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

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Commonwealth of the Northern Mariana Islands
COMMONWEALTH CASINO COMMISSION
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PUBLIC NOTICE OF ADOPTION OF EMERGENCY RULES AND REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION AND

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Commonwealth of the Northern Mariana Islands ("CNMI"), Commonwealth Casino Commission ("the Commission") has adopted as Emergency Regulations the attached Casino Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(b). The Commission has followed the procedures of 1 CMC § 9104(b) and (c) to adopt these Casino Regulations on an emergency basis valid for a period of 120 days.

AUTHORITY: The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Section 2314 of Public Law 18-56. The Commission has the authority to promulgate rules and regulations to regulate personnel matters. See 4 CMC §2316(a).

THE TERMS AND SUBSTANCE: The attached Rules and Regulations govern the regulations to appoint, reassign or transfer, promote or demote, or otherwise change status of, and to remove from service, employees who are employed by the Commonwealth Casino Commission The regulations are closely based on, and very nearly mirror, those promulgated by the Civil Service Commission's Exempted Service Regulations.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Establish a section on General Provisions including Applicability, Purpose, Definitions, and the like;
2. Establish a section on Staffing and Administration, including Recruitment and Selection Procedures, duty stations, work hours, and the like;
3. Establish a section on Employee Benefits including various leaves, Insurance and Retirement benefits, and the like;
4. Establish a section on Employee Conduct and Obligations, including Grievance procedures, termination, various non-discrimination policies, various alcohol and Drug free policies, vehicle policies, and the like.

The Commonwealth Casino Commission approved the attached Regulations on or about February 7, 2019.

Submitted by: _____ Feb. 8, 2019
JUAN M. SABLAN — Date
Chairman of the Commission

Concurred by: _____ 12 MAR 2019
HON. RALPH DLG. TORRES — Date
Governor

Filed and Recorded by: _____ 03.19.2019
ESTHER SN NESBITT — Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 14 day of March, 2019.

_____
HON. EDWARD MANIBUSAN
Attorney General

TITLE 175
COMMONWEALTH CASINO COMMISSION

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Subchapter 175-10.1	**Commonwealth Casino Commission Rules and Regulations**
Subchapter 175-10.2	**Code of Ethics**
Subchapter 175-10.3	**Personnel Regulations**

CHAPTER 175-10
COMMONWEALTH CASINO COMMISSION

SUBCHAPTER 175-10.3
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Part 001 – General Provisions

§ 175-10.3-001 General

(a) This chapter provides the regulations to appoint, reassign or transfer, promote or demote, or otherwise change status of, and to remove from service, employees who are employed by the Commonwealth Casino Commission (Commission).

(b) Public Law 18-56, enacted July 11, 2014, exempted the staff of the Commission from the Civil Service. The Commission has the authority to promulgate rules and regulations to regulate personnel matters. See 4 CMC §2316(a). Pursuant to this authority, the Commission promulgates the following Personnel Regulations, to be administered by the Executive Director.

§ 175-10.3-005 Applicability

(a) The regulations in this chapter shall apply to employment of personnel in all positions within the Commission. However, nothing in these regulations shall be construed to apply to Members of the Commission unless specifically stated otherwise.

(b) It is not the intention of the regulations in this chapter to create any legally protected property interests in employment with the Commission or any employment right or benefit not explicitly stated in these regulations or the employment contract. Notwithstanding any other regulation, policy, or practice to the contrary, all commission staff employment may be terminated at the will of the employee and/or employer pursuant to the terms of the contract and these regulations.

§ 175-10.3-010 Purpose

The regulations in this subchapter establish regulatory direction for employing, compensating, providing employee benefits, and effecting other personnel actions for Commission employees. These regulations shall be construed and applied to promote the following underlying purposes and policies:

(a) Simplify, clarify, and modernize the employment policies and practices of the Commission.

(b) Establish consistent employment policies and practices among various divisions and activities of the Commission.

(c) Create increased public confidence in the procedures followed in Commission employment.

(d) Ensure the fair and equitable treatment of employees within Commission.

(e) Provide safeguards for the maintenance of an employment system of quality and integrity.

§ 175-10.3-015 Definitions

For purposes of this subchapter, the following terms shall be defined as follows:

(a) "Dependent(s)" Spouse, minor children, unmarried and under 21 years of age, physically or mentally handicapped children incapable of supporting themselves, regardless of age, wholly dependent parents of employee or spouse, or minor children by

previous marriage, unmarried and under 21 years of age, for whom the employee or spouse have legal custody. Children by a previous marriage who are primarily domiciled by court order in other than the employee's household are not considered dependents.

(b) "CNMI" means the Commonwealth of the Northern Mariana Islands.

(c) "Commission" means the Commonwealth Casino Commission established by PL 18-56.

(d) "Commission Employee" An employee holding a position within the Commission, pursuant to a Commission Service Contract or other contract, and further pursuant to the laws and regulations of the Commonwealth.

(e) "Commission Service Contract" Employment contract entered into by the employee and employer for a term not to exceed five years, subject to the availability of funds, budgeted FTEs (if applicable), and any statutory limitations.

(f) "Commissioner" means the commission member of the Commission appointed and confirmed pursuant to PL 18-56.

(g) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

(h) "Members" mean the Commissioners of the Commonwealth Casino Commission.

(i) "Employer" The Commonwealth Casino Commission; or, if the context so requires, the hiring official.

(j) "Executive Director" means the Executive Director of the Commonwealth Casino Commission appointed pursuant to PL 18-56, or his or her designee.

(k) "FTE" Full-time employee.

(l) "Willful Abandonment" When a Commission employee is absent without authorized leave for a combined total of ten days without valid reason during a twelve-month period.

(m) "Termination for Cause" Termination for cause before the end of the contract term may be for any of the following reasons:

(1) Failure or inability to perform competently;

(2) Willful misconduct;

(3) Willful abandonment of job;

(4) Substantial or repeated violation of law, or of this subchapter, or of Division or Commission rules or policies;

(5) Willful failure or inability to plan, manage, or evaluate employee or unit performance in a timely or effective manner;

(6) Conviction of a felony or other crime involving moral turpitude;

(7) Other good cause that adversely affects the employee's ability to perform the job or that may have an adverse effect on the Division or Commission if employment is continued.

§ 175-10.3-020 Types of Employment.

The type of employment is dependent upon the position that is being filled. The Executive Director shall consider how best to accommodate and balance the present and expected future needs of the Commission with available and projected resources in determining the type of employment.

(a) Employment Contract – Employment Contract employees shall be hired on a contractual basis. Employment Contract employees shall be hired for a period of one to five years and are entitled to all the benefits of employment, including annual and sick leave, and are eligible for health and life insurance and the 401(a). Employees under this status are subjected to the Offer Letter of Employment from the Executive Director, the Commission Service Contract, and the additional Terms and Conditions of Employment promulgated by the Executive Director.

(1) Part-time Employment Contract employees may be hired for one or five years and do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

(2) The contracts of all contract employees shall contain a 90-day probationary period. The Executive Director should try to provide periodic feedback so that the employee is aware of any deficiencies he or she needs to correct prior to the end of the 90-day period. The Executive Director may promulgate a feedback form for this purpose. An employee who receives all or primarily all "unsatisfactories" on the evaluative criteria should assume he or she will be separated from service. The Executive Director may provide a letter that the employee either has or has not successfully passed his or her probationary period. The employee who has not received a letter about passing the probationary period should request one. Once the employee successfully completes the probationary period, or extended probationary period(s), he or she can be terminated with or without cause, as may be allowed by the Commission Service Contract.

(3) No contract employee shall have an expectation of renewal of any contract and my not rely on any such expectation.

(b) Provisional Appointment – Provisional Appointment employees are hired by short term contract on no more than a 90-day period to fulfill an urgent need of the Commission. This is usually done in order to allow time to obtain a full-time permanent employee for the position. If the Commission still needs the services of the provisional employee and the position has not yet permanently been filled, the Executive Director may extend the provisional employee another 90 days but the employment of a provisional employee shall not exceed 180 consecutive days. Provisional employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90-day period. If the employee is then converted to a full-time position, he or she still has to complete the 90-day probationary period.

(c) Limited Term Appointment – Limited Term Appointment employees may be hired by short term contract to work on programs funded through federal or Commonwealth grants. The terms of these employees shall be congruent with the budget cycle of the grant. Limited Term Appointment employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90-day period.

(d) Temporary Appointment – Temporary Appointment employees are employees who are hired by a short-term contract for a period of less than one year. While their terms may be extended, there should be no expectation of and reliance upon an extension. Temporary employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

Part 100 - Staffing and Administration

§ 175-10.3-101 Recruitment and Selection Procedures

(a) When the Executive Director seeks to fill a vacant position, he or she will first ensure the availability of funds by checking with the Department of Finance or otherwise. Executive Director will authorize a vacancy announcement to initiate a search for a qualified and suitable person. The terms for the position shall be in accordance with the position description. The recruitment and selection process will follow procedures established by Executive Director.

(b) An existing position is deemed to be vacant upon expiration or termination of the present or last employment contract. The position can be announced sixty days before the end-date of the current employment contract if the intent is not to renew the incumbent, or some shorter time should the intent to renew occur at a date closer to the expiration of the contract.

(c) There is no requirement for the employer to renew a Commission Service Contract. If the employer, through the Executive Director, elects to renew the employment contract of a Commission Employee, the employer, through the Executive Director, may waive the announcement of the position.

(d) Newly established or otherwise unfilled positions will be announced. Provided, however, when necessary for the provision of essential services, the Executive Director may waive the requirement of a vacancy announcement for selection of a candidate for any position within the Commission. However, prior to waiving the vacancy announcement, the Executive Director shall obtain certification of the availability of funds for the position to be filled.

(e) Upon selection of an applicant the Executive Director will cause a Commission Service Contract, with Terms and Conditions, to be routed. The selected candidate will not be authorized to begin work until the contract has been fully routed and approved, a negative report has been received for the pre-employment drug test, all other requirements have been met, and the Executive Director has made payroll certification that the employee has been employed in accordance with relevant statutes and regulations.

§ 175-10.3-105 Disqualification of Applicants

(a) The Executive Director may refuse to examine an applicant, or after examination may refuse to place his or her name on an eligible list, or may remove his or her name from an eligible list, or may refuse to certify any person on an eligible list who:

(1) Has failed to submit a complete and accurate application or failed to submit within the prescribed time limit;

(2) Is found to lack any of the minimum qualifications in the recruitment announcement or examination for the position;

(3) Has applied for a position as an "in-house" applicant, but whose last performance evaluation was below average;

(4) Has received any disciplinary action (other than an oral reprimand, warning, or counseling) from the Commission (or any other branch, agency or instrumentality of the Commonwealth government) within a 12-month period preceding application and it has not been rescinded;

(5) Is found to have been convicted for violation of the law of the CNMI or federal government within the past two years. Conviction includes guilty, "nolo" and "*Alford*" pleas.

(6) Has been convicted of any crime involving violence or dishonesty within the last two years;

(7) Has withheld information of material fact or made a false statement of material fact in regard to the application for employment;

(8) Has ever been dismissed from the Commission or from other employer for disciplinary reasons or resigned in lieu of termination;

(9) Has used or attempted to use bribery to secure an advantage in the examination or appointment;

(10) Has directly or indirectly obtained information regarding examinations to which the applicant is not entitled; or

(11) Is disqualified under other sections of these rules or the laws, regulations or policies of the CNMI Government or the Commission.

§ 175-10.3-110 Nepotism

There shall be no limit to the number of members of the same household who may be employed under other appointments, provided:

(a) No member of the same household may supervise another.

(b) All other qualifications for employment are met.

(c) No costs other than for salary and employment benefits as provided by regulation, shall accrue to the Commission as a result of hiring persons from a household containing another employee.

§ 175-10.3-115 Effective Dates

(a) Employment Start Date. Employment for all Commission Employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the employee reports to work. Expatriation travel time is outside the employment period and will not be compensated.

(b) Contract Completion. Completion of the term of employment shall be effective on the last day of the term of the employment contract.

(c) Early Termination. Early termination of employment, with or without cause, shall be effective on the date of termination stated in the termination letter. Repatriation travel time is outside the employment period and will not be compensated.

§ 175-10.3-120 Duty Station and Work Assignments

(a) Duty station is primarily defined as Saipan, C.N.M.I. Duty Station may also, at the discretion of the Executive Director, include Rota, Tinian, the Northern Islands, or as otherwise assigned as the duties and responsibilities of the Commission may be expanded by legislation or executive order.

(b) The employee is assigned to a specific duty station as identified in the employment contract. However, with the employee's consent, the employee may be assigned to another duty station, based upon the needs of the Commission.

(c) If the transfer of duty station involves a permanent move for a period in excess of six months to another island within the CNMI, the employee shall be entitled to transportation for self and dependents, if any, and shipment of household effects, not to exceed 1,500 pounds for a single status employee or 3,000 pounds for an employee with dependents. This benefit is available only in cases where the transfer is initiated by the Commission.

(d) Temporary assignments to another duty station for periods of not more than ten consecutive workdays do not require the employee's approval, if the assignment is required by the needs of the Commission.

§ 175-10.3-125 Compensation and Work Schedules

(a) The salary will be subject fiscal availability (and to budget appropriations, if applicable) and will be expressed in terms of the gross amount to be paid during a twelve-month annual period, and for each of the twenty-six bi-weekly pay periods.

(b) Periods of compensable time shall include time worked during the assigned work schedule, overtime for overtime-eligible employees, legal holidays, and approved annual, sick, administrative and other leaves, as defined herein or subject to the Executive Order of the Governor. Periods of absence without leave (AWOL) and leave without pay (LWOP) will not be compensated and will be subject to appropriate timekeeping and administrative action.

(c) The employee's specific workday and workweek may differ from the standard workweek on a permanent basis, or vary from time to time, according to the needs of the Commission. Every effort shall be made to maintain a reasonable five-day, forty- hour work schedule, but the schedule is subject to variation, to include required overtime for overtime-eligible employees, extra hours for overtime-exempt employees, shifts of differing duration, and broken periods of duty, according to the needs of the Commission.

(d) All employees are covered by the Federal Fair Labor Standards Act (FLSA). Employees cannot waive their rights under FLSA. An employee will be designated as overtime-eligible or overtime-exempt based upon the duties performed and in accordance with the federal FLSA. Such designated executive, administrative, and professional employees are exempt from, and shall not be paid, overtime payment. These terms have the meanings given them in the federal Fair Labor Standards Act. The employee's overtime eligibility status is stated in the employment contract.

(e) Overtime for overtime-eligible employees shall be approved in accordance with a procedure established by the Executive Director. The Executive Director shall also establish a policy to address administrative actions for unauthorized overtime work. However, prohibition of unauthorized overtime does not relieve the employer of the requirement to pay for time actually worked. Overtime is that time a non-exempt employee is directed or permitted to work in excess of the 40 hours during a standard work week (40 hours in seven consecutive days). Employers may apply different work periods for health care employees, or different work periods and overtime thresholds for law enforcement and fire employees, as permitted by federal law. Such overtime hours are paid at 1.5 times the regular rate of pay, as defined in the Fair Labor Standards Act.

(f) Compensatory time-off can be used to replace monetary payment for overtime-eligible employees, at the discretion of the Executive Director. In such cases replacement will be at the rate of one and one-half hours of compensatory time-off for each one hour of overtime worked. The employee's acceptance of employment serves as an agreement to receive compensatory time-off in lieu of paid overtime. The employer can require the employee to use the compensatory time-off that they have earned, rather than allowing it to excessively accumulate or paying it as overtime. Restated, this means that the Executive Director can schedule compensatory time-off periods and require the employee to take that time-off. This does not prevent an employee from also scheduling time off at a time of his or her choosing, as long as approving the request does not unduly disrupt the Commission's operations.

(g) Compensatory time accrued must be taken within the year that it was earned.

(h) The Executive Director may approve compensatory time or extra payment to an overtime-exempt employee, in exceptional situations. Such situations will be considered the exception, not the rule, and will be limited to declared emergencies and extraordinary work requirements. In such cases compensatory time-off or extra payment will be on a one-to-one regular base pay basis.

§ 175-10.3-130 Acting Appointment

(a) An acting appointment is made when an employee may be required to serve temporarily and accept responsibilities for work in a vacant higher-level position which the Executive Director has determined cannot be left vacant for any but the shortest period of time. This type of appointment gives the acting appointed employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned.

(b) All acting appointments require the written approval of the Executive Director. Any employee who is acting for a period in excess of 90 days will receive acting pay effective

the 91st day in acting capacity. If the employee does not meet the minimum qualifications of the position for which he or she is in acting capacity, the acting pay will be at least 10% more than the employee was earning immediately prior to accepting the acting role but not more than the pay level for the position the employee is filling.

§ 175-10.3-135 Work Hours

(a) Regular Hours of Work.

(1) Regular working hours of the Commission employees shall consist of a five-day week, eight hours a day, 40 hours per workweek from 8:00 am to 5:00 pm. The standard workweek shall consist of the period from midnight Sunday to the following midnight Sunday.

(2) The Commission is a 24-hour operation. In the Division(s) that operate outside of normal business hours, the Manager of the Division together with the Executive Director shall make a schedule for the employees who work hours other than the standard work week. Please refer to the Time Clock / Biometric Timekeeping Policy, Policy No. 1095 for the hours of all units operating outside of the standard work week.

(b) Evening and Night Shift Differential. (RESERVED)

(c) On-Call Employees (RESERVED)

(d) Time and Attendance Record. All Commission employees shall sign a Time and Attendance Record such as may be required by the Executive Director. The Executive Director shall review and approve Time and Attendance Records. The Commission pay periods shall be identical with those of the CNMI Government. Executive, managerial, professional and exempt employees are expected to work the regular 40 hours a week of employment but need not time-in or time-out.

(e) Payment of Salary. All Commission employees shall be paid within two weeks after end of every pay period.

(f) Temporary Schedule. Temporary shifting of employee's working hours to meet routine needs may be done as necessary and if approved by the Division Manager or the Executive Director. Changes in temporary schedule for more than one-week duration require at least one week's advance notice to employees except in emergency situations, or when the employees waive the need for notice.

(g) Lunch Period. For most positions, lunch shall be one-hour unpaid time, usually from 11:30 am to 12:30 pm. Deviation from the standard lunch time requires the approval of the employee's Supervisor or the Executive Director. If employee is on a shift schedule, lunch or dinner break should be complied accordingly based on existing policy.

(h) Rest Periods. Employees are entitled to rest periods of fifteen minutes during the first four (4) hours of work and another fifteen minutes during the second four hours of work. The responsibility for scheduling break periods rests with the immediate supervisor. The 30 minutes allotted for break time may not be used to lengthen lunch hours or shorten working days. Rest periods shall not be used to cover late arrivals nor may they be accumulated for scheduled time-off.

(i) Changes of Permanent Schedule. All long-term changes to the established work schedules shall be provided to the employees affected at least one week's notice prior to the change, if possible, except in emergency situations or when the employees waive the need for notice.

§ 175-10.3-140 Work Hours Recognized Holidays with Pay

(a) Holidays with Pay. The following days will be recognized as holidays with pay for all employees. These holidays are subject to change pursuant to Executive Order of the CNMI Governor or by statute.

New Year's Day (January 1)

Martin Luther's King, Jr. Day (3rd Monday in January)

President's Day (3rd Monday of February)

Covenant Day (3rd Friday in March)

Good Friday (as designated by the Catholic Church calendar)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (September 4)

Commonwealth Cultural Day (2nd Monday in October)

Citizenship Day (November 4)

Veteran's Day (November 11)

Thanksgiving Day (last Thursday in November)

Constitution Day (December 8)

Christmas Day (December 25)

(b) Holiday Falling on Saturday or Sunday. When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized as the holiday. When a recognized holiday falls on a Sunday, the Monday following shall be recognized as the holiday.

(c) Computation of Holiday Pay

(1) Employees shall receive their regular straight time rate of pay for recognized holidays if they do not work.

(2) Employees who are not managers but who work on the holiday shall receive at the rate of one compensatory time-off hour for each one hour of holiday hours worked. Managers who work on a holiday shall receive a compensatory day off.

(3) Holiday during annual, or sick leave. A recognized holiday occurring during the employee's annual or sick leave shall not be counted as a day of annual or sick leave.

(d) Forfeiture of Holiday Pay. Employees shall forfeit their right to payment for any holiday if they are on leave without pay (LWOP) or absent without leave authorization (AWOL) for the entire shift on the last regular work day preceding such holiday or on the next regular work day following such holiday.

(e) Pay for Employees who Work on a Holiday. Employees who perform work on a holiday will be compensated straight time pay in addition to the holiday pay. Overtime rate will be applied for hours worked beyond the 40-regular work hours. A work hour is defined as actual hours of performance. Holiday hours are not counted as regular work hours.

Part 200 - Employee Benefits

§ 175-10.3-201 Expatriation and Repatriation [Reserved]

§ 175-10.3-205 Housing [Reserved]

§ 175-10.3-210 Annual Leave

(a) Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Except as provided in this section, employees who have less than three years of creditable service shall earn annual leave at the rate of four hours per pay period. Employees with three but less than six years of creditable service shall earn annual leave at the rate of six hours per pay period. Employees with six or more years of creditable service shall earn annual leave at the rate of eight hours per pay period.

(b) Activity or division heads, attorneys, executive directors and assistant executive directors shall earn annual leave at the rate of eight hours per pay period.

(c) Annual leave accrual rate per pay period for Commission Employees with advanced degrees and/or exceptional skills or experience shall be at a rate not to exceed eight hours, and:

(1) Based, specific to each employee, upon:

(i) The critical need to fill the position;

(ii) The availability of qualified applicants; and

(iii) The amount and quality of related education, training, and experience possessed by the employee.

(2) An employee employed in the first year of the initial contract shall not be entitled to use annual leave during the first ninety days of employment. Annual leave earned during this period will be credited to the employee upon completion of this initial period. This restriction does not apply to employees employed on an immediately subsequent contract.

(d) Commission Employees shall accrue annual leave at the rate set forth in their employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status there will be no leave accrual for that pay period.

(e) Annual leave may be used only upon prior written approval of the employer and will be scheduled based upon the needs of the employer. Annual leave requests must be made in advance, except in cases of bona fide emergencies, on a leave request form provided by the Executive Director. All annual leave requests must be approved by the Executive Director. The employer will approve all properly submitted leave requests unless the needs of the government prevent the absence of the employee.

(f) Annual leave must be utilized during the contract period. Except as provided in subsections (g), (h), and (i) below, any annual leave not utilized will be converted to sick leave at the end of the employment term. No cash payment will be made for unused annual leave, except as provided for in subsection (i) below.

(g) If an offer and acceptance for a new employment contract is agreed upon, or if a civil or excepted service employee accepts a contract with the Commission, accrued and unused annual leave credits from the prior period of employment, not to exceed 360 hours, shall be carried over to the new employment contract. Unused annual leave in excess of the limits cited above will be converted to sick leave.

(h) Employees converting from the civil service or excepted service status will be authorized to carry over not more than 360 hours of annual leave. Hours in excess of this amount will be converted to sick leave if not used prior to conversion.

(i) The Executive Director may, with the concurrence of the Commission and of the Governor, approve a lump-sum cash payment of up to 360 hours of unused annual leave in cases of involuntary separation due to reasons of bona fide personal emergency beyond the control of the employee or as otherwise permitted by the regulations or the Executive Director.

§ 175-10.3-215 Sick Leave

Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in the event of an illness or lengthy absence for legitimate medical reason. In addition, in accordance with PL 15-69, as repealed in part by PL 15-115, an employee may use sick leave to care for a sick spouse or child. In this case, "sick" means a serious or life-threatening illness. Approval of the Executive Director is required to use sick leave in this way. A doctor's certification will be required.

(a) Sick leave shall accrue to the employee at the rate of four hours per pay period, provided the employee has been in pay status as required by the employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status the sick leave accrual shall be prorated for that pay period.

(b) The employee is entitled to use accrued sick leave from the time sick leave is first earned. An employee who is absent from work for a reason for which Sick Leave may be used shall inform his or her immediate supervisor of the fact and reason, and failure to do so within a reasonable time may be cause for disciplinary action. Notification in this context shall mean notification no later than an hour after the accident, emergency or injury, or advance notice if medical and/or dental appointment is being sought.

(c) Any absence on sick leave where the employee misses more than three continuous days of work must have the illness verified by a note from a medical doctor in order to claim sick leave.

(d) The employee is not entitled to any payment for accrued and unused sick leave upon completion of an employment contract or termination of employment.

(e) If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment, all accrued and unused sick leave credits from the prior contract/appointment will be carried over, provided that if the employee is separated from

government service for a period longer than three years, the employee shall be divested of accumulated sick leave.

(f) If the Executive Director has reasonable grounds to believe that the employee is misusing sick leave, or requesting sick leave for purposes other than illness, the Executive Director may request proof of illness from a health care professional for any period of illness. If the certification is not provided, or is unpersuasive, the supervisor may deny the sick leave request. Disallowed sick leave shall be charged as Annual Leave, if available, or AWOL.

(g) Sick leave may be accumulated without limit.

(h) Commission Employees are eligible for the sick leave bank program pursuant to applicable regulations adopted on October 16, 1997 and published in the Commonwealth Register, Vol. 19, No. 11, on November 15, 1997, at pages 15748-15757. (See NMIAC title 100, chapter 50).

(i) Sick Leave Bank

(1) Donation. The Commission hereby establishes a Sick Leave Bank. Employees may donate sick leave either to a designated employee or to the Sick Leave Bank in general. Employees may donate as much sick leave as they want to the Bank but no more than 160 hours to any specific employee.

(2) Use. Employees must be approved by the Executive Director to use the Sick Leave Bank. In order to be eligible, employees must have a serious or life-threatening illness or accident that precludes the employee from working. The employee must have exhausted all other leave, including advanced leave, prior to using the Sick Leave Bank. Employees using either designated time or general Sick Leave Bank time may use no more than 160 hours total during the course of their employment.

(j) Transfer-In of Sick Leave from other CNMI Government Agencies. The Commission will accept up to 500 hours of sick leave from other CNMI Government agencies.

(k) For employees with serious medical conditions resulting in prolonged illness or disability as documented by his or her physician, unpaid sick leave may be requested under the Family Medical Leave Act (FMLA).

§ 175-10.3-220 Administrative Leave with Pay

Administrative leave with pay may be granted by the Governor or the Executive Director for a public purpose.

§ 175-10.3-225 Holidays

Unless the Executive Director determines that the Commission Employee must, due to the services provided by the employee, report to work on a legal holiday, the employee shall be released from work on all legal holidays, except during emergencies.

§ 175-10.3-230 Advance Leave

Where, for good reason, the employee requires an advance of annual or sick leave, the Executive Director may grant leave in advance up to a maximum of one-half of the total earnable leave credits for one year from the date the request is approved or for the remainder of the employment contract/appointment, whichever is shorter. Subsequent leave earnings shall serve to replace the amount of advance leave taken. In the event an employee resigns from his or her employment, any annual or sick leave overdraft must be paid as part of the final clearance.

§ 175-10.3-235 Court Leave

The Commission encourages its employees to fulfill their obligations as citizens and residents of the Commonwealth and the federal government. Thus, employees who are called upon to serve as jurors and witnesses may, at their option, be granted court leave for such period as required by the court. Employees who are called to jury duty or as witnesses shall present their summons to their immediate supervisor together with a completed request for leave for his or her signature and processing. Employees using court leave to cover the period of absence shall turn over to the Commission such jury or witness fees (as distinct from expense allowances) as they receive from the court or summoning party. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted.

§ 175-10.3-240 Compassionate Leave

Full-time Commission Employees may be granted compassionate leave of no more than five workdays, not necessarily consecutive, in cases of death in the immediate family of the employee. For the purpose of this section, the term immediate family shall include a mother, father, brother, sister, spouse, immediate offspring (natural and culturally or legally adopted), stillborn child, grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen days after the death of the immediate family member.

§ 175-10.3-245 Miscarriage Leave

Miscarriage leave shall be granted to a Commission Employee who is absent from work because of miscarriage or the subsequent convalescence. Such miscarriage leave shall not exceed five work days, and shall be in addition to any accumulated sick leave. An employee who wishes to claim miscarriage leave must have the miscarriage verified by a note from a medical doctor in order to claim miscarriage leave. Any additional leave taken after five work days shall be charged against accumulated sick leave.

§ 175-10.3-250 Pregnancy Disability Leave

Pregnancy disability leave shall be granted to a Commission Employee who is absent from work because of childbirth or the subsequent convalescence. Such pregnancy disability leave shall not exceed thirteen work days, shall be in addition to any maternity leave or accumulated sick leave, and shall be any thirteen work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave. Pregnancy disability leave shall be available to a Commission Employee who suffers a still birth.

§ 175-10.3-255 Maternity and Paternity Leave

Maternity or paternity leave shall be granted to a Commission Employee who is absent from work because of the employee or the employee's spouse giving birth. Such leave shall also be available for absences due to the cultural or legal adoption of a child. Such maternity or paternity leave shall not exceed two work-days and shall be taken within one week of the date of childbirth or the adoption.

§ 175-10.3-260 Military Leave

(a) Any employee who is involuntarily enlisted, drafted or is called into active service in the armed service of the United States shall be granted military service leave in accordance with this Section and applicable Federal Law. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Commission without interruption, provided that the employee's absence has not voluntarily exceeded two years and application for re-employment was made within 30 days of release from active military service.

(b) In accordance with local and federal laws, any employee who enlists or is called to federal active duty, territorial active military service or training duty as a Reserve of the Armed Forces or a member of the National Guard will be granted up to 120 hours of unpaid military leave for the period of active duty upon presentation of Orders into service to the Executive Director or his or her designee. This leave shall be granted solely for the purpose of and will continue only for the time stated in the Orders into service and that said employee is actually performing said military service.

(c) Any employee who is a veteran of a branch of the United States Armed Services will be excused from work duties without loss of pay for the time necessary, not to exceed eight hours in any one day, to participate as an active pall bearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces of the United States whose remains final interment is in the Commonwealth.

(d) Extended military leave shall be granted to employees pursuant to the federal Uniformed Services Employment and Reemployment Act (USERRA).

§ 175-10.3-265 FMLA Leave

Leave under the federal Family and Medical Leave Act of 1993 (FMLA) shall be granted to employees as provided in FMLA.

§ 175-10.3-270 Leave without Pay

The Executive Director or his or her designee shall be the approving authority for Leave without Pay (LWOP). It is the responsibility of the employee to apply for leave without pay. If LWOP is not authorized, it is characterized on the employee's payroll as Absent without Leave (AWOL). If an employee believes he or she has been adjudged AWOL improperly, he or she needs to clear that issue with the Executive Director within the next pay period after having received the AWOL. Leave and benefits shall not accrue during leave without pay except as provided in this section. The employer-employee relationship is maintained during a period of leave without pay, but the Commission shall pay no other compensation.

§ 175-10.3-275 Unauthorized Absence or Absent Without Leave (AWOL)

(a) Absence without Leave is defined as leave without approval and may subject the employee to discipline. For purposes of this section, AWOL will be evaluated per calendar year. Previous years' AWOL will not apply to subsequent years for disciplinary purposes. Such leave is unpaid.

(1) Discipline may be as follows:

(i) Employees who accrue AWOL hour(s) during any one pay period shall be issued a reprimand.

(ii) Employees who accrue an additional hour(s) after reprimand in any following pay period shall receive a five-day suspension without pay.

(iii) Employees who accrue an additional hour(s) after a five-day suspension shall be terminated.

(iv) Employees who accrue 80 hours of AWOL in one year shall be terminated.

(b) Abandonment of Position. Any employee AWOL for a consecutive total of 10 working days shall be deemed to have resigned without notice by abandonment of position. Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications may result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

§ 175-10.3-280 Part-Time Accrual

Part-time or intermittent employees with regular scheduled tours of duty of forty to less than eighty hours during a biweekly period will accrue annual leave and sick leave at a prorated amount of the full-time benefit, rounded off to the nearest quarter hour per pay period, and will be eligible for other paid leaves, provided in this part, at this rate. Part-time or intermittent employees with regular scheduled tours of duty of less than forty hours during a biweekly pay period will not accrue annual or sick leave or be eligible for the other paid leave benefits. If a part-time or intermittent employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status for a scheduled duty period there will be no leave accrual for that pay period.

§ 175-10.3-285 Transfers within Government

(a) If a Commission Employee transfers to another position within the executive branch, the new employer may assume all liability for the payment or transfer of all earned contractual benefits. Transfers to similar positions within the executive branch with no change in salary may be affected by the employer with or without the employee's permission.

(b) If a Commission Employee transfers to another government entity, the receiving entity may assume any liability for the payment or transfer of all earned contractual benefits. Similarly, the Commission may assume a similar liability for the payment or transfer of all

earned contractual benefits if it accepts the transfer of an employee contractually entitled to such benefits from another government entity.

§ 175-10.3-290 Insurance and Retirement Benefits

(a) Insurance Benefits. Employees who are scheduled to work at least 40 hours each week may participate in insurance and medical benefit programs made available and, in the manner, provided under the Life and Health Insurance Programs (GLHIP) administered through the Department of Finance, or such other insurance program offered by the Commission. Such benefits shall continue to be in effect during absences due to paid leave, up to three (3) months of family and medical leave, and approved leave without pay when the employee pays the insurance premium.

(b) Retirement Benefits.

(1) Employees currently grandfathered in to the NMI Settlement Fund will be able to retire consistent with the NMISF regulations.

(2) Full time employees not part of the NMISF will be allowed to participate in the CNMI's 401(a) plan to the same extent as employees of the central government.

Part 300 - Employee Conduct and Obligations

§ 175-10.3-301 Grievance Procedure(s)

(a) A Commission Employee may submit a grievance regarding any matter involving the interpretation, application, or alleged violation of any Policy, Rule or Regulation or any other matter concerning general conditions of employment. The aggrieved employee shall first discuss the grievance with the immediate supervisor in an attempt to resolve the issue. If the issue cannot be resolved with the immediate supervisor or manager, the employee should contact the Executive Director or his or her designee. The Executive Director or his or her designee will attempt to satisfactorily resolve the grievance. The employee may appeal an unsatisfactory determination of the designee to the Executive Director. If the matter has been addressed by the Executive Director, the employee shall not seek contravention of that decision by the Commission or any individual Member of the Commission; the decision of the Executive Director shall be treated as a final agency decision.

(b) Commission Employees may seek dispute resolution to resolve conflicts and disputes by means of a mediation procedure as provided by the Executive Director and pursuant to available resources.

§ 175-10.3-305 Termination of Services

An employee may be separated from employment with the Commission by resignation, retirement, involuntary termination (either with or without cause), or lay off.

(a) Resignation.

(1) An employee should submit a written resignation at least 60 calendar days notice prior to the effective date of separation to the Executive Director. The period of notice may be reduced or waived by the Executive Director.

(2) Withdrawal of Resignation. An employee may withdraw his or her resignation only with the written approval of the Executive Director. Approval shall be obtained before the effective date stated in the resignation.

(3) Failure to give adequate notice. Failure to give adequate notice of resignation may be considered separation not in "good standing" and may preclude consideration for future employment with the Commission.

(4) Effective Date of Separation. The effective date of separation shall be at the close of business on the last day on which the employee works or uses approved leave.

(b) Retirement. Employees retiring from the Commission are required to provide a written notice the same as if they were resigning. This advance time is needed so that retirement benefits can begin as soon as possible following date of retirement and to allow management to plan for the departure of the retiring employee. Employees should submit a letter indicating the date of retirement to the Executive Director accompanied by a letter from the Northern Mariana Island Settlement Fund indicating eligibility for retirement.

(c) Austerity/Reduction in Hours. If the need arises for austerity, employees may have their hours reduced. The Notice shall be given 30 days in advance of the beginning of the austerity. The Governor or Executive Director may exclude certain positions from the austerity. Neither the Governor's nor the Executive Director's decisions to exclude or not to exclude positions for austerity are grievable.

(d) Payment upon Separation.

(1) Employees may be paid out for unused annual leave. Employees should be aware of their leave balances and plan to exhaust their annual leave prior to their separation date. If an employee has leave that he or she is not able to use due to short staffing or some other emergent condition, the employee shall seek the approval of Executive Director to get approval to have those funds paid out.

(2) Moneys the employee owes the Commission or any agency or instrumentality of the Commonwealth Government shall be deducted from the final paycheck. Deductions from accrued leave pay may be made for the replacement value or fair market value of the Commission's property not returned by the employee on or before the effective date of separation

(3) Final paycheck for separation on account of death of employee shall include final wages or salary and other payments the Commission owes the employee, e.g., reimbursable travel advances and other similar payments made by the employee on behalf of the Commission.

(4) Final paycheck shall be paid only to the beneficiary designated in writing filed by the employee before death or to the employee's estate. Commonwealth law does not recognize common-law spouses. If no beneficiary has been designated final payment should be made to surviving legal spouse; if no legal spouse, to surviving children, or guardian of any minor children in equal shares; otherwise to father and/or mother in equal shares; if parents are

not living, then to brothers and sisters in equal shares; if no surviving next of kin, payment should be made to the Commission as escheat.

(e) Medical Separation. An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and Commission policies (sick leave, annual leave, and FMLA leave) shall be separated from employment.

(f) Termination

(1) The Executive Director may terminate the employee without cause upon written notice sixty days in advance of the date of termination of employment. This time may be shortened only by specifying in the employment contract a lesser period of advance notice. Such notice shall specify the date of termination and be delivered in person to the employee, or by certified mail if the employee is otherwise unavailable for personal delivery. Payment of salary comprising the sixty-day (or contractually shortened) notice period may be made in lieu of notice.

(2) The Executive Director may terminate the employee with cause upon written notice seven days in advance of termination of employment. Payment of salary comprising the seven-day notice period may be made in lieu of notice.

§ 175-10.3-310 Non-Discrimination Policy

(a) It is the policy of the Commission that discrimination, for or against any employee, because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veteran status, disability, or genetic information is prohibited and will not be tolerated. No adverse action or hiring decision shall be made on the basis of any of the above factors except that veteran status may be considered positively as permitted by law.

(b) The Commission shall maintain every workplace free from unlawful harassment, including sexual harassment. Any employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates Commission policy, and such misconduct will subject the employee to corrective action ranging from counseling to disciplinary action up to and including termination. Such harassment by a non-employee (for example, a client or contractor) is also prohibited. The Commission shall not tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

(c) Any employee who feels that he or she has been discriminated against on the basis of any of the above factors, or sexually harassed, should immediately report such incidents to a supervisor at any level without fear of reprisal. Confidentiality will be maintained to the extent permitted by the circumstances.

(d) Any Commission employee who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately advise the Executive Director or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The Executive Director, with the assistance of the EEO Coordinator, if sought, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The

an investigative report that will be retained in a confidential file by the Executive Director or EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the Executive Director shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

§ 175-10.3-315 Non-Tolerance of Sexual Harassment

(a) Applicability. This policy and procedures applies to all Commission Employees and Members of the Commission.

(b) Purpose. This policy and procedure will establish the Commission's policy of non-tolerance of sexual harassment of any form, by its Members or employees, toward its Members or employees, or by non-governmental agents against the Commission's Members or employees. It will also provide guidance for the education and training of Members and employees to recognize, avoid and prevent sexual harassment in the workplace. This policy and procedure will provide steps for reporting, investigating, and taking administrative action in situations involving sexual harassment.

(c) Definitions

(1) Sexual harassment is an unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

(i) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

(ii) Submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

(iii) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(2) Sexual harassment can be divided into two basic types of misconduct:

(i) When an employee or Member suffers or is threatened with a quid pro quo (this for that) situation. This form of sexual harassment occurs when a supervisor or someone else with authority over the victim makes a put out or get out demand, such as "submit to my sexual requests or you will be fired, demoted, passed over for promotion, or in some other way made miserable on the job". This type of sexual harassment can be committed only by someone in the organization structure who has the power to control the victim's job destiny.

(ii) When behavior in the workplace creates a hostile environment. This form of sexual harassment occurs when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employees work performance through words or deeds because of the victim's gender. The following kinds of behavior have been recognized by the courts as contributing to a sexually hostile environment:

(A) Discussing sexual activities;

(B) Telling off-color jokes;

(C) Unnecessary touching;

(D) Commenting on physical attributes;

(E) Displaying sexually suggestive pictures;

(F) Using demeaning or inappropriate terms, such as babe, honey, etc.;

(G) Using indecent gestures;

(H) Sabotaging the victims work;

(I) Engaging in hostile physical conduct;

(J) Granting job favors to those who participate in consensual sexual activity; or

(K) Using crude and offensive language;

(L) Wearing provocative, sensual attire, i.e. tight, skimpy, short-length, etc.

(iii) The above listed behaviors can create a liability for the government and any such conduct must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

(3) A workplace environment is considered sexually hostile when conduct occurs that meets the following two conditions:

(i) It must be subjectively perceived as abusive by the person(s) affected, and

(ii) It must be objectively severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive.

(iii) A determination of whether or not a situation would be construed as sexual harassment should also take into consideration the following factors:

(A) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;

(B) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee;

(C) The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct;

(D) Unlawful sexual harassment may occur without economic injury to the victim;

(E) The harassers conduct must be unwelcome.

(4) Sexual discrimination is distinguished from sexual harassment in that it reflects biases in employment actions based upon gender, but does not involve the abusive behavior described in subsection (c) above.

(d) Policy

(1) It is the policy of the Commission that all Members and employees shall enjoy a work environment free from sexual harassment and all forms of discrimination. Sexual

harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11, and is prohibited under this chapter and Article 1, Section 6, of the Commonwealth Constitution.

(2) Sexual harassment is specifically prohibited and will not be tolerated in any form, regardless of whether the offensive conduct is committed by Members, supervisors, managers, non-supervisors (co-workers), or nonemployees (consultants, contractors, general public).

