

**Personnel Rules and Regulations
Guam Power Authority**

AND

**Personnel Rules and Regulations
for Certified, Technical and Professional
Positions**

Amended by Public Law 28-159, December 29, 2006

**These rules have not been amended to reflect current changes in the law.*

TABLE OF CONTENTS

<u>SECTION</u>		<u>PAGE</u>
	Personnel Rules and Regulations Guam Power Authority	1
	Personnel Rules and Regulations for Certified, Technical and Professional Positions	2
<u>1.0</u>	<u>Employment Objectives</u>	3
<u>2.00</u>	<u>Affirmative Action Policy</u>	4
<u>3.00</u>	<u>Eligibility for Employment</u>	5
<u>4.00</u>	<u>Employment Process</u>	5
4.01	Initiation of Recruitment	5
4.02	Recruitment of Eligible Persons	5
4.03	Announcement of Examinations	6
4.04	Announcement of Promotional Examinations	6
4.05	Contents of Announcements	6
4.06	Application Form	7
4.07	Admission to Compete in Examinations	7
4.08	Rejection of Applicants and Disqualification of Eligibles	7
4.09	Disqualified Applicant's Right of Appeal	9
4.10	Examinations	9
4.11	Security of Tests	10
4.12	Notification to Report for Examination	10
4.13	Rating of Examinations	10
4.14	Notification of Examination Results	11
4.15	Ranking of Eligibles	11
4.16	Inspection of Written Examination Papers	11
4.17	Appeals from Examinations	11
4.18	Duration of Examination Ratings	12
4.19	Determination of Final Score	12
4.20	Training and Experience	12
4.21	Employment Preference	13
<u>4.A</u>	<u>Employment of Certified, Technical, and Professional Employees</u>	14
4.A.1.0	Recruitment	14
4.A.1.1	Announcement of Recruitment and Examination	14

<u>SECTION</u>		<u>PAGE</u>
4.A.1.2	Application Form	18
4.A.1.3	Submittal of Supporting Documents	18
4.A.1.4	Rejection of Applicants	18
4.A.1.5	Notification of Rejection of Applicants	19
4.A.1.6	Rating Process	20
4.A.1.7	Notification to Report for Interview or Examination	20
4.A.1.8	Rating of Employment Applications	20
4.A.1.9	Notification of Rating Results.	21
4.A.1.10	Inspection of Written Examination Papers	21
4.A.1.11	Duration of Final Earned Ratings	21
4.A.2.0	Preference	21
4.A.2.1	Preference Credit for Individuals with Disabilities	21
4.A.2.2	Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol	21
4.A.2.3	Proof of Eligibility for Veteran's Preference Credit	22
4.A.3.0	Employment Lists	22
4.A.3.1	Certification of Eligibles	22
4.A.3.2	Certification of Eligibles for More Than One (1) Vacancy	23
4.A.3.3	Establishment of Eligibility Lists	23
4.A.3.4	Duration of Eligibility Lists	23
4.A.3.5	Types of Lists	24
4.A.3.6	Removal of names form Eligibility List	24
4.A.3.7	Selection of Employees	25
4.A.3.8	Supplemental Certification	25
4.A.3.9	Selection Interview Consideration	25
4.A.3.10	Selective Certification	25
4.A.3.11	Selection Interviews	26
4.A.3.12	Types of Appointments	26
4.A.3.13	Reemployment	26
<u>5.00</u>	<u>Employment Lists</u>	<u>27</u>
5.01	Selection of Employees	27
5.02	Establishment of Eligibility Lists	27
5.03	Duration of Eligibility List	27
5.04	Types of Lists	28
5.05	Order and Use of Lists	28
5.06	Exceptions	29
5.07	Removal of Names from Eligible List	29
5.08	Certification of Eligibles	30

<u>SECTION</u>		<u>PAGE</u>
<u>6.00</u>	<u>Types of Appointments</u>	32
6.01	Probational Appointment	32
6.02	Permanent Appointment	32
6.03	Temporary Appointment	32
6.04	Provisional Appointment	32
6.05	Re-employment Appointment	33
6.06	Exempt Appointment	34
6.07	Contractual Appointment (Off-Island)	34
6.08	Acting Capacity Appointment	35
6.09	Detail Assignments	36
<u>7.00</u>	<u>Types of Employees</u>	38
7.01	Full-time Employee	38
7.02	Part-time Employee	38
7.03	Certified, Technical, and Professional Employee	38
<u>8.00</u>	<u>Contracting Personnel Services</u>	40
<u>9.00</u>	<u>Medical Examinations</u>	40
9.01	Purpose	40
9.02	Types – Pre-Employment, Periodic and Special	40
9.03	Management Action on Employment Medical Examination Results	41
9.04	Appeals Against Employment Medical Examination Results	42
<u>10.00</u>	<u>Probationary Period</u>	42
10.01	Probationary Employee	42
10.02	Length of Probationary Period	42
10.03	Evaluation of Performance	43
10.04	Removal During Initial Probationary Period	43
10.05	Removal During Probationary Period after Promotion	43
<u>11.00</u>	<u>Performance Reports</u>	44
11.01	Establishment of Rating	44
11.02	Approval of Performance Reports	44
11.03	Performance Appraisal Form	44
11.04	Use of Performance Appraisals	44

<u>SECTION</u>		<u>PAGE</u>
11.05	Performance Appraisal Period	45
11.06	Rating Responsibility	45
11.07	Salary Increment	45
11.08	Salary Increments – Leave of Absence for Education Purpose	47
11.09	Anniversary Date – No Change	47
11.10	Anniversary Dates of Reemployed Employees	48
11.11	Meritorious Salary Increase	48
<u>11.00A</u>	<u>Performance Appraisal for Certified, Technical, and Professional Employees</u>	49
<u>12.00</u>	<u>Employee Bonus Program</u>	55
12.01	Establishment	55
12.02	Purpose	55
12.03	Types of Awards	55
12.04	Policies and Procedures	56
<u>13.00</u>	<u>Overtime Pay, Hazardous Pay and Holiday Pay</u>	56
13.01	Definitions	56
13.02	Overtime Pay	56
13.03	Callout Pay	57
13.04	Night Differential Pay	58
13.05	Hazardous Differential Pay	58
13.06	Holiday Pay	61
<u>14.00</u>	<u>Leave</u>	63
14.01	Entitlement	63
14.02	Leave Year	63
14.03	Annual Leave	64
14.04	Use of Annual Leave	64
14.05	Accrual of Annual Leave	65
14.06	Request for Annual Leave	65
14.07	Holidays During Annual Leave	66
14.08	Advance Annual Leave Credit Not Permitted	66
14.09	Termination and Lump Sum Pay	66
14.10	Intergovernmental Transfer	66
14.11	Cancellation of Leave	67
14.12	Sick Leave	67
14.13	Use of Sick Leave	67

<u>SECTION</u>		<u>PAGE</u>
14.14	Accrual of Sick Leave	68
14.15	Request for Sick Leave	68
14.16	Certification	68
14.17	Holidays During Sick Leave	69
14.18	Advance Sick Leave Credit	69
14.19	Termination and Lump Sum Pay	69
14.20	Maternity Leave	70
14.21	Paternity Leave	71
14.22	Administrative Leave	71
14.23	Military Leave – Training	72
14.24	Military Leave Without Pay – Enlistment	72
14.25	Funeral Leave	73
14.26	Court Leave – Jury or Witness Duty	73
14.27	Leave Without Pay	74
14.28	Extension of Leave Without Pay	75
<u>15.00</u>	<u>Classification and Compensation Plan</u>	75
15.01	Classification and Compensation Policy	75
15.02	The Official Classification Plan	76
15.03	Title of Position	76
15.04	Position Description	77
15.05	Periodic Review of Description and Classification	77
15.06	Reclassification/Reallocation of Position	77
15.07	Status of Increments when Positions are Reallocated	78
15.08	Appeal of Classifications	79
15.09	The Compensation Plan	80
15.10	Salary Rate for Initial Appointment	80
15.11	Recruitment Above the Minimum Step	80
15.11A	Recruitment Above-Step for Employees in Certified, Technical, and Professional Positions	80
15.12	Pay Adjustment on Promotion	85
15.13	Pay Range Reassignment	85
15.14	Pay Adjustment Following Pay Ranges Reassignments	86
15.15	Pay Adjustment Following Reclassification of Position	86
15.16	Effective Date of Reclassification of Positions	87
15.17	Compensation of Certified, Technical, and Professional Employees	87

<u>SECTION</u>		<u>PAGE</u>
<u>16.00</u>	<u>Layoffs</u>	89
16.01	Notification	90
16.02	Determination	90
16.03	Order of Layoffs	90
16.04	Rights to Other Positions	91
16.05	Reemployment Rights	92
16.06	Payment During Notice Period	92
<u>17.00</u>	<u>Employee Grievance</u>	93
17.01	Policy	93
17.02	Coverage	93
17.03	Exclusions	94
17.04	Right to Seek Advise	94
17.05	Representation	95
17.06	Official Time for Presentation of the Grievance	95
17.07	Termination of Grievance	96
17.08	Management's Responsibility for Timely Action	96
17.09	Procedure	96
17.10	Assistance in Processing a Grievance	101
<u>18.00</u>	<u>Employee Discipline</u>	102
18.01	Responsibility of Discipline	102
18.02	Delegation of Authority	102
18.03	Vested Authority	102
18.04	Job Protection Procedures	102
18.05	Written Instruction and Cautioning	103
18.06	Adverse Action/Definitions	104
18.07	Notice of Proposed Adverse Action	104
18.08	Employee's Answer	105
18.09	Consideration of Answer	105
18.10	Suspension During Notice Period	106
18.11	Final Notice of Adverse Action	106
18.12	Physically or Mentally Disabled Employees	107
18.13	Use of Past Records	108
18.14	Code of Conduct	108
<u>18.00A</u>	<u>Disciplinary Action for Certified, Technical, and Professional Employees</u>	109

<u>SECTION</u>		<u>PAGE</u>
<u>19.00</u>	<u>Employment of Relatives</u>	134
19.01	Prohibition	134
19.02	Supervisory Relationship	134
<u>20.00</u>	<u>Political Activities</u>	135
20.01	Political Right	135
20.02	Prohibitions – Penalty	135
<u>21.00</u>	<u>Outside Employment</u>	135
21.01	Employee Responsibility	135
21.02	Limitations	135
21.03	Approval	136
<u>22.00</u>	<u>Personnel File</u>	136
22.01	Official Personnel File	136
22.02	Documents to be Filed	137
<u>23.00</u>	<u>Identification Cards</u>	138
<u>24.00</u>	<u>Separation & Clearance</u>	138
24.01	Separation	138
24.02	Exit Interview	139
24.03	Clearance	139

PERSONNEL RULES AND REGULATIONS

GUAM POWER AUTHORITY

The purpose of these rules and regulations is to establish criteria relating to the employment and compensation of Guam Power Authority (Authority) employees. These rules do not apply to exempt, unclassified or contract employees, except for personnel benefits.

The Authority is an equal opportunity employer. Discrimination against or preference for any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of race, color, sex, age, national origin, political affiliation, marital status, physical handicap, religion, or other non-merit factors for other than bona fide occupational qualifications is prohibited.

These Rules and Regulations shall be administered under the general direction of the General Manager. **The daily administration of personnel policies and procedures shall be the responsibility of the Administrator of Personnel Services.**

PERSONNEL RULES & REGULATIONS
FOR
CERTIFIED, TECHNICAL, AND PROFESSIONAL POSITIONS
IN ACCORDANCE WITH P.L. 28-159

Amendments to Existing Personnel Rules and Regulations. The Guam Power Authority (GPA) has existing Personnel Rules and Regulations. GPA's Personnel Rules and Regulations were adopted by its Board of Directors on May 5, 1982, approved by the Civil Service Commission (CSC) on July 29, 1982, and approved and promulgated via Executive Order No. 82-18 on October 4, 1982. The existing GPA Personnel Rules and Regulations shall continue in full force and effect except for those sections or chapters of said rules that are amended as set forth herein.

a. Sections and Chapters not affected by Amendments:

1. The following Sections of GPA's Personnel Rules and Regulations are not affected by these amendments: Sections 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 14, 16, 17, 19, 20, 21, 22, 23, and 24.

b. Amended Sections and Chapters:

1. The Following Sections of GPA's Personnel Rules and Regulations are amended as set forth herein: Sections 4,7,11,15, and 18.

SECTION 1.00 Employment Objectives

The objectives of the Authority in matters of employment are:

- A. To attract and retain qualified employees meeting the minimum requirements of each position as outlined in the Classification Plan Manual.
- B. To select employees based on suitability for a given position without regard to race, color, creed, religion, sex, age, national origin, political affiliation, marital status, physical handicap or other non-merit factors.
- C. To support the concepts of Affirmative Action.
- D. To encourage Upward Mobility of employees by giving full consideration for promotion to qualified employees seeking to better themselves.
- E. To develop competent supervisors who respect the individual rights of each employee, and who treat all employees with courtesy, dignity, and consideration.
- F. To compensate each employee by payment of a fair and competitive wage for work performed.
- G. To provide paid vacations, holidays, and other appropriate benefits for all eligible employees.
- H. To provide facilities, services and an atmosphere conducive to a safe and productive work environment.
- I. To assure each employee of the right to discuss freely with management any matter concerning either personal or the Authority's general welfare.
- J. To respond promptly and appropriately to any legitimate complaint which may be submitted.

- K. To make available to employees opportunities for training, development and advancement consistent with individual ability, performance, and the requirements of the position occupied.
- L. To retain employees on the basis of adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.
- M. To provide a comprehensive safety program for employees' protection and physical security.
- N. To provide for secure employment insofar as practical with regard to the availability of funds.

SECTION 2.00 Affirmative Action Policy

- A. As announced in Executive Order 76-9, it is the policy of the Authority that there be no discrimination on the basis of race, color, religion, age, sex, national origin, marital status, physical handicap, political affiliation or other non-merit factor and that equal employment opportunity will be provided to all applicants and employees.
- B. The General Manager and all management/supervisory personnel will engage in affirmative action programs to increase minority representative employment and establish and maintain effective liaison with public and private agencies and organizations which are involved in equal employment programs.
- C. The affirmative action program calls for positive results orientated action toward equal opportunity. Comprehensive efforts will be made by the General Manager and each management/supervisory personnel to assure

equal opportunity in employment and to assure non-discrimination in Authority programs and activities.

- D. In order that this affirmative action program becomes a management objective, and thereby reinforces the Equal Opportunity objectives established in Executive Order 76-9, department heads and all levels of management which include the first line supervisors will continue to be trained in an effort to better adjust and adapt to employment of the disadvantaged personnel.

SECTION 3.00 Eligibility for Employment

In addition to any and all other qualifications required, employees of the Authority shall be citizens of the United States of America, or legal resident aliens.

SECTION 4.00 Employment Process

- 4.01 Initiation of Recruitment: When job openings occur or when they are anticipated in any Department, the Department Head will submit to the General Manager a completed Employment Requisition form. The form, when properly completed, will provide authorization from the Personnel Department to recruit, test and refer qualified applicants for consideration for employment to the requesting Department.
- 4.02 Recruitment of Eligible Persons: Recruitment of eligible persons for employment shall be accomplished consistent with the merit principles of recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment. "Open competition" implies that all available and interested persons who possess the pre-established minimum qualifications for a classification or occupation are

eligible to apply and be evaluated, ranked, and considered on the basis of their ability, knowledge and skills.

4.03 Announcement of Examinations: Examinations to establish eligibility lists for which vacancies exist shall be properly announced through a notice to be publicized on the bulletin board of each department/division within the Authority and in other locations as determined by the General Manager. Positive effort shall be taken to assure that vacancy announcements reach all segments of the population in order to ensure equal opportunity for all citizens. Other supplementary methods for announcing examinations may be used at the discretion of the General Manager so as to better disseminate information to the public.

4.04 Announcement of Promotional Examinations: Request of examinations to fill vacancies by promotion shall be provided to the Personnel Services Department. Such announcements shall be posted where they can be seen by the employees of the Authority. An announcement of promotional opportunity shall indicate that employees who meet the minimum qualification requirements and who have satisfactorily completed their initial probationary period shall be eligible to compete in the examination.

4.05 Contents of Announcements: Each recruitment and examination announcement for an initial appointment or a promotion shall contain the title of the class, the applicable range of pay, the character of the duties and responsibilities and examples thereof, the closing date and place for filing applications, the minimum qualifications for entry into the position, and other

information deemed necessary. Appointments from other than the eligibility list, as for example by transfer, demotion, or reemployment, shall be bound by minimum qualifications requirements set forth in such announcement.

4.06 Application Form: The General Manager shall prescribe a form to be used by applicants for positions which shall require information covering experience, training, and other pertinent data indicated as being necessary in the examination announcements. Applications shall be signed and the truth of all statements therein certified to by such signature. Applications for competitive examinations shall be accepted only during the period specified in the announcement.

4.07 Admission to Compete in Examinations: Persons submitting applications during the period specified in the examination announcement shall be admitted to compete in the examination provided it is clearly shown that requirements for admission are met. Where doubt exists as to whether or not the applicant meets the minimum requirements for admission to the examination, the General Manager may authorize conditional admission. Such action shall not be construed as entitling the applicant to certification of appointment until doubt is removed.

4.08 Rejection of Applicants and Disqualification of Eligibles: The General Manager shall not be required to examine, or after examination, to certify an eligible applicant who is found to lack any of the established requirements for admission to the examination or for appointment from an eligibility list. An

applicant may be rejected or denied appointment and his/her name may be removed from the eligibility list for any of the following reasons:

- (a) Failure to meet the minimum qualification requirements for the class of position. An applicant may be admitted to the examination and his or her name shall be certified for employment with the condition that requirements for the class to be met at the time of reporting for duty with the Authority.
- (b) Failure to file an application on or before the closing date or during the time limit specified in the announcement except in those instances where the applicant can certify extenuating circumstances to the satisfaction of the General Manager.
- (c) Intentional false statements or deception or fraud in the application or in the examination process or appointment.
- (d) Refusal or failure to furnish documents required to verify any statements made in the application.
- (e) Physical or mental unfitness to perform the duties of the class of position to which he/she seeks appointment.
- (f) Evidence of a conviction record in which the crime is directly related to the work to be performed for the position applied.
- (g) Evidence that the applicant has been removed from a position, either within the Authority or Government of Guam agencies or otherwise for reasons which would render him/her unsatisfactory for the position in the (Authority) service for the class for which he/she is applying.

- (h) In the case of any examination for promotion, failure to complete the initial probationary period or evidence that unsatisfactory service rating has been received which would disqualify the applicant for promotion.
- (i) Failure, after notice, to report promptly for review of criminal record or medical examination.

When such finding is made, the General Manager shall reject the application and cancel the eligibility of the applicant if he/she has attained a place on the eligibility list. In the event the applicant has already received an appointment, the General Manager shall take appropriate action to ensure the stopping of future salary payments and dismissal of the employee.

4.09 Disqualified Applicant's Right of Appeal: A disqualified applicant or employee shall be notified promptly of such action and of his/her right of appeal. Any person who has been disqualified may appeal such action within ten (10) calendar days of the date of the written notice to the General Manager. An applicant who is not admitted to an examination because of failure to meet the preliminary requirements shall be notified by letter of his/her last known address in advance of the examination process so as to allow for an appeal.

4.10 Examinations: Competitive examinations shall be held for original appointments and promotions and shall be job-related in nature and designed to reveal the capacity of the applicant to successfully perform the duties of the class of position for which he/she is competing. The parts of the total examination will consist, in various combinations as appropriate to the class and to available manpower resources, of such devices as: work sample and performance tests;

practical written tests; individual and group oral examinations; ratings of training and experience, physical examinations; and background reference inquiries. In determining ranking of candidates, the examination parts will be appropriately weighted.

- 4.11 Security of Tests: Examination questions shall at all times, be maintained under conditions affording maximum security. All precautions to safeguard the confidential nature of examination materials shall be taken. No information concerning the nature of the tests shall be divulged to any person prior to examination. Proved disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.
- 4.12 Notification to Report for Examination: Upon evaluation and acceptance of the application, the General Manager shall cause each applicant to be notified by mail or other acceptable means of the date, time and place of the examination. No person shall be admitted to take any examination without such authorization or other satisfactory evidence of conditional acceptance of his/her application.
- 4.13 Rating of Examinations: Appropriate scientific measures, techniques, and procedures shall be used in rating the results of examination and determining the relative rank of competitors. In all examinations, the minimum rating by which eligibility may be achieved shall be set by the General Manager. The final earned rating of each competitor shall be determined by averaging the earned ratings of each part of the examination in accordance with the weights established for each part prior to the time of examination.

All competitors shall be required to obtain at least a minimum passing score of 70.00% in each part of the examination in order to receive a final passing grade, or to be rated on the remaining parts of the examination.

