this time. Additional proposed amendments to the Personnel Service System Rules and Regulations are not likely to be made within the next one year or longer.

The Commission requests that the current proposed amendments to the Personnel Service System Rules and regulations be published.

Sincerely,

A handwritten signature in black ink, appearing to read "Francisco DLG Camacho".

FRANCISCO DLG CAMACHO
Chairman

cc: Commission Members

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 D, E, and F of the Personnel Service System Rules and Regulations.

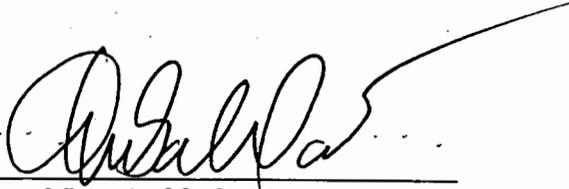
The public is encouraged to submit written comments on the proposed amendments by mail, delivery of facsimile. The comment period will be closed thirty (30) days after publication of this notice. Address your comments to:

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

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

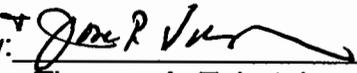
Date: 2/12/03

Submitted By: _____


Vicente M. Sablan
Chairman

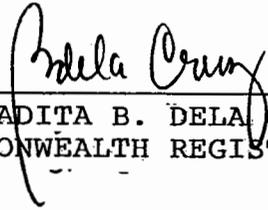
Date: 8/26/04

Received By: _____


Thomas A. Tebuteb
SAA, Office of the Governor

Date: 8/26/04

Filed By: _____


BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

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.

PAMELA S. BROWN
Attorney General

Date: 8/26/04

By:  Pamela S. Brown
Assistant Attorney General

KUMISION SETBISIUN SIBIT

NUTISIA PUT PRINIIPONEN AMENDASION GI AREKLAMENTO
YAN REGULASION SISTEMAN SETBISIUN PETSONAT

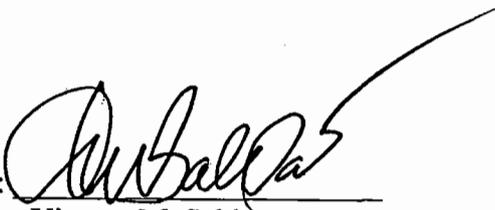
Sigun aturidat 1 CMC §8117, I Kumision Setbisiun Sibit ginen este ha nutitisia i pupbliku put ha' propopone i sigiente siha na amendasion gi Areklamento yan Regulasion Sistemana Setbisiun Petsonat, para u ma amenda patte III D, E, yan F gi Areklamento yan Regulasin Sistemana Setbisiun Petsonat.

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.

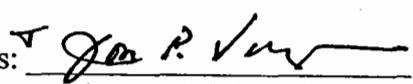
Chairman, Civil Service Commission
P.O. Box 5150, CHRB
Saipan, MP 96950

Building No. 1211, Capitol Hill
Telephone: (670) 322-6954/4363
Facsmile: (670) 322-3327

Fecha: 2/12/03

Sinatmite as: 
Vicente M. Sablan
Chairman

Fecha: _____

Rinisibi as: 
Thomas A. Tebuteb
SAA, Ofisina Gubetno

Fecha: _____

Pine'lo as: _____
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

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

PAMELA S. BROWN
Attorney General

Ma Fecha: _____

Ginen: _____

CIVIL SERVICE COMMISSION

ARONBGORONG REEL POMWOL FFEERUL LLIWEL MELLOL
AUTOL ALLEGHUL PERSONNEL SERVICE SYSTEM

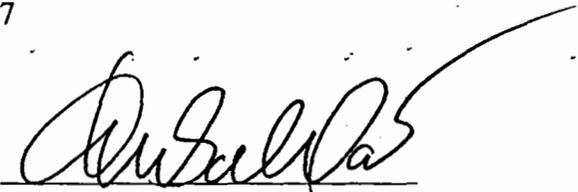
Reel bwangil 1 CMC §8117, Civil Service Commission ekke arongaar toulap igha ekke pomwoli bwe ebwe ayoorra lliiwel kka faal mellol autol Alleghul Personnel Service System, ebwe lliiwel peighil kka III D, E, me F mellol Alleghul Personnel Service System.

Rekki tingor ngalliir toulap bwe rebwe atotoolong meta mangemangiir me tipeer reel pomwol ffeerul lliiwel kkaal nge rebwe ischiitiw nge emmwel schagh rebwe afanga llo mail, ngare iir schagh rebwe bwughhilo me ngaare rebwe Fax-li. Aighuughul igha rebwe atotoolong mangemmang me tiiiip nge elligh (30) ral sangi igha e rong lo aarongorong 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: 2/12/03

Mereel: 
Vicente M. Sablan
Chairman

Ral: _____

Bwughiiyal: _____
Thomas A. Tebuteb
SAA, Bwulasiyool Soulemelem

Ral: _____

Isalliiyal: _____
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

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.

PAMELA S. BROWN
Attorney General

E ffeer raalil ye: _____

Ginen: _____

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

Statutory Authority: 1 CMC §8117

Short Statement of Goals and Objectives: Amendments to Part III, Subparts D, E and F of the Personnel Service System Rules and Regulations.

Brief summary of the Proposed Rules and Citation of Related and Affected Statutes & Regulations Amendments to Part III Subparts D & E of the Personnel Service System Rules and Regulations are shown on the proposed amended regulations with underlining indicating new language and strikethrough indicating deleted language. The following are the significant amendments and changes to the Personnel Service System Rules and Regulations.

Part III D1D & D2L eliminates the references to the ADA.

Part III D2 generally changes the term adverse action to disciplinary action.

Part III D2E is clarified in respect to 3 day suspensions and non FLSA exempt employees.

Part III D2F Furlough is deleted as it is not a disciplinary action.

Part III D2I Abandonment of job is moved to Part V D

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.

Amendments to Part III Subpart F of the Personnel Service System Rules and Regulations relating to appeals to the Commission is replaced with a new Sub Part F

**For Further Information
Contact:**

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Civil Service Commission
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**Need for Emergency
Adoption:**

None

Date: 2/12/03

Submitted by:



Vicente M. Sablan, Chairman
Civil Service Commission

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

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

GENERAL: This sub-part applies to suspensions, ~~furloughs, separations~~ terminations 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 received by the Appointing Authority submitted at least fourteen (14) calendar days in advance of the effective date. The Director of Personnel may designate management and highly skilled technical classes for which this period may be extended to thirty (30) days. Resignations will not be accepted if the employee is being investigated or processed for adverse action for an act of misconduct.

The appointing authority shall submit a copy of the written resignation and the necessary terminating documents to the Office of Personnel Management 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 Director of Personnel or his designee ~~for employees~~ upon notice of an employee's resignation or retirement. Such interview shall include questions on the reasons for separation and counseling on benefits. The Director of Personnel or his designee shall not process exit documents until the interview is completed. If circumstances make such interview impractical, an employee may ask the Director of Personnel 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 Director of Personnel

may terminate the employee provided:

- (1) No suitable reassignment can be made within the department or location to which the employee is assigned.
- (2) Medical examination procedures as outlined in Part III.B5, have been complied with and the examining physician has determined that the employee is not fit for duty.

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 Director of Personnel 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 appointing authority 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 appointing authority.
- (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, ADVERSE ACTIONS: SUSPENSIONS, SEPARATIONS FOR PERSONAL CAUSE, TERMINATIONS 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 disciplinary actions. For this purpose, appointing authorities shall include those persons with expenditure authority set forth in 1 CMC§7401 and applicable Appropriation Act. These persons may delegate, in writing, authority to effect adverse disciplinary actions to Division Heads of departments, or to Executive Directors of Boards and Commissions. The authority to effect adverse disciplinary actions may not be further delegated or re-delegated.
- B Employee Coverage. This part applies to all Civil Service employees of the ~~Personnel Service~~ who government

C. Merit of Adverse Disciplinary Action. An action against an employee may not be taken under this part except for "such cause as will promote the efficiency of the Personnel Service."

D. Informal Disciplinary Actions

(1). Admonishment. An admonishment is an informal disciplinary measure such as counseling or warning. 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 the official record maintained by the Office of Personnel Management.

(2). Admonishment may be either verbal or written.

E. Formal Disciplinary Actions:

(1). 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 twenty (20) work days or less. Furloughs of more than twenty (20) work days are reduction-in-force actions and shall be accomplished using reduction-in-force procedures. (See Part III.E).~~

(2) Suspension Not to Exceed Three (3) Working

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.) Suspension not to

exceed three (3) working days cannot be awarded to overtime exempt employees per FLSA except for violations of safety rules.

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.

(3) 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. Suspensions will not be scheduled for paid holidays, period of suspension will be extended to the next work day.

(4) An employee who is exempt from the overtime provisions of the Fair Labor Standard Act (FLSA) and is receiving disciplinary action for an offense other than violation of safety rules, cannot receive suspensions without pay for periods of five (5) working days. The period of suspension must consist of increments of five (5) work days, for example, five (5) days, ten (10) days and fifteen (15) days. Suspensions in respect to an exempt employee must be served on consecutive days and for entire workweeks.

~~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. move to part.V.D~~

(5) Removals Terminations. Appointing authorities may take removal termination action against an employee for such cause as will promote the efficiency of the government service provided all adverse action procedures are followed.

(6). Reduction in Rank or Pay Demotion. Appointing authorities may take action to reduce an employee in rank or pay for cause.

(a.) "Reduction in rank" means the assignment of duties that would normally be performed in a position lower one or more numerical grades or pay levels

under the classification system than the employee's official position and grade. 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 unofficial 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 salary pay level. Such actions may be taken only under adverse action procedures.

- (b) "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.

E. Separation-Termination 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 or disciplinary or attendance problem occur, that employee shall be separated terminated from the service.
- (2) Appointing authorities who find it necessary to separate terminate 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-termination. The employee shall be afforded the right to discuss the situation with the management official next above the one initiating the separation termination. If such management official does not make a final decision known to the employee before the separation-termination date, the employee may seek the assistance of the Director of Personnel to have the separation-termination date extended for an additional fourteen (14) calendar days. The Director of Personnel may reject such request for good cause.
- (3) Terminations during the probationary period for reasons of lack of work work or funds will not be considered termination during probation
- (4) Grievance, adverse action or reduction-in-force procedures do not apply to separations termination during probation.

G TERMINATION DURING A LIMITED TERM, PROVISIONAL OR OTHER TEMPORARY APPOINTMENTS

- (1) Limited term, provisional and other temporary appointments may be terminated for reason of personal cause due to misconduct or unsatisfactory performance with seven (7) days advance notice in writing. The notice letter will serve as the termination letter unless the appointing authority reconsider the decision.
- (2) Adverse action or reduction in force procedures do not apply to terminations of these appointments.

H Procedure for Taking Adverse Actions. Adverse actions are those disciplinary actions involving suspensions without pay in excess, of three (3) days, termination and reduction in rank or pay. 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 providing notice of the proposed adverse action, other than an admonishment, must be reviewed approved by the Director of Personnel and the Attorney General, or their designees, before issuance. Procedures for adverse action removal, suspension for more than three (3) working days; reduction in rank or pay; and furlough without pay are as follow:

- (1) The appointing authority must give the employee at least thirty (30) days advance written notice that an adverse action is being considered. 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 employer shall prepare a Notice of Proposed Advers Action advising the employee that he or she 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 except as provided in subpart H(3)(a)(ii) of this part.
- (2) The employee has the right to answer respond to the notice of proposed adverse action personally or in writing within twenty (20) calendar days from the date of receipt. Unless placed on leave without pay, during the

twenty (20) day period the employee will be granted (3) days of administrative leave in which to secure affidavits and prepare an answer. The Director of Personnel may extend the administrative leave for no more than three (3) additional work days. Extension of each administrative leave does not extend the time within which the answer is due.

- (3) If at all practicable, the employee must be kept on active duty in the employee's regular position until the agency issues its final decision on the adverse action. In an emergency, however, the employee may be reassigned or suspended and placed on suspension without pay or, with the employee's consent, carried on annual leave. The following situations are to be considered emergencies, however, other circumstances may also be adequate to justify suspension without pay.
 - (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 suspension without pay, the employee shall be reinstated with benefits and pay retroactive to the date of suspension

- (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.
- (4) The appointing authority must give the employee a written final decision of the adverse action. 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 does 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.

- (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.

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STEPS FOR AN ADVERSE ACTION

1. CONFIRMED INCIDENT OF MISCONDUCT OR UNSATISFACTORY PERFORMANCE.
2. INVESTIGATION OF INCIDENT ESTABLISHING VIOLATIONS.
3. MANAGEMENT OFFICIAL'S LETTER OF PROPOSED ADVERSE ACTION
4. EMPLOYEE'S RESPONSE AND/OR PRESENTATION OF EVIDENCE.
5. MANAGEMENT OFFICIAL'S LETTER OF FINAL DECISION
6. EMPLOYEE'S WRITTEN APPEAL TO CIVIL SERVICE COMMISSION
7. CIVIL SERVICE COMMISSION HEARING (If requested)
8. 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, reduction in class, reduction of work hours, or pay level of employees because of lack of work or funds, to promote efficiency, or in the interest of economy, but not for disciplinary or performance 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.

A transfer of function or change in location does not by itself create a RIF situation. A RIF situation requires a loss or position in conjunction with the transfer of function or change in location.

III.E2 COVERAGE

This sub-part applies to all employees in the Personnel Service, ~~except Federally Funded Appointments~~. Reduction in Force includes removal of employees, reduction in class or pay level and suspensions or reduction of work hours without pay.

A Reduction in Force can be implemented in respect to the Commonwealth government, a branch of government, a department, a division, an office, work groups and job classifications. Federally funded positions will be subject to RIF only if federal funds or scope of work are reduced. However, an incumbent employee in a federally funded position will be subject to competition if the employee is terminated through RIF from a federally funded position

III.E3 REDUCTION-IN-FORCE PLANNING

- A. When it is determined that reduction-in-force (RIF) must be initiated the appointing authority concerned shall provide the Director of Personnel, the Civil Service Commission and Departments, written notice of intention to take RIF action at least sixty (60)days in advance. The appointing authority shall first 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.
- B. All department 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.
- C. Additionally, all employees temporarily promoted into or out of the affected positions must be returned to their permanent positions before RIF procedures are implemented. Each department /agency head shall prepare RIF computations and notice letters of RIF; copies of which shall be furnished each employee who has been affected by the RIF, the Office of Personnel Management and the Civil Service Commission.

III. E4 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 appointment

Employees shall be released from Tenure Group III and then Tenure Group II before employees in Tenure Group I are subject to RIF procedures.

III.E5 REDUCTION IN FORCE PROCEDURE

- A. The following procedure shall be followed when the appointing authority determines that the Reduction in Force is necessary and unavoidable. Competitive processes as established in this part shall be implemented by the Director of Personnel to assure equitable competition, recognition of seniority and tenure, and protection of the public interest. Competitive process shall be limited by the establishment of competitive areas and recognition of competitive levels

B. DEFINITIONS.

- (1) Competitive Areas. For all positions:

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

- (2) 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.
- (3) Creditable Service for Reduction-in-Force.
 - (a) Service in the Commonwealth Government, its agencies, corporations and instrumentalities since April 1, 1976.
- (4) Retention Standing. Retention standing is derived by allotting one (1) point for each year of creditable service, and one (1) point for each exceptional overall annual performance appraisal (four or more exceptional rating on an annual

performance appraisal), rating and by deducting one (1) point for each unsatisfactory performance appraisal (one or more unsatisfactory performance appraisal) No corrective action will be made for missing performance reports.

- (5.) 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 in Tenure Group I who has exhausted retreat rights without any success may exercise assignment rights and may displace another permanent employee with lower retention standing in another competitive level with in the same competitive area that requires no reduction or the least possible reduction, in ~~representative pay rate (Step 5 in any pay level).~~

C. COMPETITIVE PROCEDURES

- (1) 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.

- (2) 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.
- (3) Employment Actions.
- (a) Those employees who have been displaced by a retreating employee with higher retention standing and successfully competed for a lower position will be reduced in rate to the lower position.
- (b) Those employees who upon completion of the competitive and retreat process, were determined to have the lowest retention standing will be separated from government service.
- (c) All reductions and separations will be in accordance with the adverse action and relevant

compensation procedures.

D. Preliminary Actions

(a) Employees from Tenure Group III and II in the affected classes will be separated from government service prior to the initiation of the Reduction In Force procedures. If the number of positions to be reduced is less than the number of incumbents, limited term and probationary employees displacement will be effected based upon length of service

(b) Separation of probationary and limited term employees will be effected with fourteen (14) days written notice.

E. 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.E7 FURLOUGH

A. The Appointing Authority may place employees on furloughs for thirty (30) days or less if there is reasonable assurance that the employees furloughed will be returned to duty within the end of the period of furlough. 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 management's needs and proceed according to reduction-in-force procedures.

B. Employees shall be placed on furlough through the competitive process set forth in Part III.E4, ~~except such employees shall have no assignment or bumping rights~~. All employees in Tenure Group III and II shall be released from service or placed on furlough before employees in Tenure Group I are placed on furlough.

C. 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.

III.E8 SUSPENSION OF WORK HOURS AND PAY

- A. The Appointing Authority may place employees on non-duty and non-pay status for a specified number of hours or days for each pay period.
- B. The competitive process is not required in respect to a suspension of work hours and pay, provided that all employees (including exempt and appointed employees and elected officials) in the Department or instrumentality and agency of government involved receive equal percentage reductions in work hours and wages.
- C. All employees in Tenure Groups III and II shall be released from service or placed on furlough before work hours and wages are reduced for employees in Tenure Group I.

III.E9 VACANT POSITIONS

During reduction-in-force situations, vacant positions shall not be filled unless the Governor certifies to the Director of Personnel Management that such position needs to be filled in order to provide critical services to the government or public where possible these vacant positions will be filled by employees affected by the reduction in force.

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~~ will be subject to the Reduction In Force procedures.
- A. 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 (Saipan, Tinian, or Rota) 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.

- 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.

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PERSONNEL SERVICESYSTEM 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 from dismissal, suspension (more than 3 working days), demotion, reduction-in-force procedures, an "unsatisfactory" or "satisfactory" performance rating. The provisions of this sub-part apply to appeals pursuant to 1CMC § 8116 (c) and §8134(a). Any person aggrieved by any action of the Director of Personnel 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. At the hearing, although technical rules of evidence shall not apply, the testimony shall be recorded. The Commission shall render its findings of fact and final decision in writing with service on all parties.

Only one (1) hearing is held, unless the Commission determines that unusual circumstances require a second 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.

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.

- (1) 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
- (2) 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. 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 for use of official time. The Director of Personnel 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 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. 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
OFFICE OF THE CIVIL SERVICE COMMISSION

In the Matter of)	
EMPLOYEE,)	<u>Case No. CSC</u>
Name of Employee)	
Mailing Address)	NOTICE OF APPEAL
Telephone Number)	
And)	
Name of Department or Agency)	
MANAGEMENT)	

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) calendar days after the date it was originally filed. An amendment after fifteen (15) calendar 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 attorney. Service means giving a copy of a document to a party, a party's representative or attorney.
- 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
 - (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 Employee's 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 representative 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) Pre-hearing 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 witness' anticipated testimony.
- B. The Office of Personnel Management and the employee's 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 pleading 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;
- L. The proposed decision of the Commission's hearing officer, if any, and
- M. A copy of the notice of decision of the Civil Service Commission.

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.
- B. Issues Raised by the Commission. Any Commissioner may, at any time, raise issues Not raised by motion of the parties. Upon a 2/3 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 Commission.

- D. Motions to Postpone Hearings. A motion to continue a date of hearing shall set forth the factual basis for the motion. Continuance 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 five (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 basis of lack of jurisdiction, untimely filing of the appeal, procedural defects in the proceeding or other significant reasons. The legal factor and factual basis 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 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 things 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 be issued 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 Director of Personnel 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 open to the public unless the Employee requests that the hearing be closed 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 taped 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, videotaping, 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 parties.
- B. Except as provided in III.F11.C, 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 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 or 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.
- 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

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" 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 within thirty (30) calendar days after all required signatures have been obtained 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 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 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.

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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 Service System Rules and Regulations, amending Parts V through XI 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 days after publication of this notice. Address your comments to:

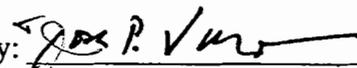
Chairman, Civil Service Commission
P.O. Box 5150 CHRB
Saipan, MP 96950

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

Date: 6/12/03

Submitted By: 
Francisco DLG. Camacho
Chairman

Date: 8/26/04

Received By: 
Thomas A. Tebuteb
SAA, Office of the Governor

Date: 8/26/04

Filed By: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

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.

PAMELA S. BROWN
Attorney General

Dated: 8/26/04

By 

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

Statutory Authority: *1 CMC §8117*

***Short Statement of
Goals and Objectives:*** To continue our efforts to modernize the Personnel Service System Rules and Regulations (PSSR&R) section by section to conform with modern personnel management methods and clarify sections challenged by management and employees.

***Brief summary of the
Proposed Rules and
Citation of Related and
Affected Statutes &
Regulations*** Amendments to Part V through Part XI of the Personnel Service System Rules and Regulations. General amendments to change references to Personnel Office to Office of Personnel Management and Personnel Officer to Director of Personnel

Part V.A2(b) provision advising employees concerning benefits is deleted

Part V.C Section I deleted. Section II deleted (Title only) and Section III deleted entirely.

Part V.F1 the word handicap is deleted and replaced with the word impairment.

Part V.F1(a) the factors of the EEO policy is clarified

Part VI.A4(a) the Civil Service Commission appoints the Incentive Awards Committee.

Part VII (b) deleted

Part VII.A2 (a), (b), (c), (d), (e), (f) and (h) are deleted.
Part VII A2 (g) and (l) numbering change

Part VII.A3 deleted

Part VII.A4 Leaves With Pay: numbering change

Part VII.A4(a), (b),: numbering changes and paragraphs restructuring.

Part VII.A4(c)Sick Leave is deleted and replaced with

KUMISION SETBISIUM SIBIT
NUTISIAN MAPROPONEN AMENDASION SIHA GI
AREKLAMENTO YAN REGULASION SISTEMAN SETBISIUN SIBIT

Papa aturidat 1 CMC §8117, I Kumision Setbisiun Sibit ginen este manana's nutisia para I pupbliku henerat put priniponen I sigiente siha na amendasion gi areklamento yan Regulasion Sistemana Petsonat, para u amenda Patte V esta XI gi Areklamento yan Regulasion Sistemana Setbisiun Petsonat.

I pupbliku manma so'yu para u fanman satmiti halon komento gi tinige' put I maproponen amendasion ginen mail, delivery osino. I tetminum marisiben komento u mahuchom trenta (30) dias despues di mapublika este na nutisia. I komento siha u ma adres guato para I siginte na adres.

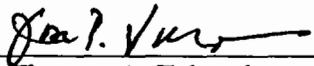
Chairman, Civil Service Commission
P.O. Box 5150, CHRB
Saipan, MP 96950

Building No. 1211, Capitol Hill
Telephone: (670) 322-4363 Fax: (670) 322-3327

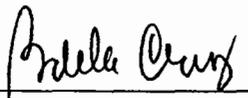
Fecha: 6/12/03

Ma satmiti as: 
Francisco Dlg. Camacho
Chairman

Fecha: 8/26/04

Rinisibi as: 
Thomas A. Tebuteb
SAA, Office of the Governor

Fecha: 8/26/04

Ma file as: 
BERNADITA B. DELA CRUZ
COMMONWEALTH REGISTRAR

Sigun 1 CMC papa Seksiona 2153, ni inamenda ni Lai Pupbliku 10-50, I areklamento yan Regulasion siha esta manma ribisa yan apreba ginen Ofisinan Abugadon Henerat giya CNMI.

PAMELA S. BROWN
Attorney General

Fecha: _____

Part VII.A4(c) Accumulation of Leave

Part VII.A4(d) granting of advance leave.

Part VII.A4(e) Training and Education Leave is deleted

Part VII.A4(g) Administrative Leave clarified

Part VII.A4(i) Military Leave is deleted

Part VII.A4(j)(k) are renumbered.

Part VII.A5(a) an employee desiring to take extended leave without pay clarified.

Part VII.A5(f) FMLA leave clarified.

Part VII.A5(g) ADA leave first paragraph added.

Part VII.A6 BASIS FOR ACCRUAL is deleted

Part VII.A7 numbering change and second paragraph is deleted.

Part VII.A8 numbering change

Part VII.A8(b) donation of unused sick leave hours to the sick leave bank clarified.

Part VII.A9 and A10 numbering change

Part VII, subpart B is repealed

Part VIII.E third paragraph is deleted

Part IX.E(2)(c) clarifies if training and education to improve an employee's potential for advancement is leave with or without pay.

Part IX.E(2)(e) salary and benefits for employees on external training limited to one year.

Part IX.F(b) clarifies the type of pay the employee receives when on training and education leave

Part XA letter "a" is deleted and replaced with the word "the".

Part XI.B3(a)(8) is deleted

Part XI.B3(a)(9) is renumbered

***For Further Information
Contact:***

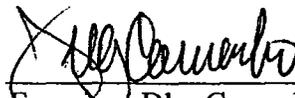
Norbert S. Sablan, Executive Director
Civil Service Commission
Building Number 1211, Capitol Hill
Phone: 322-4363 Fax: 322-3327

***Need for Emergency
Adoption:***

None

Date: _____

Submitted by: _____



Francisco Dlg. Camacho, Chairman
Civil Service Commission

- (4) Passing along, promptly, to higher levels of management, complaints and concerns of employees which cannot be resolved or corrected at the lower levels of supervision;
- (5) Resolving promptly those matters which fall within the authority of the supervisor;
- (6) Encouraging morale and esprit de corps by:
 - (a) occasional brief group meetings to recognize events and communicate plans of mutual interest to the employees in that office; and
 - (b) occasional social gatherings or employees and their families for picnics or holiday celebrations to promote better understanding and cooperation.

V.A2 ROLE OF THE DIRECTOR OF PERSONNEL

The Director of Personnel shall designate one or more employees to monitor employee relations through advising managers and supervisors in such areas as:

- A. Advising supervisors and managers concerning effect and import of regulations concerning employee's rights and privileges, management's rights, employee conduct and performance appeals, grievances and communications;
- ~~B. Advising and counseling employees concerning benefits to include the Group Life Insurance, the Group Health Insurance and the Worker's Compensation;~~
- C. Advising all employees on the impact of law and regulations concerning the personnel management function; and
- D. Advising all employees concerning conflict of interest as denounced in the Personnel Regulations.

PART V, SUB-PART B
EMOTIONAL AND MENTAL HEALTH

V.B1 GENERAL

This sub-part deals with employee conduct and performance when outside influences, other than substance abuse, adversely affect an employee's effectiveness. The influences include, but are not limited to, the following:

Politics	Family Problems
Employee-Supervisor conflict	Divorce
Employee-Employee conflict	Legal concerns
Perceived personal crisis	Retirement crisis
Financial problems	Death in the Family

Early recognition of deteriorating performance or conduct is a vital first step in the government's program to help the troubled employee retain or resume his/her place as a productive member of the work force. Early recognition is also an integral part of supervision. Because the immediate supervisor must assume such a key role in helping the troubled employee, this sub-part is prepared to help the supervisor:

- A. Recognize early signs indicative of personal problems;
- B. Deal in an appropriate manner with the employee whose work is suffering because of personal problems; and
- C. Make the employee aware of sources of help within the organization and the community.

This sub-part does not deal with substance abuse. See Part V, Sub-Part C, for the government's policy on creating an Alcohol and Drug Free Workplace.

V.B2 POLICY ON EMOTIONAL AND MENTAL HEALTH

As an employer, the government is concerned with any person or social situation which interferes with the individual employee's mental and physical well-being, or interferes with the efficient and safe performance of assigned duties, reduces dependability, or reflects discredit on the Personnel Service.

It is the government's policy to offer assistance through confidential counseling and referral guidance when indicated. This assistance includes but is not limited to such areas as emotional problems, family and marital problems, indebtedness, interpersonal conflicts (employee-supervisor, employee-employee) and crisis situations, where it is determined by the employee or management that these problems adversely affect employee health and performance. Assistance available to employees voluntarily seeking help for substance abuse problems is described in Part V.C9. Sick leave, annual leave or leave without pay may be granted for approved programs of treatment, counseling or rehabilitation. The confidential nature of records in these cases will be maintained in the same manner as medical records.

V.B3 ACTION BY SUPERVISORS AND MANAGERS

- A. Supervisors and managers must be alert to indications of deteriorating performance on the part of employees under their supervision. Some of the indications which may occur are:
- (1) A marked change in behavior. This may show up as emotional outburst, chronic irritability, excessive fatigue, or rule violations;
 - (2) Frequent short-term absences, notably the afternoon of pay day or the following Monday;
 - (3) Repeated accidents;
 - (4) Frequent complaints related to health;
 - (5) Chronic inability to get along with fellow employees; or
 - (6) Excessive problem drinking.
- B. Upon identification of presumed problems, the supervisor should approach the employee to determine the cause of performance change. Should an approach be rebuffed, which is likely, the supervisor should continue observation of the employee's performance, recording occurrences which tend to support the supervisor's feeling that the employee is troubled.

If the conduct continues for a lengthy period, the supervisor must counsel with the employee and, if the employee is unresponsive, refer the matter to the Director of Personnel.

V.B4 ACTION BY THE DIRECTOR OF PERSONNEL

Upon referral of a case to the Director of Personnel by a supervisor, the Director of Personnel should contact the Department of Health for assistance. Once arrangements for assistance have been made, the Director of Personnel should seek out the employee and counsel the employee to seek appropriate help. If the employee is agreeable, the Director of Personnel should notify the supervisor concerned so that arrangements can be made for the employee to seek help. If the employee is not agreeable, the Director of Personnel should advise the employee that if the unsatisfactory performance continues, disciplinary action may result.

V.B5 FURTHER ACTIONS

Should an employee's conduct and performance continue to deteriorate and the supervisor is convinced beyond a reasonable doubt that the cause is other than alcohol abuse or drug dependence, the supervisor should consult with the Director of Personnel. The Director of Personnel should then seek the assistance from an appropriate practitioner at the Department of Public Health.

Once the availability of professional help has been arranged, the Director of Personnel should meet with the employee and candidly discuss the problem and offer to assist the employee in seeking professional help from the Department of Public Health.

The course of action to be taken after referral to professional attention depends on the professional recommendation given.

each employee within ninety (90) days from the effective date of these regulations and to new employees upon entrance to duty. Each appointing authority shall remind its employees of the regulations in this sub-part periodically, at least once annually, through a publication or memorandum issued to all employees.

V.D5 EMPLOYEE RESPONSIBILITY

It is the responsibility of employees to familiarize themselves and to comply with the regulations in this sub-part. Employees are expected to consult with their supervisors and Director of Personnel on general questions they may have regarding the applicability of the regulations. On specific matters and for guidance on questions of conflict of interest, they may receive authoritative advice and guidance from the Director of Personnel and the Attorney General's Office.

V.D6 INTERPRETATION AND ADVISORY SERVICE

- A. Channels for counseling: It is the government's policy to encourage responsible disposition of counseling requests by the Director of Personnel. Counseling provided by the Director of Personnel involving any question of conflict of interest shall be in cooperation with the Attorney General.
- B. In order that the Attorney General may be informed as to the content and scope of counseling at all levels, the Director of Personnel will be responsible for communicating a summary of each such counseling action to the Attorney General on a concurrent basis; provided, however, that such reporting is required only as to counseling in regard to conflict of interest questions.

V.D7 DISCIPLINARY AND OTHER REMEDIAL ACTION

- A. Violations of the regulations in this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law. After consideration of the statements of employment and financial interests submitted by the employee and the explanation of such employee as required in the regulations in this part, if the Attorney General or designee decides that remedial action is required, immediate action shall be taken to end the actual or apparent conflict of interest.
- B. Remedial action may include, but is not limited to:

of monetary value from a private source as compensation for services to the government.

- D. Among other things, abuse of leave privileges to engage in outside work shall be treated as an interference with official performance. Active proprietary management of any except the smallest business is questionable because of the probability that such management responsibilities may interfere with the employee's obligations to the employee's primary employer, the government. Employees are especially urged to seek the advice of the Director of Personnel before committing themselves to such activities.
- E. An employee shall not perform outside work:
- (1) Which is of such a nature that it may be reasonable construed by the public to be the official act of the government.
 - (2) Which involves the use of government facilities, equipment or supplies of whatever kind.
 - (3) Which involves the use of official information not available to the public.
- F. While an employee is not prohibited from performing outside work solely because the work is of the same general nature as the work the employee performs for the government, no employee may perform outside work:
- (1) If the work is such that the employee would be expected to do it as a part of regular duties.
 - (2) If the work involves active proprietary management of a business closely related to the official work of the employee.
 - (3) If the work for a private employer is of the same type or closely kin to that involved in the program responsibilities of the office in which the employee is employed.
 - (4) If the work would tend to influence the exercise of impartial judgment on any matters coming before the employee in the course of official duties.
- G. This section does not preclude an employee from:

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART V, SUB-PART F
GOVERNMENT EMPLOYMENT EQUAL OPPORTUNITY POLICY

V.F1 GOVERNMENT EMPLOYMENT EQUAL OPPORTUNITY POLICY

It is the policy of the government that there shall be no discrimination based on such factors as race, creed, color, ancestry, membership in a labor organization, political affiliation, place of origin, physical handicap and mental impairments, sex, religion, age and similar matters not related to merit and fitness. Also, as stated in 1 CMC §8101, et seq.:

"It is hereby declared to be the purpose of this Act to establish a system of personnel administration based on merit principles and generally-accepted methods governing the classification of positions and the employment, conduct, movement and separation of public officials and employees.