(3) All employees are encouraged to report any violation of this policy. If management is not aware of specific incidents of sexual harassment in the workplace it cannot properly address them. If an employee observes or is subjected to sexually discriminatory or harassing behavior in the workplace, it should be reported immediately to the Executive Director so it can be resolved at the earliest possible time. Employees will not be retaliated against for making truthful statements about perceived harassment.

(4) No employee will be denied or will receive employment opportunities and/or benefits because of a sexual relationship with a Member, co-worker or supervisor. No Member, employee or non-employee shall imply to an employee, an applicant for employment, or a client of a government activity, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement, other condition of employment, or any other relationship with the government. Any incidents of this type, upon verification by investigation, will be subject to disciplinary and corrective action.

(5) The employer, at all supervisory levels, is responsible for the occurrence of acts of sexual harassment in the work place when they know or should have known of the prohibited conduct. As an official of an autonomous agency of the Commonwealth government, a supervisor's improper action or failure to act creates a liability on the part of the government. All incidents of sexual harassment will be immediately reported to the Equal Employment Opportunity Coordinator or Executive Director, for guidance. Supervisors and managers who knowingly allow harassing behavior to occur, or participate in such behavior, will be subject to disciplinary action up to and including termination.

(6) The Director of Personnel, as the Deputy Commonwealth Equal Employment Officer, should be immediately informed by the Executive Director of any incident of sexual harassment reported within the Commission, or of any charges received from the Equal Employment Opportunity Commission (EEOC).

(7) The Executive Director will ensure that all sexual harassment complaints receive swift and thorough investigations. Appropriate action will be taken in situations where the complaint is validated to correct the situation and appropriately discipline the harasser. Complaints determined to be deliberate false accusations will also be treated as potential disciplinary situations. Situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commission's policy of non-tolerance for sexual harassment.

(8) Complaints of sexual harassment should be filed immediately upon occurrence to facilitate a timely response and to minimize the time that an employee would be subjected

to such treatment. However, per EEOC statutes complaints may be filed anytime within one-hundred and eighty days of an incident's occurrence.

(9) Incidents of harassment due to an employee's sexual orientation, while not covered by law as an Equal Employment Opportunity violation, are a violation of the Commission's policy of ensuring that every employee is provided with a work environment that is safe, non-threatening, and non-discriminatory. Incidents of this nature comprise misconduct and will be subject to disciplinary action up to and including termination.

(10) The hiring of an employee with a known history of sexual harassment or misconduct could result is government liability for negligent hiring. No applicant for employment with such a history will be employed without a complete background investigation and the specific approval of the Executive Director.

(11) The Executive Director is required to distribute this policy to every employee under his or her authority and to ensure that this policy is posted in an accessible location at all times.

(12) All supervisors will be provided training on identifying and preventing sexual harassment in the workplace. They will also receive training on how to conduct a limited administrative investigation and the reporting procedures for allegations of harassment.

(e) Procedures

(1) Any Commission Employee who is aware of an incident or situation involving sexual harassment must report it immediately to his or her Equal Employment Opportunity Coordinator, supervisor, or the Executive Director. The Commonwealth government has legal liability for any action where a government official subjects an employee to sexual harassment, or is aware that an employee subjects another employee to sexual harassment and fails to take corrective action.

(2) Any employee who is personally subjected to sexual harassment, or is aware that other employees are being subjected to sexual harassment, should report the incident or situation immediately to his or her departmental Equal Employment Opportunity Coordinator, supervisor, or the Executive Director. If the employee does not feel comfortable bringing it to the attention of any of these parties, or supervisor, or the Executive Director is somehow involved in the harassment, he or she should immediately contact the Commonwealth Equal Employment Coordinator at the Office of Personnel Management, or the Director of Personnel directly. The initial contact does not have to be in writing.

(3) If the sexual harassment incident involves a physical assault, such as rape, attempted rape, assault, or other actions involving physical contact, either the employee or the official who becomes aware of the incident should report it immediately to the Department of Public Safety for immediate processing and investigation. Any physical evidence should not be disturbed until the arrival of the Department of Public Safety,

(4) All incidents of alleged sexual harassment must be immediately reported to the Executive Director and the Commission's designated Commonwealth Equal Employment Opportunity Coordinator or directly to the Director of Personnel as soon as the employer, or other senior official in case of the employer's unavailability, becomes aware of it. The complaining employee should be interviewed by the departmental Equal Employment

Coordinator, legal counsel, or the Executive Director to determine the basic facts of the allegation. The Director of Personnel or the Commonwealth Equal Employment Opportunity Coordinator will then be consulted to determine if the investigation will be conducted at the departmental level or if an outside investigator will be appointed.

(5) Due to the potential legal liabilities resulting from sexual harassment situations, the Executive Director or the Director of Personnel will assume responsibility for the investigation and assign the investigating official (selected EEO official, manager, or legal counsel) or unit (Office of the Attorney General or Department of Public Safety).

(6) All allegations of sexual harassment from employees or perceptions of sexual harassment from third parties or management staff will be reported to the Executive Director or Director of Personnel and will be investigated. Those situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commission's policy of non-tolerance for sexual harassment.

(7) The division(s) involved in the complaint and the official or unit appointed to conduct the investigation will cooperate fully with the Executive Director or Office of Personnel Management in the process of investigating, reporting, and resolving the complaint.

(8) The division(s) involved in the complaint and the Executive Director or Office of Personnel Management will ensure that no retaliation is taken against the complainant or any witnesses by the alleged harasser or by any other employees.

(9) In the process of investigating the complaint, the following guidance will be followed at all times:

(i) All complaints will be taken seriously.

(ii) Guilt should not be presumed on either party. The rights of both parties must be protected.

(iii) Both parties should be afforded the opportunity to state their side.

(iv) Confidentiality must be maintained at all times.

(10) An administrative investigation will be completed as expeditiously as possible. The final report will be delivered to the Executive Director or Director of Personnel in the following format:

(i) Summary of Incident

(ii) Findings of Fact

(iii) Discussion

(iv) Conclusions

(v) Recommendations

(11) The Executive Director or Director of Personnel will review the investigative report to ensure that the facts support the conclusions and that the recommendations are reasonable and consistent with the Commission's disciplinary policy. The Office of the Attorney General will be consulted to ensure that the resolution is legally appropriate.

(12) The Executive Director or Director of Personnel will forward the final report to the Department/employer with the Executive Director's or Office of Personnel Management's recommendations for the resolution of the complaint.

(13)(i) Depending upon the severity of the incident of sexual harassment, the resolution of the situation could involve the following administrative actions:

(A) Conference/counseling

(B) Oral or written warning

(C) Letter of reprimand

(D) Suspension

(E) Demotion

(F) Termination

(ii) Any administrative actions are separate from and not contingent upon any civil or criminal court actions.

(14) The employer will resolve the complaint/grievance based upon the investigation and the recommendation of the Executive Director or Office of Personnel Management. If the division head/employer disagrees with the recommended resolution, he or she must immediately meet with the Executive Director or Director of Personnel to resolve their differences. If both parties cannot reach agreement, the case may be brought before the Governor for a final decision.

(15) Either the complainant or the respondent may appeal the final resolution to the Executive Director or Director of Personnel, not later than fifteen days after receiving notice of the final resolution. The complainant may appeal the final resolution to the Executive Director or Director of Personnel, not later than fifteen days after receiving notice of the final resolution.

(16) The Executive Director or Director of Personnel will conduct a hearing on the appeal and make a final decision on the matter.

(17) Incidents or situations of sexual discrimination that do not involve acts of harassment will be processed through the normal grievance procedure utilized for other Equal Employment Opportunity complaints.

(f) Records and Reports

(1) The Executive Director or Office of Personnel Management will maintain records of all allegations of sexual harassment to include copies of investigative reports.

(2) Records of on-going investigations will be kept in a confidential file separate from the official personnel folder. Upon resolution of the complaint, appropriate records of the resolution or disciplinary action will be placed in the appropriate official personnel folder.

(3) The Executive Director or Office of Personnel Management will report to the Governor annually in its annual personnel report on the number of sexual harassment cases and their resolution.

(g) Responsibilities

(1) All employees will be familiar with the Commission's Equal Employment Opportunity and Non-tolerance of Sexual Harassment Policies and will comply with these policies to create a safe, non-threatening, and non-discriminatory workplace.

(2) All Members, supervisors, managers, and directors will develop and maintain a work environment that is safe, non-threatening, and non-discriminatory. They will ensure that all employees know that sexual harassment will not be tolerated and will ensure that any incident of sexual harassment is reported as directed by this policy.

(3) All Equal Employment Program counselors must be knowledgeable concerning equal employment opportunity laws, regulations and policies, both federal and Commonwealth, and will strive to remain up-to-date on current EEO trends and activities. They will make themselves readily available to listen to EEO-related complaints from their department or activity and provide counseling and assistance to affected employees. They will coordinate with the Executive Director or department/activity EEO Coordinator.

(4) The Executive Director and all division/activity Equal Employment Coordinators must be knowledgeable concerning Equal Employment Opportunity laws, regulations, and policies, both federal and Commonwealth and will strive to remain up-to-date on current EEO trends and activities. The coordinators will provide EEO expertise and assistance to the department/activity EEO counselors and management staff. They will coordinate with the Commonwealth EEO Coordinator.

(5) The Executive Director and all division/Activity heads, as activity Equal Employment Officers, will issue an Equal Employment Opportunity policy statement and establish a departmental Equal Employment Opportunity Program that includes a policy of non-tolerance of sexual harassment. They will hold their supervisors, managers, and directors accountable for developing and maintaining a work environment that is safe, nonthreatening, and nondiscriminatory. They will enforce the Commonwealths policy of non-tolerance of sexual harassment and take reasonable and consistent action in resolution of any sexual harassment situation.

(6) The Director of Personnel, as the Deputy Equal Employment Officer for the Commonwealth, will ensure the development and maintenance of a viable Commonwealth wide Equal Employment Opportunity Program that includes training at all levels in prevention and resolution of sexual harassment situations. The Executive Director or the Director of Personnel will initiate administrative investigations for all allegations of sexual harassment and will ensure their appropriate resolution in accordance with this policy and procedure.

(7) The Governor, as the Equal Employment Officer for the Commonwealth, will establish and promote a policy of non-tolerance of sexual harassment in any form. The Governor will hold all Department and Activity Heads accountable for their active support of the Commonwealths Equal Employment Opportunity and non-tolerance of sexual harassment policies, and for their fulfillment of the responsibilities assigned in this policy and procedure.

(h) Equal Employment Opportunity Commission

(1) If an employee's sexual harassment complaint is not acted upon to his or her satisfaction, the employee has the option of filing a complaint with the Equal Employment

Opportunity Commission (EEOC). It should be noted that there is a statutory limitation of 180 days from the harassing/discriminatory incident during which the complaint may be filed. For more information, please visit www.eeoc.gov.

(2) Although the Commonwealth government would like to resolve all complaints through its administrative processes, employees will not be subjected to any retaliatory actions for filing a complaint with the Equal Employment Opportunity Commission.

§ 175-10.3-320 Anti-Bullying Policy

(a) The Commission is committed to providing all Members and employees a healthy and safe work environment. It is the policy of the government that workplace bullying will not be tolerated. All agencies shall maintain every workplace free from bullying. This policy shall apply to all Commission Members and Employees, regardless of his or her employment status.

(b) Bullying is defined as persistent, malicious, unwelcome, severe, and pervasive mistreatment that harms, intimidates, offends, degrades, or humiliates an employee, whether verbal, physical, or otherwise, at the place of work and/or in the course of employment.

(1) The following types of behavior have been interpreted to constitute workplace bullying. This list is not meant to be exhaustive and is only offered by way of example:

(i) Staring, glaring, or other nonverbal demonstrations of hostility;

(ii) Exclusion or social isolation;

(iii) Excessive monitoring or micro-managing;

(iv) Work-related harassment (work-overload, unrealistic deadlines, meaningless tasks);

(v) Being held to a different standard than the rest of an employee's work group;

(vi) Consistent ignoring or interrupting of an employee in front of co-workers;

(vii) Personal attacks (angry outbursts, excessive profanity, or name-calling);

(viii) Encouragement of others to turn against the targeted employee;

(ix) Sabotage of an employee's work product or undermining of an employee's work performance;

(x) Stalking;

(xi) Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets;

(xii) Conduct that a reasonable person would find hostile, offensive, and unrelated to the employer's legitimate business interests.

(2) Workplace bullying must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

(c) Any Member or employee who feels that he or she has been bullied should immediately report such incidents to a supervisor at any level without fear of reprisal.

(d) An employer who receives a claim of bullying in violation of this policy shall take such complaint seriously and immediately advise the Executive Director or Director of Personnel or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The employer, with the assistance of the EEO Coordinator, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the employer shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

§ 175-10.3-325 Alcohol and Drug Free Workplace Policy

(a) Policy. As an employer, the Commission 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 Commission is concerned about the adverse effect alcohol and drug abuse has 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.

(b) Definitions. For the purposes of this section, the following definitions apply:

(1) "Accident." An event which causes

(i) A fatality,

(ii) An injury to a person requiring professional medical treatment beyond simple at-scene first aid, or

(iii) An economic loss, including property damage, greater than $2,500.00.

(2) "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 substances abuse.

(3) "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.).

(4) "Breath Alcohol Technician" ("B.A.T."). An individual authorized to collect breath specimens under subsection (g)(2) and who operates an E.B.T.

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

(6) "Drug." A substance

(i) 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

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or

(iii) Other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or

(iv) Intended for use as a component of any article specified in subsection (b)(6)(i), (ii), or (iii) above.

Devices or their components, parts, or accessories are not considered drugs under this definition.

(7) "Evidential Breath Testing Device" ("E.B.T."). A device which is

(i) Approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and

(ii) Is on the NHTSAs Conforming Products List of E.B.T.s; and

(iii) Conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

(8) "Illegal Drug." A drug that

(i) Is not possessed or obtained legally; or

(ii) Is knowingly used for other than the prescribed purpose or in other than the prescribed manner; or

(iii) 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; or

(9) "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.

(10) "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 personnel folder.

(11) "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.

(12) "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.

(13) "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. Each department, entity, or organization head, in conjunction with the Director of Personnel Management, shall identify all positions to be considered safety-sensitive positions due to the amount of time the employee spends performing safety sensitive functions.

(14) "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.

(15) "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.

(16) "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.

(17) "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.

(c) Prohibited Conduct

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

(i) Sell, purchase, or transfer;

(ii) Attempt to sell, purchase or transfer; or

(iii) Possess with the intent to deliver, any illegal drug while on government or Commission property, in any government or Commission vehicle, or on any government or Commission 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 or the violation of any applicable law or regulation.

(2) Possession of Illegal Drugs. No employee of the Commission shall possess any illegal drug on government or Commission property, in any government or Commission vehicle, or while on government or Commission 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 employees assigned duties for the purpose of investigating illegal drug tracking or the violation of any applicable law or regulation.

(3) Possession of Open Containers of Alcohol. No employee of the Commission shall possess an open container of alcohol in any vehicle while on duty or in any government or

Commission vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.

(4) Under the Influence of Alcohol or Illegal Drugs. No employee of the Commission 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 non-prescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if

(i) The employee has a B.A.C. of 0.02 or more;

(ii) The employee has a detectable amount of any illegal drug in his or her urine;

(iii) 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;

(iv) The employee uses alcohol or any illegal drug within four hours prior to reporting to work and expects to perform a safety-sensitive duty.

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

(i) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(ii) 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;

(iii) 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);

(iv) Engaging in conduct that clearly obstructs the specimen collection process;

(v) 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 scenes the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;

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

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

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

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

(7) Refusal to Comply with Treatment Recommendations. No employee of the Commission 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.

(8) Failure to Notify Executive Director of Conviction. No employee of the Commission shall fail to notify the Executive Director of any criminal drug statute conviction, within five days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commission business, or while on or using Commission property.

(9) Supervisors' Responsibility for Confidentiality. No employer shall 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 section.

(d) Penalties and Consequences

(1) Disciplinary Action. An employee of the Commission committing any act prohibited by subsection (c) shall be subject to an appropriate form of discipline, depending on the circumstances, up to and including termination.

(i) Generally. Where an employee commits an act prohibited by subsection (c) 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.

(ii) First offense, under the influence. An employee found to be under the influence of alcohol or illegal drugs in violation of subsection (c)(4), 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, the employer may decide to initiate a disciplinary action for removal, even on a first offense.

(iii) Serious offenses. The following acts, even for a first offense, will result in an immediate disciplinary action for removal:

(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 subsection (c)(1);

(B) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of subsection (c)(4);

(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 subsection (c)(4);

(D) An unexcused refusal to be tested, in violation of subsection (c)(5);

(E) Giving false information, contaminating, or attempting to contaminate a urine sample, in violation of subsection (c)(6);

(F) Failing to notify the proper authority of conviction for a drug offense in violation of subsection (c)(8);

(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 subsection (e)(2).

(2) Information Concerning Treatment Options. Those employees not removed from service after committing any act prohibited by subsection (c) shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Executive Director or Office of Personnel Managements' 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.

(3) Report to Department of Public Safety. An employee committing any act prohibited by subsection (c)(1) or (c)(2) shall be reported, by the employer, to the Department of Public Safety for the purpose of possible criminal prosecution.

(4) Duty/Pay Status Pending Disciplinary Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to a disciplinary action for committing any act prohibited by subsection (c), except for subsection (c)(7), shall be allowed to remain on the job pending resolution of any proposed disciplinary action but shall not be allowed to perform a safety-sensitive function, even if that means assigning the employee duties the employee would not otherwise be performing. An employee subject to a disciplinary action for committing any act prohibited by subsection (c) who was involved in a fatal accident shall be placed on leave without pay pending resolution of the disciplinary action for removal.

(e) Return to Work Procedures

(1) 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:

(i) 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;

(ii) 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

(iii) Agreed to execute a return to duty contract.

(2) Return to Duty Contract. The return to duty contract shall include the following provisions:

(i) Aftercare. An agreement to comply with aftercare and follow up treatment recommendations for one to five years, as determined appropriate by the employees S.A.P.;

(ii) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one to five years, as determined appropriate by the employees S.A.P., but there shall be no fewer than six tests in the first year after the employee returns to work;

(iii) Compliance with rules. An agreement to comply with government rules, policies, and procedures relating to employment;

(iv) Term. An agreement that the terms of the contract are effective for five years after the employees return to duty; and

(v) Breach of contract. An agreement that violation of the return to duty contract is grounds for termination.

(f) Testing Occasions

(1) Pre-employment Testing. At the time of application, persons applying for any position within the Commission 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, phencyclidine, as well as any other controlled or banned substance required by the Executive Director, in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with subsection (h), below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two years immediately preceding the application date.

(i) No new Commission Employee 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, phencyclidine as well as any other controlled or banned substance required by the Executive Director.

(ii) 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.

(iii) If the candidate presents a drug testing history showing a positive drug test within two years prior to the application date, the offer of employment will be withdrawn unless the candidate submits a statement of fitness for duty and agrees to execute an agreement similar to a return to duty contract described in subsection (e)(2).

(2) 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 or the Executive Director. Except as otherwise provided, the Commission shall pay for the testing.

(i) Properly trained supervisor. Only a supervisor or a designated employee 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.

(ii) Objective inquiry. The properly trained supervisor or a designated employee 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.

(iii) 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 Commission employee. The regained verification shall be done in person.

(iv) 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 or her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(v) 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.

(vi) 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 a disciplinary action. Only at that time will the report be filed in the employee's official personnel folder.

(3) Post-accident Testing. As soon as practical after an accident any Commission 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 as well as any other controlled or banned substance required by the Executive Director, upon written notice from the employee's supervisor. Except as otherwise provided, the Commission shall pay for the testing.

(i) Supervisor training. Only a supervisor or a designated employee 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.

(ii) Objective inquiry. A supervisor or a designated employee'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 or a designated employee shall require the driver of any Commission vehicle or the operator of any Commission equipment involved in the accident to be tested.

(iii) 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 or her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(iv) 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.

(v) 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 a

disciplinary action. Only at that time will the report be filed in the employee's official personnel folder.

(4) 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, phencyclidine as well as any other controlled or banned substance required by the Executive Director. The testing will be done during on-duty time. Except as otherwise provided, the Commission shall pay for the testing.

(i) Method of selection. Employees of the Commission 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.

(ii) Number to be tested. No more than twenty-five percent of all employees performing safety-sensitive functions in each division each year shall be required to submit to breath alcohol testing and no more than fifty percent shall be required to submit to urine testing. The actual percentage may be determined at the beginning of each fiscal year by the Executive Director in consultation with the Office of Personnel Managements Alcohol and Drug Free Workplace Coordinator and the M.R.O. after reviewing the Commission staff's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

(g) Collecting and Testing Breath Specimens

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

(2) 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.

(3) 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.

(4) Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the employee's employer, and to the Director of Personnel Management.

(5) 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.

(6) Invalid Test. If the Executive Director or Director of Personnel Management determines the test is invalid, using the factors found at 49 CPR, Part 40.79, the test result shall be reported as negative.

(7) 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 Executive Director or Director of Personnel Management upon request.

(h) Collecting and Testing Urine Specimens

(1) Collection Site. Urine specimens shall be collected only at a site approved by an appropriate government agency, and identified by the Executive Director or Director of Personnel Management.

(2) 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(8), 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.

(3) Confirming Test. Urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of a 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 for.

(4) 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.

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

(6) Alternative Explanations for Positive Test Results.

(i) Upon receiving a report of a positive test results the M.R.O. shall determine if there is any alternative medical explanation for the results 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.

(ii) 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.

(7) 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.

(8) 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 employee's employer, and to the Director of Personnel Management.

(9) 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.

(10) 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 Executive Director or Director of Personnel Management upon request.

(i) Employee Awareness and Rehabilitation

(1) 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.

(2) Employees Seeking Voluntary Assistance. Commission 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.

(i) 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 personnel folder. Referrals shall be kept confidential.

(ii) 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.

(iii) 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.

(3) 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.

(4) 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 personnel folder.

(j) Disseminating Information on Regulations

(1) Distribution to Employees. All current employees shall receive a copy of the regulations in this section at least thirty days before the implementation date. New employees hired after the effective date of this policy will be given a copy of the policy in this section at the time of hire. Each employee shall sign a form prescribed by the Executive Director or Director of Personnel Management which acknowledges the receipt of the policy and the employees understanding that he or she is bound by this policy. This acknowledgment shall be kept in the employee's official personnel folder.

(2) Posting. The regulations in this section will be posted in the primary workplaces of the Commission for at least sixty days following their implementation.

(k) Record Retention and Reporting Requirements

(1) Administrative Records. Records relating to the administration of the policy in this section, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the Executive Director or Director of Personnel Management and the M.R.O. for five years.

(2) Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by the Executive Director or Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.

(3) Refusals, Referrals, and Test Results. The Executive Director or 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 employees medical file, not the employee's official 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 without the employees' consent.

(i) Positive test result records, records of refusals to be tested, and referrals to an S.A.P. shall be kept for five years.

(ii) Negative test resent records shall be kept for a period of one year.

(4) Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. 701(a)(1)(E), the Executive Director or 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.

§ 175-10.3-330 Disciplinary Actions

(a) General Policy. The Commission expects its employees to maintain standards of conduct and behavior appropriate to its mission of service to the public. All documentation for disciplinary actions issued by the Manager, Supervisor, or Executive Director or his or her designee must be provided to the Executive Director and employee file. The Executive Director, his or her designee, or Division Managers initiate disciplinary actions. The Executive Director, his or her designee, or Division Managers, shall issue written

disciplinary actions after review by Legal Counsel including suspension (with or without pay), transfer, demotion, or dismissal. The Executive Director, his or her designee, or Division Managers may take immediate action to remove an employee from duty only in circumstances involving immediate danger to the health or, safety of Commission employees or the public. Examples of unacceptable conduct or performance that may result in corrective actions up to and including dismissal include, but are not limited to the following:

(1) Any violations of the Bank Secrecy Act, or other Federal or Commonwealth Law applicable to casinos and financial institutions;

(2) Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than de minimis;

(3) Repeated violations of Federal or Commonwealth law or regulations or a single violation if the conduct is egregious;

(4) Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out by the Executive Director;

(5) Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance;

(6) Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known to the employee;

(7) Any breach of duty or trust to the Commission;

(8) Use of obscene or abusive language;

(9) Falsification of any portion of the employment application;

(10) Unauthorized removal of property of Commission or stealing government or others' property while on duty.

(11) Harassment of other employees or the public, or violation of Commission's sexual harassment policy;

(12) Leaving the work site during working hours without permission from supervisory officials;

(13) Theft, conversion, or unauthorized removal of Commission's property, or the use of Commission property without authorization;

(14) Fighting and/or acts of violence; or threats of violence constituting assault;

(15) Abuse or destruction of Commission property;

(16) Unauthorized possession of weapons, explosives;

(17) Sleeping on duty;

(18) Unauthorized use of vehicles, equipment;

(19) Punching another's time card/alter time records;

(20) Misusing mail, phones, computer system, internet access;

(21) an Ethics Code Violation;

(22) Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Manager or Supervisor due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL);

(23) Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance;

(24) Other conduct or failure of performance which the management of the Commission reasonably recognizes as justification for serious discipline, including dismissal; or

(b) Forms of Corrective Action. Progressive corrective action shall be followed when practicable. However, when the severity of the inappropriate conduct warrants and it is in the best interest of the Commission, the Executive Director or his or her designee may impose any of the following forms of corrective action.

(1) Verbal Reprimand or Warning or Counseling. This type of corrective action is usually the first step in identifying and correcting failure to perform or misconduct and may be carried out by a Manager or Supervisor or the Executive Director or his or her designee. A written reprimand may also be given by the Manager, Supervisor, or the Executive Director or his or her designee, however, all other forms of corrective action require action by the Executive Director or his or her designee. A reprimand or warning and/or oral counseling should be a private conference between an employee and supervisor whereby the problem can be worked out in a constructive manner. The supervisor, manager, or the Executive Director or his or her designee will advise the employee of the problem, such as misconduct or failure to perform to expectation and present a solution to correct the problem. The supervisor, manager or the Executive Director or designee will offer guidance and assistance in an effort to prevent the problem from occurring again. The supervisor, manager, or the Executive Director or designee will also point out future corrective action that might be taken should the problem continue. Supervisors, managers, or the Executive Director or designee will document the nature of the problem and retain a record of the problem and the action taken. Such documentation will remain with the supervisor unless it is needed as justification for taking further corrective or other problems.

(2) Written Reprimand. A written reprimand is an official notice to the employee of a failure of performance or misconduct. The nature of the breach and all related facts are documented and placed in the employee's official file by the Manager, Supervisor, or the Executive Director or designee. A copy shall be given to the employee. Unless circumstances do not permit the supervisor and employee shall meet to discuss the problem before issuance of the reprimand to allow the employee an opportunity to respond.

(3) Immediate Suspension Without Pay.

(i) Employees shall be immediately suspended, upon verbal notice, when the nature of the breach of discipline or misconduct makes it imprudent or hazardous for a supervisor to

allow an employee to remain on the job. Supervisors or managers shall immediately, before taking any immediate suspension action, unless circumstances do not permit, advise the Executive Director or designee to discuss the nature of the discipline problem and the suspension. An immediate suspension is without pay. In any event, the immediate suspension shall be followed up with a written notice to the employee within five (5) working days in accordance with the notice requirement under these rules. If more time is required to provide the employee written detail/support about the suspension, the employee will be notified. A copy of the notice of immediate suspension shall be placed in the official employee file. An immediate suspension may be followed by additional corrective action based on the same incident.

(ii) An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon determination that the employee is not at fault or the successful appeal of the suspension.

(4) Regular Suspension. An employee may be suspended without pay for a repeated offense or a serious failure of performance or misconduct. A regular suspension generally will not exceed 20 working days. When legal issues prevent the closure of a case pertaining to an employee's performance or action, the suspension may be longer than 20 working days. The employee shall be given the opportunity to respond to the allegations of misconduct or failure of performance prior to suspension. Subsequently, if the suspension is warranted, the employee shall be notified in writing in accordance with the provision of these rules and a copy shall be placed in the official employee file. An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension. An employee charged with a criminal offense may be suspended without pay if the offense arises in connection with the employee's job responsibilities or is an offense which in the Executive Director's opinion, would affect continued job performance or bring discredit to the Commission.

(5) Demotion. The Executive Director or his or her designee may demote an employee for misconduct, failure of performance, or other reason as set out in Section 1 of this rule. A disciplinary demotion shall result in a reassignment of the employee to a position in a lower classification at a lower pay band.

(6) Dismissal. Employment may be terminated when previous corrective actions have failed to bring about correction or when serious misconduct or failure to perform occurs. The employee shall be given notice of the decision to terminate employment. The dismissal will take effect only in accordance with the procedures in these rules. The mere failure to renew a contract is not a dismissal.

(c) Corrective Action Reporting.

(1) Action Notice for Written Reprimands. All reprimands shall be documented on a corrective action report form. A record of the date, time and subject of a written reprimand shall be maintained in the official employee file. The employee shall be given an opportunity to review the report with his or her Manager, Supervisor or the Executive Director's designee. If the employee disagrees with the facts or conclusions contained in

the report, he or she shall be permitted to submit, within ten (10) workdays after receiving the report a statement of disagreement. The statement shall clearly and concisely set forth the employee's reasons for disagreeing with the report. One copy of the employee's statement shall be appended to the report and shall become a part of it. If the employee has no comment or has not responded within the required time frame, the report shall be forwarded to the Executive Director or his or her designee. Upon completion of the approvals section of the disciplinary action report form, one copy shall be filed in the official employee file.

(2) The Manager, Supervisor, or Executive Director's designee will, if appropriate, complete periodic reviews of the employee's progress in correcting the cause of the original discipline. Such reports shall be made a part of the official employee file.

(d) Corrective Action Procedure and Appeals

(1) A suspension without pay, demotion, or dismissal for cause, shall be accomplished and reviewed only in accordance with the procedures stated in this section. No procedure or process is due for a dismissal without cause.

(2) The process of discipline begins with the immediate supervisor reporting misconduct or failure of performance with concurrence of the Executive Director or his or her designee.

(3) Before the Executive Director issues a notice to terminate employment, demote with a reduction in pay, or suspend without pay an employee, the Executive Director shall require a designee to investigate the basis for the proposed corrective action. The investigation shall include an interview of the employee with or without Legal Counsel, unless the employee has made him or herself unavailable. The employee shall be invited to submit a response in writing after the interview and it shall be included in the record of the matter. The findings and recommendations for action shall be prepared by the designee, and reviewed by Legal Counsel. In deciding what type of disciplinary action should be taken, the following shall be considered:

(i) Seriousness of the breach of discipline, misconduct, or failure of performance.

(ii) The circumstances surrounding the incident.

(iii) The past service record of the employee. The conduct should be considered within the context of the employee's total record. If the employee's record includes past misconduct, the action taken will ordinarily be more severe.

(iv) The Executive Director will consult with the Legal Counsel concerning action to be taken.

(4) The Executive Director shall issue a notice of action for all warnings and counseling.

(5) The Executive Director, with the signature confirmation of legal sufficiency by the Legal Counsel, based on the investigation, any follow-up after receiving the designee's report and after review of the proposed action by Legal Counsel, shall issue all notices of suspension or termination. The notice shall state any and all factual findings and reasons for the corrective action completely and concisely.

§ 175-10.3-335 Vehicle Policy

(a) Introduction. The Commission requires all employees who drive a Commission vehicle to obtain a CNMI Government Driver's License. The Commission requires employees who drive on behalf of the Commission to operate vehicles safely for the protection of the public. In addition, the Commission reminds its employees who drive to operate vehicles responsibly and maintain the vehicles so that they are available to the Commission work force and costs of maintenance, repair and replacement are kept to a minimum.

(b) Driver Responsibilities.

(1) Documents Driver Must Carry When Driving:

(i) Valid CNMI Driver's License

(ii) Current Government Driver's License

(iii) Current Vehicle Registration

(iv) Authorization to Drive After Regular Working Hours if driver is assigned to drive after 4:30pm Monday-Friday or on Saturday, Sunday or holidays.

(2) Driver's Responsibility for Condition of Vehicle.

(i) Driver is responsible for ensuring that the vehicle is fueled and that the proper fuel is put into the vehicle.

(ii) Driver is responsible for inspecting the vehicle daily to identify and correct or report obvious problems including oil level, tire inflation, signal, head and taillights, wipers.

(iii) Driver is responsible for reporting any damage to the vehicle immediately to a supervisor or the Executive Director.

(iv) Driver is responsible for operating the vehicle properly, so that the condition of the vehicle is not diminished as a result of improper operation.

(3) Safety Rules Drivers Must Know and Follow:

(i) All CNMI driving laws;

(ii) Laws regarding vehicle safety;

(iii) Law regarding restrictions on use of government vehicles.

(c) Prohibitions.

(1) No Commission employee shall drive a Commission vehicle for personal business.

(2) No Commission employee driving a Commission vehicle shall drive any non-Commission person in the Commission vehicle unless that person is an employee of the Commonwealth government, a federal employee working with the Commission employee, or the passenger is integrally involved in the conduct of the Commission's affairs.

(3) No Commission employee shall drive his or her spouse or child in a Commission vehicle unless the spouse or child is a Commission employee, or a person described in (2) above.

(4) No Commission employee shall take a vehicle home unless he or she is authorized by the Executive Director to use the vehicle on a 24-hour basis. That approval must be in writing in accordance with the CNMI Government Vehicle law.

(5) No Commission employee shall drive a Commission vehicle while intoxicated from alcohol or under the influence of illegal drugs.

(6) Notwithstanding any other regulation to the contrary, any violation of these prohibitions are grounds for immediate termination.

§ 175-10.3-340 Outside and Dual Employment

(a) No Commission Employee shall engage in any employment other than that assigned by the Commission whether public, private or self-employment, during scheduled work hours, nor outside scheduled work hours if such employment conflicts with the Commission's interests or adversely affects the employee's availability or productivity.

(b) Any employee who wants to engage in outside employment with a company that may engage in business dealings with the Commission directly or indirectly shall request approval from the Executive Director or his or her designee in writing. The Executive Director or designee shall decide for or against the outside employment request according to the concept of conflict of interest under the CNMI Laws, and the best interests of the Commission.

§ 175-10.3-345 Safety Programs

All Commission Employees are responsible for following all federal and CNMI occupational safety and health regulations. All Employees are encouraged to learn CPR from an accredited training provider (such as, but not limited to, the American Red Cross).

§ 175-10.3-350 Whistleblower Policy

(a) Reprisal Prohibited. No Commission employee or Member shall engage in reprisal against an employee for disclosing to the Attorney General, the United States Attorney, or other local or federal law enforcement a violation or suspected violation of a CNMI or federal law, or a regulation promulgated by Commission or any other agency or instrumentality of the Commonwealth government pursuant to CNMI law.

(b) Application. An employee who reports, or who is known by any person in a management or supervisory position to have indicated to report, such violation or suspected violations described in (a) above shall be protected by this rule, unless the employee knew the report was false. This protection shall extend to employees who participate, or who have indicated an intent to participate, in an investigation, hearing or inquiry conducted by a public body, and to employees who participate, or who were known by management or supervisor to have indicated an intent to participate, in a court proceeding.

(c) Forms of Reprisal. Reprisal includes such actions as discharge, threats of discipline, or arbitrary and capricious changes in the conditions of employment.

§ 175-10.3-355 Utilization of Sister Agencies

Any time the Executive Director deems prudent (including, but not limited to, the enforcement or other implementation of the Commission's Anti-Discrimination, Anti-

Harassment, Anti-Bullying, and/or Anti-Drug and Alcohol policies and procedures), the Executive Director may, and is encouraged, to utilize the expertise and manpower of any agency of the CNMI government on terms mutually agreeable. By way of example and not by limitation, the Executive Director may utilize the services of the Office of Personnel Management to conducting random or other drug or alcohol tests, investigation of complaints of discrimination or harassment, or the like.

Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS
Volume 40, Number 6, pp 040764 - 040770, of June 28, 2018

Revision to the CHCC Human Resource Rules and Regulations

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

> as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,
>
> and that they are being adopted as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: Adoption as Revision to CHCC Human Resources Rules and Regulations. Changes are to add benefits for part-time employees and to add a Sick Leave Bank, modify certification, and prohibit lump sum payouts of annual leave.

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2824(k), (l).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 234-8950 FAX: (670) 236-8930

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 19th day of March 2019, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

Esther L. Muna
CEO, CHCC

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 20th day of March, 2019.

EDWARD MANIBUSAN
Attorney General

Filed and
Recorded by:

ESTHER SN. NESBITT
Commonwealth Register

03.20.2019
Date

0 Form Notice of Final Adoption of Regs.wpd

COMMONWEALTH PORTS AUTHORITY

Main Office: FRANCISCO C. ADA/SAIPAN INTERNATIONAL AIRPORT
P.O. Box 501055, Saipan, MP 96950-1055
Phone: (670) 237-6500/1 Fax: (670) 234-5962
E-mail Address: cpa.admin@pticom.com
Website: www.cpa.gov.mp

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED RULES AND REGULATIONS
Volume 41, Number 1, pp 041332–38, of January 28, 2019

Addition of NMIAC § 40-40-620 to the Commonwealth Ports Authority Personnel Rules and Regulations

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT NMIAC § 40-40-620, which was published in the Commonwealth Register pursuant to the procedures of the Administration Procedure Act, 1 CMC § 9104(a). I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 41, Number 1, pp 041332–38 of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

EFFECTIVE DATE: NMIAC § 40-40-620 will become effective ten days after publication of this Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

COMMENTS AND AGENCY CONCISE STATEMENT: During the 30-day comment period, the Authority received no comments regarding the proposed regulations. No individual requested the Authority issue a concise statement of the principal reasons for and against the adoption of the proposed amendments. At a Personnel Committee meeting held on December 10, 2018, the Committee agreed to recommend to the Board of Directors that the proposed regulations be adopted without further revisions. The Board of Directors adopted the proposed regulations as final at the December 18, 2018, Board of Directors Meeting.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: The adopted regulation provides the new section NMIAC § 40-40-620. Section 40-40-620 is added to establish that directives and other memoranda issued by the Governor of the Commonwealth of the Northern Mariana Islands that affect personnel matters will be made applicable to the Commonwealth Ports Authority, and the Executive Director may interpret and modify substantive provisions of such directives and other memoranda in order to tailor such documents to the Commonwealth Ports Authority. Additionally, NMIAC § 40-40-620 suspends any rules or regulations that conflict with such directives, memoranda, or interpretations thereof until such directives, memoranda, or interpretations are deemed no longer effective or applicable to the Commonwealth Ports Authority.

FRANCISCO C. ADA / SAIPAN INTERNATIONAL AIRPORT
Port of Saipan
P.O. Box 501055, Saipan, MP 96950

BENJAMIN TAISACAN MANGLONA INTERNATIONAL AIRPORT
Rota West Harbor
P.O. Box 561, Rota, MP 96951

TINIAN INTERNATIONAL AIRPORT
Port of Tinian
P.O. Box 235, Tinian, MP 96952

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 26th day of March, 2019, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by: _____ Date: 3/27/19

CHRISTOPHER S. TENORIO
Executive Director

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 2153(f).

Dated this 27 day of March, 2019.

EDWARD MANIBUSAN
Attorney General

Filed and Recorded by: _____ Date: 03.27.2019

ESTHER SN. NESBITT,
Commonwealth Registrar

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
P.O. Box 501304, Saipan, MP 96950-1304
DEQ Tel.: (670) 664-8500/01; Fax: (670) 664-8540
DCRM Tel.: (670) 664-8300; Fax: (670) 664-8315
www.deq.gov.mp and www.crm.gov.mp

Ralph DLG. Torres
Governor

Victor B. Hocog
Lt. Governor

Eli D. Cabrera
Administrator

Ray S. Masga
Director, DEQ

Janice E. Castro
Director, DCRM

NOTICE OF CERTIFICATION AND ADOPTION OF RULE

ADOPTION OF RULE: The 2018 Guidance on Using the Mitigation Hierarchy to Avoid Impacts of Projects and Activities

ACTION TO ADOPT RULE: Pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9102, 9105, and applicable regulations, the Office of the Governor, Bureau of Environmental and Coastal Quality, Division of Coastal Resources Management, HEREBY ADOPTS AS A RULE: 2018 Guidance on Using the Mitigation Hierarchy to Avoid Impacts of Projects and Activities.

AUTHORITY: The attached rule is being promulgated by the Director of the Division of Coastal Resources Management (DCRM), Bureau of Environmental and Coastal Quality (BECQ), Office of the Governor, Commonwealth of the Northern Mariana Islands. This Rule, including technical provisions and specifications, shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of DCRM.

PURPOSE AND OBJECTIVE OF RULE: Sections 15-10-311 and 15-10-505 of the Coastal Resources Management Rules and Regulations require mitigation of adverse impacts for projects within DCRM's APC and Major Siting permitting jurisdiction. Additionally, Section 15-10-311(a) requires DCRM to develop and publish policy guidance to support wise management of coastal resources.

In order to promote conservation and wise development of coastal resources, ensure projects avoid impacts where ever possible, and provide guidance and examples of appropriate mitigation measures where avoidance and minimization are not possible, BECQ-DCRM adopts, as a rule, the attached policy guidance outlined in the "2018 Guidance on Using the Mitigation Hierarchy to Avoid Impacts of Projects and Activities."

DIRECTIONS FOR FILING AND PUBLICATION: This Rule shall be published in the Commonwealth Register in the section on newly adopted Rules (1 CMC § 9102(a)(2)).

The Director will take appropriate measures to make this Rule known to the persons who may be affected by them.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b) and applicable regulations, this adopted Rule is effective 10 days after compliance with 1 CMC §§ 9102, 9105 and publication in the Commonwealth Register.