- 4.14 Notification of Examination Results: All competitors shall be notified in person or by mail of their final earned ratings. The records or ratings, as well as examination papers, shall be held as official records for the life of the resulting eligibility list.
- 4.15 Ranking of Eligibles: After each examination, the General Manager shall prepare a list of persons with passing grades. The names of such persons shall be placed on eligibility lists in the order of their final earned rating, starting with the highest. Prior eligibility lists resulting from a continuous examination program shall be merged by ranking the names of all successful applicants in order of their final score.
- 4.16 Inspection of Written Examination Papers: The General Manager shall, upon request of a candidate, authorize such candidate to inspect his/her own written examination papers within 20 days of the date of examination in the presence of a Personnel Specialist. The privilege of inspection shall not be deemed to include authorization to copy examination instructions or questions.
- 4.17 Appeals from Examinations: Any applicant or employee may appeal his/her notice of failure to pass an examination or his/her rating within 15 calendar days following the post-marked or personal delivery of the notice of examination

results. Such appeal shall be addressed to the General Manager who may, upon his review of the examination papers, make any changes warranted.

4.18 Duration of Examination Ratings: Examination ratings are good only for the life of the eligibility list. Examination ratings received through performance tests shall not be carried over to a new list after a period of one year. A record of the examination test score shall be placed in the employee's personnel jacket upon appointment.

4.19 Determination of Final Score: The General Manager shall determine a final score for each examination, computed in accordance with the weight for the several parts established and as set forth in the announcement. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.

4.20 Training and Experience: If training and experience form a part of the total examination, the General Manager shall determine a procedure for the evaluation of the training and experience qualifications of the various applicants. The formula used in appraisal shall give regard to recency and quality as well as quantity of experience and to the pertinency of the training. This procedure shall allow for the substitution of training for experience and experience for training within the limits stated in the class specifications.

4.21 Employment Preference:

A. Preference Credit for the Handicapped: Residents of Guam who are physically or mentally handicapped but are physically or mentally able to perform efficiently and safely the duties of the position applied for, as certified by the Director of Public Health and Social Services shall receive a preferential credit of five (5) points which shall be added to their passing examination score and upon initial employment only.

B. Preference Credit for Veterans of the United States Armed Forces or Members of the Guam Police Combat Patrol: Veterans of the Armed Forces of the United States who have been honorably discharged from such service, or members of the Guam Police Combat Patrol as certified by the Director of Public Safety, shall receive a preferential credit of five (5) points which shall be added to their passing examination score. Such veterans or former members who are disabled as a result of their service in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing examination score. The points added to the minimum passing examination score shall be applied upon initial appointment only. Applicants claiming veteran's preferential credit must submit their DD-214 form.

C. If two (2) applicants for government service are equally qualified for the position to be filled, and one is a beneficiary of a preference pursuant to this Section 4.21 (A) and (B) above, while the other is not, the former shall be given the first offer of position.

SECTION 4.A. Employment of Certified, Technical, and Professional Employees:

4.A.1.0 Recruitment

4.A.1.1. Announcement of Recruitment and Examination:

4.A.1.1.1. When there is a need to establish a list of eligibles, the General Manager shall publish and disseminate announcements of recruitment and examination on either an “Open” or “In-House” competitive basis. The General Manager shall use “Open Announcements” whenever new personnel are required to augment the Authority’s existing staff. The General Manager shall use In-House Competitive Announcements whenever the Authority can provide promotional opportunities for its existing employees without the need to acquire additional employees.

(a) “In-House” competitive announcements shall be published to allow all interested permanent classified employees of the Authority to compete for vacancies. Applicants who are not permanent classified employees of the Authority will not be allowed to submit applications under this type of announcement.

(b) “Open” competitive announcements shall be published to allow all interested and qualified persons or employees to compete for Authority vacancies.

4.A.1.1.2. Each recruitment and announcement for an initial appointment or a promotion shall contain the title of the class, the applicable range of pay, the character of the duties and responsibilities and examples thereof, the closing date and place for filing applications, the minimum qualifications for entry into the position, the required supporting documentation such as, but not limited to, a high school diploma, official college transcripts, police and court clearances, and other information deemed necessary. Appointments from other than the eligibility

list, as for example by transfer, demotion, or reemployment, shall be bound by minimum qualifications requirements set forth in such announcement.

4.A.1.1.3. The announcement of a position must be opened for at least ten (10) working days to allow ample time for candidates to submit employment applications.

4.A.1.1.4. Compliance with Americans with Disabilities Act: In recruiting, interviewing, selecting, hiring, affixing compensation and related aspects of employment, GPA and GWA shall not discriminate against individuals with disabilities. As used herein, the term 'discriminate' includes:

- (1) limiting, segregating, or classifying a job applicant in a way that adversely affects the opportunities or status of such applicant because of the disability of such applicant;
- (2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a qualified applicant with a disability to discrimination (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of GPA or GWA, or an organization providing training and apprenticeship programs);
- (3) utilizing standards, criteria, or methods of administration
 - (A) that have the effect of discrimination on the basis of disability; or
 - (B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5) (A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant unless GPA or GWA can demonstrate that the accommodation would impose an undue hardship on its operations; or

(B) denying employment opportunities to a job applicant who is an otherwise qualified individual with a disability, if such denial is based on GPA's or GWA's need to make reasonable accommodation to the physical or mental impairments of the applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria is shown to be job-related for the position in question and is consistent with GPA's or GWA's needs; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

4.A.1.1.5. Permissive Measures to Ensure Compliance with the Americans with Disabilities Act:

(1) Employment entrance examination. GPA and GWA may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if:

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that--

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this rule;

(2) As indicated in Rule 4.A.1.1.4, GPA and GWA may create “reasonable accommodations” for individuals with disabilities that may include:

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification

of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

4.A.1.2. Application Form:

The General Manager shall prescribe a form to be used by applicants for positions which shall require information covering experience, training, and other pertinent data indicated as being necessary in the announcements. Applications shall be signed and the truth of all statements therein certified to by such signature. Applications for competitive announcements shall be accepted only during the period specified. The applicant shall inform the Human Resources Division of his current mailing address and contact phone numbers. The Human Resources Division will not be held liable for missed or non-receipt of notice of examination due to incorrect or non-renewal of contact information.

4.A.1.3. Submittal of Supporting Documents:

All supporting documents to an employment application must be received on or before the closing date of an announcement, or at the time of submittal of an application for announcements on a continuous basis to receive full consideration for eligibility to compete in the recruitment processes including, but not limited to, high school diplomas, official college transcripts, police and court clearances and DD Form 214. Applicants may still submit pending documents within ten (10) working days of the stamped date of the notice of rating. Changes in rating generally will not affect a certification already issued, or invalidate an appointment already made from the eligibility list. No documents will be accepted for further consideration past the ten (10) day period listed above.

4.A.1.4. Rejection of Applicants:

The General Manager shall not be required to accept applications or, after acceptance and evaluation, establish an applicant as eligible on an eligibility list,

or allow an applicant admission to the recruitment process when any of the following conditions exists:

- (a) Conviction of a crime in which the crime is directly related to the work to be performed.
- (b) Refusal or failure to furnish documents required to verify any statements made in the application.
- (c) Intentional false statements, deception, or fraud in the application process.
- (d) Failure to attest to the accuracy of information presented on the application form.
- (e) Failure to submit an application within the announcement period except in those instances where the applicant can certify in writing extenuating circumstances to the satisfaction of the General Manager.
- (f) Evidence that the applicant has been removed from a position, either within the Authority or government of Guam agencies or otherwise for reasons which would render him unsatisfactory for the position for which he is applying.

4.A.1.5. Notification of Rejection of Applicants:

4.A.1.5.1 A rejected applicant shall be notified promptly of such action and the reasons for rejection in writing.

4.A.1.5.2 Any person who has been disqualified based on non-submittal of supporting documents may appeal such action within ten (10) calendar days of the date of the written notice to the General Manager.

4.A.1.5.3 The General Manager may schedule a selection interview prior to the expiration of the ten (10) day appeal period for rejected applications that are pending supporting documents due to organizational needs. The ten (10) day appeal period will not delay the employment process. Certification lists for interview may be established prior to the expiration of the appeal period.

4.A.1.5.4 Should the Authority determine, through the appeal, that an applicant's qualification for the position applied for due to non-submittal of supporting documents, the applicant may then be considered in the next certification period.

4.A.1.6. Rating Process:

4.A.1.6.1 Competitive announcements shall be held for original appointments and promotions and shall be job-related in nature and designed to reveal the capacity and fitness of the applicant to satisfactorily perform the characteristic duties of the class or position for which the announcement is published.

4.A.1.6.2 Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of knowledge, skill, ability, intelligence or aptitude; medical examinations, appraisals of personal suitability; and any other matter that the General Manager deems appropriate.

4.A.1.7. Notification to Report for Interview/Examination:

Upon evaluation and acceptance of the application, the General Manager shall notify each applicant by mail, telephone or other acceptable means of communication of the date, time and place of interview or examination. No person shall be admitted to the interview or to the any examination without such authorization or other satisfactory evidence of conditional acceptance of his application.

4.A.1.8. Rating of Employment Applications:

All applications for employment are evaluated based on the information provided by the applicant. Work experience is measured against the minimum experience and training as well as the knowledge, abilities and skills listed on the job announcement and the job specification.

4.A.1.9. Notification of Rating Results:

All competing applicants shall be notified in person or by mail of their final earned ratings. The records or ratings, as well as examination papers (if a written examination is required), shall be held as official records for the life of the resulting eligibility list.

4.A.1.10. Inspection of Written Examination Papers:

The General Manager shall, upon request of a candidate, authorize such candidate to inspect his own written examination papers (when applicable) within 20 days of the date of examination in the presence of a Personnel Specialist. The privilege of inspection shall not be deemed to include authorization to copy examination instructions, questions, results or notations.

4.A.1.11. Duration of Final Earned Ratings:

Final Earned Ratings are valid only for the life of the eligibility list. Ratings received through performance tests shall not be carried over to a new list after a period of one (1) year.

4.A.2.0. PREFERENCE

4.A.2.1. Preference Credit for Individuals with Disabilities:

Applicants who have physical or mental disabilities, but are physically or mentally able to perform efficiently and safely the duties of the position applied for, as certified by the Director of Public Health and Social Services, shall receive a preferential credit of five (5) points which shall be added to their passing examination score for initial appointment to a position (does not apply to subsequent applications for employment with the Authority after separation).

4.A.2.2. Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol:

Veterans of the Armed Forces of the United States, or former members of the Guam Police Combat Patrol, as certified by the Chief of Police, shall receive a preferential credit of five (5) points which shall be added to their passing examination score upon initial employment only. Such veterans, or former members who are disabled as a result of their service in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing examination score upon initial employment only (does not apply to subsequent applications for employment in the Authority after separation).

4.A.2.3. Proof of Eligibility for Veteran's Preference Credit:

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

4.A.3.0. EMPLOYMENT LISTS

4.A.3.1. Certification of Eligibles:

Rule of Eight: Eligibles shall consist of eight (8) or such fewer eligibles as may be available for the class. Eligibles shall be certified by the General Manager in the order that they appear on the eligibility list as follows:

- a) First Ranked Eligible
- b) Second Ranked Eligible
- c) Third Ranked Eligible
- d) Fourth Ranked Eligible
- e) Fifth Ranked Eligible
- f) Sixth Ranked Eligible
- g) Seventh Ranked Eligible
- h) Eighth Ranked Eligible

In case of a tie on the eighth ranked eligible, the eligibles will be certified until the earned ratings are changed in numerical places. For example, the eighth, ninth ranked eligible has earned a score of 71.00 and the tenth eligible rating is a 70.00, the eighth and ninth eligibles will be certified along with the first seven (7) eligibles.

4.A.3.2. Certification of Eligibles For More Than One (1) Vacancy:

4.A.3.2.1. For more than one (1) vacancy, the General Manager may certify an additional eligible for each additional vacancy.

4.A.3.2.2. When the last eligible to be referred is one (1) of two (2) or more eligibles who have identical examination scores, such two (2) or more eligibles shall also be certified.

4.A.3.2.3. If the department head does not wish to select any of the candidates certified, he must individually justify to the General Manager his reasons for non-selection, before a new certification is authorized.

4.A.3.3. Establishment of Eligibility Lists:

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

4.A.3.4. Duration of Eligibility Lists:

The life of an eligibility list, other than a reemployment list, shall be for a period of not more than one (1) year unless extended by the General Manager, but such extension shall not exceed three (3) months. When an eligibility list is reduced to an insufficient number of eligibles (less than eight (8)), a new eligible list may be established through appropriate examination. The names of eligibles on the former list shall be combined with those on the new list according to the final score.

4.A.3.5. Types of Lists:

4.A.3.5.1 *In-House List:* The In-House List shall consist of names of employees of the Authority who have passed their initial probationary period and meet the minimum requirements of the position applied and were certified as eligibles. The In-House List shall be used whenever an In-House Competitive announcement is used to announce the position as set forth in Section 1.1.1b) above.

4.A.3.5.2 *Open List:* The open list shall consist of names from the general public who are not employed by the Authority as well as current employees of the Authority. The names of such persons shall be placed on the list in order of their final earned ratings starting from the highest. Open Lists shall be used whenever an Open Competitive announcement is used as set forth in Section 1.1.1a) above.

4.A.3.6. Removal of Names from Eligibility List:

The name of any person on an eligibility list may be removed if:

- (a) The person is appointed to a permanent position for the class;
- (b) The eligible fails to respond within fifteen (15) days to a written inquiry relative to availability for employment;
- (c) The eligible rejects an offer of permanent employment;
- (d) The eligible fails to report for selection interview after two (2) notifications of selection interview without written notice; or fails to report to duty within the time prescribed; failure to report for selection interview will not delay the selection process.
- (e) Withdrawal by the eligible;
- (f) Findings of deception or fraud in the employment process;
- (g) Conviction of a crime which is related to the position applied for.

4.A.3.7. Selection of Employees:

Appointments to classified positions of the Authority shall be selected from among a certified list of eligibles. A certification list may not be required in the appointment of unclassified positions.

4.A.3.8. Supplemental Certification:

The General Manager may certify supplemental eligibles to provide a full certification under the following conditions.

4.A.3.8.1 The supplemental certification may be used only upon the failure to appear for a selection interview, refusal of appointment by eligibles or the rejection of eligibles by the General Manager for cause.

4.A.3.8.2 The additional eligibles to be certified shall be of such number that will provide the Authority with a full certification of up to eight (8) eligibles.

4.A.3.9. Selection Interview Consideration:

When an applicant is interviewed for a position within the Authority and is not selected for an appointment, the applicant shall be considered for selection at a later time to the same position within the same division without another interview. This selection interview consideration shall remain in effect for the life of the eligibility list.

4.A.3.10. Selective Certification:

Upon request of the department head and approval of the General Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successfully perform the duties and responsibilities of the position. These factors shall pertain to knowledge, skills and abilities pertinent to certain program operations when these qualifications and skills cannot be readily

acquired after appointment. Selective certification requirements must be established in the job announcement and the position description.

4.A.3.11. Selection Interviews:

The General Manager, at his discretion, may schedule a selection interview immediately after the establishment of an eligibility list for the position. Applicants who are pending submission of supporting documents at the time the selection interview is scheduled will not be considered for certification purposes.

4.A.3.12 Types of Appointments:

4.A.3.12.1. Probational Appointment: An appointment to a permanent classified position in which the employee will commence serving a probational period on an initial recruitment for duration of six (6) months.

4.A.3.12.2. Permanent Appointment: An appointment granted to a classified employee in a permanent position, subject to satisfactory completion of a probationary period on an initial recruitment.

4.A.3.12.3. Reemployment Appointment: A former classified employee of the Authority who separated in good standing may be appointed to the same class and salary level held at the time of separation.

4.A.3.12.4. Unclassified Appointment: Where no specific term of appointment or employment is specified in law regarding a position, appointment shall be at the pleasure of the General Manager or the Consolidated Commission on Utilities (CCU) without competition.

4.A.3.13. Reemployment:

A permanent classified employee who separated from the Authority through resignation or retirement while in good standing may be eligible for reemployment, without competition to:

4.A.3.13.1 The same or comparable position in the Authority within four (4) years from the date of separation. A reemployed employee may be hired at not less than the salary earned at his former position. Reemployment appointments are not subject to the certification procedures as described in these Rules.

4.A.3.13.2 If the same or comparable position is not available, the former employee may be reemployed to a lower level position in the class series with a rate of pay closest to the salary earned in the position the former employee was in at the date of his separation from the Authority. If the former employee accepts the aforementioned lower level position, the former employee shall be deemed to have exhausted his or her re-employment rights. Reemployment to the aforementioned lower level position are not subject to the certification procedures as described in these Rules.”

SECTION 5.00 Employment Lists

- 5.01 Selection of Employees: All prospective employees for the Authority shall be selected from among the highest available eligibles on appropriate eligibility lists.
- 5.02 Establishment of Eligibility Lists: Names of candidates shall be placed on eligibility lists in the order of qualifying grades after appropriate examination and/or evaluation rating. This list shall be designated as an “eligibility list” for the vacant position.
- 5.03 Duration of the Eligibility List: The life of an eligibility list, other than reemployment list, shall be for a period of not more than one year unless extended by the General Manager, which extension shall not exceed three months. When an eligibility list is reduced to an insufficient number of eligibles (less than five), a new eligible list may be established through appropriate

examination. The names of eligibles on the former list shall be combined with those on the new list according to final score.

5.04 Types of Lists:

- A. Reemployment List: Reemployment list shall consist of former permanent employees of the Authority who were separated without cause and whose names are placed on the reemployment list in the same class held prior to separation date. A reemployment list is valid for two years. Eligibles on reemployment list shall be certified in chronological order of their separation from service.
- B. Promotional List: Promotional list shall consist of names of employees of the Authority who have passed their initial probationary period and meet the minimum requirements of the position applied and were certified as eligibles.
- C. Open List: The open list shall consist of names from the general public who are not employed by the Authority. The names of such persons shall be placed on the list in the order of their final ratings starting from the highest.

5.05 Order and Use of Lists: Certification of eligibles for selection interview shall be composed of five top candidates from the eligibility list in the following order:

- 1) Reemployment List
- 2) Promotional List
- 3) Open List

5.06 Exceptions: The use of the eligibility list will be waived for the following internal actions:

- A. Demotion – when an employee is demoted from a higher to a lower position for which he/she is full qualified.
- B. Transfer – when an employee is transferred laterally without a change in position or salary or from one class of position to another class of position having similar duties and responsibilities and qualifications requirements.
- C. Provisional Appointment made by the General Manager to fill a position temporarily not to exceed ninety days.
- D. Reemployment of veterans according to Section 4111(d) of the Government Code of Guam. See Section 6.05(A) for detailed information.

5.07 Removal of Names from Eligible List: The name of any person on an eligible list may be removed if:

- a) the person is appointed to a permanent position for the class;
- b) the eligible fails to respond within 15 days to a written inquiry relative to availability for employment;
- c) the eligible rejects two offers of permanent employment;
- d) the eligible fails to report for selection interview within two days after notice; or fails to report to duty within the time prescribed;
- e) withdrawal by the eligible;
- f) physical or mental unfitness to perform the duties of the position as shown by medical examination;

g) in case of promotional list, termination of service with the government; and

h) the eligible was not selected after two interviews.

5.08 Certification of Eligibles:

A. Rule of Five: Upon certification by the General Manager for selection interview, department heads must select one of the first 5 eligibles on the list. The department head is not permitted to select any lower ranked eligible until he first submits in writing to the General Manager his reasons for non-selection of one of the first 5 and the reasons are found to be valid (job related). The order of certification from the General Manager will appear as follows:

- 1) First Ranked Eligible
- 2) Second Ranked Eligible
- 3) Third Ranked Eligible
- 4) Fourth Ranked Eligible
- 5) Fifth Ranked Eligible
- 6) Sixth Ranked Eligible

In case of a tie on the fifth ranked eligible, the eligibles will be certified until the earned ratings are changed in numerical places. For example, the fifth, sixth and seventh ranked eligibles have earned ratings of 71.000 and the eighth eligible rating is 70.000, the sixth and seventh eligibles will be certified along with the first 5 eligibles. The following are the department head's alternatives:

- 1) A department head may select two persons from the six certified to fill his vacancies.
 - 2) Should the department head later decide to fill only one of two vacancies, he shall then be restricted to select from the first 5 eligibles on the certification and may not select the sixth ranked eligible.
 - 3) If the department head does not wish to select any of the candidates certified, he/she must individually justify to the General Manager his/her reasons for non-selection, before a new certification is authorized.
- B. Exceptions to Certification Procedures: Certified eligibles who do not appear for interview (DNA) or refuse appointment (REF) shall be conditions for supplementing the original certification with additional eligibles to complete the certification.
- C. Alternative Certification: The General Manager may certify eligibles from lists for higher classes to vacancies in lower classes in the event there are insufficient eligibles in the existing list.
- D. Selective Certification: Upon request of the department head and approval of the General Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successful performance of duties and responsibilities of the position. These factors shall pertain to knowledge, skills and abilities pertinent to

certain program operations when these qualifications and skills cannot be readily acquired after appointment.