It is also declared to be the purpose of this Act to build a career service which will attract, select and retain the best qualified civil servants on merit who shall hold their offices or positions free from coercion, discrimination, reprisal or political influences, with incentives in the form of genuine opportunities for promotions in the public service, to provide competent and loyal personnel to render such service, according to the dictates of ethics and morality. In order to achieve these purposes, it is declared to be the policy of the Commonwealth that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- A. Equal opportunity for all regardless of age, race, color, sex, religion, political affiliation or belief, ~~or~~ place of origin, national origin, marital status, or disability
- B. Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective and practical;
- C. Just opportunity for competent employees to be promoted within the service;
- D. Reasonable job security for the competent employee;
- E. Systematic classification of all positions through adequate job evaluation;
- F. Fair and reasonable grievance procedures for all employees pertinent to condition of employment; and

CIVIL SERVICE COMMISSION

AMENDMENTS TO THE

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

SECTION I. BACKGROUND

~~These regulations are promulgated by the Civil Service Commission for the purpose of establishing an alcohol and drug free workplace for government employees. The Commission's authority to promulgate these regulations is found at 1 CMC §8117(a).~~

~~A new Part V, Sub-Part C, shall be inserted into the Personnel Service System Rules and Regulations. See, Section II, below. Related amendments for other sections of the Personnel Service System Rules and Regulations are found in Section III, below.~~

SECTION II. ALCOHOL AND DRUG FREE WORKPLACE

PART V, SUB-PART C ALCOHOL AND DRUG FREE WORKPLACE

V.C1 POLICY

As an employer, the government recognizes it has a responsibility to its employees and the public it serves to take reasonable steps to assure safety in the workplace and in the community. Furthermore, the government is concerned about the adverse effect alcohol and drug abuse have on safe and productive job performance. It also recognizes that any employee, whose ability to perform safely and productively is affected by the use of alcohol and other drugs, jeopardizes the integrity of the workplace and the achievement of the government's mission. The government realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. The government, therefore, encourages employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

to an S.A.P. shall be kept for five (5) years.

(2) Negative test result records shall be kept for a period of one (1) year.

D. Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. §701(a)(1)(E), the Director of Personnel Management shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.

SECTION III. AMENDMENTS TO RELATED REGULATIONS

III.B4 PRE-EMPLOYMENT CONDITION STANDARDS

~~All persons appointed 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 the successful performance of duty or to 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.~~

Part III.D2(M): Procedure for Taking Adverse Actions.

~~(5) If at all practicable, the employee must be kept on active duty in the regular position during the notice period. In an emergency, however, the employee may be suspended during the advance notice period and placed on Leave Without Pay (LWOP) or, with the employee's consent, carried on annual leave. An employee whose adverse action is based on conduct prohibited by Part V.C3 shall not be allowed to perform any safety-sensitive functions. If there are no~~

~~safety sensitive functions an employee can perform, an emergency exists and the employee must be placed on leave without pay. If an employee's adverse action is based on conduct prohibited by Part V.C3 and the employee was involved in an injury-causing accident, the employee shall be placed on LWOP pending resolution of the proposed adverse action. See, Part V.C4(D).~~

~~Part V, Sub-Part B~~

~~EMOTIONAL AND MENTAL HEALTH [Change of Title]~~

~~V.B1 GENERAL~~

~~This sub-part deals with employee conduct and performance when outside influences, other than substance abuse, adversely affect employees effectiveness. The influences include, but are not limited to, the following:~~

- | | |
|---|--------------------------------|
| Politics | Family problems |
| Employee-Supervisor conflict | Divorce |
| Employee-Employee conflict | Legal concerns |
| Perceived personal crisis | Financial problems |
| Retirement crisis | Death in the Family |

~~Early recognition of deteriorating performance or conduct is a vital first step in the government's program to help troubled employees retain or resume their place as productive members of the work force. Early recognition is also an integral part of supervision. Because the immediate supervisor must assume such a key role in helping troubled employees, this sub-part is prepared to help the supervisor:~~

- ~~A. Recognize early signs indicative of personal problems;~~
- ~~B. Deal in an appropriate manner with employees whose work is suffering because of personal problems; and~~
- ~~C. Make employees aware of sources of help within the organization and the community.~~

~~This sub-part does not deal with substance abuse. See Part V, Sub-Part C, for the government's policy on creating an Alcohol and Drug Free Workplace.~~

~~V.B2. POLICY ON EMOTIONAL AND MENTAL HEALTH~~

~~As an employer, the government is concerned with any person or social situation which interferes with the individual employee's mental and physical well-being, or interferes with the efficient and safe performance of assigned duties, reduces dependability, or reflects discredit on the Personnel Service.~~

~~It is the government's policy to offer assistance through confidential counseling and referral guidance when indicated. This assistance includes but is not limited to such areas as emotional problems, family and marital problems, indebtedness, interpersonal conflicts (employee-supervisor, employee-employee) and crisis situations, where it is determined by the employee or management that these problems adversely affect employee health and performance. Assistance available to employees voluntarily seeking help for substance abuse problems is described in Part V.C9. Sick leave, annual leave or leave without pay may be granted for approved programs of treatment, counseling or rehabilitation. The confidential nature of records in these cases will be maintained in the same manner as medical records.~~

~~V.B3 [Repealed]~~

~~V.B3 ACTION BY SUPERVISORS AND MANAGERS [Amended and renumbered]~~

~~A. Supervisors and managers must be alert to indications of deteriorating performance on the part of employees under their supervision. Some of the indications which may occur are:~~

- ~~(1) A marked change in behavior. This may show up as emotional outburst, chronic irritability, excessive fatigue, or rule violations;~~
- ~~(2) Frequent short-term absences, notable the afternoon of pay day or the following Monday;~~
- ~~(3) Repeated accidents;~~
- ~~(4) Frequent complaints related to health;~~
- ~~(5) Chronic inability to get along with fellow employees; or~~
- ~~(6) Excessive problem drinking.~~

~~B. Upon identification of presumed problems, the supervisor should approach the employee to determine the cause of performance change. Should an approach be rebuffed, which is likely, the supervisor should continue observation of the employee's performance, recording occurrences which tend to support the supervisor's feeling that the employee is troubled. If the conduct continues for a lengthy period, the supervisor must counsel with the employee and, if the employee is unresponsive, refer the matter to the Director of Personnel Management.~~

~~V.B4 ACTION BY DIRECTOR OF PERSONNEL MANAGEMENT [Amended and renumbered]~~

~~Upon referral of a case to the Director of Personnel Management by a supervisor, the Director of Personnel Management should contact the Department of Public Health for assistance. Once arrangements for assistance have been made, the Director of Personnel Management should seek out the employee and counsel the employee to seek appropriate help. If the employee is agreeable, the Director of Personnel Management should notify the supervisor concerned so that arrangements can be made for the employee to seek help. If the employee is not agreeable, the Director of Personnel Management should advise the employee that if the unsatisfactory performance continues, disciplinary action may result.~~

~~V.B6 [Repealed]~~

~~V.B5 FURTHER ACTIONS [Amended and renumbered]~~

~~Should an employee's conduct and performance continue to deteriorate and the supervisor is convinced beyond a reasonable doubt that the cause is other than alcohol abuse or drug dependence, the supervisor should consult with the Director of Personnel Management. The Director of Personnel Management should then seek assistance from an appropriate practitioner at the Department of Public Health.~~

~~Once the availability of professional help has been arranged, the Director of Personnel Management should meet with the employee and candidly discuss the problem and offer to assist the employee in seeking professional help from the Department of Public Health.~~

~~The course of action to be taken after referral to professional attention depends on the professional recommendation given.~~

~~V.D RESPONSIBILITIES OF EMPLOYEES AND MANAGEMENT [Numbering change]~~

~~V.C14 [Repealed]~~

~~V.D14 Specific Types of Conduct [Numbering change]~~

~~V.D15 Community and Professional Activities [Numbering change]~~

~~XI.B3 RECORDS REQUIRED~~

~~C. Medical Records. Medical examination forms and drug and alcohol test result forms for each employee shall be maintained in a file separate from the OPF. This is essential to protect the privacy of the individual. The records shall be maintained in a locked, fire resistant file with access allowed only to personnel authorized by the Director of Personnel Management. Access must be restricted only to persons who have a "need to know" as determined and approved by the Director of Personnel Management. Whenever access to a medical record is allowed, the Director of Personnel Management shall record:~~

1. ~~date of access;~~
2. ~~name of persons allowed such access; and~~
3. ~~reason therefore.~~

~~This memorandum shall be kept in the folder of the individual medical record.~~

~~Part XI.B4 is amended to read:~~

~~XI.B4 DISPOSITION OF RECORDS~~

~~Upon the separation of an employee for whatever reason, the employee's Official Personnel Folder shall be closed and removed to storage. Prior to sending the file to storage, all temporary material filed on the left side of the folder shall be removed and either given to the employee or destroyed. Medical examination records and investigation file material shall be placed in the OPF so that the record is accurate and complete. Records of alcohol and drug test results shall be retained in the employee's medical file until the time period for retention, established at Part V.C11(C) has passed. At that time, the records shall be destroyed.~~

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

**PART VI, SUB-PART A
INCENTIVES AND AWARDS**

VI.A1 INTRODUCTION AND PURPOSE

To set forth policies and procedures for the Personnel Service Incentives and Awards Program under applicable regulations.

VI.A2 POLICY

It is the policy of the government to use incentives and awards as an integral part of the supervision and management to:

- A. Recognize and reward employees who contribute to increased efficiency, economy or other improvements in operation; and
- B. Encourage individual or group effort to make such contributions.

VI.A3 PROGRAM RESPONSIBILITY

- A. ~~The Personnel Officer~~ Director of Personnel is responsible for the overall direction and supervision of the Incentive Awards Program and to administer the program in conjunction with the Incentive Awards Committee.
- B. The appointing authorities are responsible for directing awards activities, including suggestion processing, to the Incentive Awards Committee. Appointing authorities have been delegated responsibility for recommending Superior Service Awards, Awards of Service, Letters of Appreciation and Honor Awards to the Incentive Awards Committee.
- C. Appointing authorities and supervisors at all levels have the primary responsibility for the conduct and promotion of the Incentive Awards Program. They should encourage all employees to become active participants in the government's search for efficiency and economy in the conduct of its business. When superior work performance or special acts are identified through normal management review,

program managers shall request appropriate supervisors in those areas to identify the employees who have made the special contribution, and consider submitting award nominations.

VI.A4 INCENTIVE AWARDS COMMITTEE

- A. The Incentive Awards Committee will consist of three (3) persons. The ~~Personnel Officer~~ Director of Personnel shall serve as chairman. The ~~Governor~~ Civil Service Commission shall appoint the other two (2) members, one to represent management and one to represent the employees.
- B. The committee shall meet each quarter or more frequently, at the call of the chairman, if the number of award nominations warrants. The presence of the chairman and one member will constitute a quorum.
- C. The committee reviews and evaluates Letters of Appreciation, Suggestion Awards, Superior Performance Awards, Special Act or Service Awards, Honor Awards and cash awards.

VI.A5 CONTRIBUTIONS AND AWARD CATEGORIES

An employee's contribution, to be considered for an Incentive Award, must be identified with one of the following four (4) categories:

- A. Suggestion Award;
- B. Superior Performance Award;
- C. Special Act or Service Award; or
- D. Sustained Superior Performance for two (2) years or more.

Supervisors shall be given due recognition for the extent to which they are successful in creating a climate in which their employees are motivated to express their interests and participate in the Incentive Awards Program. An employee shall not be advised that an award nomination has been submitted until final approval has been received. So that an employee may be given full benefit and recognition of achievement, appointing authorities are encouraged to submit award nominations at the time an important contribution is made to recognize a notable career well in advance of

retirement.

VI.A6 LETTERS OF COMMENDATION

Supervisors should initiate letters of commendation for employees who make contributions which are worthy of recognition but do not meet the minimum standards for monetary or honor awards. Such letters may be signed by the immediate supervisor or higher official, depending upon the significance of the contribution. The original is presented to the employee and a copy is furnished to the ~~Personnel Office~~ Office of Personnel Management for the employee's Official Personnel Folder. If the letter concerns an adopted suggestion, a copy is also forwarded to the Incentive Awards Committee.

- (1) Accomplishment of a particularly difficult or important assignment in a manner that reflects favorably on the employee or the government;
 - (2) Development of a new procedure or process that results in substantially increased productivity, efficiency or economy of operation and for which the employee has not been otherwise rewarded;
 - (3) Innovations of significance to further government programs; or
 - (4) Any other aspect of superior performance related to assigned duties and deemed to be deserving of special recognition.
- E. The government issues two other types of honor awards to employees. These are: Award of Service (Plaque) and Letter of Appreciation. General requirements for each type are:
- (1) The Award of Service (Plaque) is granted by the Incentive Awards Committee upon the retirement-or death of an employee who has completed ten (10) years or more of government service. A letter signed by the Incentive Awards Committee citing the service and attainments of the recipient, accompanies the plaque. The employee's organization prepares the letter and submits the justification memorandum to the ~~Personnel Officer~~ Director of Personnel, who arranges for Incentive Awards Committee approval, signing of the letter and engraving of the plaque. The award materials are forwarded to the organization for presentation.
 - (2) Letter of Appreciation. An employee who upon retirement has not qualified for the Award of Service (plaque) receives a Letter of Appreciation signed by the Incentive Awards Committee. The letter reflects the employee's service and attainments. The employee's organization prepares the letter and submits it by memorandum to the ~~Personnel Officer~~ Director of Personnel, who arranges for Incentive Awards Committee approval and signing of the letter. The Letter of Appreciation is returned to the organization for presentation.

VI.B4 LENGTH OF SERVICE AWARDS

Government employees receive emblems commemorating ten (10), twenty (20) and thirty (30) years of government service. The ~~Personnel Officer~~ Director of Personnel issues these emblems annually.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART VI, SUB-PART C
BENEFICIAL SUGGESTIONS PROGRAM

VI.C1 SUGGESTION AWARD

A suggestion award is an award for an idea submitted by an employee and adopted for use by the government. Awards of this kind are made only when the employee's suggestion directly contributes to economy or efficiency or directly increases effectiveness in carrying out government programs or missions. Lack of novelty or originality does not necessarily make an idea ineligible for an award. Awards are made in the form of a cash lump-sum payment.

VI.C2 SUGGESTION PROCEDURES

A suggestion is prepared in triplicate with the original being submitted to the suggester's immediate supervisor, the duplicate to the Chairman of the Incentive Awards Committee and the triplicate retained by the suggester. The suggestion is accepted only if the idea contributes to increased efficiency or economy; suggestions which relate to employee benefits, working conditions, housekeeping, building and grounds, etc., are not processed as part of the awards program. The supervisor determines adoption or rejection of a suggestion, if she or he has authority to do so. If the suggestion is not within the scope of the supervisor's authority, she or he initiates further referral.

If a suggestion is not adopted, the supervisor advises the suggester by memorandum of the reasons for its rejection and furnishes a copy of the memorandum to the Chairman of the Incentive Awards Committee. If it is adopted and has significant first-year benefits, the supervisor initiates the recommendation for a special achievement award (see Part VI.B.2). If it is adopted but the benefits are not sufficient to qualify for a cash award, the supervisor initiates a Letter of Commendation to the suggester, to be signed by himself or a higher level official. Suggestions which appear to have benefits applicable to other government organizations are referred to them by the Incentive awards Committee.

VI.C3 DOCUMENTATION

Recommendation for a Performance Award, Special Act or Service Award related to the suggestion must be submitted in writing by supervisors. Awards for cash and certain honor awards should be forwarded to the ~~Personnel Officer~~ Director of Personnel for consideration by the Incentive Awards Committee.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART VII
EMPLOYEE BENEFITS AND SERVICES

POLICY

It is the policy of the government to provide benefits and services to its employees in keeping with the general practices of government and private enterprise and as limited or prescribed by law. This part delineates those benefits and services which include:

- A. Leaves of Absence; and
- ~~B. Benefits, such as Group Life and Health Insurance, Accident and Health Insurance, and Worker's Compensation Coverage.~~

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART VII, SUB-PART A
LEAVES OF ABSENCES

VII.A1 PURPOSE

Leaves of absence from the Personnel Service are for the mutual benefits of the employees and employer. When leaves of absence are granted, they are considered to be for legitimate reasons not detrimental to the Personnel Service.

VII.A2 CREDITABLE SERVICE FOR LEAVE PURPOSES

~~Trust Territory Public Service experience since United States administration took over (including when actually employed [WAE] until June 30, 1972).~~

- ~~A. (1) Includes trainees. Includes employment under 61 TTC, Paragraph 9(d), (f), (h), (l), (m), (n) and (o).~~
- ~~B. (2) By Director of Personnel 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 16, 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.~~
- ~~B. Marianas administration under U.S. Navy and NTTU. Until 1962, when TTPI Headquarters moved to Saipan, the Marianas (Saipan and Tinian) were under Naval Administration prior to 1962.~~
- ~~C. Personnel under municipal governments.~~
- ~~D. All employment within TTPI including: Peace Corps, Micronesian Claims Commission, National Weather Service and U.S. Coast Guard.~~
- ~~E. U.S. military and civilian service in the Trust Territory; active military service in the United States Armed Forces in the TTPI.~~

~~F. 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.~~

~~G.A. Service in the Commonwealth Government since April 1, 1976.~~

~~H. Trust Territory Government employment under the Seaman's Act.~~

~~I.B. Employees of agencies and instrumentalities within the Commonwealth.~~

~~VII.A3~~ KINDS

~~Broadly characterized, leaves of absence are either with pay or without pay.~~

VII.A4 A3 LEAVES WITH PAY

A. Annual Leave. Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. ~~Civil Service System employees who have less than three (3) years of creditable service shall earn annual leave at the rate of four (4) hours per pay period; except that newly appointed employees shall undergo a waiting period of ninety (90) calendar days before being credited with annual leave. Employees with three (3) but less than six (6) years of creditable service shall earn annual leave at the rate of six (6) hours per pay period. Employees who have six (6) or more years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period.~~

Annual leave requests of more than three (3) working days must be made in advance on a leave request form. All annual leave requests must be approved by the employee's division head upon recommendation of such employee's immediate supervisor. In smaller organizations where divisions may not exist, the heads of such organizations shall approve annual leave. A denial of request for annual leave is subject to employees' grievance rights.

Employees shall only accrue annual leave for each biweekly pay period in which they are in pay status, that is took no leave without pay (LWOP) and were not absent without leave (AWOL), for the entire ten (10) days of each pay period; provided, however, that employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time.

(1) Full time employees who have less than three (3) years of creditable service shall earn annual leave at the rate of four (4) hours per pay period.

- (2) Full time employees with three (3), but less than six (6) years of creditable service shall earn annual leave at the rate of six (6) hours per pay period.
- Full time employees who have six (6) or more years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period.
- (4) Part time employees, regularly scheduled to work at least forty (40), but less than eighty (80), hours per pay period, and actually worked at least their regularly scheduled hours and days during the pay period will accrue annual leave at the rate of fifty percent (50%) of what a full time employee with the same number of service years would accrue.
- (5) Part time employees who are not regularly scheduled to work at least forty (40) hours per pay period will not accrue annual leave, regardless of how many hours were actually worked during any particular pay period.

B. Sick Leave. Employees shall only accrue sick leave for each biweekly pay period in which they are in pay status, that is took no leave without pay (LWOP) and were not absent without leave (AWOL), for the entire ten (10) days; provided, however, that employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time. Full time employees shall earn sick leave at the rate of four (4) hours per pay period regardless of their length of service. Part time employees regularly scheduled to work at least forty (40), but less than eighty (80) hours per pay period, and actually worked at least their regularly scheduled hours and days during the pay period, will accrue sick leave at the rate of two (2) hours per pay period. Employees who are not regularly scheduled to work at least forty (40) hours per pay period will not accrue sick leave. Sick leave may be accumulated and carried over to succeeding leave years, regardless of how many hours were actually worked during any particular pay period.

Sick leave shall be allowed whenever the employee is to be absent from duty because of illness or injury or because of quarantine. The generality of the foregoing is subject to the following special provisions:

- (1) Sick leave shall only be used for medical, dental, optometric or mental health counseling or treatment or quarantine which the employee personally must undergo.

- (2) Sick leave with pay shall be allowed during leaves of absence or vacations; provided, however, that any sick leave taken by an employee while on vacation or other leave of absence must be supported by a certificate issued by the attending physician.
- (3) No employee shall be allowed to undertake gainful employment while on sick leave status.
- (4) If an employee is absent because of illness, injury in excess of three (3) days, or any quarantine, the employee may be required to furnish a certification from the attending physician that the employee is unable to work. The appointing authority may require certification for such other periods of illness as is appropriate. If the required certification is not furnished, all absence from work which would have been covered by such certification shall be indicated on the Time and Attendance record and the payroll as absent without leave (AWOL).

Falsification of an illness report shall be considered sufficient cause for disciplinary action, including dismissal from the government service for repeated offenses.

C. ~~Maximum accumulation~~ Accumulation of Leave. A report showing accrued annual and sick leave balances will be provided by Finance to the employee each pay period.

- (1) The maximum accumulation of annual leave for Personnel Service System employees shall be three hundred sixty (360) hours. Accrued annual leave in excess of 360 hours remaining at the end of the leave year shall be converted to sick leave.
- (2) Sick leave may be accumulated and carried over to succeeding leave years without limitation.

C. ~~Sick Leave. Sick leave shall be allowed whenever the employee is to be absent from duty because of illness or injury or because of quarantine of the family and/or residence. Use of sick leave is appropriate only for medical, dental, optometric or mental health counseling or treatment which the employee personally must undergo.~~

If an employee is absent because of illness, injury or quarantine in excess of three (3)

~~days, the employee may be required to furnish a certification as to the incapacity from the attending physician. The appointing authority may require certification for such other period(s) of illness as is appropriate. If the required certification is not furnished, all absence which would have been covered by such certification shall be indicated on the Time and Attendance record and the payroll as Absent Without Leave (AWOL).~~

~~Employees shall earn sick leave at the rate of four (4) hours for each biweekly pay period in which they are in pay status for the entire ten (10) days. Sick leave may be accumulated and carried over to succeeding leave years without limitation. A report showing the accrued sick leave balance will be provided the employee each pay period. The generality of the foregoing is subject to the following special provisions:~~

- ~~(1) Falsification of an illness report shall be considered sufficient cause for disciplinary action, including dismissal from the government service for repeated offenses.~~
- ~~(2) Sick leave with pay shall be allowed during leaves of absence or vacations; provided, however, that any sick leave taken by an employee while on vacation must be supported by a certificate issued by the attending physician. No employee shall be allowed to undertake gainful employment while on sick leave status.~~
- ~~(3) Sick leave with pay may be granted in advance of earning sick leave as provided under Part VII.A4.D. If an employee is separated from the service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due the employee at the time of separation an amount equal to salary for the period of unearned sick leave allowed and taken.~~

~~Sick leave accrued for service with the government shall vest in the employee upon accrual and shall remain vested so long as the individual is employed by the government, provided that if such employee is separated from government service (other than through retirement) for a period longer than three (3) years, the employee shall be divested of accumulated sick leave. (See Part VIII.A8.)~~

- D. Leave Advance. Where, for good reason and upon approval of the appointing authority, an employee on permanent or limited term status requires additional annual or sick leave in addition to the amounts accrued, the Director of Personnel, with

~~recommendation of the appointing authority, submits a written request, the Personnel Officer Director of Personnel may grant advance leave in addition to the amounts already accrued within the following limitations: leave up to a maximum of one-half (1/2) of the total earnable leave credits for which the employee is eligible for one year from the date the application is received. Subsequent accrued leave earnings shall serve to replace the amount of advance leave granted and taken. Request for leave advance must be in writing from the employee with recommendation from the appointing authority.~~

~~Leave advance granted and taken:~~

- ~~(1) constitutes a legal contract between the employee and the government; and In the case of permanent employees, no more than fifty percent (50%) of the total leave credits the employee is eligible to accrue over a period of one year from the date the application is received may be advanced.~~
- ~~(2) must be repaid, even if the employee separates from government service. Recovery of advance leave that is unpaid may be through the government's assumption of the employee's accrued unused leave, payroll deductions, matched reduction of service time and/or recourse to the courts. In the case of limited term employees, no more than fifty percent (50%) of the total leave credits the employee is eligible to accrue during the remainder of the employment term, or for a period of one year from the date the application is received, whichever is shorter may be advanced.~~

~~Subsequent accrued leave earning shall serve to replace the amount of advanced leave used. If an employee is separated from the service without having earned all of the leave that had been advanced, the employee shall owe to the CNMI government a sum of money equal to the employee's salary for the period of unearned leave used. That debt shall be satisfied first by deduction from any final payment due the employee at the time of separation. If the final payment is insufficient to cover the value of the unearned leave used, the agency may either reduce service time for the purpose of determining retirement benefits or seek assistance from the court to recover the amount due.~~

- E. ~~Training and Education Leave. Leaves for the purpose of job-related training and education may be granted employees on permanent status for a period not to exceed one (1) year, by the Director of Personnel with the recommendation of the appointing authority. No Training and Educational Leave, outside of the CNMI, shall be approved if such training is available locally.~~

- F. Compassionate Leave. Employees on permanent or limited term status may be granted compassionate leave with pay of no more than five (5) consecutive work days in cases of death in the immediate family of the employee. For the purpose of this sub-part, the term "immediate family" shall be defined as an employee's mother, father, brother, sister, spouse, immediate off-spring (natural and culturally or legally adopted), grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen (18) days after the death of the immediate family member. The appointing authority is responsible for approving compassionate leave requests.
- G. Administrative Leave. An absence from duty administratively authorized, without loss of pay and without charge to accrued leave, is administrative leave. The governor, appointing authorities or their designees have the responsibility for approving administrative leave requests. The following are the four general classes into which administrative leaves fall:
- (1) Administrative leave is absence authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government, or employment connected examinations, or for such reasons as the Governor may determine (such as a shortened work day on Christmas Eve).
 - a. Administrative leave for natural disaster or other emergency conditions may be granted only when there has been an official announcement of the hazardous conditions by the Governor.
 - b. Except for those employees determined by the appointing authority to be necessary for providing essential services, employees shall be released from duty and given administrative leave for the period the facility is closed.
 - c. Employees who are on annual or sick leave status when an emergency condition is declared by the Governor and are not required to report to duty, shall be considered released from duty and given administrative leave for the period the work facility is closed.
 - d. Employees who are participating members of an official CNMI delegation which is sanctioned by the Governor, shall be excused from duty with pay and without charge to leave for a period not to

exceed five (5) work days in a calendar year.

~~(2) Extended absence required for medical appointments and care following job-related injuries may be authorized as administrative leave.~~

(3) Administrative leaves related to disciplinary actions. Managers may place an employee in non-working status with pay for up to three (3) work days pending preparation of a notice of proposed suspension for up to thirty (30) calendar days or removal from the Civil Service .

(4) Administrative leave may be granted to employees serving on government boards and commissions, provided such employee does not receive compensation from the boards and commissions. Advance written notice by the head of a board or commission must be delivered to the department or agency head before an employee can be released from official duties to attend a meeting. If an emergency meeting is necessary, the chairman or executive director may notify the department or agency head by phone, but a written confirmation of the meeting must follow that notification.

H. Court Leave. The government encourages its employees to fulfill their obligations as citizens of the Commonwealth. Thus, employees who are called upon to serve as jurors may, at their option, be granted Court Leave for such period as the jury may be impaneled. Employees who are called to jury duty shall present their Juror Summons to their immediate supervisor together with a completed Request for Leave, for the supervisor's signature and processing. Employees who serve as juror using Court Leave to cover the period of absence shall turn over to the Commonwealth Treasurer such jury fees (as distinct from expense allowances) as they receive from the Court. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted. An employee subpoenaed as witness, except as a government witness, shall charge such absence to annual leave or leave without pay. Court leave shall be granted to an employee subpoenaed in litigation in which the government has no interest, to serve as a witness in the employee's present or past official capacity as a government employee and who may be required to present government records in testimony. Such employee must inform the appointing authority of the required testimony as soon as possible after being subpoenaed.

~~I. Military Leave. Military leaves of absence with pay, not to exceed fifteen (15) working days in any calendar year, regardless of the number of training periods in the year, may be granted by the Personnel Officer to employees who are members of the~~

~~United States National Guard and Reserve components of the United States Armed Forces, when directed under orders issued by proper military authority.~~

~~Administrative leave will not be granted in order to extend leave time for any additional training days. Upon request by the employee and approval of the appointing authority, extended leave time may be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by the appointing authority as annual or compensatory time off leave, such absences in excess of fifteen (15) work days shall be considered as leave without pay.~~

J.I Maternity Leave. Maternity leave shall be granted to a female employee on permanent status or limited term status who is absent from work because of confinement for childbirth. The appointing authority shall have the responsibility for approving maternity leave requests. Such maternity leave shall not exceed fifteen (15) work days, shall be in addition to any accumulated sick leave, and shall be any fifteen (15) work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave.

K.J Paternity Leave. Paternity leave shall be granted to a male employee on permanent status or limited term status who is absent from work because of his wife's confinement for childbirth. Such paternity leave shall not exceed ~~two five (2)(5)~~ work days encompassing the date of childbirth. The appointing authority shall have the responsibility for approving paternity leave requests.

VII.A5 LEAVES WITHOUT PAY.

A. An employee on permanent status may be granted leave without pay not to exceed ninety (90) consecutive work days if the appointing authority considers it justified. Leave without pay may be extended up to ninety (90) additional consecutive work days ONLY with the approval of the ~~Personnel Officer~~ Director of Personnel, upon recommendation by the appointing authority. Such leave without pay may be granted to permit the employee to attend to important family affairs, such as settling an estate or for justifiable personal or business reasons.

An employee desiring extended leave without pay shall prepare a memorandum of explanation addressed to immediate supervisor explaining in detail the reasons for the request and the date the employee intends to return to duty fro leave. When an employee is on leave without pay status, the employee does not earn sick, annual or retirement credits.

- B. Training and Education Leave. Employees on permanent status who wish to pursue their education on a full-time basis, without financial assistance by the government, may be granted leaves of absence without pay for a period not to exceed one (1) year. Such employees shall have the right to return to their positions at the satisfactory conclusion of their education or training, and their service anniversary dates shall be adjusted by the amount of leave without pay taken. The ~~Personnel Officer~~ Director of Personnel is responsible for approving or disapproving requests for Training and Education Leave, upon recommendation by the appointing authority.
- C. Leave Without Pay in Extension of Annual or Sick Leave. Employees on permanent status may be granted leave without pay (LWOP) for the purpose of extending annual or sick leave. When sick leave is so extended, the attending physician must certify to the necessity of the extension. The ~~Personnel Officer~~ Director of Personnel is responsible for approving or disapproving requests for leave without pay, upon recommendation by the appointing authority.
- D. Tardiness. At the end of each pay period tardiness shall be charged to Leave Without Pay (LWOP) or Absence without Leave (AWOL). In respect to each incident of tardiness, (a) If the period of lateness is less than one (1) hour it will be charged to LWOP. (b) If the period of lateness is more than one (1) hour it will be charged to AWOL.
- E. Extended Military Leave. The federal Uniformed Services Employment and Re-employment Act (USERRA) generally requires the Commonwealth government to provide extended military leave for its career employees, regardless of whether the service is voluntary or involuntary. The cumulative length of all absences due to military leave and extended military leave shall not exceed five years, unless extended for good reason documented in writing by the appointing authority. The employee must give advance notice to the appointing authority, unless military necessity or circumstances make this impossible or unreasonable. In most cases, the employee is guaranteed reinstatement rights and certain seniority rights upon return from leave. The employee must also comply with requests for documentation and with the requirements of these regulations regarding the timing of applications for re-employment. For details, employees and appointing authorities should contact the U.S. Department of Labor.
- F. FMLA Leave. The federal Family and Medical Leave Act of 1993 (FMLA) entitles employees who have worked for the Commonwealth for at least one year and who worked at least 1,250 hours over the previous 12 months to take up to 12 weeks of LWOP for any of the following reasons:

- (1) ~~to care for the employee's child after birth or placement for adoption or foster care;~~ for pregnancy
- (2) ~~to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or for prenatal or to care for the employee's child after birth or placement for adoption or foster care;~~
- (3) ~~for a serious health condition that makes the employee unable to perform the employee's job.~~ to care for the employee's spouse son or daughter, or parent who has a serious health condition;
- (4) for a serious health condition that makes the employee unable to perform at least one of his or her essential job functions.