I, Eliceo D. Cabrera, Administrator, Bureau of Environmental and Coastal Quality, hereby approve the attached Rule.

Submitted by:

Eliceo D. Cabrera
Administrator, Bureau of Environmental and Coastal Quality

8/22/18
Date

Filed and Recorded by:

Esther SN. Nesbitt
Commonwealth Register

3.18.2019
Date

Received by:

Shirley Camacho-Ogumoro
Special Assistant for Administration

Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9102(c), the rule attached hereto has been reviewed and approved as to form and legal sufficiency by the Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Edward Manibusan
Attorney General

3/18/19
Date

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
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COASTAL RESOURCES MANAGEMENT

Eli D. Cabrera
Administrator

Janice E. Castro
Director, DCRM

2018 Guidance on Using the Mitigation Hierarchy to Avoid Impacts of Projects and Activities

Summary

The "Mitigation Hierarchy" is a decision-making process that can help reduce negative impacts to the CNMI's coastal resources and sensitive habitats including shorelines, wetlands, seagrass, and coral reefs. The Bureau of Environmental and Coastal Quality's Division of Coastal Resources Management (DCRM) regulates these high-value ecosystems as "areas of particular concern" and works to ensure conservation and enhancement of these essential coastal systems alongside wise development.

As DCRM's permitting program recognizes that development activities will have some environmental impacts, the emphasis of this framework lies in the scoping and planning phases. The steps of the mitigation hierarchy are intended to help projects achieve "no net loss" of coastal resources, a core management standard, in a way that is well-organized, cost-effective, and beneficial to both the environment and the project itself.

When following the hierarchy, project planners are first asked to identify and consider the potential environmental impacts of their proposed actions and then seek alternatives that would *avoid* some or most of the negative effects. Avoidance is often the easiest and cheapest way of reducing potential negative impacts, but it requires early attention. Avoidance measures include changing the timing of particularly disturbing activities (avoid groundbreaking during a resident bird's breeding season) or relocating portions of the project (avoid building a road through an on-site wetland).

After all feasible avoidance measures are incorporated into the plan, the next step of the mitigation hierarchy is to seek alternatives that would *minimize* remaining impacts. In this context, minimizing means reducing the duration, intensity and/or extent of impacts that cannot be completely avoided. Examples include reducing noise and pollution, establishing buffer areas, and recycling captured water.

The final stage of the hierarchy involves assessing the impacts that absolutely cannot be avoided or minimized by strategic changes in design or work plans and determining *offset* measures that adequately compensate for the lost resources. As a last resort, a project could propose to restore a degraded habitat (re-vegetate a cleared area after underground construction) or contribute to an off-site effort or campaign involving the same type of resource (sponsor a research project to determine drivers of shoreline change).

This publication is specifically intended to support discussions of impact avoidance and minimization in the project planning process, as well as to provide mitigation options for unavoidable impacts or for impacts that have already occurred. This paper highlights opportunities to mitigate or offset unavoidable impacts in order ensure no net loss of essential coastal resources. While compensatory mitigation is the last step in applying the mitigation hierarchy, developers and consultants have indicated that agency-supported alternatives could help inform project planning and offset dialogs. Thus, this report concludes with a list of potential projects highlighting opportunities for compensatory mitigation projects for coral reefs, seagrass, wetlands, and shorelines in CNMI.

Introduction

Application of the mitigation hierarchy and offsets are two relatively new tools used for cost-effective reduction of impacts from development on coastal resource values including biodiversity and ecosystem services. Globally, there are a growing number of mitigation hierarchy and offsets policies which are starting to have a wide influence on business practice in some sectors. The mitigation hierarchy emphasizes project planning that avoids, minimizes, and then offsets residual environmental impacts (see Figure 1). In August 2016, the Biodiversity Consultancy released a draft report, commissioned by SPC and SPREP, reviewing national policies and practices relating to the mitigation hierarchy and offsets across all Pacific Island Countries and Territories (PICTs), based on interviews and desk-research. This study found a wide range of mitigation hierarchy and offsets policies and practices across PICTs. While these policies vary significantly between PICTs, the report concluded that, overall, there are opportunities to improve practice in all PICTs and to improve policy in most PICTs.

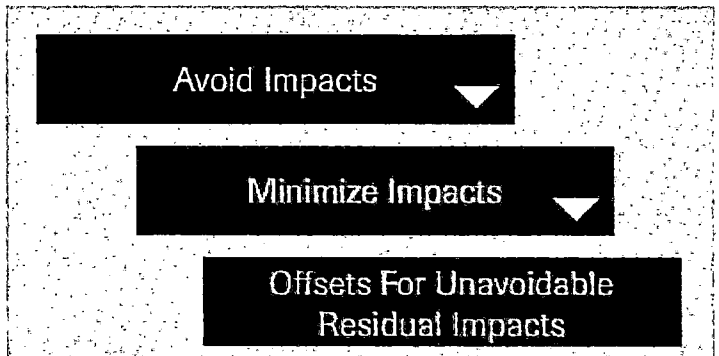


FIGURE 1: THE MITIGATION HIERARCHY

The three-step process of the mitigation hierarchy – avoid impacts, minimize impacts (including restoration on-site and other actions), and provide offsets for remaining unavoidable impacts (also often referred to as compensatory mitigation) – may be applied to achieve policy goals for biodiversity, ecosystem services, or other resources and values.

Source: TNC, 2015. See Appendix 1 for Summary of Principles.

In this report, the Commonwealth of the Northern Mariana Islands (CNMI) was found to have "high capacity, conditions, and status" as well as high risk of future impacts, and therefore, high need for implementation of a mitigation hierarchy framework. However, it is important to acknowledge that mitigation policy is already enshrined in Public Law 3-47's mandates to manage coastal resource development and mitigate significant adverse impacts as well as permit application review standards in implementing rules and regulations (NMIAC 15-10). While mitigation hierarchies have the potential to achieve multiple management objectives, the Bureau of Environmental and Coastal Quality's Division of Coastal Resources Management (BECQ-DCRM) is committed to beginning this management dialog by (1) adopting initial mitigation guidance for key coastal resources of concern and (2) supporting interagency and multi-stakeholder management dialogs moving forward. This policy primer serves to offer initial guidance for application of the mitigation hierarchy to environmentally sensitive coastal resources, including wetlands, sea grass, and coral reef habitats in the CNMI.

The Mitigation Hierarchy and Protection of Ecosystems and Ecosystem Services

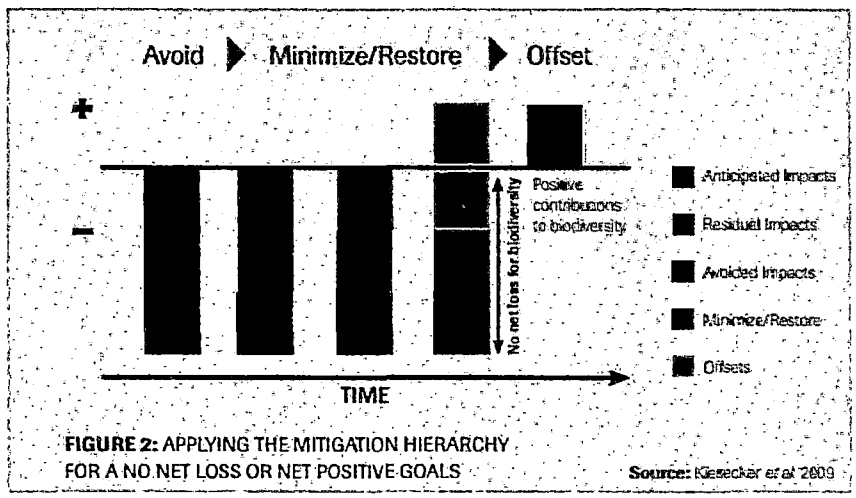
Ecosystem services are the benefits accruing to human communities from the existence of natural systems. Ecosystem services include "provisioning services" such as the production of food and water, "regulating services" such as the control of climate, "supporting services" such as nutrient cycles and crop pollination, and "cultural services" such as spiritual and recreational benefits. Ecosystem services form the connection between habitats and people.[1] This is particularly important in PICTs where a high

[1] See Barbier et al., 2011.

proportion of livelihoods depend on coastal ecosystem services.[2] In the TBC report, "biodiversity" is used as a shorthand term for "biodiversity and ecosystem services", however, for DCRM's purposes, the focus of the application of the mitigation hierarchy is specifically applied to coastal ecosystems. The Mitigation Hierarchy is a framework for managing risks and potential impacts related to biodiversity and ecosystem services when planning and implementing development projects (CSBI & TBC 2015). It provides a logical and effective means for protecting and conserving biodiversity and maintaining important ecosystem services, and a mechanism for explicit decisions that balance conservation needs and development priorities.

The "Mitigation Hierarchy" can be defined as the sequence of actions to anticipate and avoid impacts on biodiversity, ecosystem services and coastal resources; a progression where, if avoidance is not possible, minimize; and, when impacts occur, rehabilitate or restore; and where significant residual impacts remain, offset (CSBI & TBC 2015). Similar guidance is reflected at the Federal level; for example, the Council on Environmental Quality (CEQ) defined mitigation in its regulations at 40 CFR 1508.20 to include: avoiding impacts, minimizing impacts, rectifying impacts, reducing or eliminating impacts over time, and compensating for remaining unavoidable impacts. Applying the mitigation hierarchy is crucial for all development projects aiming for No Net Loss on ecosystem functions. Restoration and offset projects are also at times referred to as "Net Positive Impacts" or a "Net Positive Approach" in order to ensure that, at minimum, projects achieve no net loss objectives.

A "no net loss" policy has been in place for wetland systems in the U.S. since its articulation in the 1987 National Wetlands Forum, adoption by President George Bush Sr. in 1989. Its application in CNMI is reflected in the 1991 Saipan Comprehensive Wetlands Management Plan. As information regarding the benefits of and the threats to seagrass and coral reefs continues to grow, it is logical to work with key resource management partners and stakeholders to extend this "no net loss" or "net gain" policy to these fragile coastal systems as well in order to minimize impacts and ensure their long-term sustainable management. Until more concrete guidance and policies can be articulated in the CNMI, when entertaining major siting proposals, DCRM shall assess the application of the mitigation hierarchy to ensure that impacts to ecosystems of high concern – wetlands, shorelines, seagrass systems, and coral reefs – are first avoided and minimized and then mitigated. Mitigation activities shall prioritize in-kind restoration but may also include compensatory programs or offsets with appropriate replacement ratios as well as long-term monitoring and adaptive management are proposed. Off-site or out-of-kind projects may be considered if on-site mitigation is not available. Until Marianas-specific guidance is developed, mitigation proposals including offsets and compensatory projects shall be reviewed on a case by case basis with the goal to achieve no loss to system functions and values, in compliance with the application



Source: TNC 2015, citing Kiesecker et al, 2009.

[2] TBC, *publication pending.*

of the mitigation hierarchy and its implementing principles.[3]

As described in the Biodiversity Consultancy report, the mitigation hierarchy is a decision-making framework that parallels avoidance and minimization considerations of the National Environmental Policy Act and other environment impact assessment and decision making tools. This framework prioritizes avoidance, then minimization, then restoration, and lastly, allows for offsets to ensure proposed actions do in fact result in "no net loss", to maintain and, where possible enhance critical ecosystems and functions. This process is also intended to support more efficient project planning, enabling more expeditious agency review of permits and more cost-effective project execution in the long-run (see Figure 2). Additional details and opportunities of the application of the planning steps in the mitigation hierarchy are detailed further below.

1. *Avoidance*: the first step of the mitigation hierarchy involves measures taken to avoid creating impacts from the outset, such as careful spatial placement of infrastructure or timing of disturbance. For example, placement of roads outside of sensitive habitats or key species' breeding grounds, or timing of seismic operations when aggregations of sensitive species are not present. When feasible, avoidance is often the easiest, cheapest and most effective way of reducing potential negative impacts, but it requires resource values to be considered in the early stages of a project.

2. *Minimization*: measures taken to reduce the duration, intensity and/or extent of impacts that cannot be completely avoided. Examples include such measures as reducing noise and pollution, or capturing, recycling and treating water.

3. *Restoration*: measures taken to improve degraded or removed ecosystems following exposure to impacts that cannot be completely avoided or minimized. Restoration aims to bring back at least some elements of the original ecosystem that was present before impacts. In many ecosystems, restoration can be costly and slow and uncertain. More commonly undertaken is rehabilitation, which aims to restore basic ecological functions and/or ecosystem services (e.g. through planting trees to stabilize bare soil). Restoration and rehabilitation are frequently needed towards the end of a project's lifecycle, but sometimes can be undertaken during operation (e.g. after temporary borrow pits have fulfilled their use).

4. *Offset*: measures taken to compensate for any residual, adverse impacts after full implementation of the previous three steps of the mitigation hierarchy. Offsets are of two main types. "Restoration offsets" aim to restore degraded habitat or ecosystem functions or values, while "averted loss offsets" aim to stop anticipated loss of resources (e.g. future habitat degradation for biodiversity and function loss) in areas where such impacts are predicted to occur. Definitions differ, but herein the term "offset" is restricted to cases that deliver measurable gains that are at least as large as the residual losses for the targeted components of biodiversity, ecosystem services, or other values of coastal resources.[4]

5. *Compensatory mitigation*: The broader term "compensation" generally covers other types of actions for which there is no demonstrable quantified equivalence between the gains and the residual losses. Compensatory mitigation may be required for certain actions with unavoidable impacts under the Federal Clean Water Act Section 404 or the Endangered Species Act. For example, under Section 404, there are

[3] See TNC 2015, Achieving Conservation and Development: 10 Principles for Applying the Mitigation Hierarchy.
[4] Maron et al. (2012).

three mechanisms for providing compensatory mitigation, listed in order of preference as established by the regulations: mitigation banks, in-lieu fee programs, and permittee-responsible mitigation.[5]

Currently, in-lieu fee programs are not established in CNMI, and mitigation banking is limited to the Saipan Upland Mitigation Bank for the Nightingale Reed Warbler on Saipan, however, reassessment of the viability of these programs would be a timely interagency discussion. In the meantime, permittee-responsible mitigation is the only option for otherwise un-permittable loss of wetland systems under the federal Clean Water Act program. Mitigation is also prescribed for other resources under federal laws. For example, under the Endangered Species Act Section 10(a), a private landowner, county, state, or corporation — any non-federal entity— may obtain an "incidental take permit" (ITP) from the Services to engage in an activity that may cause incidental harm to a listed species, if the permittee agrees to follow a pre-approved habitat conservation plan (HCP) that is designed to minimize or mitigate the impact.

According to the US FWS and NMFS HCP/ITP Processing Handbook, mitigation actions generally fall into one or more of the following categories. Like the mitigation hierarchy discussed above, when possible, the agencies prefer to see the plans address impacts in the following order:

- Avoid the impact (such as changing the timing of the project, relocating the project, or restricting access);
- Minimize the impact (such as modifying land use practices, creating buffer areas, or reducing project size);
- Rectify the impact (such as enhancement, restoration, or revegetation of degraded or former habitat);
- Reduce or eliminate the impact over time (through proper management, monitoring, and adaptive management); or, finally,
- Compensate for the impact (such as habitat restoration or protection on- or off-site).[6]

While compensatory mitigation does have value in helping to reduce otherwise unacceptable impacts to important resources, due to the uncertainty of the success of these interventions, it is BECQ-DCRM's policy that offsets and compensatory mitigation are considered a last resort. Through the application of the mitigation hierarchy, avoidance, minimization, and restoration must be applied in the planning process, iteratively if necessary, to reduce, as much as possible, the residual impacts that a project has on critical coastal resources such as wetlands, seagrass, coral reefs, and shoreline areas. After the effective application of these planning principles, additional steps of offsets or compensatory mitigation may be required to deliver No Net Loss or a Net Positive Impact to ensure maintenance, and where possible, enhancement, of ecosystem values, functions, or services.

When Offsets and Compensatory Mitigation Are Appropriate

Offsets and compensatory mitigation are a last resort. However, these steps in the mitigation hierarchy may be necessary to reduce residual impacts of a project to acceptable levels and further "no net loss" or

[5] TBC (2016), citing US EPA & Army Corps of Engineers, (2008).
[6] U.S.FWS AND NMFS, (1996). See also U.S. FWS, supra note 139; and 65 Fed. Reg. 35,242 (June 1, 2000) (an addendum to the Handbook). The addendum, known as the "five-point policy," provides additional guidance on HCPs regarding: (1) establishment of biological goals and objectives for HCPs, (2) adaptive management, (3) monitoring, (4) determination of permit duration, and (5) the use of public participation. See also USDOI Mitigation Guidance, Nov. 2016.

"net gain" objectives. Similar to federal compensatory mitigation guidance, appropriate and practicable compensatory mitigation is required for unavoidable adverse impacts which remain after the initial steps in the mitigation hierarchy have been applied.[7] Numerous case studies and research papers highlight that restoring or creating lost ecosystem values is a risk laden undertaking – there are often no guarantees that complex ecological functions can be replicated to replace lost ecosystem functions and values. In addition, evaluating mitigation performance and adaptive management of projects where necessary can require considerable pre- and post-construction monitoring and assessment, can be time consuming and costly. Thus, multipliers are often added to offset projects in order to further ensure that the costs of a proposed action do not outweigh the sum of the benefits of the project and its mitigation plan.

Offsets and Quantifying Replacement Ratios

Offsets are not well-documented in the CNMI, and are thus, applications are somewhat uncertain in terms of potential project success. Thus, it is a best management approach that when offsets are proposed as mitigation, proposals must include appropriate replacement ratios as well as long-term monitoring and adaptive management measures to increase the likelihood of project success.

Appropriate replacement ratios must be based on lost resource area and services. Computation of lost resource services requires three assessments, (1) area of habitat lost; (2) the length of time needed for the functions associated with that area (and lost to the ecosystem at large during the period of the injury) to recover to their pre-impact levels; and (3) the shape of that recovery function.[8] Both the current benefits of restoration and any capitalized land values must be adjusted if there is a risk of restoration failure.[9] Due to the uncertain nature of offsets and need for additional research in this area, and in alignment with nationally and internationally recognized best practices in environmental planning and resource management, avoidance, minimization, and restoration, including compensatory mitigation projects, are prioritized over offsets at this time.

Potential Compensatory Mitigation Projects in CNMI

By engaging in development planning that assesses, avoids, and minimizes potentially significant impacts to coastal resources, DCRM can help to ensure that projects are implemented in ways that are both more beneficial to the environment and less likely to increase environmental risks to people or the proposed project itself. The mitigation hierarchy is a valuable decision-making tool that can and should be applied to project planning in order to create better outcomes for developers and the community of the CNMI as a whole.

The project list that follows highlights opportunities for compensatory mitigation projects in CNMI. This list is neither pre-approved nor exhaustive. Projects that will result in negative impacts to coastal ecosystems or ecosystem functions are encouraged to enter early dialogs with BECQ-DCRM to ensure avoidance and minimization are implemented and proposed mitigation will effectively address losses.

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[7] See e.g. NOAA-NMFS, 2008; DOI, 2016.
[8] M.S. Fonseca et al. / Ecological Engineering 15 (2000) 227–237.
[9] Barbier, E.B. Environ Resource Econ (2016) 64: 37.

Project Description	*Impact Category*	*Ecosystem Type and estimated enhancement value* (✓✓✓ - High)				*Estimated Project Cost/Range*
		Coral Reefs	*Seagrass*	*Wetlands*	*Shorelines*	($ Low, $$ Mid, $$$ High)
Wetland & buffer restoration / conservation / protection	Water Quality	✓	✓	✓✓✓	✓	$ - $$
Rain garden installation & maintenance	Water Quality	✓	✓	✓✓✓	✓	$
Stormwater improvement projects – small or large-scale; in coordination w/ DPW	Water Quality	✓✓	✓✓	✓✓✓	✓✓	$$ - $$$
Watershed revegetation – Ex. Talakaya / Laolao	Water Quality	✓✓✓	✓✓✓	✓✓✓	✓✓	$ - $$$
Erosion control projects – Ex. Gapgap Road	Water Quality	✓✓✓	✓✓✓	✓✓✓	✓✓	$$ - $$$
Permeable parking lot installation	Water Quality	✓✓	✓✓	✓✓✓	✓	$ - $$
Research on sources / tracking / impacts of point / nonpoint source pollution	Water Quality	✓✓	✓✓	✓✓	✓	$$
Shoreline vegetation restoration	Water Quality / Habitat loss	✓	✓	✓	✓✓✓	$ - $$
Installation and maintenance of recreational mooring buoys / Aids to navigation	Habitat loss / degradation	✓✓	✓			$$
Aids to recreation – Ex. Installation of approved diving trails	Habitat loss / degradation	✓✓				$ - $$
Citizen science / community habitat establishment & support programs	Habitat loss / degradation	✓✓	✓✓	✓✓	✓✓	$$ - $$$
Biodiversity / Resilience support programs – Ex. establishment of coral / seagrass / wetland / shoreline plant nursery and/or restoration projects	Habitat loss / degradation	✓✓	✓✓	✓✓	✓✓	$$ - $$$
Research projects to improve effort / success of restoration projects	Habitat loss / degradation	✓✓	✓✓	✓✓	✓✓	$$
Establish / support community based conservation areas	Habitat loss / degradation; Ecosystem health / function	✓✓✓	✓✓✓	✓✓	✓✓	$$
Education & outreach (E&O) for Marine Sports Operators	Habitat loss / degradation	✓✓	✓✓			$ - $$

Marine debris removal - Ex. Tasi Ranger support or MINA bin adoption	Habitat loss / degradation	✓✓	✓✓		✓✓	$ - $$
Support for enforcement of MPAs w/ MINA / DFW	Ecosystem health / function	✓✓	✓✓		✓✓	$ - $$
E&O on the role of herbivores in ecosystem health and function	Ecosystem health / function	✓✓				$$
E&O on best fishing practices to support healthy and sustainable fish populations	Ecosystem health / function	✓✓	✓			$$
E&O on current conservation projects / ecosystem services education	Ecosystem health / function	✓✓	✓	✓✓	✓✓	$$-$$$
Research projects geared towards understanding ecosystem resilience to climate change / specific stressors	Ecosystem health / function	✓✓	✓✓	✓✓	✓✓	$$ - $$$
Research on sediment transport rates and/or pollutant removal values of wetland buffers in CNMI	Ecosystem health / function	✓		✓✓		$$
Research on shoreline change or biochemical properties of sand for beach nourishment proposals	Ecosystem health / function	✓	✓		✓✓✓	$$-$$$
Implementation of low impact access project(s) or "living shoreline" demonstration project(s) in documented highly dynamic shoreline area(s)	Habitat loss / degradation; Ecosystem health / function	✓	✓		✓✓✓	$$-$$$

For additional consultation and discussion, please contact BECQ-DCRM at (670) 664-8500.

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Summary Of Principles

Principles	Why is this principle important?
Principle 1. Landscape Context **The mitigation hierarchy should be applied in a landscape context.** Landscape-level assessments of conservation priorities and development scenarios should inform application of the mitigation hierarchy. They should be conducted as far in advance of project decisions and investments as possible and should identify important conservation values and potential direct, indirect, and cumulative impacts to these values.	• Mitigation is informed by an understanding of conservation priorities and potential direct, indirect, and cumulative impacts. • Potential conflicts, risks, and trade-offs between conservation and development goals are identified in advance of decisions and investments. • Important places and values for meeting landscape conservation goals, including areas where impacts should be avoided altogether, are clearly identified. • Offset actions are designed and implemented to make a meaningful contribution to landscape conservation goals.
Principle 2. Goals **Mitigation policy goals should support conservation objectives and drive accountability in applying the mitigation hierarchy.** Mitigation policy goals should provide a clear driver for avoiding and minimizing impacts, and guide offset requirements. Offsets should fully address residual project impacts to achieve, at a minimum, a "no net loss" outcome for conservation.	• The mitigation hierarchy is applied with a focus on supporting broader conservation objectives. • Application of the mitigation hierarchy is supported by a structured, transparent, and science-based foundation that drives impact avoidance and minimization and guides offset requirements. • Accountability is strengthened so that, at minimum, offsets fully address a project's unavoidable residual impacts.
Principle 3. Mitigation Hierarchy Steps **The mitigation hierarchy should be followed sequentially - avoid, minimize, and then offset impacts.** Avoidance is the first and most important step for supporting landscape-level conservation goals. Efforts to avoid and minimize impacts should be made to the maximum extent practicable – taking into account existing technology, available science, costs relative to ecological benefits, and the likelihood of success for offset actions – before offsets are considered. Offsets are then applied to address residual impacts.	• Options for impact avoidance and minimization are fully considered, including avoiding projects altogether, before offsets are considered. • Offsets are applied for residual impacts only, not used as a justification to approve projects where impacts should have been avoided or minimized.
Principle 4. Limits to Offsets **There are limits to what can be offset.** The mitigation hierarchy should be applied with clear recognition that many impacts to biodiversity, ecosystem services, and other resources and values cannot be offset. These impacts need to be avoided, as this may be the only means to prevent irreplaceable loss.	• When it is not possible to offset the impacts (e.g., due to the rarity of the resources, lack of offset opportunities, poor likelihood of offset success, etc.), project impacts are not approved, precluding the need for offsets.
Principle 5. Sustainable Outcomes **Mitigation should support long-term, durable outcomes.** Minimization and offset actions should be required to meet ecological performance standards and adhere to provisions for adaptive management, monitoring, and enforcement measures to ensure long-term and sustainable outcomes for conservation. Durability of offsets should be secured through designation mechanisms, management, and funding.	• Mitigation actions focus on maintaining key ecological functions and meeting ecological targets rather than only administrative standards. • Requirements for meeting performance standards, monitoring, and adaptive management, with regulatory oversight and enforcement, support the sustainability of minimization and offset actions. • Offset agreements include a long-term management plan that outlines necessary management measures and funding for the measures. • Offsets are sited and designed to be self-sustaining and durable.

Principles	Why is this principle important?
Principle 6. Stakeholder Engagement Practices **Mitigation should follow best practices for stakeholder engagement.** Principles for meaningful stakeholder engagement in the decision making process, including transparency, rights-based approaches, and use of science and traditional knowledge, are essential in applying the mitigation hierarchy.	• Application of the mitigation hierarchy meets generally accepted best practices for stakeholder engagement. • Meaningful stakeholder participation in decision-making processes supports better, more sustainable outcomes.
Principle 7. Additionality **Offsets should provide a new contribution to conservation, additional to what would have occurred without the offset.** Offset actions that restore, enhance, manage, and/or protect values and functions should be a genuinely new contribution to conservation with a strong probability of success. The amount and types of offsets required should be measured against project impacts to assess progress toward the mitigation policy goal.	• Offsets contribute a measurable new benefit to conservation values and functions; they do not take the place of existing or mandated conservation actions that would have been implemented without the offset. • Offsets take into account risks, uncertainties, and other factors in design and implementation in order to deliver additional conservation benefits consistent with the mitigation policy goal.
Principle 8. Equivalence **Offsets should provide ecologically equivalent values as those lost to project impacts.** Offsets should preferably be "in kind" in terms of habitat type, functions, values, and other attributes. "Out-of-kind" offsets may be appropriate in some cases where they better meet landscape-level conservation priorities and/or address past disproportional losses to other habitat types.	• Offsets either provide conservation benefits similar to those lost due to the project, or are a "trade up" to provide benefits that better meet conservation priorities.
Principle 9. Location **Offset benefits should accrue in the project-affected landscape.** Offsets should be implemented to maximize conservation benefits within a defined spatial extent or unit (e.g., watershed, ecoregion), supporting the accrual of offset benefits in the same landscape as project impacts.	• Offsets are located in the project-affected ecoregion, increasing opportunities for ecological equivalence and reducing the potential for conservation "winners and losers" (i.e., benefits not accruing to those affected). • Important ecosystem functions (e.g., flood control benefits) remain supported within the project-affected region.
Principle 10. Temporal Considerations **Offsets should protect against temporal losses.** Offsets should be designed and implemented to safeguard against temporal losses of conservation values that can occur due to the different timing of project impacts and offset benefits. At a minimum, offsets should provide a high level of confidence of protection for at least as long as the direct, indirect, and cumulative project impacts.	• Offsets are implemented in advance or concurrent with project impacts where possible and appropriate. • Temporal losses (e.g., years before offset conservation values reach maturity) are compensated for in the design and/or size of the offset. • Offsets are maintained and effective for the duration of a project's direct, indirect, and cumulative impacts on the species and ecological communities.

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PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Commonwealth of the Northern Mariana Islands ("CNMI"), Commonwealth Casino Commission ("the Commission") has adopted as Emergency Regulations the attached Casino Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(b). The Commission has followed the procedures of 1 CMC § 9104(b) and (c) to adopt these Casino Regulations on an emergency basis valid for a period of 120 days.

AUTHORITY: The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Section 2314 of Public Law 18-56. The Commission has the authority to promulgate rules and regulations to regulate personnel matters. See 4 CMC §2316(a).

THE TERMS AND SUBSTANCE: The attached Rules and Regulations govern the regulations to appoint, reassign or transfer, promote or demote, or otherwise change status of, and to remove from service, employees who are employed by the Commonwealth Casino Commission The regulations are closely based on, and very nearly mirror, those promulgated by the Civil Service Commission's Exempted Service Regulations.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Establish a section on General Provisions including Applicability, Purpose, definitions, and the like;
2. Establish a section on Staffing and Administration, including Recruitment and Selection procedures, duty stations, work hours, and the like
3. Establish a section on Employee Benefits including various leaves, Insurance and Retirement benefits, and the like;
4. Establish a section on Employee Conduct and Obligations, including Grievance procedures, termination, various non-discrimination policies, various alcohol and Drug free policies, vehicle policies, and the like.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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; the notice shall be both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

The Commonwealth Casino Commission approved the attached Regulations on or about February 7, 2019.

Submitted by: _____ Feb. 15, 2019
JUAN M. SABLAN — Date
Chairman of the Commission

Concurred by: _____ _____
HON. RALPH DLG. TORRES — Date
Governor

Filed and Recorded by: _____ 03.19.2019
ESTHER SN NESBITT — Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 11 day of March, 2019.

_____
Hon. EDWARD MANIBUSAN
Attorney General

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ARONGORONGOL TOULAP REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT NGÁLI COMMONWEALTH CASINO COMMISSION

RE ADÓPTÁÁLI LLÓL GHITIPOTCH NGÁLI EBWÚGHÚW ME RUWEIGH RÁÁL: Commonwealth Téél Falúw kka Efáng llól Marianas ("CNMI"), Commonwealth Casino Commission ("Commission we") ra adóptááli Mwóghutughut kkal llól ghitipotch ikka e appasch ngáli Mwóghutughutúl Casino, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC §§ 9104(b) . Commission re attabweey ngáli mwóghutughutúl 1 CMC 9104(b) me (c) reel rebwe adóptááli Mwóghutughutúl Casino kkal llól ghitipotch igha e ffil llól ebwúghúw me ruweigh ráál.

BWÁNGIL: Eyoor bwángil Commission reel rebwe adóptáálil allégh me mwóghutughut kkal reel ebwe lemeli me aghtachú mwóghutughutúl sángi Tálil 2314 reel Alléghúl Toulap 18-56. Eyoor bwángiir Commission reel rebwe lemeli me aghatchú mwóghutughutúl personnel. Amwuri 4 CMC §§2316(a).

KKAPASAL ME AWEEWEL: Allégh me Mwóghutughut ikka e appasch e lemeli mwóghutghutúl reel rebwe afili, reassign ngáre transfer, promote ngáre demote, ngáre siiweli tappal status, me ngáre siiwel sángi angaang, school angaangil Commonwealth Casino Commission. Rebwe ssul ngáli mwóghutughut kkal , ebwe yoor weewel, ngáli lemelemil sángi aar Civil Service Commission Exempted Service Regulations.

KKAPASAL ME ÓUTOL: Allégh me mwóghutughut kkal:

1. Aghikkilátiw tálil wool General Provisions ebwe schuulong Appilcability, Bwulul, faal, me weewel;
2. Aghikkilátiw tálil Staffing me Administration, ebwe schuulong Recruitment me Mwóghutughutúl
3. Ebwe yoor ghikkilil tálil wool Employee Benefits ebwe bwal schuulong leaves, Insurance me Retirement Benefits, me weewel;

4. Ebwe yoor ghikkilil tálil wool Employee Conduct me Obligations, ebwe bwal Schuulong mwóghutughutúl Grievance, termination, akkááw non-discrimination Policies, akkááw alcohol me Grug free policies, vehicle policies, me weewel.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálil pommwol me ffél mwóghut ikka ra adóptáálil (1 CMC §§ 9102(a)(1)) me ebwe appaschetá llól civic center me llól bwulasiyolgobetnameento llól senatorial district; ebwe akkatééwow arongorong yeel llól English me mwáliyaasch. (1 CMC §§ 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations,* reel féléfél iye e lo weiláng, fax ngáre email address, ebwe lo wool subject line bwe " New Casino Commission Rules and Regulations". Kkapas ebwe toolong llól eliigh ráal mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC §§ 9104)(a)(2)).

Commonwealth Casino re átirow reel Mwóghutughut ikka e appasch wool ngáre arol Febreero 7, 2019.

Isáliyalong: _____ Feb. 15, 2019
JUAN M. SABLAN — Ráál
Chairman-il Commission

E Lléghló Sángi: _____ 08 MAR 2019
HON. RALPH DLG. TORRES — Ráál
Gobenno

Ammwelil: _____ 03.19.2019
ESTHER SN. NESBITT — Ráál
Commonwealth Register

Sángi 1 CMC §§ 2153€ (sángi átirowal AG bwe aa lléghló reel ffééríul) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééríul me legal sufficiency sángi Soulemelemil Allégh Lapalap me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul me akkatééwowul).

Aghikkilátiw wool 11 ráálil March, 2019.

Hon. EDWARD MANIBUSAN
Soulemelemil Alllégh Lapalap

Commonwealth gi Sangkattan Siha na Islas Mariånas
COMMONWEALTH KUMISION HUEGUN SALÅPPI'
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NUTISIAN PUPBLIKU PUT I ADÅPTASION NI MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA PARA I COMMONWEALTH KUMISION HUEGUN SALÅPPI'

ADÅPTASION NU I EMERGENCY NA REGULASION PARA SIENTUBENTI (120) NA DIHAS: I Commonwealth gi Sangkattan na Islas Mariånas ("CNMI"), Commonwealth Kumision Huegun Salåppi' ("i Kumision") ma'adåpta kumu Emergency na Regulasion i mañechettun na Regulasion Casino, sigun gi manera siha gi Åktun Administrative Procedures gi, 1 CMC § 9104(a). I kumision matattiyi i maneran i CMC § 9104(b) yan (c) para u adåpta esti na Regulasion Casino siha gi emergency basis ni valid para sientubenti dihas na tiempu.

ÅTURIDÅT: I Kumision gai åturidåt para u adåpta i areklamentu yan i regulasion siha ni para u makonsigi i obligasion yan i responsabilidåt-ñiha siha sigun para Seksion 2314 gi Lai Pupbliku 18-56. I Kumision gai aturidåt para u cho'gui i areklamentu yan regulasion siha para u regulate i personnel matters. Atan 4 CMC §2316(a).

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I mañechettun na Areklamentu yan Regulasion siha ha gubietna i regulasion siha para u apunta, mata'lun asigna pat transferi, mahåtsa pat manatunnuk i pusision, pat sino' matulaika nu, yan para u manasuha ginin sitbisiu, impli'åo ni ma'impliha ginin i Commonwealth Kumision Huegun Salåppi'. I regulasion manmapo'lu gi yan mampus kana' pumarehu, atyu manmacho'gui ginin i Civil Service Kumision Exempted Service na Regulasion.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA: Esti na Areklamentu yan Regulasion siha:

1. Istapblisi un seksion gi General Provision ingklusi Applicability, Rason, Difinision, yan i like;
2. Istapblisi un seksion gi Staffing yan Administrasion, ingklusi Recruitment yan Sileksion manera, istasion obligasion, oran cho'chu', yan i like;
3. Istapblisi un seksion gi Benifision Impli'åo siha ingklusi difirentis klåsin leaves, Insurance yan Benifision Ritirao, yan i like;
4. Istapblisi un seksion gi Kondukt Impli'åo yan Obligasion, ingklusi maneran Grievance, tetminasion, difirentis klåsin non-diskriminasion policies, difirentis klåsin Atkahot yan Drug Free policies, vehicle policies, yan i like.

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: Esti i manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi hålum i seksiona ni maproponi na regulasion siha yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hålum i kumbinienti na lugåt siha gi hålum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, i nutisia debi na parehu Englis yan i prinsipåt na lingguåhin natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hånåo pat intrega i upiñon-mu guatu gi Commonwealth Kumision Huegun Salåppi', *Attn: Nuebu na Areklamentu yan Regulasion Siha*, gi sanhilu' na address, fax pat email address, yan i råyan suhetu "Nuebu na Areklamentu yan Regulasion Kumision Huegon Salåppi' Siha". I upiñon siha debi na u fanhålum gi hålum 30 dihas ginin i fetchan pupblikasion esti na nutisia. Put fabot na'hålum iyo-mu data, views, pat kinentestan kinentra siha. (1 CMC § 9104(a)(2)).

I Commonwealth Kumision Huegun Salåppi' ma'aprueba i mañechettun na Regulasion siha gi pat kåsi gi Fibreru 7, 2019.

Nina'hålum as: _____ Feb. 15, 2019
JUAN M. SABLAN — Fetcha
Kabesiyun i Kumision

Kinunfotmi as: _____ _____
HON. RALPH DLG. TORRES — Fetcha
Gubietnu

Pine'lu yan Ninota as: _____ 03.19.2019
ESTHER SN. NESBITT — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e) (I Abugådu Heneråt ha aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion areklamentu yan regulasion siha).

Mafetcha gi diha 11, gi March 2019.

Hon. EDWARD MANIBUSAN
Abugådu Heneråt

TITLE 175
COMMONWEALTH CASINO COMMISSION

Chapter 175-10 Commonwealth Casino Commission
Subchapter 175-10.1 Commonwealth Casino Commission Rules and Regulations
Subchapter 175-10.2 Code of Ethics
Subchapter 175-10.3 Personnel Regulations

CHAPTER 175-10
COMMONWEALTH CASINO COMMISSION

SUBCHAPTER 175-10.3
PERSONNEL REGULATIONS

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Part 001 – General Provisions

§ 175-10.3-001 General

(a) This chapter provides the regulations to appoint, reassign or transfer, promote or demote, or otherwise change status of, and to remove from service, employees who are employed by the Commonwealth Casino Commission (Commission).

(b) Public Law 18-56, enacted July 11, 2014, exempted the staff of the Commission from the Civil Service. The Commission has the authority to promulgate rules and regulations to regulate personnel matters. See 4 CMC §2316(a). Pursuant to this authority, the Commission promulgates the following Personnel Regulations, to be administered by the Executive Director.

§ 175-10.3-005 Applicability

(a) The regulations in this chapter shall apply to employment of personnel in all positions within the Commission. However, nothing in these regulations shall be construed to apply to Members of the Commission unless specifically stated otherwise.

(b) It is not the intention of the regulations in this chapter to create any legally protected property interests in employment with the Commission or any employment right or benefit not explicitly stated in these regulations or the employment contract. Notwithstanding any other regulation, policy, or practice to the contrary, all commission staff employment may be terminated at the will of the employee and/or employer pursuant to the terms of the contract and these regulations.

§ 175-10.3-010 Purpose

The regulations in this subchapter establish regulatory direction for employing, compensating, providing employee benefits, and effecting other personnel actions for Commission employees. These regulations shall be construed and applied to promote the following underlying purposes and policies:

(a) Simplify, clarify, and modernize the employment policies and practices of the Commission.

(b) Establish consistent employment policies and practices among various divisions and activities of the Commission.

(c) Create increased public confidence in the procedures followed in Commission employment.

(d) Ensure the fair and equitable treatment of employees within Commission.

(e) Provide safeguards for the maintenance of an employment system of quality and integrity.

§ 175-10.3-015 Definitions

For purposes of this subchapter, the following terms shall be defined as follows:

(a) "Dependent(s)" Spouse, minor children, unmarried and under 21 years of age, physically or mentally handicapped children incapable of supporting themselves, regardless of age, wholly dependent parents of employee or spouse, or minor children by

previous marriage, unmarried and under 21 years of age, for whom the employee or spouse have legal custody. Children by a previous marriage who are primarily domiciled by court order in other than the employee's household are not considered dependents.

(b) "CNMI" means the Commonwealth of the Northern Mariana Islands.

(c) "Commission" means the Commonwealth Casino Commission established by PL 18-56.

(d) "Commission Employee" An employee holding a position within the Commission, pursuant to a Commission Service Contract or other contract, and further pursuant to the laws and regulations of the Commonwealth.

(e) "Commission Service Contract" Employment contract entered into by the employee and employer for a term not to exceed five years, subject to the availability of funds, budgeted FTEs (if applicable), and any statutory limitations.

(f) "Commissioner" means the commission member of the Commission appointed and confirmed pursuant to PL 18-56.

(g) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

(h) "Members" mean the Commissioners of the Commonwealth Casino Commission.

(i) "Employer" The Commonwealth Casino Commission; or, if the context so requires, the hiring official.

(j) "Executive Director" means the Executive Director of the Commonwealth Casino Commission appointed pursuant to PL 18-56, or his or her designee.

(k) "FTE" Full-time employee.

(l) "Willful Abandonment" When a Commission employee is absent without authorized leave for a combined total of ten days without valid reason during a twelve-month period.

(m) "Termination for Cause" Termination for cause before the end of the contract term may be for any of the following reasons:

(1) Failure or inability to perform competently;

(2) Willful misconduct;

(3) Willful abandonment of job;

(4) Substantial or repeated violation of law, or of this subchapter, or of Division or Commission rules or policies;

(5) Willful failure or inability to plan, manage, or evaluate employee or unit performance in a timely or effective manner;

(6) Conviction of a felony or other crime involving moral turpitude;

(7) Other good cause that adversely affects the employee's ability to perform the job or that may have an adverse effect on the Division or Commission if employment is continued.