Eligibles shall be certified without regard to sex except when one sex may be justified when the duties and responsibilities involve certain institutional or custodial services which can be properly performed only by a member of the same sex as the recipient of the services.

SECTION 6.00 Types of Appointments

- 6.01 Probational Appointment: An appointment to a permanent classified position in which the employee will commence serving a probationary period on an initial recruitment or on a promotion, for a duration of six (6) months.
- 6.02 Permanent Appointment: An appointment granted to a classified employee in a permanent position, subject to satisfactory completion of a probationary period on an initial recruitment or a promotion.
- 6.03 Temporary Appointment: An appointment to a temporary vacancy in a permanent position or a temporary position for a special project, seasonal or other similar limited or transitory nature. The duration of employment shall not exceed 180 calendar days. Request for extension of temporary appointment shall be justified by the department head and shall be approved by the General Manager. Employment of this nature shall not exceed one year. Employees in this category do not serve a probationary period.
- 6.04 Provisional Appointment: In the absence of an appropriate eligibility list, the General Manager may fill a position by provisional appointment. The person

selected for a provisional appointment must meet the minimum qualifications of the vacant position. Provisional appointments shall not exceed 90 calendar days and must be terminated by the General Manager not later than 30 calendar days after the establishment of a list of eligible candidates.

6.05 Re-employment Appointment: The following are two categories of considerations under this nature of employment.

A. Reemployment Rights of Veterans: To be entitled to reemployment rights, a veteran, who is a former employee of the Authority, must meet the requirements provided under Section 4111(d) of the Government Code of Guam. The veteran must:

- 1) be a classified employee;
- 2) have terminated employment with the Authority for the sole purpose of going on active duty with the Armed Force;
- 3) must have submitted a military leave without pay request for the General Manager's approval, accompanied by a copy of military orders or other authoritative document for such duty, prior to termination of his/her employment.
- 4) must have served on active duty with the Armed Force;
- 5) must have been honorably discharged for the period of active duty and have a certificate to that effect; and
- 6) must have made an application for reemployment within 90 calendar days after discharge from military service.

Upon meeting the foregoing requirements, the veteran employee shall be entitled to reemployment in his/her previous position or its equivalent, in the step within his/her former pay range attained before military service. As directed by Civil Service Commission or mandated by law, the former position held by the veteran employee may have been reassigned to a higher or lower pay range. Pay adjustments following a pay range reassignment shall be made accordingly either to a higher salary range or a lower salary range as allocated to the veteran employee's former position. An employee on military leave without pay status forfeits his/her reemployment right if; he/she re-enlists or voluntarily extends the original tour of active duty.

B. Reemployment of Former Authority Employees (Non-Veterans): A former permanent classified employee of the Authority who separated without cause may be appointed to the same class and salary level held at the time of separation.

6.06 Exempt Appointment: An appointment to an exempt position in the unclassified service within the provisions of Section 4102(a) of the Government Code of Guam or an exempt position approved by the Authority Board of Directors.

6.07 Contractual Appointment (Off-Island): An appointment to a contract position for technical or professional services from off-island after exhaustive search of the local market fails to establish a list of local eligible candidates. Limitations on off-island contractual appointments are found in Section 4110.3, Government Code of Guam, as amended by Public Law 13-81.

6.08 Acting Capacity Appointment: An appointment to serve temporarily in an acting capacity as head of the Authority or in a managerial or supervisory position, having a higher pay range/wage level than the employee's regular position. Department/division heads who have managerial/supervisory personnel anticipating absences of 5 work days or more shall execute a written notification of acting capacity appointment – specifically stating name and title of appointee, effective date of appointment and approximate period of appointment. Compensation for acting appointment shall be governed by the following conditions.

- A. The period in an acting capacity shall not be less than 30 calendar days and shall not exceed one (1) year.
- B. The employee's job description does not include the assumption of duties and responsibilities of the position to which appointment temporarily.
- C. Compensation shall be based on the following applicable rates:
 - 1) In an exempt position – a pay differential shall be added to the employee's base rate of pay, measured in an amount between the regular salary rate of the employee and the salary paid the exempt managerial or supervisory position.
 - 2) In a classified position – a pay differential shall be added to the employee's base rate of pay, which shall not be less than the equivalent of a two-step pay increase in the pay range/wage level of the position permanently occupied, but in no case shall an employee receive less than the minimum rate established for the

managerial or supervisory class of position to which appointed. An employee in an exempt position or an individual employed under a contract shall not be appointed in an acting capacity to a position in the classified service.

- D. Payment differential shall be deferred until the employee has served 30 calendar days in an acting capacity. However, the pay differential, when granted, shall be retroactive to the effective date of appointment.
- E. A copy of the letter or memorandum of an acting appointment must be included to effect compensation.

6.09 Detail Assignments:

- A. A detail is the temporary assignment to meet management needs of an employee to another position or to a group of specific duties and responsibilities for a specified period with the employee returning to his regular duties at the end of the detail. A position is not filled by a detail as the employee continues to be the incumbent of the position from which he is detailed, and his salary during the detail does not change. For details to unbudgeted positions, or to a group of specific duties and responsibilities, the General Manager shall provide a position description upon the 30th day of the detail appointment.
- B. Details shall be made only for meeting temporary needs of the Authority such as:
 - 1. emergency details – to meet emergencies occasioned by abnormal workload, change in organization, or unanticipated absences; or
 - 2. pending description and formal classification of a new position; or
 - 3. to replace an incumbent who is undergoing training.

- C. All details in excess of 30 calendar days must be documented by the General Manager. No personnel action shall be transacted unless proper documentation is provided.
- D. An employee shall not be detailed while service a probationary period.
- E. No employee shall be temporarily assigned or detailed to a position, nor shall the employee assume the duties and responsibilities of a position other than the one to which he has been appointed for a period in excess of ~~120 days~~ within a calendar year, unless the General Manager obtains an exemption upon written application to the Civil Service Commission. Such exemption shall not extend beyond an additional ~~120 days~~ within the calendar year.
- F. An employee in an unclassified position, or an individual employed under a contract, will not be detailed to a position in the classified service.
- G. Nothing in this regulation is intended to infringe on management's prerogatives in day-to-day operational activities which may occasionally require that an employee be assigned work normally performed by another employee for brief periods up to 30 calendar days.
- H. Employees serving on a detail in **excess of 30 calendar days in a position having a higher pay grade than his regular position shall receive a payment differential** in accordance with the CSC Resolution No. 97-002 and CSC Memorandum No. 97-527, provided the detail appointment is consistent with classification principles as determined by the General Manager.
- I. Employees serving a detail in **excess of 30 calendar days in a position having a lower pay grade shall not have their pay adjusted to the lower pay.**

- J. An employee may not be detailed beyond 120 calendar days to any classified position unless that employee has met all of the qualification requirements for the position.

SECTION 7.00 Types of Employees

7.01 Full-Time Employee: An employee appointed to permanent, temporary or exempt position on a continuous, full-time basis in accordance with the normal schedule of the particular Department, usually 40 hours per week.

7.02 Part-time Employee: An employee appointed to a temporary position, which requires working fewer than the normal 40 hours per week.

7.03 Certified, Technical, and Professional Employee:

(a) Definition. “Certified, Technical, or Professional Employee” shall mean personnel employed by the Authority who are professional engineers, attorneys, and other licensed professionals, or who are highly skilled employees with certificates such as plant operator and other similar engineering and technical personnel.

(b) Identification of Certified, Technical, and Professional Positions. No later than thirty (30) days after the effective date of this Rule, the General Manager shall identify and list, by title, position description, and pay range, all the Certified, Technical, and Professional Positions that currently exist in the Authority. Said list shall include, but is not limited to, the positions identified in the Attachment A and B of P.L. 28-113. The General Manager shall submit said list to the Consolidated Commission on Utilities (CCU) and the CCU shall approve, disapprove, or amend said list at any regularly scheduled CCU meeting. The

General Manager shall publish the CCU approved list on the Authority's website and a copy of the list shall be maintained at the Authority's Personnel Office and be available for public inspection.

(c) Amendment of Certified, Technical, and Professional Positions. The General Manager may petition the CCU to amend, to include, but not limited to, deleting, adding, or modifying such positions, the approved list of the Authority's Certified, Technical, and Professional Positions.

(1) The Petition shall include:

(A) The justification for the amendment.

(B) The essential details of the amendment.

(C) An analysis of the similarities or differences between the existing position and the Amendment.

(D) The job title, pay range, and position description affected by the amendment.

(2) The General Manager shall post the petition on the Authority's website for ten (10) days (Saturdays, Sundays, and government of Guam holidays excepted). After the posting, the General Manager shall forward the petition, along with evidence that prompt notice of the posting was provided each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam, to the CCU. The CCU shall approve, disapprove, or amend the petition at any regularly scheduled CCU meeting.

SECTION 8.00 Contracting for Personnel Services

Contracts shall not be used as a substitute for hiring employees. The Authority shall not contract for personnel services which regularly are performed by employees appointed under the merit system.

SECTION 9.00 Medical Examination

9.01 Purpose: The purpose of a medical examination shall be to determine that a person seeking employment or employed in the service of the Authority meets health and physical standards deemed necessary for the performance of duties of the class of position in which he/she seeks employment, or is employed. Medical examination shall be administered by a licensed physician on specific forms prescribed by the General Manager.

9.02 Types – Pre-Employment, Periodic and Special:

- A. Pre-employment medical examinations shall be required of an applicant selected for initial employment. Actual hiring is dependent upon a satisfactory medical examination. However, such requirement may be temporarily waived for no later than 30 calendar days after the appointment, if the General Manager determines that a position must be filled immediately making it impossible to complete the necessary medical examination. Arrangements for all pre-employment medical examinations will be made by the Personnel Department. Any expense incurred for this purpose shall be the responsibility of the selected applicant. Examinations taken not later than six (6) months prior to appointment are acceptable.

B. Periodic medical examinations may be required by the General Manager of any employee whose nature of work is such that his/her exposure to the elements and/or health hazards may require an intermittent medical examination. The intervals of the periodic medical examinations shall be determined by the General Manager on the basis of recommendations by the concerned department heads. Costs incurred for this purpose will be borne by the employee's group or personal medical insurance, or the Authority – if there is no medical insurance coverage.

C. Special medical examinations may be authorized by the General Manager upon the request of a department head for the following reasons:

1. To determine/confirm an employee's physical/mental capability to continue performing satisfactorily in his/her assigned duties, or
2. To determine/confirm an employee's physical/mental capability to assume a more strenuous, demanding work assignment, or
3. To evaluate an employee's employment status, if he/she is physically or mentally disabled. It will also assist the Authority in making a determination or recommendation for medical retirement for the employee, should his/her disability be permanent and total.

Medical examination of this nature shall be paid by the Authority.

9.03 Management Action on Employment Medical Examination Results:

Based on the results of a periodic or special medical examination report, the General Manager may remove, demote or reassign to another position any employee whose physical or mental capability is such that his/her removal,

demotion or reassignment will remove safety hazards from oneself, fellow-workers, the general public or Authority property and will promote the efficiency of the Authority.

- 9.04 Appeals Against Employment Medical Examination Results: A selected applicant rejected initial appointment for failure to meet health and medical standards in a class of position may appeal such decision in writing to the General Manager not later than 15 calendar days from the receipt of the notice of rejection. An employee who is not recommended for continued employment in his/her class of position for which periodic or special medical examination is required may appeal such decision by the procedures specified in Section 18.00 of these Rules.

SECTION 10.00 Probationary Period

- 10.01 Probationary Employee: In order to obtain permanent appointment in the classified service, all appointment of new employees from an eligible list, except reemployment, and subsequent appointments in connection with a promotion or demotion shall be subject to a satisfactory completion of a probationary period. The probationary period shall be regarded as integral part of the selection process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new, promoted or demoted employee to the position, and for rejecting any employee whose performance or conduct is unsatisfactory.

- 10.02 Length of Probationary Period: All employees in the classified service shall serve a probationary period of six (6) months. An employee's probationary period may be extended up to six (6) months if, in the opinion of the employee's supervisor

and department head, it is deemed desirable. No additional extensions may be authorized.

10.03 Evaluation of Performance: Each supervisor shall objectively evaluate probationary employees on a performance report to determine whether they should be: a) classified as permanent; b) continued on probation for another six (6) months; c) returned to the classification held prior to the promotion; or d) dismissed, with the reasons stated in writing.

10.04 Removal During Initial Probationary Period: During the initial probationary period, the General Manager, upon the recommendation of the Department Head, may discharge an employee who is not performing satisfactorily or whose habits and dependability do not merit continuation of employment. Notice of such action shall be given the employee and the reason for the dismissal stated.

Employees so dismissed shall not have recourse to any grievances or appeal procedure, except on grounds of discrimination in which case the employee may appeal through the EEO Discrimination Complaint Procedure.

10.05 Removal During Probationary Period After Promotion: If an employee fails to render satisfactory service during a probationary period required as part of a promotion, the employee shall be served a proposed notice for either of the following adverse actions:

- 1) Demotion to the classification and salary level/step held prior to promotion or to a closely related class of position, if a vacancy exists; or

- 2) Dismissal, if no vacancy exists. The employee's name shall be entered on the reemployment list for the class of position held prior to the promotion.

Before initiating adverse action, it shall be the supervisor's responsibility to give the employee written warnings at any time during a probationary period about his/her shortcomings and the consequences of failure to improve or correct his/her inadequate performance. The notice of proposed adverse action must state specifically and in detail what the requirements of the position are and how the employee failed to measure up to the performance required or expected.

SECTION 11.00 Performance Reports

- 11.01 Establishment of Rating: The General Manager shall establish a system of efficiency rating for the improvement of the service of classified employees of the Authority.
- 11.02 Approval of Performance Reports: The General Manager shall make the final approval of all performance appraisals, upon recommendation of the immediate supervisor and department head.
- 11.03 Performance Appraisal Form: Ratings shall be accomplished on a form approved by the General Manager. The form shall, to the extent possible, effectively differentiate between major categories of employment and shall minimize rating bias by supervisory personnel.
- 11.04 Use of Performance Appraisals: The performance appraisal shall be used as:
 - A. The basic document in granting permanent appointment to probationary employees;

- B. The basic document in granting salary increments;
- C. An aid to determine order of layoffs;
- D. Basis for promotions and transfers;
- E. An aid to training and development of employees; or
- F. Evidence of supervisory potential.

11.05 Performance Appraisal Period: Appraisals shall be prepared for:

- A. Probational employees at the end of the fifth month of their probationary period.
- B. Permanent employees on the following applicable qualifying period for salary increments:
 - 1) at the end of eleventh month for a 12-month interval rating period.
 - 2) at the end of the seventeenth month for a 18-month interval rating period; or
 - 3) at the end of the thirty-fifth month for a 3-year interval rating period.
- C. Permanent employees by each evaluator under whom the employee has worked for ninety (90) calendar days during any single rating period.

11.06 Rating Responsibility: The person doing the rating shall be the supervisor immediately responsible for the employee's work. The evaluator should be the individual who oversees, reviews and checks the daily work performance of the employees being rated, or is the supervisor who is closely acquainted with the employee's daily work performance.

11.07 Salary Increment: Salary increment is subject to satisfactory performance. Service in each step will be the following intervals:

- A. Graded positions within the Graded Pay Range Schedule:
- 1) Successive advancement of salary steps from Step 1 through Step 7 shall require 12 months of satisfactory performance of duties.
 - 2) Successive advancement of salary steps to Steps 8, 9 and 10 shall require 18 months of satisfactory service in the previous salary rate.
 - 3) An employee who is at Step 10 following three (3) consecutive years of satisfactory service shall have a pay adjustment to Step 10 of the next higher pay range.
- B. Ungraded positions within the Wage Schedule:
- 1) Successive advancement of salary steps from Steps 1 through Step 3 shall require 12 months of satisfactory performance of duties.
 - 2) Successive advancement of salary steps to Steps 4 and 5 shall require 18 months of satisfactory service in the previous salary rate.
 - 3) An employee who is at Step 5 following three (3) consecutive years of satisfactory service shall have a pay adjustment to Step 5 in the next higher wage level.

Any number of day(s) for an employee who was on leave without pay status or on light duty status during a qualifying period will be added on to the employee's anniversary and will subsequently change the employee's anniversary date for eligibility for a salary increment. An employee on light duty status will be required to submit a doctor's certification every month,

stating his/her medical condition whether to resume regular work status or continue light duty status.

11.08 Salary Increments – Leave of Absence for Education Purpose:

An employee on leave of absence for educational purpose, approved under the Authority's In-Service Training Policy, shall be granted one step salary increase due for each fiscal year the employee is on educational leave of absence, based on the following conditions:

- A. The employee reports to work immediately upon completion of the approved course of study; and
- B. The employee must have satisfactorily completed the course of study, authenticated by a certificate, diploma, transcript or an evaluation report.

The salary increment(s) will be granted upon the employee's return to work on a retroactive basis.

11.09 Anniversary Dates – No Change: Anniversary dates for salary increments will not change when:

- A. The pay range/wage level for a class or classes of position has been reassigned.
- B. An employee receives an acting pay differential.
- C. An employee is granted a meritorious service salary increase.
- D. An employee is transferred from one position to another of the same or related class of position and retains the same salary rate upon transfer.
- E. An employee is involuntarily demoted for other than adverse or disciplinary reasons.

- F. An employee receives pay adjustments resulting from statutory amendments to the pay range/wage schedule.
- G. An employee is reclassified to the same pay range/wage level or lower and the employee retains the same salary rate.

11.10 Anniversary Dates of Reemployed Employees: Anniversary dates of reemployed employees shall start on the reemployment date of appointment with the Authority.

11.11 Meritorious Salary Increase: A Meritorious Salary Increase is a one (1) step increase within a pay range/wage level. However, if the employee is at Step 10, the employee shall be granted one (1) step higher in the pay range next to the employee's pay range. Only permanent employees may be recommended for a Meritorious Salary Increase by their respective Department Head for approval by the General Manager, but either of the following conditions must be met for an employee to be qualified:

- A. Continuous outstanding performance, at least three months, that is clearly and definitely above and beyond the requirements of an employee's classification.
- B. Exceptional performance or an exemplary endeavor that contributes highly toward the best interest of the Authority, either in great financial savings or prized efficiency in production.

Justification for meritorious salary increase awards must be documented on prescribed forms provided by the Personnel Services Department.

Only one (1) meritorious salary increase award may be granted to an employee during any twelve-month period.

SECTION 11.00A Performance Appraisal for Certified, Technical and Professional Employees

1.0. Purpose:

It shall be the policy of the Guam Power Authority and the Guam Water Works Authority to ensure that formal and informal performance appraisal processes are developed and implemented for ***certified, technical and professional*** positions.

2.0. Objectives:

The objectives of this policy are to:

- (a) establish a process whereby the work performance of each employee can be informally evaluated on an ongoing basis;
- (b) establish standards for quality and quantity of work;
- (c) provide a formal review of each employee's work performance on a six (6) month, twelve (12) months, eighteen (18) months, or twenty-four (24) months basis;
- (c) improve individual performance;
- (e) identify specific requirements for training and development of employees;
- (f) strengthen supervisor/employee relationships;
- (g) grant or deny salary increments;
- (h) recognize employee accomplishments;
- (i) determine order of layoffs;
- (j) grant or deny permanent appointment to a probationary employee;
- (k) determine eligibility for promotions or transfers;
- (l) determine whether disciplinary action is warranted.

3.0. Supervisor Responsibilities:

The individual doing the performance review shall be the supervisor immediately responsible for the employee's work. The evaluator shall be the person who directly oversees, reviews and checks the daily work performance of the employee being rated or is the supervisor who is closely acquainted with the employee's work. Supervisors may submit a performance appraisal for an employee during any single rating period provided the employee has worked for ninety (90) calendar days during that period.

4.0 Period Covered:

4.1. Supervisors shall evaluate and submit the employee's work performance for the following periods:

- (a) six (6) months for probationary employees;
- (b) every twelve (12) months of service for employee's in Pay Steps 1 through 7;
- (c) every eighteen (18) months of service for employee's in pay Steps 7 through 10; and
- (d) every twenty-four (24) months of service for employee's in pay Steps 10 through 20.

4.2. Submittal of performance appraisal reports must be prepared and submitted for processing no sooner than thirty (30) days prior to the above periods.

5.0 Salary Increment:

A salary increment shall be subject to satisfactory performance, which shall be a minimum of a one-step increase.

6.0 Probationary Performance Appraisal:

6.1. Certified, Technical, or Professional Employees in the classified service shall serve a probationary period of six (6) months. An extension of up to six (6) additional months may be granted. The division manager must justify in writing

to the General Manager stating specific reasons for the request for extension based on the duties and responsibilities associated with the employee's current position description and job standard. No extension beyond the additional six (6) months may be granted.