G. ADA Leave. The Americans With Disabilities Act entitles employees with a physical or mental impairment that substantially limits a major life activity, as well as being regarded as disabled or a history of disability, LWOP from the first day of employment (and during the application process).

At the option of the employee or the employing agency, annual leave, sick leave, maternity leave, or paternity leave may be substituted for LWOP for FMLA or ADA purposes. All leave qualifying under the FMLA and ADA shall be documented as FMLA or ADA leave either before it is taken or promptly thereafter. In most cases, participation in the government group health insurance program shall continue during FMLA or ADA leave. Agencies should contact the U.S. Department of Labor for detailed guidance regarding the requirements of the FMLA or ADA.

VII.A.6 BASIS FOR ACCRUAL

~~Employees shall accrue annual leave and sick leave for each biweekly pay period in which they are in pay status for the entire ten (10) days; otherwise there shall be no accrual for such period. Provided, however, employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time. Part-time employees with regular scheduled tours of duty of forty (40) to seventy (70) hours during a biweekly pay period will accrue annual and sick leave at one-half the rate of full-time employees and will be eligible for other paid leaves as provided in Part VII.A.4 at this rate. Part-time employees with regular scheduled tours of duty of less than forty (40) hours during a biweekly period will not accrue annual or sick leave benefits or be eligible for the other paid leave benefits. Part-time~~

~~employees must be in a pay status for their full regular scheduled tour of duty for the entire ten (10) days; otherwise there shall be no accrual for such period.~~

VII.A7~~VII.A6~~ UNAUTHORIZED LEAVE

Unauthorized leave (Absent Without Leave, AWOL) is absence from duty without appropriate authorization. Employees who are absent from duty without prior approval, except in bona fide emergencies, shall be charged as being AWOL. Employees who are AWOL are subject to loss of pay and possible disciplinary action.

~~If an employee is absent because of illness, injury or quarantine in excess of three (3) days, the employee may be required to furnish a certification as to the incapacity from the attending physician. The appointing authority may require certification for such other period(s) of illness as appropriate. If the required certification is not furnished, all absence which would have been covered by such certification shall be indicated on the time and attendance record and payroll as Absent Without Leave (AWOL). (See Part VII.A4.C)~~

VII.A8~~VII.A7~~ DISPOSITION OF LEAVE UPON SEPARATION

- A. Annual Leave. An employee separated from the Personnel Service for any reason shall receive a lump-sum payment for all annual leave accrued to the employee's credit and remaining unused at the time of separation. If the employee returns to duty in any capacity with the government before the accumulated term of leave would have expired, had it been liquidated in the normal course of employment, the employee must return to the government the gross value of such unused leave and have those hours of leave re-credited to the employee's annual leave account.

For example, if an employee has 360 hours annual leave to his credit upon separation, that represents 45 days of annual leave. If the employee returns to government employment before the passage of 45 work days, the employee is required to make a refund for the un-expired term of leave remaining.

If the employee in the above example separates from government employment December 31, is offered an opportunity to return to duty with the same classification and pay, accepts, and returns to work March 15, 34 work days or 272 hours would have elapsed (one holiday occurred in February) between separation and return to duty. Such employee would be required to repay to the government the value of 88 work hours, the difference between the 360 accumulated hours granted through lump-sum payment, and the 272 hours of elapsed time between separation and return to duty.

Repayment may be through lump-sum cash prior to resuming duty status, payroll deduction or assigning to the government all annual leave accrued subsequent to returning to duty until the repayment is completed.

- B. Sick Leave. An employee separated from the Personnel Service for any reason shall have all sick leave accrued to the employee's account held in the leave records for three (3) years. Should the person be re-employed in the Personnel Service at any time during that three (3) year period, the sick leave balance shall be re-credited to the employee's sick leave account and available for use from the first day of re-employment. Provided, however, that an employee who donated all unused sick leave to the sick leave bank (under 1 CMC subsection 8271) or who separated from the Personnel Service for retirement purposes, and whose unused sick leave has been converted to service time to determine eligibility in the Retirement Program, (under 1 CMC subsection 8301), shall not be re-credited for such sick leave balance. (See 1 CMC 8301, as amended.)

VII.A9~~VII.A8~~ RESPONSIBILITIES

The employee shall be responsible for initiating a request for leave using such forms, documentation and explanatory material as may be required. Such request shall be initiated sufficiently in advance so as to enable management to make the necessary staff adjustments. Management shall review all leave requests and may approve, disapprove or modify any leave request.

The ~~Personnel Officer~~ Director of Personnel shall be available for advice and assistance to the employees and to all management agencies in matters concerning leaves and shall be responsible for the final decision in leave disputes and interpretation and application of leave policy.

VII.A10~~VII.A9~~ ADMINISTRATION OF THE SYSTEM

- A. Leave Year. For administrative convenience, leave accumulations and usages are based upon the leave year. A "leave year" is that period of 52 consecutive weeks (26 pay periods) which begins on the first day of the first full pay period of the calendar year and ends on the last day of the last pay period which ends in that calendar year. For example, if the first day of the first pay period in the new year is January 11, then the leave year ends on January 10 the following year.
- B. Employee's Right to Annual Leave. Employees have a legal right to accumulate annual leave, but the right to use that leave is contingent upon management's requirements. Thus, it is incumbent upon managers and employees to agree mutually as to the duration of annual leave and the period of taking. A manager is wholly

CIVIL SERVICE SYSTEM RULES AND REGULATIONS

PART VII, SUB-PART B
BENEFITS

VII.B1 ~~GENERAL~~

~~It is the policy of the government to provide certain benefits to all its employees, whatever their appointive status. These are defined in the sections which follow.~~

VII.B2 ~~RESPONSIBILITIES~~

- ~~A. The Personnel Officer Director of Personnel is charged with the responsibility to administer the benefits.~~
- ~~B. The Personnel Officer Director of Personnel is responsible for advising the Civil Service Commission as to the kinds of coverage needed for the employees, the preparation and oversight of procedures used, and for the training of managers and employees in the development and presentation of claims.~~
- ~~C. Managers and supervisors are responsible to know the provisions of the several plans for coverage of the employees under their supervision and the procedures necessary to present claims.~~
- ~~D. Employees are responsible to familiarize themselves with reporting procedures so that they may be assured of proper coverage in event of injury or illness.~~

VII.B3 ~~NATURE OF COVERAGE~~

~~Government employees are entitled to the following benefits with specific exceptions as noted below:~~

- ~~A. Worker's Compensation coverage for work-related injury or illness is provided to all employees of the government who are not otherwise covered by U.S. laws.~~
- ~~B. Group life insurance coverage is available to all employees who work at least twenty (20) hours per week; provided, however, that should a group life insurance policy be in effect covering employees not meeting the stated requirements, such coverage shall immediately be afforded such employees.~~
- ~~G. Group health insurance coverage is available to all employees of the government.~~

~~VII.B4~~ INSURANCE PROGRAM DEFINITIONS

~~Brochures and other information concerning nature and extent of coverage, cost to the employee and manner of processing claims shall be available in the Personnel Office.~~

~~VII.B5~~ RETIREMENT PROGRAM

~~The Personnel Officer and his staff must be conversant with the provisions and entitlements under the Social Security and Retirement programs so that they may provide informal advice and counsel to employees or their supervisors who need information and guidance in filing claims for benefits.~~

description is necessary therefore, to assure such understanding of the duties, performance standards and work objectives established.

Annually, commencing at the employee's employment date, based upon the preceding twelve (12) months performance rating report and other pertinent factors, an annual written rating of performance shall be submitted by the supervisor, and concurred by the activity head, on CSC-P-07 forms prescribed by the Office of Personnel Management, for each permanent, probationary, and limited-term employee. The Office of Personnel Management, through an authorized representative, shall administer the performance rating report and be alerted to changes needed for necessary improvement of such system.

Non-Commonwealth employees shall not be delegated the authority to supervise employees of the Commonwealth.

VIII. D RESPONSIBILITIES

1. The Office of Personnel Management shall be responsible to:
 - A. Develop, evaluate and improve the Civil Service Performance annual employee review system and performance rating report; and
 - B. Provide advice, assistance and supervision in the administration of the system.
2. The appointing authorities shall be responsible to implement, administer and obtain compliance with the purposes of the system, including:
 - A. Provide assistance to supervisors and employees in developing performance report;
 - B. Provide training to supervisors so they can effectively evaluate employee performance; and
 - C. Assure that employees understand the provisions, procedures and objectives of the performance evaluation plan.
3. Supervisors are responsible to:
 - A. Assure that position descriptions accurately reflect the duties and responsibilities assigned;

- B. Determine jointly with each employee the performance standards to be met and keep each employee advised of strengths, weaknesses and opportunities for improvement;
 - C. Conduct the annual employee performance reviews; and
 - D. Initiate appropriate personnel actions in cases of continuing unsatisfactory performance.
4. The employee is responsible to:
- A. Request clarification from the supervisor of any performance standards, work objectives or duties which are not clearly understood;
 - B. Advise the supervisor of any fact or circumstance which the employee believes should be considered during the review process;
 - C. Participate in performance appraisal discussions, in the development of performance standards, and make suggestions for improving performance; and
 - D. Certify the performance appraisal ratings.

In the event the employee disagrees with any of the ratings, the employee must so indicate on the Performance Rating Form (CSC-P-07) and must submit a written statement to the Office of Personnel Management as required by Part III.F8 of these regulations.

VIII.E RELATIONSHIP TO OTHER PERSONNEL MANAGEMENT ACTIVITIES

By using the employee anniversary date system (as contrasted to a fixed due date), supervisors may better consider and evaluate each employee as an individual and coordinate the performance evaluation with the other appraisal actions which make up the totality of the employee review system.

Supervisors do not have a right to retain an employee in a position in which the employee's overall rating is "unsatisfactory". To permit such a situation would not be in the best public interest and would not be consistent with good management principles. Supervisors must initiate the necessary personnel action to have such an employee reassigned, demoted or separated from the position at the

earliest possible date.

~~An employee with a current official rating of "Outstanding/ Exceptional" has an additional two (2) points of retention credits for reduction in force purposes.~~

VIII.F PERFORMANCE APPRAISAL RATING

A completed Performance Rating Report (CSC-P-07) must be submitted to the Office of Personnel Management on an annual basis for appropriate action.

VIII.G RATING PROBATIONARY EMPLOYEES

The final rating shall be completed for probationary appointees a month prior to being eligible for conversion to a permanent appointment.

VIII.H APPEALS

Employees who believe their ratings are unjust shall be entitled to appeal as provided for in Part III.F8 of these Regulations.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART IX

TRAINING AND EMPLOYEE DEVELOPMENT

IX.A POLICY

Insofar as appropriate training increases workers' effectiveness in jobs, improves morale, decreases labor turnover, prepares new employees to do jobs for which they are not trained, provides an effective means of screening and placement, and prepares employees for filling responsible jobs and upward mobility, and insofar as it is a major commitment of the government to train and develop a viable Personnel Service System workforce within the Commonwealth, it is therefore in keeping with government policy and the intent of 1 CMC 8101, et seq., that the policy stated in Part I.B be followed.

IX.B RESPONSIBILITIES

1. The Director of Personnel shall work with appointing authorities to:
 - A. Formulate and define policy requirements for developing the workforce in the personnel service;
 - B. Determine goals to be met in all job categories;
 - C. Set standards to be met by personnel service employees for promotion and career development;
 - D. Evaluate all training programs and recommend alternatives to assure that manpower development programs accomplish their objectives;
 - E. Coordinate the training and employee development programs with the appointing authorities and other appropriate training agencies so that manpower development in the personnel service is in harmony with development in the private sector;
 - F. Assure that education services in the Commonwealth are fully utilized; and
 - G. Establish the minimum training requirements for mobility in the work force.
2. Appointing authorities, supported by the designated officer or the Director of Personnel, shall:

- A. Implement training programming at all levels within their respective organizations to assure that training objectives are met;
 - B. Submit to the Civil Service Commission annual training objectives and implementation plans for their functions by October 31 of each year. Such objectives and plans are to reflect their immediate priorities within the overall government objectives and the needs of their organizations;
 - C. Budget funds to support the training programs needed for their employees and conducted under their auspices;
 - D. Maintain training units within the training framework concurred in by the Director of Personnel;
 - E. Report to the Director of Personnel annually by September 30 of each year, the nature, content and results attained by in-service training activities;
 - F. Establish committees of senior staff personnel to implement procedures for systematic training of employees in their respective jurisdictions; and
 - G. Assure that effective in-service training programs are carried forward within their respective jurisdictions.
3. The Training Division shall:
- A. Identify training needs and develop training programs for the appointing authorities;
 - B. Provide advice and staff assistance to appointing authorities as they conduct their employee development activities;
 - C. Locate, evaluate and determine the cost of training resources within and outside the Commonwealth;
 - D. Maintain current employee training records for all appointing authorities;
 - E. Coordinate plans and programs for in-service training to develop employees in managerial, supervisory, secretarial, clerical, trades, crafts and other skills areas;

3. "Employee Development" means that type of training offered to broaden an employee's background and perspectives in the employee's own or closely related occupational areas.

IX.D COVERAGE

In keeping with the intent of 1 CMC 8101, et seq., major training emphasis will be geared to developing a systematic and balanced program to meet the needs in the professional, managerial, technical, vocational, educational and training areas.

1. The government, in the implementation of its training policy, intends that the Director of Personnel shall plan, fund, schedule, conduct and evaluate all training in these areas:
 - Supervisory, Executive and Managerial;
 - Secretarial and Clerical; and
 - Basic Communications.

In addition, the government intends that the appointing authorities plan, fund, schedule, conduct, evaluate and report to the Director of Personnel all specialized training particularly related to their respective functions.

2. Orientation. When an employee enters a new position, a ninety (90) day period will be given the supervisor in which to conduct an orientation for the new employee in the policies, procedures, rules and regulations which are specific to the employee and to the performance of the employee's job. At the end of the initial 90 day period, a report on completion of such training shall be submitted to the Director of Personnel, bearing both the signature of the employee and the supervisor.

The report shall contain the sequence, content and duration of training sessions undertaken during the initial 90 day period. This 90 day period may be extended, provided that the supervisor submits and the appointing authority approves the reasons for extension, in writing, for inclusion in the employee's Official Personnel Folder.

As part of the induction process, the Director of Personnel or his designee will indoctrinate each new employee entering the Personnel Service concerning:

- A. The employee's identification with work situations;

- B. Formation of favorable attitudes and the goals of the employee with those of the government; and
 - C. Government policies and objectives, organization structure, and functions.
3. Supervisory, Executive and Managerial Training:
- A. Inasmuch as the work of the government is the best and most important training resource for potential managers, opportunity should be given to qualified employees to participate in:
 - (1) formulating objectives, policies and operating procedures with respect to the programs of their organizations;
 - (2) defining and analyzing problems, evaluating workload, and developing operating procedures;
 - (3) planning, programming and budgeting; and
 - (4) representing their inter-departmental committees, work groups, survey teams, and at legislative hearings.
 - B. The Director of Personnel shall supervise the development of all supervisory, executive and managerial training programs and develop a list of required courses for entry into such classes and required courses to be taken prior to or immediately after entry into the supervisory classes.

A person entering a supervisory position must take such required courses not earlier than six (6) months prior to such promotion and no later than six (6) months after entry into such position.
4. Secretarial and Clerical Training:
- A. The Training Division shall recommend secretarial and clerical procedures to be standardized for the secretarial and clerical functions within the government.
 - B. The Director of Personnel shall supervise the development of courses in the secretarial and clerical areas, maintain a list of required courses for entry and for promotion within these classes, when necessary, and require employees to

take necessary courses and tests for promotion within these classes.

- C. The Director of Personnel shall develop training courses to insure that the standard government correspondence and administrative procedures are taught to employees performing secretarial and clerical duties.
5. Vocational and Trades Training:
 - A. Insofar as possible, trades training of employees will take place at institutions within the Commonwealth. When courses are needed for certification, or otherwise are not available at the institutions within the Commonwealth, the Director of Personnel may approve outside training after determining that the courses are job-related and that such skills are critical to the normal execution of government functions.
 - B. Inasmuch as a majority of the trades positions are within the public sector, the institutions within the Commonwealth engaging in trades training shall make every effort to meet the needs of the public sector.
 - C. Wherever possible, the Director of Personnel shall arrange with the Public School System and the Northern Marianas College for development of needed remedial education for adults in the trades positions.
 6. Other training. The Director of Personnel, in coordination with appropriate management officials, shall establish requirements for other areas of training.

IX.E EXTERNAL TRAINING

1. Training courses given by agencies outside the Commonwealth will be utilized as necessary and to the extent the budget will permit. All appointing agencies wishing to engage in special training, formal short-term training, and other academic programs for their employees outside the Commonwealth must submit to the Director of Personnel the names of employees to be given such training for evaluation at least thirty (30) days prior to sending an employee abroad for training. All such requests shall be made on Form CSC-P-01 (Request for Personnel Action) and on Form CSC-P-T-66 (Training Agreement).
2. Payment of Costs:

- A. Employees released to attend authorized job-related training and developmental programs will receive any combination of basic salary, travel expenses when required, and stipend, as applicable to the training involved. Training provided as part of a planned upgrading program, such as management internship, is job-related within the meaning of this Part.
- B. It shall be the government's policy to pay all costs for training defined as "job-skill training" in IX.C1 above; to pay one-half (1/2) or all costs of training defined as "promotional training"; and one-fourth (1/4) of all costs of training defined as "employment development".
- C. Employees attending education or training designed generally to improve their potential for advancement, but not specifically related to their present duties or duties they are being specifically trained to assume, may be released on training and education leave without pay at the discretion of their supervisors in accordance with the requirements set forth in this Part.
- D. For academic training or training toward baccalaureate or higher degrees other than those classified above, the employee may seek scholarship assistance from the Public School System or the Northern Marianas College. The government shall have no responsibility for any costs incurred when such is initiated by the employee. All requirements for job eligibility shall apply to the employee when they sever themselves from their present positions to pursue such training.
- E. Salary and related benefits provided employees released for training under the above paragraphs shall be limited to a one (1) year period, ~~unless an extension is recommended by the appointing authority and approved by the Director of Personnel Management.~~

IX.F TRAINING COSTS DEFINED

The term "all costs", when used in this Part to define the government's intent to support an employee undergoing training, means:

- A. Round-trip transportation to the training site by the least expensive air routing;
- B. Training leave with ~~pay;~~ regular salary;

- C. Cost of tuition, books and fees; and
- D. Stipend, i.e., one-half (1/2) the regular per diem rate for the time authorized to be spent at the training site. In the event the training is received at or near a high cost resort area, the Director of Personnel may approve an upward adjustment of the stipend.

IX.G SUPPORT FOR TRAINING

Appointing authorities are encouraged to support positively the training efforts, since improved skills and more effective supervision at all levels will improve mission accomplishment. They are further encouraged to provide adequate training facilities in their respective areas to assure the optimum level of effective training.

IX.H COORDINATION WITH U.S. FEDERAL PROGRAMS

The Training Division will coordinate training efforts with personnel engaged in monitoring U.S. federal grants training efforts. Training needs met through these efforts shall be included in annual reports of training accomplishments. Such coordination will be concerned with avoiding duplication of efforts and attempting to direct training efforts toward that which is most needed.

IX.I EVALUATION OF TRAINING

The Director of Personnel shall develop and maintain a system which will provide information and analysis of the effectiveness of training provided. Such analyses shall be used to alter training courses where needed and in training needs survey. All personnel who attend and return from a training course outside the Commonwealth shall submit a written report including a summary of the course along with a judgment of the added value gained from the course. Copies of such reports shall be addressed to the appointing authority and the Director of Personnel.

the broader perspective of total management. The regulations stated in this Part are directed toward evaluation of performance management and only incidentally personnel administration.

X.B OBJECTIVES

The objectives of the government's personnel management evaluation program are to:

1. Provide a comprehensive basis for improvements in personnel management activities, programs and policies;
2. Assure compliance with statutory requirements, regulations and directives governing personnel programs and practices;
3. Evaluate the participation and effectiveness of managers and supervisors in their exercise of personnel management; and
4. Attain the personnel management goals and objectives established in 1 CMC 8101, et seq., and these regulations.

X.C RESPONSIBILITIES

1. Appointing authorities are responsible to keep the Office of Personnel Management apprised of significant problems and achievements in carrying out their personnel management responsibilities, and for proposing constructive changes in personnel policies and practices.
2. The Director of Personnel is responsible to:
 - A. Develop and administer with the Civil Service Commission the personnel management evaluation program;
 - B. Report results to the Civil Service Commission;
 - C. Use evaluation results to work with the Civil Service Commission in developing plans and improving personnel programs and activities; and
 - D. Assist outside audit teams and/or the Civil Service Commission in the performance of reviews, audits and inspections.

X.D EVALUATION METHODS AND PROCEDURES

1. The Director of Personnel must develop a very comprehensive guide to assure full coverage of the personnel management effort. The Director of Personnel, at least every two years, shall make on-site evaluations of personnel management practices used in each of the appointing authorities' areas.
2. Specific Techniques. The following specific techniques shall be employed:
 - A. Collection, analysis and organization of a wide variety of information relating to personnel management effectiveness, including statistical data, minutes of meetings and conferences, reports on problem cases, special studies of programs or occupations, proposals by operating officials, analyses by personnel specialists, and results of employee-management consultations.
 - B. Use of questionnaires, attitude surveys, interviews and similar tools to elicit opinions from employees and supervisors on the personnel program.
 - C. Periodic review of personnel actions taken throughout the Commonwealth to determine compliance with classification and compensation standards, appointment and status change regulations, etc. The review shall include desk audits, examination of official personnel folders, personnel action forms and position description reviews.
 - D. Inclusion of relevant information, reports, analyses, etc.
 - E. Schedule. The Director of Personnel shall schedule personnel management reviews with appointing authorities each fiscal year. The schedule shall be published and provided to the Civil Service Commission and appointing authorities not later than March 31 of each year. As opportunity is provided by other necessary business, a personnel specialist should make selective regulatory compliance reviews on a random basis as part of the overall personnel management evaluation effort.

X.E REPORTS

Reports of the Director of Personnel's personnel management evaluations shall be made to the Civil Service Commission and to the Governor not less than once each two (2) years by February 1, as of December 31. The reports shall be based upon:

1. Comprehensive audit reports of evaluations accomplished by the Office of Personnel Management; and
2. Reports of program accomplishments under the Personnel Management Plan.

The Director of Personnel in consultation with the Civil Service Commission shall develop the evaluation plan and the format for reporting.

X.F ACTION

Using the interim evaluations and the annual comprehensive personnel management report, the Director of Personnel shall:

1. Direct and follow-up on corrective action to be taken with respect to any improper, illegal or unprofessional personnel practices noted in any of the reports.
2. Arrange for and conduct training for those persons involved in personnel management activities who appear to be deficient in the technical or professional phases of personnel management as indicated in the several evaluations.

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART XI, SUB-PART A
PERSONNEL MANAGEMENT PLANNING**XI.A1** PERSONNEL MANAGEMENT PLAN

Each year, as of October 1, the Director of Personnel in consultation with the Civil Service Commission shall prepare a Personnel Management Plan which will specify the critical program areas to be addressed during the ensuing fiscal year. The Plan shall address:

- A. Scheduled personnel management evaluation reviews to be conducted by the Office of Personnel Management and/or the Civil Service Commission. The schedule shall indicate which appointing authorities' areas will be given attention and the scheduled dates therefore.
- B. Scheduled interim evaluations to be made at the Office of Personnel Management.
- C. Program development work to be done by the Office of Personnel Management and the timetable for it. As an example, staff effort toward revision of a class standard or a project to develop a qualification standard or personnel management training to be done.
- D. Commentary on evaluation of the labor market with respect to critically needed skills, estimates of turnover by classes and reports of changes of turnover and similar elements of management information.

XI.A2 REPORT ON PERSONNEL MANAGEMENT PLAN (PMP)

The Director of Personnel shall report not later than December 31 of each year to the Governor, to the Civil Service Commission, and to the appointing authorities on performance under the Personnel Management Plan for the preceding fiscal year period, October 1 to September 30. The report shall contain, in addition to a report on status of PMP projects, comments on such elements as:

- A. Employee turnover, by appointing authority and by class;
- B. Adverse actions taken for disciplinary reasons;

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

**PART XI, SUB-PART B
RECORDS****XI.B1 PURPOSE**

This sub-part defines the minimum requirements for personnel records to be originated and maintained by the Office of Personnel Management.

XI.B2 POLICY

- A. The Director of Personnel shall establish a system of records for all personnel presently or previously employed by the government. The records shall be separated so that those of active employees are filed separately from those of former employees. Other supporting records, as deemed appropriate by the Director of Personnel, may also be maintained.
- B. The personnel specialists shall develop and maintain a system of personnel records which parallels that maintained in the Office of Personnel Management.

XI.B3 RECORDS REQUIRED

- A. Official Personnel Folder (OPF). For each active employee an Official Personnel Folder (or File) shall be maintained. The folder shall contain, as a minimum, the following elements of permanent information covering the employee:
 - 1. Formal application for employment.
 - 2. Copy of the certificate of eligibles from which selected or other documents which indicate the appointing authority.
 - 3. Form on which prior creditable service is listed and service computation date is derived.
 - 4. Letter of original selection signed by an authorized selecting official.

5. Copy of each personnel action affecting the employee.
 6. Copy of promotion certificate from which employee was selected, if appropriate.
 7. Copy of promotion selection letter signed by an authorized selecting official.
 - ~~8. Copy of each form reflecting choice of health benefits or group life insurance coverage, designation of beneficiary and other legal and binding assignments or designations.~~
 - 9.8 Adverse action supporting material if the action is consummated. Temporary information, as contrasted to permanent-type information as delineated above, shall be kept in the OFF but filed on the LEFT side of the folder. Examples of temporary material include:
 - (a) performance evaluation reports;
 - (b) annual employee review documentation sheets;
 - (c) descriptions of positions occupied by the employee;
 - (d) letters of reprimand (retained for two (2) years only);
 - (e) items of correspondence concerning the employee but which have no historical or permanent value, e.g., letters of commendation or congratulation.
- B. Employee Record Card. A card record which summarizes critical data concerning the identity, status, movement and separation of an employee. Every personnel action taken will be recorded on the Employee Record Card. Exceptional or Less Than Satisfactory performance ratings shall be noted on the Employee Record Card showing the rating and date thereof.
- C. Medical Examination Records. Medical examination forms and alcohol test result forms for each employee shall be maintained in a file separate from the OPF. This is essential to protect the privacy of the individual. The records shall be maintained in a locked, fire resistant file with access allowed only to personnel authorized by the Director of Personnel. Access must be restricted only to persons who have a "need to know" as determined and approved by the Director of Personnel. Whenever access to a medical record is allowed, the Director of Personnel shall record:

1. date of access;
2. name of persons allowed such access; and
3. reason therefor.

This memorandum shall be kept in the folder of the individual medical record.

- D. Records of Investigation and Inquiry. Any records of investigation or inquiry concerning an employee shall be filed in a separate folder, clearly identified by the employee's name, date of birth and social security number. The material shall be kept in a locked, fire resistant storage facility, safe or fire proof cabinet, with access allowed only on a "need to know" basis and upon approval by the Director of Personnel. The existence of an investigation file shall be noted in the OPF, filed on top of the last entry therein.

XI.B4 DISPOSITION OF RECORDS

Upon the separation of an employee for whatever reason, the employee's Official Personnel Folder shall be closed and removed to storage. Prior to sending the file to storage, all temporary material filed on the left side of the folder shall be removed and either given to the employee or destroyed. Medical examination records and investigation file material shall be placed in the OPF so that the record is accurate and complete. Records of alcohol and drug test results shall be retained in the employee's medical file until the time period for retention, established at Part V.C11(C) has been passed. At that time, the records shall be destroyed.

XI.B5 ACCESS TO OFFICIAL PERSONNEL FOLDER

Employees may have access to their own official personnel folders at any time during regular working hours provided a responsible personnel specialist or clerk watches as the employees' reviews take place. The employees are not entitled to access to their medical records. Investigation reports are not available to the employees. If employees persist in their desire to see investigation reports, they should be referred to the agency which prepared the report or secure a court order authorizing the Director of Personnel to allow the employee access to the investigation report.

XI.B6 INFORMATION AVAILABLE TO THE PUBLIC

The names, present and past position titles, grades, salaries and duty stations of a government

PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

PART XI, SUB-PART C
REPORTS

XI.C1 PURPOSE

- A. Accurate and timely reports are invaluable to the management of a workforce. They are important to the processes of budgeting, manpower planning, forecasting staffing needs and declines, and other management areas.
- B. 1 CMC 8101, et seq., requires that the Director of Personnel "establish and maintain a roster of all persons in the government in which shall be set forth, as to each, the class of position held, the salary or pay, any changes in class, title, pay, or status and any other necessary data."

XI.C2 ROLE OF THE DIRECTOR OF PERSONNEL

The Director of Personnel shall prescribe a system of reports and the format for reporting to provide, on a timely basis, the information required by law.

XI.C3 ROLE OF THE TIMEKEEPER

The Timekeeper shall be responsible for recording and certifying time and attendance reports of the assigned employees. The Timekeeper shall 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 and the Director of Finance.



Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100

FAX: (670) 664-1115

PUBLIC NOTICE

**DEPARTMENT OF FINANCE
PROPOSED AMENDMENTS TO CUSTOMS SERVICE REGULATIONS
NO. 4300 *et seq.***

The Secretary of the Department of Finance hereby notifies the general public of proposed amendments to the Customs Service Regulations, Section 4300 *et seq.*, published in the Commonwealth Register, Vol. 18, No. 12, December 15, 1996, Adopted February 25, 1997. These amended regulations establish bonded warehouses for excise tax-deferred storage, and excise tax-exempt manufacturing.

It is the intent of the Department of Finance to adopt the proposed amendments to the Customs Service Regulations, Section 4300 *et seq.*, as permanent, pursuant to 1 CMC §9104(a)(1) and (2) of the Administrative Procedures Act. The publication of these proposed amendments in the Commonwealth Register provides notice and opportunity for the public to comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Fermin Atalig, Secretary of the Department of Finance, PO Box 5234, Capitol Hill, Saipan, MP 96950 or by fax to (670) 664-1115, during the thirty-day period immediately following publication of the proposed amendments.

Submitted by:


FERMIN ATALIG
Secretary of Finance

8/25/04
Date

Received by:


THOMAS A. TEBUTEB
Special Assistant for Administration

8/25/04
Date

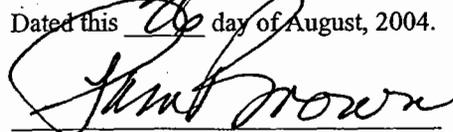
Filed and Recorded by:


BERNADITA B. DE LA CRUZ
Corporate Register

8/26/04
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 26 day of August, 2004.


PAMELA BROWN
Attorney General

PUBLIC NOTICE
PROPOSED AMENDMENTS TO THE CUSTOMS SERVICE
REGULATIONS - SECTION 4300 *et seq.*

Citation of

Statutory Authority:

The Department of Finance is authorized to promulgate these regulations to establish bonded warehouses for excise tax-deferred storage, and excise tax-exempt manufacturing pursuant to 1 CMC §2553; 1 CMC §2557; 1 CMC §1104; 4 CMC §1402(B); 4 CMC §1818; 6 CMC §2304(a); 6 CMC §2305.

Short Statement of

Goals and Objectives:

To establish bonded warehouses to allow importers the ability to defer excise tax payment on goods until withdrawn into commerce, stimulate new industries by allowing excise-tax free manufacturing for export, provide customs officers with greater space and time for inspection of containers.

Brief Summary of the

Proposed New Section:

These proposed amendments to the Customs Service Regulations seek to achieve their objective by:

- (1) Establishing requirements for: applying, bonding, staffing, licensing, and operating the bonded warehouse facilities;
- (2) Establishing accounting, and record keeping guidelines, for keeping track of merchandise within the bonded warehouses.

For Further

Information Contact:

Brian R. Caldwell, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2341 or facsimile (670) 664-2349.

**Citation of Related
And/or Affected Statutes,
Rules and Regulations
And Orders:**

Customs Service Regulations, 4300 *et seq.*; 4 CMC §1407; 6 CMC §2304

Dated this 25th day of August, 2003.

Submitted by:


HERMIN ATALIG
Secretary of Finance

**Ofisinan i Sekretario
Dipattamenton i Finance**

P.O. Box 5234 CHRB SAIPAN, MP 96950

Tilifon (670) 664-1100 Fax: (670) 664-1115

NOTISIAN PUBLIKU

**DIPATTAMENTON I FINANCE
MAN MAPROPONE I MAN MA'AMENDA NA REGULASION SIHA GI
SETBISIUN I CUSTOMS NO. 4300 et.seq.**

I Sekretarion i Dipattamenton i Finance este na momento ha notisia i publiku henerat pot i man mapropone ni man ma'amenda na regulasion siha gi Setbisiun i Customs Seksiona 4300 et.seq., ni mapublisa gi Rehistran i Commonwealth, Baluma 18, Numiru 12, gi Disembre 15, 1996, ma'adopta gi Febreru 25, 1997. Este man ma'amenda na regulasion siha ha establese asiguridad na apas ni dinitenin apas tax para i warehouse siha ni mafa'sokko, yan apas tax fakteria man masuhetu.