§ 175-10.3-020 Types of Employment.

The type of employment is dependent upon the position that is being filled. The Executive Director shall consider how best to accommodate and balance the present and expected future needs of the Commission with available and projected resources in determining the type of employment.

(a) Employment Contract – Employment Contract employees shall be hired on a contractual basis. Employment Contract employees shall be hired for a period of one to five years and are entitled to all the benefits of employment, including annual and sick leave, and are eligible for health and life insurance and the 401(a). Employees under this status are subjected to the Offer Letter of Employment from the Executive Director, the Commission Service Contract, and the additional Terms and Conditions of Employment promulgated by the Executive Director.

(1) Part-time Employment Contract employees may be hired for one or five years and do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

(2) The contracts of all contract employees shall contain a 90-day probationary period. The Executive Director should try to provide periodic feedback so that the employee is aware of any deficiencies he or she needs to correct prior to the end of the 90-day period. The Executive Director may promulgate a feedback form for this purpose. An employee who receives all or primarily all "unsatisfactories" on the evaluative criteria should assume he or she will be separated from service. The Executive Director may provide a letter that the employee either has or has not successfully passed his or her probationary period. The employee who has not received a letter about passing the probationary period should request one. Once the employee successfully completes the probationary period, or extended probationary period(s), he or she can be terminated with or without cause, as may be allowed by the Commission Service Contract.

(3) No contract employee shall have an expectation of renewal of any contract and my not rely on any such expectation.

(b) Provisional Appointment – Provisional Appointment employees are hired by short term contract on no more than a 90-day period to fulfill an urgent need of the Commission. This is usually done in order to allow time to obtain a full-time permanent employee for the position. If the Commission still needs the services of the provisional employee and the position has not yet permanently been filled, the Executive Director may extend the provisional employee another 90 days but the employment of a provisional employee shall not exceed 180 consecutive days. Provisional employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90-day period. If the employee is then converted to a full-time position, he or she still has to complete the 90-day probationary period.

(c) Limited Term Appointment – Limited Term Appointment employees may be hired by short term contract to work on programs funded through federal or Commonwealth grants. The terms of these employees shall be congruent with the budget cycle of the grant. Limited Term Appointment employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90-day period.

(d) Temporary Appointment – Temporary Appointment employees are employees who are hired by a short-term contract for a period of less than one year. While their terms may be extended, there should be no expectation of and reliance upon an extension. Temporary employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

Part 100 - Staffing and Administration

§ 175-10.3-101 Recruitment and Selection Procedures

(a) When the Executive Director seeks to fill a vacant position, he or she will first ensure the availability of funds by checking with the Department of Finance or otherwise. Executive Director will authorize a vacancy announcement to initiate a search for a qualified and suitable person. The terms for the position shall be in accordance with the position description. The recruitment and selection process will follow procedures established by Executive Director.

(b) An existing position is deemed to be vacant upon expiration or termination of the present or last employment contract. The position can be announced sixty days before the end-date of the current employment contract if the intent is not to renew the incumbent, or some shorter time should the intent to renew occur at a date closer to the expiration of the contract.

(c) There is no requirement for the employer to renew a Commission Service Contract. If the employer, through the Executive Director, elects to renew the employment contract of a Commission Employee, the employer, through the Executive Director, may waive the announcement of the position.

(d) Newly established or otherwise unfilled positions will be announced. Provided, however, when necessary for the provision of essential services, the Executive Director may waive the requirement of a vacancy announcement for selection of a candidate for any position within the Commission. However, prior to waiving the vacancy announcement, the Executive Director shall obtain certification of the availability of funds for the position to be filled.

(e) Upon selection of an applicant the Executive Director will cause a Commission Service Contract, with Terms and Conditions, to be routed. The selected candidate will not be authorized to begin work until the contract has been fully routed and approved, a negative report has been received for the pre-employment drug test, all other requirements have been met, and the Executive Director has made payroll certification that the employee has been employed in accordance with relevant statutes and regulations.

§ 175-10.3-105 Disqualification of Applicants

(a) The Executive Director may refuse to examine an applicant, or after examination may refuse to place his or her name on an eligible list, or may remove his or her name from an eligible list, or may refuse to certify any person on an eligible list who:

(1) Has failed to submit a complete and accurate application or failed to submit within the prescribed time limit;

(2) Is found to lack any of the minimum qualifications in the recruitment announcement or examination for the position;

(3) Has applied for a position as an "in-house" applicant, but whose last performance evaluation was below average;

(4) Has received any disciplinary action (other than an oral reprimand, warning, or counseling) from the Commission (or any other branch, agency or instrumentality of the Commonwealth government) within a 12-month period preceding application and it has not been rescinded;

(5) Is found to have been convicted for violation of the law of the CNMI or federal government within the past two years. Conviction includes guilty, "nolo" and "*Alford*" pleas.

(6) Has been convicted of any crime involving violence or dishonesty within the last two years;

(7) Has withheld information of material fact or made a false statement of material fact in regard to the application for employment;

(8) Has ever been dismissed from the Commission or from other employer for disciplinary reasons or resigned in lieu of termination;

(9) Has used or attempted to use bribery to secure an advantage in the examination or appointment;

(10) Has directly or indirectly obtained information regarding examinations to which the applicant is not entitled; or

(11) Is disqualified under other sections of these rules or the laws, regulations or policies of the CNMI Government or the Commission.

§ 175-10.3-110 Nepotism

There shall be no limit to the number of members of the same household who may be employed under other appointments, provided:

(a) No member of the same household may supervise another.

(b) All other qualifications for employment are met.

(c) No costs other than for salary and employment benefits as provided by regulation, shall accrue to the Commission as a result of hiring persons from a household containing another employee.

§ 175-10.3-115 Effective Dates

(a) Employment Start Date. Employment for all Commission Employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the employee reports to work. Expatriation travel time is outside the employment period and will not be compensated.

(b) Contract Completion. Completion of the term of employment shall be effective on the last day of the term of the employment contract.

(c) Early Termination. Early termination of employment, with or without cause, shall be effective on the date of termination stated in the termination letter. Repatriation travel time is outside the employment period and will not be compensated.

§ 175-10.3-120 Duty Station and Work Assignments

(a) Duty station is primarily defined as Saipan, C.N.M.I. Duty Station may also, at the discretion of the Executive Director, include Rota, Tinian, the Northern Islands, or as otherwise assigned as the duties and responsibilities of the Commission may be expanded by legislation or executive order.

(b) The employee is assigned to a specific duty station as identified in the employment contract. However, with the employee's consent, the employee may be assigned to another duty station, based upon the needs of the Commission.

(c) If the transfer of duty station involves a permanent move for a period in excess of six months to another island within the CNMI, the employee shall be entitled to transportation for self and dependents, if any, and shipment of household effects, not to exceed 1,500 pounds for a single status employee or 3,000 pounds for an employee with dependents. This benefit is available only in cases where the transfer is initiated by the Commission.

(d) Temporary assignments to another duty station for periods of not more than ten consecutive workdays do not require the employee's approval, if the assignment is required by the needs of the Commission.

§ 175-10.3-125 Compensation and Work Schedules

(a) The salary will be subject fiscal availability (and to budget appropriations, if applicable) and will be expressed in terms of the gross amount to be paid during a twelve-month annual period, and for each of the twenty-six bi-weekly pay periods.

(b) Periods of compensable time shall include time worked during the assigned work schedule, overtime for overtime-eligible employees, legal holidays, and approved annual, sick, administrative and other leaves, as defined herein or subject to the Executive Order of the Governor. Periods of absence without leave (AWOL) and leave without pay (LWOP) will not be compensated and will be subject to appropriate timekeeping and administrative action.

(c) The employee's specific workday and workweek may differ from the standard workweek on a permanent basis, or vary from time to time, according to the needs of the Commission. Every effort shall be made to maintain a reasonable five-day, forty- hour work schedule, but the schedule is subject to variation, to include required overtime for overtime-eligible employees, extra hours for overtime-exempt employees, shifts of differing duration, and broken periods of duty, according to the needs of the Commission.

(d) All employees are covered by the Federal Fair Labor Standards Act (FLSA). Employees cannot waive their rights under FLSA. An employee will be designated as overtime-eligible or overtime-exempt based upon the duties performed and in accordance with the federal FLSA. Such designated executive, administrative, and professional employees are exempt from, and shall not be paid, overtime payment. These terms have the meanings given them in the federal Fair Labor Standards Act. The employee's overtime eligibility status is stated in the employment contract.

(e) Overtime for overtime-eligible employees shall be approved in accordance with a procedure established by the Executive Director. The Executive Director shall also establish a policy to address administrative actions for unauthorized overtime work. However, prohibition of unauthorized overtime does not relieve the employer of the requirement to pay for time actually worked. Overtime is that time a non-exempt employee is directed or permitted to work in excess of the 40 hours during a standard work week (40 hours in seven consecutive days). Employers may apply different work periods for health care employees, or different work periods and overtime thresholds for law enforcement and fire employees, as permitted by federal law. Such overtime hours are paid at 1.5 times the regular rate of pay, as defined in the Fair Labor Standards Act.

(f) Compensatory time-off can be used to replace monetary payment for overtime-eligible employees, at the discretion of the Executive Director. In such cases replacement will be at the rate of one and one-half hours of compensatory time-off for each one hour of overtime worked. The employee's acceptance of employment serves as an agreement to receive compensatory time-off in lieu of paid overtime. The employer can require the employee to use the compensatory time-off that they have earned, rather than allowing it to excessively accumulate or paying it as overtime. Restated, this means that the Executive Director can schedule compensatory time-off periods and require the employee to take that time-off. This does not prevent an employee from also scheduling time off at a time of his or her choosing, as long as approving the request does not unduly disrupt the Commission's operations.

(g) Compensatory time accrued must be taken within the year that it was earned.

(h) The Executive Director may approve compensatory time or extra payment to an overtime-exempt employee, in exceptional situations. Such situations will be considered the exception, not the rule, and will be limited to declared emergencies and extraordinary work requirements. In such cases compensatory time-off or extra payment will be on a one-to-one regular base pay basis.

§ 175-10.3-130 Acting Appointment

(a) An acting appointment is made when an employee may be required to serve temporarily and accept responsibilities for work in a vacant higher-level position which the Executive Director has determined cannot be left vacant for any but the shortest period of time. This type of appointment gives the acting appointed employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned.

(b) All acting appointments require the written approval of the Executive Director. Any employee who is acting for a period in excess of 90 days will receive acting pay effective the 91st day in acting capacity. If the employee does not meet the minimum qualifications of the position for which he or she is in acting capacity, the acting pay will be at least 10% more than the employee was earning immediately prior to accepting the acting role but not more than the pay level for the position the employee is filling.

§ 175-10.3-135 Work Hours

(a) Regular Hours of Work.

(1) Regular working hours of the Commission employees shall consist of a five-day week, eight hours a day, 40 hours per workweek from 8:00 am to 5:00 pm. The standard workweek shall consist of the period from midnight Sunday to the following midnight Sunday.

(2) The Commission is a 24-hour operation. In the Division(s) that operate outside of normal business hours, the Manager of the Division together with the Executive Director shall make a schedule for the employees who work hours other than the standard work week. Please refer to the Time Clock / Biometric Timekeeping Policy, Policy No. 1095 for the hours of all units operating outside of the standard work week.

(b) Evening and Night Shift Differential. (RESERVED)

(c) On-Call Employees (RESERVED)

(d) Time and Attendance Record. All Commission employees shall sign a Time and Attendance Record such as may be required by the Executive Director. The Executive Director shall review and approve Time and Attendance Records. The Commission pay periods shall be identical with those of the CNMI Government. Executive, managerial, professional and exempt employees are expected to work the regular 40 hours a week of employment but need not time-in or time-out.

(e) Payment of Salary. All Commission employees shall be paid within two weeks after end of every pay period.

(f) Temporary Schedule. Temporary shifting of employee's working hours to meet routine needs may be done as necessary and if approved by the Division Manager or the Executive Director. Changes in temporary schedule for more than one-week duration require at least one week's advance notice to employees except in emergency situations, or when the employees waive the need for notice.

(g) Lunch Period. For most positions, lunch shall be one-hour unpaid time, usually from 11:30 am to 12:30 pm. Deviation from the standard lunch time requires the approval of the employee's Supervisor or the Executive Director. If employee is on a shift schedule, lunch or dinner break should be complied accordingly based on existing policy.

(h) Rest Periods. Employees are entitled to rest periods of fifteen minutes during the first four (4) hours of work and another fifteen minutes during the second four hours of work. The responsibility for scheduling break periods rests with the immediate supervisor. The 30 minutes allotted for break time may not be used to lengthen lunch hours or shorten working days. Rest periods shall not be used to cover late arrivals nor may they be accumulated for scheduled time-off.

(i) Changes of Permanent Schedule. All long-term changes to the established work schedules shall be provided to the employees affected at least one week's notice prior to the change, if possible, except in emergency situations or when the employees waive the need for notice.

§ 175-10.3-140 Work Hours Recognized Holidays with Pay (a) Holidays with Pay. The following days will be recognized as holidays with pay for all employees. These holidays are subject to change pursuant to Executive Order of the CNMI Governor or by statute.

New Year's Day (January 1)

Martin Luther's King, Jr. Day (3rd Monday in January)

President's Day (3rd Monday of February)

Covenant Day (3rd Friday in March)

Good Friday (as designated by the Catholic Church calendar)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (September 4)

Commonwealth Cultural Day (2nd Monday in October)

Citizenship Day (November 4)

Veteran's Day (November 11)

Thanksgiving Day (last Thursday in November)

Constitution Day (December 8)

Christmas Day (December 25)

(b) Holiday Falling on Saturday or Sunday. When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized as the holiday. When a recognized holiday falls on a Sunday, the Monday following shall be recognized as the holiday.

(c) Computation of Holiday Pay

(1) Employees shall receive their regular straight time rate of pay for recognized holidays if they do not work.

(2) Employees who are not managers but who work on the holiday shall receive at the rate of one compensatory time-off hour for each one hour of holiday hours worked. Managers who work on a holiday shall receive a compensatory day off.

(3) Holiday during annual, or sick leave. A recognized holiday occurring during the employee's annual or sick leave shall not be counted as a day of annual or sick leave.

(d) Forfeiture of Holiday Pay. Employees shall forfeit their right to payment for any holiday if they are on leave without pay (LWOP) or absent without leave authorization (AWOL) for the entire shift on the last regular work day preceding such holiday or on the next regular work day following such holiday.

(e) Pay for Employees who Work on a Holiday. Employees who perform work on a holiday will be compensated straight time pay in addition to the holiday pay. Overtime rate will be applied for hours worked beyond the 40-regular work hours. A work hour is defined as actual hours of performance. Holiday hours are not counted as regular work hours.

Part 200 - Employee Benefits

§ 175-10.3-201 Expatriation and Repatriation [Reserved]

§ 175-10.3-205 Housing [Reserved]

§ 175-10.3-210 Annual Leave

(a) Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Except as provided in this section, employees who have less than three years of creditable service shall earn annual leave at the rate of four hours per pay period. Employees with three but less than six years of creditable service shall earn annual leave at the rate of six hours per pay period. Employees with six or more years of creditable service shall earn annual leave at the rate of eight hours per pay period.

(b) Activity or division heads, attorneys, executive directors and assistant executive directors shall earn annual leave at the rate of eight hours per pay period.

(c) Annual leave accrual rate per pay period for Commission Employees with advanced degrees and/or exceptional skills or experience shall be at a rate not to exceed eight hours, and:

(1) Based, specific to each employee, upon:

(i) The critical need to fill the position;

(ii) The availability of qualified applicants; and

(iii) The amount and quality of related education, training, and experience possessed by the employee.

(2) An employee employed in the first year of the initial contract shall not be entitled to use annual leave during the first ninety days of employment. Annual leave earned during this period will be credited to the employee upon completion of this initial period. This restriction does not apply to employees employed on an immediately subsequent contract.

(d) Commission Employees shall accrue annual leave at the rate set forth in their employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status there will be no leave accrual for that pay period.

(e) Annual leave may be used only upon prior written approval of the employer and will be scheduled based upon the needs of the employer. Annual leave requests must be made in advance, except in cases of bona fide emergencies, on a leave request form provided by the Executive Director. All annual leave requests must be approved by the Executive Director. The employer will approve all properly submitted leave requests unless the needs of the government prevent the absence of the employee.

(f) Annual leave must be utilized during the contract period. Except as provided in subsections (g), (h), and (i) below, any annual leave not utilized will be converted to sick leave at the end of the employment term. No cash payment will be made for unused annual leave, except as provided for in subsection (i) below.

(g) If an offer and acceptance for a new employment contract is agreed upon, or if a civil or excepted service employee accepts a contract with the Commission, accrued and unused annual leave credits from the prior period of employment, not to exceed 360 hours, shall be carried over to the new employment contract. Unused annual leave in excess of the limits cited above will be converted to sick leave.

(h) Employees converting from the civil service or excepted service status will be authorized to carry over not more than 360 hours of annual leave. Hours in excess of this amount will be converted to sick leave if not used prior to conversion.

(i) The Executive Director may, with the concurrence of the Commission and of the Governor, approve a lump-sum cash payment of up to 360 hours of unused annual leave in cases of involuntary separation due to reasons of bona fide personal emergency beyond the control of the employee or as otherwise permitted by the regulations or the Executive Director.

§ 175-10.3-215 Sick Leave

Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in the event of an illness or lengthy absence for legitimate medical reason. In addition, in accordance with PL 15-69, as repealed in part by PL 15-115, an employee may use sick leave to care for a sick spouse or child. In this case, "sick" means a serious or life-threatening illness. Approval of the Executive Director is required to use sick leave in this way. A doctor's certification will be required.

(a) Sick leave shall accrue to the employee at the rate of four hours per pay period, provided the employee has been in pay status as required by the employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status the sick leave accrual shall be prorated for that pay period.

(b) The employee is entitled to use accrued sick leave from the time sick leave is first earned. An employee who is absent from work for a reason for which Sick Leave may be used shall inform his or her immediate supervisor of the fact and reason, and failure to do so within a reasonable time may be cause for disciplinary action. Notification in this context shall mean notification no later than an hour after the accident, emergency or injury, or advance notice if medical and/or dental appointment is being sought.

(c) Any absence on sick leave where the employee misses more than three continuous days of work must have the illness verified by a note from a medical doctor in order to claim sick leave.

(d) The employee is not entitled to any payment for accrued and unused sick leave upon completion of an employment contract or termination of employment.

(e) If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment, all accrued and unused sick leave credits from the prior contract/appointment will be carried over, provided that if the employee is separated from government service for a period longer than three years, the employee shall be divested of accumulated sick leave.

(f) If the Executive Director has reasonable grounds to believe that the employee is misusing sick leave, or requesting sick leave for purposes other than illness, the Executive Director may request proof of illness from a health care professional for any period of illness. If the certification is not provided, or is unpersuasive, the supervisor may deny the sick leave request. Disallowed sick leave shall be charged as Annual Leave, if available, or AWOL.

(g) Sick leave may be accumulated without limit.

(h) Commission Employees are eligible for the sick leave bank program pursuant to applicable regulations adopted on October 16, 1997 and published in the Commonwealth Register, Vol. 19, No. 11, on November 15, 1997, at pages 15748-15757. (See NMIAC title 100, chapter 50).

(i) Sick Leave Bank

(1) Donation. The Commission hereby establishes a Sick Leave Bank. Employees may donate sick leave either to a designated employee or to the Sick Leave Bank in general. Employees may donate as much sick leave as they want to the Bank but no more than 160 hours to any specific employee.

(2) Use. Employees must be approved by the Executive Director to use the Sick Leave Bank. In order to be eligible, employees must have a serious or life-threatening illness or accident that precludes the employee from working. The employee must have exhausted all other leave, including advanced leave, prior to using the Sick Leave Bank. Employees using either designated time or general Sick Leave Bank time may use no more than 160 hours total during the course of their employment.

(j) Transfer-In of Sick Leave from other CNMI Government Agencies. The Commission will accept up to 500 hours of sick leave from other CNMI Government agencies.

(k) For employees with serious medical conditions resulting in prolonged illness or disability as documented by his or her physician, unpaid sick leave may be requested under the Family Medical Leave Act (FMLA).

§ 175-10.3-220 Administrative Leave with Pay

Administrative leave with pay may be granted by the Governor or the Executive Director for a public purpose.

§ 175-10.3-225 Holidays

Unless the Executive Director determines that the Commission Employee must, due to the services provided by the employee, report to work on a legal holiday, the employee shall be released from work on all legal holidays, except during emergencies.

§ 175-10.3-230 Advance Leave

Where, for good reason, the employee requires an advance of annual or sick leave, the Executive Director may grant leave in advance up to a maximum of one-half of the total earnable leave credits for one year from the date the request is approved or for the remainder of the employment contract/appointment, whichever is shorter. Subsequent leave earnings shall serve to replace the amount of advance leave taken. In the event an employee resigns from his or her employment, any annual or sick leave overdraft must be paid as part of the final clearance.

§ 175-10.3-235 Court Leave

The Commission encourages its employees to fulfill their obligations as citizens and residents of the Commonwealth and the federal government. Thus, employees who are called upon to serve as jurors and witnesses may, at their option, be granted court leave for such period as required by the court. Employees who are called to jury duty or as witnesses

shall present their summons to their immediate supervisor together with a completed request for leave for his or her signature and processing. Employees using court leave to cover the period of absence shall turn over to the Commission such jury or witness fees (as distinct from expense allowances) as they receive from the court or summoning party. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted.

§ 175-10.3-240 Compassionate Leave

Full-time Commission Employees may be granted compassionate leave of no more than five workdays, not necessarily consecutive, in cases of death in the immediate family of the employee. For the purpose of this section, the term immediate family shall include a mother, father, brother, sister, spouse, immediate offspring (natural and culturally or legally adopted), stillborn child, grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen days after the death of the immediate family member.

§ 175-10.3-245 Miscarriage Leave

Miscarriage leave shall be granted to a Commission Employee who is absent from work because of miscarriage or the subsequent convalescence. Such miscarriage leave shall not exceed five work days, and shall be in addition to any accumulated sick leave. An employee who wishes to claim miscarriage leave must have the miscarriage verified by a note from a medical doctor in order to claim miscarriage leave. Any additional leave taken after five work days shall be charged against accumulated sick leave.

§ 175-10.3-250 Pregnancy Disability Leave

Pregnancy disability leave shall be granted to a Commission Employee who is absent from work because of childbirth or the subsequent convalescence. Such pregnancy disability leave shall not exceed thirteen work days, shall be in addition to any maternity leave or accumulated sick leave, and shall be any thirteen work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave. Pregnancy disability leave shall be available to a Commission Employee who suffers a still birth.

§ 175-10.3-255 Maternity and Paternity Leave

Maternity or paternity leave shall be granted to a Commission Employee who is absent from work because of the employee or the employee's spouse giving birth. Such leave shall also be available for absences due to the cultural or legal adoption of a child. Such maternity or paternity leave shall not exceed two work-days and shall be taken within one week of the date of childbirth or the adoption.

§ 175-10.3-260 Military Leave

(a) Any employee who is involuntarily enlisted, drafted or is called into active service in the armed service of the United States shall be granted military service leave in accordance with this Section and applicable Federal Law. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Commission without interruption, provided

that the employee's absence has not voluntarily exceeded two years and application for re-employment was made within 30 days of release from active military service.

(b) In accordance with local and federal laws, any employee who enlists or is called to federal active duty, territorial active military service or training duty as a Reserve of the Armed Forces or a member of the National Guard will be granted up to 120 hours of unpaid military leave for the period of active duty upon presentation of Orders into service to the Executive Director or his or her designee. This leave shall be granted solely for the purpose of and will continue only for the time stated in the Orders into service and that said employee is actually performing said military service.

(c) Any employee who is a veteran of a branch of the United States Armed Services will be excused from work duties without loss of pay for the time necessary, not to exceed eight hours in any one day, to participate as an active pall bearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces of the United States whose remains final interment is in the Commonwealth.

(d) Extended military leave shall be granted to employees pursuant to the federal Uniformed Services Employment and Reemployment Act (USERRA).

§ 175-10.3-265 FMLA Leave

Leave under the federal Family and Medical Leave Act of 1993 (FMLA) shall be granted to employees as provided in FMLA.

§ 175-10.3-270 Leave without Pay

The Executive Director or his or her designee shall be the approving authority for Leave without Pay (LWOP). It is the responsibility of the employee to apply for leave without pay. If LWOP is not authorized, it is characterized on the employee's payroll as Absent without Leave (AWOL). If an employee believes he or she has been adjudged AWOL improperly, he or she needs to clear that issue with the Executive Director within the next pay period after having received the AWOL. Leave and benefits shall not accrue during leave without pay except as provided in this section. The employer-employee relationship is maintained during a period of leave without pay, but the Commission shall pay no other compensation.

§ 175-10.3-275 Unauthorized Absence or Absent Without Leave (AWOL)

(a) Absence without Leave is defined as leave without approval and may subject the employee to discipline. For purposes of this section, AWOL will be evaluated per calendar year. Previous years' AWOL will not apply to subsequent years for disciplinary purposes. Such leave is unpaid.

(1) Discipline may be as follows:

(i) Employees who accrue AWOL hour(s) during any one pay period shall be issued a reprimand.

(ii) Employees who accrue an additional hour(s) after reprimand in any following pay period shall receive a five-day suspension without pay.

(iii) Employees who accrue an additional hour(s) after a five-day suspension shall be terminated.

(iv) Employees who accrue 80 hours of AWOL in one year shall be terminated.

(b) Abandonment of Position. Any employee AWOL for a consecutive total of 10 working days shall be deemed to have resigned without notice by abandonment of position. Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications may result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

§ 175-10.3-280 Part-Time Accrual

Part-time or intermittent employees with regular scheduled tours of duty of forty to less than eighty hours during a biweekly period will accrue annual leave and sick leave at a prorated amount of the full-time benefit, rounded off to the nearest quarter hour per pay period, and will be eligible for other paid leaves, provided in this part, at this rate. Part-time or intermittent employees with regular scheduled tours of duty of less than forty hours during a biweekly pay period will not accrue annual or sick leave or be eligible for the other paid leave benefits. If a part-time or intermittent employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status for a scheduled duty period there will be no leave accrual for that pay period.

§ 175-10.3-285 Transfers within Government

(a) If a Commission Employee transfers to another position within the executive branch, the new employer may assume all liability for the payment or transfer of all earned contractual benefits. Transfers to similar positions within the executive branch with no change in salary may be affected by the employer with or without the employee's permission.

(b) If a Commission Employee transfers to another government entity, the receiving entity may assume any liability for the payment or transfer of all earned contractual benefits. Similarly, the Commission may assume a similar liability for the payment or transfer of all earned contractual benefits if it accepts the transfer of an employee contractually entitled to such benefits from another government entity.

§ 175-10.3-290 Insurance and Retirement Benefits

(a) Insurance Benefits. Employees who are scheduled to work at least 40 hours each week may participate in insurance and medical benefit programs made available and, in the manner, provided under the Life and Health Insurance Programs (GLHIP) administered through the Department of Finance, or such other insurance program offered by the Commission. Such benefits shall continue to be in effect during absences due to paid leave, up to three (3) months of family and medical leave, and approved leave without pay when the employee pays the insurance premium.

(b) Retirement Benefits.

(1) Employees currently grandfathered in to the NMI Settlement Fund will be able to retire consistent with the NMISF regulations.

(2) Full time employees not part of the NMISF will be allowed to participate in the CNMI's 401(a) plan to the same extent as employees of the central government.

Part 300 - Employee Conduct and Obligations

§ 175-10.3-301 Grievance Procedure(s)

(a) A Commission Employee may submit a grievance regarding any matter involving the interpretation, application, or alleged violation of any Policy, Rule or Regulation or any other matter concerning general conditions of employment. The aggrieved employee shall first discuss the grievance with the immediate supervisor in an attempt to resolve the issue. If the issue cannot be resolved with the immediate supervisor or manager, the employee should contact the Executive Director or his or her designee. The Executive Director or his or her designee will attempt to satisfactorily resolve the grievance. The employee may appeal an unsatisfactory determination of the designee to the Executive Director. If the matter has been addressed by the Executive Director, the employee shall not seek contravention of that decision by the Commission or any individual Member of the Commission; the decision of the Executive Director shall be treated as a final agency decision.

(b) Commission Employees may seek dispute resolution to resolve conflicts and disputes by means of a mediation procedure as provided by the Executive Director and pursuant to available resources.

§ 175-10.3-305 Termination of Services

An employee may be separated from employment with the Commission by resignation, retirement, involuntary termination (either with or without cause), or lay off.

(a) Resignation.

(1) An employee should submit a written resignation at least 60 calendar days notice prior to the effective date of separation to the Executive Director. The period of notice may be reduced or waived by the Executive Director.

(2) Withdrawal of Resignation. An employee may withdraw his or her resignation only with the written approval of the Executive Director. Approval shall be obtained before the effective date stated in the resignation.

(3) Failure to give adequate notice. Failure to give adequate notice of resignation may be considered separation not in "good standing" and may preclude consideration for future employment with the Commission.

(4) Effective Date of Separation. The effective date of separation shall be at the close of business on the last day on which the employee works or uses approved leave.

(b) Retirement. Employees retiring from the Commission are required to provide a written notice the same as if they were resigning. This advance time is needed so that retirement benefits can begin as soon as possible following date of retirement and to allow

management to plan for the departure of the retiring employee. Employees should submit a letter indicating the date of retirement to the Executive Director accompanied by a letter from the Northern Mariana Island Settlement Fund indicating eligibility for retirement.

(c) Austerity/Reduction in Hours. If the need arises for austerity, employees may have their hours reduced. The Notice shall be given 30 days in advance of the beginning of the austerity. The Governor or Executive Director may exclude certain positions from the austerity. Neither the Governor's nor the Executive Director's decisions to exclude or not to exclude positions for austerity are grievable.

(d) Payment upon Separation.

(1) Employees may be paid out for unused annual leave. Employees should be aware of their leave balances and plan to exhaust their annual leave prior to their separation date. If an employee has leave that he or she is not able to use due to short staffing or some other emergent condition, the employee shall seek the approval of Executive Director to get approval to have those funds paid out.

(2) Moneys the employee owes the Commission or any agency or instrumentality of the Commonwealth Government shall be deducted from the final paycheck. Deductions from accrued leave pay may be made for the replacement value or fair market value of the Commission's property not returned by the employee on or before the effective date of separation

(3) Final paycheck for separation on account of death of employee shall include final wages or salary and other payments the Commission owes the employee, e.g., reimbursable travel advances and other similar payments made by the employee on behalf of the Commission.

(4) Final paycheck shall be paid only to the beneficiary designated in writing filed by the employee before death or to the employee's estate. Commonwealth law does not recognize common-law spouses. If no beneficiary has been designated final payment should be made to surviving legal spouse; if no legal spouse, to surviving children, or guardian of any minor children in equal shares; otherwise to father and/or mother in equal shares; if parents are not living, then to brothers and sisters in equal shares; if no surviving next of kin, payment should be made to the Commission as escheat.

(e) Medical Separation. An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and Commission policies (sick leave, annual leave, and FMLA leave) shall be separated from employment.

(f) Termination

(1) The Executive Director may terminate the employee without cause upon written notice sixty days in advance of the date of termination of employment. This time may be shortened only by specifying in the employment contract a lesser period of advance notice. Such notice shall specify the date of termination and be delivered in person to the employee, or by certified mail if the employee is otherwise unavailable for personal delivery. Payment of salary comprising the sixty-day (or contractually shortened) notice period may be made in lieu of notice.

(2) The Executive Director may terminate the employee with cause upon written notice seven days in advance of termination of employment. Payment of salary comprising the seven-day notice period may be made in lieu of notice.

§ 175-10.3-310 Non-Discrimination Policy

(a) It is the policy of the Commission that discrimination, for or against any employee, because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veteran status, disability, or genetic information is prohibited and will not be tolerated. No adverse action or hiring decision shall be made on the basis of any of the above factors except that veteran status may be considered positively as permitted by law.

(b) The Commission shall maintain every workplace free from unlawful harassment, including sexual harassment. Any employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates Commission policy, and such misconduct will subject the employee to corrective action ranging from counseling to disciplinary action up to and including termination. Such harassment by a non-employee (for example, a client or contractor) is also prohibited. The Commission shall not tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

(c) Any employee who feels that he or she has been discriminated against on the basis of any of the above factors, or sexually harassed, should immediately report such incidents to a supervisor at any level without fear of reprisal. Confidentiality will be maintained to the extent permitted by the circumstances.

(d) Any Commission employee who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately advise the Executive Director or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The Executive Director, with the assistance of the EEO Coordinator, if sought, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the Executive Director or EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the Executive Director shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

§ 175-10.3-315 Non-Tolerance of Sexual Harassment

(a) Applicability. This policy and procedures applies to all Commission Employees and Members of the Commission.

(b) Purpose. This policy and procedure will establish the Commission's policy of non-tolerance of sexual harassment of any form, by its Members or employees, toward its

Members or employees, or by non-governmental agents against the Commission's Members or employees. It will also provide guidance for the education and training of Members and employees to recognize, avoid and prevent sexual harassment in the workplace. This policy and procedure will provide steps for reporting, investigating, and taking administrative action in situations involving sexual harassment.

(c) Definitions

(1) Sexual harassment is an unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

(i) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

(ii) Submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

(iii) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

(2) Sexual harassment can be divided into two basic types of misconduct:

(i) When an employee or Member suffers or is threatened with a quid pro quo (this for that) situation. This form of sexual harassment occurs when a supervisor or someone else with authority over the victim makes a put out or get out demand, such as "submit to my sexual requests or you will be fired, demoted, passed over for promotion, or in some other way made miserable on the job". This type of sexual harassment can be committed only by someone in the organization structure who has the power to control the victim's job destiny.

(ii) When behavior in the workplace creates a hostile environment. This form of sexual harassment occurs when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employees work performance through words or deeds because of the victim's gender. The following kinds of behavior have been recognized by the courts as contributing to a sexually hostile environment:

(A) Discussing sexual activities;

(B) Telling off-color jokes;

(C) Unnecessary touching;

(D) Commenting on physical attributes;

(E) Displaying sexually suggestive pictures;

(F) Using demeaning or inappropriate terms, such as babe, honey, etc.;

(G) Using indecent gestures;

(H) Sabotaging the victims work;

(I) Engaging in hostile physical conduct;

(J) Granting job favors to those who participate in consensual sexual activity; or

(K) Using crude and offensive language;

(L) Wearing provocative, sensual attire, i.e. tight, skimpy, short-length, etc.

(iii) The above listed behaviors can create a liability for the government and any such conduct must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

(3) A workplace environment is considered sexually hostile when conduct occurs that meets the following two conditions:

(i) It must be subjectively perceived as abusive by the person(s) affected, and

(ii) It must be objectively severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive.

(iii) A determination of whether or not a situation would be construed as sexual harassment should also take into consideration the following factors:

(A) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;

(B) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee;

(C) The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct;

(D) Unlawful sexual harassment may occur without economic injury to the victim;

(E) The harassers conduct must be unwelcome.

(4) Sexual discrimination is distinguished from sexual harassment in that it reflects biases in employment actions based upon gender, but does not involve the abusive behavior described in subsection (c) above.

(d) Policy

(1) It is the policy of the Commission that all Members and employees shall enjoy a work environment free from sexual harassment and all forms of discrimination. Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11, and is prohibited under this chapter and Article 1, Section 6, of the Commonwealth Constitution.

(2) Sexual harassment is specifically prohibited and will not be tolerated in any form, regardless of whether the offensive conduct is committed by Members, supervisors, managers, non-supervisors (co-workers), or nonemployees (consultants, contractors, general public).

(3) All employees are encouraged to report any violation of this policy. If management is not aware of specific incidents of sexual harassment in the workplace it cannot properly address them. If an employee observes or is subjected to sexually discriminatory or harassing behavior in the workplace, it should be reported immediately to the Executive Director so it can be resolved at the earliest possible time. Employees will not be retaliated against for making truthful statements about perceived harassment.

(4) No employee will be denied or will receive employment opportunities and/or benefits because of a sexual relationship with a Member, co-worker or supervisor. No Member, employee or non-employee shall imply to an employee, an applicant for employment, or a client of a government activity, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement, other condition of employment, or any other relationship with the government. Any incidents of this type, upon verification by investigation, will be subject to disciplinary and corrective action.

(5) The employer, at all supervisory levels, is responsible for the occurrence of acts of sexual harassment in the work place when they know or should have known of the prohibited conduct. As an official of an autonomous agency of the Commonwealth government, a supervisor's improper action or failure to act creates a liability on the part of the government. All incidents of sexual harassment will be immediately reported to the Equal Employment Opportunity Coordinator or Executive Director, for guidance. Supervisors and managers who knowingly allow harassing behavior to occur, or participate in such behavior, will be subject to disciplinary action up to and including termination.

(6) The Director of Personnel, as the Deputy Commonwealth Equal Employment Officer, should be immediately informed by the Executive Director of any incident of sexual harassment reported within the Commission, or of any charges received from the Equal Employment Opportunity Commission (EEOC).

(7) The Executive Director will ensure that all sexual harassment complaints receive swift and thorough investigations. Appropriate action will be taken in situations where the complaint is validated to correct the situation and appropriately discipline the harasser. Complaints determined to be deliberate false accusations will also be treated as potential disciplinary situations. Situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commission's policy of non-tolerance for sexual harassment.

(8) Complaints of sexual harassment should be filed immediately upon occurrence to facilitate a timely response and to minimize the time that an employee would be subjected to such treatment. However, per EEOC statutes complaints may be filed anytime within one-hundred and eighty days of an incident's occurrence.

(9) Incidents of harassment due to an employee's sexual orientation, while not covered by law as an Equal Employment Opportunity violation, are a violation of the Commission's policy of ensuring that every employee is provided with a work environment that is safe, non-threatening, and non-discriminatory. Incidents of this nature comprise misconduct and will be subject to disciplinary action up to and including termination.

(10) The hiring of an employee with a known history of sexual harassment or misconduct could result is government liability for negligent hiring. No applicant for employment with such a history will be employed without a complete background investigation and the specific approval of the Executive Director.

(11) The Executive Director is required to distribute this policy to every employee under his or her authority and to ensure that this policy is posted in an accessible location at all times.

(12) All supervisors will be provided training on identifying and preventing sexual harassment in the workplace. They will also receive training on how to conduct a limited administrative investigation and the reporting procedures for allegations of harassment.

(e) Procedures

(1) Any Commission Employee who is aware of an incident or situation involving sexual harassment must report it immediately to his or her Equal Employment Opportunity Coordinator, supervisor, or the Executive Director. The Commonwealth government has legal liability for any action where a government official subjects an employee to sexual harassment, or is aware that an employee subjects another employee to sexual harassment and fails to take corrective action.

(2) Any employee who is personally subjected to sexual harassment, or is aware that other employees are being subjected to sexual harassment, should report the incident or situation immediately to his or her departmental Equal Employment Opportunity Coordinator, supervisor, or the Executive Director. If the employee does not feel comfortable bringing it to the attention of any of these parties, or supervisor, or the Executive Director is somehow involved in the harassment, he or she should immediately contact the Commonwealth Equal Employment Coordinator at the Office of Personnel Management, or the Director of Personnel directly. The initial contact does not have to be in writing.

(3) If the sexual harassment incident involves a physical assault, such as rape, attempted rape, assault, or other actions involving physical contact, either the employee or the official who becomes aware of the incident should report it immediately to the Department of Public Safety for immediate processing and investigation. Any physical evidence should not be disturbed until the arrival of the Department of Public Safety,

(4) All incidents of alleged sexual harassment must be immediately reported to the Executive Director and the Commission's designated Commonwealth Equal Employment Opportunity Coordinator or directly to the Director of Personnel as soon as the employer, or other senior official in case of the employer's unavailability, becomes aware of it. The complaining employee should be interviewed by the departmental Equal Employment Coordinator, legal counsel, or the Executive Director to determine the basic facts of the allegation. The Director of Personnel or the Commonwealth Equal Employment Opportunity Coordinator will then be consulted to determine if the investigation will be conducted at the departmental level or if an outside investigator will be appointed.

(5) Due to the potential legal liabilities resulting from sexual harassment situations, the Executive Director or the Director of Personnel will assume responsibility for the investigation and assign the investigating official (selected EEO official, manager, or legal counsel) or unit (Office of the Attorney General or Department of Public Safety).

(6) All allegations of sexual harassment from employees or perceptions of sexual harassment from third parties or management staff will be reported to the Executive Director or Director of Personnel and will be investigated. Those situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commission's policy of non-tolerance for sexual harassment.

(7) The division(s) involved in the complaint and the official or unit appointed to conduct the investigation will cooperate fully with the Executive Director or Office of Personnel Management in the process of investigating, reporting, and resolving the complaint.

(8) The division(s) involved in the complaint and the Executive Director or Office of Personnel Management will ensure that no retaliation is taken against the complainant or any witnesses by the alleged harasser or by any other employees.

(9) In the process of investigating the complaint, the following guidance will be followed at all times:

(i) All complaints will be taken seriously.

(ii) Guilt should not be presumed on either party. The rights of both parties must be protected.

(iii) Both parties should be afforded the opportunity to state their side.

(iv) Confidentiality must be maintained at all times.