6.2. Employees in the unclassified service where no specific term of appointment or employment is specified shall serve at the pleasure of the General Manager or the Consolidated Commission on Utilities (CCU).

6.3. A probationary employee who is dismissed has no recourse to file a grievance or appeal his/her termination unless the termination is a result of discrimination.

7.0 Approval of Performance Appraisal:

A division manager shall make, on a six (6) month, twelve (12) month, eighteen (18) month, or twenty-four (24) month basis, as appropriate, a written recommendation to the General Manager regarding the performance appraisal of every employee. The General Manager shall make a final performance appraisal accepting or rejecting said recommendation and make the corresponding salary adjustments.

8.0 Appeals:

8.1 Purpose: This procedure outlines the responsibilities and procedures to be followed by management and employees in handling performance rating appeals.

8.2 Coverage: Certified, Technical, and Professional Employees covered in this procedure are those employees who have satisfactorily completed their original and new probationary period and have attained permanent status in the Authority. Such Certified, Technical, and Professional Employees who believe they are unjustly rated may request for re-determination of their performance ratings. Original probationary period performance ratings are not appealable under this procedure.

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

8.4 Freedom from Reprisal or Interference: An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal.

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

8.6 Informal Appeal Procedure – General Manager

8.6.1 The Certified, Technical, or Professional Employee who believes that he or she was unjustly rated shall bring the matter to the attention of his immediate supervisor not later than five (5) work days after he was notified of his or her performance evaluation rating by his or her supervisor. The employee may present his or her informal appeal either orally or in writing to the General Manager or his representative.

8.6.2 A review of the rating shall be afforded the employee by a higher-level supervisor. Settlement of aggrieved matters is encouraged at the lowest possible administrative level and in the shortest possible time. The employee shall be notified of the decision not later than five (5) workdays after presentation of his informal appeal to his or her General Manager, or the General Manager's designated representative.

8.6.3 If the employee's concerns are not resolved, or if a decision is not issued within five (5) work days, the employee may file a formal appeal to a Performance Rating Board of Review appointed by the Consolidated Commission on Utilities (CCU)

8.7 Formal Appeal Procedure – Performance Rating Board of Review:

8.7.1 When the decision of the General Manager fails to satisfy the employee, the employee may file a formal appeal to the CCU. The appeal shall be in writing to the Chairman of the CCU and filed within five (5) workdays after the appellant receives the General Manager's decision.

8.7.2 A Performance Rating Board of Review shall be appointed by the CCU and shall consist of three (3) persons who are Certified, Technical, or Professional Employees in the classified service, of which one (1) shall be the same position level as the appellant, one (1) shall be at the managerial level, and a designated Staff Attorney who shall serve as the Hearing Officer. Board members shall not be from the same section, department, or division where the appellant is employed.

The Board shall conduct its first hearing within five (5) work days of its appointment. The Board shall complete the investigation and conduct the final hearing not later than ten (10) workdays from the date the Board convened. The Board shall give notice of hearings and shall provide all pertinent documents related to the appeal to the appellant, his representative, the rater, and all other parties concerned. The conduct of the hearing shall be consistent with the opportunity to present all information necessary to decide the merits of the appeal. Both oral and written information which

the Board considers pertinent may be given, as well as any other information the Board requests concerning the appeal.

- 8.7.3 The Hearing Officer shall preside and rule on all questions and conduct of the hearing during the proceedings. Board members shall consider the case and vote objectively. They shall give consideration to the merits of the case and secure all necessary information. They shall encourage a harmonious relationship between employees and supervisors during the proceedings of the Board. All members of the Board shall be present at all times during hearings and shall participate in decisions. Hearings shall be recorded and summarized in writing.
- 8.7.4 When all pertinent information in an appeal has been presented to the Board, the Board shall render a decision by majority vote. The Board may either amend the performance rating, or sustain the rating without change. When an amendment is made by the Board to the performance rating, that amended rating shall not be lower than the original rating. The Board shall make its decision within five (5) workdays of the final hearing. The Board's decision shall be in writing with the Hearing Officer's signature. The decision shall contain a brief summary of the facts on which the Board based its decision. The written decision shall be sent immediately to the appellant and signed copies forwarded to the General Manager.
- 8.7.5 When the General Manager receives a Board decision amending the employee's rating, the General Manager shall immediately substitute the amended rating. The General Manager must reconsider administrative actions based on the original rating using

the amended rating and adjust those administrative actions to conform to the amended rating.

SECTION 12.00 Employee Bonus Program:

12.01 Establishment: An Employees Bonus Program shall be established by the General Manager to improve Authority operations and to recognize Authority employees (both classified and unclassified) by incentive awards.

12.02 Purpose: The Employees Bonus Program is designed to:

- A. Encourage employees to participate in the increasing productivity and improving the efficiency and economy of the Authority operations:
- B. Appropriately recognize and reward employees in a timely manner individually or in groups as merited, for their suggestions, inventions, superior accomplishments, or other personal efforts substantially contributing to the productivity, efficiency, economy, or other improvement of the Authority operations; and
- C. Recognize and reward employees individually or in groups who perform special acts or services in the public interest in connection with or related to their official employment.

12.03 Types of Awards: Incentive awards under the Employee Bonus Program may be granted in any one of the following types:

- A. Cash award in the form of a check or a savings bond;
- B. Honorary award in the form of a certificate or a plaque; or

- C. Noncash award in the form of a letter of appreciation, commendation, or other appropriate means used to recognize employee contributions which do not meet the standard for a cash award.

A cash award and an honorary award may be a combined form of an incentive award.

12.04 Policies and Procedures: The General Manager shall develop policies and procedures governing the granting of incentive awards to all employees to be recognized under the Authority's Employee Bonus Program.

SECTION 13.00 Overtime Pay, Hazardous Pay and Holiday Pay

13.01 Definitions:

- A. Workweek: The Authority's workweek is a regular recurring period of seven consecutive 24-hour intervals, which need not coincide with a calendar week. It may begin any day of the week at any hour of the day. Basic administrative workweek consists of 5 consecutive workdays of 8 hours each totaling 40 hours a week and 2 days off. Shift workers have a defined administrative workweek depending on their scheduled shifts.
- B. Emergency: An emergency shall mean a situation or situations which may jeopardize human life and property, and shall also mean those circumstances which are administratively uncontrollable due to the demand of the work situation and must be ameliorated in order to meet the critical obligations of the Authority.

13.02 Overtime Pay: It is the policy of the Authority that overtime work be held to a minimum consistent with the needs and requirements of a sound and orderly

administration. Overtime work may be authorized by the department head in cases of emergency. In all other cases, overtime work shall require the prior approval of the General Manager. Compensation for overtime work in excess of the administrative workweek shall be at the rate of one and one-half times the employee's hourly rate of pay. However, in the absence of any funds for overtime pay, compensatory time off shall be granted within 30 calendar days following the date of the overtime earned. Any compensatory time not used within the 30-day interval shall be converted to overtime pay the following pay period.

An employee must be in full pay status for the administrative workweek, before he/she can be eligible for overtime compensation. An employee shall be compensated at a minimum of one (1) hour at overtime rate. The minimum unit of creditable time considered overtime work shall be after 30 minutes of actual work performed.

All classified employees are eligible for overtime pay.

13.03 Callout Pay: All employees are subject to being called outside of their regular work day without advance notice. When an employee has less than four hours advance notice to report to work, it will be considered a callout. Callouts shall be authorized for emergencies only. Compensation for callouts shall be at the rate of one and one-half times the employee's regular hourly rate of pay in excess of the administrative workweek. In the absence of funds for callout pay, compensatory time off shall be granted at time and one-half. Compensatory time shall be granted within 30 calendar days following the date of callout. If compensatory time cannot be arranged, callout pay shall be made the following pay period.

Regardless of the lesser time actually worked, the employee shall receive callout pay for a minimum of one hour at overtime rate.

13.04 Night Differential Pay: All employees who are required to perform work between 6:00 p.m. and 6:00 a.m. shall be entitled to night differential pay to be computed at the rate of 10% of the employee's hourly rate.

13:05 Hazardous Differential Pay: Employees who are assigned irregular or intermittent duties involving unusual physical hardship or hazards, shall be paid a premium in the form of an additional percentage of their hourly salary rate of those hours worked on such assignments, subject to review and certification of the department head to authorize such pay differential.

A. Authorization to Pay a Hazard Differential:

Pay is authorized for:

- 1) Exposure to an unusually severe hazard which could result in serious injury, illness, or death, such as working on a high structure, when the hazard is not practically eliminated by protective facilities;
- 2) Exposure to an unusually severe physical hardship under circumstances which cause significant physical discomfort or distress (not practically eliminated by protective devices); or
- 3) Exposure to an unusually severe working condition under circumstances involving exposure to fumes, dust, or noise which cause significant distress or discomfort in the form of nausea, or skin, eye, ear, nose irritation or conditions which cause abnormal soil of body and

clothing, etc. (and where the distress or discomfort is not practically eliminated).

A differential may be paid only to employees who are assigned hazardous duty or duty involving physical hardship.

A differential is not authorized for volunteers, that is, employees who undertake a hazard duty without proper authorization, either expressed or implied.

B. Limitation on Uses of Hazard Differential:

When adequate safety precautions have reduced the element of hazard to a negligible level, and the employee is no longer performing any of the hazard duties listed in "C" below, a hazard differential pay is not authorized.

C. Irregular or Intermittent Duty:

Differential Pay

Category for Which Payable:

1) Hot Work: 4%

Working in confined spaces wherein excess of 110 degrees Fahrenheit, where such exposure is not practically eliminated by Mechanical equipment or protective devices being used.

2) High Voltage Electrical Energy: 25%

Working on energized electrical lines rated at 4,160 volts or more Which are suspended from utility poles or towers, when adverse weather conditions such as, steady rain, high winds, lightning or

similar environmental factors make the work unusually hazardous.

3) Poisons (Toxic Chemicals): 4%

Working with or in close proximity to poisons (toxic chemicals other Than tear gas or similar irritating substances) in situations for which the nature of work does not require the individual to be in direct contact with, or exposure to, the more toxic agents as in the case with the work described under high hazard for this class of hazardous agents and wherein protective devices and/or safety measures have not practically eliminated the potential for personal injury.

4) High Work: 10%

Working on any structure of at least 50' above the base level, ground, deck, floor, roof, etc., under open conditions, if the structure is unstable and if scaffolding guards or other suitable protective facilities are not used, or if performed under adverse conditions such as darkness, lightning, steady rain or high wind velocity.

5) Work in Unsafe Structures: 10%

Work within or immediately adjacent to a building or structure which has been Severely damaged by earthquake, fire, typhoon, flood or similar cause, when the structure has been declared unsafe by competent technical authority and when such work is considered necessary for the safety of personnel or recovery of valuable materials or equipment and the work is authorized by competent authority.

6) Dirty Work: 4%

Performing work which subjects the employee to soil on body or clothing:

- a) Beyond that normally to be expected in performing the duties of the classification;
- b) Where the condition is not adequately alleviated by the mechanical equipment or protective devices being used, or which are not readily available or when such devices are not feasible for use due to health conditions (excessive temperature, asthmatic conditions, etc.); or
- c) When the use of mechanical equipment, or protective devices, or protective clothing results in an unusual degree of discomfort.

13.06 Holiday Pay:

A. Holidays Observed: The Authority observes the following legal holidays, but reserves the right to schedule work on these days if Authority business demands:

- 1) New Year's Day
- 2) Washington's Birthday (3rd Monday in February)
- 3) Guam Discovery Day (1st Monday in March)
- 4) Good Friday
- 5) Memorial Day (last Monday in May)
- 6) Independence Day (July 4th)
- 7) Liberation Day (July 21)
- 8) Labor Day (1st Monday in September)
- 9) Columbus Day (2nd Monday in October)

- 10) Veterans Day (November 11)
- 11) Thanksgiving Day (4th Thursday in November)
- 12) Lady of Camarin Day (December 8)
- 13) Christmas Day
- 14) Islandwide Election Day
- 15) Other days as designated by proclamation of the Governor.

B. Determining Holidays:

1) Non-shift workers (administrative workweek of Monday through Friday):

- a) Sunday Holiday: When a holiday falls on a Sunday, the employee's holiday is Monday
- b) Saturday Holiday: When a holiday falls on a Saturday, the employee's holiday is Friday.

2) Shift workers (administrative workweek other than Monday through Friday):

- a) When a holiday falls upon an employee's first designated day off (for a two-day off duty) or first or second designated day off (for a four-day off duty) in his/her workweek, the preceding scheduled work day shall be observed as the holiday
- b) When a holiday falls upon an employee's second designated day off (for a two-day off duty) or third or fourth day off (for a four-day off duty) in his/her workweek, the following scheduled workday shall be observed as the holiday.

- C. Holiday Pay Eligibility Requirement: To be eligible for a paid holiday, an employee must be in pay status (including approved paid annual, sick or other leave) for a full day on his assigned work immediately before and after the day on which the holiday is observed. If the Authority requires an employee to work on a designated holiday, he/she shall be paid two times the regular straight time rate up to eight hours for the holiday. Any time worked beyond eight hours for the holiday shall be applied to overtime pay rate.
- D. Authorization for Holiday Work: No work shall be scheduled on a holiday unless approved in advance by the General Manager.
- An employee who has been notified at least twenty-four (24) hours in advance to work on a holiday and does not work without a valid excuse shall receive no holiday pay for that day. Advance notice may be less than twenty-four (24) hours in case of emergency.

SECTION 14.00 Leave

- 14.01 Entitlement: All full-time employee (permanent, probationary, temporary and exempt) shall be entitled to leave benefits under this section, subject to specific limitations.
- 14.02 Leave Year: Leave year means the period from the beginning with the first day of the first complete pay period in a fiscal year and ending immediately before the first day of the first complete pay period in the following fiscal year.

14.03 Annual Leave: Annual leave shall be accrued by full-time employees, for biweekly pay periods in which they are in pay status for the entire ten days thereof, at the following criteria:

Less than 3 years service:	4 hours per each biweekly pay period
More than 3 and less than 15 years service:	6 hours for 25 biweekly pay periods each year and for the 26 th pay period, 10 hours.
Fifteen or more years of service:	8 hours per each biweekly pay period

For the purpose of determining years of service as a basis for the rate of accrual of annual leave, employees shall be credited with:

- A. Service with the Naval Government of Guam or with other Federal instrumentalities or agencies with Guam prior to August 1, 1950.
- B. Honorable service with the Armed Forces of the United States, provided such former member of the Armed Forces is not receiving an annuity or pension as a result of such military service.
- C. Full-time service as an employee of the Executive Branch, Judicial Branch and Legislative Branch of the Government of Guam.

14.04 Use of Annual Leave: Leave accumulation is a right granted to all eligible employees, but leave taking is a privilege to be scheduled for the convenience of both the employees and the Authority. It shall be the policy of the Authority to afford opportunity for employees to take leave, and particularly to avoid, whenever possible, loss of leave by forfeiture. However, leave may be denied by the department head when the services of the employee are required after full

consideration of the employee's request and operational requirements of the Authority. The minimum charge for annual leave shall be one (1) hour and additional charges in multiples thereof. Under extraordinary circumstances unavoidable absence from duty of less than one (1) hour, and tardiness, may be excused by the department head for adequate reasons without charge to leave.

14.05 Accrual of Annual Leave: Employees shall be encouraged to use their annual leave allowance before the end of each fiscal year and no employee should work beyond 18 continuous months without a minimum of one (1) week's vacation. Unused annual leave shall be carried over into the following fiscal year and at no time may an employee's accrued vacation leave exceed 40 working days. Vacation days in excess of 40 working days, not to exceed 100 hours, shall be credited to employee's sick leave at the end of the fiscal year. All other excess accrued annual leave shall be automatically forfeited at the end of such leave year. However, a total accumulation of up to 720 hours may be authorized, subject to the approval of the General Manager, upon certification of the Department Head prior to the additional accumulation that it results from continued service of an employee at the request and for the convenience of the Authority.

14.06 Request for Annual Leave: All employees are required to request approval of annual leave from the appropriate supervisor at least twenty-four (24) hours prior to taking such leave. Failure to do so as required may cause absence to be charged to AWOL (absence without leave). The 24-hour advance request may be waived by the supervisor only for extraordinary or unavoidable circumstances.

14.07 Holidays During Annual Leave: Should a holiday occur during an employee's vacation, that day shall be charged as a holiday.

14.08 Advance Annual Leave Credit Not Permitted: Annual leave shall not be granted in advance of being earned. If an employee has insufficient leave credit to cover a period of absence, a deduction for the time involved, (leave without pay) shall be made on the current payroll. Annual leave shall be credited at the end of each biweekly pay period.

14.09 Termination & Lump Sum Pay: Upon termination of employment, an employee shall be entitled to compensation for any earned but unused annual leave to his/her credit at the time of termination at the employee's normal base rate of pay. The official termination date shall be the last day of active employment, and shall not be extended due to payment for unused annual or sick leave time. If any such employee is re-employed by the Authority prior to the expiration of the period of accrued and unused annual leave on which lump sum payment is computed, he/she shall reimburse the Authority for any portion of such period which shall not have expired upon re-employment and shall be credited with leave for future use.

An employee entitled to annual vacation leave may, prior to his/her taking of any such leave, receive a lump sum payment in cash equivalent to the amount of leave authorized to be taken.

14.10 Intergovernmental Transfer: Any employee who transfers from a branch of the Government of Guam to another, or from one department, agency, instrumentality or corporation of the Government to another, may have the option

to accept cash of his/her earned annual leave at the time of transfer; or transfer his/her accumulated annual leave to his/her new government position.

14.11 Cancellation of Leave: Employees on vacation are subject to recall to duty under emergency conditions.

14.12 Sick Leave: Sick leave shall be accrued by full-time employees at the rate of four (4) hours for each bi-weekly pay period in which they are in pay status for the entire ten days.

14.13 Use of Sick Leave: Sick leave will be granted upon approval of the Department Head for the following reasons:

- A. For absence due to personal illness, injury or temporary disability (includes pregnancy complications). A doctor's statement is required for temporary disability indicating approximate length of absence due to disability.
- B. For medical, dental or optical examination or treatment or any mental health examination, counseling or treatment.
- C. For absence due to compensable injury arising out of the course of Authority employment exceeding the allowable five (5) days administrative leave authorization.
- D. Because of exposure to a contagious disease to avoid jeopardizing the health of others, or to give care to immediate family members who have a contagious disease.

The Department head may require confirmation of illness or other reasons given for leave from the employee.

Sick leave will be charged in the amount used with a minimum of one (1) hour.

Sick leave will be charged only against an employee's regular workday and shall not be charged for absences on overtime.

14.14 Accrual of Sick Leave: Eligible employees shall accrue sick leave without limitation and carried over from year to year. Sick leave shall continue to accrue during periods of absence on which the employee is in pay status.

14.15 Request for Sick Leave: All employees are required to notify their appropriate supervisor as early as possible and no later than the starting of the normal workday when unable to report for work because of illness or injury, giving reasons for absence. Employees failing to comply with this provision may not be allowed to charge their absence to sick leave unless waived by the Department Head. Rotating shift employees should try to notify the appropriate supervisor at least two (2) hours in advance of their intent to return to work following an illness or any injury. Sick leave will not be granted for any sickness, injury or disability arising from a felonious act on the part of the employee.

14.16 Certification:

- A. An employee who is absent because of illness, injury away from the job, or quarantine in excess of three (3) consecutive workdays shall be required to furnish a doctor's statement in writing to be turned in to the appropriate supervisor upon return to work , or such absence will be charged AWOL (absence without leave) and disciplinary action may be taken as appropriate.

The doctor's statement shall contain information as to any restriction to the performance of all duties normally assigned to the employee's classification.

- B. Sick leave with pay shall be allowed during leaves of absence or vacation and must be supported by a doctor's written certification of illness while on vacation.
- C. The department head may require certification for such other periods of illness deemed advisable. Supervisors shall apply reasonable judgment when requesting a doctor's certification.
- D. Falsification of an illness report shall be considered sufficient cause for disciplinary action, including dismissal from the Authority for repeated offenses.

14.17 Holidays During Sick Leave: Should a holiday occur during an employee's sickness, that day shall be charged as a holiday.

14.18 Advance Sick Leave Credit: Sick leave shall not be granted in advance of being earned. If an employee has insufficient sick leave credit to cover a period of absence, annual leave or leave without pay may be used.

14.19 Termination and Lump Sum Pay: Upon termination from Authority employment, the employee shall be entitled to compensation for any earned but unused sick leave to his/her credit at the employee's normal base rate of pay. Lump sum payment may be made at the time of termination or on a bi-weekly basis at the option of the employee.