I intension i Dipattamenton i Finance para hu adopta i mapropone ni man ma'amenda na regulasion siha gi Setbisiun i Customs, Seksiona 4300 et.seq., petmanente, sigun i lai 1 CMC Seksiona 9104 (a)(1) yan (2) gi Akton i Areklamenton Atministradot. I publikasion pot este man mapropone ni man ma'amenda gi Rehistran i Commonwealth ha probeniyi notisia yan opotunidat para i sinangan publiku. An nisisario, hu guaha inekungok publiku. Todu i man enteresao na petsona siha muna halom tinige' opinion ni man mapropone ni man ma'amenda para as Fermin Atalig, Sekretarion i Dipattamenton i Finance, gi P.O. Box 5234, Capitol Hill, Saipan, MP 96950 pat fax guatto gi (670) 664-1115, duranten i trenta (30) diha siha na tiempo ensigidas tinatitije' i publikasion este man mapropone ni man ma'amenda.

Ninhalom as:


Fermin Atalig
Sekretarion i Finance

8/25/04
Fecha

Marisibe' as:


Thomas A. Tebuteb

8/25/04
Fecha

Espesiât Na Ayudante Para i Atministrasion

Pine'lo yan Rinikot as:


Bernadita B. Dela Cruz
Rehistran i Koporasion

8/26/04

Fecha

Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Publiku 10-50, i arklamento yan regulasion siha ni man che'che'ton este na momento esta man maribisa yan ma'aprueba pot parahu fotma yan ligat sufisiente ginen i Ofisinan i Abugado Henerat i CNMI.

Mafecha este mina _____ na diha gi Agosto, 2004.

Pamela Brown
Abugado Henerat

NOTISIAN PUPBLIKU

MAPROPONE I MAN MA'AMENDA NA REGULASION SIHA GI SETBISIUN I CUSTOMS, SEKSIONA 4300 et.seq.

Sitasion i Aturidât i Lai: I Dipâtamenton i Finance ma'aturisa para hu establesi este na regulasionsiha para hu mana guaha asiguridât na âpas ni dinitenin âpas tax para i warehouse siha ni mafa'sokko, yan âpas tax fakteria ni man masuhetu sigun i lai 1 CMC Seksiona 2553; 1 CMC Seksiona 2557; 1 CMC Seksiona 1104; 4 CMC Seksiona 1402 (B); 4 CMC Seksiona 1818; 6 CMC Seksiona 2304 (a); 6 CMC Seksiona 2305.

Kada'da Na Mensâhe
Pot Finiho yan Diniseha: Para hu establesi asiguridât na âpas ni dinitenin âpas tax para i warehouse siha ni para hu sedi i munanahalom fektos siha i abilidadât para i dinitenin âpas tax gi fektos siha mientras man malalaknos gi commerce, ha nânâ'i' animu i nuebu na fakteria siha gi sineden man masuhetu gi âpas tax an man nahanao fektos (export), probeniya i ofisiât i Customs siha ni la'ancho na lugât yan tiempo para hu sensura i containers.

Kada'da' Na Mensâhe
Pot I Man Mapropone
Na Nuebu Na Seksion: Este man mapropone ni man ma'amenda na regulasion siha gi Setbisiun i Customs ma'aliligao para hu make'gana i diniseha an:

(1) ma'establesi i nisisidât siha para: man apliplika; asiguridât na âpas, man emplepleha, malisesensia, yan i kinalamten i âpas tax para i fasilidât i warehouse siha;

(2) ma'establesi accounting, yan rinikot giniha siha, para hu ma'atan mona; fektos siha gi halom i âpas tax warehouse.

Para Mâs Infotmasion
Âgan: Brian R. Caldwell, Segundon i Abugâdo Henerât, gi Ofisinan i Abugâdo Henerât, tilifon (670) 664-2341 pat facsimile (670) 664-2349.

Sitasion i Man Achule'
yan/pat ma'afekta Na
Lai, Areklamento,
Regulasion, yan Otden
Siha:

Regulasion siha gi Setbisiun Customs, 4300 et. seq.; 4 CMC
Seksiona 1407; 6 CMC Seksiona 2304.

Mafecha este mina _____ na diha gi Agosto, 2004.

Ninahalom as:

Fermin Atalig
Sekritarion i Finance

ARONGOL TOULAP

DEPATTAMENTOOL FINANCE EKKE POMWOLI LLIWEL KKAAL NGALI ALLEGHUL
CUSTOMS NO. 4300 et seq.

Samwoolul Finance ekke arongaar aramas toulap reel pomwol lliwel kkaal ngáli Alléghúl Customs, Tálil 4300 et seq., ye aa akkatééwow mellól Commonwealth Register, Vol. 18, No. 12, Tumwur 15, 1996, Fillóól Maaishigh 25, 1997. Allegh kka e ssiwel e ayoora bonded warehouses kkaal igha ebwe akkayuulo obwossul excise tax reel aisiis llol sokko me bwal akkayulóól óbwós reel manufacturing.

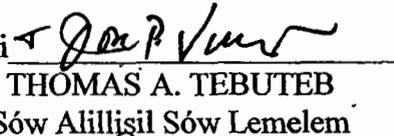
Aghiyeghil Depattentool Finance bwe ebwe fillóoy pomwol lliwel kkaal ngáli Alléghúl Customs, Talil 4300 et seq., bwe schééschéél, sáangi allégh ye 1 CMC tálil 9104 (a)(1)me (2) ngáli Administrative Procedures Act. Akkatéél Lliwel kkaal llól Commonwealth Register e ayoora amataf me bwángiir toulap reel aghiyegh yeel. Ngáre e welepakk, arong iye rebwe ayoora. Schóóka eyoor mángemángiir nge rebwe ischilong reel Fermin Atalig, Samwoolul Finance, PO Box 5234, Capitol Hill, Seipél, MP 96950 me ngáre fax reel 664-1115, ótol eliigh(30) ráálil mwiril yaal akkaté pomwol lliwel kkaal.

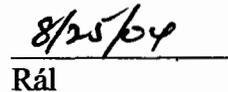
Isaliyallewow:


FERMIN ATALIG
Samwoolul Finance

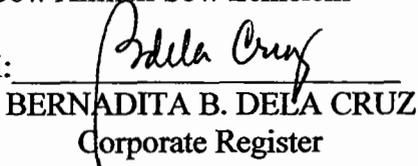

Rál

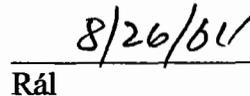
Mwir sáangi


THOMAS A. TEBUTEB
Sów Alillisil Sów Lemelem


Rál

Aisis sáangi:


BERNADITA B. DELA CRUZ
Corporate Register


Rál

Sáangi allégh ye 1 CMC tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, allégh kka e appasch nge raa takkal amweri fischiiy me allégheló mereel CNMI Bwulasiyool Sów Bwungúl Allégh Lapalap.

Rállil ye _____ llól Eluwel, 2004.

PAMELA BROWN
Sów Bwungúl Allegh Lapalap

ARONGOL TOULAP

POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL CUSTOMS
TÁLIL 4300 et seq.

Akkatéél bwángil: Depattamentool Finance nge eyoor bwángil reel akkatéél allégh kkaal igha ebwe ayoora bonded warehouse kkaal igha ebwe akkayúúló óbwóssul excise tax reel aisiisil llo sokko me bwal akkayúúlóól óbwós reel manufacturing bwelle reel 1 CMC táilil 25553; 1 CMC táilil 2557; 1 CMC táilil 1104; 4 CMC táilil 1402 (B); 4 CMC táilil 1818; 6 CMC 2304 (a); 6 CMC táilil 2305.

Aweweel pomwol allégh: Ebwe akkaté bonded warehouses kkaal igha schóól atotoolong (importers) kkaal rebwe mwelil akkayúúlo mwo óbwóssul milikka e atotoolong (goods) mille yaal isisiwow mellól commerce, amwescheliir industria kka e ffe igha rebwe mweiti ngaliir bwe ressóbw óbwós excise tax reel atotoowow (export), ayoora ngáliir schóóy custom officers ótol yaar rebwe ipiiy ótol containers kkaal

Aweweel pomwol lliwel: Pomwol lliwel kkaal ngáli Alléghúl Customs igha re aghiyeghi yaar angaang sangi:

- (1) Ayoora schéél tittingór kkaal reel: schéél tingór, aschuul, schóól angaang, lisensia, me mwóghut ágheli bonded warehouse facilities;
- (2) Ayoora accounting, me kkapasal record, reel ammwelil merchandise mellól bonded warehouses

Aramas ye ubwe faingi: Brian R. Caldwell, Sów Alillsil Sów Bwungúl Allégh Lapalap, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2341 me ngáre facsimile (670) 664-2349.

Akkatéél bwángil akkáaw allégh Alléghúl Customs Service, 4300 et seq.; 4 CMC táilil 1407; 6 CMC táilil 2304

Rállil ye 25th Ilól Elúwel, 2003.

Isaliyallong:


FERMÍN ATALIO
Samwoolul Finance

PROPOSED REGULATIONS ESTABLISHING CUSTOM BONDED WAREHOUSES IN THE CNMI

PART XII

Section 4320 - Introduction

Section 4320.1 Authority

The authority for the promulgation and issuance of Customs Service Regulations Part XII is derived from the Commonwealth Code, including, but not limited to, the following Sections: 1 CMC § 2553; 1 CMC § 2557; 4 CMC § 1104; 4 CMC § 1402(B); 4 CMC § 1818; 6 CMC § 2304; and 6 CMC § 2305.

Section 4320.2 Purpose

- (a) To defer the payment of excise tax on goods prior to their formal entry into the local stream of commerce, thus reducing administrative costs in processing excise tax refunds, and increasing business cash flow.
- (b) To exempt from excise tax imported goods that will eventually be either exported in the same condition or used, consumed, or expended in the processing of other goods for export.
- (c) To regulate the authorized removal of suspicious cargo from official points of entry to other locations prior to inspection and clearance, thus providing more thorough and complete customs inspection of incoming freight and enhancing homeland security.

Section 4320.3 Definitions

- (a) "*applicant*" means a person or corporation with a business license who applies to operate as a licensed customs bonded warehouse.
- (b) "*customs bonded warehouse*" or "*bonded warehouse*" is a building or other secured area, licensed as a bonded warehouse by the Director of Customs, or Secretary of Finance, in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of excise tax prior to such time as the goods are withdrawn from the warehouse for local consumption. Any such area will be considered an extension of the points of entry for purposes of customs jurisdiction.
- (c) "*CNMI*" means the government of the Commonwealth of the Northern Marianas Islands with jurisdiction over its own customs territory;

- (d) “*Director*” means the director of the Division of Customs in the CNMI Department of Finance;
- (d) “*Department*” means the CNMI Department of Finance;
- (e) “*Secretary*” means the Secretary of Finance;
- (f) “*permit*” means a permit to operate a place as a bonded warehouse;
- (h) “*permitee*” means a person, or corporation, who is the operator of a bonded warehouse.

Section 4321.0 Bonded Warehouses: Designation; Bonding Requirements; Supervision; Preconditions

Section 4321.1 Establishment of Bonded Warehouse.

Buildings or parts of buildings and other enclosures may be designated by the Director as a bonded warehouse, upon submission of an application and granting of a license. Any such area will be considered an extension of the points of entry for purposes of customs’ jurisdiction.

Section 4321.2 Classes of Bonded Warehouses.

The following classes of bonded warehouses are hereby created:

- (a) Class A. A “Class A” bonded warehouse is a private bonded warehouse used by an importer for the storage of merchandise exclusively belonging or consigned to the proprietor thereof.
- (b) Class B. A “Class B” bonded warehouse is a public bonded warehouse used exclusively for the inspection and storage of merchandise from different importers, or for inspection and storage by the Department of incompletely cleared merchandise, or suspicious merchandise as authorized by 6 CMC § 2304.
- (c) Class C. A “Class C” bonded warehouse is an in-bond manufacturing warehouse used solely for production of articles made in whole or in part of imported materials. Class C warehouses may not be used to manufacture or assemble garments. The Director shall issue CNMI country of origin certificates when necessary and proper.
- (d) Class D. A “Class D” bonded warehouse is a bonded warehouse established for the cleaning, sorting, repacking, or otherwise changing the condition of, but not the manufacturing of, imported merchandise, under

Customs supervision, and at the expense of the proprietor. Such Class D designation may be in conjunction with any of the above designations.

Section 4321.2 Bonding Requirement

Before any imported merchandise, not finally released from the Department's custody, shall be stored in any such bonded warehouse the owner or permittee thereof shall give a bond in such sum and with such sureties as may be approved by the Director of Customs to secure the Government against any loss of excise tax or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Such bond shall conform to the requirements of Section 4323.

Section 4321.3 Staffing Requirement

- (a) CNMI Customs Officer. Except as otherwise provided in these regulations, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in the charge of a CNMI customs officer, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse. The customs officer assigned to a bonded warehouse shall have total access to, without limitation, such licensee's books, records and receipts relating to the entry and withdrawal of merchandise from such customs bonded warehouse. The compensation of such customs officer and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse. Each bonded warehouse shall be assigned a customs officer by the Director.
- (b) Private Staff. A licensed bonded warehouse shall provide all labor and management on the merchandise so stored by hiring private staff. Such licensee shall also maintain all records necessary for the customs officer assigned to that customs bonded warehouse to assess inventory levels and whether merchandise is withdrawn and excise taxes payable thereon. The customs officer assigned to that bonded warehouse may enter the premises at any time to inspect operations and records.
- © Compensation of Private Staff. Permittees of a Class A and B customs bonded warehouse shall pay their employees, agents, and contractors a wage at least equal to the Federal Minimum Wage currently prevailing in the United States.

Section 4321.4 Accounting Forms

The Director of Customs shall from time to time prescribe such forms as may be necessary to account for the deposit and withdrawal of merchandise in bonded warehouses.

Section 4321.5 Permitting of Bonded Warehouse

The Director of Customs, or Secretary may issue a permit to an applicant who:

- (a) completes an application in accordance with Section 4322.0;
- (b) provides such security or bond as may be required under Section 4321.2 and in accordance with subsection 4323.0; and
- (c) pays any fee required to be paid under Section 4324.0.

Section 4321.6 Cap On Authorized Permits

The following number of bonded warehouse permits are hereby authorized:

SENATORIAL DISTRICT

	#1	#2	#3
CLASS A	4	4	12
CLASS B	4	4	12
CLASS C	5	5	15
CLASS D	5	5	15

Section 4321.7 Prohibition on Owning Cartage Company

No license shall be issued to any applicant involved directly or indirectly, or through third parties in cartage, common carrier, inland trucking, unloading, or transportation of the merchandise from importation point.

Section 4322.0 Application To Conduct Business as a Bonded Warehouse

Section 4322.1 Application Requirements

Any applicant who wishes to apply for a license to operate a bonded warehouse shall submit a completed application on a form to be prescribed by the Director, together with a detailed Plan of the proposed bonded warehouse, to the Director.

- (a) Such Plan shall detail the following information:
 - (1) Whether the place proposed to be operated as a bonded warehouse exists or is to be constructed;

- (2) The type of construction of the facility regardless of whether or not it already exists;
 - (3) The area, within the facility, that is to be used for the storage of goods;
 - (4) The amount and policy holder of fire and general liability insurance covering the value of the merchandise to be stored;
 - (5) Whether or not the applicant intends to store any hazardous materials, and what type;
 - (6) Affidavit that applicant has no ownership, directly, indirectly or through related third parties of cartage per Section 4321.6.
- (b) The Director shall not issue a license to an applicant unless:
- (1) The applicant is of good character and has not been convicted, found guilty or plead guilty to any criminal act.
 - (2) The site of the proposed bonded warehouse is within an area served by a customs office;
 - (3) The applicant has sufficient financial resources to lease or purchase the facility;
 - (4) The applicant will provide conditions suitable for the safekeeping of goods, including any hazardous materials;
 - (5) The Department is able to provide customs services with respect to the proposed bonded warehouse;
 - (6) The terms and conditions under which a license may be issued are included, such as the extent and circumstances to which, in accordance with Section 4328.2 goods may be manipulated, unpacked, packed, altered, or combined with other goods while in bonded warehouse; and
 - (7) The applicant certifies that he or she shall comply with the Federal minimum wage law requirements of Section 4321.3 for Class A and B customs bonded warehouses.
- © All bonded warehouse facilities operating for the storage, treatment or handling of hazardous waste shall also attach a copy of their permit to operate such a facility as required by the Department of Environmental Quality (DEQ) Regulations, Commonwealth Register, Volume 6, Number

6, Section VII, June 15, 1984, Page 2830, as amended, and otherwise be in compliance with all applicable Department of Environmental Quality, Coastal Resource Management, Department of Fish and Wildlife, and Federal Environmental Protection Agency laws and regulations.

Section 4323.0 Bonds and other Security

Section 4323.1 Requirement of Bond

The Director may require such bonds or other security as s/he, or the Secretary, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce.

Section 4323.2 Conditions and Form of Bond

Whenever a bond is required under these regulations, the Secretary may require:

- (a) Cash or cash equivalent in lieu of bond. The Secretary is authorized to permit the deposit of money or obligation of the United States, in such amount and upon such conditions as he may prescribe, in lieu of sureties on any bond required or authorized by regulation or instruction which the Director of Customs is authorized to enforce.
- (b) Letter of credit issued yearly, or otherwise, by an acceptable banking institution;
- (c) Personal guarantees in a form acceptable to the Director;
- (d) A bond issued by a company that is licensed or otherwise authorized under the laws of the CNMI or United States to carry on the fidelity or surety class of insurance business and that the Director and the Secretary recommended in writing as acceptable as an institution whose bonds may be accepted by the CNMI;
- (e) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond and the manner in which the bond may be filed, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum.
- (f) The approval of the sureties on such bond, without regard to any general provision of law.
- (g) Authorization, to the extent that s/he may deem necessary, for the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance.

Section 4323.3 Cancellation of Bond

The Secretary may authorize the cancellation of any bond provided for in this section, or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount of penalty or upon such other terms and conditions as he may deem sufficient. In order to assure uniform, reasonable, and equitable decisions, the Secretary shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.

Section 4324.0 License and Fees

Section 4324.1 License Requirement.

All bonded warehouses shall be licensed by the Department prior to engaging in such business.

Section 4324.2 License Fee.

- (a) Every licensee shall pay to the Department an annual fee for the license, for the period beginning on the day on which the license is issued and ending on September 30th. Annual fees will be prorated on the portions of the year remaining after the license is issued. The annual fee will be determined on the basis of the amount of security deposit under Section 4323.0, in accordance with the table to this section.

TABLE

<u>Amount of Security Deposited</u>	<u>Amount of Fee Payable Per Fiscal Year</u>
Up to \$10,000	\$1,000
\$10,001 to \$50,000	\$1,500
\$50,001 to \$200,000	\$2,000
\$200,001 to \$500,000	\$3,000
More than \$500,000	\$5,000

- (b) The fee for each subsequent year will be paid by October 1st and no license will be issued without the fee being paid.

Section 4324.3 Amendment of License

The Director may amend a license only where the name of the licensee has changed legally, or change of ownership requiring new owner to meet the terms and conditions of Section 4323.0.

Section 4324.4 Cancellation or Suspension of Licenses

- (a) The Director may cancel a license where the licensee:
 - (1) no longer owns or leases the place that is licensed as a bonded warehouse;
 - (2) request the Director in writing to cancel the license, or
 - (3) declares bankruptcy.

- (b) Subject to Section 4324.5 the Director may suspend or cancel a license where the licensee;
 - (1) is the subject of a receivership in respect of the licensee's debts;
 - (2) fails to comply with any laws enacted by the CNMI to prohibit, control, or regulate the importation or exportation of goods;
 - (3) has, in the course of operating the bonded warehouse, acted dishonestly in business dealings with customs brokers, importers, carriers, and other appointed officials;
 - (4) has been incompetent in the operation of the bonded warehouse;
 - (5) the volume of goods being received in the bonded warehouse is no longer sufficient to warrant the continued operation of the bonded warehouse;
 - (6) there is no longer a need for a bonded warehouse in the area in which the bonded warehouse is located;
 - (7) the Department is no longer able to provide customs services with respect to the bonded warehouse,
 - (8) the licensee manipulates, unpacks, packs, alters, or combines the goods with other goods while in the bonded warehouse other than in accordance with the terms and conditions set out in the license.

- (c) Following the suspension or cancellation of a license:
 - (1) An officer may lock and seal the bonded warehouse and keep it locked and sealed during the period of suspension.
 - (2) The Director shall immediately after suspending a license, give to the licensee a notice confirming the suspension and providing all relevant information concerning the grounds on which the Director has suspended the license.

- (3) The licensee may, within ninety (90) days after the day on which the license is suspended, make representation to the Director regarding why the license should be reinstated.
- (4) Director shall, before canceling a license under this Section, give the licensee ninety (90) days notice of the proposed cancellation and provide the licensee with all relevant information concerning the grounds on which the Director proposes to cancel the license.
- (5) The licensee may, within 90 days after the day on which the notice referred to in subsection (iv) is given, make representation to the Director regarding why the license should not be cancelled.
- (6) A decision to cancel or suspend a license by the Director shall be subject to review pursuant to the Administrative Procedures Act, 1 CMC §9101 *et seq.*
- (7) Upon a final determination by the Director to cancel a license, all excise tax on taxable merchandise stored in a bonded warehouse shall become immediately payable.

Section 4324.5 Reinstatement of Suspended Licenses

The Director may reinstate a suspended license where the cause for the suspension no longer exists. In no event shall a license be suspended for longer than ninety (90) days from the date of final determination to suspend by the Director.

Section 4325.0 Bonded Warehouse Operations and Facilities

Section 4325.1 Security

Every licensee shall provide at the bonded warehouse such facilities, equipment and personnel as are sufficient to control access to the bonded warehouse premises and provide secure storage of the goods in it including:

- (a) doors and other building components of sturdy construction;
- (b) secure locks on doors and windows;
- (c) signs that indicate the security requirements applicable to the premises;
and
- (d) where the bonded warehouse will be used for the storage of designated goods, such additional facilities and equipment as may be required by the Director to ensure the secure storage of those goods;

Section 4325.2 Facilities

Every licensee shall provide at the bonded warehouse such facilities to provide:

- (a) adequate space for the examination of goods by officers; and
- (b) where a bonded warehouse forms only part of a building, the licensee shall, if so requested by the Director, keep the bonded warehouse separate from the remainder of the building by a partition or other structure.

Section 4325.3 Personnel and Equipment

Every licensee shall provide at the bonded warehouse:

- (a) the personnel and equipment necessary to ensure that the goods to be examined by a customs officer are made available to the customs officer for examination; and
- (b) the personnel necessary to furnish information, for audit purposes, to a customs officer with respect to the bonded warehouse operations and inventory system.

Section 4325.4 Operation and Maintenance Standards

- (a) Every licensee shall ensure that the goods received in the bonded warehouse are:
 - (1) stored safely and securely in the area designated for that purpose in the plan referred to in section 4322.1; and
 - (2) identified in such a manner so as to enable a customs officer to locate the goods and check them against the appropriate documentation.
- (b) No person, other than the licensee, an employee of the licensee, or an employee of a carrier engaged in the delivery of goods to, or the removal of goods from, the bonded warehouse shall enter any place in it where goods are stored, without the written authorization or the attendance of an customs officer.
- (c) Every licensee of a bonded warehouse shall have in place:
 - (1) procedures to maintain the security of, and restriction of access to, the bonded warehouse; and

- (2) procedures to ensure that personnel working in the bonded warehouse are aware of and follow the procedures referred to in this subsection.

Section 4325.5 Penalty for Non-Compliance With This Section

A bonded warehouse may be locked and sealed by a customs officer where the Director requested that the bonded warehouse be locked and sealed, for the purpose of verifying that the licensee is in compliance with this section.

Section 4326.0 Entry and Withdrawal of Merchandise

Section 4326.1 Receipt of Goods

All containers shall remain under seal until they arrive at the bonded warehouse. A customs officer shall be present to break the container seal. Every licensee shall acknowledge receipt of imported goods into the bonded warehouse in respect of which their license was issued by:

- (a) Endorsing the transportation document(s) presented to the licensee by the carrier (including invoices and Bills of Lading);
- (b) Recording on a form to be prescribed by the Director, the quantity, description, value and estimated tax of the imported goods.

Section 4326.2 Incomplete Entry

- (a) Customs shall notify the bonded warehouse of unentered merchandise whenever the entry of any imported merchandise is not made within the time provided by law because:
 - (1) in the opinion of the Department, the entry of imported merchandise cannot be made for want of proper documents or other cause;
 - (2) Customs Service discovers or has probable cause to believe that contraband has entered the Commonwealth; or
 - (2) the Department believes that any merchandise is not correctly and legally invoiced.
- (b) If the merchandise is not intended to be stored at any particular bonded warehouse, such unentered, suspicious or contraband merchandise may be stored and inspected at a Class B bonded warehouse.

- (c) After notification under subsection (a) herein, the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until entry is made or completed and the proper documents are produced, or disposed of in accordance with Section 4327.2. Such merchandise shall accrue interest on excise taxes owed and storage fees.

Section 4326.3 Withdrawal of merchandise; time; payment of charges

- (a) Any merchandise subject to excise tax (including international travel merchandise), with the exception of perishable articles and explosive substances, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, purchaser, importer, or consignee. Such merchandise may be withdrawn, at any time within 5 years from the date of importation, for consumption upon payment of the excise tax and storage fees.
- (b) Any merchandise so deposited may be withdrawn from a bonded warehouse for exportation or for transportation and exportation to a foreign country, or the shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of excise tax thereon, or for transportation and rewarehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port; except that the total period of time for which such merchandise may remain in bonded warehouse shall not exceed 5 years from the date of importation.
- © Except as provided in subsection (b) herein, payment of excise tax and storage fees are paid to the Department at the time the merchandise is withdrawn from the bonded warehouse. Duties shall be paid directly to the customs officer assigned to that bonded warehouse. The bonded warehouse shall contact the designated customs officer prior to withdrawal.

Section 4326.4 Destruction of merchandise at request of consignee

Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than excise tax on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of excise tax shall be refunded.

Section 4326.5 Transfer and Removal of Goods

- (a) Where there is a transfer of ownership of goods stored in a bonded warehouse, the importer or owner of the goods shall submit a transfer document in the prescribed form to an officer at the customs office where the goods were entered.
- (b) Where the importer or owner of goods stored in a bonded warehouse wants the goods removed from the bonded warehouse in smaller units, the importer or owner shall submit to the Director
 - (1) where the goods are to be released, an amended accounting in a form to be prescribed by the Director; or
 - (2) where the goods are not to be released, an amended description in the prescribed form.

Section 4327.0 Warehouse goods deemed abandoned or unclaimed

Section 4327.1 Abandoned Merchandise

- (a) Merchandise upon which any excise tax or storage fees are unpaid, remaining in bonded warehouse beyond 5 years from the date of importation, shall be regarded as abandoned. Title in abandoned merchandise shall automatically vest in the CNMI. The Director may sell or destroy such merchandise pursuant to law. If the Director elects to sell the merchandise, the proceeds of sale shall be paid according to Section 4327.3 herein.
- (b) Merchandise upon which all excise tax and charges have been paid remaining in bonded warehouse beyond 5 years from the date of importation, shall be considered unclaimed and treated in accordance with Section 4327.2 herein.

Section 4327.2 Unclaimed merchandise

- (a) Any unentered merchandise which shall remain in a bonded warehouse, pursuant to Section 4326.2, for 6 months, but less than 5 years, from the date of importation thereof, without all estimated taxes, fees and interest thereon having been paid, shall be considered unclaimed and subject to divestiture of title to the CNMI, and subject to sale by the Director free and clear of any liens or encumbrances.
- (b) Once merchandise is deemed unclaimed, the Department shall provide 30 days notice to all known interested parties that the title to such merchandise is subject to divestiture, either by operation of law to the CNMI or by sale subsequent sale to a third party, on the 30th day after the date of the notice. If no interested party is known, such notice shall, at a

minimum, include publication in one local newspaper of general circulation once per week for three consecutive weeks, the notice period running 30 days from the first date of publication. Notice shall contain the date, time and location of any sale.

- © Unclaimed merchandise may be reclaimed during the notice period provided that: (1) prior to the 30th day of the notice period the consignee or owner pays the Department a reclamation penalty equal to five (5) percent of the fair market value for such merchandise as determined by the invoice value; and (2) immediate payment of any excise taxes, storage fees and interest thereon. No unclaimed merchandise may be entered or exported or withdrawn by the owner or consignee until such payment is made.
- (d) For purposes of this section, the computation of excise taxes, storage fees and interest thereon shall be subject to rates applicable at the time the merchandise is reclaimed or sold.

Section 4327.3 Proceeds of Sale

The surplus of the proceeds of sales under section 4327.2(a), if any, after the payment of excise tax, storage fees, and interest thereon, and the satisfaction of any lien or freight, charges, or contribution in general average, shall be deposited in the General Fund of the CNMI, if claim therefore shall not be filed with the Director within ten (10) days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Department the amount of any surplus of the proceeds of sale.

Section 4327.4 Redemption

Whenever any party having lost a substantial interest in merchandise by virtue of title vesting in the CNMI under Section 4327.2(a) of this section, can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the CNMI, or can establish to the satisfaction of the Secretary that the party did not receive notice of sale as provided herein, the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Department the amount the Secretary believes the party would have received under had the merchandise been properly noticed and sold. The decision of the Secretary shall be final and conclusive with respect to all parties.

Section 4328.0 Manipulation in Public Or Private Warehouse

Section 4328.1 Original Packaging Requirement

Unless by special authority of the Director, no merchandise shall be withdrawn from a bonded warehouse in less quantity than an entire bale, cask, box, or other package. All merchandise so withdrawn shall be withdrawn in the original packages in which imported.

Section 4328.2 Manipulation Allowed For Class D Bonded Warehouses

Every licensee shall ensure that goods are not manipulated, altered or combined with other goods while in a bonded warehouse, except for Class D bonded warehouses for the purpose of, or in the course of:

- (a) Disassembling or reassembling goods that have been assembled or disassembled for packing, handling or transportation;
- (b) Displaying;
- (c) Inspecting;
- (d) Marking, labeling, tagging or ticketing;
- (e) Packing, unpacking, packaging or re-packing;
- (f) Removing from the warehouse, for the sole purpose of soliciting order for goods or services, a small quantity, or a portion, a piece or an individual object, that represents the goods;
- (g) Storing;
- (h) Testing; or
- (i) Any of the following that do not materially alter the characteristics of the goods:
 - (1) cleaning;
 - (2) diluting;
 - (3) normal maintenance and servicing;
 - (4) preserving;
 - (5) separating defective goods from prime quality goods,
 - (6) sorting or grading; and

(7) trimming, filing, slitting or cutting.

Section 4329.0 Miscellaneous Provisions

Section 4329.1 Allowance for loss, abandonment

In no case shall there be any abatement or allowance made in the excise tax for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in Department custody, except that the Secretary is so authorized, upon production of proof satisfactory to him or her of the loss or theft of any merchandise while in the Department's custody. The decision of the Secretary as to the abatement or refund of duties on any such merchandise shall be final and conclusive upon all persons.

Section 4329.2 Liens

Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges upon any imported merchandise sent to the bonded warehouse, or taken possession by the Department, he shall refuse to permit delivery thereof from the bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the CNMI shall not be prejudiced nor affected by the filing of such lien, nor shall the Department or its officers be liable for losses or damages consequently upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom.

Section 4329.3 Procedures for Hearing

Unless a provision of these regulations specifies that the decision of the Director shall be final and conclusive, any person aggrieved under these regulations may request a hearing. Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, *et seq.*, and shall be conducted in front of the Director, unless such grievance concerns a decision by the Director, in which case the hearings shall be conducted in front of the Secretary.

Section 4330.0 Cartage

Section 4330.1 Licensed and Bonded Cartage

The cartage of merchandise entered for warehouse shall be done by (1) cartmen appointed and licensed by the Director; and (2) carriers designated to carry bonded merchandise. Such cartmen and carriers shall give bond, in a penal sum to be fixed by the Department, for the protection of the CNMI against any loss of, or damage to, the merchandise while being so carted and necessary for the protection of the CNMI revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce. Such cartmen and carriers

shall also be in compliance with all applicable environmental laws and regulations concerning the transport of hazardous materials.

Section 4330.2 Prohibition on Operating Bonded Warehouses

Persons engaged in the cartage, inland freight trucking, common carrier, unloading, or transportation of merchandise from importation are prohibited from being licensed bonded warehouse operators, either directly or indirectly.