(10) An administrative investigation will be completed as expeditiously as possible. The final report will be delivered to the Executive Director or Director of Personnel in the following format:

(i) Summary of Incident

(ii) Findings of Fact

(iii) Discussion

(iv) Conclusions

(v) Recommendations

(11) The Executive Director or Director of Personnel will review the investigative report to ensure that the facts support the conclusions and that the recommendations are reasonable and consistent with the Commission's disciplinary policy. The Office of the Attorney General will be consulted to ensure that the resolution is legally appropriate.

(12) The Executive Director or Director of Personnel will forward the final report to the Department/employer with the Executive Director's or Office of Personnel Management's recommendations for the resolution of the complaint.

(13)(i) Depending upon the severity of the incident of sexual harassment, the resolution of the situation could involve the following administrative actions:

(A) Conference/counseling

(B) Oral or written warning

(C) Letter of reprimand

(D) Suspension

(E) Demotion

(F) Termination

(ii) Any administrative actions are separate from and not contingent upon any civil or criminal court actions.

(14) The employer will resolve the complaint/grievance based upon the investigation and the recommendation of the Executive Director or Office of Personnel Management. If the division head/employer disagrees with the recommended resolution, he or she must immediately meet with the Executive Director or Director of Personnel to resolve their differences. If both parties cannot reach agreement, the case may be brought before the Governor for a final decision.

(15) Either the complainant or the respondent may appeal the final resolution to the Executive Director or Director of Personnel, not later than fifteen days after receiving notice of the final resolution. The complainant may appeal the final resolution to the Executive Director or Director of Personnel, not later than fifteen days after receiving notice of the final resolution.

(16) The Executive Director or Director of Personnel will conduct a hearing on the appeal and make a final decision on the matter.

(17) Incidents or situations of sexual discrimination that do not involve acts of harassment will be processed through the normal grievance procedure utilized for other Equal Employment Opportunity complaints.

(f) Records and Reports

(1) The Executive Director or Office of Personnel Management will maintain records of all allegations of sexual harassment to include copies of investigative reports.

(2) Records of on-going investigations will be kept in a confidential file separate from the official personnel folder. Upon resolution of the complaint, appropriate records of the resolution or disciplinary action will be placed in the appropriate official personnel folder.

(3) The Executive Director or Office of Personnel Management will report to the Governor annually in its annual personnel report on the number of sexual harassment cases and their resolution.

(g) Responsibilities

(1) All employees will be familiar with the Commission's Equal Employment Opportunity and Non-tolerance of Sexual Harassment Policies and will comply with these policies to create a safe, non-threatening, and non-discriminatory workplace.

(2) All Members, supervisors, managers, and directors will develop and maintain a work environment that is safe, non-threatening, and non-discriminatory. They will ensure that all employees know that sexual harassment will not be tolerated and will ensure that any incident of sexual harassment is reported as directed by this policy.

(3) All Equal Employment Program counselors must be knowledgeable concerning equal employment opportunity laws, regulations and policies, both federal and Commonwealth, and will strive to remain up-to-date on current EEO trends and activities. They will make themselves readily available to listen to EEO-related complaints from their department or activity and provide counseling and assistance to affected employees. They will coordinate with the Executive Director or department/activity EEO Coordinator.

(4) The Executive Director and all division/activity Equal Employment Coordinators must be knowledgeable concerning Equal Employment Opportunity laws, regulations, and policies, both federal and Commonwealth and will strive to remain up-to-date on current EEO trends and activities. The coordinators will provide EEO expertise and assistance to the department/activity EEO counselors and management staff. They will coordinate with the Commonwealth EEO Coordinator.

(5) The Executive Director and all division/Activity heads, as activity Equal Employment Officers, will issue an Equal Employment Opportunity policy statement and establish a departmental Equal Employment Opportunity Program that includes a policy of non-tolerance of sexual harassment. They will hold their supervisors, managers, and directors accountable for developing and maintaining a work environment that is safe, nonthreatening, and nondiscriminatory. They will enforce the Commonwealths policy of non-tolerance of sexual harassment and take reasonable and consistent action in resolution of any sexual harassment situation.

(6) The Director of Personnel, as the Deputy Equal Employment Officer for the Commonwealth, will ensure the development and maintenance of a viable Commonwealth wide Equal Employment Opportunity Program that includes training at all levels in prevention and resolution of sexual harassment situations. The Executive Director or the Director of Personnel will initiate administrative investigations for all allegations of sexual harassment and will ensure their appropriate resolution in accordance with this policy and procedure.

(7) The Governor, as the Equal Employment Officer for the Commonwealth, will establish and promote a policy of non-tolerance of sexual harassment in any form. The Governor will hold all Department and Activity Heads accountable for their active support of the Commonwealths Equal Employment Opportunity and non-tolerance of sexual harassment policies, and for their fulfillment of the responsibilities assigned in this policy and procedure.

(h) Equal Employment Opportunity Commission

(1) If an employee's sexual harassment complaint is not acted upon to his or her satisfaction, the employee has the option of filing a complaint with the Equal Employment Opportunity Commission (EEOC). It should be noted that there is a statutory limitation of 180 days from the harassing/discriminatory incident during which the complaint may be filed. For more information, please visit www.eeoc.gov.

(2) Although the Commonwealth government would like to resolve all complaints through its administrative processes, employees will not be subjected to any retaliatory actions for filing a complaint with the Equal Employment Opportunity Commission.

§ 175-10.3-320 Anti-Bullying Policy

(a) The Commission is committed to providing all Members and employees a healthy and safe work environment. It is the policy of the government that workplace bullying will not be tolerated. All agencies shall maintain every workplace free from bullying. This policy shall apply to all Commission Members and Employees, regardless of his or her employment status.

(b) Bullying is defined as persistent, malicious, unwelcome, severe, and pervasive mistreatment that harms, intimidates, offends, degrades, or humiliates an employee, whether verbal, physical, or otherwise, at the place of work and/or in the course of employment.

(1) The following types of behavior have been interpreted to constitute workplace bullying. This list is not meant to be exhaustive and is only offered by way of example:

(i) Staring, glaring, or other nonverbal demonstrations of hostility;

(ii) Exclusion or social isolation;

(iii) Excessive monitoring or micro-managing;

(iv) Work-related harassment (work-overload, unrealistic deadlines, meaningless tasks);

(v) Being held to a different standard than the rest of an employee's work group;

(vi) Consistent ignoring or interrupting of an employee in front of co-workers;

(vii) Personal attacks (angry outbursts, excessive profanity, or name-calling);

(viii) Encouragement of others to turn against the targeted employee;

(ix) Sabotage of an employee's work product or undermining of an employee's work performance;

(x) Stalking;

(xi) Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets;

(xii) Conduct that a reasonable person would find hostile, offensive, and unrelated to the employer's legitimate business interests.

(2) Workplace bullying must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

(c) Any Member or employee who feels that he or she has been bullied should immediately report such incidents to a supervisor at any level without fear of reprisal.

(d) An employer who receives a claim of bullying in violation of this policy shall take such complaint seriously and immediately advise the Executive Director or Director of Personnel or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The employer, with the assistance of the EEO Coordinator, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the employer shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

§ 175-10.3-325 Alcohol and Drug Free Workplace Policy

(a) Policy. As an employer, the Commission 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 Commission is concerned about the adverse effect alcohol and drug abuse has 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.

(b) Definitions. For the purposes of this section, the following definitions apply:

(1) "Accident." An event which causes

(i) A fatality,

(ii) An injury to a person requiring professional medical treatment beyond simple at-scene first aid, or

(iii) An economic loss, including property damage, greater than $2,500.00.

(2) "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 substances abuse.

(3) "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.).

(4) "Breath Alcohol Technician" ("B.A.T."). An individual authorized to collect breath specimens under subsection (g)(2) and who operates an E.B.T.

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

(6) "Drug." A substance

(i) 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

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or

(iii) Other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or

(iv) Intended for use as a component of any article specified in subsection (b)(6)(i), (ii), or (iii) above.

Devices or their components, parts, or accessories are not considered drugs under this definition.

(7) "Evidential Breath Testing Device" ("E.B.T."). A device which is

(i) Approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and

(ii) Is on the NHTSAs Conforming Products List of E.B.T.s; and

(iii) Conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

(8) "Illegal Drug." A drug that

(i) Is not possessed or obtained legally; or

(ii) Is knowingly used for other than the prescribed purpose or in other than the prescribed manner; or

(iii) 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; or

(9) "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.

(10) "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 personnel folder.

(11) "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.

(12) "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.

(13) "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. Each department, entity, or organization head, in conjunction with the Director of Personnel Management, shall identify all positions to be considered safety-sensitive positions due to the amount of time the employee spends performing safety sensitive functions.

(14) "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.

(15) "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.

(16) "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.

(17) "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.

(c) Prohibited Conduct

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

(i) Sell, purchase, or transfer;

(ii) Attempt to sell, purchase or transfer; or

(iii) Possess with the intent to deliver, any illegal drug while on government or Commission property, in any government or Commission vehicle, or on any government or Commission 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 or the violation of any applicable law or regulation.

(2) Possession of Illegal Drugs. No employee of the Commission shall possess any illegal drug on government or Commission property, in any government or Commission vehicle, or while on government or Commission 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 employees assigned duties for the purpose of investigating illegal drug tracking or the violation of any applicable law or regulation.

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

(4) Under the Influence of Alcohol or Illegal Drugs. No employee of the Commission 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 non-prescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if

(i) The employee has a B.A.C. of 0.02 or more;

(ii) The employee has a detectable amount of any illegal drug in his or her urine;

(iii) 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;

(iv) The employee uses alcohol or any illegal drug within four hours prior to reporting to work and expects to perform a safety-sensitive duty.

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

(i) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(ii) 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;

(iii) 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);

(iv) Engaging in conduct that clearly obstructs the specimen collection process;

(v) 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 scenes the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;

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

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

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

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

(7) Refusal to Comply with Treatment Recommendations. No employee of the Commission 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.

(8) Failure to Notify Executive Director of Conviction. No employee of the Commission shall fail to notify the Executive Director of any criminal drug statute conviction, within five days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commission business, or while on or using Commission property.

(9) Supervisors' Responsibility for Confidentiality. No employer shall 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 section.

(d) Penalties and Consequences

(1) Disciplinary Action. An employee of the Commission committing any act prohibited by subsection (c) shall be subject to an appropriate form of discipline, depending on the circumstances, up to and including termination.

(i) Generally. Where an employee commits an act prohibited by subsection (c) 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.

(ii) First offense, under the influence. An employee found to be under the influence of alcohol or illegal drugs in violation of subsection (c)(4), 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, the employer may decide to initiate a disciplinary action for removal, even on a first offense.

(iii) Serious offenses. The following acts, even for a first offense, will result in an immediate disciplinary action for removal:

(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 subsection (c)(1);

(B) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of subsection (c)(4);

(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 subsection (c)(4);

(D) An unexcused refusal to be tested, in violation of subsection (c)(5);

(E) Giving false information, contaminating, or attempting to contaminate a urine sample, in violation of subsection (c)(6);

(F) Failing to notify the proper authority of conviction for a drug offense in violation of subsection (c)(8);

(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

subsection (e)(2).

(2) Information Concerning Treatment Options. Those employees not removed from service after committing any act prohibited by subsection (c) shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Executive Director or Office of Personnel Managements' 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.

(3) Report to Department of Public Safety. An employee committing any act prohibited by subsection (c)(1) or (c)(2) shall be reported, by the employer, to the Department of Public Safety for the purpose of possible criminal prosecution.

(4) Duty/Pay Status Pending Disciplinary Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to a disciplinary action for committing any act prohibited by subsection (c), except for subsection (c)(7), shall be allowed to remain on the job pending resolution of any proposed disciplinary action but shall not be allowed to perform a safety-sensitive function, even if that means assigning the employee duties the employee would not otherwise be performing. An employee subject to a disciplinary action for committing any act prohibited by subsection (c) who was involved in a fatal accident shall be placed on leave without pay pending resolution of the disciplinary action for removal.

(e) Return to Work Procedures

(1) 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:

(i) 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;

(ii) 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

(iii) Agreed to execute a return to duty contract.

(2) Return to Duty Contract. The return to duty contract shall include the following provisions:

(i) Aftercare. An agreement to comply with aftercare and follow up treatment recommendations for one to five years, as determined appropriate by the employees S.A.P.;

(ii) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one to five years, as determined appropriate by the employees S.A.P., but there shall be no fewer than six tests in the first year after the employee returns to work;

(iii) Compliance with rules. An agreement to comply with government rules, policies, and procedures relating to employment;

(iv) Term. An agreement that the terms of the contract are effective for five years after the employees return to duty; and

(v) Breach of contract. An agreement that violation of the return to duty contract is grounds for termination.

(f) Testing Occasions

(1) Pre-employment Testing. At the time of application, persons applying for any position within the Commission 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, phencyclidine, as well as any other controlled or banned substance required by the Executive Director, in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with subsection (h), below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two years immediately preceding the application date.

(i) No new Commission Employee 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, phencyclidine as well as any other controlled or banned substance required by the Executive Director.

(ii) 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.

(iii) If the candidate presents a drug testing history showing a positive drug test within two years prior to the application date, the offer of employment will be withdrawn unless the candidate submits a statement of fitness for duty and agrees to execute an agreement similar to a return to duty contract described in subsection (e)(2).

(2) 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 or the Executive Director. Except as otherwise provided, the Commission shall pay for the testing.

(i) Properly trained supervisor. Only a supervisor or a designated employee 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.

(ii) Objective inquiry. The properly trained supervisor or a designated employee 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.

(iii) 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 Commission employee. The regained verification shall be done in person.

(iv) 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 or her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(v) 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.

(vi) 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 a disciplinary action. Only at that time will the report be filed in the employee's official personnel folder.

(3) Post-accident Testing. As soon as practical after an accident any Commission 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 as well as any other controlled or banned substance required by the Executive Director, upon written notice from the employee's supervisor. Except as otherwise provided, the Commission shall pay for the testing.

(i) Supervisor training. Only a supervisor or a designated employee 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.

(ii) Objective inquiry. A supervisor or a designated employee'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 or a designated employee shall require the driver of any Commission vehicle or the operator of any Commission equipment involved in the accident to be tested.

(iii) 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 or her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(iv) 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.

(v) 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 a disciplinary action. Only at that time will the report be filed in the employee's official personnel folder.

(4) 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, phencyclidine as well as any other controlled or banned substance required by the Executive Director. The testing will be done during on-duty time. Except as otherwise provided, the Commission shall pay for the testing.

(i) Method of selection. Employees of the Commission 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.

(ii) Number to be tested. No more than twenty-five percent of all employees performing safety-sensitive functions in each division each year shall be required to submit to breath alcohol testing and no more than fifty percent shall be required to submit to urine testing. The actual percentage may be determined at the beginning of each fiscal year by the Executive Director in consultation with the Office of Personnel Managements Alcohol and Drug Free Workplace Coordinator and the M.R.O. after reviewing the Commission staff's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

(g) Collecting and Testing Breath Specimens

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

(2) 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.

(3) 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.

(4) Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the employee's employer, and to the Director of Personnel Management.

(5) 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.

(6) Invalid Test. If the Executive Director or Director of Personnel Management determines the test is invalid, using the factors found at 49 CPR, Part 40.79, the test result shall be reported as negative.

(7) 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 Executive Director or Director of Personnel Management upon request.

(h) Collecting and Testing Urine Specimens

(1) Collection Site. Urine specimens shall be collected only at a site approved by an appropriate government agency, and identified by the Executive Director or Director of Personnel Management.

(2) 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(8), 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.

(3) Confirming Test. Urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of a 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 for.

(4) 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.

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

(6) Alternative Explanations for Positive Test Results.

(i) Upon receiving a report of a positive test results the M.R.O. shall determine if there is any alternative medical explanation for the results 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.

(ii) 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.

(7) 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.

(8) 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 employee's employer, and to the Director of Personnel Management.

(9) 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.

(10) 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 Executive Director or Director of Personnel Management upon request.

(i) Employee Awareness and Rehabilitation

(1) 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.

(2) Employees Seeking Voluntary Assistance. Commission 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.

(i) 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 personnel folder. Referrals shall be kept confidential.

(ii) 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.

(iii) 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.

(3) 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.

(4) 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 personnel folder.

(j) Disseminating Information on Regulations

(1) Distribution to Employees. All current employees shall receive a copy of the regulations in this section at least thirty days before the implementation date. New employees hired after the effective date of this policy will be given a copy of the policy in this section at the time of hire. Each employee shall sign a form prescribed by the Executive Director or Director of Personnel Management which acknowledges the receipt of the policy and the

employees understanding that he or she is bound by this policy. This acknowledgment shall be kept in the employee's official personnel folder.

(2) Posting. The regulations in this section will be posted in the primary workplaces of the Commission for at least sixty days following their implementation.

(k) Record Retention and Reporting Requirements

(1) Administrative Records. Records relating to the administration of the policy in this section, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the Executive Director or Director of Personnel Management and the M.R.O. for five years.

(2) Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by the Executive Director or Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.

(3) Refusals, Referrals, and Test Results. The Executive Director or 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 employees medical file, not the employee's official 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 without the employees' consent.

(i) Positive test result records, records of refusals to be tested, and referrals to an S.A.P. shall be kept for five years.

(ii) Negative test resent records shall be kept for a period of one year.

(4) Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. 701(a)(1)(E), the Executive Director or 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.

§ 175-10.3-330 Disciplinary Actions

(a) General Policy. The Commission expects its employees to maintain standards of conduct and behavior appropriate to its mission of service to the public. All documentation for disciplinary actions issued by the Manager, Supervisor, or Executive Director or his or her designee must be provided to the Executive Director and employee file. The Executive Director, his or her designee, or Division Managers initiate disciplinary actions. The Executive Director, his or her designee, or Division Managers, shall issue written disciplinary actions after review by Legal Counsel including suspension (with or without pay), transfer, demotion, or dismissal. The Executive Director, his or her designee, or Division Managers may take immediate action to remove an employee from duty only in circumstances involving immediate danger to the health or, safety of Commission employees or the public. Examples of unacceptable conduct or performance that may result in corrective actions up to and including dismissal include, but are not limited to the following:

(1) Any violations of the Bank Secrecy Act, or other Federal or Commonwealth Law applicable to casinos and financial institutions;

(2) Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than de minimis;

(3) Repeated violations of Federal or Commonwealth law or regulations or a single violation if the conduct is egregious;

(4) Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out by the Executive Director;

(5) Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance;

(6) Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known to the employee;

(7) Any breach of duty or trust to the Commission;

(8) Use of obscene or abusive language;

(9) Falsification of any portion of the employment application;

(10) Unauthorized removal of property of Commission or stealing government or others' property while on duty.

(11) Harassment of other employees or the public, or violation of Commission's sexual harassment policy;

(12) Leaving the work site during working hours without permission from supervisory officials;

(13) Theft, conversion, or unauthorized removal of Commission's property, or the use of Commission property without authorization;

(14) Fighting and/or acts of violence; or threats of violence constituting assault;

(15) Abuse or destruction of Commission property;

(16) Unauthorized possession of weapons, explosives;

(17) Sleeping on duty;

(18) Unauthorized use of vehicles, equipment;

(19) Punching another's time card/alter time records;

(20) Misusing mail, phones, computer system, internet access;

(21) an Ethics Code Violation;

(22) Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Manager or Supervisor due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL);

(23) Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance;

(24) Other conduct or failure of performance which the management of the Commission reasonably recognizes as justification for serious discipline, including dismissal; or

(b) Forms of Corrective Action. Progressive corrective action shall be followed when practicable. However, when the severity of the inappropriate conduct warrants and it is in the best interest of the Commission, the Executive Director or his or her designee may impose any of the following forms of corrective action.

(1) Verbal Reprimand or Warning or Counseling. This type of corrective action is usually the first step in identifying and correcting failure to perform or misconduct and may be carried out by a Manager or Supervisor or the Executive Director or his or her designee. A written reprimand may also be given by the Manager, Supervisor, or the Executive Director or his or her designee, however, all other forms of corrective action require action by the Executive Director or his or her designee. A reprimand or warning and/or oral counseling should be a private conference between an employee and supervisor whereby the problem can be worked out in a constructive manner. The supervisor, manager, or the Executive Director or his or her designee will advise the employee of the problem, such as misconduct or failure to perform to expectation and present a solution to correct the problem. The supervisor, manager or the Executive Director or designee will offer guidance and assistance in an effort to prevent the problem from occurring again. The supervisor, manager, or the Executive Director or designee will also point out future corrective action that might be taken should the problem continue. Supervisors, managers, or the Executive Director or designee will document the nature of the problem and retain a record of the problem and the action taken. Such documentation will remain with the supervisor unless it is needed as justification for taking further corrective or other problems.

(2) Written Reprimand. A written reprimand is an official notice to the employee of a failure of performance or misconduct. The nature of the breach and all related facts are documented and placed in the employee's official file by the Manager, Supervisor, or the Executive Director or designee. A copy shall be given to the employee. Unless circumstances do not permit the supervisor and employee shall meet to discuss the problem before issuance of the reprimand to allow the employee an opportunity to respond.

(3) Immediate Suspension Without Pay.

(i) Employees shall be immediately suspended, upon verbal notice, when the nature of the breach of discipline or misconduct makes it imprudent or hazardous for a supervisor to allow an employee to remain on the job. Supervisors or managers shall immediately, before taking any immediate suspension action, unless circumstances do not permit, advise the Executive Director or designee to discuss the nature of the discipline problem and the suspension. An immediate suspension is without pay. In any event, the immediate suspension shall be followed up with a written notice to the employee within five (5) working days in accordance with the notice requirement under these rules. If more time is required to provide the employee written detail/support about the suspension, the employee will be notified. A copy of the notice of immediate suspension shall be placed in the official

employee file. An immediate suspension may be followed by additional corrective action based on the same incident.

(ii) An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon determination that the employee is not at fault or the successful appeal of the suspension.

(4) Regular Suspension. An employee may be suspended without pay for a repeated offense or a serious failure of performance or misconduct. A regular suspension generally will not exceed 20 working days. When legal issues prevent the closure of a case pertaining to an employee's performance or action, the suspension may be longer than 20 working days. The employee shall be given the opportunity to respond to the allegations of misconduct or failure of performance prior to suspension. Subsequently, if the suspension is warranted, the employee shall be notified in writing in accordance with the provision of these rules and a copy shall be placed in the official employee file. An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension. An employee charged with a criminal offense may be suspended without pay if the offense arises in connection with the employee's job responsibilities or is an offense which in the Executive Director's opinion, would affect continued job performance or bring discredit to the Commission.

(5) Demotion. The Executive Director or his or her designee may demote an employee for misconduct, failure of performance, or other reason as set out in Section 1 of this rule. A disciplinary demotion shall result in a reassignment of the employee to a position in a lower classification at a lower pay band.

(6) Dismissal. Employment may be terminated when previous corrective actions have failed to bring about correction or when serious misconduct or failure to perform occurs. The employee shall be given notice of the decision to terminate employment. The dismissal will take effect only in accordance with the procedures in these rules. The mere failure to renew a contract is not a dismissal.

(c) Corrective Action Reporting.

(1) Action Notice for Written Reprimands. All reprimands shall be documented on a corrective action report form. A record of the date, time and subject of a written reprimand shall be maintained in the official employee file. The employee shall be given an opportunity to review the report with his or her Manager, Supervisor or the Executive Director's designee. If the employee disagrees with the facts or conclusions contained in the report, he or she shall be permitted to submit, within ten (10) workdays after receiving the report a statement of disagreement. The statement shall clearly and concisely set forth the employee's reasons for disagreeing with the report. One copy of the employee's statement shall be appended to the report and shall become a part of it. If the employee has no comment or has not responded within the required time frame, the report shall be forwarded to the Executive Director or his or her designee. Upon completion of the approvals section of the disciplinary action report form, one copy shall be filed in the official employee file.

(2) The Manager, Supervisor, or Executive Director's designee will, if appropriate, complete periodic reviews of the employee's progress in correcting the cause of the original discipline. Such reports shall be made a part of the official employee file.

(d) Corrective Action Procedure and Appeals

(1) A suspension without pay, demotion, or dismissal for cause, shall be accomplished and reviewed only in accordance with the procedures stated in this section. No procedure or process is due for a dismissal without cause.

(2) The process of discipline begins with the immediate supervisor reporting misconduct or failure of performance with concurrence of the Executive Director or his or her designee.

(3) Before the Executive Director issues a notice to terminate employment, demote with a reduction in pay, or suspend without pay an employee, the Executive Director shall require a designee to investigate the basis for the proposed corrective action. The investigation shall include an interview of the employee with or without Legal Counsel, unless the employee has made him or herself unavailable. The employee shall be invited to submit a response in writing after the interview and it shall be included in the record of the matter. The findings and recommendations for action shall be prepared by the designee, and reviewed by Legal Counsel. In deciding what type of disciplinary action should be taken, the following shall be considered:

(i) Seriousness of the breach of discipline, misconduct, or failure of performance.

(ii) The circumstances surrounding the incident.

(iii) The past service record of the employee. The conduct should be considered within the context of the employee's total record. If the employee's record includes past misconduct, the action taken will ordinarily be more severe.

(iv) The Executive Director will consult with the Legal Counsel concerning action to be taken.

(4) The Executive Director shall issue a notice of action for all warnings and counseling.

(5) The Executive Director, with the signature confirmation of legal sufficiency by the Legal Counsel, based on the investigation, any follow-up after receiving the designee's report and after review of the proposed action by Legal Counsel, shall issue all notices of suspension or termination. The notice shall state any and all factual findings and reasons for the corrective action completely and concisely.

§ 175-10.3-335 Vehicle Policy

(a) Introduction. The Commission requires all employees who drive a Commission vehicle to obtain a CNMI Government Driver's License. The Commission requires employees who drive on behalf of the Commission to operate vehicles safely for the protection of the public. In addition, the Commission reminds its employees who drive to operate vehicles responsibly and maintain the vehicles so that they are available to the Commission work force and costs of maintenance, repair and replacement are kept to a minimum.

(b) Driver Responsibilities.

(1) Documents Driver Must Carry When Driving:

(i) Valid CNMI Driver's License

(ii) Current Government Driver's License

(iii) Current Vehicle Registration

(iv) Authorization to Drive After Regular Working Hours if driver is assigned to drive after 4:30pm Monday-Friday or on Saturday, Sunday or holidays.

(2) Driver's Responsibility for Condition of Vehicle.

(i) Driver is responsible for ensuring that the vehicle is fueled and that the proper fuel is put into the vehicle.

(ii) Driver is responsible for inspecting the vehicle daily to identify and correct or report obvious problems including oil level, tire inflation, signal, head and taillights, wipers.

(iii) Driver is responsible for reporting any damage to the vehicle immediately to a supervisor or the Executive Director.

(iv) Driver is responsible for operating the vehicle properly, so that the condition of the vehicle is not diminished as a result of improper operation.

(3) Safety Rules Drivers Must Know and Follow:

(i) All CNMI driving laws;

(ii) Laws regarding vehicle safety;

(iii) Law regarding restrictions on use of government vehicles.

(c) Prohibitions.

(1) No Commission employee shall drive a Commission vehicle for personal business.

(2) No Commission employee driving a Commission vehicle shall drive any non-Commission person in the Commission vehicle unless that person is an employee of the Commonwealth government, a federal employee working with the Commission employee, or the passenger is integrally involved in the conduct of the Commission's affairs.

(3) No Commission employee shall drive his or her spouse or child in a Commission vehicle unless the spouse or child is a Commission employee, or a person described in (2) above.

(4) No Commission employee shall take a vehicle home unless he or she is authorized by the Executive Director to use the vehicle on a 24-hour basis. That approval must be in writing in accordance with the CNMI Government Vehicle law.

(5) No Commission employee shall drive a Commission vehicle while intoxicated from alcohol or under the influence of illegal drugs.

(6) Notwithstanding any other regulation to the contrary, any violation of these prohibitions are grounds for immediate termination.

§ 175-10.3-340 Outside and Dual Employment

(a) No Commission Employee shall engage in any employment other than that assigned by the Commission whether public, private or self-employment, during scheduled work hours,

nor outside scheduled work hours if such employment conflicts with the Commission's interests or adversely affects the employee's availability or productivity.

(b) Any employee who wants to engage in outside employment with a company that may engage in business dealings with the Commission directly or indirectly shall request approval from the Executive Director or his or her designee in writing. The Executive Director or designee shall decide for or against the outside employment request according to the concept of conflict of interest under the CNMI Laws, and the best interests of the Commission.

§ 175-10.3-345 Safety Programs

All Commission Employees are responsible for following all federal and CNMI occupational safety and health regulations. All Employees are encouraged to learn CPR from an accredited training provider (such as, but not limited to, the American Red Cross).

§ 175-10.3-350 Whistleblower Policy

(a) Reprisal Prohibited. No Commission employee or Member shall engage in reprisal against an employee for disclosing to the Attorney General, the United States Attorney, or other local or federal law enforcement a violation or suspected violation of a CNMI or federal law, or a regulation promulgated by Commission or any other agency or instrumentality of the Commonwealth government pursuant to CNMI law.

(b) Application. An employee who reports, or who is known by any person in a management or supervisory position to have indicated to report, such violation or suspected violations described in (a) above shall be protected by this rule, unless the employee knew the report was false. This protection shall extend to employees who participate, or who have indicated an intent to participate, in an investigation, hearing or inquiry conducted by a public body, and to employees who participate, or who were known by management or supervisor to have indicated an intent to participate, in a court proceeding.

(c) Forms of Reprisal. Reprisal includes such actions as discharge, threats of discipline, or arbitrary and capricious changes in the conditions of employment.

§ 175-10.3-355 Utilization of Sister Agencies

Any time the Executive Director deems prudent (including, but not limited to, the enforcement or other implementation of the Commission's Anti-Discrimination, Anti-Harassment, Anti-Bullying, and/or Anti-Drug and Alcohol policies and procedures), the Executive Director may, and is encouraged, to utilize the expertise and manpower of any agency of the CNMI government on terms mutually agreeable. By way of example and not by limitation, the Executive Director may utilize the services of the Office of Personnel Management to conducting random or other drug or alcohol tests, investigation of complaints of discrimination or harassment, or the like.

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 OF PROPOSED AMENDMENTS TO REGULATIONS to the DEPARTMENT OF FINANCE, DIVISION OF CUSTOMS SERVICE

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDED REGULATIONS: The Department of Finance – Division of Customs Service intends to amend the Customs Service Regulations, pursuant to the procedures of the Administrative Procedure Act (APA),1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC §9105(b)

AUTHORITY: These amendments are promulgated under the authority set forth in the Commonwealth Code, including but not limited to 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC §1402, 4 CMC §1425 and §1820.

THE TERMS AND SUBSTANCE: The purpose of the amendment to the Customs Service Regulations is to update the regulation pursuant to PL 20-75 that limits the tax exemption to the import of cigarette and alcohol to arriving passengers only; to expand the exemptions of items for use by persons with disabilities § 70-10.1-110(g); and correct non-substantial sections to be more clear.

DIRECTIONS FOR FILING AND PUBLICATION: These proposed amended regulations shall be published in the Commonwealth Register in the section on 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: Interested parties may submit written comments on the proposed regulations to Larrisa C. Larson, Secretary of Finance, via US mail to the Dept. of Finance, P O Box 5234 CHRB, or via hand-delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice.

Comments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

These proposed regulations were approved by the Secretary of Finance on January 18, 2019.

Submitted by: _____ 1/18/19

LARRISA C. LARSON
Secretary of Finance
Department of Finance

Date

Received by: 2/15/19

SHIRLEY P. CAMACHO-OGUMORO
Governor's Special Assistant for Administration

Date

Filed and
Recorded by: 03.08.2019

ESTHER SN. NESBITT
Commonwealth Registrar

Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f)

Dated this 7 day of March, 2019.

EDWARD MANIBUSAN
Attorney General

Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950 TEL (670) 664-1100 FAX: (670) 664-1115

NUTISIAN PUPBLIKU NI MANMAPROPONI NA AMENDASION I REGULASION SIHA PARA I DIPÅTTAMENTUN I FINANSIÅT, SITBISIUN DIBISION I CUSTOMS

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI MA'AMENDA NA REGULASION SIHA: I Dipåttamentun i Finansiåt - Sibisiun Dibision i Customs ha intensiona para u amenda i Regulasion i Sitbisiun I Customs siha, sigun para i maneran nu i Åktun Administrative Procedures (APA), 1 CMC § 9104(a). Kumu ma'adåpta, esti siha na amendasion siempri mu ifektibu gi hålum dies (10) dihas dispues di pupblikasion nu i Nutisian i Adåptasion gi hålum i Rehistran Commonwealth. (1 CMC § 9105(b)

ÅTURIDÅT: Esti na amendasion siha para u macho'gui gi påpa' i aturidåt ni mapega mo'na gi hålum i Commonwealth Code ingklusi, låo ti chi-ña para, 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC §1402, 4 CMC §1425 yan §1820.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I rason nu i amendasion para i Regulasion Sitbisiun I Customs para u mapetmiti i excise tax exemption para Atkahot yan chupa siha ni manmachuchuli' hålum ginin i manmåfattu na pasaheru para usan-ñiha ha', kumu mapribeniyi hålum PL 20-75; para u klaruyi i exemption na åttikulu siha ni manmachuchuli' hålum para usan i petsona siha ni manggai disibilidåt, NMIAC § 70-10.1-110(g); yan kurihi i non-substantial na seksion para u mås klaru.

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: Esti i manmaproponi na ma'amenda na regulasion siha debi na u mapupblika gi hålum i Rehistran i Commonwealth gi hålum i seksiona ni Maproponi yan Nuebu na Ma'adåpta na Regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hålum i kumbinienti na lugåt gi hålum civic center yan gi hålum ufisinan gubietnamentu siha gi hålum distritun senadot, parehu Englis yan gi lingguåhin natibu. 1CMC § 9104(a)(1)

PARA U MAPRIBENIYI UPIÑON SIHA: I manintirisåo na petsona siha siña manna'hålum tinigi' upiñon ni manmaproponi na regulasion siha para as Larrisa C. Larson, i Sekritårian I Finansiåt, via U.S. mail para Dipåttamentun i Finansiåt, P.O. Box 5234 CHRB, pat intrega hålum gi Ufisinan i Sekritårian Finansiåt, giya Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita na u fanhålum gi hålum trenta (30) dihas ni tinattitiyi gi fetchan pupblikasion nu esti na nutisia.

I upiñon siha debi na u fanhålum gi hålum trenta (30) dihas ginin i fetchan pupblikasion esti na nutisia. 1 CMC § 9104 (a)(2).

Esti i manmaproponi na regulasion siha manma'aprueba ginin i Sekritårian I Finansiåt gi Ineru 18, 2019.

Nina'hålum as: _____ 1/18/19
LARRISA C. LARSON Fetcha
Sekritårian I Finansiåt
Dipåttamentun I Finansiåt

Received by: _____ 2/19/19
SHIRLEY P. CAMACHO-OGUMORO
Governor's Special Assistant for Administration
Date

Filed and
Recorded by: _____ 03.08.2019
ESTHER SN. NESBITT
Commonwealth Registrar
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f)

Dated this 7 day of March, 2019.

_____
EDWARD MANIBUSAN
Attorney General

Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950 TEL (670) 664-1100 FAX: (670) 664-1115

ARONGORONGOL TOULAP REEL LIIWELIL MWÓGHUTUGHUT NGÁLI BWULASIYOL FINANCE, DIVISION OF CUSTOMS SERVICE

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL MWÓGHUT IKKA RA LIIWELI: Bwulasiyol Finance – Division of Customs Service re mángemángil rebwe liiweli Mwóghutughutúl Customs Service, sángi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a). Ngáre re adóptááli, liiwel kkal ebwe bwunguló seigh ráál mwiril aal akkatééwow reel Arongorongol Adópta me llól Commonwealth Register. 1 CMC §9105(b).

BWÁNGIL: Liiwel kkal nge aa ffil reel ffééról faal bwángil Commonwealth Code me ebwe tééló mmwal, ebwe schuu nge ese mwutch ngáli 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC § 1402, 4 CMC §1425 me § 1820.

KKAPASAL ME AWEEWEL: Bwulul liiwel kkal ngáli Mwóghutughutúl Customs Service nge ebwe ayoorai mwóghutughutúl mille excise tax exemption ngáli biiru me suubwa ikka e toolong me lughul iye passengers re bweibwogholong ikka re toolong bwe rebwe yáayá, e lo llól PL 20-75; ebwe ffat bwe schóó kka eyoor semwaayúr ngáre disability bwe rebwe yáayá, NMIAC § 70-10.1-110(g), me aweelaló tálil non-substantial bwe ebwe ffat.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow pommwol mwóghutughut ikka aa liiwel me llól Commonwealth Register llól tálil Pommwol me Ffél Mwóghutughut ikka ra Adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me llól mwaliyaasch. 1 CMC § 9104(a)(1)

REEL ISIISILONGOL KKAPAS: Schóó kka re mwuschel rebwe isiisilong ischil mángemáng wóól pommwol mwóghutughut kkal ebwe mwet ngáli Larrisa C. Larson, Sekkretóóriyal Finance, via US mail ngáli Dept. of Finance, P O Box 5234 CHRB, ngáre bwughiló reel Bwulasiyol Sekkretóóriyal Finance, Asúngúl, Seipél, MP. Kkapas, data, views, ngáre angiingi ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel.

Kkapas ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Aa átirow pommwol mwóghutughut kkal sángi Sekkretóóriyal Finance wóól Eneero 18, 2019.

Isáliyalong: _____ 1/18/19

LARRISA C. LARSON
Sekkretóóriyal Finance
Bwulasiyol Finance

Ráál

Bwughiyal: _____ 2/19/19
SHIRLEY P. CAMACHO-OGUMORO Ráál
Layúl Gobenno Special Assistant ngáli Administration

Ammwelil: _____ 03.08.2019
ESTHER SN. NESBITT Ráál
Commonwealth Registrar

Sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy pommwol mwóghutughut ikka e appasch me átirow bwe aa lléghló ffééúl me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, sángi 1 CMC § 2153(f)

Aghikkilátiw wóól 7 ráálil March, 2019.

_____
EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

CHAPTER 70-10
CUSTOMS SERVICE DIVISION

Subchapter 70-10.1 Customs Service Regulations
Subchapter 70-10.2 Regulations Providing For Distribution Of Headnote 3(a) Production Under The Limited Waiver Provided By Administrative Agreement

SUBCHAPTER 70-10.1
CUSTOMS SERVICE REGULATIONS

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Part 100 - Excise Taxes

§ 70-10.1-105 Rates

The excise tax rates currently imposed in accordance with 4 CMC § 1402(a), as amended by Public Law No. 9-57 on October 6, 1996 are as follows:

Commodities	Tax Rates
Agricultural Commodities	1% ad valorem
Aviation Fuel	3% ad valorem
Beer and Malt Beverage	$0.02 per fluid ounces or fractional equivalent
Boats and Yachts in Excess of $500,000	5.75% ad valorem
Cigarettes	$2.75 per 20 cigarettes or fractional equivalent from September 16, 2014 through September 16, 2017, thereafter the rate will be $3.75 per 20 cigarettes or fractional equivalent.
Construction Material, Equipment, and Machinery	3% ad valorem
Cosmetic	17.25% ad valorem
Distilled Alcoholic Beverages	$0.18 per fluid ounces or fractional equivalent
Foodstuff	1% ad valorem
Goods Derived Locally	1% ad valorem

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Hygiene & Toiletries	1% ad valorem
Jewelry	5.75% ad valorem
Leather Goods	5.75% ad valorem
Liquid Fuel	$0.15 per gallon
Passenger Vehicle Not Exceeding $30,000 Per Unit	5% ad valorem
Passenger Vehicle In Excess of $30,000 Per Unit	5.75% ad valorem
Perfumery	23% ad valorem
Precious Metals, Precious or Semi-precious Stones	5.75% ad valorem
Prescription Drugs or Medicines	1% ad valorem
Soft Drinks	$0.005 per fluid ounce or fraction equivalent
Tobacco/Tobacco Substitute	60% ad valorem
Wine & Sake	$0.05 per fluid ounce or fraction equivalent
All Others (not otherwise provided by law)	5% ad valorem

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

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Commission Comment: The Commission changed ".02 cents" to "$0.02" for Beer and Malt Beverages, "2.75 cents" to "$2.75" and "$3.75 cents" to "$3.75" for Cigarettes, ".18 cents" to "$0.18" for Distilled Alcoholic Beverages, ".15 cents" to "$0.15" for Liquid Fuel, and ".005 cents" to "$0.005" for Soft Drinks, and ".05 cents" to "$0.05" for Wine & Sake pursuant to 1 CMC § 3806(g). These revisions conform with 4 CMC § 1402(a) which this regulation cites.