An employee of the Authority who resigns and withdraws accrued sick leave credits may not be rehired by the Authority unless he/she complies with the following requirements:

- a. If selected for appointment within 180 calendar days from termination of service, he/she shall repay in full the total sick leave credits paid him/her at time of separation and have his/her sick leave credits restored.
- b. If selected for appointment after 180 calendar days have elapsed since termination, employee may either pay in full or arrange for partial payment and/or term payment to reimburse the Authority the lump sum payment received at time of termination for accrued and unused sick leave. Term payments shall not extend beyond 3 years from the date of employee reemployment. Sick leave credits be restored in proportion to the payment made, until all accrued and unused sick leave credits paid at time of termination are fully reimbursed and restored.
- c. If selected for appointment after 3 years have elapsed since termination, employee shall not be required to reimburse the Authority for lump payment made at time of separation for sick leave credits; neither shall sick leave credits be restored.

14.20 Maternity Leave: Maternity leave shall be granted to a female employee occupying a permanent position who is absent from work because of confinement for childbirth. Such maternity leave shall not exceed (10) work days

and shall be paid leave in addition to any accumulated sick leave. Any leave taken for pregnancy complications or medical examinations or additional leave for childbirth purposes shall be charged against accrued sick leave, annual leave, or leave without pay. A pregnant employee shall notify her supervisor in advance, at least two (2) months, of her intention to request leave for maternity purposes including the type of leave, approximate dates, and anticipated duration, to allow the Authority time to prepare for any staffing adjustments which may be necessary.

The Personnel Services Department will provide the employee with a appropriate letter to obtain pertinent dates from her physician. The letter emphasizes to the physician the need to provide dates the employee will be physically unable to work—not the dates the employee expects to be absent.

14.21 Paternity Leave: Two (2) work days excused absence with pay and without charge to leave shall be granted for paternity purposes, to assist or care for the mother or children. The employee shall have the option of using the two (2) days leave, either one day prior and one day post-delivery or two days post-delivery.

14.22 Administrative Leave: An administrative leave is an excused absence from duty, administratively authorized, without loss of pay and without charge to leave. Administrative leave **may** be authorized by the General Manager for the following reasons:

- A. **Unusual weather conditions** such as a **typhoon or any major disaster** which creates hazardous conditions or damage which produce unsafe working conditions as determined by appropriate authorities.

- B. Occupation injury/illness sustained in line of duty not to exceed five (5) work days.
- C. Participating as a competitor in Government of Guam personnel examination, not to exceed four (4) hours.

14.23 Military-Leave-Training: The Authority will grant a military leave of absence to a permanent classified employee presenting a copy of military order requiring temporary active duty for training purposes with a reserve unit of the United States Army, Navy, Air Force, Marine Corps, Coast Guard or a National Guard Unit for a period not exceeding fifteen (15) calendar days in any one calendar year. When an employee is granted the maximum of 15 days allowed during the year and is ordered to a second period of training duty which extends into the next year he/she may be granted military leave beginning on the first day of the new year. Annual leave with pay or leave without pay may be applied in excess of the 15-day limitation. Leave beyond the initial 15 days require the approval of the General Manager. It shall be the responsibility of the employee to submit a military leave request to his/her supervisor in advance, supported by a copy of military orders. Upon return to work, the employee shall furnish the supervisor with a certification of attendance at military training.

14.24 Military Leave Without Pay—Enlistment: Any permanent classified employee who enlists in the Armed Forces, voluntarily or involuntarily, must submit a leave application request for military leave without pay supported by proper military orders prior to separation with the Authority. Military leave without pay may be so

granted for a period up to four (4) years, plus any additional involuntary extension of service required by the Government.

Employees separated on military leave without pay status for active military service have reemployment rights provided under Section 6.05 A. of the Rules. Military leave without pay requests shall be approved by the General Manager and shall be maintained in the employee's personnel folder.

14.25 Funeral Leave: In the event of death in an employee's immediate family, leave with pay for two (2) working days shall be granted and taken no later than three (3) days after date of funeral. For the purpose of this section, the following relationships shall be considered immediate family; father, mother, foster parent, brother, sister, spouse, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents and grandchildren.

14.26 Court Leave – Jury or Witness Duty: Court leave is provided when an employee is summoned to a judicial proceeding before any court or governmental body having the power to summon. An employee uses court leave when: (1) he/she is called to serve as a juror; or, (2) he/she is to be a witness in an official capacity (testifying by producing official records on behalf of the Government or a private party) or non-official capacity (testifying concerning matters outside regular employment) while on work status.

It shall be the employee's responsibility to submit a copy of court order summons or a subpoena to his/her supervisor as far in advance as possible. Upon return to duty, the employee shall submit a written evidence of his/her attendance at the

judicial proceeding. Information shall include the dates, (hours if possible) attended and money received.

Employees on court leave shall be allowed full pay for all time lost on account of such duty, provided they deposited jury or witness fees (except allowances for mileage or subsistence) to the Authority or produce a signed waiver for such fees. If the employee receives and keeps jury or witness fees, his/her time shall be charged to annual leave.

An employee who is excused to serve as a juror or witness must report for work during his/her regular working hours not requiring his/her presence in court.

14.27 Leave Without Pay: Leave without pay is a temporary nonpay status and absence from duty administratively granted at employee's request. Permanent employees may be granted leave without pay for a period of one (1) year, except for leaves for active military service provided in Section 14.24 above. Leave without pay of less than thirty (30) days shall be approved by the Department head; leave without pay of thirty (30) days or more shall be approved by the General Manager.

Leave without pay shall be granted when it is in the interest of the Authority to do so. The needs of the employees shall be considered as far as possible, but normally shall be granted for the following purposes:

A. For a valid reason, when the employee lacks sufficient annual or sick leave to cover a portion of, or all of, the period of absence requested.

- B. For education, when the course of study or research is in line with the employee's work and which would contribute to the Authority's best interest;
or,
- C. For the purpose of recovery from job-connected injury or disability, not of a permanent nature, when continued employment or immediate return to employment would threaten impairment of the employee's health.

An employee desiring to take leave without pay must submit a leave request application form indicating the beginning and ending dates of the leave requested and the specific reasons for the request. Failure of an employee to report to work promptly at the expiration of a leave without pay may be cause for dismissal. Extenuating circumstances will be given consideration.

Approved leave without pay status in accordance with the provisions with this section shall not constitute or break in service.

- 14.28 Extension of Leave Without Pay: For a good cause, leave without pay may be extended for a period not to exceed six (6) months. Employees desiring an extension must give a reasonable notice prior to the expiration of such leave and make a written request to the Department Head. Upon receipt of the request, it shall be promptly submitted to the General Manager for approval or disapproval.

SECTION 15.00 Classification and Compensation Plan

- 15.01 Classification and Compensation Policy: It is the policy of the Authority and Civil Service Commission to provide an equitable plan for the classification and compensation of positions in the classified service of the Authority. This plan,

shall to the extent feasible, be consistent with the legislative determinations affecting pay administration as set forth in Title IV of the Government Code.

Compensation of positions shall be based on the premise that there will be equal pay for substantially equal work within the pay range limit assigned to the specific class to which the position is allocated. Variations between classes shall be based on relatively difficulty of work, responsibility assigned, and qualification requirements. Where not otherwise specified by laws, pay relationships shall take into consideration prevailing wage in the primary area of recruitment for the same related classes of positions.

15.02 The Official Classification Plan: The Official Classification plan and class standards for the Authority shall be filed with Personnel Service Department and shall conform with the title structure contained in Title IV of the Government Code as modified by additions and deletions authorized by law.

The General Manager who has been delegated authority and responsibility to classify positions must have copies of the applicable published standards and plan for its use and reference. Published standards should be made available for review by employees and officials of the Authority.

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

15.04 Position Description: The Authority must prepare a written description of the duties and responsibilities of each budgeted position on a form prescribed by the Civil Service Commission. A group of like positions may be covered by a single description. The description may be prepared by the employee, supervisor and/or position classifier. However, the major responsibility to insure accurate description is on the supervisor. The supervisor must certify as to the accuracy of the duties assigned. The position classifier must certify as to the proper classification of the position. Triplicate copies of the position description must be made and a copy filed with the Commission, Personnel Services Department, and the Department Head Concerned.

The position description must be amended whenever significant changes occur that would affect the recruitment and classification of a position; and must be promptly reported to the Administrator of Personnel Services so that a review of the position can be made to determine the proper classification of the position.

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

15.06 Reclassification/Reallocation of Position: The Administrator of Personnel Services may, upon his/her own initiative, or upon the written request of a

permanent employee or his/her supervisor, investigate the duties of any position to determine if it is properly classified; and shall make recommendations to the General Manager to take appropriate action as necessary, in accordance with the Commission's regulations, policies and procedures. In making a request for the review of a position, the employee or the Department head shall set forth the changes that have occurred in the particular position since the last review or other factors which in his/her opinion warrant reclassification. The Administrator of Personnel Services shall, after a thorough review of the position, notify the Department Head and the employee affected of the classification study result within 20 calendar days. A copy of the study, documented in a form prescribed by the Commission, and the personnel action shall be filed with the Commission for post-audit purposes.

15.07 Status of Incumbents When Positions are Reallocated:

- A. When a position is reallocated as a result of gradual accretion of additional duties and responsibilities, the employee in the position shall be entitled to serve in that class provided he/she continues to perform the same basic functions and meets the minimum qualifications for the class to which the position is reallocated.
- B. If ineligible for reallocation to the position as reallocated the employee may be transferred, promoted, or demoted to an appropriate class by appropriate action in accordance with the provisions of these Rules.

C. When a position is determined to be reallocated to a lower class, the old position title and pay range shall be applicable until the expiration of two years from the date of downgrade.

15.08 Appeal of Classifications: An appeal of a classification or reclassification action may be filed by an employee in a classified position or a Department Head who objects to the classification or reclassification of a position or positions. An appeal may be made no later than 20 calendar days from the effective date of action, or notice of the action, which is in dispute; and shall be filed in accordance with the following procedures:

A. An employee aggrieved by the current or proposed classification of his/her position shall first appeal to the Department Head stating the reasons for which he/she believes his/her position to be incorrectly classified.

B. The Department Head shall review the appeal and advise the appellant of his/her view in writing within 10 calendar days. If the Department Head determines that reclassification would be appropriate, he/she shall follow existing administrative procedures to request for reclassification.

C. If the Department Head determines that the position is correctly classified or if no reply is received from the Department Head within 10 calendar days, the employee may appeal further in writing within 10 calendar days to the General Manager stating the reasons for which he/she believes his/her position to be incorrectly classified.

D. The General Manager shall, after conducting a thorough review and investigation, respond in writing to the appellant, within 10 calendar days which will include:

1. The decision of the General Manager;
2. A detailed statement of the position classification judgment upon which the decision is based;
3. A statement that the action may be appealed within 10 calendar days to Civil Service Commission.

E. The Department Head may file an appeal directly to the General Manager and follow through the procedure D above.

15.09 The Compensation Plan: All positions in the classified service shall be allocated to classes and pay ranges as approved by Civil Service Commission.

15.10 Salary Rate for Initial Appointment: In accordance with Section 4104 (a) of the Government Code, the minimum rate of each pay range shall be the normal rate for initial employment, except where the Authority to recruit above the minimum step is approved by the Commission.

15.11 Recruitment Above the Minimum Step: The General Manager may, with the approval of the Civil Service Commission, authorize initial employment in a position at a higher step in the position's pay range if such action is warranted by recruitment difficulties or by the new employee's special or unusual qualifications, including experience.

15.11A Recruitment Above-Step For Employees in Certified, Technical And Professional Positions:

1.0. Purpose:

This guide is intended to be used for salary placement above Step 1 of a respective pay grade for certified, technical and professional positions within the Guam Power Authority and the Guam Waterworks Authority. This is a management tool and may be used at the discretion of the General Manager.

2.0. Above Step Qualifications:

2.1. The General Manager may petition the Consolidated Commission on Utilities (CCU) for recruitment at a higher step not to exceed Step 10, because of documented recruitment difficulty or exceptional qualifications. The petition shall be posted on the agency's website for ten (10) days (Saturdays, Sundays and government of Guam holidays excepted). This petition shall be made before an applicant is hired. Every petition shall be scrutinized and amply justified before being approved. Increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above step.

2.2. The appropriate step placement of a respective pay grade for above step qualifications shall be determined by education, work experience, and other credentials or evidence acceptable by the General Manager.

2.3. Exceptional qualifications can be determined by the quality of major accomplishments, expertise, professional growth and leadership, and by an individual's personal enhancement initiatives. These qualifications can be demonstrated through the following:

- a. Performance evaluations
- b. Professional accomplishments
- c. Professional awards/recognition
- d. Training Certificates/Certifications
- e. Academic achievements
- f. Other testimonials

- 2.4. Recruitment difficulty exists when recruitment efforts fail to produce the minimum applicants needed to establish a list of eligibles as defined by personnel rules and regulations.
- 2.5. Recruitment announcements shall be made for at least one (1) month and at least twice in a local news media of general circulation and other viable means of electronic communication to include, but not limited to, internet postings. Such media announcements shall be two (2) weeks apart. All recruitment announcements shall be made for no more than one (1) month preceding the submission of the request to the General Manager.
- 2.6. Internet postings for job announcements on a continuous basis may be considered on a cumulative basis totaling a period of one (1) month. Internet postings constitute off-island recruitment.

3.0 Guidelines: These guidelines are used to determine step placement in addition to the qualifying factors for above step recruitment listed above.

- (1) Minimum education and experience requirements established in the job standard must first be met and are not included in the computation for an above step.
- (2) Pending certifications, licensure, diplomas, potential performance, economic conditions, etc. are not qualifying items for additional step placement.
- (3) Job related College level degrees beyond a Bachelors degree will receive four (4) points.
- (4) Job related Bachelors degree beyond a High School educational requirement will receive three (3) points.
- (5) Job related Associate's degree beyond a High School educational requirement will receive two (2) points.
- (6) Should the applicant possess multiple degrees, he/she will receive the points designated for the highest degree level held.

- (7) Should there be multiple degrees at the same level, only one (1) degree related to the job will be credited.
- (8) Job related Certificate of Completion of an Apprenticeship Program recognized by the U.S. Department of Labor will receive two (2) points.
- (9) Qualifying directly related work experience:

Total years beyond the minimum requirement	Points for direct work experience beyond the minimum requirement
2 – 5 years	1
6 – 9 years	2
10-12 years	3
13-15 years	4
More than 15 years	5

*When total years of experience include months: round down at five (5) months; round up at six (6) months.

- (10) Nationally recognized licensures, certifications and other job related certificates as determined by organizational needs and accepted by the General Manager may receive up to three (3) additional points.
- (11) The Selection Interview plays a vital part in determining a candidate's suitability for the job. The General Manager may, pursuant to the procedures set forth in sub-sections 4.0 and 5.0 of this Section/Chapter authorize additional step placement based on the interview panel's recommendation up to (4) points for candidates who performed exceptionally well during the selection interview.

Total Points Above the Line of Demarcation for Selection Interview	Points for selection interview results
10-20 Points above the Line of Demarcation	1
21-30 Points above the Line of Demarcation	2
31-40 Points above the Line of Demarcation	3
41 or more Points above the Line of Demarcation	4

Each point factor has a direct correlation to the step placement of each position's assigned pay grade in accordance with the pay schedule in effect.

4.0 Discretionary Approval:

The General Manager at his discretion may grant additional step placement beyond the formulated criteria based upon organizational needs and demands, insufficient labor pool, documented superior past performance or other contributory factors accepted by the General Manager. Additional step placement under this Section must be justified in writing. The General Manager may designate the respective hiring division manager to justify additional step placement.

5.0 Request To Recruit Above The Minimum Step Shall Include The Following Information:

- 5.1. The request for recruitment above step shall come through the General Manager for submission to the CCU for approval.
- 5.2. Identifying information about the candidate and the position to be filled.
- 5.3. Demonstration of qualifications above the required minimum set by the job standard/announcement.
- 5.4. Justification for salary being requested. Justifications must include information of the applicant's current salary. The applicant must inform the Authority in writing a salary minimally acceptable for the job.
- 5.5. The candidate is advised before being hired that Step 1 will be the normal pay rate of employment pending the General Manager's approval of additional step placement.

6.0. Miscellaneous Provisions:

- 6.1. The effective date of the additional step placement rate is the General Manager's date of approval of such rate.

- 6.2. No additional step placement will be considered after ten (10) working days of the incumbent's date of hire, except for just cause as determined by the General Manager.
- 6.3. All documentation for consideration of step placement must be submitted to the Human Resources Division within ten (10) working days of the incumbent's date of hire.
- 6.4. In accordance with Chapters 8 and 14 of Title 12 of the Guam Code Annotated, the Consolidated Commission on Utilities (CCU) determines the compensation of the General Manager, Chief Financial Officer, Assistant General Manager, Comptroller, Attorney, Treasurer and Secretary positions.

15.12 Pay Adjustment on Promotion: Pursuant to Public Law 13-71, an employee, when promoted from one class to another of a higher pay range, shall receive a salary which is not less than the equivalent of a two-step pay increase in the pay range held prior to promotion. Step 10 of the Pay Range Schedule and Step 5 of the Pay Range Schedule (Labor trades) shall be the maximum step for any step increase upon promotion.

15.13 Pay Range Reassignment: A Department Head, or employee, may initiate a written request for consideration of an amendment to the pay range allocation for a class of position with justification consistent with the reasons given in the definition of Pay Range Reassignment.

Such request shall be submitted to the Administrator of Personnel Services for his/her action. If the findings of the Administrator indicate the need to amend the pay range allocation, he/she shall submit a written request with justification, upon the approval of the General Manager, to the Commission in accordance with the

Commission's policies and procedures. Changes adopted shall become effective as directed by the Commission.

15.14 Pay Adjustment Following Pay Range Reassignment:

- A. When a pay range for any class is reassigned to a higher salary range and there is no change in the position classification, the employee in the class shall be compensated at the same step of the new range as he/she was in the pay range held prior to the reassignment:
- B. If the pay range reassignment is to a lower salary range, the employee's salary rate prior to the pay range reassignment shall be retained.
- C. The Commission may grant an exception to the above provisions when authority to recruit above the minimum step has been granted for the class of position reassigned.

15.15 Pay Adjustment Following Reclassification of Positions:

- A. When a position is reclassified to a class of a higher pay range, the employee shall receive a salary which is not less than the equivalent of a two-step pay increase in the pay range held prior to the reclassification; however, step 10 of the pay range or step 5 of the wage level shall be the maximum step for any pay adjustment.
- B. When a position is reclassified to another class of the same pay range, the salary of the incumbent shall remain unchanged.
- C. When a position is reclassified to a class of a lower range, the salary of the incumbent prior to the reclassification shall remain unchanged until the expiration of the two-year waiver as provided in Section 15.07 C.

15.16 Effective Date of Reclassification of Positions:

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

15.17 Compensation of Certified, Technical and Professional Employees:

1.0. Authority: Pursuant to 12 G.C.A. §8104(13) [12 G.C.A. §14104(m) for GWA], the Authority is authorized to adopt rules and regulations governing the compensation of the Authority's Certified, Technical, and Professional Employees. This Compensation Policy and the following rules and procedures shall only apply to the Certified, Technical, and Professional Employees of the Authority. Compensation for all other personnel shall remain consistent with compensation plans and pay scales as determined by law.

2.0 Compensation Policy:

- (a) Certified, Technical, and Professional Employee compensation shall be based on internal equity and external competitiveness.
- (b) To the extent practical, compensation will be targeted at the U.S. National Average levels compared to the appropriate labor markets and account shall be taken of the relevant economic factors.
- (c) Internal equity should be reviewed annually and external competitiveness at least every three (3) years.
- (d) Compensation structures and administrative policies should also recognize and reward individual employees commensurate with performance.

(e) All aspects of compensation (base salaries, benefits, pay differentials, and other factors) shall be considered as a total reward and incentive package for employees and shall be consistent and uniformly administered through the Authority.

(f) A program of ongoing communications and training shall be a critical component of compensation administration.

3.0. Administration: The Consolidated Commission on Utilities (CCU) shall approve a unified pay scale for the Authority's Certified, Technical, and Professional Employees that has been developed by the General Manager using the following process:

(a) Position Classification, Compensation, and Benefits Study. The General Manager shall complete a Position Classification, Compensation, and Benefits Study for every Certified, Technical, and Professional position in the Authority. The study shall include the following:

(1) A Job Analysis and Job Evaluation. This analysis and evaluation must use a systematic process of assessing the relative size and importance of Certified, Technical, and Professional positions in the Authority. The Job evaluation must provide a structured approach to assessing the relative worth of each Certified, Technical, and Professional Position. It must use measurement factors universally applicable across all sectors of industry, commerce, and government.

(2) Compensation Structuring. This shall incorporate the compensation policy set forth in paragraph 1 above. The compensation structure shall be in the form of a unified pay scale for Certified, Technical, & Professional positions.

(3) Pay Incentive Development.

(4) Implementation Plan.