Section 4331.0 Severability

Section 4331.1 Severability

Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and / or the application of the affected provision to other persons or circumstance shall not be affected thereby.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

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



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PUBLIC NOTICE

PROPOSED REGULATION REGARDING DRUG TESTING FOR PUBLIC SCHOOL SYSTEM EMPLOYEES

The Board of Education for the Commonwealth of the Northern Mariana Islands (Board) hereby notifies the general public of its intention to adopt regulations regarding drug testing. The Alcohol and Drug Free Work Place Regulation will be found in Public School System (PSS) Regulations for Non-Certified and Certified Personnel Chapters 8.

Statutory Authority: The proposed amendments and regulations are promulgated pursuant to the Board of Education's (Board) authority as provided by Article XV of the CNMI Constitution and Public Law 6-10 (1 CMC §2261 et seq.).

Goals and Objectives The proposed regulations are promulgated to foster safety in the workplace and in the community and to improve job performance so that integrity of the workplace and the achievement of PSS's mission are preserved. PSS realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. Employees who have problems with drugs or alcohol are encouraged to utilize all available resources to resolve their problems before those problems affect their job performance.

Brief Summary of Proposed Regulations: The Public School System shall implement drug screening for all employees occupying safety sensitive positions and all prospective employees for such positions. Safety sensitive positions will include those charged with the responsibility of transporting students or maintaining Public School System vehicles. Testing will be required pre-employment and at random for safety sensitive positions. All PSS employees will be subject to post accident and reasonable suspicion testing after appropriate training of PSS supervisors. Once finally promulgated, the Office of Personnel Management's (OPM) Alcohol and Drug Free Workplace (ADFW) Section will manage the screening process for the Public School System pursuant to the terms of a Memorandum of Understanding (MOU) between PSS and OPM. The regulations are similar to Part V, Subpart C of the Personnel Service System Rules and Regulations (Alcohol and Drug Free Workplace Policy) and use the same numbering system to ensure consistent and easier enforcement and management by ADFW. Changes to the PSSRR are underlined.

Citation of Related and/or Affected Board Regulations: Once finally promulgated, the Alcohol and Drug Free Work Place Regulation shall repeal and replace the following PSS regulations:

1. "School Bus Driver Drug and Alcohol Testing" (PSPSRR 3207), as proposed in the Commonwealth Register on November 15, 1995 and finally adopted in the Commonwealth Register Volume 18 Number 01 on January 15, 1996.

2. "Fit for Work Policies for Non-Certified and Certified Employees" as published in the Commonwealth Register Volume 19 Number 4 on April 15, 1997 (no final adoption notice).

Contact Person: All interested persons may examine the proposed amendments and regulations 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 proposed amendments and regulation.

Dated this 29th day of July 2004, at Saipan, Northern Mariana Islands.

By: 
ROMAN C. BENAVENTE
Board of Education Chairperson

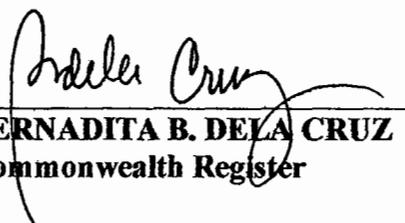
Pursuant to 1 CMC Section 2153, as amended by Public Law 10-50, the proposed Board of Education amendments and regulations, copies of which are attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

Approved by: 
PAMELA BROWN
CNMI Attorney General

Date: 8/16/04

Received by: 
THOMAS TEBUTEB
Special Assistant for Administration

Date: 8/16/04

Filed by: 
BERNADITA B. DELA CRUZ
Commonwealth Register

Date: 8/20/04

NOTISIAN PUPBLIKU

MAPROPONE NA REGULASION NI TINETEK A POT DRUG TESTING/BINENU NA ÅMOT PARA I EMPLIEAO SIHA GI SISTEMAN I ESKUELAN PUPBLIKU

I Kuetpon i Edukasion para i Sankattan Siha Na Islas Marianas este na momento ha notifikika i pupbliku henerât pot i intension para hu adopta i regulasion siha ni tineteka Pot Drug Testing / Binenu Na Åmot. I Regulasion pot Maneska yan Binenu Na Åmot ni ti siña man Ma'usa gi Lugât i Che'cho' siempre hu masodda' gi Regulasion i Sistem an i Eskuelan Pupbliku para i ti man masetifika yan masetifika na Empleao gi Kapitulo ochu (8).

Aturidât i Lai: I mapropone na amendasion yan regulasion siha man ma'establesi sigun i aturidât i Kuetpon i Edukasion ni maprobeniyi ginen i Atikulu Kinse (XV) gi Constitution i CNMI yan i Lai Pupbliku 6-10 (1 CMC Seksiona 2261 et.seq.)

Finih o yan Asunto Siha: I man mapropone na regulasion siha man ma'establesi para u na guaha sinâfu gi lugât cho'chu' yan gi halom i komunidât yan para u adulânta i kinalamten cho'chu' pot rason na i minaolek i che'cho' yan i kinumplen i dinisehan i Sistem an i Eskuelan Pupbliku ha ripâra na i ga'maneska prubleman ga'gumimen yan i bisiun binenu na åmot siña ha ma åmte na chotnot. I empleao siha ni man gai prublema ni binenu na åmot yan maneska man maso'so'yo' para hu ma'usa tod u i man muteru na fengkas siha pot para hu masatba i prubleman-niha åntes di hu inafekta i kinalamten i che'cho'-niha.

Kada'da' Na Mensåhe Pot i Man Mapropone Na Regulasion Siha: I Sistem an i Eskuelan Pupbliku siempre ma'implimenta i inatan binenu na åmot para tod u i empleao siha na ma'akukupa sentidun sinâfun pusion siha yan tod u i empleao siha para i pusion. I sinâfun sentidun pusion ha enklus u eyu ma'enkâtga ni responsiblidât i transpottasion i estudiånte siha pat i mu'arerekla i tumobet i Sistem an i Eskuelan Pupbliku siha. I testing siempre manisisita åntes di ma'emplea yan i random para i sinâfun sentidun pusion siha. Tod u i empleao siha gi Sistem an i Eskuelan Pupbliku siempre man masuheta para i despues i aksidente yan resonåpble na dinidan i Testing despues di propiu na finanåguen (training) ni Supervisor siha gi Sistem an i Eskuelan Pupbliku. Yanggen potfen man ma'establesi, i ofisinan i Manihånten i Personnel gi seksionan Maneska yan Binenu Na Åmot ni ti siña man ma'usa gi lugat cho'chu' siempre ma'maneha i areklamenton i inatan (screening) para i Sistem an i Eskuelan Pupbliku sigun para i mensahe gi Memorandun Inakomprende (MOU) gi entalo' i Sistem an i Eskuelan Pupbliku yan i Ofisinan i Manehanten Personnel. I regulasion siha man parehu yan i Påtte singko (V), matalun Pumatte' C gi Areklamento yan Regulasion i Sistem an Setbisiun Personnel (Areklamenton Binenu Na Åmot yan Maneska ni ti siña man Ma'usa gi Lugât Cho'chu') yan hu ma'usa i parehu na sistem an numiru para hu ma'ensura i konsiste yan la'libiånu na enfuetsamente yan manihånte ginen i Maneska yan i Binenu Na Åmot ni ti man Ma'usa gi Lugât Cho'chu'. I tinilaika siha para i Areklamento yan Regulasion i Sistem an i Eskuelan Pupbliku man maråya gi papa i palåbra.

Sitasion i Man Achule' yan/pat Inafekta Na Regulasion i Kuetpo: Yanggen potfen man ma'establesi, i regulasion i Maneska yan Binenu Na Amot ni ti siña man Ma'usa giLugát Cho'chu' siempre man madiroga yan makuentáye' gi sigente na Regulasion i Sisteman i Eskuelan Pupbliku:

1) "Testing i Binenu Na Amot yan Maneska Para i Mañuñugun Bus Eskuela" (PSPSRR 3207), ni mapropone gi Rehistran i Commonwealth gi Nobiembre 15, 1995 yan potfen ma'adopta gi Rehistran i Commonwealth Baluma 18 Numiru 01 gi Ineru 15, 1996.

2) "Para i Areklamenton Cho'chu' Para i ti man Masetifika yan Masetifika na Empleao siha" ni mapupblisa gi Rehistran i Commonwealth Baluma 19 Numiru 4 gi Abrit 15, 1997 (Táya potfen notisian inadoptasion).

Petsona ni Para Hu Ma'agan: Todu i man enteresao na petsona siha siña ma'eksamina i man mapropone na amendasion yan regulasion siha yan hu fan nahalom tinige' opinion, pusision, pat mensáhe siha para pat kumokontra i man mapropone na amendasion siha para i Kabiseyo, gi Kuetpon i Edukasion, gi P.O. Box 1370 CK tinatitiye' i fechan i publikasion gi Rehistran i Commonwealth pot este man mapropone na amendasion yan regulasion.

Mafecha este mina bente nuebe (29th) diha gi Julio 2004, gi Commonwealth I Sankattan Siha Na Islas Marianas.

Ginen as: 
ROMAN C. BENAVENTE
Kabiseyon i Kuetpon i Edukasion

Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Pupbliku 10-50, i mapropone na amendasion yan regulasion gi Kuetpon i Edukasion, i kopia siha ni man che'che'ton este na momento esta man maribisa yan aprueba pot para hu fotma yan ligát suficiente ginen i Ofisinan i Abugádo Henerát.

Ma'aprueba as: _____
PAMELA BROWN
Abugádo Henerat i CNMI

Fecha: _____

Marisibe' as:



THOMAS TEBUTEB

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8/28/04

Espisiât Na Ayudânte Para i Atministrasion

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Fecha:

8/20/04

COMMONWEALTH TEEL FALÚWASCH MARIANAS

STATE OF EDUCATION
PUBLIC SCHOOL SYSTEM
P.O. BOX 501370
SEIPEL, MP 96950

ARONGOL TOULAP

POMWOL ALLÉGH REEL DRUG TESTING NGÁLI AMMWELIL SCHÓÓL ANGAANGAL
IMWAL RÁGHEFISCH

Mwiischil imwal rághefisch mellól Commonwealth Teel falúw kka falúwasch Marianas (board) ekke arongaar toulap igha ekke memmengi ebwe fillóoy allégh kkaal bwelle drug testing. Mille drug me alléghúl leliyal drug free rebwe ayoora mellól alléghúl imwal rághefisch (PSS) LÍÓL ghilighilil waluuw (8) reel aweweel schóól angaang kka Non-Certified me Certified.

Akketéel Bwángil: Pomwol lliwel kkaal me allégh kka aa akkatéewow sáangi bwángil Mwiischil imwal rághefisch (mwiisch) ye e fis mereel Article XV mellól Allégh Lapalapa CNMI me alléghúl Toulap 6-10 (ICMC talil 2261 et seq.).

Aweweel kkapasal Allégh: Pomwol allégh kkaal ikka e akkatéewow igha ebwe sóbweey alléghúl mellól leliyal angaang me mellól sóóbw me ebwe aghatchúweló mwóghútúl angaang bwelle kkapasal leliyal angaang me bwungulóól aghiyeghil imwal rághefisch kka aa allégheló. PSS e lúghúlúgh bwe alcoholism, weiresil yááyá aschi me drug addiction nge eyoor safeyal. Schóól angaang kka eyoor weiresiir reel drugs me ngáre aschi nge rekke afalaar rebwe yááyá alongal ngúlúw kka eyoor reel ebwe alisi weires memmwal igha weires ebwe afitighoghow yaar angaang.

Aweweel Pomwol Allégh Kkaal: Alléghúl imwal rághefisch nge ebwe ayoora ammwelil drug screening ngáliir schóól angaang kka re akkamwasch angaang kka e allégh yaal mwóghút me alongeer schóól angaang reel mwóghút kkaal. Alléghúl mwóghút kkaal nge ebwal atolongoor schóókka rekke umwumw atel meleitey me ammwela ghareetal Alléghúl Imwal Rághefisch. Testing nge rebwe yááyá ngáli schóókka kka re ghulaal angaang me ese lifil alleghúl mwóghút kkaal. Alongeer schóól angaang PSS nge rebwe yááyá ngáli post accident me kkapasal kkilil testing mwiril alúghúlúghúur assamwol PSS. Ngáre schagh e akkatéeló, Bwulasiyool Personnel Management's (OPM) Alcohol me Drug Free Workplace (ADFW) ye ebwe ammwela mwóghútúl screening ngáli Alléghúl Imwal Rághefisch sáangi Schéel Appelúghúlúgh (MOU) lefileer PSS me OPM. Allégh kkaal nge e weewe me peigh V, Sóbwol C ngáli Alléghúl Personnel (Alcohol me Drug Free Workplace Policy) me yááyá fasúl alléghúl numoro reel ebwe alléghúw me ebwe mescheragh mwóghútúl ammwel sáangi ADFW. Ssiwel mereel PSSRR ikka aa róóza.

Akkatéél akkáaw allégh/ me alléghúl mwiisch kka e weires: Ngare schagh e schéeschéél akkatééw, áschí me Alléghúl Drug Free Work place nge ebwe fféer sefál me alusu táíl alléghúl PSS yeel:

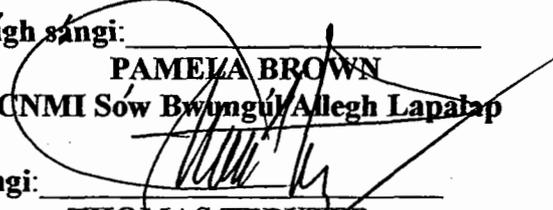
1. "School Bus Drug me Alcohol Testing" (PSPSRR 3207), ye raa pomwoli mellól Commonwealth Register otol Aremwoy 15, 1995 me schéeschéél fillóóy mellól Commonwealth Register Volume 18 Numoro 01 otol Schoow 15, 1996.
2. " fillong llól alléghúl Non-Certified me Certified Employee" ye aa akkatééló llól Commonwealth Register Volume 19 Numoro 4 ótol Seeta 15, 1997 (reel scheescheel fillóóí ammataf yeel).

Aramas ye ubwe faingi: Schóókka re tipeli nge emmwel rebwe amweri pomwol lliwel yeel me allegh kkaal me ngare ischilong yoomw aghiyegh, mwóghútúl kkaal, me aweewe reel pomwol kkaal ngáli Assamwolul, Mwiischil Imwal rághefisch, P.O Box 1370 CK, Seipél, MP 96950, faingi 664-3727 me ngare fax reel 664-3711 llól eliigh (30) rááílil sáangi rááílil yaal akkatééw mellól Commonwealth Register reel pomwol lliwel kkaal me alleghul.

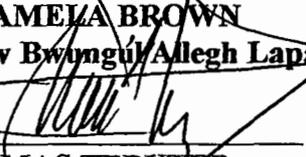
Rááílil ye 29 ch llól Wuun 2004, me Seipél, Falúwasch Marianas.

Sáangi: 
ROMAN C. BENAVENTE
Assamwolul mwiischil imwal raghefisch

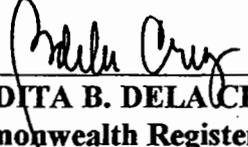
Sáangi ye allégh ye 1 CMC Táíl 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, pomwol lliwel reel mwiischil imwal raghefisch me allegh kkaal, kkopia kka e appasch nge raa takkal amweri me allégheló mereel Bwulasyool Sów Bwungúl Allégh Lapalap

Alúghúlúgh sáangi: 
PAMELA BROWN
CNMI Sow Bwungúl Allegh Lapalap

Rál _____

Mwir sáangi: 
THOMAS TEBUTEB
Sow Alillisil Sow Lemelem

Rál 8/20/04

Aisis sáangi 
BERNADITA B. DELACRUZ
Commonwealth Register

Rál 8/20/04

ALCOHOL & DRUG-FREE WORKPLACE POLICY

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CNMI Public School System

Alcohol and Drug-Free Workplace Regulations

Non-Certified Personnel Regulations

Chapter 8

Certified Personnel Regulations

Chapter 8

ALCOHOL AND DRUG FREE WORKPLACE POLICY AND REGULATIONS

Policy Statement (V. C1)

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

Accordingly, The Public School System shall implement a drug screening for all employees occupying safety sensitive positions and all prospective employees for such positions. The Office of Personnel Management's (OPM) Alcohol and Drug Free Workplace (ADFW) Section will manage the screening process for the Public School System pursuant to the terms of a Memorandum of Understanding (MOU) between PSS and OPM. The accompanying regulations are similar to Part V, Subpart C of the Personnel Service System Rules and Regulations (Alcohol and Drug Free Workplace Policy) and use the same numbering system to ensure consistent and easier enforcement and management by ADFW.

PSS realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. Therefore, we encourage employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

V.C2 DEFINITIONS

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

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

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

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

- D. Breath Alcohol Technician (B.A.T.). An individual authorized to collect breath specimens under Part V.C7(B) and who operates an E.B.T.

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

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

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

- H. Illegal Drug. A drug that (1) is not obtained legally; or (2) is knowingly used for other than

the prescribed purpose or in other than the prescribed manner; or (3) is a "designer drug" or drug substance not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

- I. Invalid Test. A breath or urine test that has been declared invalid by a Medical Review Officer (M.R.O.), including a specimen that is rejected for testing by a laboratory for any reason. An invalid test shall not be considered either a positive or a negative test result.
- J. Medical File. The file containing an employee's medical examination form, mental health referrals, alcohol and drug test results and other health related documents, maintained by the Office of Personnel Management separate from an employee's Official PSS Personnel Folder, in accordance with the PSSRR, Part XI.B3(C).
- K. Medical Review- Officer (M.R.O.). A licensed physician, appointed by the government, with specialized training in substance abuse disorders and in the use and evaluation of drug test results. The M.R.O. shall be the only person authorized to receive laboratory drug test results and shall be the primary contact for technical inquiries to the drug testing laboratory.
- L. Reasonable Suspicion. A perception based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an individual or on specific facts, circumstances, physical evidence, physical signs and symptoms, or on a pattern of performance or behavior that would cause a trained supervisor to reasonably conclude that the individual may be under the influence of alcohol or illegal drugs while on duty.
- M. Safety-Sensitive. A word describing activities which directly affect the safety of one or more persons, including the operation of motor vehicles or heavy machinery or the carrying of firearms. The Commissioner of Education shall identify all positions to be considered safety-sensitive positions due to the amount of time that the employee spends performing safety-sensitive functions.
- N. Statement of Fitness for Duty. A written statement from a Substance Abuse Professional (S.A.P.), certifying that the named employee is not dependent on alcohol or any drug to the extent such dependence will affect safe and productive work.
- O. Substance Abuse Professional (S.A.P.). A physician, psychologist, psychiatrist, or social worker with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders; or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors.

- P. Under the Influence. A condition where a person's behavior, attention, or ability to perform work in the usual careful fashion has been adversely affected by the use of alcohol or drugs; intoxicated.
- Q. Vehicle. A device in, upon or by which any person or property is or may be propelled or moved on a highway, on a waterway, or through the air.

V.C3 **PROHIBITED CONDUCT**

- A. Sale, Purchase, Possession with Intent to Deliver, or Transfer of Illegal Drugs. No employee shall (1) sell, purchase, or transfer; (2) attempt to sell, purchase, or transfer; or (3) possess with the intent to deliver, any illegal drug while on government property, in any government vehicle or on any government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.
- B. Possession of Illegal Drugs. No employee shall possess any illegal drug on government property, in any government vehicle, or while on government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.
- C. Possession of Open Containers of Alcohol. No employee shall possess an open container of alcohol in any vehicle while on duty or in any government vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.
- D. Under the Influence of Alcohol or Illegal Drugs. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this subsection, alcohol includes any alcohol found in any prescription or nonprescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if:
- (1) The employee has a B.A.C. of 0.02 or more;
 - (2) The employee has a detectable amount of any illegal drug in his or her urine;
 - (3) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform safety-sensitive functions;
 - (4) The employee uses alcohol or any illegal drug within four (4) hours prior to reporting to work and expects to perform a safety-sensitive duty.

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

- (1) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (2) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (3) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);
- (4) Engaging in conduct that clearly obstructs the specimen collection process;
- (5) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain necessary medical care or assistance in responding to the accident. If the employee leaves the scene, the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;
- (6) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;
- (7) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; or
- (8) Failing to timely report to the specimen collection site after being informed of the requirement to be tested.

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

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

- H. Failure to Notify Government of Conviction. No employee shall fail to notify the Director of Personnel Management of any criminal drug statute conviction, within five (5) days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commonwealth business, or while on or using Commonwealth property.
- I. Supervisor's Responsibility for Confidentiality. The Commissioner, the Human Resources Officer and all supervisors shall not knowingly disregard an employee's right to confidentiality in matters relating to alcohol or drug testing or otherwise neglect his or her responsibilities under this sub-part.

V.C4 **PENALTIES AND CONSEQUENCES**

- A. Disciplinary Action. An employee committing any act prohibited by Part V.C3 shall be subject to an appropriate form of discipline, depending on the circumstances.
- (1) *Generally.* Where an employee commits any act prohibited by V.C3, without valid reason, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the prohibited act committed by the employee relates to the use or possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.
 - (2) *First offense, under the influence.* An employee found to be under the influence of alcohol or illegal drugs in violation of Part V.C3(D), for a first offense, shall not be subject to removal solely for being under the influence of alcohol or illegal drugs. However, if the person is also involved in an accident, depending on the circumstances, PSS may decide to initiate an adverse action for removal, even on a first offense.
 - (3) *Serious offenses.* The following acts, even for a first offense, will result in an immediate adverse action for removal in accordance with PSS disciplinary regulations:
 - (a) The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase or transfer illegal drugs in violation of V.C3(A);
 - (b) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of V.C3(D);
 - (c) While performing and about to perform duties in a safety sensitive position, being under the influence of alcohol or illegal drugs, in violation of V.C3(D);

- (d) An unexcused refusal to be tested, in violation of V.C3(E);
- (e) Giving false information, contaminating or attempting to contaminate a urine sample, in violation of V.C3(F).
- (f) Failing to notify the proper authority of conviction for a drug offense in violation of V.C3(H);
- (g) Testing positive for alcohol or illegal drugs within five years of a prior positive test; and
- (h) Breaching any term of a Return to Duty Contract executed under the provisions of Part V.C5(B).

- B. Information Concerning Treatment Options. Those employees not removed from government service after committing any act prohibited by Part V.C3 shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator shall give the names, addresses, and telephone numbers of local S.A.P.s and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.
- C. Report to Department of Public Safety. An employee committing any act prohibited by V.C3.A or V.C3.B shall be reported, by PSS to the Department of Public Safety for the purpose of possible criminal prosecution.
- D. Duty/Pay Status Pending Adverse Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to an adverse action for committing any act prohibited by Part V.C3, except for V.C3(g), shall be allowed to remain on the job pending resolution of any proposed adverse action but shall not be allowed to perform a safety-sensitive function, even if that means assigning to the employee duties the employee would not otherwise be performing. An employee subject to, an adverse action for committing any act prohibited by Part V.C3 who was involved in a fatal accident shall be placed on leave without pay pending resolution of the adverse action for removal.

V.C5 RETURN TO WORK PROCEDURES

- A. Prerequisites to Returning to Duty. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:
- (1) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;
 - (2) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine, marijuana, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and
 - (3) Agreed to execute a Return to Duty Contract.
- B. Return to Duty Contract. The Return to Duty Contract shall include the following provisions:
- (1) *Aftercare.* An agreement to comply with aftercare and follow-up treatment recommendations for one to five (1-5) years, as determined appropriate by the employee's S.A.P.;
 - (2) *Follow-up testing.* An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one (1) to five (5) years, as determined appropriate by the employee's S.A.P., but there shall be no fewer than six (6) tests in the first year after the employee returns to work;
 - (3) *Compliance with rules.* An agreement to comply with PSS regulations, rules, policies, and procedures relating to employment;
 - (4) *Term.* An agreement that the terms of the contract are effective for five years after the employee's return to duty; and
 - (5) *Breach of contract.* An agreement that violation of the Return to Duty Contract is grounds for termination.

TESTING OCCASIONS

- A. **Pre-Employment Tests.** At the time of application, persons applying for any safety sensitive position within PSS will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with Part V.C8, below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two (2) years immediately preceding the application date.
- (1) No candidate for a safety sensitive position within PSS may be assigned to work in any position until he or she presents the results of a urine test, taken after the offer for employment has been made, that shows negative for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine.
 - (2) If the candidate's test result is positive for the presence of a tested drug, without a legitimate explanation, the offer of employment will be withdrawn.
 - (3) If the candidate presents a drug testing history showing a positive drug test within two (2) years prior to the application date, the offer of employment will be withdrawn unless the candidate submits a Statement of Fitness for Duty and agrees to execute an agreement similar to a Return to Duty Contract described in Part V.5(B).
- B. **Reasonable Suspicion Testing.** Where there is a reasonable suspicion that an employee is under the influence of alcohol or drugs while at work or about to begin work, he or she shall, submit to a breath or urine test for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, and phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the government shall pay for the testing.
- (1) *Properly trained supervisor.* Only a supervisor with government approved training in the physical, behavioral and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.
 - (2) *Objective inquiry.* The properly trained supervisor will observe the employee suspected of being under the influence of alcohol or illegal drugs. A decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Prior to making the decision to require testing, the supervisor will question the employee in a private area to ascertain whether there are any reasons other than alcohol or drug use for any behavior observed.

- (3) *Verification.* No employee shall be required to submit to a drug or alcohol test based on reasonable suspicion unless the need for the test is verified by a second properly trained government employee. The required verification shall be done in person.
- (4) *Transportation assistance.* The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.
- (5) *Duty pending test results.* Until the results of the drug and alcohol test are complete and verified, no employee tested based upon reasonable suspicion shall be allowed to perform or continue to perform a safety-sensitive duty.
- (6) *Report.* The supervisor ordering reasonable suspicion testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for disciplinary action. Only at that time will the report be filed in the employee's Official PSS Personnel Folder.

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

- (1) *Supervisor training.* Only a supervisor with government approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions.
- (2) *Objective inquiry.* A supervisor's decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Specifically, the properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.
- (3) *Transportation assistance.* The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

- (4) *Duty pending test results.* Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.
- (5) *Report.* The supervisor ordering post-accident testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for disciplinary action. Only at that time will the report be filed in the employee's Official PSS Personnel Folder.

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

- (1) *Method of selection.* Employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
- (2) *Number to be tested.* No more than twenty-five percent (25%) of all employees performing safety-sensitive functions in PSS each year shall be required to submit to breath alcohol testing and no more than fifty percent (50%) shall be required to submit to urine testing. The actual percentage will be determined at the beginning of each fiscal year for each department or agency by the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator, in consultation with the Commissioner of Education or designee and the MRO after reviewing the department's or agency's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

V.C7 COLLECTING AND TESTING BREATH SPECIMENS

- A. Collection Site. Breath specimens shall be collected only at a site approved by the Director of Personnel Management or at the scene of an accident if proper equipment and personnel can be made immediately available.
- B. Collection Protocol. Breath specimens shall be collected only by a B.A.T. trained in the collection of breath specimens at a course approved by the United States Department of

Transportation in accordance with standard collection protocols as specified in 49 CFR, Part 40(C) "Procedures for Transportation Workplace Drug Testing Programs - Alcohol Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

- C. Confirming Test. Breath specimens shall first be subjected to a screening test for alcohol. If that test indicates a probable breath alcohol concentration of 0.02 or greater, a second test, confirming the first and providing quantitative data of alcohol concentration, shall be performed.

No alcohol test shall be considered positive unless both the screening test and the confirming test show a B.A.C. of 0.02 or greater.

- D. Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the Director of Personnel Management and the PSS Human Resources Officer.

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

- F. Invalid Test. If the Director of Personnel Management determines that the test is invalid, using the factors found at 49 CFR, Part 40.79, the test result shall be reported as negative.

- G. Statistical Reporting. The B.A.T. shall compile statistical data that is not name-specific, related to testing results. The B.A.T. shall release the statistical data to the Director of Personnel Management and the Commissioner of Education upon request.

V.C8

COLLECTING AND TESTING URINE SPECIMENS

- A. Collection Site. Urine specimens shall be collected only at a site approved by an appropriate government agency and identified by the Director of Personnel Management.

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

- C. Splitting Sample.
- (1) After collecting a sample of the employee's urine, the sample will be split into two specimens. Both specimens will be shipped to the laboratory selected for performing tests for the government.
 - (2) One specimen, called the primary specimen, shall be tested for the government. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon request of the employee.
- D. Confirming Test. Primary urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of prohibited drug, will a second test be conducted on the same urine specimen to identify the presence of a specific drug or metabolite, using a gas chromatography/mass spectrometry (GC/MS) test. No drug test shall be considered positive unless both the screening test and the confirming test show the presence of one or more of the drugs tested.
- E. Results. The laboratory conducting the urine test shall give the results only to the M.R.O. The M.R.O. shall discuss the test result with the tested individual.
- F. Invalid test. If the M.R.O. decides that the test is invalid, the candidate or employee shall immediately submit another urine specimen for testing.
- G. Employee Test. If the government's test shows positive for the presence of a specific drug or drugs, the employee may request that the M.R.O. have the secondary specimen tested at another laboratory certified by the United States Department of Health and Human Services, for the presence of the drug or drugs found in the primary specimen.
- (1) The employee must make the request, in writing, within 72 hours of receiving notice of the result of the government's test.
 - (2) The results of the second test shall be given to the M.R.O. who shall discuss the results with the employee.
 - (3) The employee shall pay for the cost of the second test.
- H. Alternative Explanations for Positive Test Results.
- (1) Upon receiving a report of a positive test result, the M.R.O. shall determine if there is any alternative medical explanation for the result, including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individual's medical history and records.

If the M.R.O. determines it to be necessary, he or she may request pertinent analytical records from the laboratory or require a re-analysis of the specimen.

- (2) The M.R.O. shall report the urine test result as negative and shall take no further action if he or she determines:
- (a) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or
 - (b) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the positive drug test result is scientifically insufficient for further action.

- I. Illegal Use of Opium. If the GC/MS does not confirm the presence of 6 monoacetylmorphine, the M.R.O. shall determine whether there is clinical evidence, in addition to the urine test result, of illegal use of any opium, opiate or opium derivative.
- J. Report to Government. The M.R.O. shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the PSS, and to the Director of Personnel Management.
- K. M.R.O. and Confidentiality. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.
- L. Statistical Reporting. The M.R.O. shall compile statistical data, that is not name-specific, related to testing and rehabilitation. The M.R.O. shall release the statistical data to the Director of Personnel Management and to the Commissioner of Education upon request.

V.C9

EMPLOYEE AWARENESS AND REHABILITATION

- A. Employee Awareness Training. All employees shall receive information concerning the effects and consequences of drug and alcohol use on personal health, safety, and the work environment; the manifestations and behavioral clues indicative of drug and alcohol use; and the resources available to the employee in evaluating and resolving problems associated with the use of illegal and legal drugs and alcohol.
- B. Employees Seeking Voluntary Assistance. All employees shall be allowed to voluntarily seek assistance for alcohol or drug use at any time prior to being required to be tested under the reasonable suspicion, post-accident or random testing procedures.

- (1) *Referrals.* Employees may request referral to an S.A.P. for treatment, may refer themselves, or may be referred by a supervisor as part of a performance counseling. Such referrals shall only be made a part of the employee's medical file and shall not be a part of the employee's Official PSS Personnel Folder. Referrals shall be kept confidential.
 - (2) *Voluntary referrals.* Employees who voluntarily seek assistance in dealing with drug and alcohol problems or accept referrals, before job performance is compromised, shall be provided the same leave benefits for recommended treatment as provided for any other health problem.
 - (3) *Accountability for job performance.* Regardless of participation in or requests for referrals, employees shall be held accountable for acceptable job performance. In no case where job performance has been compromised will disciplinary action be waived for employees asking for assistance and referral. However, such requests may be considered a mitigating factor in determining the appropriate form of discipline.
- C. Job Security Maintained. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.
- D. Required Documentation. Although voluntary referrals or referrals made prior to testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employee's Official PSS Personnel Folder.

V.C10 **DISSEMINATING INFORMATION ON REGULATION**

- A. Distribution to Employees. All current employees shall receive a copy of these Regulations at least thirty (30) days before the implementation date. New employees hired after the effective date of these regulations will be given a copy of this policy at the time of hire. Each employee shall sign a form prescribed by the Director of Personnel Management and PSS Human Resources Officer which acknowledges the receipt of these regulations and the employee's understanding that he or she is bound by the regulations. This acknowledgment shall be kept in the employee's Official PSS Personnel Folder.
- B. Posting. These regulations will be posted in all workplaces for at least sixty (60) days following their implementation.

V.C11 **RECORD RETENTION AND REPORTING REQUIREMENTS**

- A. Administrative Records. Records relating to the administration of these regulations, including policy and program development, employee awareness training, supervisory training,

collection site training, program administration, and calibration documentation, shall be kept by the Director of Personnel Management and the M.R.O. for five years.