§ 70-10.1-110 Exemptions

(g) ~~Items for Use by Persons with Disabilities. Merchandise, equipment, devices, and other items, including wheelchairs, hearing aids, braille material, canes, walkers, prosthetic devices, braces, crutches, or prescription lenses and eye glasses brought in by persons to be used by handicapped individuals who are either residing or visiting in the Commonwealth. This exemption shall not apply to merchandise, equipment, devices, and other gear brought in for sale, lease, or rent to the handicapped;~~
Items for Use by Persons with Disabilities. Items designed to accommodate disabled persons or to allow people with disabilities to function independently that are brought in for use by individuals with disabilities. Exempt items include, but are not limited to, wheelchairs, hearing aids, braille material, canes, walkers, prosthetic devices, braces, crutches, prescription lenses, eyeglasses, and vehicles that are modified for operation by, or transportation of, people with disabilities. Examples of vehicle modifications include hand controls, left side accelerator pedals, raised ceilings, and wheelchair ramps and lifts. This exemption shall not apply to merchandise, equipment, devices, and other items brought in for sale, lease, or rent to persons with disabilities. The Customs Director, at his discretion, may require the consignee to provide information for determining eligibility for exemption;

(i) New Residents or Returning Residents. Personal automobile(s), personal household goods, and other items imported or brought into the Commonwealth for the purpose of establishing a household. This exemption shall only apply to such items imported or brought from the state, territory, district or foreign country in which the individual was most recently a bona fide resident. The new resident or returning resident, as referenced below, must bring in or arrange shipment of the above designated personal automobile(s), personal household goods, and other items within six months of first establishing a household in the Commonwealth. For purposes of this exemption, returning residents include only those persons who have resided outside the Commonwealth for at least one year from the time they last resided in the Commonwealth;

§ 70-10.1-115 Non-business Use Exemption

(b) Cigarettes Nonbusiness Use. Except as otherwise provided, ~~any person~~ **arriving passengers** may bring for personal use and consumption exempt from the excise tax, an amount of cigarettes that are commercially packaged and that do not exceed 30 packages of 20 cigarettes per package.
(1) The exemption specified under 4 CMC § 1402(d)(2), as modified by 6 CMC § 2301(a)(7) of the Cigarette Labeling and Advertising Act, shall only apply to individuals

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18 years of age or older and any cigarettes in the possession of a minor will be confiscated and destroyed.
(2) Pursuant to 6 CMC § 2301(a)(7)(i) only 10 packs of cigarettes that do not comply with the Cigarette Labeling and Advertising Act or are not contained in the directory of cigarettes approved for sale under Public Law 14-10, section 3(b) [4 CMC § 50162] shall be exempt from excise tax. Any additional non-compliant packs of cigarettes will be confiscated and destroyed.

(c) Tobacco, Tobacco Substitute, or Chewable Tobacco Product Nonbusiness Use.
(1) Except as otherwise provided, ~~any person~~ arriving passengers may bring for personal use and consumption exempt from the excise tax, an amount of tobacco or tobacco substitute, or chewable tobacco product or other smokable or snuffable substance, material or product other than cigarettes, not to exceed one pound, provided that such substance, material or product is not contraband.
(2) The exemption specified under 4 CMC § 1402(d)(3), as modified by 6 CMC § 2301(a)(7) of the Cigarette Labeling and Advertising Act, shall only apply to individuals 18 years of age or older and any such products in the possession of a minor will be confiscated and destroyed.

(d) Alcoholic Beverages Nonbusiness Use.
(1) Except as otherwise provided, ~~any person~~ arriving passengers may bring for personal use and consumption exempt from the excise tax:
(i) An amount of distilled alcoholic beverages not to exceed 77 ounces;
(ii) An amount of beer or other malt beverage not to exceed 288 fluid ounces; and
(iii) An amount of wine and sake not to exceed 128 ounces.
(2) The exemptions specified under 4 CMC § 1402(d)(4)–(6) for beer and malt beverages, wine and sake, and alcoholic beverages, shall only apply to individuals 21 years of age or older and any such items in the possession of individuals under the age of 21 will be confiscated and destroyed. For the purposes of 4 CMC § 1405(a) and (b), the exemption of 4 CMC § 1402(d)(4)–(6) for nonbusiness use applies.

Part 1000 - Custom Bonded Warehouses

Subpart C - Application to Conduct Business as a Bonded Warehouse

§ 70-10.1-1022 Application Requirements

Any applicant who wishes to apply for a license to operate a bonded warehouse shall summit 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;

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(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 § 70-10.1-1020.

(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 pled 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 § 70-10.1-1070 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 § 70-10.1-1012 for class A and B customs bonded warehouses.

(c) 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, 6 Com. Reg. 2830 (June 15, 1984), section VII, 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 of U.S. ~~Environmental Protection Agency and~~ CNMI environmental agencies.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

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STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

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PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-20 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for §60-20-420 Student Attendance.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines in the §60-20-420 Student Attendance.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and Recorded by: _____ 03-18-2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-20 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na para u pribeni procedural guidelines para §60-20-420 i Attendance Istudiånti.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan manera siha nisisidåt para guideline gi hålum i §60-20-420 i Attendance Istudiånti.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as: _____ 3/4/19

Påhina 1

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03-18-2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibreru~~ Mach, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-20 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli §60-20-420 Student Attendance.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal reel ebwe lemeli me yoor afal llól mwóghutughut ikka e ffil llól §60-20-420 Student Attendance.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptááliil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli

boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééríl) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééríl me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Mááischigh (~~Febreero~~ Mach), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-20-420 - Student Attendance

The Public School System recognizes two types of absences: excused or unexcused.

(a)–(d) [unchanged]

(e) Student Absences
(1) Secondary school students (grades 6-12) who incur thirteen or more unexcused absences in a course during one semester shall be considered excessively absent and shall not receive a passing grade for that course for that semester. Students under block scheduling who incur seven or more unexcused absences during a term shall be considered excessively absent and shall not receive a passing grade for that course during that term.
(2) Secondary students who do not receive a passing grade for a semester as a result of excessive absences shall receive a "no credit" (NC or 0.00) on their academic record, irrespective of the grade the student would have received before the excessive absences. The course must be repeated and the no credit may be deleted only upon successful completion of the repeated course.
(3) Elementary school students with 25 or more absences in a school year will not receive credit and will not be promoted, unless an exemption is granted by the Commissioner.
~~(4) For the purpose of this section, three unexcused tardies within a term or semester from a course/class shall equal one unexcused absence from the course/class for that term or semester.~~

(f) Tardiness
(1) The term tardy is defined as being late to school, class or an activity with or without permission of parent/guardian. A student is considered tardy if he/she arrives after the designated time of the class or activity, regardless of ~~whether the student is late by five minutes or fifteen minutes~~ how late the student is.
(2) A student who misses more than half of ~~the~~ a class or activity shall be considered absent for the entire class or activity.
(3) For secondary school students, every third unexcused tardy shall be considered one unexcused absence within the term/semester the tardies occurred.
(4) For elementary school students, every third unexcused tardy of 10 minutes or greater shall be considered one unexcused absence within the term/semester the tardies occurred.

(g)–(h) [unchanged]

§ 60-20-420 - Student Attendance

The Public School System recognizes two types of absences: excused or unexcused.

(a)–(d) [unchanged]

(e) Student Absences
(1) Secondary school students (grades 6-12) who incur thirteen or more unexcused absences in a course during one semester shall be considered excessively absent and shall not receive a passing grade for that course for that semester. Students under block scheduling who incur seven or more unexcused absences during a term shall be considered excessively absent and shall not receive a passing grade for that course during that term.
(2) Secondary students who do not receive a passing grade for a semester as a result of excessive absences shall receive a "no credit" (NC or 0.00) on their academic record, irrespective of the grade the student would have received before the excessive absences. The course must be repeated and the no credit may be deleted only upon successful completion of the repeated course.
(3) Elementary school students with 25 or more absences in a school year will not receive credit and will not be promoted, unless an exemption is granted by the Commissioner.
~~(4) For the purpose of this section, three unexcused tardies within a term or semester from a course/class shall equal one unexcused absence from the course/class for that term or semester.~~

(f) Tardiness
(1) The term tardy is defined as being late to school, class or an activity with or without permission of parent/guardian. A student is considered tardy if he/she arrives after the designated time of the class or activity, regardless of ~~whether the student is late by five minutes or fifteen minutes~~ how late the student is.
(2) A student who misses more than half of ~~the~~ a class or activity shall be considered absent for the entire class or activity.
(3) For secondary school students, every third unexcused tardy shall be considered one unexcused absence within the term/semester the tardies occurred.
(4) For elementary school students, every third unexcused tardy of 10 minutes or greater shall be considered one unexcused absence within the term/semester the tardies occurred.

(g)–(h) [unchanged]

OFFICE OF THE
ATTORNEY GENERAL
CIVIL DIVISION
2019 MAR 20 PM 2: 21

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

Voting Members

Janice A. Tenorio, M.Ed.
Chairperson

Herman M. Atalig, SGM(Ret)
Vice Chairperson

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Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-40 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

RETRACTION OF PREVIOUSLY PROPOSED CHANGES TO RULES AND REGULATIONS: The State Board of Education hereby retracts the previously proposed changes to the PSS Procurement Rules and Regulations as published at page 040930-040942, Volume 40, Number 09 of the Commonwealth Register (September 28, 2018). The Board is proposing new and additional changes which incorporate the previous changes here.

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for §60-40 Procurement Rules and Regulations.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines in the Procurement Rules and Regulations for the Public School System in the CNMI.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. — Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro — Date
Special Assistant for Administration

Filed and Recorded by: _____ 03.19.2019
Esther SN. Nesbitt — Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-40 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

RETRACTION NU I MA'PUS NA TUNULAIKA NI MANMAPROPONI GI AREKLAMMENTU YAN REGULASION SIHA: I Kuetpun Edukasion guini ha retract i ma'pus na tunulaika siha para i Areklamentu yan Regulasion Procurement i PSS ni mapupblika gi påhina 040930-040942, Baluma 40, Numiru 09 gi Rehistran Commonwealth (Septembri 28, 2018). I Kuetpu maproproponi nuebu yan mås na tunulaika ni ingklusi i ma'pus na tunulaika guini.

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensiona para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na para u pribeniprocedural guidelines para §60-40 Areklamentu yan Regulasion i Procurement.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan i manera siha na nisisidåt para guidelines gi hålum i Areklamentu yan Regulasion i Procurement siha gi Sisteman Iskuelan Pupbliku gi hålum i CNMI.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha ma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as: _____ 3/4/19

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03-19-2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha _____ gi Fibreru, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION
Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-40 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

BWUGHI SEFÁÁLIY POMMWOL SIIWEL KKEWE AA TOOWOW NGÁLI ALLÉGH ME MWÓGHUTUGHUT: State Board of Education rebwe bwughi sefááliy pommwol liiwel ngáli PSS Certification reel Allégh me Mwóghutughut iwe e akkatééwow reel peigh 040930-040942, Volume 40, Numuro 09 reel Commonwealth Register (Maan 28, 2018). Re pommw Board reel ffél me rebwe bwal aschuulong siiwel kkewe e lo ighal.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli §60-40 Alléghúl me Mwóghutughutúl Procurement.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal reel ebwe lemeli me yoor afal llól Alléghúl me Mwóghutughutúl Procurement ngáli Public School System llól CNMI.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptáálil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me

bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.19.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Máái~~schigh~~ (~~Febreero~~ March), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-40-205 Competitive Sealed Bidding

(a)–(h) [no changes]

(i) Notice of Intent to Award. After bid evaluation, a notice of intent to award the contract to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter shall be issued to all bidders. The notice of intent to award is not a promise or guarantee of award, and the intended bidder should not incur any costs based on either the notice of intent to award or reliance of a contract.

~~(i)~~(j) Award.
(1) The contract must be awarded with reasonable promptness by written notice to the lowest responsive bid by a responsible bidder whose bid fully meets the requirements of the invitation for bids and this chapter. The contract cannot be awarded less than five business days after the issuance of a notice of intent to award pursuant to subsection (i). Unsuccessful bidders shall also be promptly notified.
(2)(i) Notice of an award shall only be made by the presentation of a contract with all of the required signatures to the bidder. No other notice of an award shall be made orally or by letter. No acceptance of an offer shall occur nor shall any contract be formed until a Public School System contract is written and has been approved by all the officials required by law and regulation.
(ii) Public School System contract shall contain a clause which states that the signature of the private contractor shall be the last in time to be affixed to a contract and that no contract can be formed prior to the approval of all required Public School System officials.
(3) In the event all bids exceed available funds and the bid of the lowest responsive and responsible bidder does not exceed those funds by more than five per cent, and time or economic considerations preclude re-solicitation of work of a reduced scope, the Commissioner of Education may authorize the Chief to negotiate an adjustment of the bid price, including changes in bid requirements, with the lowest responsive and responsible bidder in order to bring the bid price within the amount of available funds. The negotiation shall be documented in writing and attached to the bidding documents.

§ 60-40-225 Competitive Sealed Proposals

(a)–(f) [no changes]

(g) Notice of Intent to Award. After proposal evaluation, a notice of intent to award the contract to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Public School System, taking into consideration price and the evaluation factors set forth in the request for proposals, shall be issued to all offerors. The notice of intent to award is not a promise or guarantee of award, and the intended offeror should not incur any costs based on either the notice of intent to award or reliance of a contract.

~~(g)~~(h) Award. Award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the Public School System taking into consideration price and the evaluation factors set forth in the request for proposals. The award cannot be made less than five business days after the issuance of a notice of intent to award pursuant to subsection (g). No

other factors or criteria shall be used in the evaluation and the contract file shall contain the basis on which the award is made.

§ 60-40-401 Protests to the Commissioner of Education

(a) General

(1) Any actual or prospective bidder, offeror, or contractor who asserts a claim or asserts that it has been is aggrieved or will be aggrieved in connection with the solicitation or award of a contract may protest to the Commissioner of Education. The protest shall be received by the Commissioner of Education in writing prior to the award of a contract ~~within ten days after such aggrieved person knows or should have known of the facts giving rise thereto. The Commissioner of Education shall consider all protests or objections to the award of a contract, whether submitted before or after award~~. For competitive sealed bids and competitive sealed proposals, protests shall not be submitted before the issuance of a notice of intent to award. The written protest shall state fully the factual and legal grounds for the protest~~;~~.

(2) Other persons, including bidders, involved in or affected by the protests shall be given notice of the protest and its basis in appropriate cases. The protesting party shall provide such notice and a copy of its protest to all other bidders involved in or affected by the protest and shall file a declaration or proof of service with the Commissioner of Education. Proof of notice is required by the protesting party to other bidders or proposers within ~~three~~ two days of filing its protest. These persons ~~shall also be advised that they~~ may submit their views and relevant information to the Commissioner of Education within ~~ten~~ five days after receiving notice by the protesting party. The Commissioner of Education may extend the period of time to submit views and relevant information if the Commissioner certifies that he/she believes the complexity of the matter requires a longer period of time. The submission of views may include any factual statements; briefs; memoranda; declarations; and other information which is relevant and necessary for the determination of the protest.

(3) The Commissioner of Education shall decide the protest within thirty calendar days after ~~all interested parties have submitted their views~~ the protest is filed unless the Commissioner certifies that the complexity of the matter requires a longer time, in which event the Commissioner shall specify the appropriate longer time. If the Commissioner of Education fails to render a decision or determination within such period, the protesting party may file its appeal to the Appeal Committee of the State Board of Education by filing such Notice of Appeal with the ~~Chairman~~ Chairperson through the Board Secretary at the State Board of Education Office~~, Susupe, Saipan~~. ~~The submission of views may include any factual statements; briefs; memoranda; declarations; and other information that the Commissioner of Education or any party may submit which is relevant and necessary for the determination of the protest;~~

(4) When a protest~~, before or after award,~~ has been appealed to the Appeal Committee, as provided in these procedures, the Commissioner of Education shall submit a report, and the Commissioner of Education should include with his/her report a copy of:

(i) The protest;

(ii) The bid submitted by the protesting bidder and a copy of the bid of the bidder who is being considered for award, or whose bid is being protested;

(iii) The solicitation, including the specifications on portions relevant to the protest;

(iv) The abstract of offers or relevant portions;

(v) Any other documents that are relevant to the protest; and

(vi) The Commissioner of Education's signed statement setting forth findings, actions, and recommendations and any additional evidence or information deemed necessary in determining the validity of the protest. The statement shall be fully responsive to the allegation of the protest. If the award was made after receipt of the protest, the Commissioner of Education's report will include the determination prescribed in subsection (b)(3) below. The foregoing information submitted by the Commissioner of Education shall be considered the complete administrative record on appeal to the Appeal Committee unless the Appeal Committee supplements the record with additional testimony or evidence.

(5) Since timely action on protests is essential, they should be handled on a priority basis. Upon receipt of notice that an appeal from the Commissioner's decision has been taken to the Appeal Committee, the Commissioner of Education shall immediately begin compiling the information necessary for a report as provided in subsection (a)(4) above.

(b) Protest ~~Before Award~~

(1) When a proper protest against the making of an award is received, the award shall be withheld pending disposition of the protest. The bidders whose bids might become eligible for award shall be informed of the protest. In addition, those bidders shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance to avoid the need for re-advertisement. In the event of failure to obtain such extensions of bids, consideration shall be given to proceeding with an award under subsection (b)(2) below.

(2) When a written protest is received, award shall not be made until the matter is resolved, unless the Commissioner of Education determines that:

(i) The materials and services to be contracted for are urgently required;

(ii) Delivery or performance will be unduly delayed by failure to make award promptly; or

(iii) A prompt award will otherwise be advantageous to the Public School System.

(3) If award is made under subsection (b)(2) above, the Commissioner of Education shall document the file to explain the need for an immediate award. The Commissioner of Education also shall give written notice to the protester and others concerned of the decision to proceed with the award.

~~(c) Protest After Award~~

~~Although persons involved in or affected by the filing of a protest after award may be limited, in addition to the Commissioner of Education, at least the contractor shall be furnished the notice of the protest and its basis in accordance with subsection (a)(2) above. When it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to the Public School System's interest, the Commissioner of Education should consider seeking a mutual agreement with the contractor to suspend performance on a no-cost basis.~~

~~(d)~~(c) Computation of Time

(1) Except as otherwise specified, all "days" referred to in this subpart are deemed to be working days of the Public School System. The term "file" or "submit" except as otherwise provided refers to the date of transmission.

(2) In computing any period of time prescribed or allowed by these procedures, the day of the act or event from which the designated period of time begins to run shall not be included.

§ 60-40-405 Appeals of Commissioner of Education's Decisions to the Board

(a) Jurisdiction; Exhaustion of Remedies. A written appeal to the Appeal Committee from a decision by the Commissioner of Education may be taken provided that the party taking the appeal has first submitted a written protest to the Commissioner of Education and otherwise fully complied with § 60-40-401, and the Commissioner of Education has denied the protest or has failed to act on the protest within the time provided.

(b) Form of Appeal. No particular form of pleading is required for filing an appeal to the Appeal Committee. The appeal shall, however:
(1) Include the name and address of the appellant;
(2) Identify the name and number of the solicitation or contract;
(3) Contain a concise, logically arranged, and direct statement of the grounds for appeal; and
(4) Specifically request a ruling by the Appeal Committee.

(c) Time for Filing an Appeal. An appeal from the Commissioner of Education's decision must be received by the Appeal Committee not later than ~~ten~~ five ~~calendar~~ days after the appellant received the decision of the Commissioner of Education, or, in the event that the Commissioner of Education has not decided the protest, within ~~ten~~ three days from the date that the Commissioner should have decided the protest pursuant to § 60-40-401. Any appeal received after these time limits shall not be considered by the Appeal Committee unless good cause is shown or unless the Appeal Committee determines that the appeal presents issues significant to procurement practices that are not outweighed by the detriment to the Public School System should be appeal be considered.

(d) Notice of Protest, Submission of Commissioner of Education's Report and Time for Filing of Comments on Report.
(1) The ~~Chairman~~ Chairperson of the Appeal Committee, immediately upon appointment by the Board ~~Chairman~~ Chairperson, shall notify the Commissioner of Education in writing within one day of ~~the receipt of an appeal~~ appointment, requesting the Commissioner of Education to give notice of the appeal to ~~the contractor if award has been made or, if no award has been made, to~~ all bidders or proposers who appear to have a ~~substantial and~~ reasonable prospect of receiving an award if the appeal is denied (hereinafter in this section, "noticed parties"). The Commissioner of Education shall ~~be requested to~~ furnish ~~in accordance with § 60-40-401~~ copies of the protest and appeal documents to such noticed parties with instructions to communicate further directly with the Appeal Committee.
(2) The Appeal Committee shall request the Commissioner of Education to submit a complete report on the appeal to the Appeal Committee as expeditiously as possible (generally within thirty calendar days) in accordance with § 60-40-401(a)(3) and (4) and to furnish a copy of the report to the appellant and ~~other interested parties as defined in § 60-40-401(a)(2),~~ noticed parties.
(3) Comments on the Commissioner of Education's report shall be filed by the protesting party and any ~~interested~~ noticed party with the Appeal Committee within ~~ten~~ five days after the Appeal Committee's receipt of the report, with a copy to the Commissioner of Education, other ~~interested~~ noticed parties, and appellant, as applicable. The Appeal Committee may extend the period of time

to submit comments if the Appeal Committee certifies that it believes the complexity of the matter requires a longer period of time. ~~Any rebuttal an appellant or interested party may care to make shall be filed with the Appeal Committee within five days after receipt of the comments to which rebuttal is directed, with a copy to the appellant, and interested parties, as the case may be.~~ The Appeal Committee may, at its discretion, allow the protesting party, noticed parties, and the Commissioner of Education to submit rebuttals to the comments on the Commissioner of Education's report submitted by the protesting party and noticed parties. If rebuttals are permitted, the Appeal Committee may set deadlines for their submission. All rebuttal submissions must be forwarded by the rebutting party to the Commissioner of Education, protesting party, and other noticed parties.

(4) The failure of an appellant or any ~~interested~~ noticed party to comply with the time limits stated in this section may result in resolution of the appeal without consideration of the comments untimely filed.

(e) Withholding of Award. When an appeal has been filed before award, award shall not be made until the appeal is resolved, unless awarded is done in a manner consistent with § 60-40-401(b)(2). ~~the Commissioner of Education will not make an award prior to resolution of the protest except as provided in this section. In the event the Commissioner of Education determines that award is to be made during the pendency of an appeal, the Commissioner of Education will notify the Appeal Committee.~~

~~(f) Furnishing of Information on Protests. The Appeal Committee shall, upon request, make available to any interested party information bearing on the substance of the appeal which has been submitted by interested parties or agencies, except to the extent that the withholding of information is permitted or required by law or regulation.~~

~~(g)~~(f) ~~Time for~~ Submission of Additional Information. Any questions posed or additional information requested by the Appeal Committee shall be furnished as expeditiously as possible. The Appeal Committee may set a reasonable deadline for the submission of information or responses to questions. Any questions or requests, along with corresponding responses or submissions shall be made, upon request, available to any other interested party, except to the extent that the withholding of information is permitted or required by law. The Appeal Committee may allow for interested parties to comment on any answers or information submitted pursuant to this subsection in a manner and timeframe it deems reasonable. ~~from the appellant or interested parties shall be submitted no later than five days after the receipt of such request. If it is necessary to obtain additional information from the Commissioner of Education, the Appeal Committee will request that such information be furnished as expeditiously as possible.~~

~~(h)~~(g) Conference. The Appeal Committee may conduct a conference on the merits of the appeal with the appellant and Commissioner of Education. Alternatively, either party may request such a conference to be held at the discretion of the Appeal Committee. The Appeal Committee has the discretion to include other parties at the conference.

~~(1) A conference on the merits of the appeal with the Appeal Committee may be held at the request of the appellant, any other interested party, or the Commissioner of Education. A request for a conference should be made prior to the expiration of the time period allowed for filing comments on the agency report. Except in unusual circumstances, requests for a conference received after such time will not be honored. The Appeal Committee will determine whether a conference is necessary for resolution of the appeal and this determination is not subject to reconsideration.~~

~~(2) The conference will normally be held prior to expiration of the period allowed for filing comments. All interested parties shall be invited to attend the conference. Ordinarily, only one conference will be held on an appeal.~~

~~(3) Any written comments to be submitted and as deemed appropriate by the Appeal Committee as a result of the conference must be received by the Appeal Committee within five calendar days of the date on which the conference was held.~~

~~(4) Time for Decision; Notice of Decision: The Appeal Committee shall, if possible, issue a decision on the appeal within thirty calendar days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Commissioner of Education.~~

(h) Time for Decision; Notice of Decision: The Appeal Committee shall, if possible, issue a decision on the appeal within thirty calendar days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the appellant, other participating parties, and the Commissioner of Education.

~~(i) Request for Reconsideration:~~

~~(1) Reconsideration of a decision of the Appeal Committee may be requested by the appellant, any interested party who submitted comments during consideration of the protest, and the Commissioner of Education. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.~~

~~(2) Request for reconsideration of a decision of the Appeal Committee shall be filed not later than ten days after the decision. The term "filed" as used in this section means receipt by the Appeal Committee. There shall be no further hearing nor conference on any request for reconsideration and the Appeal Committee shall decide on the request for reconsideration within five days.~~

~~(3) A request for reconsideration shall be subject to these bid protest procedures consistent with the need for prompt resolution of the matter.~~

§ 60-40-425 Appeal Committee

The Appeal Committee is comprised of three members of the State Board of Education appointed by the Board ~~Chairman~~ Chairperson to hear any appeal under these provisions. ~~There shall be an Appeal Committee Chairman selected from the three board members by their agreement or selection by vote.~~ The Board Chairperson shall designate one of the three members as the Appeal Committee Chairperson.

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

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Herman M. Atalig, SGM(Ret)
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Paul T. Miura
Teacher Representative

Galvin S. Deleon Guerrero
Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30.2 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to remove NASTDEC in its entirety; §60-30.2-106 Background Investigation and §60-30.2-118 Routing of the Contract.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the removal of NASTDEC in its entirety; §60-30.2-106 Background Investigation and §60-30.2-118 Routing of the Contract.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and
Recorded by: _____ 03.18-2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-30.2 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na i para u manasuha hålum i todu iyon-ñiiha NASTDEC; §60-30.2-106 Imbestigasion Background yan §60-30.2-118 i Routing nu i Kontråta.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i manmanafañuha gi hålum i todu iyon-ñiiha NASTDEC; §60-30.2-106 Imbestigasion i Background yan §60-30.2-118 Routing nu i Kontråta.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiiha gi Ineru 11, 2019.

Nina'hålum as:

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

3/4/19
Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.18.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi March, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-30.2 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptáali Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptáali me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe siiweli NASTDEC llól alongal; §60-30.2-106 Background Investigation me §60-30.2-118 Routing of the Contract.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal ebwe siiweli NASTDEC llól alongal; §60-30.2-106 Background Investigation me §60-30.2-118 Routing of the Contract.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptáálil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Máái schigh (~~Febreero~~ March), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-30.2-106 Background Investigation

(a)–(b) [unchanged]

(c) Criminal Record Clearance:
(1) The Human Resources Officer shall require new employees to provide the results of an inquiry on behalf of the Board of Education through the Department of Public Safety and/or the Clerk of Court of their local jurisdiction. This inquiry shall be made only after receiving a signed waiver on the application form. [redacted]
(2) [unchanged]

§ 60-30.2-118 Routing of the Contract

(a) Human Resources Officer: The signature of the Human Resources Officer shall certify the correct determination of the salary offered, the receipt of [redacted] the verification of education and teaching experience relevant to classification and the confirmation of a teaching certificate, if applicable, and the receipt from the applicant of two completed fingerprint cards.

(b)–(f) [unchanged]

STATE BOARD OF EDUCATION

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Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30.2 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for §60-30.2-720 Sick Leave re Family.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines §60-30.2-720 Sick Leave re Family.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson,

STUDENTS FIRST

State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of February 6, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and
Recorded by: _____ 03.18.2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-30.2 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na para u pribeni procedural guidelines para §60-30.2-720 Sick Leave re Familia.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan manera siha nisisidåt para guideline gi hålum i §60-30.2-720 Sick Leave re Familia.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as:

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

3/4/19
Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.18.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibreru~~ March, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLEGH ME MWOGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-40 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL:
Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli §60-30.2-720 Sick Leave re Familiya.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal reel ebwe lemeli me yoor afal llól Alléghúl me Mwóghutughutúl Procurement ngáli Public School System llól CNMI.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptááli. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box

501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Mááischigh (Febreero) 06, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Mááischigh (~~Febreero~~ March), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-30.2-720 Sick Leave

(a) [unchanged]

(b) The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental or optometry examination, or if ~~(s)he and/or~~ his/her immediate family are ~~under a doctor ordered quarantine~~ experiencing any of the same, and the employee is taking care of the immediate family member(s). Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment for themselves or their immediate family member(s). Doctor's notes are required for employees taking three or more consecutive days of Sick Leave. 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 for use of less than three consecutive days. For purposes of this section, immediate family member means a legal spouse; child, whether natural, adopted, or a legal guardian of; or parent.

(c)–(e) [unchanged]

§ 60-30.2-780 Advance Annual Leave

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

§ 60-30.3-620 Sick Leave

(a) [unchanged]

(b) The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental or optometry examination, or if ~~(s)he and/or~~ his/her immediate family are ~~under a doctor ordered quarantine~~ experiencing any of the same, and the employee is taking care of the immediate family member(s). Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment for themselves or their immediate family member(s). Doctor's notes are required for employees taking three or more consecutive days of Sick Leave. 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 for use of less than three consecutive days. For purposes of this section, immediate family member means a legal spouse; child, whether natural, adopted, or a legal guardian of; or parent.

(c)–(e) [unchanged]

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — ***Public School System***

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

Voting Members

Janice A. Tenorio, M.Ed.
Chairperson

Herman M. Atalig, SGM(Ret)
Vice Chairperson

MaryLou S. Ada, J.D.
Secretary/Treasurer

Andrew L. Orsini
Member

Phillip Mendiola-Long, AIFA, RF
Member

Non-Voting Members

Paul T. Miura
Teacher Representative

Galvin S. Deleon Guerrero
Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30.2 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for §60-30.2-720 Sick Leave re Bank.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines §60-30.2-720 Sick Leave re Bank.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson,

State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and
Recorded by: _____ 03.18.2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 19 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-30.2 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na para u pribeni procedural guidelines para §60-30.2-720 Sick Leave re Banku.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan manera siha nisisidåt para guideline gi hålum i §60-30.2-720 Sick Leave re Banku.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as:

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

3/4/19
Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.19.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibreru,~~ March 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-30.2 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli §60-30.2-720 Alléghúl me Mwóghutughutúl Procurement.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal reel ebwe lemeli me yoor afal llól Alléghúl me Mwóghutughutúl Procurement ngáli §60-30.2-720 Sick Leave re Bank.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptááliil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli

boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Máái~~schigh~~ March (~~Febreero~~), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-30.2-720 Sick Leave

(a)–(c) [unchanged]

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

(d) Sick Leave Donations. The PSS is not a part of the Sick Leave Bank maintained by the Civil Service Commission and/or the Office of Personnel Management. Instead, a PSS employee may donate their sick leave to another PSS employee who is in need of long-term sick leave.
(1) Sick Leave Donation Requirements:
(i) Both recipient and donating employees must have been continuously employed by PSS for the previous 12 months.
(ii) Recipient employee must have already exhausted all other accrued leave. This includes, but is not limited to, annual leave, sick leave, and compensatory time off.
(iii) Recipient employee may only receive donations for use regarding their own illness or injury – not illnesses or injuries of immediate family members or others.
(iv) Recipient employee's request for sick leave donations cannot extend beyond the term of the employee's employment contract.
(v) Recipient employee cannot receive donated sick leave if the employee is on paid disability leave or absent because of an injury or illness covered by a worker's compensation claim.
(vi) An employee may not use more than 480 hours of donated sick leave during any 365-day period.
(vii) Donating employee must retain at least 80 hours of sick leave after any donation.
(2) Sick Leave Donation Application Requirements:
(i) Applications for receiving sick leave donations shall be done on forms available from the PSS Human Resources Office. The form may require documentation to verify the employee's illness or injury.
(ii) PSS may request additional documentation prior to approval.
(3) Sick Leave Donation; Disposition of Request:
(i) The Commissioner of Education shall grant or deny applications within 10 working days of receiving a request. This time shall be tolled if an applicant is gathering additional documents at the request of PSS.
(ii) The Commissioner of Education may partially grant an application, approving some but not all of the hours applied for.
(ii) Reasons for denying or reducing the hours granted in an application may include, but are not limited to:
(A) The employee's supervisor, with adequate justification, does not approve of the request.
(B) The employee is expected to be compensated for any lost work time through worker's compensation or some other means.
(C) The employee's claim of an illness or injury is not substantiated to the satisfaction of the Commissioner of Education.
(D) The Commissioner of Education has determined that it is in the best interests of the PSS to not grant, or only partially grant, the request.

(4) Accrual of Leave During Sick Leave Donation. An employee shall not earn, accrue, or avail themselves of any Annual Leave, Sick Leave, Administrative Leave, or any other leave while the employee is availing themselves of donated sick leave.

(e) [unchanged]

§ 60-30.3-620 Sick Leave

(a)–(c) [unchanged]

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

(d) Sick Leave Donations. The PSS is not a part of the Sick Leave Bank maintained by the Civil Service Commission and/or the Office of Personnel Management. Instead, a PSS employee may donate their sick leave to another PSS employee who is in need of long-term sick leave.
(1) Sick Leave Donation Requirements:
(i) Both recipient and donating employees must have been continuously employed by PSS for the previous 12 months.
(ii) Recipient employee must have already exhausted all other accrued leave. This includes, but is not limited to, annual leave, sick leave, and compensatory time off.
(iii) Recipient employee may only receive donations for use regarding their own illness or injury – not illnesses or injuries of immediate family members or others.
(iv) Recipient employee's request for sick leave donations cannot extend beyond the term of the employee's employment contract.
(v) Recipient employee cannot receive donated sick leave if the employee is on paid disability leave or absent because of an injury or illness covered by a worker's compensation claim.
(vi) An employee may not use more than 480 hours of donated sick leave during any 365-day period.
(vii) Donating employee must retain at least 80 hours of sick leave after any donation.
(2) Sick Leave Donation Application Requirements:
(i) Applications for receiving sick leave donations shall be done on forms available from the PSS Human Resources Office. The form may require documentation to verify the employee's illness or injury.
(ii) PSS may request additional documentation prior to approval.
(3) Sick Leave Donation; Disposition of Request:
(i) The Commissioner of Education shall grant or deny applications within 10 working days of receiving a request. This time shall be tolled if an applicant is gathering additional documents at the request of PSS.
(ii) The Commissioner of Education may partially grant an application, approving some but not all of the hours applied for.
(ii) Reasons for denying or reducing the hours granted in an application may include, but are not limited to:
(A) The employee's supervisor, with adequate justification, does not approve of the request.

(B) The employee is expected to be compensated for any lost work time through worker's compensation or some other means.
(C) The employee's claim of an illness or injury is not substantiated to the satisfaction of the Commissioner of Education.
(D) The Commissioner of Education has determined that it is in the best interests of the PSS to not grant, or only partially grant, the request.
(4) Accrual of Leave During Sick Leave Donation. An employee shall not earn, accrue, or avail themselves of any Annual Leave, Sick Leave, Administrative Leave, or any other leave while the employee is availing themselves of donated sick leave.

(e) [unchanged]

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

Voting Members

Janice A. Tenorio, M.Ed.
Chairperson

Herman M. Atalig, SGM(Ret)
Vice Chairperson

MaryLou S. Ada, J.D.
Secretary/Treasurer

Andrew L. Orsini
Member

Phillip Mendiola-Long, AIFA, RF
Member

Non-Voting Members

Paul T. Miura
Teacher Representative

Galvin S. Deleon Guerrero
Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30.2 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for §60-30.2-735 Administrative Leave for 190-day contracts.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines in the §60-30.2-735 Administrative Leave for 190-day contracts.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and
Recorded by: _____ 03.18.19
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-30.2 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na para u pribeni procedural guidelines para §60-30.2-735 Administrative Leave para un sientus nubenta (190) dihas na kontråta siha.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan manera siha nisisidåt para guideline gi hålum i §60-30.2-735 Administrative Leave para un sientus nubenta (190) dihas na kontråta siha.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as:

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

3/4/19
Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.18.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibreru~~ Marsu, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-30.2 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli §60-30.2-735 Administrative Leave ngáli 190-day contracts.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal reel ebwe lemeli me yoor afal llól mwóghutughut ikka e ffil llól § 60-30.2-735 Administrative Leave ngáli 190-day contracts.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptáálil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli

boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééríl) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééríl me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Mááischigh (~~Febreero~~ March), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-30.2-735 Administrative Leave

Administrative leave with pay may be granted under emergency conditions beyond the control of management, such as typhoons, or for civic observations of interest to the PSS, or for PSS related examinations, or for travel related to PSS business, or during disciplinary investigations, or for other such reasonable events as the Commissioner of Education determines. Copies of the documentation granting administrative leave must be provided by the Commissioner to the Board of Education immediately. Unless specified in writing by the Commissioner of Education, administrative leave days shall not count towards the 190-day contract period for certified staff, and those days will be worked at another time.

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

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Vice Chairperson

MaryLou S. Ada, J.D.
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Andrew L. Orsini
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Phillip Mendiola-Long, AIFA, RF
Member

Non-Voting Members

Paul T. Miura
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Galvin S. Deleon Guerrero
Non Public School Rep.

Pionnah R. Gregorio
Student Representative

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-20, 60-30.2, 60-60 PUBLIC SCHOOL SYSTEMRULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to remove EEO in its entirety; §§60-20-401, 402, 403 Students; §60-30.2 Discipline and Grievance; §60-60-505 Head Start.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the removal of EEO in its entirety; §§60-20-401,402,403 Students; §60-30.2 Discipline and Grievance; §60-60-505 Head Start.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and Recorded by: _____ 03.18.2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February,~~ March 2019.

EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-20, 60-30.2, 60-60 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensionña para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na i para u manasuha hålum i todu iyon-ñiha EEO; §§60-20-401, 402, 403 Istudiånti; §60-30.2 Disiplina yan Grievance; §60-60-505 Head Start.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i manmanafañuha hålum i todu iyon-ñiha EEO; §§60-20-401, 402, 403 Istudiånti; §60-30.2 Disiplina yan Grievance; §60-60-505 Head Start.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha. (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha manma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as:

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

3/4/19
Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.18.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibre~~ru March, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-20, 60-30.2, 60-60 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System re mángemángil rebwe adóptááli Pommwol Mwóghutughut ikka e appasch bwe ebwe lléghló, sángi mwóghutughutúl Administrative Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghutughut kkal llól seigh ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow pommwol liiwel ngáli mwóghutughutúl PSS sángi bwángil Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMI Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe siiweli EEO llól alongal; §§60-20-401, 402, 403 Schóól Meleitey; §60-30.2 Discipline me Grievance; §60-60-505 Head Start.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut kkal ebwe siiweli EEO llól alongal; §§60-20-401, 402, 403 Schóól Meleitey; §60-30.2 Discipline me Grievance; §60-60-505 Head Start.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptááli. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. — Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro — Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03.18.2019
Esther SN. Nesbitt — Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e) (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 19 ráálil Máái~~schigh (Febreero)~~ March, 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

Part 400 - Students

Subpart A - Nondiscrimination and Student Rights

§ 60-20-401 Discrimination and Harassment Prohibited

(a)–(b) [unchanged]

(c) Complaints
(1) Any student who believes that he or she is a victim of discrimination or harassment should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice-principal ~~PSS EEO Officer~~. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director ~~PSS EEO Officer~~.
(2) Students, parents and employees should review § 60-20-402 for more information regarding sexual harassment and follow the procedures set forth in § 60-20-402 to address discrimination or harassment of any kind on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socioeconomic status or disabling condition.
(3) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination or harassment.
(4) The responsible administrator shall follow up regularly with the complaining student to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(d) Discipline/Consequences
(1) Any student who engages in discrimination and/or harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.
(2) Any employee who permits or engages in the discrimination and/or harassment of students will be subject to disciplinary action, up to and including dismissal.
(3) Any employee who receives a complaint of discrimination and/or harassment from a student and who does not act promptly to forward that complaint to the principal ~~and PSS EEO Officer~~ shall be disciplined appropriately.
(4) Any student who brings a false charge of discrimination and/or harassment shall receive appropriate discipline. The term "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought be good faith but which the PSS was unable to substantiate.

~~(e) The PSS EEO Officer will be available to answer all questions regarding this regulation or its implementation.~~

§ 60-20-402 Sexual Harassment of Students

The Board of Education is committed to maintaining a learning environment for its students that

is free from sexual harassment. Furthermore, the Board of Education strongly believes that no person in the PSS shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity.

(a)–(c) [unchanged]

(d) Investigation of Sexual Harassment Complaints

(1) If a student believes he/she is being sexually harassed, the student should bring the concern to the attention of the building principal.

(2) If the student feels that such contact with the building principal would be inappropriate or if the student simply feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the vice principal ~~PSS EEO Officer for the PSS~~. If the situation is not satisfactorily resolved by the building principal, the student should contact the PSS Human Resources Director ~~PSS EEO Officer~~.

~~(3) If neither the student's building principal nor the PSS EEO Officer is of the same sex as the student, or the student for any other reason would prefer to report the student's concern to another administrator within the PSS, the student may do so. However, it is essential that the report be made to someone with the authority and obligation to act upon the concern.~~ If for any reason the student would prefer to report their concern to another PSS official, the student may contact the PSS Legal Counsel's Office.

(4) Any teacher, counselor, or administrator who receives a report, orally or in writing, from any student regarding sexual harassment of that student or another student by a student or adult in the educational setting must forward that report to the building principal and the PSS Human Resources Director ~~EEO Officer~~ within twenty-four hours, or within a reasonable extension of time thereafter, for good cause shown.

(5) Oral complaints of sexual harassment will be put in writing by the complainant or by the person who receives the complaint, and should be signed by the complainant. However, the complainant's refusal to sign a complaint does not relieve the PSS of the obligation to investigate the complaint

(6) A student who believes that he/she has been subjected to sexual harassment shall not be required to confront the alleged harasser prior to making the report.

(7) Following receipt of the report, PSS personnel will promptly and fully investigate the complaint and will notify the student and the alleged harasser of the results of the investigation. Investigations will be conducted with full recognition of the rights of all parties involved.

(8) Upon receipt of the report, the ~~principal and/or the~~ PSS Human Resources Director ~~EEO Officer~~ will appoint an investigator to investigate the complaint. Such investigation shall commence within forty-eight hours after such appointment.

(9) The PSS will maintain the confidentiality of the complaint and the details of the investigation to the fullest extent possible.

(10) The investigator will put his/her findings in writing and will forward a copy to the principal, ~~and~~ the PSS Human Resources Director ~~EEO Officer~~, and Legal Counsel's Office within two weeks after concluding the investigation, or within a reasonable extension of time thereafter, for good cause shown.