(b) Approval of Unified Pay Scale and Implementation Plan. The General Manager shall petition the CCU for approval of the unified pay scale developed from the Position, Classification, and Benefits Study as follows:

(1) The Petition shall include:

(a) The unified pay scale.

(b) The Position, Classification, and Benefits Study justifying the unified pay scale.

(c) The Implementation Plan

(2) The petition shall be posted on the Authority's website for ten (10) days (Saturdays, Sundays, and government of Guam holidays excepted) and a notice of posting shall be sent to each newspaper of general circulation and broadcasting station which airs a regular local news program on Guam. After the posting, the General Manager shall forward the petition, along with evidence of his or her compliance with notice of posting requirements, to the CCU.

(3) The CCU may approve, disapprove, or amend the unified pay scale at any regularly scheduled meeting.

SECTION 16.00 Layoffs:

Layoffs shall be accomplished in an orderly, systematic and uniform manner in accordance with established procedures. The General Manager may lay off an employee or employees when it is deemed necessary for reasons of but not limited to: lack of funds or work, or other material changes in the duties or organization or for other related reasons which are outside of the employee's control which do not reflect discredit on the service of the employee. This Section shall not apply to removal from employment for cause.

16.01 Notification: Any employee, including a temporary employee, who is within the classified service, shall be provided a written notice of at least sixty (60) calendar days prior to layoff. The written notice shall contain the reason(s) the layoff is necessary. In the absence of a written notice provided herein, any attempt to layoff an employee shall be void and the employee shall be continued in pay status.

16.02 Determination: The General Manager shall determine the extent of layoffs necessary and identify:

- A. The classification of positions from which layoffs are to be made, and
- B. The number of positions in each classification to be abolished resulting in layoffs.

16.03 Order of Layoffs:

A. When it becomes necessary to reduce the number of employees in a given classification, all non-permanent employees shall be laid off before any permanent employees and in the following order:

1. Temporary Part-Time
2. Temporary Full-Time
3. Provisional
4. Probationary (new)

B. An employee who has attained permanent status but is serving promotional probationary period is grouped together with permanent employees for layoff purposes. If additional reductions are necessary, permanent employees shall be laid off based on the following:

1. Performance ratings shall be the primary basis for establishing order of layoffs.
2. Seniority shall be considered only in the event that performance ratings are substantially equal based on the following formula:
 - a) One (1) point for each complete month of continuous government service in the class of position determined to be laid off.
 - b) Three-fourths (3/4) of one point shall be allowed for each complete month of full-time continuous government service in all other classes below the layoff class.
 - c) In addition, any employee who has been subject to a formal disciplinary action (suspension or involuntary demotion) in the past twelve months prior to the notification date of the layoff, shall have twelve (12) points subtracted from his/her service points.
 - d) Any employee who has received a written reprimand or warning in the past twelve (12) months prior to date of layoff notice, shall have six (6) points subtracted from his/her service points.
 - e) Any employee who received a meritorious salary increase or a letter of commendation from superiors in the past twelve months of the date of the announcement of the layoff shall receive four (4) additional service points.

16.04 Rights to Other Positions: A permanent employee laid off shall be entitled to a suitable job offer to any vacancy of the same or lower classification within the same class or related series for which the employee is fully qualified and able to do the work without any interruptions to it. If there are no suitable vacancies, an

employee shall be entitled to replace (bump-off) an employee in a lower classification within the same class or related series provided he/she has seniority over the employee occupying such a position in accordance with Section 16.03 B.2. above. The employee being replaced reestablishes the layoff class for the purpose of continued employment. An employee who accepts an offer to a lower classification shall be demoted without a change in salary, but shall not receive a rate of pay in excess of the maximum of the pay range to which demoted.

If there are no positions to which the employee has a right, the Authority may separate him/her. If he/she declines a reasonable job offer, the Authority is not required to make a second offer and may separate the employee.

The Authority shall determine the qualifications of its employees and the jobs to which they can be assigned, but the employees shall be entitled to check on their rights by examining the order of layoffs.

16.05 Re-employment Rights: Permanent employees and probationary employees shall have their names placed on the reemployment list for the class of position involved in layoff, in reverse order of termination. Permanent employees shall retain eligibility for appointment on such list there from for a period of two (2) years from the date of their separation. Probationary employees shall be maintained on the reemployment list for a duration of one (1) year.

16.06 Payment During Notice Period: If an employee has been in continued pay status but has been relieved of his/her duties, the employee shall not be given a lump sum payment for the period of notice to which entitled but shall, instead, be paid

on a bi-weekly basis. Such payment shall continue only so long as the employee certifies under oath that he/she has not obtained new employment. The obtaining of new employment during the notice period shall constitute a waiver by the employee to any further claim for the pay to which he/she would otherwise be entitled.

SECTION 17.00 Employee Grievance:

- 17.01 Policy: It is the policy of the Authority to assure each employee of the right to discuss freely with management any matters concerning the employee's welfare. The grievance procedure is to provide a systematic and efficient manner by which an employee may bring to the attention of management a problem or complaint and have it settled with the least possible delay. Employees and their representative shall have the right to present their grievance free from interference, coercion, restraint discrimination or reprisal. Supervisors shall be responsible for hearing complaints in a sincere and conscientious manner and for just and equitable treatment of the employees presenting such complaints.
- 17.02 Coverage: Any employee regardless of employment status who is aggrieved by any action which relates to working conditions and relationships, or to the Authority's policies, rules and regulations, and which cannot be resolved through informal discussion with the immediate supervisor, may file a grievance. Grievances shall include, but are not limited to, such matters as employee-supervisor relationships, duty assignments not affecting job classification, shift work and job location assignments, hours worked, working facilities conditions, policies for granting leave and similar matters.

17.03 Exclusion: The following subjects matters are not covered by the grievance procedures:

- A. Disqualified applicants right to appeal.
- B. Appeals from examinations (written or practical).
- C. Appeals against employment medical examination results.
- D. Appeals of removal during probationary period after promotion.
- E. Appeals from classification determinations.
- F. Appeals of adverse actions and other appeals handled by the Civil Service Commission.
- G. A performance rating appeal.
- H. An allegation or complaint of discrimination.

When an aggrieved employee submits a written allegation of discrimination on grounds of race, color, religion, sex or national origin, age, physical handicap or other non-merit factors in connection with a matter which is subject to the grievance procedures as well as the EEO discrimination complaint procedures, that allegation shall be processed under the EEO discrimination complaint procedures.

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

- A. the Personnel Office; or
- B. the Authority's Equal Employment Opportunity (EEO) Coordinator or Counselors; or

C. a supervisory or management official of higher rank than the employee's immediate supervisor.

17.05 Representation:

A. An employee has the right to present a grievance without representation.

B. An employee, also, has the right to designate a representative of his/her own choosing at any state of the grievance proceedings.

C. An employee may change his/her representative; provided, he/she must notify his/her supervisor and department head the change in writing.

D. A person chosen by the employee must be willing to represent him/her. In addition, the representative must be free to do so, not to be disqualified because of conflict of position or unavailable to serve because of priority of needs of his/her department.

17.06 Official Time for Presentation of the Grievance:

A. An employee must be given a reasonable amount of official time to present his/her grievance if he/she is otherwise in an active duty status.

B. An employee's representative, if he/she is an employee of the Authority and is otherwise in an active duty status, must be given a reasonable amount of official time to present the grievance.

C. There is no requirement that the official time for presentation include time for investigation or preparation or that it includes travel expense or per diem travel allowance.

17.07 Termination of a Grievance:

A. An employee who has filed a grievance may terminate the grievance at any time.

B. Failure on the part of employee to proceed to a higher status of the grievance procedure within the time period specified will terminate the grievance. In this event, the department head will be responsible for notifying the employee in writing of the termination of grievance. This notice shall be delivered to the employee within two (2) work days of the date of termination of grievance.

17.08 Management's Responsibility for Timely Action: Failure of the responsible reviewer at any step of this procedure to communicate the decision in a grievance stage within the specified time limit shall act to permit the aggrieved employee to proceed to the next step of the grievance procedure.

17.09 Procedure: The following sequential procedure shall be used for resolution of all grievances:

A. Preliminary-Informal Presentation

The employee shall initiate the procedure by presenting the matter orally or in writing to the immediate supervisor within three (3) work days after the occurrence of the events underlying the grievance. A complaint shall not be considered unless it has been first discussed with the employee's immediate supervisor. The supervisor shall make every effort to satisfactorily resolve the matter within two (2) work days. Only the aggrieved employee and the immediate supervisor shall be present at the informal conference. If mutual agreement has

not occurred after this informal oral presentation of a grievance to an employee's immediate supervisor, the forth steps set forth below shall be followed.

B. Formal Presentation

STEP 1

1. If the employee is not satisfied with the immediate supervisor's response, the grievance shall be submitted in writing on the Statement of Grievance Form provided and transmitted within three (3) work days following the receipt of the immediate supervisor's answer to Department Head.
2. The Department Head shall immediately determine the initial compliance before formal presentation – whether the grievance is timely, is covered by the grievance system, and has been processed through the informal procedure. The Department Head may reject the grievance if it is deficient by any of the foregoing criteria. The nature of rejection must be in writing stating the reasons for the rejection. If the employee has not completed the informal procedure, the Department Head must return the grievance and tell the employee of the requirement that he/she use the informal procedure.
3. If the grievance has been processed through the informal presentation, the Department Head shall grant an opportunity for a hearing with the aggrieved employee and shall make a reply in writing on the Grievance Response Form within five (5) work days stating the disposition of the complaint. Said for shall be submitted to the employee filing the appeal.

STEP 2

1. If the complaint is not amicably adjusted between the Department Head and the aggrieved employee, then the employee may request an appeal to the General Manager within three (3) work days following the receipt of Department Head's reply. The appeal shall be in writing with detailed reasons for the appeal and shall contain all the papers submitted in STEP 1 (Statement of Grievance and Grievance Response Forms).
2. The General Manager shall appoint, with the assistance of Personnel Services Department, a Grievance Committee to be composed of five (5) members as follows, within five (5) work days of receipt of the grievance:
 - a. Two (2) members from the managerial, administrative or supervisory level;
 - b. Two (2) members from the employee's peer group (employees in the same or similar pay level, rank or classification) and must be from two different departments; and,
 - c. One (1) member other than a. or b. above.
3. The five (5) committee members shall elect among themselves a chairperson and a secretary.
4. Committee Inquiry

The Committee shall be expected to convene and initiate a grievance inquiry (investigations), preliminary to hearings. The inquiry must be focused on the nature and scope of the issues involved in the

grievance. The inquiry will typically include the securing of documentary evidence and personal interviews in an effort to fully understand the issues and obtain the maximum information available pertinent to the issues.

5. Grievance File

When the Committee begins a grievance inquiry, the Committee Chairperson shall establish an employee grievance file. The grievance file is the official record of grievance and must contain all documents pertaining the grievance including:

- a. Statement of witness;
- b. Records or copies of records; and ,
- c. Reports of personal interviews.

6. Open Record

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

7. Hearing

- a. The hearing of the Grievance Committee shall be held within ten (10) work days after the appointment of the Committee. The

aggrieved employee and his representative shall be necessary parties to this hearing.

- b. In the event that any party fails to appear for this hearing, the Committee is empowered to proceed in his/her absence and make a determination without his/her participation.

8. Committee Report

The Committee shall submit a written report of their findings and recommendations to the General Manager within five (5) work days after completion of the hearing.

9. General Manager's Written Decision

The General Manager shall render a written decision on the Grievance Response Form to the aggrieved employee within seven (7) work days of receipt of the written report from the Committee.

STEP 3

1. If the General Manager's decision is considered unacceptable, the aggrieved employee may request an appeal in writing for review and determination to the Authority Board of Directors within three (3) work days following the receipt of the General Manager's reply. The written appeal request shall contain detailed reasons for the appeal and all papers submitted in STEPS 1 and 2.
2. The Board will promptly consider the complaint and all previous actions thereon and render a decision in not more than ten (10) work days after they complete their evaluation and/or hearing (if any)

STEP 4

1. The grievant within five (5) days of receipt of the Board of Director's decision, if not satisfied with disposition of his/her complaint, may file a request for review with the Civil Service Commission Board.
2. The request for review from the grievant shall be allowed only if predicated by one or more of the following conditions:
 - a. The Authority Personnel Rules and Regulations or Government Code has been violated.
 - b. The procedural rights of the grievant have been disregarded as outlined.
 - c. The decision of the official(s) of the Authority has been unjust, inequitable or not in accord with the facts.
3. CSC Board-Final Decision
 - a. The Civil Service Commission Board shall review the official grievance file and all relevant written representations.
 - b. The Board may afford the parties to appear personally and present oral arguments and representations.
 - c. The Board shall normally be expected to issue a written decision within fifteen (15) work days after receipt of the grievance. The Commission's decision shall be final.

17.10 Assistance In Processing a Grievance: The Personnel Services Department shall be available to assist both the employee and the employer in the proper procedure for processing a grievance.

Appropriate forms must be used for the grievance.

SECTION 18.00 Employee Discipline: 

18.01 Responsibility of Discipline: All employees in the Authority are members of a select group working together for the main purpose of servicing the community. Any employee who fails to follow the necessary rules and regulations governing his/her conduct is not only penalizing himself/herself but is also doing a disservice to all of the other Authority employees.

The Authority has the responsibility to remove, demote, suspend, or reassign to another position any employee in the permanent classified service whose conduct warrants disciplinary action in order to promote the efficiency of the Authority.

18.02 Delegation of Authority: The General Manager shall delegate responsibility for the administration of day-to-day discipline of subordinates to first-line supervisors, to include such actions as oral admonitions, letters of reprimand and initiation of recommendations for more severe penalties.

18.03 Vested Authority: The General Manager is the only official vested with the Authority to remove, demote or suspend an employee.

18.04 Job Protection Procedures:

A. All levels of management and supervisors share the responsibility for strict adherence to employee's job protection rights and considerations including the following:

1. Informal counseling at the first indication when an employee's job performance is being affected by on-the-job deficiencies or personal problems;
2. A reasonable opportunity for the employee to correct inadequate performance, including providing specific training to the employee to improve the level of his/her job performance or to correct unacceptable habits or practices, such as tardiness or lack of attention to work requirements;
3. The right to reply to the notice of a proposed adverse action, such as a suspension, demotion or dismissal and the careful consideration of any reply; and,
4. The right to appeal to the Civil Service Commission as provided in the Commission's Rules and Regulations relative to demotion, suspension, dismissal and appeal of adverse actions.

B. The General Manager is accountable for assuring that each department head or supervisor has received an orientation or training on the Authority's basic intent that discipline shall be a method of controlling people in such a way as to produce satisfactory job performance. The use of discipline in a punitive manner is inconsistent with the Authority's concept of discipline as an opportunity to provide constructive correction.

18.05 Written Instruction and Cautioning: Whenever an employee's performance or attitude falls below an acceptable level, the supervisor should inform the employee promptly of such lapses in performing and give counsel and assistance

to the employee. An Employee Notice form shall be issued defining the nature of the infraction under the Code of Conduct in Section 18.14 below and an explanation that future occurrences will result in progressive discipline. Instances of violations of the Code of Conduct should be specifically referred to by date and incident.

Appeals of written warnings/reprimands shall be applied to the Authority's Grievance Procedures.

18.06 Adverse Actions/Definitions: The following are applicable adverse actions and their respective definitions:

- A. Dismissal - An involuntary separation, discharge or removal, for cause, of an employee from Authority service.
- B. Suspension - An action placing an employee in a temporary nonduty and nonpay status for disciplinary reasons not to exceed thirty (30) working days in one calendar year.
- C. Demotion - An involuntary reduction of an employee because of demonstrated inadequacy in a position, from his/her present classification to a lower classification in the same or related class series with a reduction in pay of at least one salary increment; or an employee's salary may be reduced to a lower salary increment in the

18.07 Notice of Proposed Adverse Action: An employee, against who adverse action is sought, shall be entitled to immediate written notice stating any and all reasons,

specifically and in details for the proposed action. The written notice must make it clear that it concerns only proposed action and not matter already decided.

- 18.08 Employee's Answer: An employee shall be entitled to ten (10) calendar days to answer the charge(s) contained in the written notice of proposed adverse action personally or in writing and to submit affidavits in support of his/her answer to the General Manager or his designee. The employee shall have the right to counsel and may be represented by a person of his/her choice. When the employee requests an opportunity to answer personally to the General Manager or his designee shall make himself available to hear the employee's answer. Consideration may be given to extending the 10-day limit, if the employee requests an extension along with his/her reasons for the request.

When a 10-day proposed notice period falls on a Saturday, a Sunday or a legal holiday, the action may not be effected earlier than the next business day.

- 18.09 Consideration of Answer: The employee's answer constitutes his/her defense and, as such, shall be afforded detailed and objective consideration before reaching a decision on the proposed adverse action. If the employee's answer raises doubts about the Authority's reasons for proposing adverse action, or the propriety of the action proposed, the Authority should attempt to resolve these questions before reaching a decision on its proposed action. It is at this point in the proceeding that the General Manager shall determine whether the proposed action under all circumstances, is for such cause as will promote the efficiency of the Authority service. When appropriate, the proposed action may be withdrawn,

or a less severe action may be substituted without issuing a new notice of proposed adverse action. The General Manager shall not, however, substitute a more severe action than originally proposed, nor may rely on reasons which were not stated in the proposed notice.

18.10 Suspension During Notice Period: An employee must be retained in active duty status during the notice period. However, in an emergency situation, an employee may be immediately suspended during the notice period, but not to exceed twenty (20) work days under the following conditions: (The statement of reasons supporting any of the conditions below must be included in the immediate notice of suspension.)

- A. The continued presence of the employee would interfere with the efficient operation of the Authority, or the health and safety of the employee or others.
- B. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property or important documents.

18.11 Final Notice of Adverse Action: The General Manager shall issue the employee a written decision of his decision within ten (10) days after receipt of the employee's answer to the charge(s). The written decision shall be delivered to the employee at or before the time the action will be made effective. The final notice shall state the specific facts found upon which such action is based. The final notice shall include information of the employee rights to appeal to Civil Service Commission within twenty (20) calendar days after receipt of final notice of adverse action.

18.12 Physically or Mentally Disable Employees: The General Manager shall remove, demote or suspend any employee in the classified service whose conduct or physical or mental capacity is such that his/her removal, demotion or suspension will promote the efficiency of the Authority service. The following are special provisions of this Section:

- A. When an employee is unable to work satisfactorily because of ill health, the General Manager, upon request of the Department Head, shall require the employee to undergo a special medical examination to determine his/her fitness for duty. The medical examination request shall include a statement of the particular demands of the position and a statement of how the employee's performance or behavior fails to meet these demands.
- B. Before initiating removal of an employee who is eligible for disability retirement, the Authority shall recommend to the employee to apply for disability retirement-if he/she has the required six (6) years creditable Government of Guam service. If the employee fails to submit to disability retirement application or the employee does not meet the required 6-year creditable service, adverse action shall be taken on the basis of deficiencies in performance or conduct.
- C. If an employee is incapable of performing his/her regular duties, he/she shall be offered a lower classification that he/she meets and can perform at full capacity. Should the employee refuse such offer, he/she shall be removed from Authority service.

- D. If the employee refuses to submit to a special medical examination, adverse action shall be taken on the basis of deficiencies in performance or conduct.
- E. The Authority must not rely solely upon a showing that the employee has a disabling condition, even when a medical opinion of incapacity has been obtained. The Authority must link between the medical conclusion and 1) observed deficiencies in work performance or employee behavior or 2) high probability of hazard when the disabling condition may result in injury to the employee or others.

18.13 Use of Past Records: In imposing disciplinary measures by incremental steps based on deficiencies in job performance and conduct, the Department Head shall not take into consideration on a current charge prior infractions of the same rule which occurred more than two (2) years previously, except in dismissal cases in which the overall disciplinary record of the employee may be taken into consideration.

18.14 Code of Conduct: The Code of Conduct is established to provide standard penalties which shall apply for specific offenses. The Code of Conduct is not intended to restrict or impose on the individual but is designed to insure the rights and safety of all Authority employees and to provide working guidelines to assure equitable and business like approach to efficiently serve the community effectively.

In recognition of the fact that each instance differs in many respects from a somewhat similar situation, the Authority retains the right to treat each violation of

the Code of Conduct on an individual basis without creating a binding precedent for other cases which may arise in the future.

The penalty provisions of the Code of Conduct are not to be construed as a limitation upon the retained rights of the Authority; however, a more severe penalty may be issued than that which appears in the minimum range of penalties of the Code, if sound discretion requires it. Consideration will be given to the severity of the offense, the cost involved, the time interval between violations, the length and quality of service record and the ability of the employee concerned.