- B. Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by the Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.
- C. Refusals, Referrals and Test Results. The Director of Personnel Management shall keep a copy of all records of refusals to be tested, breath and urine test results, and referrals to an S.A.P. in the employee's medical file, not the employee's Official PSS Personnel Folder, at least until such time as disciplinary action is taken. The M.R.O. shall keep a copy of all urine test results and the B.A.T. shall keep a copy of all breath test results in a manner to assure confidentiality. No test results shall be available for use in a criminal prosecution of the employee unless the employee consents or the court orders the release of the results.
- (1) Positive test result records, records of refusals to be tested and referrals to an S.A.P. shall be kept for five (5) years.
 - (2) Negative test result records shall be kept for a period of one (1) year.
- D. Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. §701(a)(1)(E), the Director of Personnel Management shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATE BOARD OF EDUCATION
PUBLIC SCHOOL SYSTEM

P.O. Box 501370, SAIPAN, MP 96950
TEL. NOS.: (670) 664-3727 / 3700
FAX NO.: (670) 664-3711/3798

ACKNOWLEDGEMENT FORM
FOR THE ALCOHOL AND DRUG FREE WORKPLACE POLICY

I _____ do hereby acknowledge the (Applicant or Employee)
receipt of the Public School System's Alcohol and Drug Free Workplace Regulations. I understand that I am required
to comply with the requirements of these regulations.

Print Name & Sign

Date

Social Security Number: _____

Signature of Witness: _____

Date

Original to be filed in Employee's PSS Personnel File. Copy to Employee and Office of Personnel Management



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



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

PUBLIC NOTICE

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PROPOSED AMENDMENTS TO PUBLIC SCHOOL SYSTEM REGULATIONS REGARDING TEACHER CERTIFICATION AND QUALIFICATION (PRAXIS TESTING), ANNUAL LEAVE FOR CERTIFIED PERSONNEL, SICK LEAVE AND ANNUAL LEAVE FOR HEAD START PERSONNEL, HEAD START FINANCIAL REGULATIONS REGARDING LEASES, PAY DIFFERENTIALS FOR PROFESSIONAL DEVELOPMENT ACTIVITIES AND CHILD CARE ADMINISTRATIVE REGULATIONS

The Board of Education for the Commonwealth of the Northern Mariana Islands (Board) hereby notifies the general public of its intention to amend current regulations regarding the above items. These proposed amendments are attached and the revisions are noted in italics and strike through font. Once finally promulgated, the following regulations will be amended:

1. Chapter 1, Part F, §1601- §1603 of Public School System (PSS) Regulations for Certified Personnel (PRAXIS testing - New Sections);
2. Chapter 2 of PSS Regulations for Certified Personnel Sections (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(i), (f)(3)(A)(i) and (iv), (f)(4)(A)(i) and (vi), and (f)(5)(A)(i)), as proposed in the Commonwealth Register Volume 26 Number 01 on January 22, 2004 and as finally published in the Commonwealth Register Volume 26 Number 03 on March 23, 2004;
3. PSS Regulations for Certified Personnel §7302 (Annual Leave), as proposed in the Commonwealth Register Volume 26 Number 01 on January 22, 2004 and as finally published in the Commonwealth Register Volume 26 Number 05 on May 24, 2004;
4. Head Start Program Human Resources Regulations §8312 and §8313 (Annual and Sick Leave), as proposed in the Commonwealth Register Volume 25 Number 08 on September 18, 2003 and as finally published in the Commonwealth Register Volume 26 Number 01 on January 22, 2004;
5. Head Start Program Financial Regulation §8840 (Leases) as proposed in the Commonwealth Register Volume 25 Number 08 on September 18, 2003 and as finally published in the Commonwealth Register Volume 26 Number 01 on January 22, 2004;

6. Child Care Administrative Regulations, as published in the Commonwealth Register Volume 25 Number 11 on December 15, 2003 (NOTE: The December 2003 publication was for comment and the Board made substantive changes based on comments received. Therefore, these regulations are published again for comment and are published in their entirety with the changes since December noted); and
7. PSS Regulations for Non-Certified Personnel §6401 and PSS Regulations for Certified Personnel §7401 (pay differential), as proposed in the Commonwealth Register on March 15, 1995 and as finally adopted in the Commonwealth Register on May 15, 1995 (NOTE: These 1995 pay differential sections as amended herein are now numbered and incorporated into the Certified and Non-Certified Personnel Regulations (1997)).

Statutory Authority: The proposed amendments and regulations are promulgated pursuant to the Board of Education's (Board) authority as provided by Article XV of the CNMI Constitution and Public Law 6-10 (1 CMC §2261 et seq.).

Goals, Objectives and Brief Summary of Proposed Amendments: These proposed regulations and amendments address the areas listed below and are promulgated for the purposes noted below.

1. Chapter 1, Part F, §1601- §1603 of PSS Regulations for Certified Personnel: This part creates a core knowledge testing requirement for teacher applicants and current teachers. These proposed regulations require that applicants and teachers pass the PRAXIS test in order to qualify for or maintain employment as a teacher with PSS. PSS proposes this testing requirement to assure quality services to students in the CNMI and to meet the highly qualified requirements in the *No Child Left Behind Act*.
2. Chapter 2 of PSS Regulations for Certified Personnel Sections (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(i), (f)(3)(A)(i) and (iv), (f)(4)(A)(i) and (vi), and (f)(5)(A)(i): These sections were amended to 1) clarify that eligibility requirements for the provisional certificate must be met before applicants can move to the next levels of certification and 2) require that teachers meet core knowledge requirements in compliance with the *No Child Left Behind Act* by ensuring that teachers pass the PRAXIS test.
3. PSS Regulations for Certified Personnel §7302: This section addresses annual leave for certified employees, such as teachers, and 190 day employees, such as teacher aides. This amendment clarifies that employees who work on 190 day contracts and earn 5 days (40 hours) of annual leave per year must exhaust the annually earned leave of 40 hours before using any accrued leave.

4. Head Start Program Personnel Regulation §8312 and §8313: These sections address the annual and sick leave benefits of Head Start Certified and Non-Certified Employees. The sections are amended to conform with all other PSS employees' annual and sick leave benefits, which grant certified and 190 day employees 5 days (40 hours) of annual leave per year and 5 days (40 hours) of sick leave per year.
5. Head Start Program Financial Regulation Section 8840: This section is amended to conform with federal requirements regarding the financial and accounting policies of Head Start Programs as recommended by Region IX.
6. Child Care Administrative Regulations: The proposed regulations and amendments set forth the Public School System Child Care Program's Administrative Rules for child care recipients and providers, including eligibility and income requirements, The regulations are intended to inform all child care recipients and providers and the community of the procedures for obtaining child care benefits and the procedures for denial and suspension of benefits as well as the appeal process.
7. PSS Regulations for Non-Certified Personnel §6401 and Certified Personnel §7401: These regulations address additional compensation for employees performing duties outside of their duties and responsibilities and/or beyond standard government working hours. The proposed amendment is intended to show appreciation for those PSS employees who routinely provide professional development services for PSS outside of their usual responsibilities and/or beyond standard government working hours.

Citation of Related and/or Affected Board Regulations: None other than the actual regulation being amended as noted above.

Contact Person: All interested persons may examine the proposed amendments and regulations 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 proposed amendments and regulation.

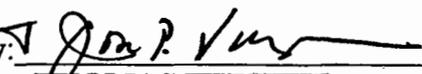
Dated this 26th day of July 2004, at Saipan, Northern Mariana Islands.

By: 
ROMAN C. BENAVENTE
Board of Education Chairperson

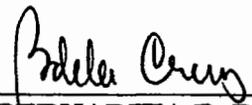
Pursuant to 1 CMC Section 2153, as amended by Public Law 10-50, the proposed Board of Education amendments and regulations, copies of which are attached hereto, have been reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

gr Approved by: 
PAMELA BROWN
CNMI Attorney General

Date: 8/25/04

Received by: 
THOMAS TEBUTEB
Special Assistant for Administration

Date: 8/25/04

Filed by: 
BERNADITA B. DELA CRUZ
Commonwealth Register

Date: 8/26/04

COMMONWEALTH I SANKATTAN SIHA NA ISLAS MARIANA

Kuetpon i Edukasion Estâdos
Sisteman Eskuelan Publiku
P.O. Box 501370
Saipan, MP 96950

NOTISIAN PUBLIKU

MAN MAPROPONE NA AMENDASION SIHA PARA I REGULASION SISTEMAN ESKUELAN PUBLIKU NI TINENETA I SETIFIKASION YAN KUÁLIFIKASION MA'ESTRA / MA'ESTRO (PRAXIS TEST), ANNUAL LEAVE PARA I EMPLEAO NI MAN MASETIFIKA, SICK LEAVE YAN ANNUAL LEAVE PARA I EMPLEAON HEAD START, REGULASION SALAPE' HEAD START NI TINETEKTA I RIENDO SIHA, INAPÅSEN DINIFIRIENSA SIHA PARA AKTIBIDÁT INADULÁNTAN PROFESIONÁT YAN REGULASION ATMINISTRADOT INADAHEN PÁTGON

I Kuetpon i Edukasion para i Commonwealth I Sankattan Siha Na Islas Mariana este na momento manotififika i publiku henerat pot i intension para hu ma'amenda i presente na regulasion siha ni tineteka i asunto ni ma'enlista gi sanhilo'. Este man mapropone na amendasion man che'che'ton yan i ribision siha man manota gi italic siha yan man marâya todú i letra siha. Yanggen esta potfen man ma'establesi, i sigente na regulasion siha siempre man ma'amenda.

1. Kapitulu 1, Pátte' F, Seksiona 1601 - 1603 gi Regulasion Sisteman Eskuelan Publiku para Empleao ni man Masetifika (PRAXIS Testing - Nuebu na seksiona siha);
2. Kapitulu 2 gi Sisteman Eskuelan Publiku para Empleao ni Masetifika Seksiona (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(i), (f)(3)(A)(i) yan (iv), (f)(4)(A)(i) yan (vi), yan (F)(5)(A)(I)), ni mapropone gi Rehistran i Commonwealth Baluma 26 Numiru 01 gi Ineru 20, 2004 ya potfen mapupblisa gi Rehistran i Commonwealth Baluma 26 Numiru 03 gi Mátso 23, 2004;
3. I Regulasion siha gi Sisteman Eskuelan Publiku para man Masetifika na Empleao Seksiona 7302 (Annual Leave), ni ma'amenda gi Rehistran i Commonwealth Baluma 26 Numiru 01 gi Ineru 20, 2004 ya potfen mapupblisa gi Rehistran i Commonwealth Baluma 26 Numiru 05 gi Mâyú 24, 2004;
4. I Regulasion siha gi Programan Head Start Human Resources Seksiona 8312 yan 8313 (Annual yan Sick Leave), ni ma'amenda gi Rehistran i Commonwealth Baluma 25 Numiru 08 gi Septiembre 18, 2003 ya potfen mapupblisa gi Rehistran i Commonwealth Baluma 26 Numiru 01 gi Ineru 20, 2004;

5. I Regulasion Salâpe' i Programan Head Start Seksiona 8840 (ariendo siha) ni mapropone gi Rehistran i Commonwealth Baluma 25 Numiru 08 gi Septiembre 18, 2003 ya potfen mapupblisa gi Rehistran i Commonwealth Baluma 26 Numiru 01 gi Ineru 20, 2004;
6. Regulasion Atministradot Inadahen Pâtgon, ni mapupblisa gi Rehistran i Commonwealth Baluma 25 Numiru 11 gi Disiembre 15, 2003 (Nota: I Disembre 2003 na publikasion para opinion yan finatinas tinilaika siha ginen i Kuetpo sigun i opinion ni man marisibe'. Enoa na, este na regulasion siha man mapupblisa talu para opinion yan mapupblisa gi enterun-niha ni i tinilaika siha des di Disiembre anai manota); yan
7. I Regulasion siha gi Sistemán Eskuelan Públiku para i ti man Masetifika na Empleao Seksiona 7401 (inapâsen dinifiriensia) anai mapropone gi Rehistran i Commonwealth gi Mátso 15, 1995 ya potfen ma'adopta gi Rehistran i Commonwealth gi Mâyú 15, 1995 (Nota: Este 1995 na inapâsen dinifiriensia na seksiona siha anai ma'amenda este na momento man manumiru yan mana halom gi Regulasion Masetifika yan Ti man Masetifika na Empleao (1997)).

Aturidât i Lai: I mapropone na amendasion yan regulasion siha man ma'establesi sigun para i aturidât i Kuetpon i Edukasion ni maprobeniyi ginen Atikulu XV gi Constitution i Commonwealth I Sankattan Siha Na Islas Marianas yan Lai Públiku 6-10 (1 CMC Seksiona 2261 et.seq.).

Finiho, Asunto, yan Kada'da' Na Mensáhe Pot I Man Mapropone Na Amendasion Siha: Este man mapropone na amendasion siha ha diklâklâra i asunto siha ni man malista gi sanpapa yan ma'establesi pot rason ni man manota gi sanpapa.

1. Kapitulu 1 Pátte F, Seksiona 1601 - 1603 gi Regulasion Sistemán Eskuelan Públiku para i man Masetifika na Empleao: Este na pátte a establesi i itmâs na tiningo nisisidât testing para i aplikânte siha ni ma'estra yan i presente na ma'estra / ma'estro siha. Este man mapropone na regulasion siha ha rekomenda na i aplikânte yan i ma'estra / ma'estro siha hu maganna' i PRAXIS Test an para hu fan kuálifikao para pat u fan ma'emplea gi ma'estran Sistemán Eskuelan Públiku.
2. Kapitulu 2 gi Regulasion Sistemán Eskuelan Públiku para i man Masetifika na Empleao Seksiona (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(i), (f)(3)(A)(i) yan (iv), (f)(4)(A)(i) yan (vi), yan (F)(5)(A)(I): Este na seksiona siha man ma'amenda para 1) hu klarifika i manisisita na kuálifikasion para i setifikasion probension debi di hu makomple ântes di i aplikânte hu hanao para otro na pasun setifikasion yan 2) manisisita i ma'estra / ma'estro para hu makomple i mâs prisisu na nisisidât tiningo' ni hu tinatiye' ni Akton No Child Left Behind ni para hu ensura na i man ma'estra hu maganna i PRAXIS Test.

3. I Regulasion Sisteman Eskuelan Publiku para i man Masetifika na Empleao Seksiona 7302: Este na seksiona ha diklâklâra i annual leave para i man masetifika na empleao siha, tât kumo i ma'estra /ma'estro siha, yan i empleaon siento nobienta (190) diha na kontrâta, tât kumo i ayudânten i ma'estra / ma'estro siha. Este na amendasion ha klarififika na i empleao siha ni man macho'cho'chu' siento nobienta (190) diha na kontrâta ya marisisibe' singko (5) diha siha (kuârenta (40)ora siha) na annual leave kada sakkan debi di hu mala'chai i kuârenta (40) ora siha ni man manâ'i' ântes di hu ma'usa i marikohe' na leave.
4. I Regulasion Empleaon Programan Head Start Seksiona 8312 yan 8313: Este na seksiona siha ha diklâklâra i annual yan sick leave na benifisio gi man masetifika yan ti man masetifika na empleao gi Head Start. Este na seksiona siha man ma'amenda para hu konfotma yan todû i pumalu na empleaon i Sisteman Eskuelan Publiku, ni man manâ'i' i man masetifika yan i siento nobienta (190) diha na kontrâtan i empleao siha ni singko (5) diha siha (kuârenta (40) ora siha) gi annual leave kada sakkan yan singko (5) diha siha (kuârenta (40) ora siha) gi sick leave kada sakkan.
5. I Regulasion Salâpe' gi Programan Head Start Seksiona 8840: Este na seksiona ma'amenda para hu konfotma ni nisisidât federât ni tineteka i areklamenton salâpe yan kontadot fengkas gi Programan Head Start ni marekomenda ginen Region IX.
6. I Regulasion Atministradot Inadahen Pâtgon: I mapropone na regulasion yan amendasion siha ni mamensiona gi Areklamento Atministradot Inadahen Pâtgon na Programa gi Sisteman Eskuelan Publiku para i murisisibe' yan sumetbibisio ni Inadahen Pâtgon , ha enkluklusu kuâlifikasion yan nisisidât guinaha, i regulasion siha ma'entensiona para hu infotma todû i murisisibe' yan sumetbibisio ni Inadahen Pâtgon yan i komunidât pot i areklamento siha para hu mana guaha benifision Inadahen Pâtgon yan i areklamento siha para i ti man ma'aksepta yan i mana fanpâran-ñaihon ni benifisio parehu ha yan i manehan i diniroga.
7. I Regulasion i Sisteman Eskuelan Publiku para i Ti man Masetifika na Empleao Seksiona 6401 yan i man Masetifika na Empleao siha Seksiona 7401: Este na regulasion ha diklâklâra mas na âpas para i empleao siha ni mapotfofotma cho'chu' ni ti che'cho-niha yan responsabilidât siha yan/pat inipus oran cho'chu' gobietnamento. I mapropone na amendasion ma'entensiona para hu na'annok aprisiasion para eyo na empleao siha gi Sisteman Eskuelan Publiku ni sesso' maprobeniyi setbisiun inadulânta para i Sisteman Eskuelan Publiku fuerra di mismo i responsabilidadat yan/pat inipus oran cho'chu' gobietnamento.

Sitasion i Man Achule' yan/pat Inafekta Na Regulasion Siha gi Kuetpo: Tâya mäs di i regulasion siha ni ma'amenda ya manota gi sanhilo'.

Petsona Ni Para Hu Ma'agan: Todu i man enteresao na petsona siña ma'eksamina i man mapropone na amendasion yan regulasion siha ya hu fan nahalom tinige' opinion, pusision, pat deklarasion para pat i kumokontra i mapropone na amendasion siha guatto i Kabiseyon i Kuetpo, Kuetpon i Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, ágan i numiru 664-3727 pat fax gi 664-3711 gi halom trenta (30) diha siha gi kalendário tinatitiye' i fechan i publikasion gi Rehistran i Commonwealth pot este man mapropone na amendasion yan regulasion siha.

Mafecha este mina bente-sais (26) na diha gi Julio 2004, giya Saipan, gi Sankattan Siha Na Islas Mariana.

Ginen as: 
ROMAN C. BENAVENTE
Kabiseyon i Kuetpon i Edukasion

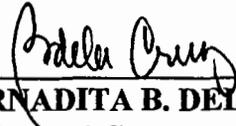
Sigun i Lai 1 CMC Seksiona 2153, ni inamenda ginen i Lai Pupbliku 10-50, i mapropone na regulasion yan amendasion ni Kuetpon i Edukasion i kopia siha ni man ch'che'ton este na momento, esta man maribisa yan aprueba pot para u fotma yan ligát suficiente ginen i Ofisinan i Abugádo Henerát.

Ma'aprueba ginen as: _____
PAMELA BROWN
Abugádo Henerát i CNMI

Fecha: _____

Marisibe' as: 
THOMAS TEBUTEB
Espesiát Na Ayudante Para I Atministrasion

Fecha: 8/25/04

Pine'lo as: 
BERNADITA B. DELA CRUZ
Rehistran i Commonwealth

Fecha: 8/26/04

COMMONWEALTH TĒĒL FALÚW KKA FALÚWASCH MARIANAS
STATE OF EDUCATION
PUBLIC SCHOOL SYSTEM
P.O. BOX 501370
SEIPEL, MP 96950
ARONGOL TOULAP

**POMWOL LLIWEL KKAAL NGALI ALLÉGHÚL IMWAL RÁGHĒFISCH KKAAL
BWELLE ALUGHÚLUGHÚL SÓW AFAL ME FILLONGOL (PRAXIS TESTING),
ANNUAL LEAVE REEL CERTIFIED PERSONNEL, SICK LEAVE ME ANNUAL
LEAVE NGALI HEAD START PERSONNEL, ALLÉGHÚL HEAD START FINANCIAL
BWELLE LEASES, ALLÉGHÚL SELAAPI YE E KKFESÁNG ÓBWÓSSUL NGALI
PROFESSIONAL DEVELOPMENT ACTIVITIES ME ALLÉGHÚL CHILD CARE
ADMINISTRATIVE**

Mwiischil imwal rághēfisch llól Commonwealth falúwasch Marianas (mwiisch) ekke arongaar aramas toulap reel aghiyeghil igha ebwe ssiwel alléghúl ighila bwelle kkapas ye weiláng. Pomwol liwel kkaal me ssiwel kkaal ikka e appasch nge e ischil italic me fféer sáangi font. Ngáre schagh e fisch pomwol, táilil allégh kkaal nge ebwe liwel sefál:

1. Ghilighil 1. Peigh F, Táilil 1601-1603 reel alléghúl imwal rághēfisch (PSS) kkaal ngáli Certified Personnel (PRAXIS testing-Táilil kka e ffe);
2. Ghilighil 2 ngáli alléghúl imwal rághēfisch reel peigh kka llól Certified Personnel (e)(4), (f)(1)(A)(iii)(g), (f)(2)(A)(i) me (iv), (f)(4)(A)(i) me (iv), me (f)(5)(A)(i), ye aa alughulughulo mellól Commonwealth Register Volume 26 Numoro 01 ótol Schoow 20, 2004 me schéschéél akkatéélong llól Commonwealth Register Volume 26 Numoro 03 ótol Mááischigh 23, 2004;
3. Alléghúl PSS reel Certified Personnel talil 7302 (Annual Leave), ye alúghúlúghúló llól Commwealth Register Volume 26 Numoro 05 ótol Ghúúw 24, 2004; 24, 2004;
4. Progromaal Head Start, Alléghúl Human Resources talil 8312 me táilil 8313 (Annual me Sick Leave), ye raa fasúl pomwoli ló llól Commonwealth Register Volume 25 Numoro 08 ótol Maan 18, 2003 me igha aa allégheló mellol Commonwealth Register Volume 26 Numoro 01 otol Schoow 20, 2004;
5. Alléghúl Progromaal Head Start táilil 8840 (Leases) ye raa fasúl pomwoli mellól Commonwealth Register Volume 25 Numoro 08 otol Maan 18, 2003 me iye aa schescheel akkateewow mellol Commonwealth Register Volume 26 Numoro 01 ótol Schoow 20, 2004;
6. Alléghúl Child Care Administrative, ye e akkatééló mellól Commonwealth Register Volume 25 Numoro 11 ótol Tumwur 15, 2003 (Ammataf: Akkateel Tumwur 2003 e aghiyeghi me weletchar kka e ssiwel sangi mángemáng kka re bwughil. Iwe, allégh kkaal ebwal akkaté sefál bwelle aghiyegh kkaal me arongowowul mellól alongal ssiwel sáangi ammatafal Tumwur we); me

7. Alléghúl PSS ngali Non-Certified Personnel talil 6401 me Alléghúl PSS reel Certified Personnel talil 7401 (ghilighilil óbwos), ye aa pomwoló llól Commonwealth Register ótol Maailap 15, 1995 me igha aa schescheel fillooy mellol Commonwealth Register wool Maailap 19, 1995 (Ammataf: Llól 1995, óbwos ye e kkofesang mellól tálil ye aa lliwel ighila ye aa mil nomoroló me fillongol llól Alúghúlúgh me Alléghúl Non-Certified Personnel kkaal (1997).

Akkatéél Bwángil: Pomwol lliwel kkaal me allégh kka aa akkatééló bwelle reel bwángil Mwiischil imwal rághefish (mwiisch) ye e toowow mereel Article XV ngáli CNMI Allégh Lapalap me Alléghúl Toulap 6-10 (1CMC talil 2261 et seq.).

Aweweel kkapasal Allégh me Aweweel Pomwol lliwel kkaal: Pomwol allégh kkaal me lliwel kkaal ngáli mwiischil imwal rághefish (mwiisch) ekki bwaári lista kka elo faal me aa akkatééwow bwelle reel kkapas ye faal.

1. Ghilighil 1, Peigh F, tálil 1601-1603 ngáli alléghúl PSS reel Certified Personnel: Peigh yeel nge ebwe aghiyeghiy fishiyy schéél tittingór reer sow afal me school afal kka ighila. Pomwol allégh kkaal ebwe yááyá ngáli igha schóól tingór me sów afal re atakka mille PRAXIS bwelle rebwe fillong reel me rebwe akkamwasch angaang ngáre sów afal mellól PSS. PSS ekki pomwoli yááyál testing igha ebwe alúghúlúghúw ghatchúl setbisio ngáliir atel meleitey mellól CNMI me ebwe toolong llól tittingór kka e fish llól No Child Left Behind Act.

2. Ghilighil 2. ngáli Alléghúl PSS reel peigh kka llól Certified Personnel (e)(4),(f)(1)(A)(iii)(g), (f)(2)(A)(i), (f)(2)(A)(i) me (iv), (f)(4)(A)(i) me (vi) (f)(5)(A)(i): tálil kkaal nge e lliwel ngáli 1) affata bwe tittingor kka e fil ngáli alléghúl certificate nge ebwe alúghúlúgh mmwal igha schéél tingór ebwe toolong llól eew mwóghútúl certification me 2) e tittingór sów afal rebwe tabweey tingórol aghiyeghefish bwelle appélúghúlúghúl No Child Left Behind Act sáangi alúghúlúghúl reel sów afal ebwe atakka PRAXIS test.

3. Alléghúl PSS reel Certified Personnel tálil 7302: Tálil yeel nge ekki bwaári annual leave reer certified employees, sibwe ira sów afal, me ebwúghúw tiweigh (190) ráálil schoól angaang, sibwe ira teacher aid (sów alillisil sów afal). Lliwel yeel ekki affata bwe schoól angaang kka re angaang ngali ebwúghúw tiweigh (190) ráálil contract me ekki féerú 5 days (40 hours) annual leave ótol eew ráágh nge ebwe yááli (40 hours) annually mmwal igha ebwe yááli accrued leave.

4. Alléghúl Programaal Head Start tálil 8312 me tálil 8313: Tálil kkaal ekki bwaári annual me sick leave benefits reel Head Start Certified me Non-Certified Employees. Tálil yeel nge aa lliweló reel ebwe alléghúw alongal jaar PSS employees' annual me sick leave benefits, ye e ngalleer alúghúlúgh me ebwughuw tiweigh (190) ráálil schoól angaang 5 days (40 hours) reel annual leave llól eew ráágh me 5 days (40 hours) reel sick leave llól eew raagh.

5. Programaal Head Start, alléghúlsalaapi tálil 8840: Tálil yeel nge e ssiweló igha ebwe alúghúlúgh fengál me tittingórol federood bwelle salaapial me alléghul accounting reel Programaal Head Start ye region IX ekki tittingór.

6. Alléghúl Child Care Administrative: Pomwol allégh kkaal me lliwel kkaal ye aa aléghéléghúw alléghúl Public School Child Care Program's Administrative recipients me providers, ebwal toolong schóól fillong me tingórol income. Allégh kkaal nge re aghiyeghi igha ebwe alúghúlúgh alongal Child care recipients me providers me schóól mwóghútúl llól sóóbw reel rebwe akkamwasch alillisil child care me mwóghútúl igha rese atiwa fischiir me akkayuulóól yaar alillis me bwal mwóghútúl appeal process.

7. Alléghúl PSS reel Non-Certified Personnel talil 6401 me Certified Personnel táil 7401: Allégh kkaal ekke appasa akkáaw alillis ngáliir schóól angaang reel yaar mwóghútúf tafaal me bwángiir me/ ngáre tafaal alléghul ótol Gobenno. Pomwol lliwel yeel nge ekke aghiyeghi reel ebwe alisiir schóól angaangal PSS kka re féerú ghuleyeer ngáli PSS sáangi schéschéél bwángiir me/ngáre tafaal mwóghútúl Gobenno.

Akkatéél bwángil akkáaw allégh me/ngáre schóókka re weires llól allégh kkaal: Esóór bwe allégh kka aa lliweló sáangi ammataf ye weilang.

Aramas ye ubwe faingi: Schóókka eyoor mángemángiir nge emmwel rebwe bwúngúw fischiir pomwol lliwel kkaal me alléghúl me ngáre ischilong, bwuley, me ngáre aweewe reel me aingiing reel pomwol lliwel kkaal ngáli Chairperson, Mwiischil Imwal raghefish. P.O. Box 1370 CK, Seipél, MP 96950, faingi 664-3727 me fax reel 664-3711 llol eliigh (30) rááil mwiril schagh yaal akkaté pomwol lliwel kkaal me alléghul mellól Commonwealth Register.

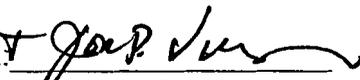
Ráil ye 26 llól July 2004, me Seipél, Téél Falúwasch Marianas.

Sáangi: 
RAMON C. BENAVENTE
Assamwolul mwiischil imwal raghefish

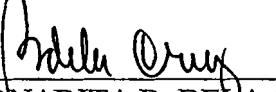
Sáangi allégh ye 1CMC Talil 2153, iye aa lliwel mereel Alléghl Toulap 10-50, pomwol lliwel reel mwiischil imwal rághhefish me allégh kkaal, kkopia kkaal ikka e appasch nge raa takkal bwúngúw fischiir me alúghúlúghúló mereel Bwulasiyool Sów Bwúngúl Allégh Lapalap.

Alúghúlúgh sáangi: _____
PAMELA BROWN
CNMI Sów Bwúngúl Allégh

Rál

Mwir sáangi: 
THOMAS TEBUTEB
Sów alillisil Sów Lemelem

8/25/04
Rál

Aisis sáangi: 
BERNADITA B. DELA CRUZ
Commonwealth Register

8/26/04
Rál

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 1

F. Core Knowledge Testing Requirement

§1601 PRAXIS. All teacher applicants and all current teachers upon contract renewal shall submit proof to PSS that he or she has received a passing grade on the PRAXIS core knowledge examination. Passing scores will be determined by the Commissioner of Education and announced to teachers and applicants.

§1602 Procedure.

- a) PRAXIS shall be administered to all teacher applicants prior to placing their names on the list of eligible applicants for teaching positions.
- b) All current PSS teachers shall be required to complete this examination prior to expiration date of their current employment contract.
- c) The result of the PRAXIS examination will determine a current teacher's eligibility for contract renewal and applicant's eligibility for employment.
- d) A current teacher's failure to take the test or to obtain a passing score shall result in his or her employment contract not being renewed.
- e) A teacher applicant's failure to take the test or to obtain a passing score shall result in ineligibility for employment.

§1603 Timeline.

- a) PRAXIS testing will be offered to teachers and teacher applicants beginning in school year (SY) 2004/2005.
- b) All newly recruited PSS teachers for SY 05/06 shall be required to have taken and passed the PRAXIS entrance examination in order to qualify for employment with PSS.
- c) All current PSS teachers whose contracts expire after August 31, 2005 shall be required to take and pass the PRAXIS entrance examination prior to contract renewal.
- d) Beginning August 31, 2006, all teachers employed by PSS will have taken and passed the PRAXIS exams.

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 2

(e) Eligibility for all five certifications:

1. **Criminal History:** The applicant must be free from any felony conviction or any crime involving moral turpitude, or indicating an unfitness to teach whether a felony or a misdemeanor. A "felony" shall mean any criminal offense punishable by one or more years of imprisonment. A "misdemeanor" shall mean any criminal offense punishable by less than one year of imprisonment.
2. **No Disciplinary Sanctions:** The applicant must not have had a suspension or revocation of his/ her certificate or license by any other state or national agency.
3. **No Physical or Mental Disability Preventing Service:** The Applicant must not possess a physical or mental disability that would prevent the applicant from safely and effectively performing job-related functions or that poses a significant risk of substantial harm to the health or safety of students, co-workers, or others and such risk that cannot be eliminated or reduced by reasonable accommodation.
4. **Core Knowledge Examination:** *All certification applicants must take and pass PRAXIS I–III exams. Provisional certification applicants must take and pass PRAXIS I. Basic certification applicants must take and pass PRAXIS II exam. Standard certification applicants must take and pass PRAXIS III.*

(f) Types of Certification and Requirements

The Commonwealth shall have five general levels of certification for professionals in the field of education: Provisional, Specialized, Basic, Standard, and Professional.

1. **Provisional Certificate** is a two-year certificate for teachers, librarians, school counselors, related service providers, instructors, and school administrators.

A. Eligibility Requirements:

- i. The Provisional Certificate requires that teachers, school librarians, school counselors, school administrators and other professional applicants to possess either a baccalaureate, masters, or doctoral degree resulting from a course of instruction of at least three and

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

- ii. Provisional Certificate for Instructor applicants in specialized areas must meet the minimum requirements as set forth in the PSS classification guidelines.
- iii. Submittal of documentation requirements prior to effective date of employment. Requirements include:
 - a. Complete and signed application form,
 - b. Two passport size photos,
 - c. Official college transcripts,
 - d. Teaching certificate (if any),
 - e. Receipt of payment from PSS Treasurer for certification processing fee, and
 - f. FBI fingerprint submission.
 - g. *Test Result showing that an applicant has taken and passed PRAXIS I exam.*

B. Education: Certification Course Requirements

Prior to the two-year expiration date of the Provisional Certificate, the applicant must provide an official transcript or certificate of completion of the Basic Certificate courses or applicable certification courses.

- C. Term:** The Provisional Certificate is invalid after its expiration date and shall not be reissued. Requirements must be satisfied to upgrade to the next certification level.

2. **Specialized Certificate:** A Specialized Certificate is a two-year certificate specifically for instructors who do not have a bachelors degree but have

specialized training/experience in a particular field or has met the minimum requirements established by PSS.