(11) If the investigation substantiates the complaint, the PSS will take appropriate disciplinary action against the offender(s), commensurate to the severity of the harassment (up to and including termination of employment). If the offender is another student, disciplinary action will

be taken in accordance with Board policies and regulations. If the offender is not an employee of the PSS, the PSS will take appropriate action within the scope of its authority to eliminate and redress the harassment.

(12) If the investigation is indeterminate, the matter will still be designated as unresolved, and the investigation file will be maintained by the PSS Human Resources Director ~~EEO Officer~~ in a file separate and apart from any student or personnel file.

(13) There will be no retaliation against or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to sexual harassment.

(14) The responsible administrator shall follow up regularly with the complaining student to ensure that the harassment has stopped and that no retaliation has occurred.

(e)–(f) [unchanged]

(g) Discipline/Consequences

(1) Any student who engages in sexual harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.

(2) Any employee who permits or engages in the sexual harassment of students will be subject to disciplinary action, up to and including dismissal.

(3) Any employee who receives a complaint of sexual harassment from a student and who does not act promptly to forward that complaint to the principal and PSS Human Resources Director ~~EEO Officer~~ shall be disciplined appropriately.

(4) Any student who brings a false charge of sexual harassment shall receive appropriate discipline. The term "false charge" mean charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

~~(5) The PSS EEO Officer will be available to answer all questions regarding this regulation or its implementation.~~

(h) Title IX Grievance Procedure (Sexual Harassment)

(1) Level 1: Principal or Immediate Supervisor (informal and optional -- may be bypassed by grievant)

An informal meeting with the parties and the principal or the Human Resources Office-appointed mediator ~~EEO Officer~~ can solve many problems. A student who believes that he/she has been subjected to sexual harassment is encouraged to first discuss it with the teacher, counselor, or building administrator involved with the objective of resolving the matter promptly and informally. If the individual's teacher/supervisor is the person alleged to have engaged in sexual harassment then the grievant should skip level 1 and go directly to level 2.

(2) Level 2: The Investigation

(i) If the complaint or issue is not resolved at level 1 or if the grievant chooses to skip level 1, the grievant may file a signed, written grievance stating:

(A) The nature of the grievance;

(B) The remedy requested; and

(C) The date the grievance was submitted.

The level 2 written grievance should be filed with the PSS Human Resources Director ~~EEO~~

Officer within fifteen days of the event or incident, or from the date the grievant could reasonably become aware of such occurrence.

(ii) The PSS Human Resources Director EEO Officer may appoint an investigator to investigate a written grievance. If possible, the investigator will resolve the grievance. If the parties cannot agree on a resolution, the PSS Human Resources Director EEO Office or appointed investigator will prepare a written report of the investigation that shall include:

(A) A clear statement of the allegations of the grievance and remedy sought by the grievant.

(B) A statement of the facts as contended by each of the parties.

(C) A statement of the facts as found by the appointed investigator and identification of evidence to support each fact.

(D) A list of all witnesses interviewed and documents reviewed during the investigation.

(E) A narrative describing attempts to resolve the grievance.

(F) The appointed investigator's conclusion as to whether the allegations in the grievance are meritorious.

(iii) The investigator shall consult with the Human Resources Director and/or Legal Counsel's Office EEO Officer during the investigation and attempted resolution of the grievance.

(iv) The appointed investigator will complete the investigation and file the report within thirty days after receipt of the written grievance. The investigator shall file the report with the Human Resources Director and Legal Counsel's Office EEO Officer and the Human Resources Director EEO Officer will make any necessary recommendations and forward the report to the Commissioner's office.

(v) If the Commissioner/designee agrees with the recommendations of PSS Human Resources Director EEO Officer, the recommendations will be implemented. The Commissioner/designee will inform the grievant in writing of his or her decision and any action that will be taken.

(3) Level 3: The Board of Education

If the Commissioner rejects the recommendations of the Human Resources Director EEO Officer, and/or either party is not satisfied with the recommendations from level 2, either party may make a written appeal within ten days of receiving the report of the Commissioner to the Board of Education. On receipt of the written appeal, the matter shall be placed on the agenda of the Board of Education for consideration within thirty days. A decision shall be made and reported in writing to all parties within thirty days of that meeting. The decision of the Board of Education will be final.

(4) Other Options for Grievant

At any time during this process, a grievant may file a complaint with the U.S. Department of Education, Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Federal Omnibudsman to the Commonwealth.

§ 60-20-403 Bullying

(a)–(b) [unchanged]

(c) Complaints

(1) Any student who believes that he or she is a victim of bullying should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the Vice

principal PSS EEO Officer. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS Human Resources Director PSS EEO Officer.
(2) There will be no retaliation against, or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to bullying.
(3) The responsible administrator shall follow up regularly with the complaining student to ensure that the bullying has stopped and that no retaliation has occurred.

(d) Discipline/Consequences
(1) Any student who engages in bullying while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.
(2) Any employee who permits or engages in the bullying of students will be subject to disciplinary action, up to and including dismissal.
(3) Any employee who receives a complaint of bullying from a student and who does not act promptly to forward that complaint to the principal and PSS EEO Officer shall be disciplined appropriately.
(4) Any student who brings a false charge of bullying shall receive appropriate discipline. The terms "false charge" means charges brought in bad faith, that is, without the good faith belief that one has been subjected to bullying. The term "false charge" does not include a charge that was brought be good faith but which the PSS was unable to substantiate.

~~(e) The PSS EEO Officer will be available to answer all questions regarding this regulation or its implementation.~~

~~(f)~~(e) [unchanged]

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

(a)–(b) [unchanged]

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

§ 60-30.2-422 Notice of the Charges

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

§ 60-30.3-316 Factors to be Considered in Initiating Discipline

(a)–(b) [unchanged]

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

§ 60-30.3-322 Notice of the Charges

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

§ 60-30.2-516 Filing of the Complaint

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

§ 60-30.2-518 ~~Equal Employment Officer~~ Investigators

(a) The Human Resources Director ~~EEO~~ shall be responsible for the coordination and management of the grievance system.

(b) The Commissioner shall designate no fewer than five PSS employees ~~program specialists from PSS~~ to serve as investigators ~~counselors~~. The Legal Counsel's Office ~~EEO~~ shall establish a training program on mediation, discrimination, the PSS regulations, the standard employment contract and other topics likely to arise within the scope of grievances for the investigators ~~counselors~~. Each of the designees shall complete the course of training to qualify as an investigator ~~counselor~~.

(c) Upon receipt of a complaint, the Human Resources Director ~~EEO~~ shall immediately assign a qualified investigator ~~counselor~~ to the matter.

~~(d) If the Human Resources Director recuses themselves from a particular grievance due to a conflict of interest, the Commissioner of Education shall designate a PSS employee to coordinate the grievance. For purposes of that grievance, the designee shall fulfill the Human Resources Director's duties as outlined in this Part.~~

§ 60-30.2-520 Mediation

(a) The investigator ~~counselor~~ shall review the complaint, meet individually with the employee and supervisor, review the employee's personnel file and contract, interview co-workers and administrators, if appropriate, and do all acts necessary and proper to understand the grievance and its circumstances prior to any mediation. When he or she deems it to be more productive, the investigator ~~counselor~~ may decide to conduct the mediation without the presence of the supervisor.

(b) The investigator ~~counselor~~ may seek advice at any time from the Human Resources Office and/or Legal Counsel's Office ~~EEO~~. ~~Prior to any mediation meeting, a counselor shall confer with the EEO regarding the goals and objectives of the meeting and obtain prior approval for any proposed resolution.~~

(c) The investigator ~~counselor~~ shall set a mediation meeting for a date within fourteen days of the receipt of the complaint by the Human Resources Director ~~EEO~~ and shall notify the employee, the supervisor, and any involved PSS administrator or employee of the time and place of the meeting. A person shall be considered "involved" if it is that person's action or inaction that is the subject of the complaint.

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

§ 60-30.2-522 Report

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

Subpart E - Commissioner's Review

§ 60-30.2-524 Request for Review

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

§ 60-30.2-526 ~~EEO~~ Final Report

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

§ 60-30.2-528 Commissioner's Decision

Based on the final ~~EEO~~ report and a meeting with the employee in which the employee may present his or her grievance, the Commissioner shall review the grievance and determine an appropriate

resolution. The decision of the Commissioner shall be in writing and shall be issued within fourteen days of receiving the final ~~EEO~~ report.

§ 60-30.3-416 Filing of the Complaint

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

§ 60-30.3-418 ~~Equal Employment Officer~~ Investigators

(a) The Human Resources Director ~~EEO~~ shall be responsible for the coordination and management of the grievance system.

(b) The Commissioner shall designate no fewer than five program specialists from PSS to serve as investigators ~~counselors~~. The Legal Counsel's Office ~~EEO~~ shall establish a training program on mediation, discrimination, the PSS regulations, the standard employment contract and other topics likely to arise within the scope of grievances for the investigators ~~counselors~~. Each of the designees shall complete the course of training to qualify as an investigator ~~counselor~~.

(c) Upon receipt of a complaint, the Human Resources Director ~~EEO~~ shall immediately assign a qualified investigator ~~counselor~~ to the matter.

(d) If the Human Resources Director recuses themselves from a particular grievance due to a conflict of interest, the Commissioner of Education shall designate a PSS employee to coordinate the grievance. For purposes of that grievance, the designee shall fulfill the Human Resources Director's duties as outlined in this Part.

§ 60-30.3-420 Mediation

(a) The investigator ~~counselor~~ shall review the complaint, meet individually with the employee and supervisor, review the employee's personnel file and contract, interview co-workers and administrators, if appropriate, and do all acts necessary and proper to understand the grievance and its circumstances prior to any mediation. When he or she deems it to be more productive, the investigator ~~counselor~~ may decide to conduct the mediation without the presence of the supervisor.

(b) The investigator ~~counselor~~ may seek advice at any time from the Human Resources Office and/or Legal Counsel's Office ~~EEO~~. ~~Prior to any mediation meeting, a counselor shall confer with the EEO regarding the goals and objectives of the meeting and obtain prior approval for any proposed resolution.~~

(c) The investigator ~~counselor~~ shall set a mediation meeting for a date within fourteen days of the receipt of the complaint by the Human Resources Director ~~EEO~~ and shall notify the employee, the supervisor, and any involved PSS administrator or employee of the time and place of the meeting. A person shall be considered "involved" if it is that person's action or inaction that is the subject of the complaint.

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

§ 60-30.3-422 Report

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

Subpart E - Commissioner's Review

§ 60-30.3-424 Request for Review

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

§ 60-30.3-426 ~~EEO~~ Final Report

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

§ 60-30.3-428 Commissioner's Decision

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

§ 60-30.1-935 Confidentiality of Personnel Files

(a)–(d) [unchanged]

(e) PSS Personnel Exempt From These Requirements
The Commissioner of Education, individuals assigned to the Personnel Services Office and given prior written authorization by the Commissioner of Education, and legal counsel ~~, and the Equal Employment Opportunities Officer~~ are exempt from the requirements of this regulation and are given free access to personnel files, limited by relevant laws, rules, and regulations. Employees

have a right to review their own personnel file, absent information regarding previous reviews by PSS personnel, internal investigations, security checks, and privileged information. They must however, file a form and receive authorization pursuant to this regulation from the Commissioner.

(f)–(g) [unchanged]

§ 60-30.2-102 PSS Recruiters

(a)–(b) [unchanged]

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

§ 60-30.3-116 PSS Interviewers

(a)–(b) [unchanged]

(c) The Commissioner shall only designate those persons to be PSS interviewers who have been trained by the Human Resources Office and Legal Counsel's Office ~~Equal Employment Officer or the legal counsel~~ on the legal restrictions and requirements of the interview process. Any person who has been designated as a "PSS recruiter" for certified personnel automatically meets this requirement.

§ 60-60-505 Equal Opportunity Employment; Discrimination Prohibited

(a)–(c) [unchanged]

(d) Complaints and Investigations Involving Employees

(1) Any employee who believes that he or she is a victim of discrimination or harassment or who observes discrimination or harassment of a student or co-worker should report the matter immediately to the employee's supervisor or Head Start Director ~~and the PSS Equal Employment Opportunity (EEO) Officer~~.

(2) If the employee feels that such contact with the supervisor would be inappropriate, if the supervisor does not satisfactorily resolve the situation, or if the employee simply feels more comfortable speaking with someone other than the supervisor, the employee should contact the ~~EEO Officer for the Public School System~~ Head Start Director or PSS Human Resources Director.

(3) Any supervisor/administrator who receives a report, orally or in writing, from any employee regarding discrimination of that employee by another employee, non-employee doing business with the Head Start Program, or student must notify the ~~EEO Officer~~ Head Start Director and PSS Human Resources Director within twenty-four hours or within a reasonable time thereafter.

(4) Oral complaints of discrimination will be put in writing by the complainant or by the person who receives the complaint, and should be signed by the complainant. However, the complainant's

refusal to sign a complaint does not relieve the Head Start Program of the obligation to investigate the complaint.

(5) An employee who believes that he/she has been subjected to discrimination shall not be required to confront the alleged harasser prior to making the report.

(6) Following receipt of the report, the appropriate Head Start personnel will promptly and fully investigate the complaint and will notify the employee and the alleged harasser of the results of the investigation. Investigations will be conducted with full recognition of the rights of all parties involved.

(7) Upon receipt of the report, the ~~EEO Officer~~ PSS Human Resources Director will appoint an investigator to investigate the complaint. The investigation shall commence within forty-eight hours after such appointment.

(8) The Head Start Program will maintain the confidentiality of the complaint and the details of the investigation to the fullest extent possible.

(9) The investigator will put his/her findings in writing and will forward a copy to ~~PSS EEO Officer~~ the Head Start Director, PSS Human Resources Director, and Legal Counsel's Office within one week after concluding the investigation, or within a reasonable extension of time thereafter, for good cause shown.

(10) If the investigation substantiates the complaint, the Head Start Program will take appropriate disciplinary action against the offender(s), commensurate to the severity of the discrimination (up to and including termination of employment). If the offender is a student, disciplinary action will be taken in accordance with Board policies and regulations regarding student conduct. If the offender is not an employee of the Head Start Program, the Head Start Program will take appropriate action within the scope of its authority to eliminate and redress the discrimination.

(11) If the investigation is indeterminate, the matter will be designated as unresolved, and the investigation file will be maintained by the PSS Human Resources Director ~~EEO Officer~~ in a file separate and apart from any student or personnel file.

(12) There will be no retaliation against or adverse treatment of any employee who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination and/or harassment.

(13) The responsible administrator shall follow up regularly with the complaining employee to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(14) If the complainant is not satisfied with the resolution of the complaint, then he or she may appeal to the Commissioner pursuant to the grievance procedures set forth in § 60-60-970.

(15) Head Start employees must follow the Head Start Program's policies and procedures for complaints and investigations involving employees.

(e)–(g) [unchanged]

(h) Discipline/Consequences for Employees

(1) Any employee who engages in the discrimination or sexual harassment of anyone while on school property, or while in the employ of the Head Start Program off school property will be subject to disciplinary action, up to and including dismissal. Any employee who permits or engages in the sexual harassment of a student will be subject to disciplinary action, up to and including dismissal.

(2) Any employee who receives a complaint of discrimination or sexual harassment from a student and who does not act promptly to forward that complaint to the immediate supervisor or Head Start Director ~~and the EEO Officer~~ shall be disciplined appropriately.
(3) Any employee who retaliates, or engages in conduct that could be interpreted as retaliation, against any person who has made a complaint of discrimination or sexual harassment or who has participated in the investigation of a complaint of discrimination or sexual harassment will be subject to discipline, up to and including dismissal.
(4) Any non-employee doing business with the Head Start Program who engages in discrimination or sexual harassment, or who retaliates against any person who has made a complaint of discrimination or who has participated in the investigation of a complaint of discrimination, will be subject to discipline to the extent that the Head Start Program has control over the non-employee and his/her employer.
(5) Any employee who brings a false charge of discrimination or sexual harassment shall receive appropriate discipline. The term "false charge" means a charge brought in bad faith, that is, without the good faith belief that one has been subjected to discrimination or sexual harassment. The term "false charge" does not include a charge that was brought in good faith, but which the Head Start Program was unable to substantiate.

(i) [unchanged]

(j) Grievance Procedure
(1) Level 1: Immediate Supervisor (Informal and optional - may be bypassed by grievant)
Many problems can be solved by an informal meeting with the parties and the immediate supervisor or Head Start Director. Employees with a discrimination or sexual harassment complaint are encouraged to first discuss it with their immediate supervisor or Head Start Director with the same objective. If the individual's supervisor or Head Start Director is the person alleged to have engaged in the discrimination or sexual harassment then the grievant should skip level 1 and go directly to level 2.
(2) Level 2: Written Grievance
(i) If the complaint or issue is not resolved at level 1 or if the grievant chooses to skip level 1, the grievant may file a signed, written grievance stating:
(A) The nature of the discrimination/harassment;
(B) The remedy requested; and
(C) The date discrimination/harassment occurred.
The level 2 written grievance should be filed with the PSS Human Resources Director ~~EEO Officer~~ within fifteen days of the event or incident, or from the date the grievant could reasonably become aware of such occurrence.
(ii) The PSS Human Resources Director ~~EEO Officer~~ may appoint an investigator to investigate all written grievances. If possible, the investigator will resolve the grievance. If the parties cannot agree on a resolution, the ~~coordinator~~ investigator will prepare a written report of the investigation that shall include the following:
(A) A clear statement of the allegations of the grievance and remedy sought by the grievant.
(B) Statement of the facts as contended by each of the parties.
(C) A statement of the facts as found by the investigator and identification of evidence to support each fact.
(D) A list of all witnesses interviewed and documents reviewed during the investigation.

(E) A narrative describing attempts to resolve the grievance.
(F) The investigator's conclusion as to whether the allegations in the grievance are meritorious and recommendations.
(iii) The investigator shall consult with the PSS Human Resources Director and/or Legal Counsel's Office ~~EEO Officer~~ during the investigation and attempted resolution of the grievance.
(iv) The appointed investigator will complete the investigation and file the report within thirty days after receipt of the written grievance. The investigator shall file the report with the PSS Human Resources Director and Legal Counsel's Office ~~EEO Officer~~ and the PSS Human Resources Director ~~EEO Officer~~ will make any necessary recommendations and forward the report to the Head Start Director and Commissioner's office. The Head Start Director will notify the Head Start Policy Council of the situation and will give them updates on the investigation and findings.
(v) If the Commissioner/designee, with the concurrence from the Head Start Director and Head Start Policy Council, agrees to the recommendation of PSS Human Resources Director ~~EEO Officer~~, the recommendations will be implemented. The Commissioner/designee will inform the grievance in writing of his or her decision and any action that will be taken. A copy of the decision will be given to the Head Start Policy Council for their information and records.
(3) Level 3: Appeal to the Board and HPC
If the Commissioner rejects the recommendations of the coordinator, and/or either party is not satisfied with the recommendations from level 2, either party may make a written appeal within ten days of receiving the report of the Commissioner to the Head Start Policy Council and the Board of Education. On receipt of the written appeal, the Chairperson of the Board of Education shall appoint two Board members and the Head Start Policy Council Chairperson shall appoint three members to a hearing panel. The hearing panel shall elect a chief hearing officer who shall schedule a hearing to be held within forty-five days of the employee's request for an appeal. The date shall be set with due regard for the needs of the Head Start Program and the employee to have sufficient time to adequately prepare. A decision shall be made and reported in writing to all parties within thirty days of the hearing. The decision of the hearing panel will be final.
(4) Other Options for Grievant
At any time during this process, a grievant may file a complaint with the U.S. Department of Education, Office for Civil Rights, the Equal Employment Opportunity Commission and/or the Federal Ombudsman to the Commonwealth.

~~(k) The PSS EEO Officer will be available to answer all questions regarding the regulation in this section and its implementation.~~

§ 60-60-515 The Hiring Process

(a)–(c) [unchanged]

(d) Interviewing
(1) As stated, an interview committee shall be formed and consist of the Head Start Director, the appropriate site coordinator (if applicable), an HPC member, and a PSS HRO representative. The Commissioner of Education will authorize members of the interview committee to interview applicants for employment upon completion of training by the Human Resources Office and ~~Equal~~

~~Employment Opportunity Officer or PSS legal counsel~~ Legal Counsel's Office on the requirements and legal restrictions of the hiring process.

(e)–(h) [unchanged]

§ 60-60-640 Family and Medical Leave

The Board of Education recognizes that leaves of absence are occasionally necessary due to family or medical reasons. The PSS has adopted detailed procedures to ensure compliance with the Family and Medical Leave Act of 1993 (FMLA). As provided by PSS regulation, eligible employees are entitled to use up to twelve workweeks of unpaid leave for family and medical reasons. ~~The Board of Education has designated the EEO Officer to act as FMLA Compliance Officer. The EEO Officer will regularly evaluate the PSS FMLA compliance to ensure fair and equitable opportunities for all eligible employees.~~

(a)–(i) [unchanged]

§ 60-60-960 Sexual Harassment

(a)–(g) [unchanged]

(h) Investigation of Sexual Harassment Complaints
Any employee who believes that he or she is a victim of discrimination or harassment or who observes discrimination or harassment of a student or co-worker should follow all of the procedures set forth in § 60-60-505 starting with reporting the matter immediately to the employee's supervisor or Head Start Director and Human Resources Director ~~school principal and the PSS Equal Employment Opportunity (EEO) Officer~~ as stated § 60-60-505(d).

§ 60-60-970 Staff Dispute Resolution

(a)–(d) [unchanged]

(e) Filing of the Complaint
(1) If the employee is unable to settle the grievance by consulting his/her supervisor, a grievance action may be commenced by filing a written complaint. The complaint must specify:
(i) The identity of the aggrieved employee and the employee's work assignment,
(ii) The details of the grievance,
(iii) The corrective action desired, and
(iv) The outcome of the employee's discussion with his/her supervisor.

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

(3) ~~Equal Employment Officer~~ The Human Resources Director ~~EEO~~ shall be responsible for the coordination and management of the grievance system. The Commissioner shall designate no fewer than five PSS employees ~~administrators and program managers from Head Start Program~~ to serve as investigators ~~counselors~~. The Legal Counsel's Office ~~EEO~~ shall establish a training program on mediation, discrimination, the Head Start regulations, the standard employment contract and other topics likely to arise within the scope of grievances for the investigators ~~counselors~~. Each of designees shall complete the course of training to qualify as an investigators ~~counselors~~.

(4) Upon receipt of a complaint, the Human Resources Director ~~EEO~~ shall ~~may~~ assign a qualified investigator ~~counselor~~ to the matter.

(5) If the Human Resources Director recuses themselves from a particular grievance due to a conflict of interest, the Commissioner of Education shall designate a PSS employee to coordinate the grievance. For purposes of that grievance, the designee shall fulfill the Human Resources Director's duties as outlined in this Part.

(f) Mediation

(1) The investigator ~~EEO Officer or counselor~~ shall review the complaint, meet individually with the employee and supervisor, review the employee's personnel file and contract, interview co-workers and administrators, if appropriate, and do all acts necessary and proper to understand the grievance and its circumstances prior to any mediation. When he/she deems it to be more productive the counselor may decide to conduct the mediation without the presence of the supervisor.

(2) The investigator ~~counselor~~ may seek advice at any time from the Human Resources Office and/or Legal Counsel's Office. ~~Prior to any mediation meeting, a counselor shall confer with the EEO regarding the goals and objectives of the meeting and obtain prior approval for any proposed resolution.~~

(3) The investigator ~~EEO Officer or counselor~~ shall set a mediation meeting for a date within fourteen days of the receipt of the complaint by the Human Resources Director ~~EEO~~ and shall notify the employee, the supervisor, and any involved Head Start Program administrator or employee of the time and place of the meeting. A person shall be considered "involved" if it is that person's action or inaction that is the subject of the complaint.

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

(g) Report

The investigator ~~counselor~~ shall prepare a written report to the Human Resources Director ~~EEO~~ on whether or not an agreed disposition of the matter was reached, the factual background of the grievance, the nature of the disposition, the reasons for any failure to resolve the problem and if it was not resolved, the issues raised by the grievance and how the investigator ~~counselor~~ believes

they should be resolved. This report shall be confidential and shall not be provided to the parties or be made a part of any employee's personnel file.

(h) Commissioner's Review

(1) In the event that mediation fails to result in an agreed disposition, an employee may request that his/her grievance be reviewed by the Commissioner. The employee must make such a request in writing to the Human Resources Director ~~EEO~~ within thirty days of the mediation.

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

(3) Based on the final ~~EEO~~ report and a meeting with the employee in which the employee may present his/her grievance, the Commissioner shall review the grievance and determine an appropriate resolution. The decision of the Commissioner shall be in writing and shall be issued within fourteen days of receiving the final ~~EEO~~ report and will notify the Head Start Policy Council and Director of his/her decision.

§ 60-60-1005 Discipline and Due Process

(a)–(e) [unchanged]

(f) Initiating Discipline - Due Process

(1) Before any employee is dismissed, suspended, reduced in rank or reduced in pay, the disciplinary procedures set forth in this and the following subsections must be followed.

(2) A formal reprimand and the non-renewal of an employment contract do not require that the procedures in this and the following subsections be followed.

(3) Notice of Charges - The management official must provide written notice to the employee of the charges by citing the regulation violated, explaining the evidence against the employee and stating the proposed disciplinary action. The employee must also be informed, in writing, of the opportunity to be heard in a pre-discipline hearing. A copy of the notice shall be provided to the Commissioner and Head Start Policy Council and Director ~~and the EEO~~. ~~The management official shall not file any notice of charges without those charges being reviewed and approved first by the Equal Employment Officer (EEO).~~

(4) Pre-discipline Hearing - If requested by the employee, a hearing shall be held within ten days of delivering notice to the employee. The date set shall take into consideration how much time may be needed by the employee and Head Start Program to prepare for the pre-discipline hearing. The hearing shall be before the Commissioner/designee. The designee may not be a Deputy Commissioner whose concurrence was sought for the initiation of the adverse action. At the hearing, the employee shall have the opportunity to present his/her side of the story, to convince the Commissioner that the proposed discipline is a mistake, or that the reasons for the discipline are either not supported by the facts or are less compelling than they appear. The employee may waive this hearing or decide only to present his/her position in writing rather than in person.

(5) Commissioner's Decision - The Commissioner/ designee who conducted the pre-discipline hearing shall decide in writing within ten days of the hearing, with input from the Head Start Policy Council and Director, whether any regulation has been violated, the facts that support the finding of a violation, whether discipline is warranted and, if so, what discipline is appropriate. The decision shall state when the discipline takes effect. Only the charges contained in the notice can be the basis for any disciplinary action.

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

(7) Discipline After Decision - Once the pre-discipline decision has been rendered, the disciplinary action can take place even though a formal due process hearing is requested. The Commissioner with approval from the Head Start Policy Council has the discretion whether to postpone the discipline, whether suspension is appropriate (with or without pay) or whether to effectuate the decision prior to the formal hearing. All pre- disciplinary decisions not appealed by the employee will be subject to the approval of the Head Start Policy Council before implemented.

(g)–(k) [unchanged]

STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • E-mail: *boe.admin@cnmipss.org*

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PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS WHICH ARE AMENDMENTS TO RULES AND REGULATIONS REGARDING CHAPTER 60-30.2 PUBLIC SCHOOL SYSTEM RULES AND REGULATIONS

PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System ("PSS") finds that:

RETRACTION OF PREVIOUSLY PROPOSED CHANGES TO RULES AND REGULATIONS: The State Board of Education hereby retracts the previously proposed changes to the PSS Certification Rules and Regulations as published at page 040987-040995, Volume 40, Number 10 of the Commonwealth Register (October 28, 2018). The Board is proposing new and additional changes which incorporate the previous changes here.

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands Public School System intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The proposed amendments to PSS regulations are promulgated pursuant to the Board's authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

THE TERMS AND SUBSTANCE: The proposed amendment set forth to provide procedural guidelines for Certification and Licensure.

THE SUBJECTS AND ISSUES INVOLVED: The Proposed Regulation sets forth the regulations and procedures required for guidelines for Certification and Licensure.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on 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: All interest persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, call 670-237-3027 or via email to boe.admin@cnmipss.org within thirty (30) calendar days following the date of the publication in the Commonwealth Register of these amendments. (1 CMC § 9104(a) (2))

This regulation was approved at the State Board of Education Special Meeting of January 11, 2019.

Submitted by: _____ 02/19/19
Janice A. Tenorio, M.Ed. Date
Chairperson, State Board of Education

Received by: _____ _____
Shirley P. Camacho-Ogumoro Date
Special Assistant for Administration

Filed and
Recorded by: _____ 03.18-2019
Esther SN. Nesbitt Date
Commonwealth Registrar

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104 (a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated this 18 day of ~~February~~ March, 2019.

_____
EDWARD E. MANIBUSAN
Attorney General

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA NI MANMA'AMENDA PARA I AREKLAMENTU YAN REGULASION PUT I PÅTTI 60-30.2 NA AREKLAMENTU YAN REGULASION GI SISTEMAN ISKUELAN PUPBLIKU

I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskuelan Pupbliku ("PSS") giya Commonwealth gi Sankattan Siha na Islas Mariånas ha sodda' na:

RETRACTION NU I MA'PUS NA TUNULAIKA NI MANMAPROPONI GI AREKLAMMENTU YAN REGULASION SIHA: I Kuetpun Edukasion guini ha retract i ma'pus na tunulaika siha ni manmaproponi para i Areklamentu yan Regulasion i Settifikasion PSS ni mapupblika gi påhina 040987-040995, Baluma 40, Numiru 10 gi Rehistran Commonwealth (Oktubri 28, 2018). I Kuetpu maproproponi nuebu yan mås na tunulaika ni ingklusi i ma'pus na tunulaika guini.

I AKSION NI MA'INTENSIONA PARA U MA'ADÅPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Sisteman Iskeulan Pupbliku giya Commonwealth gi Sankattan Siha na Islas Mariånas intensiona para u adåpta kumu petmanienti i regulasion i mañechettun na Manmaproni na Regulasion siha, sigun para i maneran i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasion mu ifektibu gi hålum dies (10) dihas dispues di uttimon i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC §9105(b))

ÅTURIDÅT: I manmaproponi na amenda para i regulasion PSS siha manmacho'gui sigun gi åturidåt i Kuetpun Edukasion kumu mapribeniyi ginin i Attikulu XV gi Konstitusion i CNMI, Lai Pupbliku 6-10 yan i Åktun CNMI Administrative Procedures.

I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: I maproponi na amenda pumega mo'na i tinilaika siha para u pribeni procedural guidelines para i Settifikasion yan Licensure.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI TINEKKA SIHA: I manmaproponi na regulasion siha ha pega mo'na i regulasion yan i manera siha na nisisidåt para guidelines para i Settifikasion yan Licensure.

DIREKSION PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102 (a) (1)) yan u mapega gi hålum i kumbenienti na lugåt siha gi hålum i civic center yan hålum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i dos na lingguåhin natibu. (1 CMC § 9104(a) (1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Todu i manintiresåo na petsona siña ma'eksamina i manmaproponi na amenda yan manahålum tinigi' upiñon, pusision, pat otru na sinangan na kuntestasion ni manmaproponi na amenda guatu para i Kabesiyu, i Kuetpun Edukasion, gi P.O. Box 501370 CK, Saipan, MP 96950, pat hågan 670-237-3027 pat email para boe.admin@cnmipss.org gi hålum trenta (30) dihas gi fetchan i pupblikasion esti na nustisia ni manma'amenda siha gi hålum i Rehistran Commonwealth. (1 CMC § 9104 (a) (2)).

Esti na regulasion siha ma'aprueba ginin i Kuetpun Edukasion gi Ispisiåt na Huntan-ñiha gi Ineru 11, 2019.

Nina'hålum as: _____ 3/4/19

Janice A. Tenorio, M.Ed.
Kabesiyu, Kuetpun Edukasion

Fetcha

Rinisibi as:

Shirley Camacho-Ogumoro
Espisiåt Na Ayudånti Para I Atministrasion

Fetcha

Pine'lu yan
Ninota as:

Esther SN. Nesbitt
Rehistran Commonwealth

03.18.2019
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueba i regulasion siha ni Abugådu Heneråt ni para u macho'gui kumu fotma) yan 1 CMC § 9104(a) (3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (pupblikasion i areklamentu yan regulasion siha).

Mafetcha guini gi diha 18 gi ~~Fibreru~~ March, 2019.

EDWARD E. MANIBUSAN
Abugådu Heneråt

STATE BOARD OF EDUCATION

Commonwealth Téél Falúw kka Efáng llól Marianas – **Public School System**
PO Box 501370 Saipan, MP 96950 • Til. 670 237-3027 • E-mail: boe.admin@cnmipss.org

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IKKA REBWE LIIWELI NGÁLI ALLÉGH ME MWÓGHUTUGHUT IKKA E SSÚL NGÁLI CHAPTER 60-30.2 REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL PUBLIC SCHOOL SYSTEM

POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas Public School System ("PSS") re schuungi bwe:

BWUGHI SEFÁÁLIY POMMWOL SIIWEL KKEWE AA TOOWOW NGÁLI ALLÉGH ME MWÓGHUTUGHUT: State Board of Education rebwe bwughi sefááliy pommwol liiwel ngáli PSS Certification reel Allégh me Mwóghutughut iwe e akkatééwow reel peigh 040987-040995, Volume 40, Numuro 10 reel Commonwealth Register (Ottuubre 28, 2018. Re pommw Board reel ffél me rebwe bwal aschuulong siiwel kkewe e lo ighal.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUTUGHUT: Pommwol liiwel ngáli mwóghutughutúl PSS ebwe aronowow sángi bwángiir Board iye eyoor sángi Article XV reel CNMI Constitution, Alléghúl Toulap 6-10 me Administrative Procedures Act.

BWÁNGIL: Pommwol liiwel ngáLi mwóghutughutúl PSS ebwe arongowow sángi bwángil Board iye eyoor sángi Aticle XV reel CNMI Constitution, Alléghúl Toulap 6-10 me CNMi Administrative Procedures Act.

KKAPASAL ME AWEEWEL: Ebwe tééló mmwal pommwol liiwel kkal reel ebwe yoor lemelemil me afal ngáli Certification me Licensure.

KKAPASAL ME ÓUTOL: Ebwe tééló mmwal Pommwol Mwóghutughut ikka e ffil ngáli lemelemil me afal ngáli Certification me Licensure.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal mel llól Commonwealth Register llól tálil ffél me mwóghutughut ikka ra adóptáálil. (1 CMC § 9102(a) (1) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104 (a)(1))

REEL ISIISILONGOL KKAPAS: Schóó kka re tipáli rebwe amwuri pommwol liiwel me isiisilong ischil kkapas, position, ngáre kkapasal aweewel ngáli ngáre sángi pommwol liiwel kkal ebwe isiis ngáli Chairperson, State Board of Education, P.O. Box 501370 CK, Saipan, MP 96950, faingi 670-237-3027 ngáre via email ngáli boe.admin@cnmipss.org llól eliigh ráál mwiril aal akkatééwow arongorongol liiwel kkal me llól Commonwealth Register. (1 CMC §9104(a)(2))

Aa átirow mwóghutughut kkal igha re yéélágh State Board of Education wóól Schoow (Eneero) 11, 2019.

Isáliyalong: _____ 3/4/19
Janice A. Tenorio, M.Ed. — Ráál
Chairperson, State Board of Education

Bwughiyal: _____ _____
Shirley P. Camacho-Ogumoro — Ráál
Special Assistant ngáli Administration

Ammwelil: _____ 03-18-2019
Esther SN. Nesbitt — Ráál
Commonwealth Register

Sángi 1 CMC § 2153€ (sángi átirowal mwóghutughut bwe aa lléghló reel ffééról) me 1 CMC § 9104 (a) (3) (sángi átirowal AG) reel pommwol mwóghutughut ikka e appasch bwe aa lléghló reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow (1 CMC § 2153(f) (arongowowul allégh me mwóghutughut).

Aghikkilátiw wóól 18 ráálil Mááischigh (~~Febreero~~ March), 2019.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

§ 60-30.2-210 Effect on Employment Contract

(a) Possession of Valid Certificate: The failure of any instructor, teacher, librarian, school counselor, or school administrator to qualify to hold a valid certificate or to continue to qualify to hold a certificate during that person's contract term shall immediately render the contract of employment null and void, unless the Commissioner and the employee enter into a Memorandum of Agreement that permits the employee to earn the applicable certification within two years of the signing of the employment contract. The Memorandum of Agreement may not be extended. If certification is not completed within the two years, the employment contract shall be null and void.

(b) [unchanged]

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

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

Modified, 1 CMC § 3806(b).

History: Amdts Adopted 40 Com. Reg. 40577 (Mar. 28, 2018); Amdts Proposed 40 Com. Reg. 40542 (Jan. 28, 2018); Amdts Adopted 39 Com. Reg. 39765 (July 28, 2017); Amdts Proposed 39 Com. Reg. 39656 (May 28, 2017); Amdts Adopted 31 Com. Reg. 29534 (May 20, 2009); Amdts Proposed 31 Com. Reg. 29207 (Feb. 22, 2009); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

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

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

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

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

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

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

In codifying 40 Com. Reg. 40577, the Commission replaced Attachment 1 "Highly Qualified Teacher (HQT) Requirements and Compensation Plan" and Attachment 2 "Highly Qualified Counselor (HQC) Requirements and Compensation Plan" with Attachment 1 "Highly Qualified Teacher, School Counselor, and Librarian Requirements and Compensation Plan." The text of § 60-30.2-215 was not modified by 40 Com. Reg. 40577.

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Proposed Amendments 09.24.18

HIGHLY QUALIFIED TEACHER, SCHOOL COUNSELOR and LIBRARIAN REQUIREMENTS and COMPENSATION PLAN

Approved by State Board of Education On October 06, 2017 *Board Action No. 2017-15-11*

Degree	Requirements (Certification and Praxis)	Required Yrs of Experience	Renewable Certification	Salary	AMT INCREASE IN NEXT LEVEL	% INCREASE IN NEXT LEVEL	Classification	Pay Level/Step
	BASIC I (HQT)						**For new employees beginning 8/1/2006 or later**	
Bachelor's Degree	Basic I & Praxis II	0-4 yrs	~~NO~~ Yes	$ 33,289.35			Classroom Teacher, School Counselor, Librarian	VI/03
Bachelor's Degree	Basic I & Praxis II	5+ yrs	~~NO~~ Yes	$ 35,837.44	$ 2,548.09	7.654%	Classroom Teacher, School Counselor, Librarian	VI/05
Master's Degree	Basic I & Praxis II	0-4 yrs	~~NO~~ Yes	$ 35,837.44	$ -		Classroom Teacher, School Counselor, Librarian	VIII/03
Master's Degree	Basic I &Praxis II	5+ yrs	~~NO~~ Yes	$ 38,646.74	$ 2,809.30	7.839%	Classroom Teacher, School Counselor, Librarian	VIII/05
Doctorate Degree	Basic I & Praxis II	0-4 yrs	~~NO~~ Yes	$ 69,442.42	$ 3,306.78	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/06-IX/06
	Basic II (HQT)							
Bachelor's Degree	Basic II Certificate & Praxis II	2 to 5 yrs	~~NO~~ Yes	$ 38,646.74	-		Classroom Teacher, School Counselor, Librarian	VI/07
Master's Degree	Basic II Certificate & Praxis II	2 to 5 yrs	~~NO~~ Yes	$ 41,745.42	$ 3,098.68	8.018%	Classroom Teacher, School Counselor, Librarian	VIII/07
Doctorate Degree	Basic II Certificate & Praxis II	2 to 5 yrs	~~NO~~ Yes	$ 72,914.54	$ 3,472.12	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/07-IX/07
	Standard (HQT)							
Bachelor's Degree	Standard with or without endorsement & Praxis II	2 to 5 yrs	YES	$ 38,646.74	-		Classroom Teacher, School Counselor, Librarian	VI/07
		6 to 10 yrs	YES	$ 41,745.42	$ 3,098.68	8.018%	Classroom Teacher, School Counselor, Librarian	VI/09
		10+ yrs	YES	$ 45,163.20	$ 3,417.78	8.187%	Classroom Teacher, School Counselor, Librarian	VI/12
Master's Degree	Standard with or without endorsement & Praxis II	2 to 5 yrs	YES	$ 41,745.42	-		Classroom Teacher, School Counselor, Librarian	VIII/07
		6 to 10 yrs	YES	$ 45,163.20	$ 3,417.78	8.187%	Classroom Teacher, School Counselor, Librarian	VIII/09
		10+ yrs	YES	$ 47,001.36	$ 1,838.16	4.070%	Classroom Teacher, School Counselor, Librarian	VIII/10
Doctorate Degree	Standard with or without endorsement & Praxis II	5 to 6 yrs	YES	$ 76,560.26	$ 3,645.73	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/08-IX/08
		7 to 9 yrs	YES	$ 80,388.28	$ 3,828.01	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/09-IX/09
	Professional (HQT)						**Only received after ten (10) years of related work experience**	
Master's Degree	Professional Certificate with Endorsement & Praxis II	10 to 12 yrs	YES	$ 51,819.00	$ -	0.000%	Classroom Teacher, School Counselor, Librarian	VIII/12
Master's Degree	Professional Certificate with Endorsement & Praxis II	13 to 14 yrs	YES	$ 57,130.45	$ 2,590.95	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/03-IX/03
Master's Degree	Professional Certificate with Endorsement & Praxis II	15 to 16 yrs	YES	$ 62,986.32	$ 2,856.52	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/04-IX/04
Master's Degree	Professional Certificate with Endorsement & Praxis II	17+ yrs	YES	$ 66,135.63	$ 3,149.32	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/05-IX/05
Doctorate Degree	Professional Certificate with Endorsement & Praxis II	10 to 12 yrs	YES	$ 84,407.69	$ 4,019.41	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/10- IX/10
Doctorate Degree	Professional Certificate with Endorsement & Praxis II	13 to 14 yrs	YES	$ 88,628.07	$ 4,220.38	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/11-IX/11
Doctorate Degree	Professional Certificate with Endorsement & Praxis II	15+	YES	$ 93,059.48	$ 4,431.40	5.00%	Classroom Teacher, School Counselor, Librarian	VIII/12-IX/12

§ 60-30.2-220 Eligibility for All Five Certifications

(a) Criminal History: The applicant must be free from any felony conviction or any crime involving moral turpitude, or indicating an unfitness to teach whether a felony or a misdemeanor. A "felony" shall mean any criminal offense punishable by one or more years of imprisonment. A "misdemeanor" shall mean any criminal offense punishable by less than one year of imprisonment. Applicants applying from within the CNMI or the United States shall submit to an FBI background check during the processing of their initial application. Foreign employees, or those whose residence is outside of the United States, shall provide a criminal clearance from the federal or equivalent agency in their respective country.