18.00A Disciplinary Action for Certified, Technical, and Professional Employees:

1.0. STATEMENT OF POLICY. This Section/Chapter sets forth the guidelines and procedures by which the General Manager may suspend, demote, or dismiss a permanent Certified, Technical, or Professional employee. A Certified, Technical, or Professional employee shall have a right to appeal an Adverse Action taken against him to either the Consolidated Commission on Utilities or the Civil Service Commission as provided in Title 4 G.C.A. §4403(h). Further, this Section/Chapter sets forth Appeal Procedures that apply only to the Authority's Certified, Technical, and Professional Employees in the Classified Service. Finally, the procedures and rules governing the Consolidated Commission on Utilities (CCU) hearing and deciding the Adverse Action Appeals of the Authority's Certified, Technical, and Professional Employees in the Classified Service shall only be applicable if the CCU and the Civil Service Commission (CSC) of the Government of Guam have not mutually consented to hear all the Adverse Action Appeals of the Authority's Certified, Technical, and Professional Employees in the Classified Service pursuant to 4 G.C.A. §4403(h).

2.0. COVERAGE. This Section/Chapter shall apply to all permanent classified employees who hold certified, technical and professional positions.

3.0. SCOPE. For the purpose of this chapter, the term “dismissal” shall not be interpreted to include:

3.1 Actions taken by the General Manager referenced in the Section/Chapter on RESIGNATION AND TERMINATION; or

3.2 Action taken by the General Manager in the termination of services of an original probationary employee.

4.0. EMPLOYEE DISCIPLINE.

4.1 Responsibility for Discipline. The General Manager derives his authority and responsibility for employee discipline from 4 G.C.A. §4105.

5.0. JOB PROTECTION PROCEDURES IN EMPLOYEE DISCIPLINE ACTIONS.

5.1 All levels of supervision and management share the responsibility for strict adherence to employee’s job protection rights and considerations including:

5.1.1. The right to reply to the notice of a proposed adverse action that may result in a suspension, demotion, or dismissal.

5.1.2. The right to reply to the notice of a proposed adverse action and careful consideration of any reply.

5.1.3. The right to appeal to the Consolidated Commission on Utilities (CCU) as provided in the CCU Procedural Rules relative to Appeals of Adverse Actions.

6.0. ADVERSE ACTION PROCEDURES.

6.1. An employee must be given the final notice and statement of the charges, pursuant to 4 G.C.A. §4406, no later than sixty (60) days after

management knew, or should have known, the facts or events which form the alleged basis for the adverse action.

6.2. An employee covered by the Adverse Action Procedures may not be suspended for more than thirty (30) work days as the result of a single adverse action, nor may an employee be suspended for more than a total of sixty (60) work days in a calendar year, as a result of multiple adverse actions taken by any one (1) department or agency. Employees on a twenty-four (24) hour on and twenty-four (24) hour off employment basis shall not be suspended for more than ten (10) work days, or an equivalent of two hundred forty (240) work hours as a result of a single adverse action, nor may suspension be more than a total of twenty (20) work days (480 work hours) in a calendar year as a result of multiple adverse actions.

6.3. Copies of the adverse action rules and appeal procedures should be made available upon request by the employee.

7.0. DEFINITIONS.

7.1. Suspension- The temporary removal of an employee from his position with loss of pay as a disciplinary measure.

7.2. Demotion – The involuntary reduction in status of an employee for disciplinary reasons from a position which he occupies in a specific class, to a position in another class, where the maximum rate of pay is less than the maximum rate of pay for the class which he had held, or a reduction to a lower salary step in the same class.

7.3. Dismissal – The termination of an employee for any authorized cause of adverse action.

7.4. Days – Refers to calendar days unless otherwise specified.

8.0. AUTHORIZED CAUSES FOR ADVERSE ACTION.

The General Manager, or his designee, may remove an employee for misconduct which affects the efficiency of the service. The authorized causes for adverse actions include, but are not limited to, the following:

- 8.8. Fraud in securing appointment.
- 8.9. Refusal or failure to perform prescribed duties and responsibilities.
- 8.10. Insubordination.
- 8.11. Intoxication while on duty or the unauthorized possession, use or sale of alcohol on duty or while on or in authority property.
- 8.12. The unlawful use, possession, or sale of illicit drugs.
- 8.13. Unauthorized absence.
- 8.14. Conviction of a crime.
- 8.15. Discourteous treatment to the public or other employees.
- 8.16. Political activity prohibited by law.
- 8.17. Misuse or theft of government property.
- 8.18. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- 8.19. Acts prohibited by 4 G.C.A. §9102 relating to strikes against the government.
- 8.20. Acts of prohibited discrimination to include sexual harassment.
- 8.21. Failure to comply with the Drug-Free Workplace Program or Policy.
- 8.22. Any violation of the Authority's Code of Conduct as set forth in the Authority's Personnel Rules and Regulations.
- 8.23. Failure to report being charged with or being convicted of a crime.
- 8.24. Other misconduct not specifically listed.

9.0. EMPLOYEES COVERED.

All Certified, Technical, or Professional Employees in the classified service are covered by these rules, except the following:

- 9.1. Contract employees whose contracts are not renewed upon expiration.
- 9.2. Probationary employees serving an original appointment.
- 9.3. Employees on limited-term, temporary, seasonal, intermittent, part-time, provisional or appointments only for a specific project.
- 9.4. Unclassified or Exempt Employees.

10.0. ADVERSE ACTIONS COVERED.

10.1. These rules apply to the following adverse actions:

- 10.1.1. Suspension
- 10.1.2. Demotion
- 10.1.3. Dismissal

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

11.0. NOTICE OF PROPOSED ADVERSE ACTION.

An employee against whom adverse action is sought is entitled to immediate written notice stating any and all reasons, specifically and in detail, for the proposed action. The written notice must make it clear that it concerns only proposed action and not a matter already decided. The notice may also order the employee to report to the General Manager at a specific date, time, and place to receive the General Manager's final decision concerning the proposed action.

12.0. **EMPLOYEE'S ANSWER.**

An employee **is entitled** to **seek reconsideration** of the proposed adverse action by answering any charges **within ten (10) days after receipt of the notice**; the answer may be made **orally, in writing, or both**. The General Manager shall be available to meet with the employee at the designated date and time. The General Manager may designate a

committee to hear the employee's answer. The employee may be represented by a person of his or her choice. The General Manager must consider the employee's answers to the charges in the proposed adverse action notice. If the employee fails to answer during the notice period, the employee's inaction shall be construed as answer, and the General Manager may proceed with the adverse action upon expiration of the notice period.

13.0. SUSPENSION DURING NOTICE PERIOD.

13.1. An employee against whom adverse action is proposed, must be retained in active duty status during the notice period; however, in an emergency situation, an employee may be immediately suspended during the notice period, under the following conditions:

13.1.1. The continued presence of the employee may interfere with the efficient operation of the Authority, or the health or safety of the employee or others.

13.1.2. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property, or important documents.

13.1.3. The employee's absence without authorized leave prevents the issuance of notice of proposed adverse action and the Authority's attempt to contact the employee was unsuccessful.

13.2. Suspension under this section is a separate adverse action and is appealable to the CCU within twenty (20) days of the effective date of the immediate suspension.

13.3. If the CCU sustains the Authority's action in suspending the employee during the notice period, the number of days of suspension under this Section shall be considered part of the final disciplinary penalty and in no case, shall the final days of the suspension be more than thirty (30) work days.

14.0. LEAVE PENDING INVESTIGATION.

In cases requiring investigation of allegations against an employee involving misappropriation of Authority funds or property, mistreatment of persons on or in Authority property, or acts which constitute a crime, the General Manager may authorize the employee an administrative leave of absence with pay for up to twenty (20) work days. The administrative leave may be terminated by the General Manager by giving the employee twenty-four (24) hours written notice.

15.0. EMPLOYMENT STATUS DURING IMPRISONMENT.

15.1. An employee who is incarcerated pending disposition of a case by the court, and who does not have accrued annual leave, may be granted leave without pay at the discretion of the General Manager, if the employee requests to be placed on leave without pay status. If the employee does not request to be placed on annual leave or leave without pay, such employee shall be absent without leave.

15.2. When the employee is released from incarceration or imprisonment, the General Manager shall determine whether the employee will return for duty, or whether to take adverse action against an employee so imprisoned. Nothing in this Section shall preclude the General Manager from taking adverse action against an employee during imprisonment.

16.0. FINAL NOTICE OF ADVERSE ACTION.

16.1. An employee is entitled to written notice of the Authority's decision within ten (10) days after receipt of the employee's answer to the charges. The decision shall be made by the General Manager and shall be delivered to the employee at or before the time the action will be made effective. The notice shall be in writing; be dated; state the specific facts found upon which such action is based; inform the employee of his right to appeal to the CCU, or the CSC if mutual consent is given, pursuant to 4 G.C.A. §4403(h) (As amended by P.L. 28-113:4), by the CCU and the CSC for the CSC to hear

an employee's adverse action appeal; and, inform the employee of the time limit of twenty (20) days within which an appeal may be submitted as provided by the CCU Hearing Procedures for Adverse Action Appeals or the CSC Hearing Procedures for Adverse Actions Appeals if the appeal shall be heard by the CSC.

- 16.2. In the event the General Manager cannot locate the employee, the Notice of Proposed Adverse Action or the Notice of Final Adverse Action shall be sent, by certified mail, to the employee's last known address.

17.0. SERVICE OF THE PROPOSED AND FINAL NOTICES OF ADVERSE ACTION.

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

18.0. OFFENSES AND RANGE OF PENALTIES FOR OFFENSES.

The offenses and the range of penalties for offenses, and their guidelines, for Certified, Technical, and Professional employees in the Classified Service shall be the same as the offenses and the range of penalties for offenses and their guidelines for all employees in classified service as set forth in the Authority's Personnel Rules and Regulations.

19.0. REPRIMANDS.

- 19.1. In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures.

Reprimands shall not remain in an employee's personnel file for more than one (1) year.

20.0. REPORTING OF CRIMINAL CHARGE OR CONVICTION.

Employees shall advise the General Manager, in accordance with P.L. 28-122, of any criminal charge made against the employee or any crimes the employee is convicted of in a prompt manner.

21.0. RECORDS OF ADVERSE ACTIONS.

The Final Notice of Adverse Action issued shall be made a part of the affected employee's official personnel records.

22.0. CCU RULES OF PROCEDURES FOR ADVERSE ACTION APPEALS. These procedures and rules governing the CCU hearing and deciding the Adverse Action Appeals of the Authority's Certified, Technical, and Professional Employees in the Classified Service shall only be applicable if the CCU and the CSC have not mutually consented to hear all the Adverse Action Appeals of the Authority's Certified, Technical, and Professional Employees in the Classified Service pursuant to 4 G.C.A. §4403(h).

RULE 1. JURISDICTION.

The CCU is empowered to create these Rules pursuant to 12 G.C.A. §8104(13) for the Guam Power Authority (GPA) and pursuant to 12 G.C.A. §14104(m) for the Guam Waterworks Authority (GWA).

RULE 2. PURPOSE.

The purpose of these Rules is to create a fair process with which to adjudicate Adverse Action Appeals (hereafter referred to as an "action").

RULE 2.1 UNREPRESENTED PARTY.

The CCU shall adjust the application of these Rules for any party who is not represented by a lawyer or a lay representative when it is clear there is a genuine misunderstanding of a rule(s) which, if applied, would operate unfairly.

RULE 3. CITATION.

These Rules may be cited as CCU Rules of Procedure for Adverse Actions Appeals, and then the term “Rule” and number.

RULE 4. CITATION TO LAWS AS RULES.

Many of these Rules paraphrase existing laws. For example, Rule 5.2 states that an appeal from an adverse action must be taken within twenty (20) days from the effective date of the action. 4 G.C.A. §4406 establishes the twenty (20) day period by law.

RULE 4.1.

The reason certain laws are paraphrased as Rules is that Employees against whom adverse actions are taken are generally given a copy of these Rules by Management or have these Rules available. The CCU believes it important to inform Employees of laws critical to their appeal by including some of these laws in these Rules. When a Rule is related to a law, a citation to the law shall be included.

RULE 5. RIGHT TO APPEAL.

A person may appeal an adverse action to the CCU, if the person meets all of the following criteria:

- (A) is a permanent, Certified, Technical, and Professional Employee in the classified service;
- (B) has successfully completed his or her probationary period; and
- (C) is subjected to an Adverse Action.

See: 4 G.C.A. §4403(b).

RULE 5.1. ADVERSE ACTION.

An adverse action is a termination from employment, or a suspension from employment or a demotion in employment.

See: 4 G.C.A. §4403(b).

RULE 5.2. TIME FOR FILING APPEAL.

An appeal from an adverse action must be filed in writing with the CCU or its designee, during normal working hours, within twenty (20) days of the employee's receipt of the Final Notice of Adverse Action from Management. If the Employee willfully evades service of the Final Notice of Adverse Action, the twenty (20) day period referred to above begins to run on the day the Employee first willfully evades service. The term "service" is defined in Rule 6. "Filed" means given to the CCU or its designee and received by the CCU or its designee. A document may be filed by facsimile transmission, registered mail or personal delivery. See: 4 G.C.A. §4406.

5.2.1. FILING PAST THE TWENTY (20) DAY PERIOD.

The CCU may excuse the filing of a Notice of Appeal beyond the twenty (20) day period if the Employee proves a compelling reason for his failure to timely file.

5.2.2. COMPUTATION OF TIME.

Whenever these Rules or orders of the CCU provide for a time period of ten (10) or less days, weekends and government of Guam holidays are not to be included in the computation. Whenever these Rules provide for a time period over ten (10) days, weekends and government of Guam holidays are to be included in the computation. The first day of a time period commences with the day after a party receives a document or order which contains a time period.

RULE 5.3. CONTENTS OF APPEAL.

The Notice of Appeal shall be in the following format:

GUAM CONSOLIDATED COMMISSION ON UTILITIES

(Name of Employee) ADVERSE ACTION

_____

EMPLOYEE

vs.

(Name of Department/Agency) NOTICE OF APPEAL

MANAGEMENT

[INSERT TEXT OF APPEAL]

RULE 5.3.1. CONTENTS

The Notice of Appeal shall be a brief, plain statement, either typed or hand written, stating why the Employee believes the adverse action should not have been taken against him. The parties to an adverse action appeal are to be identified as the **EMPLOYEE** and as **MANAGEMENT**. The Employee and Management to an action are collectively referred to as the "parties".

RULE 5.3.2. AMENDMENT OF NOTICE OF APPEAL.

A Notice of Appeal may be amended by the Employee without permission of the CCU, if it is amended within fifteen (15) days after the date it was originally filed. An Amendment after fifteen (15) days shall be made by motion.

RULE 5.4. RIGHTS OF EMPLOYEE WHO FILES AND APPEAL.

The Employee shall:

- (a) have a reasonable time to prepare his case if on duty;
- (b) have the right to be represented by an attorney, another person who is not an attorney, or represent himself; and

(c) Not suffer from Management any restraint, coercion, discrimination or reprisal for filing an appeal of an adverse action, either during the appeal process or after it has been adjudicated.

RULE 6. SERVICE OF DOCUMENTS.

All documents filed with the CCU, except for the Final Notice of Adverse Action and the Notice of Appeal, shall be served by the parties on each other or to the other's representative or lawyer. Service means giving a copy of a document to a party, a party's representative or lawyer.

RULE 6.1. HOW SERVICE IS PERFORMED.

Service may be made by the parties and CCU or its designee as follows:

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

RULE 7. CONFERENCES.

RULE 7.1. STATUS CALL CONFERENCE.

Upon receipt of a Notice of Appeal, the CCU or its designee shall immediately set the matter for a Status Call Conference. The Status Call Conference shall be conducted by Administrative Counsel designated by the CCU. The Administrative Counsel shall not be the Staff Attorney representing Management. At the Status Call Conference, the parties or their representatives shall be prepared to discuss:

- (a) The legal issues of the action;

- (b) Pre-hearing motions;
- (c) Witnesses and documentary evidence;
- (d) The possibility of settlement; and
- (e) The date of the hearing on the merits.

RULE 7.2. PRE-HEARING CONFERENCE.

Two (2) weeks before the hearing on the merits, the parties shall meet with the Administrative Counsel at a pre-hearing conference to finalize witness lists and exhibits, and to discuss stipulations or other matters that may expedite the hearing on the merits.

RULE 8. DISCOVERY.

The Administrative Counsel shall control the nature and scope of discovery between the parties, including, but not limited to, the following:

- (a) Issuing orders compelling discovery;
- (b) Issuing orders limiting the scope and nature of discovery;
- (c) Issuing orders establishing dates for completion of discovery; and
- (d) Issuing protective orders regarding discovery.

RULE 8.1.

Any order regarding discovery that is issued by the Administrative Counsel is subject to review by the CCU. A party may request such a review by filing an appropriate motion with the CCU within forty-eight (48) hours (holidays and weekends excluded) of receipt of the order. See 4. G.C.A. §4406.

RULE 9. PRE-HEARING MOTIONS.

The moving party bears the burden of proof on motions by a preponderance of the evidence. The parties shall file any motion regarding procedural issues or questions of law prior to the hearing on the merits. All pre-hearing motions must be in writing and must be filed and then served on all other parties.

RULE 9.1. ARGUMENTS ON MOTIONS.

The CCU may or may not hear oral arguments on written motions. The CCU may rule on a motion without hearing arguments.

RULE 9.1.1 ISSUES RAISED BY THE COMMISSION.

Any Commissioner may, at any time, raise issues not raised by motion of the parties. Upon a majority vote of the CCU, such issues must be addressed by the parties and decided by the CCU.

RULE 9.2. MOTION FILING SCHEDULE.

Unless otherwise predetermined by an order, the moving party must file and serve a motion thirty (30) days before the hearing on the merits. A motion may be supported by affidavits, but no live testimony shall be taken at a motion hearing unless a written request from a party is approved by the Administrative Counsel within five (5) days after the opposition brief is filed. Unless otherwise predetermined by a discovery order, the opposition brief shall be filed ten (10) days before the hearing on the motion. No reply briefs shall be filed unless with the written approval of the Administrative Counsel.

RULE 9.3. FAILURE TO TIMELY FILE.

Motion documents that are not filed on time may be disregarded by the CCU or subject the transgressing party or his representative to sanctions.

RULE 9.4. MOTION TO POSTPONE HEARINGS.

A motion to continue a date of hearing shall set forth the factual basis for the motion. Continuances based on illness, emergencies, or stipulation of the parties, may be granted without hearing by the Administrative Counsel, if said decision may be made seven (7) days before the hearing sought to be postponed.

RULE 9.4.1. CONTINUANCES OTHER THAN IN RULE 9.4.

The Administrative Counsel is empowered to grant continuances of the date of the hearing, so long as the continuance is applied for more than seven (7) days before the date sought to be continued.

RULE 9.4.2. STAYS.

The Administrative Counsel is empowered to grant “stays” of actions when a motion to stay proceeding is brought by an employee on the basis that the Employee has been or may be charged with a criminal offense which arises from the same factual transaction which is the basis of the adverse action.

RULE 9.5. MOTIONS TO DISMISS.

Motions to dismiss an adverse action appeal may be made on the bases of lack of jurisdiction, untimely filing of the appeal, procedural defects in the proceeding or other significant reasons. The legal and factual bases of such motions must be sufficiently set forth in the motion and supporting affidavits. A motion to dismiss may also be made upon stipulation of the parties. A stipulated motion to dismiss, however, must be approved by the CCU. An Employee may dismiss his appeal with prejudice by filing a written motion to dismiss which must be signed by the Employee and his representative or attorney. The Parties may settle an action, but any settlement must be approved by

the CCU before the action is dismissed with prejudice.

RULE 9.6. MOTION TO ALLOW HEARING IN THE ABSENCE OF THE EMPLOYEE.

The CCU may dismiss an appeal if the Employee is not present for the hearing on the merits, unless the Employee has a reasonable excuse. A motion to permit an Employee to be absent from the hearing on the merits shall set forth the factual basis for the motion. The CCU may require affidavits in support of the motion.

RULE 10. SUBMISSION OF DOCUMENTS FOR INTRODUCTION INTO EVIDENCE.

RULE 10.1. TIME FOR SUBMISSION OF DOCUMENTS.

No later than seven (7) days before a hearing on the merits or a motion hearing, each party shall submit to the CCU all documents it wishes the CCU to consider.

RULE 10.1.1.

Management shall submit to the CCU the Notice of Proposed Adverse Action and the Notice of Final Adverse Action.

RULE 10.1.2.

Employee shall submit to the CCU the Notice of Appeal of Adverse Action.

RULE 10.2. DOCUMENTS TO BE BOUND.

The documents shall be bound into a binder. Each document shall be indexed and tabbed. Press-guard or other inexpensive binders are sufficient.

RULE 10.2.1.

Management shall identify its documents using consecutive letters of the alphabet.

RULE 10.2.2.

Employee shall identify his documents using consecutive numbers.

RULE 10.2.3

Each party shall submit seven (7) copies of their binders to the CCU.

RULE 11. HEARING ON THE MERITS --- BURDEN OF PROOF.