A. Eligibility Requirements:

- i. ~~Possess a~~ Meet eligibility requirements for Provisional Certificate.
- ii. All instructors must submit a completed and signed application form in the CNMI under the penalty of jury for a Specialized Certificate within the first quarter of employment.
- iii. Submit receipt of payment from PSS Treasurer for certification processing fee within the first quarter of employment.

B. Education: Certification Course Requirements

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

- i. Specialized Certification in Bilingual Program: Instructors assigned to teach in a Bilingual program must complete the following courses or equivalent:
 - a. Computer Technology
 - b. Instruction in Teaching Linguistically Diverse Students
 - c. Instruction in Chamorro/Carolinian Language Arts
 - d. Instruction in Planning and Assessment for Diverse Classroom
 - e. Instruction for Students with Disabilities
 - f. Instruction in Lesson Planning and Classroom Management
 - g. Chamorro or Carolinian Orthography
- ii. Specialized Certificate in Early Childhood (Head Start): Instructors teaching in the Head start program must complete the following courses or equivalent:
 - a. Computer Technology
 - b. Curriculum in Early Childhood Education
 - c. Education for Parenthood
 - d. Guiding and Nurturing

- e. Safety and First Aid for Young Children
- f. Administration in Early Childhood Education
- g. Introduction to Exceptional Individuals

iii. Specialized Certificate in Vocational Education:
Instructors for Vocational Education classes must complete the following courses or equivalent:

- a. Computer Technology
- b. Instructional Strategies and Classroom Management
- c. Instructional in Teaching Linguistically Diverse Students
- d. Instruction in Planning and Assessment
- e. Occupational Competency as approved by PSS

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

3. **Basic Certificate** is a three-year certificate for teachers, librarians, school counselors, and related service providers. Basic Certificate will be issued upon submission of completed requirements. If the applicant has met all the requirements for both the Basic Certificate and Standard Certificate with Endorsement, then the Standard Certificate will be issued.

A. **Eligibility Requirements:**

- i. Applicant must ~~possess a~~ *meet eligibility requirements for* Provisional Certificate.
- ii. The applicant must submit a recommendation from his/her principal or supervisor, which shall be based on the performance evaluation of the employee. Should the employee's performance evaluation meet a rating of satisfactory or above, he/she shall be issued a letter of recommendation for the Basic Teaching Certificate.
- iii. The applicant must submit a copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education Certification.
- iv. *Test Result showing that an applicant has taken and passed PRAXIS II exam.*

B. Education: Certification Course Requirements

- i. Any teacher or librarian applying for the Basic Certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or any identified equivalent courses as accepted by PSS, prior to the expiration date of the Provisional Certificate and before issuance of the Basic Certificate.
 - a. Multicultural Education/Teaching Linguistically Diverse Students
 - b. Teaching Reading
 - c. Inclusive Practice for Students with Learning Disability
 - d. Instructional Strategies/Classroom Management
 - e. Internship or Mentoring Program
 - f. Computer Technology

- ii. Any school counselor applying for the Basic Certificate must have satisfactorily completed and submitted an official transcript of the following course requirements or identified equivalent as accepted by PSS, before the expiration date of the Provisional Certificate and before the issuance of the Basic Certificate.
 - a. Computer Technology
 - b. Test and Measurement
 - c. Introduction to Counseling
 - d. Issues and Philosophies of Culturally Diverse Schools
 - e. Multicultural Counseling
 - f. Counseling Process: Theory
 - g. Counseling Process: Practice

C. Term: The Basic Certificate shall be issued and valid for a period of three (3) years. The Basic Certificate is invalid after its expiration date and shall not be reissued.

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

A. Eligibility Requirements:

- i. The applicant must ~~possess a~~ *meet eligibility requirements for the Provisional Certificate* and ~~has met the requirements of~~ the Basic Certificate.

- ii. Three recommendations including performance evaluations: one (1) from an immediate supervisor or school principal, one (1) from a colleague, and one (1) from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.
- iii. A signed application form in the CNMI under the penalty of perjury.
- iv. An official transcript showing satisfactory completion of the required courses or equivalent or a certificate of completion.
- v. A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education.
- vi. *Test Result showing that an applicant has taken and passed PRAXIS III exam.*

5. **Professional Certificate** is a ten-year certificate for qualified teachers, school counselors, and librarians and related service providers. Upon completion of the Standard Certificate with Endorsement, an applicant may pursue the Professional Certificate. For school administrators, the Professional Certificate is a four-year certificate.

A. Eligibility Requirements:

- i. *Meet the eligibility requirements of a Standard Certificate with Endorsement.*
- ii. A signed application form.
- iii. Three recommendations including performance evaluations: one (1) from an immediate supervisor or school principal, one (1) from a colleague, and one (1) from a parent, or former student describing the candidate's proficiency, skills, and competency. The performance evaluations must be based on cumulative performance over a contract term.
- iv. Proof of current membership of professional education association and specialized endorsement.
- v. A copy of receipt from the CNMI PSS Treasurer in the amount required by the CNMI Board of Education Certification.

B. Education: Certification Course Requirements

- i. The applicant must provide a certified copy of the transcript of courses showing satisfactory completion of a master or doctorate degree in the field of education; or a masters or doctorate degree in a specialized field area. The specialized fields area shall include any of the following for classroom teachers, librarians, school counselors, and school administrators:
 - a. Secondary Education Masters in Specialized Content Area
 - b. Special Education
 - c. Early Childhood Education
 - d. Counseling
 - e. Education: Administration and Supervision
 - f. Other specialized area in education

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 7

C. Leave for Certified Employees

§7302 Annual Leave

1. Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for annual leave with pay. A certified employee shall be given 5 days annual leave upon hire, per school year. Employees working a 190- day per year schedule, such as teacher aides, will also be given 5 days annual leave per school year.
2. Employee requests to use annual leave must be made in advance of the period of time it is to be used and should be made in writing and as early as possible. Annual leave requests must be submitted in advance to the employee's direct supervisor and may only be used if it is approved by the direct supervisor.
3. Requests for the use of annual leave by certified employees during instructional time are discouraged and should be made infrequently. Such requests will only be approved in rare circumstances.
4. The maximum accumulation of annual leave shall be forty (40) hours per school year. Annual leave shall be cashed out at the end of each school year. Any leave accrued before August 1, 2004 shall not be lost and may be used *after the annual forty hours is exhausted* or *may be cashed out upon availability of funds or upon separation from PSS*. Separation shall mean that the employee will not work for the PSS for at least six (6) consecutive months, unless waived by the Commissioner of Education subject to approval of the Board of Education. The cash value of one hour of annual leave shall equal 1/2080th of the employee's annual salary at the time of separation.

§7303 Sick Leave

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

Absences, Leave and Vacation

Annual and Sick Leave for Certified Employees

Head Start certified employees shall follow PSS Policies and Regulations regarding Annual Leave and Sick Leave with proper approval from the immediate supervisor and final approval from the Head Start Director. Receipt or acceptance of donation for Sick leave will be forwarded to the HRO with approval from the Head Start Director and final approval by the Commissioner of Education.

(a) **Annual Leave**

1. *Certified employees who have been contracted by the PSS Head Start for a period of three months or more are eligible for annual leave with pay. A certified employee shall be given 5 days annual leave upon hire, per school year. Other employees working a 190- day per year schedule, such as teacher aides, will also be given 5 days annual leave per school year. ~~Certified employees are eligible for annual leave with pay. A certified employee who has been employed by PSS or the CNMI government for six years or less shall accrue annual leave at the rate of two (2) hours per pay period. A certified employee who has been employed by Head Start Program for more than six years shall accrue annual leave at the rate of three (3) hours per pay period. Annual leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten week days of the pay period; otherwise there shall be no accrual for that pay period.~~*
2. Employee must submit annual leave requests in writing in advance to his/her direct supervisor and may only be used if the direct supervisor approves it.
3. Requests for the use of annual leave by certified employees during instructional time are discouraged and should be made infrequently. Such requests will only be approved in rare circumstances.
4. The maximum accumulation of annual leave shall be *forty (40) hours per school year. Annual leave shall be cashed out at the end of each school year with the employee's written request. Any annual leave not used or cashed out in the school year shall be lost. Any leave accrued before August 1, 2004 shall not be lost and may be used after the annual forty hours is exhausted or may be cashed out upon separation from PSS. Separation shall mean that the employee will not work for the PSS for at least six (6) consecutive months, unless waived by the Commissioner of Education subject to approval of the Board of Education.*

The cash value of one hour of annual leave shall equal 1/2080th of the employee's annual salary at the time of separation.

(b) **Sick Leave**

1. *Certified employees who have been contracted by PSS Head Start for a period of three months or more are eligible for sick leave with pay. Certified employees will accrue 5 days sick leave upon hire, per school year. Other employees working a 190- day per year schedule, such as teacher aides, will also be given 5 days sick leave per school year.* ~~Certified employees are eligible for sick leave with pay. Sick leave shall accrue for Certified employees at the rate of one and one-half hours per pay period. Sick leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten week days of the pay period; otherwise there shall be no accrual for that pay period. Sick leave accumulated over two hundred (200) hours shall be lost or may be donated to the sick leave bank. Sick leave shall have no cash value at anytime and unused portions shall carry over from year to year.~~
2. The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if (s)he and/or his/her immediate family are under a doctor ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment. Doctor's notes may be required by the employee's direct supervisor in their discretion prior to approving payment for the use of sick leave.
3. Whenever possible, sick leave shall be requested in advance of when it is needed and when possible medical appointments should be scheduled on an employee's own time. Except in emergency situations sick leave shall always be requested by the employee before 6:00 a.m. on the day it is to be used.
4. The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of their sick and annual leave already. The PSS shall follow the Office of Personnel Management guidelines for the sick leave bank unless directed otherwise by the Board of Education.

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

Absences, Leave and Vacation

Annual and Sick Leave for Non-Certified Employees

Head Start non-certified employees shall follow PSS Policies and Regulations regarding Annual Leave and Sick Leave with proper approval from the immediate supervisor and final approval from the Head Start Director. Receipt or acceptance of donation for Sick leave will be forwarded to the HRO with approval from the Head Start Director and final approval by the Commissioner of Education.

(a) Annual Leave

1. Non-Certified employees are eligible for annual leave with pay. Non-certified employees with less than three (3) years of creditable PSS service shall accrue annual leave at the rate of four (4) hours per pay period. Non-certified employees with less than six (6), but three (3) or more than three (3) years of creditable PSS service shall accrue annual leave at the rate of six (6) hours per pay period. Non-certified employees with six (6) or more years of creditable PSS service shall accrue annual leave at the rate of eight (8) hours per pay period. Annual leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten (10) week days of the pay period; otherwise there shall be no accrual for that pay period. *Employees working a 190- day per year schedule, such as teacher aides, will follow the leave regulations for certified personnel.*
2. Employee must submit annual leave requests in writing in advance to the employee's direct supervisor and may only be used if the direct supervisor approves it.
3. The maximum accumulation of annual leave shall be 360 hours. Annual Leave may be cashed out upon separation from the PSS. Separation shall mean that the employee will not work for the PSS for at least six (6) consecutive months, *unless waived by the Commissioner of Education subject to approval of the Board of Education and the Head Start Policy Council.* The cash value of one (1) hour of annual leave shall equal 1/2080th of the employee's annual salary at the time of separation. Annual Leave accrued in excess of 360 hours shall be converted to sick leave.

(b) Sick Leave

1. Non-certified employees are eligible for sick leave with pay. Sick leave shall accrue at the rate of four (4) hours per pay period. *Employees working a 190-day per year schedule, such as teacher aides, will follow the leave regulations for certified personnel.* Sick leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten (10) week days of the pay period; otherwise there shall be no accrual for that pay period. Sick leave shall have no cash value upon the employee's separation from PSS.
2. The use of sick leave shall allow the employee to be paid at his/her usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if he/she and/or his/her immediate family are under a doctor-ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine or medical appointment. Doctor's notes may be required by the employee's direct supervisor in his/her discretion prior to approving payment for the use of sick leave.
3. Whenever possible, sick leave shall be requested in advance of when it is needed, and when possible medical appointments should be scheduled on an employee's own time.
4. The Commissioner of Education is granted the authority to create a universal-sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of his/her sick and annual leave already. The PSS shall follow the Office of Personnel Management guidelines for the sick leave bank unless directed otherwise by the Board of Education.
5. Sick leave records shall be retained for a period of three (3) years after the employee separates from the PSS. If the employee becomes re-employed during that three (3) year time period, the sick leave balance shall be re-credited to the employee. If the employee does not again begin employment with the PSS within three (3) years of separation, the sick leave shall be lost.

FINANCIAL - ASSETS, LIABILITIES AND FUND BALANCE

Assets

(c) Leases

1. *Scope.* Any lease or purchase of CNMIHS vehicles or equipment shall be governed by this section. It applies to both the initial acquisition of vehicles or equipment and the renewal or extension of vehicle or equipment leases. The lease or purchase of vehicles and equipment shall be procured using an invitation for bids, unless it qualifies for other procurement methods. The Finance Director shall establish standard vehicle and equipment specifications which shall be updated on a regular basis (not less frequently than every 2 years). All vehicles and equipment leased or purchased shall be procured in the name of the CNMIHS, and shall conform to CNMI and applicable Federal laws.
2. *Lease Definitions.* Leases which meet the accounting criteria for capital leases in accordance with Statement of Financial Accounting Standard, Number 13, as amended, are recorded as property, plant and equipment, and the related capital lease obligations (the aggregate present value of minimum future lease payments, excluding executory costs such as taxes, maintenance and insurance) are included in long-term debt for financial reporting purposes. Depreciation and interest are charged to expense, and rent payments are treated as payments of long-term debt, accrued interest and executory costs. All other leases are accounted for as operating leases, and rent payments are charged to expense as incurred.
3. *Whether to Lease or Purchase.* CNMIHS shall consider whether to lease or purchase vehicles or equipment based on a case-by-case evaluation of comparative costs and other factors. The following factors are the minimum that shall be considered, and a record reflecting the application of these factors shall be provided in a form prescribed by the Finance Director and shall be included in the file:

(A) Estimated length of the period in which the vehicle or equipment is to be used and the extent of use within that period.

(B) Financial and operating advantages of alternative types and makes of vehicles or equipment.

(C) Cumulative rental payments for the estimated period of use.

(D) Net purchase price.

(E) Maintenance and other service costs.

(F) The following additional factors shall be considered, as appropriate, (i) availability of purchase options, (ii) potential for use of the vehicle or equipment by other agencies after its use by the acquiring agency is ended, (iii) trade-in or salvage value, (iv) imputed interest, and (v) availability of a servicing capability; e.g., can the vehicles or equipment be serviced by CNMIHS or other sources if it is purchased?

4. *Purchase method (capital lease). The purchase method is appropriate if the vehicles or equipment will be used beyond the point in time when cumulative leasing costs exceed the purchase costs.*

5. *Lease method (operating lease/long-term rental). The lease method is appropriate if it is to the CNMIHS's advantage under the circumstances. The lease method may also serve as an interim measure when the circumstances require immediate use of vehicles or equipment to meet program or system goals; but do not currently support acquisition by purchase.*

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF CERTIFIED PERSONNEL

Chapter 7

D. Other Compensation

§7401 Pay Differentials

1. After-school differential, coaching differential, summer school differential and Saturday school differential may be paid to PSS personnel who meet all BOE teacher certification requirements, *and* have previously consulted and obtained approval from the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. Persons receiving an after-school differential, coaching differential, summer school differential and/or a Saturday school differential shall not be eligible to receive overtime compensation. Coaches may receive a waiver of the certification requirement from the Commissioner for up to four years.
2. Proposed differentials:
 - A. Coaches: \$300/sports season
 - B. After-school: \$30/daily (not to exceed 2 hrs)
 - C. Saturday: \$60/half day session
 - D. Before school: \$15/daily session (not to exceed 1 hr)
 - E. Summer school: \$100/full day (6 periods)
 - F. \$60/half day (up to 4 periods)
3. *Professional Development Differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be \$100/day for Saturdays (four hours or longer seminar, workshop or training) and \$30/evening (two hour or longer workshop or training after working hours).*

REGULATIONS FOR THE PUBLIC SCHOOL SYSTEM EMPLOYMENT OF NON-CERTIFIED PERSONNEL

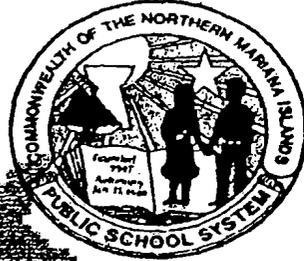
Chapter 6

D. Other Compensation

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2. Proposed differentials:
 - G. Coaches: \$300/sports season
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 - J. Before school: \$15/daily session (not to exceed 1 hr)
 - K. Summer school: \$100/full day (6 periods)
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3. *Professional Development Differential may be paid to PSS personnel exempt from the Fair Labors Standards Act who coordinate, facilitate or present at professional development seminars, workshops or trainings held on weekends or in the evening (after working hours) provided that the PSS staff coordinating, facilitating or presenting at the seminar, workshop or training have consulted and obtained the prior approval of the COE. This differential shall be paid based on rates approved by the BOE, provided funds are available. The PSS staff receiving this differential shall not be eligible to receive overtime compensation or extended day credits. This professional development differential shall be \$100/day for Saturdays (four hours or longer seminar, workshop or training) and \$30/evening (two hour or longer workshop or training after working hours).*

Commonwealth
of the
Northern Mariana Islands



State Board of Education
Public School System

Child Care Program

Administrative Rules

**ADMINISTRATIVE RULES
CHILD CARE PROGRAM**

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GENERAL PROVISIONS

1000 Purpose

The purpose of these Administrative Rules is to provide guidance for determining eligibility requirements, benefit amounts, and method of determining child care payments for the child care program in compliance with the rules governing the administration and implementation of the Child Care and Development Fund block grant authorized as part of the Omnibus Reconciliation Act of 1990, Pub. L. No. 101-58, Section 5082 and as amended by PRWORA, Public Law 104-193 Section 9598.

1001 Definitions

"Activity" means employment, education, or job training, vocational or employment training.

"After school care" means a child care program provided after the close of the regular school day during the academic year for children who are enrolled in public or private elementary schools.

"Applicant" means parent who applies to the Child Care Program for child care benefits

"Application" means the written action by which an individual applies on behalf of his/her family to receive child care services on a form prescribed by the Child Care Program. The application requests information on the total monthly family income, size of the family, ages of family members, employment status or education or training or a combination thereof of the parent applicant or applicants and requires attachments that evidence monthly family income, education or training status, employment status, and proof, usually birth certificates or passports, of age and citizenship of the applicants.

"Before school care" means a child care program provided before the opening of the regular school day during the academic year for children who are enrolled in public or private elementary schools.

"Budget month" means the calendar month from which the Child Care Program shall use the child care payment form to calculate the reimbursable payment for the month.

"Center-Based child care provider" means a provider licensed or otherwise authorized to provide child care services for fewer than 24 hours per day per child in a non-residential setting.

"Child" means any person who has not reached the age of thirteen.

"Child care" means those situations in which a Child Care provider has agreed to assume the responsibility for the child's supervision and development/guidance, apart from and in the absence of the child's parent, for any part of a 24-hour day.

"Child Care Program" means the CNMI Public School program that shall administer and implement Child Care Development Fund (CCDF) activities and provide assistance in compliance with the requirements of federal regulations.

" Child Care Provider" means any person, 18 years and older, or an agency, or organization and their employees who provide direct care, supervision, and guidance to children apart from and in the absence of the child's parent(s). Child Care Providers are regulated by the Child care program of the Department of Community and Cultural Affairs to provide child care or are legally exempt from licensure or registration by the Child Care Program of Community and Cultural Affairs under Public Law 4-67 and Public Law 4-69.

"Child Care Services" means the care given to an eligible child by an eligible child care provider.

Licensing Agency" means the department within the CNMI Government that approves or disapproves child care licensing in accordance with CNMI law and the Day Care Rules and Regulations, specifically the Department of Community and Cultural Affairs (DCCA).

"Educational program" means a curriculum-based education program established by a school, agency or business for the purpose of the development of skills and/or academic study necessary for an occupation.

"Employed" means the parent is engaged in an activity in exchange for wages or salary for at least 30 hours per week.

"English as a Second Language" (ESL) means the condition

where the child and/or the parent (see definition on "parent") have limited English proficiency.

"Family child care provider" means an individual who provides child care services to 5 or more children for fewer than 24 hours per day per child, as the sole caregiver, in a private residence other than the child's residence.

"Family" means one or more adults and their minor children, if any, related by blood, marriage, adoption or judicial decree, who reside in the same household. Related adults other than spouses or unrelated adults residing together shall each be considered a separate family.

"Federal Poverty Index (FPI) Guidelines" means the official Federal statistical definition of poverty which is issued yearly in the Federal Register by the Secretary of the Child care program of Health and Human Services under the authority of 42 U.S.C. 8621, OBRA of 1981. It is a simplification of the U.S. Census Bureau's poverty threshold, which is issued for administrative purposes.

"Full-time care" means child care provided for 30 hours or more per week. This does not apply to before-school care, and after-school care and intercession care.

"Gross income" means any benefit in cash which is received by the individual as a result of current or past labor or services, business activities, interest in real or personal property or as a contribution from persons, organizations, or assistance agencies.

"Group home child care provider" means two or more individuals who provide child care services to 5 or more children for fewer than 24 hours per day per child, in a private residence other than the child's residence.

"In Home Care Provider means "any individual who is not employed and is providing assistance in the home of the child(ren)."

"Intersession care" means child care provided at breaks during the academic year for children who are enrolled in public or private elementary schools, including summer care and holidays.

"Job training", "vocational or employment training" means an organized training program (including community college and university education) established by an institution, agency or business for the purpose of the development of

occupation.

"License-exempt care" means child care to less than 5 children which is exempt from licensure pursuant to CNMI Law & the current state plan and is registered by the Child Care Program.

"Parent" means a birth, foster or adoptive parent, guardian, a person acting in the place of a parent, step-parent, or relative who is related to the child by blood, marriage, or adoption, who resides with and is legally responsible for the care, education, and financial support of a child. That designation may remain even when the child or parent is temporarily absent from the home as long as the parent continues to maintain responsibility for the care, education, and financial support of the child.

"Part-time care" means child care provided for less than 30 hours per week. This excludes Before-school, After-school care and Intersession care.

"Payment month" means the calendar month in which the Child Care Program shall issue the child care payment.

"Physician" means an individual licensed by the CNMI for the practice of medicine.

"Registered" *means children, parents, and service providers who are registered with the PSS Child Care Program and who benefit from the PSS Child Care Program.*

"Relative" means related by blood, marriage, or adoption.

"Relative care" means child care provided by legal grandparents, great-grandparents, great aunts, 1st and 2nd cousins, aunts, uncles, and siblings living in a separate residence who are at least 18 years old. Relative child care providers caring for 5 or more children must be licensed.

"Sliding Fee Scale" means a system of cost sharing by a family based on income and size of the family in accordance with 45 CFR Subpart 98.42.

"School age" means the chronological age of children enrolled in elementary & junior high school below the age of 13.

"Special needs child" means a child who is physically or mentally incapable of caring for himself or herself as

determined by a health care provider and a Public School System certified psychologist.

"State Plan" means the official document submitted to the federal government by the Child Care Program describing the administration of child care services in the CNMI under the Child Care Development Fund.

"Very Low Income" means income that is at or below the 85% of State Median Income Guideline as referenced on attachment #1 of the State Plan effective up to 2005.

1002 Confidentiality

Family income data, employment records and other family and child records and monthly data reported to the federal government on families receiving subsidized child care services shall remain confidential and saved in locked data files (This applies to both computerized and paper files).

1003 Geographical location

All child care is made available to eligible clients on a CNMI-wide basis.

1004 Scope

Child care services, irrespective of setting, must include:

1. Supervision to assure the child's safety, comfort, and health;
2. Personal care as appropriate to the child's age and developmental maturity;
3. Educational and recreational activities appropriate to the child's age, developmental stage, and degree of physical or mental ability;
4. Health and nutritional services which may include breakfast, lunch, dinner, and snacks; health and nutritional education to the child, as well as to the parents or parents; monitoring of health problems; and where appropriate, arranging for medical or psychological screening and consultation; and

1005 Application process

1. Requests for child care services shall be submitted in

writing on a form prescribed by the child care program.

2. The form shall be dated and signed under penalty of perjury that all the information requested by the Child Care Program to establish eligibility for child care services, as stated on the form, is accurate.
3. The form shall be signed by the parent.
 - i. Applicants are required to submit copies of documents (including, but not limited to an employment verification stating hours and hourly rate, paycheck stubs with business name, hours worked and hourly rate, birth certificates, school and/or training) for verification. It is the responsibility of the applicant to provide necessary documentation for verification.
4. Applicants shall provide verification of the cost of the selected child care arrangement.
5. The date of application shall be the date the signed form and all supporting documents are received by the Child Care Program.
6. The date of eligibility shall be determined by the Child Care Program once all required documentation is received and verified and the Child Care Program determines that the family is eligible for subsidized care.
7. It is the responsibility of the applicant to provide necessary documentation for the eligibility determination.
8. For applicants determined eligible, child care subsidized payments shall be initiated or arranged as soon as possible, but not later than 30 days from receipt of the payment invoice from the service provider; which is signed by the parent by the parent and the provider. Child care services shall be denied when the applicant does not complete the process of application/determination of eligibility, including but not limited to verification, or withdraws the application or is otherwise ineligible.

1006 Priority applications.

The following sets forth the priorities for serving eligible children:

1. Families with very low income
2. Low income families with special needs children
3. Homeless families with children.

1007 Notice of application disposition.

1. The Child Care Program shall notify applicants in a letter about the applicants' eligibility for child care service within fifteen (15) days after submission of a complete application with all required attachments. The letter will indicate the period of eligibility, level of benefits, reporting requirements and the date of the review.
2. Applicants determined not eligible shall be sent a written notice that contains a statement of the action taken, the reasons for the action, the specific rules supporting the action, and the right to appeal the action of the child care program through established administrative appeal procedures.

1008 Eligibility requirements for child care services.

Depending upon availability of funds, children who qualify for child care payments shall meet the following requirements:

1. Reside with the parent who is working, attending job training or an educational program and who has a monthly CNMI gross income that does not exceed Federal Poverty Income Guideline (FPIG) for a family of the same size; and
2. Be under the age of 13; and
3. All parents in family shall be eligible for child care under this subchapter provided the parents meet the following conditions:
 - a. Have a monthly gross income that does not exceed FPIG (Federal Poverty Income Guideline) for a family of the same size; and
 - b. Residency: The family must be living in the CNMI with the intention of making the CNMI their home

permanently. Acceptable documentation includes, but is not limited to, utility payment receipts, house rental/mortgage receipts, etc.

Citizenship: Only the citizenship and immigration status of the child, who is the primary beneficiary of the childcare service, is required for eligibility purposes. The child must be a U.S. citizen or a qualified alien, as defined in Personal Responsibility Work Opportunity Act (PRWORA), to be eligible for childcare assistance. Acceptable documentation includes, but is not limited to, birth certificate or passport.

- c. Gainfully employed 30 hours per week or scheduled to start work in 2 weeks; or
 - d. Need child care for up to 30 calendar days during a break in employment, if employment is scheduled to resume within 30 calendar days; or
 - e. Are enrolled in a job training and educational program (for at least 30 hours per week) sanctioned by the PSS or WIA or attending an education program on a full time basis (12 hours per semester for the college and five classes per day for the PSS); or
 - f. Are a two-parent family household where one parent is in an approved activity (working, attending job training or an educational program) and the other parent is determined to have a disability which prevents the parents from providing care for their own children. In such cases, proof of disability and inability to provide child care shall be verified by the written report of a physician, psychologist, psychiatrist, or a territory-licensed health care provider. The written report shall be reviewed every two months, and is valid when one parent is participating in an approved activity.
 - g. Eligibility may be re-established for periods not to exceed 6 months.
4. Child care providers shall meet the following conditions in order that child care payments may be authorized:
- a. Is 18 years old or older;
 - b. Afford parents unlimited access to their children,

including written records concerning their children, during normal hours of provider operation and whenever the children are in the care of the provider;

- c. Is a licensed or license-exempt child care provider, including in-home care providers.
- d. License-exempt providers shall be registered with the Child Care Program and shall submit a written statement to the Child Care Program that shall attest to their:
 - i. Willingness to provide care;
 - ii. Rate that will be charged and assurance that the provider premises are safe from hazards.
 - iii. Address and telephone number;
 - iv. Completed health and safety check list
 - v. Police clearance
- e. Have no known history of child abuse or neglect, physical or psychological/psychiatric problems or criminal convictions that may adversely affect or interfere with the care of children;
- f. Provide consent to conduct a child abuse record check and criminal history record check. A child care provider must not have criminal history that poses a risk to children; these include but are not limited to:
 - i. violent felonies in which an individual threatens to cause, attempts to cause or causes serious bodily injury;
 - ii. sexually violent offenses as defined by CNMI law or other similar offenses in other jurisdictions;
 - iii. criminal sex offense against a minor as defined by CNMI law or other similar offenses in other jurisdictions;
 - iv. child abuse or neglect as defined by CNMI law or similar offenses in other jurisdictions;
 - v. violations of the CNMI Minor Children Firearms Control Act or similar offenses in other jurisdictions;
 - vi. distribution of a controlled substance to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions; and
 - vii. all other criminal histories will be

evaluated based on the nature and severity of the incident; the identity of the victim; the length of time since the incident; whether any specific pattern of criminal behavior exists; and specific efforts the individual has made towards rehabilitation.

- g. Is free of tuberculosis as indicated by a skin test or chest x-ray completed within the last 24 months;
 - h. Have a child care facility or home with an installed smoke detector, unobstructed emergency exits, and an emergency exit plan; and
 - i. Shall attend training and technical assistance activities as a condition of receipt of funds to enhance their personal growth and professional development in order to improve the quality of child care services. Effective January 1, 2005 all day care center serv5ce providers must annually participate in at least 15 hours of training and technical assistance as approved by the Child Care Program. This may include workshops, seminars, conference, etc. on health and safety, nutrition, first aid, child abuse and detection, and caring for children with special needs as scheduled and approved by the Child Care Program.
5. Child care providers shall not be one of the following:
- a. Parents, biological or legal;
 - b. Step-parent living in the household;
 - c. Legal guardians
 - d. Providers who are not in compliance with territory regulatory requirements;
 - e. Individuals under the age of 18 years; and
 - f. Other individuals determined by the licensing agency and/or the Child Care Program to pose a risk to the health and safety of a child.
6. The Child Care Program shall:
- a. Verify that the children and parents meet the

eligibility requirements as described in these regulations;

- b. Determine that the provider selected by the parent is appropriate following the regulations of the licensing agency and the Child Care Program; and
- c. Review eligibility no less frequently than every 6 months.

1009 Income considered in eligibility determination.

1. Monthly gross income shall be used to determine eligibility.
2. Monthly gross income means non-excluded monthly sums of income received from sources such as but not limited to:
 - a. "Gross income" means any benefit in cash which is received by the individual as a result of current or past labor or services (before deductions), business activities, interest in real or personal property or as a contribution from persons, organizations, or assistance agencies, such as:
 - i. Wages; and
 - ii. Salary;

1010 Excluded monthly income

The following types of income received in any given month shall be excluded from consideration in determining income eligibility for child care payments:

1. Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self-employed income;
2. Withdrawals of bank deposits;
3. Loans;
4. Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
5. Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:

- a. Income tax refunds, rebates, or credits;
 - b. Retroactive lump sum social security, SSI, or unemployment compensation benefits;
 - c. Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;
 - d. Lump sum inheritances or insurance payments;
6. Refunds of security deposits on rental property or utilities;
 7. Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;
 8. Capital gains
 9. Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
 10. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
 11. Home produce utilized for home consumption;
 12. The value of coupon allotment under the Food Stamp Act of 1977, as amended.
 13. The value of USDA donated or surplus foods;
 14. The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C. §§1771-1789) and the special food service program for children under the National School Lunch Act, as amended.
 15. Benefits received from the special supplemental food program for women, infants, and children (WIC) (Pub. L. No. 92-443);
 16. Allowances and payments to participants in programs, other than on-the-job training, under the Work Investment Act (WIA) of 1998 (20 U.S.C. §9201);

17. The earned income of individuals participating in on-the-job training programs under the Job Training Partnership Act (JTPA) of 1982 (25 U.S.C. §640d - 640d-28) who are between 18 and 19 years of age and under the parental control of another household member;
18. Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
19. Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No. 99-498;
20. Payments or allowances made under any federal or local laws for the purpose of energy assistance;
21. Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;
22. Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange (Pub. L. No. 101-201);
23. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4636);
24. Payments received under the Radiation Exposure Compensation Act (Pub. L. No. 101-426) to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
25. Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older Americans Act of 1965 (Pub. L. No. 100-175);
26. Payments to volunteers derived from the volunteer's participation in the following programs authorized by the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§5011, 4951-4958):

- a. Foster grandparent program;
 - b. Senior companion program; and
 - c. Volunteers in service to America (VISTA) and AmeriCorps programs.
27. Military re-enlistment bonus;
28. Any other payments made in accordance with territory and federal laws that preclude the payments from being counted as income; and
29. Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engage in the business of selling the property, in which case, the net proceeds would be counted as self employment income.