(b) No Disciplinary Sanctions: The applicant must not have had a suspension or revocation of his/her certificate or license by any other state or national agency.

(c) No Physical or Mental Disability Preventing Service: ~~The applicant must not possess a physical or mental disability that would prevent the applicant from safely and effectively performing job-related functions or that poses a significant risk of substantial harm to the health or safety of students, co-workers, or others and such risk that cannot be eliminated or reduced by reasonable accommodation.~~ The PSS shall provide reasonable accommodations to any employee who has a physical or mental disability. However, an applicant whose physical or mental disability cannot be reasonably accommodated, and which would prevent the applicant from safely and effectively performing job-related functions or which poses a significant risk of substantial harm to the health or safety of students, co-workers, or others, may be denied employment.

(d) Core Knowledge Examination: All certification applicants, excluding professionally licensed related services providers, must take and pass PRAXIS exams starting August 1, 2006. All Basic I, Basic II, Standard and Professional certification applications must take and pass PRAXIS II.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 40 Com. Reg. 40579 (Mar. 28, 2018); Amdts Proposed 40 Com. Reg. 40529 (Jan. 28, 2018); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24,2006); Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22,2004).

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

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

The 2006 amendments modified subsection (d).

In codifying 40 Com. Reg. 40575 (Mar. 28, 2018), the Commission inserted the attached tables at § 60-30.2-225.

§ 60-30.2-225 Types of Certification and Requirements

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

(1) Completed two years of study at an institution of higher education; or

(2) Obtained an associate's (or higher) degree; or

(3) Met rigorous standard of quality and be able to demonstrate, through a formal State or local academic assessment, knowledge of and the ability to assist in instructing, reading, writing, and mathematics (or as appropriate, reading readiness, writing readiness, and mathematics readiness).

(b) The Commonwealth shall have five general levels of certification for professionals in the field of education: Basic I, Specialized, Basic II, Standard, and Professional.

(1) **Basic I Certificate**

A Basic I Certificate is a two-year certificate for teachers, school librarians, school counselors, school administrators, and instructors. ~~related service providers, instructors, and school administrators.~~

(i) Eligibility Requirements

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

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

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

1. Complete and signed certification application form
2. ~~Two~~ One (1) passport size photo~~s~~
3. Official college transcripts
4. Teaching certificate (if any)
5. Receipt of payment from the CNMI PSS Treasurer for certification processing fee
6. FBI fingerprint submission and current police clearance (valid for one (1) year)
7. (April 7, 2018): Test result showing that an applicant has taken and passed the PRAXIS II exam, excluding professionally licensed related services providers. Effective May 26, 2010: Alternatively, proof of passage of a rigorous content knowledge test administered by an individual jurisdiction deemed substantially equivalent to passing the PRAXIS I and II exams (as determined by the Board of Education through their representative, the Coordinator of Certification and Licensure) shall satisfy this requirement for an applicant's initial two-year Basic I certification. Any renewal of certification or subsequent application for Basic I certification shall require that the applicant show that they have passed the PRAXIS I and II exams.
8. Current recommendation letter from a supervisor or principal: Upon renewal of the Basic I Certificate, the applicant must submit a recommendation from his/her principal or supervisor,

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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 I Certificate.

Education; Certification Course Requirements

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

(ii) Term

The Basic I Certificate for teachers, school librarians, school counselors, and instructors is invalid after its expiration date and shall ~~not be reissued~~ be renewable. The Basic I Certificate may be renewed an unlimited number of times repeating the eligibility requirements every two (2) years with proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses. The Basic I Certificate for school administrators is invalid after its expiration date and shall not be reissued. Requirements must be satisfied to upgrade to the next certification level.

(2) Specialized Certificate

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

(i) Eligibility Requirements

(A) Meet eligibility requirements for Basic I Instructor Certificate.

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

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

(D) Current police clearance (valid for one (1) year)

(E) Upon submission of initial application for a Specialized Certificate, applicant must submit proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(F) Current recommendation letter: Upon submission of initial application for a Specialized Certificate and upon renewal of the Specialized Certificate, 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 Specialized Certificate.

(ii) Education; Certification Course Requirements

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

(A) Specialized Certification in Bilingual Program

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

1. Computer technology
2. Instruction in teaching linguistically diverse students
3. Instruction in Chamorro/Carolinian language arts
4. Instruction in planning and assessment for diverse classroom
5. Instruction for students with disabilities
6. Instruction in lesson planning and classroom management
7. Chamorro or Carolinian orthography.

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

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

(C) Specialized Certificate in Vocational Education

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

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

(D) Term

Instructors may renew the Specialized Certificate an unlimited number of times repeating the eligibility requirements every two (2) years with proof of completion of ~~60~~ one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(3) **Basic II Certificate**

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

(i) Eligibility Requirements

(A) Applicant must meet eligibility requirements for Basic I Certificate.

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

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

(D) Current police clearance (valid for one (1) year)

(E) Upon submission of initial application for a Basic II Certificate, applicant must submit proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

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

(ii) Education; Certification Course Requirements

(A) Prior to the expiration date of the Basic I Certificate and before issuance of the Basic II Certificate, any teacher or librarian applying for the Basic II Certificate ~~must have satisfactorily completed and submitted an official transcript of the following course requirements or any identified equivalent courses as accepted by PSS~~ must submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

1. Multi-cultural education/teaching linguistically diverse students
2. Teaching reading

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3. Inclusive practice for students with learning disability
4. Instructional strategies/classroom management
5. Internship or mentoring program
6. Computer technology.

(B) Prior to the expiration date of the Basic I Certificate, any school counselor applying for the Basic II Certificate must ~~have satisfactorily completed and submitted an official transcript of the following course requirements or identified equivalent as accepted by PSS. , before the expiration date of the basic I certificate and before the issuance of the basic II certificate~~ submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

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

(iii) Term.

~~The Basic II Certificate shall be issued and valid for a period of three years.~~ The Basic II Certificate is invalid after its expiration date and shall be renewable. ~~by the issuing authority if the employee shows proof of eligibility for the basic II certificate.~~ The Basic II Certificate may be renewed an unlimited number of times repeating the eligibility requirements every three (3) years with proof of completion of one hundred eighty (180) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(4) **Standard Certificate**

A Standard Certificate is a five-year certificate for teachers, school librarians, school counselors, and related service providers.

(i) Eligibility Requirements

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

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

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

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

(E) A copy of receipt from the CNMI PSS Treasurer for certification processing fee. ~~in the amount required by the CNMI Board of Education.~~

(F) Current police clearance (valid for one (1) year)

(G)Upon submission of initial application for a Standard Certificate, applicant must submit proof of completion of one hundred eighty (180) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(ii) Education; Certification Course Requirements

(A) Standard Certificate with Elementary Education Endorsement

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

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

(B) Standard Certificate with Special Education Endorsement

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

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

(C) Standard Certification with Early Childhood Special Education Endorsement

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

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

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

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

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

(E) Standard Certificate with Secondary Education Endorsement

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

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

(F) Standard Certificate with Library Science Endorsement

Librarians providing library services in elementary or secondary schools must complete the following courses or equivalent.

1. Instructional technology
2. NMI history/pacific institute (NMI)
3. School library administration
4. Selection, evaluation and access of school library material
5. Children literature or young adult literature
6. School library material and the curriculum
7. Technology and the school library.

(G) Standard Certificate with Bilingual Education Endorsement

(1) Teachers teaching bilingual program in the elementary or secondary schools must complete the following courses or equivalent.

i. Instructional technology
ii. NMI history/pacific institute (NMI)
iii. Reading diagnostic
iv. Evaluation and assessment in bilingual
v. Historical and philosophical foundations of bilingual
vi. First and second language acquisition
vii. Chamorro or Carolinian orthography.

(2) Any teacher who has obtained or completed the course requirements of the specialized certificate in bilingual would only need to take the following courses:

i. Instructional technology
ii. NMI history/pacific institute (NMI)
iii. Reading diagnostic.

~~(H) Standard Certificate for Special Education Related Service Provider Endorsement~~

~~Related services providers must obtain professional licensure and/or certification within the area of discipline or service and fulfill continuing education credits to maintain and renew their respective licenses. A copy of the professional licensure must be submitted to the Human Resources Office. The provider must complete the following courses or equivalent before the expiration date of the basic I certificate.~~

~~1. Instructional technology~~
~~2. NMI history/pacific institute (NMI)~~
~~3. Teaching linguistically diverse students.~~

(I) Standard Certificate with School Counseling Endorsement

School counselors providing guidance and counseling services in the elementary and secondary schools must complete the following course requirements or equivalent.

1. NMI history/pacific institute
2. Dynamics of individual behavior
3. Individual and group assessment
4. Group counseling

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5. Prevention and outreach
6. Career counseling and placement
7. Instructional technology.

(iii) Term

Teachers, school librarians, school counselors, and related service providers may renew the Standard Certificate ~~with endorsement~~ every five (5) years with submittal of the eligibility requirements. In addition, there must be proof of completion of ~~60~~ three hundred (300) hours ~~per-year~~ of seminars, workshops, or in- service training as sanctioned by PSS and/or equivalent university/college courses.

*So in original.

(5) Professional Certificate

~~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 admin istrators, the professional certificate is a four year certificate.~~

(i) A Professional certificate is a ten-year certificate for qualified teachers, school librarians, and school counselors. Upon completion of a Standard Certificate and ten (10) cumulative years of instructional experience, an applicant may pursue the Professional Certificate.

(ii) A Professional certificate is a ten-year certificate for qualified school administrators. Upon completion of a Basic I Certificate and ten (10) cumulative years of instructional experience and/or school administrator experience, an applicant may pursue the Professional Certificate.

(iii) Eligibility Requirements

~~(A)~~ Meet the eligibility requirements of a Standard Certificate. ~~with endorsement.~~

~~(B) A signed application form.~~ Complete and signed certification application form

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

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

(D) A copy of receipt from the CNMI PSS Treasurer ~~in the amount required by the CNMI Board of Education.~~ for certification processing fee.

(F) Current police clearance (valid for one (1) year)

(G) (a) For teachers, school counselors, and school librarians: Upon submission of initial application for a Professional Certificate, applicant must submit proof of completion of three hundred (300) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(b) For school administrators: Upon submission of initial application for a Professional Certificate, applicant must submit proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(iv) Education; Certification Course Requirements

(A) The applicant must provide a certified copy of the transcript of courses showing

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satisfactory completion of a master or doctorate degree in the field of education; or a masters or doctorate degree in a specialized field area. The specialized field areas shall include any of the following for classroom teachers, librarians, school counselors, and school administrators:

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

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

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

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

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

(v) Term

Teachers, school librarians, school counselors, and school administrators ~~and related service providers~~ may renew the Professional Certificate every ten (10) years with submittal of the eligibility requirements. In addition, there must be proof of completion of six hundred (600) hours of seminars, workshops, or in- service training as sanctioned by PSS and/or equivalent university/college courses. ~~School administrators may renew the professional certificate every four years with submittal of the eligibility requirements. In addition, all qualified applicants must provide proof of completion of 60 hours (120 hours for administrators) per year of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.~~

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

History: Amdts Adopted 40 Com. Reg. 40575, 40579 (Mar. 28, 2018); Amdts Proposed 40 Com. Reg. 40549, 40529 (Jan. 28, 2018); Amdts Adopted 36 Com. Reg. 35893 (Dec. 28, 2014); Amdts Proposed 32 Com. Reg. 35641 (Oct. 28, 2014); Amdts Adopted 32 Com. Reg. 30635 (Sept. 22, 2010); Amdts Proposed 32 Com. Reg. 30566 (July 15, 2010); Amdts Emergency 32 Com. Reg. 30422 (June 25, 2010)(effective from June 25, 2010); Amdts Adopted 28 Com. Reg. 26282 (Oct. 30, 2006); Amdts Proposed 28 Com. Reg. 26104 (Aug. 24, 2006); Amdts Adopted 28 Com. Reg. 26130 (Aug. 24, 2006); Amdts Proposed 28 Com. Reg. 25606 (Apr. 17, 2006); Amdts Adopted 27 Com. Reg. 24957 (Sept. 22, 2005); Amdts Proposed 27 Com. Reg. 24670 (July 20, 2005); Amdts Adopted 27 Com. Reg. 24774

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(Aug. 22, 2005); Amdts Proposed 27 Com. Reg. 24615 (June 20, 2005); Amdts Proposed Amdts Adopted 26 Com. Reg. 23026** (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23063 (Aug. 26, 2004); Amdts Adopted 26 Com. Reg. 22194 (Mar. 23, 2004); Amdts Proposed 26 Com. Reg. 21670 (Jan. 22, 2004).

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

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

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

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

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

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

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

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

In codifying 40 Com. Reg. 40575, the Commission inserted the tables and numbered each as an Attachment (1–5). In codifying 40 Com. Reg. 40579, the Commission calculated the effective date of April 7, 2018.

(c) The Commonwealth shall have three alternative levels of certification for professionals in the field of education: Instructor I, Instructor II, and Instructor III.

(1) **Instructor I Certificate**

An Instructor I Certificate is a two-year certificate for instructors in the following programs: Chamorro and Carolinian Language & Heritage Studies (CCLHS), Career Technical Education (CTE), Early Childhood Education Infants & Toddlers (ECE-IT), and Early Childhood Education Pre-Kindergarten (ECE-PK).

(i) Eligibility Requirements

(A) CCLHS Instructor I

1. Complete and signed certification application form
2. FBI Fingerprint Submission and current police clearance (valid for one (1) year)
3. Receipt from the CNMI PSS Treasurer for certification processing fee
4. High school diploma or equivalent, three to twenty-four (3-24) college credits, and at least two (2) years of related work experience or; High school diploma or equivalent, certification from PSS Board appointed Advisory Panel, and at least three (3) years of related content experience

or; High school diploma or equivalent, certification from PSS Board appointed Advisory Panel, and professional portfolio in Chamorro or Carolinian content.

5. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor I Certificate, 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 Instructor I Certificate.

(B) CTE Instructor I

1. Complete and signed certification application form
2. FBI Fingerprint Submission and current police clearance (valid for one (1) year)
3. Receipt from the CNMI PSS Treasurer for certification processing fee
4. High school diploma or equivalent, three to twenty-four (3-24) college credits, and at least two (2) years of related work experience.
5. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor I Certificate, 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 Instructor I Certificate.

(C) ECE-IT Instructor I

1. Complete and signed certification application form
2. FBI Fingerprint Submission and current police clearance (valid for one (1) year)
3. Receipt from the CNMI PSS Treasurer for certification processing fee
4. High school diploma or equivalent, twenty-four (24) college credits, and one (1) year of related work experience.
5. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor I Certificate, 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 Instructor I Certificate.

(D) ECE-PK Instructor I

1. Complete and signed certification application form
2. FBI Fingerprint Submission and current police clearance (valid for one (1) year)
3. Receipt from the CNMI PSS Treasurer for certification processing fee
4. High school diploma or equivalent, twenty-four (24) college credits, and proof of passing Praxis II in Early Childhood or; High school diploma or equivalent, proof of passing Praxis I, and at least two (2) years of Teacher Aide experience.
5. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor I Certificate, 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 Instructor I Certificate.

(ii) Term

The Instructor I Certificate is invalid after its expiration date and shall be renewable. The Instructor I Certificate may be renewed an unlimited number of times repeating the eligibility requirements every two (2) years with proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(2) Instructor II

An Instructor II Certificate is a four-year certificate for instructors in the following programs:

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Chamorro and Carolinian Language & Heritage Studies (CCLHS), Career Technical Education (CTE). Early Childhood Education Infants & Toddlers (ECE-IT), and Early Childhood Education Pre-Kindergarten (ECE-PK).

(i) Eligibility Requirements

(A) CCLHS Instructor II

1. Meet the eligibility requirements of an Instructor I Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. High school diploma or equivalent, five (5) years of related teaching experience, and Chamorro or Carolinian Content Knowledge Test (CCLHS Test) or; AA degree, three (3) years of teaching experience, and Chamorro or Carolinian Content Knowledge Test (CCLHS Test).
6. Before the expiration date of the Instructor I Certificate and before the issuance of the Instructor II Certificate, any applicant applying for the Instructor II Certificate must submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

a. Introduction to Teaching
b. Classroom Management
c. Instruction in Planning and Assessment for Diverse Classrooms
d. Multicultural Education/ Teaching Linguistically Diverse Students
e. Chamorro or Carolinian Orthography
f. Instructional Technology
g. First and Second Language Acquisition
h. Inclusive Practices for Students with Special Needs

7. Upon submission of initial application for an Instructor II Certificate, applicant must submit proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
8. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor II Certificate, 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 Instructor II Certificate.

(B) CTE Instructor II

1. Meet the eligibility requirements of an Instructor I Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. High school diploma or equivalent and four (4) years of teaching experience or; AA degree and two (2) years of teaching experience.
6. Before the expiration date of the Instructor I Certificate and before the issuance of the Instructor II Certificate, any applicant applying for the Instructor II Certificate must submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

a. Introduction to Teaching
b. Classroom Management
c. Instruction in Planning and Assessment for Diverse Classrooms
d. Multicultural Education/ Teaching Linguistically Diverse Students
e. Instructional Technology
f. Instructional Strategies

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g. Inclusive Practices for Students with Special Needs

7. Upon submission of initial application for an Instructor II Certificate, applicant must submit proof of completion of one hundred twenty (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

8. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor II Certificate, 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 Instructor II Certificate.

(C) ECE-IT Instructor II

1. Meet the eligibility requirements of an Instructor I Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. AA degree, two (2) years of related work experience, and proof of passing Praxis II in Early Childhood or; Possess Infant Toddler Child Development Associates (CDA) credential or coursework equivalent, one (1) year of related work experience, and proof of passing Praxis II in Early Childhood.
6. Before the expiration date of the Instructor I Certificate and before the issuance of the Instructor II Certificate, any applicant applying for the Instructor II Certificate must submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

a. Managing health and safety
b. Toddlers and Preschoolers
c. Infant in child care
d. Toddler in child care
e. Child Development and guidance
f. Parents and child care
g. The Early Childhood Professional
h. Observing, recording and assessing children's development
i. Principles of child development and learning

*Coursework equivalent to a major relating to early childhood education includes but is not limited to course that focus on child development, early childhood education and curriculum, early childhood teaching and assessment, psychology, family development, health and physical development, mathematics, science, and children's literature. Such courses may be offered in various departments such as Education, Home Economics, Music, Art, Library Science, Physical Education and Recreation, Psychology, Family studies, and others.

7. Upon submission of initial application for an Instructor II Certificate, applicant must submit proof of completion of one hundred (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

8. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor II Certificate, 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 Instructor II Certificate.

(D) ECE-PK Instructor II

1. Meet the eligibility requirements of an Instructor I Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)

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4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. AA degree, two (2) years of related work experience, and proof of passing Praxis II in Early Childhood
6. Before the expiration date of the Instructor I Certificate and before the issuance of the Instructor II Certificate, any applicant applying for the Instructor II Certificate must submit an official transcript showing satisfactory completion of the required courses or equivalent, or a certificate of completion of the following course requirements:

a. Introduction to Teaching
b. Classroom Management
c. Instruction in Planning and Assessment for Diverse Classrooms
d. Multicultural Education/ Teaching Linguistically Diverse Students
e. Instructional Technology
f. Instructional Strategies
g. Inclusive Practices for Students with Special Needs

*Coursework equivalent to a major relating to early childhood education includes but is not limited to course that focus on child development, early childhood education and curriculum, early childhood teaching and assessment, psychology, family development, health and physical development, mathematics, science, and children's literature. Such courses may be offered in various departments such as Education, Home Economics, Music, Art, Library Science, Physical Education and Recreation, Psychology, Family studies, and others.

7. Upon submission of initial application for an Instructor II Certificate, applicant must submit proof of completion of one hundred (120) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
8. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor II Certificate, 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 Instructor II Certificate.

Term

The Instructor II Certificate is invalid after its expiration date and shall be renewable. The Instructor II certificate may be renewed an unlimited number of times repeating the eligibility requirements every two years with proof of completion of two hundred forty (240) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

(3) Instructor III

An Instructor III Certificate is a six-year certificate for instructors in the following programs: Chamorro and Carolinian Language & Heritage Studies (CCLHS), Career Technical Education (CTE), Early Childhood Education Infants & Toddlers (ECE-IT), and Early Childhood Education Pre-Kindergarten (ECE-PK).

(i) Eligibility Requirements

(A) CCLHS Instructor III

1. Meet the eligibility requirements of an Instructor II Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. Bachelor's degree and six (6) years of relevant teaching experience
6. Upon submission of initial application for an Instructor III Certificate, applicant must submit proof of completion of two hundred forty (240) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

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7. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor III Certificate, 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 Instructor III Certificate.

(B) CTE Instructor III

1. Meet the eligibility requirements of an Instructor II Certificate
2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. Bachelor's degree and six (6) years of relevant teaching experience or; State/National Industry certification related to and aligned with the CTE content, verified by original or notarized copy, and six (6) years of relevant teaching experience or; Ten (10) years of verifiable industry experience and/or teaching experience related to and aligned with the CTE content.
6. Upon submission of initial application for an Instructor III Certificate, applicant must submit proof of completion of two hundred forty (240) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
7. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor III Certificate, 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 Instructor III Certificate.

(C) ECE-IT Instructor III

1. Meet the eligibility requirements of an Instructor II Certificate

*According to the Head Start Performance Standard 1302.91(e)(1) EHS center-based teachers qualification requirement should have a minimum of a CDA credential or comparable credential, and have trained or have equivalent coursework in (ECE) with a focus on infant and toddler development.

2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee
5. Bachelor's degree and six (6) years of relevant teaching experience.
6. Upon submission of initial application for an Instructor III Certificate, applicant must submit proof of completion of two hundred forty (240) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
8. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor III Certificate, 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 Instructor III Certificate.

(D) ECE-PK Instructor III

1. Meet the eligibility requirements of an Instructor II Certificate

*According to the Head Start Performance Standard 1302.91(e)(2)(i)(ii) 50% Head Start teachers nationwide must have a BA degree in child development, ECE or equivalent coursework. That all Head Start center based teachers have at least an AA or BA degree in child development or ECE, equivalent course work or meeting the requirement section of Head Start Act 648(a)(3)(B).

2. Complete and signed certification application form
3. Current police clearance (valid for one (1) year)
4. Receipt from the CNMI PSS Treasurer for certification processing fee

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5. Bachelor's degree and six (6) years of relevant teaching experience.
6. Upon submission of initial application for an Instructor III Certificate, applicant must submit proof of completion of two hundred forty (240) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.
7. Current recommendation letter from a supervisor or principal: Upon renewal of the Instructor III Certificate, 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 Instructor III Certificate.

(ii) Term

The Instructor III Certificate is invalid after its expiration date and shall be renewable. The Instructor III Certificate may be renewed an unlimited number of times repeating the eligibility requirements every six (6) years with proof of completion of three hundred sixty (360) hours of seminars, workshops, or in-service training as sanctioned by PSS and/or equivalent university/college courses.

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*REMOVE CHART FROM REGULATIONS

~~Attachment 1 – Certification for Classroom Teacher~~

Certification for Classroom Teacher Approved By State Board of Education Board Action No. 2017-15-011 on October 05, 2017			
Basic I	*Basic II*	*Standard*	*Professional*
Valid for two (2) years Renewable upon supervisor recommendation	Valid for three (3) years Renewable	Valid for five (5) years Renewable	Valid for ten (10) years Renewable
• Bachelor's Degree or higher • Proof of Passing Praxis II	• Bachelor's Degree or higher • Proof of Passing Praxis II	• Bachelor's Degree or higher • Proof of Passing Praxis II • Met Basic II Requirement	• Master's Degree or higher • Proof of Passing Praxis II
	Proof of completion of 80 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses	Proof of completion of 80 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses	Proof of completion of 80 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses
	Recommendation Letter from Supervisor/Principal	Recommendation Letter from Supervisor/Principal	Recommendation Letter from Supervisor/Principal
	Met Required Courses	Met Required Courses	Met Required Courses

The proposed certification to remove PRAXIS I requirement includes Classroom Teachers, School Counselors, Librarians, School Administrators, Related Service Providers, Instructors and Teacher Aides.

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~~**Attachment 2 – Alternative Certification for Chamorro and Carolinian Langauge and Heritage Studies (CCLHS) Instructor**~~

Alternative Certification for Chamorro and Carolinian Language and Heritage Studies (CCLHS) Instructor) Approved By State Board of Education Board Action No.2017-15-011 on October 06, 2017		
Instructor I	***Instructor II***	***Instructor III***
Valid for **two (2) years** Renewable upon supervisor recommendation	Valid for **four (4) years** Renewable	Valid for **six (6) years** Renewable
• High School Diploma or Equivalent • 3-24 College Credits • At least 2 years work related experience	• High School plus 5 years related teaching experience **AND** Chamorro or Carolinian Content Knowledge Test (*CCLHS*) **OR** • AA Degree • 3+ years teaching experience • CCLHS Content Knowledge Test • Met Instructor I Requirement	• Bachelor's Degree • 6+ years relevant teaching experience
OR • High School Diploma or Equivalent • Certification from PSS Board appointed Advisory Panel • At least 3 years related content experience	Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses	Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses
OR • High School Diploma or Equivalent • Certification from PSS Board appointed Advisory Panel • Professional Portfolio in Chamorro or Carolinian Content	**Met Required Courses in:** *Introduction to Teaching* *Classroom Management* *Instruction in Planning and Assessment for Diverse Classrooms* *Multicultural Education* *Chamorro or Carolinian Orthography* *Instructional Technology* *First and Second Language Acquisition* *Inclusive Practices for Students with Special needs* *Instruction in Teaching Linguistically Diverse Students*	

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~~Attachment 3 – Alternative Certification for Career Technical Education (CTE) Instructor~~

Alternative Certification for Career Technical Education (CTE) Instructor Approved By State Board of Education Board Action No. 2017-15-011 on October 06, 2017		
Instructor I	***Instructor II***	***Instructor III***
Valid for two (2) years Renewable upon supervisor recommendation	Valid for four (4) years Renewable	Valid for six (6) years Renewable
• High School Diploma or Equivalent • 3-24 College Credits • At least 2 years work related experience	• High School Diploma or Equivalent • 4+ years teaching experience • Met Instructor I Requirements OR • AA Degree • 2+ years teaching experience • Met Instructor I Requirements	• Bachelor's Degree • 6+ years relevant teaching experience OR •State/National Industry certification related to and aligned with the CTE content, verified by original or notarized copy •6+ years relevant teaching experience OR • 10+ years of verifiable industry experience and/or teaching experience related to and aligned with the CTE content
	Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses **Met Required Courses in:** *Introduction to Teaching* *Classroom Management* *Instruction in Planning and Assessment for Diverse Classrooms* *Multicultural Education* *Instructional Technology* *Instructional Strategies* *Inclusive Practices for Students with Special needs*	Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses

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~~**Attachment 4 – Alternative Certification for Early Childhood Infants and Toddlers Instructor**~~

Alternative Certification for Early Childhood Infants and Toddlers Instructor

Approved By State Board of Education Board Action No. 2017-15-011 on October 06, 2017

Instructor I	*Instructor II*	*Instructor III*
Valid for **two (2) years** Renewable upon supervisor recommendation	Valid for **four (4) years** Renewable	Valid for **six (6) years** Renewable
-High School or equivalent -+ 24 college credits -1 year related experience	• AA Degree • 2+ years related work experience • Possess Infant Toddler Child Development Associates (CDA) credential or coursework equivalent • Praxis II Early Childhood	• Bachelor's Degree • 6+ years relevant teaching experience • Met Instructor II Requirement
	• Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses	• Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses
	Met Required Courses in: *Introduction to Teaching* *Classroom Management* *Instruction in Planning and Assessment for Diverse Classrooms* *Multicultural Education* *Instructional Technology* *Instructional Strategies* *Inclusive Practices for Students with Special needs*	• Recommendation from a supervisor
	**Coursework equivalent to a major relating to early childhood education includes but is not limited to courses that focus on child development, early childhood education and curriculum, early childhood teaching and assessment, psychology, family development, health and physical development, mathematics, science, and children's literature. Such courses may be offered in various departments such as Education, Home Economics, Music, Art, Library Science, Physical Education and Recreation, Psychology, Family Studies, and others.*	*According to the Head Start Performance Standard 1302.91(e)(1) EHS center-based teachers qualification requirement should have a minimum of a CDA credential or comparable credential, and have trained or have equivalent coursework in ECE with a focus on infant and toddler development.*

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~~Attachment 5 – Alternative Certification for Early Childhood Pre-Kindergarten Instructor~~

Alternative Certification for Early Childhood Pre-Kindergarten Instructor Approved By State Board of Education Board Action No. 2017-15-011 on October 06, 2017		
Instructor I	***Instructor II***	***Instructor III***
Valid for two (2) years Renewable upon supervisor recommendation	Valid for four (4) years Renewable	Valid for six (6) years Renewable
• High School or equivalent • 24+ college credits • Praxis II: Early Childhood OR	• AA Degree • 2+ years related work experience • Praxis II Early Childhood	• Bachelor's Degree • 6+ years relevant teaching experience • Met Instructor II Requirement
• High School • Praxis I • At least 2 years Teacher Aide experience	• Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses Met Required Courses in: *Introduction to Teaching* *Classroom Management* *Instruction in Planning and Assessment for Diverse Classrooms* *Multicultural Education* *Instructional Technology* *Instructional Strategies* *Inclusive Practices for Students with Special needs* ***Coursework equivalent to a major relating to early childhood education includes but is not limited to courses that focus on child development, early childhood education and curriculum, early childhood teaching and assessment, psychology, family development, health and physical development, mathematics, science, and children's literature. Such courses may be offered in various departments such as Education, Home Economics, Music, Art, Library Science, Physical Education and Recreation, Psychology, Family Studies, and others.*	• Proof of completion of 60 hours per year of seminars, workshops, or in-service training as sanctioned by PSS and or equivalent university or college courses • Recommendation from a supervisor *According to the Head Start Performance Standard 1302.91(e)(2)(i)(ii) 50% Head Start teachers nationwide must have a BA degree in child development, ECE or equivalent coursework. That all Head Start center based teachers have at least an AA or BA degree in child development or ECE, equivalent course work or meeting the requirement section of Head Start Act 648(a)(3)(B).*

§ 60-30.2-230 Burden of Proof

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

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

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

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

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

§ 60-30.2-235 Renewal or Re-application

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

Modified, 1 CMC § 3806(d), (f).

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

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

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

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

§ 60-30.2-240 Certification Decision

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

(b) The Certification Officer shall render a decision on an application for a Specialized, Basic I, Basic II, Instructor I, Instructor II, Instructor III, Standard, ~~with endorsement~~ or Professional certificate within thirty calendar days of receiving a completed application. The employee/applicant will be notified and the decision shall take effect immediately.

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

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

Modified, 1 CMC § 3806(e), (f).

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

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

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

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

§ 60-30.2-245 Revocation and Suspension of Certificates

(a) Grounds for Revocation and Suspension
The ~~Commissioner of Education~~ Certification Officer shall have the authority to suspend or revoke any certificate, whether Basic I, Specialized, Basic II, Instructor I, Instructor II, Instructor III, Standard, ~~with endorsement~~ or Professional upon receipt of evidence that suspension or revocation is necessary.

(b) Mandatory Revocation or Suspension
The ~~Commissioner or designee~~ Certification Officer must revoke any certificate when the holder has committed a material deception or fraud on his/her application for employment with the Public School System or on his/her application for certification, or has been convicted of any felony indicating an unfitness to teach or a crime of moral turpitude. These offenses include but are not limited to:
(1) Violent felonies in which an individual threatens to cause, attempts to cause or causes serious bodily injury;
(2) Sexually violent offenses as defined by CNMI law;
(3) Criminal sex offense against a minor as defined by CNMI law;
(4) Child abuse or neglect as defined by CNMI law or similar offenses in other jurisdictions;
(5) Violations of the CNMI Minor Children Firearms Control Act or similar offenses in other jurisdictions;
(6) Distribution to persons under 18 as defined by CNMI law or similar offenses in other jurisdictions;
(7) Criminal histories may be evaluated based on the nature and severity of the incident; the identity of the victim; the length of time since the incident; whether any specific pattern of criminal behavior exists; and specific efforts the individual has made towards rehabilitation.

(c) Grounds for Discretionary Action
The ~~Commissioner of Education~~ Certification Officer, in consultation with the Commissioner of Education, may suspend or revoke a certificate, if appropriate, upon the following grounds:
(1) Immoral conduct;
(2) Unprofessional conduct;
(3) Incompetence;
(4) Defiance of and refusal to obey the policies, rules, regulations and laws governing the duties of PSS certified personnel; and
(5) Substantial evidence of the commission (evidence of conviction not necessary) of a crime of moral turpitude or a felony indicating an unfitness to teach.

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

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(A) Citing any regulation violated, or any misconduct of the employee;

(B) Explaining the evidence against the employee;

(C) Stating the proposed sanction; and

(D) Informing the employee of the opportunity for a formal hearing.

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

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

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

(e) Interim Suspension

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

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

(f) Opportunity for Formal Hearing

The employee/applicant shall be provided with an opportunity to have a formal hearing regarding any denial, suspension or revocation of a certificate. The hearing will be held before the Board of Education's standing committee on Fiscal, Personnel & Administration ("FPA") and the majority of ~~Board members~~ the FPA Committee at the hearing will make any suspension decision. The employee/applicant must request a formal hearing in writing within ten days of the receipt of his/her complaint or notice of the denial of certificate. The request shall be addressed to the Chair-person of the Board of Education.

(g) Scheduling the Hearing

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

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

(3) The Chairperson of the Board of Education shall schedule a hearing date within forty-five days of the employee's request for a hearing. The date shall be set with due regard for the need of PSS to take action on the suspension or revocation and for the need of the employee to have sufficient time to adequately prepare a defense. The hearing shall not be scheduled for a date earlier than twenty days after providing notice of the proposed action, as required by 3 CMC § 1183(e).

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

(i) Decide the issues for the hearing;

(ii) Stipulate as to uncontested facts;

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(iii) Estimate the length of the hearing;

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(iv) Mark exhibits; or
(v) Determine the admissibility of contested evidence.

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

(i) Conduct of Hearing
(1) The hearing shall commence with a reading of the complaint or the decision of the Commissioner/designee or Certification Officer.
(2) Each side shall be permitted to make an opening statement. The PSS legal counsel shall present evidence to support the findings of the Commissioner/designee subject to cross-examination.
(3) The employee/applicant may present evidence to rebut the charges, or findings, subject to cross-examination. Each side may present rebuttal evidence.
(4) After all the evidence has been presented, a closing argument may be offered on behalf of the Commissioner/ designee or Certification Officer. The employee/ applicant may then present a closing argument, followed by the final summation on behalf of the Commissioner of Education/designee or Certification Officer.
(5) Proceedings hereunder shall be conducted consistent with the requirements of 1 CMC § 9109.
(6) A recording shall be made of the proceeding to serve as the official record.

(j) Evidence
(1) The formal rules of evidence do not apply. Any relevant evidence of probative value is admissible with only the weight assigned to it affected by its nature.
(2) A notary shall administer oaths to witnesses.
(3) Hearsay evidence shall be admissible and may constitute sufficient evidence if relevant and probative, of a kind that responsible persons are accustomed to relying upon in serious affairs, and such that a reasonable mind would accept the evidence as adequate to support a conclusion of ultimate fact.
(4) Where suspension, revocation or the denial of a certificate depends upon the proof of the commission of a crime, proof need only be by substantial evidence and not proof beyond a reasonable doubt. An acquittal on criminal charges is not a bar to a certificate's denial, suspension or revocation. A certified copy of conviction shall constitute prima facie evidence of the commission of the crime, which may be rebutted by a substantial showing of circumstances tending to disprove its commission.

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

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(4) The written decision and order shall be served on the employee/applicant within forty-five days of the completion of the hearing process.

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

Modified, 1 CMC § 3806(e), (f), (g).

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

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

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

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

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Alvaro A. Santos, Treasurer
Diego M. Songao, Public Affairs

COMMISSION ORDER NO: 2019-002

Order Temporarily Suspending In Part Minimum Bankroll Requirement

For good cause determined at the February 27, 2019 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and ORDERS AS FOLLOWS:

1. WHEREAS, Section 2314(b)(2) of Title 4 of the Commonwealth Code authorizes the Commission to promulgate regulations as may be necessary to properly supervise, monitor and investigate to ensure the suitability and compliance with the legal, statutory and contractual obligations of owners, operators, and employees of casinos; and,

2. WHEREAS, based in part on the foregoing authority, the Commission enacted Section 175-10.1-560 of the CNMI Casino Regulations dealing with the minimum bankroll that the casino licensee must maintain. Pursuant to §175-10.1-560(a), the Commission may "adopt or revise a bankroll formula that specifies the minimum bankroll requirements applicable to the casino gaming licensee, along with instructions for computing available bankroll. The formula adopted by the Commission may require the licensee to maintain a number of days of cash on hand, utilize a debt-to service ratio, or utilize any other ratio the Commission deems fit"; and,

3. WHEREAS, This regulation was suspended in part by prior action of the Commission in Commission Order 2018-001 on or about March 15, 2018; and,

4. WHEREAS, The Commission subsequently revised the minimum bankroll formula in Commission Order 2018-004; and,

5. WHEREAS, The Commission has determined, for reasons discussed at the public meeting held on February 27, 2019, that the prior formula must be revised to better balance the licensee's request for flexibility with the need to protect the licensee's patrons; NOW, THEREFORE,

6. IT IS HEREBY ORDERED that to ensure that the licensee's patrons are protected, the casino licensee shall maintain a minimum of One Million Dollars (USD $1,000,000.00) cash on hand to cover its daily gaming operations; and,

7. IT IS HEREBY FURTHER ORDERED that the casino licensee's parent company shall continue to absolutely guarantee the payment or performance of all the casino's debts and obligations in the CNMI without reservations or limitations in a form acceptable to the Executive Director; and,

8. IT IS HEREBY FURTHER ORDERED that the Executive Director shall ensure that the licensee is aware of its obligations mandated by §175-10.1-560 including, but not limited to §175-10.1-560(e); and,

9. IT IS HEREBY FURTHER ORDERED that the Chairman or the Executive Director shall take steps necessary to ensure that this Order is published in the Commonwealth Register without reasonable delay; and,

10. IT IS HEREBY FURTHER ORDERED that this Order is to take effect immediately or at the earliest time allowed by law, and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 27th day of February, 2019.

Signature:_____
JUAN M. SABLAN
CHAIRMAN

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CIVIL SERVICE COMMISSION
OFFICE OF PERSONNEL MANAGEMENT
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CATALINA L. TEBIT
Acting Chairperson, CSC

ISIDRO K. SEMAN
Director of Personnel

NOTICE OF IMPLEMENTATION OF FINANCIAL AUSTERITY MEASURES

Part XII, Subpart A of the Personnel Service System Rules and Regulations, codified at NMIAC § 10-20.2-1101, provides that,

> At any time the governor declares by directive the need for financial austerity measures that affect the Civil Service System, all provisions in this subchapter that require increases in employees' salaries due to permanent or temporary promotions, acting or detail assignments, reallocation or reclassification of positions, and step increases based on attendance at workshops or other training programs, will be suspended upon announcement by the Civil Service Commission of such suspension in the Commonwealth Register.

By memorandum dated February 6, 2019, the Governor declared the need for financial austerity measures that affect the Civil Service System. In the memorandum, the Governor states that as a result of the disasters of two typhoons, "the present financial status of the Commonwealth Government has been greatly impacted and as such, routine promotions are not possible at this time." Because of the financial impact, the Governor requested the Civil Service Commission to implement the fiscal austerity measures provided for under Part XII of the Personnel Service System Rules and Regulations. The Governor then followed up this request with Directive No. 2019-002 stating that the impact of the two typhoons on the Commonwealth's financial status required the suspension of the Civil Service System's within-grade increase and merit award programs.

The Civil Service Commission hereby gives public notice that Part XII, Subpart A, codified at NMIAC § 10-20.2-1101 is in effect. Accordingly, all provisions in the Personnel Service System Rules and Regulations that require increases in employees' salaries due to permanent or temporary promotions, acting or detail assignments, reallocation or reclassification of positions, and step increases based on attendance at workshops or other training programs are suspended effective immediately.

I hereby approve the attached Notice of Implementation of Financial Austerity Measures, and further certify that the attached Notice of Implementation of Financial Austerity Measures is a true copy of the Notice as adopted by the Civil Service Commission.

Catalina L. Tebit
Acting Chairperson, Civil Service Commission

03/22/19
Date

Filed and
Recorded by:

Esther SN Nesbitt
Commonwealth Registrar

03.28.2019
Date