1011 Treatment of income

- 1. All non-excluded income available to the family within a given month shall be considered.
- 2. Eligibility determination based on income status shall be supported by documentation.
- 3. Failure to provide necessary information to verify amount or source of income shall disqualify the family.

1012 Method of computing childcare payment.

- 1. The family shall provide verification of the child care provider and the child care to the program.
- 2. The Child Care Program will compute the monthly projected cost of the care based on:
 - a. need for child care;
 - b. the type of care provided;
 - c. the child's age;
 - d. whether the care is full day or partial day care service;
 - e. the child's attendance; and
 - f. the parent' work attendance; and
 - g. the parent's share of the cost of child care in accordance with the Sliding Fee Scale as set forth in the current state plan.
- 3. The projected child care payment rate shall be calculated by:

- a. Counting the number of employment, education or job, or vocational or employment training hours to be engaged in by the parent the month;
 - b. Comparing the parent's employment, education or job, or vocational or employment training hours including commuting time with the need for child care hours and
 - c. Using the child care rate table to identify the type of child care for each qualifying child and the payment rate for that type of child care (see Attachments 1 and 3).
 - d. The child care amount to be paid each month of eligibility shall be the child care rate on the child care rate table as referenced in attachment #1, minus the co-payment amount or as identified in attachment #3.
4. Eligibility for child care subsidized payment shall be suspended for any month the total monthly income exceeds the income criteria for the size of the family (see Attachment 3).

1013 **Child care payments.**

1. The payment rate shall be established by the current State Plan. As an example see attached "Payment Rate" which is effective until 2005.
2. Child care payments shall be an expense that is reimbursed to the child care provider.
3. The parent's co-payment shall be established by the current Sliding Fee Scale as set forth in the current State Plan. As an example see attached "Sliding Fee Scale" which is effective until 2005.
4. When computing the reimbursement amount, the Child Care Program shall establish a reasonable relationship between the need for part-time or full-time care and the conditions for which child care is required.
5. The Child Care Program shall issue a Payment Invoice and an attendance form for parent and provider to sign and submit for a reimbursable payment for child care services rendered the previous month. The attendance form must show the number of hours the child is in the care of the service provider. Failure to submit a completed and signed payment invoice and/or an

attendance form shall result in no payment.

6. A completed signed payment invoice and/or attendance form must be received by the Child Care Program on the first working day of the month or payment may be delayed.
7. The family shall pay its portion of the child care cost.
 - a. If the child is enrolled in a Child Care Center the family shall pay directly to the child care center.
 - b. If the child is in relative or group home or in home care, the co-payment is paid directly to the Child Care Program through payment at the PSS Treasury.
8. The family shall be responsible for any child care costs in excess of the maximum child care rates as set forth in the current CNMI plan.

1014 Reporting Changes

1. A parent who is a recipient of subsidized child care services shall be responsible to report to the Child Care Program within 10 calendar days of the occurrence any changes in:
 - a. Monthly gross income and the source of the income;
 - b. Address, including:
 - i. Place of residence; and
 - ii. Mailing address;
 - c. Family member size;
 - d. Marital status;
 - e. Providers of from whom the parent is receiving child care services.
 - f. Circumstances which may affect the recipient's eligibility for continuing services, including, but not limited to;
 - i. Changes in number of hours of childcare required and cost of child care;

- ii. Changes in hours of employment, educational program, or job, vocational or employment training;
 - iii. Anticipated changes in the individual's situation that may affect the individual's eligibility for continued child care assistance;
- g. Attendance: Parent shall report any more than 2 absences in a month.

1015 Re-determination of eligibility.

1. The Child Care Program shall re-determine income and program eligibility for continued child care payments:
 - a. When information is obtained that there are anticipated changes in the individual's or family's situation;
 - b. Promptly, not to exceed 30 days, after information is received that changes have occurred in the individual's or family's circumstances which may result in ineligibility;
 - c. When a payment invoice for services rendered within 60 days is not submitted to the Child Care program; and
 - d. Not less frequently than every 6 months from the month eligibility was determined.
2. Re-determination of eligibility shall be made in the same manner as the disposition of an application including signing and dating a form prescribed by the Child Care Program.
3. Child care shall be terminated for recipients when they do not complete the process of re-determination of eligibility.

1016 Denial, suspension or termination of child care.

1. Child care payments shall be denied, suspended, or terminated when:
 - a. The Parent does not submit the signed payment invoice; or
 - b. The payment invoice prescribed by the Child Care Program is not signed and dated; or

- c. The child no longer meets the eligibility requirements; or
- d. The parent no longer meets the eligibility requirements; or
- e. The provider no longer meets the licensing requirements; or
- f. Conditions initially present in the family situation have changed and child care is no longer needed or any listing /registration requirements for exempt care; or
- g. The parent(s) voluntarily requests discontinuance of child care services; or
- h. The parent(s) and the child are unable to use child care
- i. The parent(s) is no longer eligible for child care; or
- j. The parent(s) cannot be located; or
- k. The family fails to provide the required verification for re-determination or to support the reported changes; or
- l. When recipients do not complete the process of re-determination of eligibility; or
- m. When the Child Care Program determines that there are insufficient funds to maintain all children receiving care. Priorities for eligibility will be determined pursuant to section 1006 of these regulations.
- n. When the parent does not pay their contribution to the cost of child care at the minimum percentage fee (co-payment).

1017 Notice of adverse action

- 1. Prior to an action to reduce, deny, suspend, or terminate any childcare service specified in these regulations, the Child Care Program shall provide the parent with timely and adequate notice before the adverse action is taken.
- 2. The notice of adverse action shall be considered

timely when the Child Care Program provides the notice at least 10 calendar days prior to the effective date of action.

3. In order to be adequate, the notice shall contain the following information:
 - a. The proposed action and the reason for the proposed action; and
 - b. The Child Care Program rules supporting the proposed action;
 - c. The name and telephone number of the person to contact for additional information.
 - d. The family's right to appeal the Child Care Program's decision to the Commissioner's office.

1018 Administrative appeal requests

1. A parent may file a written request for an administrative appeal when the family is dissatisfied with the Child Care Program's adverse action of denying, reducing, terminating, suspending, assistance. The family shall have an opportunity to:
 - a. Examine the case record as well as all documents and records to be used at the appeal hearing at a reasonable time before the date of the hearing as well as during the hearing;
 - b. Present the case independently or with the aid of legal counsel;
 - c. Bring witnesses, including an interpreter if non-English speaking;
 - d. Establish all pertinent facts and circumstances;
 - e. Advance any arguments appropriate to the issue being heard without undue interference; and
 - f. Question or refute any testimony or evidence, and to confront and cross-examine any witness.
2. The appeal request shall be in writing delivered to the CNMI Public School System Commissioner of Education's office within 10 calendar days of the date on which the notice informing the family of a childcare program's decision was delivered to the family and shall refer to the following:
 - a. The request is for an administrative appeal;

- b. The specific action identified in the notice that is being appealed; and
 - c. Whether continuation of benefits at the current level are being requested with the understanding that the family will be required to pay back the total value of benefits (received pending the decision) if the PSS decision is upheld.
3. If the request is not filed within 10 calendar days of the date the notice was provided to the family, the request shall be denied and the Commissioner's office shall provide a notice of denial to the family.
 4. The Commissioner or designee shall preside over a hearing within 30 days of timely appeal request.
 - a. The hearing shall be informal where strict rules such as the exclusion of hearsay evidence do not apply. However, the evidence presented must be relevant.
 - b. The family and the Child Care Program shall have an opportunity to present evidence, including witness testimony and documents. Each party shall also have the right of cross-examination.
 - c. The hearing shall be audio-recorded.
 - d. The Commissioner or designee shall issue a written decision to the Child Care Program and the family within 30 days after the hearing.
 5. In the event that an appeal decision is rendered in favor of the family, benefits shall be restored as appropriate.

1019 Overpayment and recoupment

1. Failure to provide the Child Care Program notice of a change in circumstances could result in an overpayment. An overpayment may occur when a Child Care provider receives payments to which the provider is not entitled, including but not limited to:
 - a. Administrative errors, such as a parent is not charged the appropriate payment amount;
 - b. Parent errors, such as unintentional errors on payment invoices or fraud; and

- c. Provider errors, such as failure to immediately inform of a child's absences; or fraud.
2. An overpayment made to a provider shall be recovered through:
 - a. A reduction of the amount payable to the provider in subsequent months until the entire amount of overpayment is recovered. The parent is responsible for the difference and must pay the difference to the provider.
 - b. Repayment in full or in part, by the provider to the Child Care Program; or
3. Parents subject to recovery of overpayment shall be provided written notice by the child care program stating:
 - a. Reasons, dates, and the amount of the overpayment.
 - b. The proposed method by which the overpayment shall be recovered; and
 - c. The parent's right to request an administrative appeal if the individual disagrees with the child care program's proposed action.
4. When there is both an overpayment and an underpayment to the parent, the overpayment and underpayment shall be offset one against the other in correcting the payment.
5. Overpayment to parents may be recovered from the family that was overpaid, from individuals who were members of the family when overpaid, or from families which include members of a previously overpaid family.
6. When recouping child care overpayments, overpayment may be recovered only from child care benefits, provided the parent continues to receive such benefits.
7. Recovery of child care overpayments to parents who formerly received child care benefits shall be referred to the child care program's

investigation office for collection action.

8. If a parent for whom a collection action has been initiated fails to make a payment for any month in the calendar tax year, the child care program may refer debts exceeding twenty-five dollars to the comptroller of the State for tax set off.
9. If the PSS underpays a provider, the PSS will reimburse the provider by paying back the underpaid amount.

1020 Termination for insufficient funds

1. The Child Care Program may suspend or terminate benefits, reduce benefits, or refuse to take new applications for certain or all classes of beneficiaries set forth in Section 1006, if the Child Care Program determines, at its discretion, that insufficient funds will be available to pay for child care services at current amounts through the end of the fiscal year.
2. The budget will be managed by reviewing monthly expenditures, and evaluating whether the cumulative expenditures at the end of any given month is less than or equal to the number of months that have expired in the fiscal year times 1/12 of the budget appropriation for child care payments.
3. When the Child Care Program determines that the budget appropriation has or soon will be exceeded, notices of adverse action may be issued to limit the number of children receiving subsidies in any given month. This determination is entirely within the Child Care Program's discretion.
4. Case termination, suspension or reduction of benefits, or refusal to take applications will be prioritized as set forth in section 1006.

STATE PLAN FOR

CHILD CARE & DEVELOPMENT FUND SERVICES

(FOR THE PERIOD 10/1/03 – 9/30/05)

Attachment #1

Age of Child	In-Home	Family Home	Group Home	Center
Birth-2	U.S. Min. Wage	250.00	250.00	300.00
3 - 4	U.S. Min. Wage	250.00	250.00	300.00
5 - 6	U.S. Min. Wage	250.00	250.00	250.00
4 - 5 - 6	U.S. Min. Wage	125 - ½ time	125 - ½ time	125 - ½ time
7 - 13	U.S. Min. Wage	250.00	250.00	250.00
7 - 13	U.S. Min. Wage	60 - after school	60 -after school	60 - after school

STATE PLAN FOR

CHILD CARE & DEVELOPMENT FUND SERVICES

(FOR THE PERIOD 10/1/03 – 9/30/05)

Attachment #3

SLIDING FEE SCALE

FAMILY INCOME	FAMILY SIZE		
	1-3	4-6	7 OR MORE
0-\$500	10%	10%	5%
\$501 - 750	15%	10%	5%
\$751 - 1000	20%	15%	10%
\$1001 - 1250	25%	20%	10%
1251 - 1500	30%	25%	15%
1501 - 1750	30%	25%	15%
1751 - 2000	N/A	25%	20%
2001 - 2250	N/A	25%	20%
2251 - 2430	N/A	25%	20%

The sliding fee scale percentage is a percent of the monthly cost of the child care service that the family pays and the child care program pays the balance. (Example: The monthly cost of child care for a toddler is \$300. The sliding fee scale co-payment is 15%. The parent pays co payment is \$45. The Child Care Program pays the balance of \$255.00.)

PUBLIC NOTICE

NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO THE REGULATIONS OF THE COMMONWEALTH ELECTION COMMISSION

I, Miguel M. Sablan, Chairman, Commonwealth Election Commission, which is promulgating the Regulations amending Section 2.8 of the Commonwealth Election Commission Regulations, published in the Commonwealth Register Volume 26, Number 6, on June 24, 2004 pages 022671 to 022675, by my signature below hereby certify that as published, such amendments to the Regulations are true, complete and a correct copy of the amendments to the regulations previously published by the Commonwealth Election Commission. The Election Commission adopted the amendments to the Regulations on June 11, 2004.

2.8 Certification. Parties could only be allowed to be recognized commonwealth-wide. Any party presently recognized with a status less than commonwealth-wide is automatically deemed to have commonwealth-wide recognition status. If it appears to the satisfaction of the Commission, on the recommendation of the commission staff that a new political party has met the above requirements, then the Commission shall certify that a new political party has been formed within the Commonwealth and shall be allowed a place on the ballot with candidates for an offices it seeks, provided each candidate meets the statutory requirements for inclusion on the ballot as a candidate. A new political party must be certified prior to its submission of nomination papers for its candidates.

After submitted the documents for the formation of a new political party to the commission for formal certification, if the commission fails to act within 30 days of that submission then the new political party shall be considered certified. The decision for the certification of a new political party shall occur at a formal publicly noticed meeting of the Commission.

After a general or special election a new political party must meet the requirements of 1 CMC §6003(o)(3) in order to be a recognized political party and maintain a position on future ballots published by the Commission pursuant to law.

I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register and that these regulations amending the Commonwealth Election Commission's Regulations become effective upon its publication.

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on Saipan, Northern Mariana Islands.

Certified by:



MIGUEL M. SABLAN
Chairman
Commonwealth Election Commission

7/27/04
Date

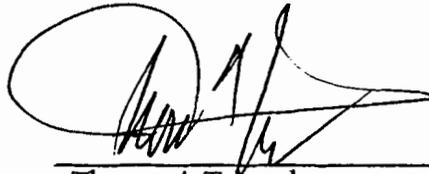
Filed by:



Bernadita B. Dela Cruz
Commonwealth Registrar

8-20-04
Date

Received by:



Thomas A. Tebuteb
Special Assistant for Administration
Executive Offices of the Governor

8/20/04
Date

**NOTICE OF ADOPTION OF PROPOSED AMENDMENTS TO THE
NMI VILLAGE HOMESTEAD
RULES AND REGULATIONS**

I, Ana Demapan-Castro, Chairperson of the Board of Directors of the Marianas Public Lands Authority, which is promulgating the Proposed Amendments to the NMI Village Homestead Rules and Regulations published in the Commonwealth Register Vol. No. 26 Number 3 on March 23, 2004 at pages 22158 to 22169, by signature below hereby certify that as published, such rules are a true, complete, and correct copy of the Notice of Proposed Amendments to the Rules and Regulations for the efficient administration of the NMI Village Homestead Program, which after the expiration of appropriate time for public comment, have been adopted without modification or amendment. I further request and direct that this Notice of 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 the 22nd day of July 2004, at Saipan, Commonwealth of the Northern Mariana Islands.

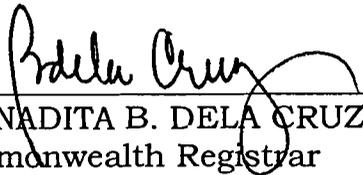
CERTIFIED BY:



Chairperson
Board of Directors of the Marianas
Public Lands Authority

7/22/04
DATE

FILED BY:



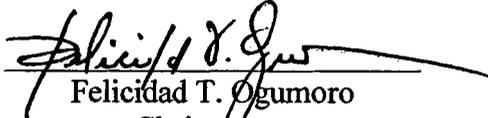
BERNADITA B. DELA CRUZ
Commonwealth Registrar

8-17-04
DATE

NOTICE AND CERTIFICATION OF ADOPTION OF PROPOSED RULES AND REGULATIONS FOR THE SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE (SHEFA)

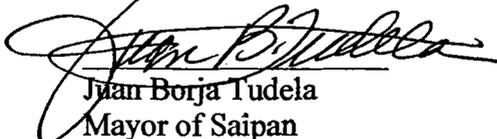
I, Felicidad T. Ogumoro, Chairperson of the Board of Saipan Higher Education Financial Assistance (SHEFA), which is promulgating the rules and regulations of the Saipan Higher Education Financial Assistance pursuant to Saipan Local Law 13-21 for the Municipality of Saipan within the Office of the Mayor of Saipan, published in the Commonwealth Register Volume 26, Number 06 on June 24, 2004, at pages 022797 to 022815, by signature below hereby certify that the rules and regulations published therein are true, complete and correct copy of the Rules and Regulations regarding the Saipan Higher Education Financial Assistance (SHEFA) as previously proposed by the Board of Saipan Higher Education Financial Assistance for the Municipality of Saipan within the Office of the Mayor of Saipan, which, after the expiration of appropriate time for public comment, have already been adopted without modification or amendment. I further request and direct 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 the 28th day of July 2004, in Saipan, Commonwealth of the Northern Mariana Islands.


Felicidad T. Ogumoro
Chairperson

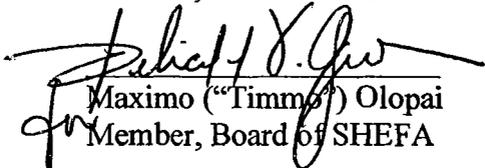
Saipan Higher Education Financial Assistance

Acknowledged and Concurred By:


Juan Borja Tudela
Mayor of Saipan
Member, Ex-Officio Board of SHEFA


Jose C. Leon Guerrero
Member, Board of SHEFA


Howard L. Macaranas
Member, Board of SHEFA


Maximo ("Timm") Olopai
Member, Board of SHEFA



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
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Civil Division

Tel: (670) 664-2341/2342
Fax: (670) 664-2349

Immigration Division

Tel: (670) 236-0922/0923
Fax: (670) 664-3190

Criminal Division

Tel: (670) 664- 2366/2367/2368
Fax: (670) 234-7016

ATTORNEY GENERAL LEGAL OPINION No. 04-10

Date: July 27, 2004

To: Fermin Atalig, Secretary of Finance
Juan S. Reyes, Secretary of Public Works
Frank Guerrero, Building and Safety Official

From: Pam Brown, Attorney General
James Stump, Assistant Attorney General

Re: Attorney General Opinion

This communication is in response to a request for an opinion on the requirements for the refunding of a developer tax, building permit, and plan review fees if the associated project is cancelled. The following represents our analysis of this issue.

I. ISSUE

Is the Commonwealth of the Northern Mariana Islands required to refund fees associated with the Developer Tax and Building Permit and Plan Review fees if the associated project is cancelled?

II. SHORT ANSWER

The administrative cost of the developer tax is not refundable although the tax itself is. The amount of the refund is based on the difference between initial tax estimates and actual final project cost. No discretion is allowed in the administration of these requirements.

The Building Safety Official has discretion to refund both fees associated with the plan review permit and up to 60 percent of the building permit. Determinations of the Building Official can be reviewed under arbitrary and/or capricious standard of abuse of discretion.

III. BACKGROUND

This issue involves examination of three statutorily created fees and their associated regulations. A brief review of this authoritative structure is provided below:

A. Developer Tax

The Developer Infrastructure Tax of 1993 was established in order to pay for necessary improvements to CNMI infrastructure associated with demands of new development. PL 9-14, § 1 Findings (1993). The amount of tax imposed is equal to “two percent of the total project cost of new development.” 4 CMC § 1934. The Developer tax consists of two distinguishable elements: a nonrefundable administrative fee; and the balance that is to be used towards funding of CNMI infrastructure. 4 CMC 1935(b).

The amount of administrative fee is to be established by regulation, which was adopted on December 15, 1993. 4 CMC § 1935(b); Commonwealth Register, vol. 15 no. 12, 11329 (Dec. 15, 1993). Administrative expenses collected, shall be used to defray administrative expenses of the Department of Finance and Building safety Department associated with collection of this tax. 4 CMC 1939(c). The fee schedule for the developer administrative fee uses the same schedule as those of the building permit fees. Developer Tax Regulation § 1600.5. These fees are based on construction costs and increase with the projected value of the structure. DPW, Building Safety Code, Rules and Regulations, § 7027 (1990). Fees range from fifteen dollars for structures whose value is equal to or less than \$500 to \$4,177 for the first one million dollars and \$2.00 for every additional \$1,000 in value. DPW, Building Safety Code, Rules and Regulations, § 7027(a) (1990).

The second element of the developer tax is to be used to assist in the funding of necessary CNMI infrastructure associated with new development. 4 CMC 1935(b); 4 CMC 1939(a). Funds generated through the imposition of this tax, with the exception of those associated with administrative expenses, shall be segregated by the Senatorial district in which the development occurs and shall be deposited in a trust account. 4 CMC § 1938a). All funds deposited in the respective Senatorial accounts shall be appropriated by the respective legislative delegation and shall be used for capitalized infrastructure improvements. 4 CMC § 1941; 4 CMC 1939(a).

The initial cost for this permit is based on estimates of the developer that are required to be submitted as part of the building permit application. 4 CMC § 1935(a). The building safety official must verify this estimate of cost. 4 CMC § 1936(a). If the developer makes any subsequent changes to building design which affect total building cost he/she is required to notify the Director of Finance and pay any resultant additional developer tax at the conclusion of the project. 4 CMC § 1936(b).

Upon completion of the project, the developer is required to submit a statement of actual costs with supporting documentation to the Department of Finance. 4 CMC § 1936(c). The developer is liable for the total amount of any tax owed based on final costs

less any previous tax payments made. 4 CMC 1936(c). The Director of Finance may require verification of costs, and if they are found to be at variance with independent analysis greater than 15%, then the Director shall impose an additional tax and a 10 percent penalty. 4 CMC § 1936(c). Any overpayment in the developer tax is to be "shall be refunded to the developer within 90 days of project completion. 4 CMC 1936(d).

B. Building Permit Fees.

The Building Safety Official has statutory authority to charge reasonable fees for the issuance of building permits and plan reviews. 2 CMC § 7132(a)(1), (b). The fees are to be set by the building safety official and set forth in associated regulations. 2 CMC § 7132(a)(1). The fee for building permits may vary according to the proposed occupancy, use or value of the structure. 2 CMC § 7132(a)(1). The determination of value is to be made by the building safety official. 2 CMC § 7132(a)(2).

The current building permit fees were adopted by regulation on September 15, 1990. Commonwealth Register, Volume 12 No. 9, September 15, 1990. The building permit fees are based on construction costs, and increase with the projected value of the structure. DPW, Building Safety Code, Rules and Regulations, § 7027 (1990). Fees range from fifteen dollars for structures whose value is equal to or less than \$500 to \$4,177 for the first one million dollars and \$2.00 for every additional \$1,000 in value. DPW, Building Safety Code, Rules and Regulations, § 7027(a) (1990).

C. Plan Review Fee

The fee structure for the required plan review is based on a combination of structure value and the associated building permit fee cost. DPW, Building Safety Code, Rules and Regulations, § 7027(c) (1990). The general plan review fee is equal to three fourth (3/4) of the associated building permit fee. DPW, Building Safety Code, Rules and Regulations, § 7027(c) (1990). A special lower rate is provided for single-family units whose value is between \$2,000 and \$50,000. In these instances, the plan review permit fee is equal to one-half of the associated building permit fee. DPW, Building Safety Code, Rules and Regulations, § 7027(c) (1990). Refunding of the plan review fee is not discussed in either the statute or the regulations.

IV. LEGAL ANALYSIS

The issue of whether fees are refundable is dependant upon both statutory and regulatory language of the specific fee in question. The question at issue concerns four different fees: 1) developer infrastructure administrative fee; 2) developer infrastructure tax; 3) building permit fee; and 4) building permit plan review fee. These fees, and the statutory language concerning refunds are analyzed below.

A. Developer Tax

The developer tax is divided into two elements: 1) the tax; and 2) a fee for administration. Each of these elements has different requirements concerning refunds.

The first element of the developer tax is the administrative fee. The purpose of the administrative fee is to defray expenses associated with collection and administration of the developer's tax. 4 CMC § 1935(b). Statutory language specifically prohibits refunding of the administrative fee associated with the developer's tax once it has been paid. 4 CMC § 1935(b). Therefore, refunding is not permitted.

The second element of the developer tax is the tax itself. The purpose of the tax is to help the CNMI offset costs of necessary infrastructure improvements to serve the proposed development. PL 9-14, § 1 Findings (1993). The statute states that any overpayment in the developer tax (tax paid based on a value, which upon project completion, is higher than actual construction costs) "shall be refunded to the developer within 90 days of project completion." 4 CMC 1936(d). The amount of the tax is based on final project cost. If the project is abandoned, the final project cost is zero, and thus a total refund is clearly inferred by statute language. 4 CMC 1936(d).

B. Building Permit Fees

There are two fees associated with the issuance of a building permit: 1) plan review fee; and 2) building permit fee. These two fees are examined in the sections that follow.

The first element of the building permit process is the plan review permit. The purpose of the plan review fee is to offset costs associated with review of plans, drawings and specifications. 2 CMC § 7132(b). This activity is distinct from the services provided under the building permit process. 2 CMC § 7132(a)(1). Neither statutory language nor the regulations address the refunding of plan review fees. Since the purpose of these fees is to offset costs associated with review of plans and specifications, it could be inferred that if a request for refund were received prior to any review a refund would be appropriate. Determination as to whether any review has occurred would be based on a determination of the Building Safety Official. Determinations of the Building Official as to whether review has occurred could be reviewed by courts under an arbitrary and capricious standard for abuse of discretion. 1 CMC § 9112(f)(2)(i). In order to resolve uncertainty over this issue, regulations should be adopted clarifying this matter.

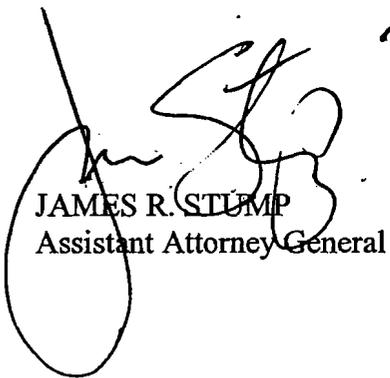
The second element of the building permit process is the building permit. The purpose of the building permit fees is to offset costs associated with for building permit applications, plan review inspections, and procedures associated with administration of the building codes. 2 CMC § 7132(a)(1). The regulations provide the building safety official with discretionary authority to refund up to 60% of the building permit fee if an application for refund is received within 90 days of initial submittal. The regulatory language provides the Building and Safety official with discretion to refund less than 60% of the permit fee. Although a standard for determining the amount of refund is not provided in either the statute or regulations, the statutory language clearly infers that if costs of review prior to receipt of the application for review have exceeded 60% a lesser amount of refund is within the discretion of the building and safety official. 2 CMC § 7132(a)(1). This issue could be clarified through adoption of an amendment to the Building Safety Code Regulations.

V. CONCLUSION

The issue presented was whether the Commonwealth of the Northern Mariana Islands Building Safety Department was required to refund fees associated with the Developer Tax and Building Permit fees if the associated project is cancelled.

Our analysis indicates that the administrative cost of the developer tax is not refundable although the tax itself is. No discretion is allowed in the administration of these requirements.

The building permit plan review fee can be refunded if an application for refund is received before any review has occurred. Whether any review has occurred will be the determination of the Building Safety Official. Additionally, the Building Safety Official has discretion to refund up to 60% of the building permit fee. Amounts less than 60% of the permit fee could be refunded if actual costs have been incurred that exceed 40% of the permit fee. The determination of the amount of costs incurred will be that of the Building Official. Determinations of the Building Official can be reviewed under arbitrary and/or capricious standard of abuse of discretion.



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ATTORNEY GENERAL LEGAL OPINION No. 04-11

Date: August 7, 2004

To: Fermin M. Atalig, Secretary of Finance

From: Pamela Brown, Attorney General
James R. Stump, Assistant Attorney General

Re: Legal Opinion

Per your request, we have reviewed the issue of whether the Mayor of Rota is entitled to housing expenses as part of his compensation. The following is the opinion of the Office of the Attorney General regarding this issue. If you have any questions or comments on this matter, please contact our office.

I. ISSUE

Should the Mayor of Rota be compensated for his housing expenses similar to the Governor, Lt. Governor, Senate President and Speaker of the House?

II. SHORT ANSWER

No. The compensation level of the Mayor of Rota is established by statute. CNMI Const., Art. VI § 4. The controlling statute limits the Mayor's compensation to an annual salary of \$43,200. 1 CMC § 8244. Unlike the positions of Governor, Lieutenant Governor, President of the Senate, and the Speaker of the House of Representatives, 1 CMC § 8222, no specific authority for housing is included within the statutorily established compensation of the Mayor.

III. BACKGROUND

The Constitution of the Commonwealth of the Northern Mariana Islands (“Constitution”) establishes a bicameral legislative government, CNMI Const. Art. II, §§ 1-17, an executive branch, CNMI Const. Art. III §§ 1-23, and a local government structure. CNMI Const. Art. VI §§ 1-8. In addition to identifying powers and duties of these branches of government, the Constitution identifies the structure for compensation of these positions. CNMI Const. Art. II § 10 (Legislators); CNMI Const. Art. III § 5 (Governor); CNMI Const. Art. II § 5 (Mayor).

The Constitution established an initial salary for the legislators and a structure for future adjustments. Const. Art. II § 10. The initial salary was set at “eight thousand dollars and reasonable allowances for expenses provided by law.” Const. Art. II § 10. Additionally, the Constitution established “an advisory commission established by law to make recommendations concerning the compensation of the Commonwealth executive, legislative, and judicial officers.” Const. Art. II § 10. The current statutory authority establishes the legislative salary at \$39,300, 1 CMC § 1271, plus a per diem allowance. 1 CMC § 1251.

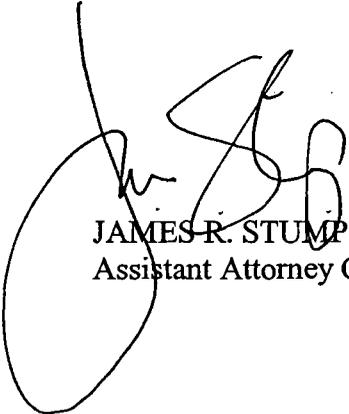
The Constitution provided a similar structure for the Governor and Lt. Governor. Const. Art. III § 5. The Constitution establishes a base salary and “reasonable allowances for expenses provided by law.” Const. Art. III § 5. Additionally, the constitutional compensation language states: “upon the recommendation of the advisory commission on compensation provided for by Article II, section 10, the legislature may change the salary of the governor or Lt. Governor.” Const. Art. III § 5. Article II, section 10 of the Constitution establishes the structure for compensation of the Legislators. Const. Art. II § 10. In 1994, specific statutory authority was adopted which set the salary for the Governor at \$70,000 and that of the Lt. Governor at \$60,000. 1 CMC § 8244(a).

In addition to the salary and compensation for reasonable allowances Public Law 2-4 provided housing benefits for specific members of the legislative and executive branches of the CNMI. 1 CMC § 8222. Under this statute, the “Governor, Lieutenant Governor, President of the Senate, and the Speaker of the House of Representatives. . . are authorized to obtain government houses for their private and residential purposes for the duration of their term in such office.” 1 CMC § 8222.

The Constitutional language establishing mayoral compensation is distinct from that of the legislative and executive branches. CNMI Const. Art. VI § 4. Unlike the language establishing the compensation for the executive and legislators, which provides for review by an advisory panel, the Constitution simply states: “A mayor shall receive an annual salary plus an allowance for reasonable expenses as provided by law.” CNMI Const. Art. VI § 4. The compensation structure does not include the position of the mayor within the advisory commission on compensation that is established in Article II, Section 10. CNMI Const. Art. VI § 4. The current salary for mayors was established in 1992 at \$43,200. 1 CMC § 8244(c).

IV. LEGAL ANALYSIS

The compensation to be provided to elected officials is controlled by both the Constitution and statutes. The Constitutional convention specifically intended that presiding officers in the government receive greater compensation than lesser officials. Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands, § 10 (1976). Additionally, comments of the Constitutional Convention indicate that what was to be considered "reasonable allowances for expenses" was to be determined by the legislature. Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands, Art II § 10, Art III § 5, Art. VI § 4 (1976). Statutory authority for the provision of housing is specifically limited to the Governor, Lt. Governor, President of the Senate and Speaker of the House. 1 CMC § 8222. The express mention of one thing implies the exclusion of another, which might logically have been considered at the same time. See, Aldan-Pierce v. Mafnas, 2 N.M.I. 122 (1991). A basic principle of construction is that language must be given its plain meaning. Camacho v. Northern Marianas Retirement Fund, 1 N.M.I. 362 (1990). The provision of housing is limited to specific named positions established by the legislature. 1 CMC § 8222. The Mayor of Rota is not identified for the provision of housing within this statutory authority, and thus these expenses are not allowed.



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