The burden of proof on the merits is on Management to prove its allegations by a preponderance of the evidence. If, however, Management's allegations would constitute criminal charges, then Management bears the burden of proof to prove the allegations by substantial evidence. See: 4 G.C.A. §§4407(a) and 4407(c).

RULE 11.1. PLACE AND TIME OF HEARING.

The CCU shall set the place, date and time of hearing as expeditiously as possible.

RULE 11.2. CONDUCT OF HEARING.

The hearing shall be open to the public.

RULE 11.2.1.

The hearing will be conducted so as to bring out pertinent facts, including the production of certain records.

RULE 11.2.2. ADMISSIBILITY OF EVIDENCE.

Decisions on the admissibility of testimony or other evidence are made by the CCU after consulting with the Administrative Counsel.

RULE 11.2.3. OATH

Testimony is under oath or affirmation.

RULE 11.2.4. RIGHT TO CALL WITNESSES.

Each party shall have the right to call, examine, or cross-examine witnesses, and introduce exhibits. The CCU may subpoena to testify any person upon a majority vote. Any Commissioner may direct relevant questions to a witness after examination of the

witness has been completed by both parties; except that questions may be asked during examination by a Party to clarify a response by a witness.

RULE 11.2.5. RULES OF EVIDENCE.

The Rules of Evidence, Title 6 G.C.A., shall not apply. The only grounds for excluding any proffered evidence are that the evidence is irrelevant or unduly repetitious.

RULE 11.2.6. ORDER OF PRESENTATION.

The order of presentation at the hearing shall be as follows:

- (a) Opening statement of Management;
- (b) Opening statement of Employee;
- (c) Presentation by Management of evidence in support of the charges;
- (d) Presentation by the Employee of such evidence in defense or rebuttal;
- (e) Closing statement of Management;
- (f) Closing statement of Employee.

RULE 11.3. WITNESSES.

Both parties are entitled to produce witnesses. Except as otherwise provided in Rule 9.6, the Employee shall be in attendance without subpoena.

RULE 11.3.1. EVIDENTIARY AUTHORITY OF CCU.

The CCU may call additional witnesses, as it may deem necessary, and require the production of documents.

RULE 11.3.2. SUBPOENAS.

The Chairperson of the CCU, upon his or her own initiative, or upon the request of any member of the CCU, or upon the request of any party before the CCU, may summon in writing any person to attend a meeting of the CCU as a witness and, in a proper case,

to bring with him or her any book, record, computer print-out, paper or thing which may be deemed material evidence in the case. Subpoenas shall be served by the party who requested the issuance of the subpoena as per Rule 6 and Rule 6.1.

RULE 11.3.2. SUBPOENA FEES.

The fees for such attendance shall be the same as the fees of the witnesses before the Superior Court, except that if the witness is a public corporation or government employee no witness fee shall be given. Upon motion, the fee may be waived by the CCU. The subpoena shall issue in the name of the CCU, and shall be directed to the person and served in the same manner as subpoenas to appear and testify before the Superior Court of Guam.

RULE 11.3.3. DUTY STATUS.

An Employee is considered to be on duty status during the time he or she is made available as a witness. Such employee is entitled to compensatory time-off if he serves during a time he or she is not normally scheduled to work. The CCU shall furnish the General Manager of the public corporation in which the witness is employed, a certification showing the time devoted to the hearing. "Employee" in this section does not include the parties to the appeal or their representatives.

RULE 11.3.5. COURTESY AT TRIAL.

The CCU shall ensure that all witnesses are treated with courtesy and respect while giving testimony at the hearing. Management shall assure witnesses freedom from restraint, interference, coercion, discrimination, or reprisal in presenting testimony. See: 9 G.C.A. §5545.

RULE 11.4. RECORD OF HEARING.

All hearings shall be audio tape recorded by the CCU. The CCU's recordings and the exhibits admitted during the hearing, together with all pleading and documents filed by the parties, shall constitute the official record of a hearing.

RULE 11.4.1. RECORDING BY OTHER PERSONS.

Filming, video taping or audio recording of a hearing or other proceeding before the CCU by any person is permitted by the CCU only upon written motion or request.

RULE 11.4.2. TAPES AVAILABLE.

Copies of the audio tape recording of hearings will be made available to any person at cost.

RULE 11.5. LIMITATION IN THE SCOPE OF HEARINGS ON THE MERITS.

The scope of the hearing on the merits shall be limited to:

- (a) The issue in dispute; and
- (b) A review of compliance with procedural requirements for effecting an adverse action;

RULE 11.6. DELIBERATIONS.

The deliberation of the CCU regarding the merits of actions and motions shall be made publicly.

RULE 11.6.1.

In addition to the Commissioners, the Administrative Counsel and CCU Secretary, may be present during deliberations, as the CCU deem fit.

RULE 11.6.2.

The Commissioners shall have available to them during their deliberation all items received into evidence in the action.

RULE 11.6.3.

An audio tape recording of the deliberations shall be made and maintained by the CCU. No minutes of the deliberation shall be made.

RULE 11.6.4.

For good cause shown, a court of competent jurisdiction may require the CCU to produce the audio tape recording of its deliberations, otherwise the audio tape recording shall remain unavailable to the public.

RULE 11.6.5.

After the CCU completes its deliberation, it shall convene in public whereupon each Commissioner shall state his conclusions regarding the merits and shall cast his vote.

RULE 11.7. DECISION.

The CCU shall decide the appeal on the basis of the evidence presented. See 4 G.C.A. §4403(d) and 4406.

RULE 11.7.1.

Except as provided in Rule 11.7.3 below, if Management proves the charges against the Employee, the CCU shall sustain the adverse action.

RULE 11.7.2.

If Management fails to prove the charges, the CCU shall revoke the adverse action.

RULE 11.7.3. MODIFICATION OF ADVERSE ACTION.

If Management proves the charges, but the CCU finds, that because of the Employee's past record or the gravity of the offense, or the facts and circumstances of the case, that the adverse action should be modified, it may modify the adverse action accordingly. The reasons for such modification shall be stated in the decision of the CCU. Any compensation or benefits due as a result of the modification shall be restored to the Employee. The CCU may not modify an adverse action to the Employee's detriment. In the event the CCU modifies the adverse action taken by Management, the CCU shall make a separate determination as to whether the Employee has prevailed for purposes of awarding attorney fees to the Employee. See 4 G.C.A. §4406.

RULE 11.7.4. PROCEDURAL DEFECT.

If the CCU finds that the adverse action was procedurally defective because it violated personnel rules or law, it may void or revoke the adverse action as it considers fair and equitable under the facts and circumstances of the action.

See: 4 G.C.A. §§4403(d) and 4406.

RULE 11.7.5. JUDGMENT.

A judgment is the final administrative adjudication of the CCU on an action. A judgment shall be in writing and the caption shall state it is a “judgment”. The vote taken by the CCU to decide an adverse action does not constitute a judgment. An Order of the Commission is not a judgment. A judgment is entered, that is, it becomes final and effective, on the date a majority of the Commissioners sign the judgment at a CCU meeting attended by a sufficient number of Commissioners to constitute a quorum. Notice that a proposed judgment is before the CCU for signing shall be served on the parties to the action and shall be publicly advertised as required by the Open Government Law of Guam. A quorum of the CCU shall be three (3) members. The judgment shall recite the numerical vote of the CCU in deciding an adverse action. The signing of the judgment by the Commissioners does not reflect how they actually voted in deciding the adverse action. The signing of the judgment simply affirms that the judgment accurately reflects the decision that was made. See: 4 G.C.A. §4402

RULE 11.7.6. COMPLIANCE WITH JUDGMENT.

Within thirty (30) days of the entry of any judgment that requires a public corporation to take affirmative action, the General Manager of the public corporation shall report to the CCU what steps he or she has taken to implement the terms of the judgment.

RULE 11.7.7. RECONSIDERATION OR AMENDMENT (Time to seek Judicial Review).

A party may move the CCU to reconsider or amend its judgment by filing a motion with the CCU within ten (10) days of entry of the judgment. The filing of a motion to reconsider or amend does not effect the time limit imposed by law to file a Petition for

Judicial Review with the Superior Court of Guam. If a motion to amend or reconsider is not decided within thirty (30) days of the entry of a judgment, the motion is denied.

RULE 11.7.8. JUDICIAL REVIEW.

Judicial review of the judgment of the CCU may be had by filing appropriate pleadings with the Superior Court of Guam within thirty (30) days after the last day on which reconsideration can be granted.

RULE 12. TERMINATION OF APPEAL.

In addition to adjudication on the merits, the CCU may terminate an Employee's appeal:

- (a) at the Employee's request; or
- (b) when the Employee fails to furnish information necessary to adjudicate the appeal.

RULE 12.1. DEATH OF EMPLOYEE.

If an Employee dies after he has filed an appeal of an adverse action taken against him, the appeal shall automatically be stayed for a period up to six (6) months in order for the Estate of the Employee to apply to the CCU to continue with the appeal. If the Estate of the Employee does not so apply within six (6) months, then the appeal shall be dismissed. If the Estate of the Employee does so apply, then the appeal shall be adjudicated. In the event the Employee prevails, the Estate of the Employee shall receive the compensation, but not the benefits, the Employee would have recovered up to the date of his death.

RULE 13. RULES RELATIVE TO LAY REPRESENTATIVES.

A non-lawyer who represents an Employee before the CCU or who represents a government agency before the CCU, shall be called a "Lay Representative".

A Lay Representative shall enter his or her appearance in an action by filing with the CCU an entry of appearance which shall include the written approval of his client and shall also contain the address and telephone number of the Lay Representative. Said lay representatives shall comply with all Guam laws relevant to the unauthorized

practice of law and the Lay Representative shall be disqualified if said laws are violated by the Lay Representative's representation of the Employee in the Adverse Action Appeal.

RULE 13.2. ENTRY OF APPEARANCE.

By entering his appearance before the CCU, the Lay Representative becomes subject to the Orders of the CCU and to reasonable discipline and to contempt proceedings by the CCU. Reasonable discipline may include, but is not limited to, the following:

- (a) Disqualification from representing the Employee in the Adverse Action Appeal at issue.
- (b) Suspension from appearing before the CCU as a Lay Representative.
- (c) Disqualification from appearing before the CCU as a Lay Representative for an Employee in any Adverse Action Appeal.

By agreeing to be a Lay Representative, the Lay Representative assumes an ethical and agency relationship with the Employee that he or she represents. Lay Representatives shall not be compensated for their services.

RULE 13.3. WITHDRAWAL AS LAY REPRESENTATIVE.

No Lay Representative may withdraw from representing an Employee except upon motion, cause shown, and an Order of the CCU.

RULE 13.4. LAY REPRESENTATIVE REQUIRED READING.

Every Lay Representative shall agree in writing that he has read, and is familiar with, 4 G.C.A., Chapter 4, these Rules, and the Personnel Rules applicable to the public corporation that took adverse action against the Employee.

RULE 14. HEARING COUNSEL.

The CCU, by a majority vote, may designate its Administrative Counsel to act as Hearing Counsel. When so designated, the CCU shall assign the Hearing Counsel to

conduct evidentiary hearings on specific issues. The issues shall be within the jurisdiction of the CCU.

RULE 14.1. HEARING PROCEDURE.

Hearing Counsel shall use these Rules in conducting hearings. Hearing Counsel shall administer oaths to witnesses.

RULE 14.2. WRITTEN FINDINGS.

Hearing Counsel shall make written proposed findings of fact and conclusions of law which shall be served on the Parties. The findings shall then be submitted to the CCU who may accept, reject or modify the findings or may conduct its own hearing on the issues.

RULE 14.3. PARTIES' INPUT.

The Parties shall be informed of the date on which the CCU shall deliberate the adoption of the findings and may file written objections or other written comments regarding the findings for the CCU's consideration.”

CODE OF CONDUCT AND MINIMUM DISCIPLINARY ACTIONS

(SEE ATTACHED PAGES)

SECTION 19.00 Employment of Relatives:

19.01 Prohibition: Whenever there are already two members of an immediate family in the Authority service, no other members of such family shall be eligible to appointment to the Authority. As used in this Section, “immediate family” means a collective body of persons living together in one home under on head.

19.02 Supervisory Relationship: Spouses and persons within the first degree of consanguinity family relationship, may not be employed in the Authority in a direct supervisory-subordinate relationship. For the purpose of this Section,

family relationship of first degree consanguinity shall consist of husband, wife, children, parents, brothers, sisters, nieces, nephews, aunts, uncles, and cousins.

SECTION 20.00 Political Activities:

20.01 Political Right: Every employee will have the right to freely express his/her views as a citizen and to cast his/her vote. Political activities of employees shall be in accordance with prevailing provisions in the Government Code of Guam.

20.02 Prohibitions-Penalty: Any person who uses or attempts to use political influence or promises any advantage in connection with selection or promotion of any employee in the classified service, solicits contributions for political purposes during office hours or at any time makes demands upon employees in the classified service shall be guilty of a petty misdemeanor.

SECTION 21.00 Outside Employment:

21.01 Employee Responsibility: Regular full-time employment with the Authority is considered the primary employment of each employee. An employee shall not engage in any outside employment without first obtaining written approval from his/her department head and the General Manager on the official Outside Employment form. Failure to comply with the policy may result in disciplinary action.

21.02 Limitations: Approval for outside employment will be limited by any of the following provisions:

1. Outside employment shall not interfere with or be in conflict with the proper performance of the employee's duties and duly scheduled work hours with the Authority.

2. Association with any business considered as having a questionable reputation that would reflect unfavorably upon the employee or the Authority.

3. Employee shall not have or hold any employment or contractual relationships with any business entity or Agency which engages in business or contractual agreement with the Authority.

4. The number of hours worked per week in outside employment shall not normally exceed one-half (1/2) of the employee's regularly scheduled work week with the Authority. However, management has the prerogative to approve additional or fewer hours in said outside employment depending upon the work schedule (hours) of outside employment and the nature of work involved when compared to the employee's job classification.

21.03 Approval: Final approval is subject to the review and approval of the General Manager. It is further understood that approval may be cancelled at any time by the General Manager or his authorized designee upon ten (10) calendar days written notice to the employee, if the employee's job performance falls below satisfactory level as documented by his/her immediate supervisor and department head. The request for outside employment may not be unreasonably withheld.

SECTION 22.00 Personnel File:

22.01 Official Personnel File: There shall be only one (1) official personnel file for each employee of the Authority which shall be under the custody of the Personnel Services Department. The personnel file shall contain the employment records of the employee and shall be available during office hours for inspections by the

employee or his/her authorized designee. Additional access to the employee's personnel file shall be limited to the following Authority employees for official purposes only:

1. General Manager;
2. Department head or supervisors under whom the employee is assigned;
3. Personnel office employees;
4. Other Authority employee or person(s) specifically authorized in writing by the employee concerned to review his/her personnel file.

Officials who have access to any employee's file shall hold in strict confidence any information obtained from the file.

22.02 Documents to be Filed: No derogatory material concerning the employee may be placed in his/her file unless the immediate supervisor has had discussions regarding the matter with the employee. The employee shall be required to initial and date such material to verify that he/she read (not necessarily concurred with) the contents of the material.

If the employee disagree with or considers any documented information or material in his/her personnel file untrue, he/she may resort to the Authority's grievance procedure. If the results of the grievance appeal find the document untrue, such document shall be promptly removed from the employee's file but in no case shall the removal be delayed beyond five (5) days of the appeal decision.

An employee shall have the right to submit to Personnel Services Department for placement in his/her personnel folder any document of merit which he/she considers relevant to his/her career.

No anonymous reports or documents shall be filed in the employee's official personnel file.

Employees are required to keep the Personnel Services Department informed of name, address, telephone numbers and next of kin changes as soon as possible.

SECTION 23.00 Identification Cards:

Any persons employed by the Authority shall be required to possess and display an identification card. Identification cards will be on a form prescribed by the General Manager and will be initially issued at no cost to the employee. If the employee loses his/her identification card, he/she will be charged a replacement fee; however, identification cards will be replaced due to wear and tear at no cost to the employee.

SECTION 24.00 SEPARATION AND CLEARANCE:

24.01 Separation: Any employee who decided to leave the Authority service shall be required to submit a written notice of an intention to resign and reasons thereof, to his/her immediate supervisor at least two weeks before separation date. However, because of extenuating circumstances, resignations submitted less than two weeks in advance shall be approved.

24.02 Exit Interview: The purpose and intent of the exit interview is to provide management with information as to why and in what areas an employee may be dissatisfied with Authority employment.

A personal interview will be conducted between the terminating employee and a representative of the Personnel Services Department prior to effective date of resignation to obtain the true reason(s) for the separation. Information from the interview will be recorder on a form prescribed by the General Manager and be made a part of the separating employee's personnel jacket.

24.03 Clearance: Each terminating employee, prior to receiving final monies due, shall return all records, identification card, books, assets, uniforms, keys, tools and other items of Authority property in his/her custody to the appropriate Department and a certification to this effect shall be executed by the Department Head. Any monies due the Authority because of any shortages shall be collected through appropriate action.

CODE OF CONDUCT AND MINIMUM DISPLINARY ACTIONS

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
1	Gambling, lottery or engaging in any other game of chance at Authority work stations at any time.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	
2	Engaging in horseplay, scuffling, wrestling, throwing things, malicious mischief, distracting the attention of others, catcalls or similar types of disorderly conduct.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal
3	Sleeping during working hours.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
4	Disregarding job duties by loafing or neglect of work during working hours.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
5	Loitering or leaving assigned work area during working hours without authorization.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
6	Threatening, intimidating, coercing or interfering with fellow employees or supervision at any time, including abusive language.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
7	Unauthorized distribution of written or printed material of any description.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
8	Unauthorized vending, soliciting, or collecting contributions for any purpose whatsoever at any time on Authority premises, without authorization.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
9	Deliberately destroying, misusing, or damaging public property or any Authority property or equipment or the property and equipment of any employee.	Instruction and 5 days suspension or dismissal.	Dismissal.	
10	Unauthorized use, possession or operation of any Authority property or equipment or the property and equipment of any employee.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
11	Tardiness. Unexcused (Guide – three (3) times in a thirty (30) day period)	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
12	Unauthorized – Excessive Absenteeism. (Guide – three (3) times in a thirty (30) day period).	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
13	Productivity of workmanship not up to required standard of performance.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension, demotion to lower classification or dismissal.
14	Reporting to work under the influence of intoxicating beverages or drugs.	Instruction and 5 days suspension or dismissal.	Dismissal.	
15	Being in possession of intoxicating beverages or narcotics during the time while on duty.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.	Dismissal.
16	Using intoxicating beverages or narcotics during the time while on duty.	Instruction and 5 days suspension or dismissal.	Dismissal.	
17	Fighting, provoking or instigating a fight.	Instruction and 5 days suspension or dismissal.	Dismissal.	
18	Insubordination by the refusal to perform work assigned or to	Instruction and 5 days suspension or dismissal.	Dismissal.	

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
	comply with written or verbal instructions of the supervisor or discourtesy to persons with whom he comes in contact while in the performance of his duties.			
19	Immoral, unlawful or improper conduct or indecency, either on or off the job which would tend to affect the employee's relationship to his job, fellow workers' reputations or goodwill in the community.	Instruction and 5 days suspension or dismissal.	Dismissal.	
20	Absence without authorized leave or permission. If the absence is for 3 consecutive workdays, the employee will have abandoned the position and resigned from Authority employment.	Instruction and 3 days suspension or dismissal.	Instruction and 5 days suspension or dismissal.	Dismissal.
21	Falsification of personal or Authority records including, but not limited to, employment applications, accident records, purchase orders, time sheets or any other report, record or application.	Instruction and 3 days suspension or dismissal.	Instruction and 5 days suspension or dismissal.	Dismissal.
21.a	Tampering of electric meter.	Dismissal.		
22	Actual or attempted theft or removal from Authority locations without proper authority any Authority property or property of any employee.	Instruction and 5 days suspension or dismissal.	Dismissal.	
23	Carelessness which effects the safety or personnel, equipment, tools or property or causes	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
	materials, parts or equipment to be damaged or scrapped.			
24	Inexcusable neglect in the performance of assigned duties.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.	Dismissal.
25	Violation of statutory authority rules, regulations or policies.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.	Dismissal.
26	Failure to work overtime, special hours or special shifts after being scheduled according to overtime and standby duty policies or failure to respond to call during adverse weather conditions or emergencies.	Instruction and 3 days suspension or dismissal.	Instruction and 5 days suspension or dismissal.	Dismissal.
27	Taking more than specified time for meals or rest periods.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
28	Leaving an operation requiring continuous attendance without being relieved by the supervisor or the employee assuming the duty for the next shift.	Instruction and 3 days suspension or dismissal.	Instruction and 5 days suspension or dismissal.	Dismissal.
29	Violating a safety rule or safety practice.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.	Dismissal.
30	Failure to report an accident or personal injury in which the employee was involved while on the job.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
31	Creating or contributing to unsafe and unsanitary conditions or poor housekeeping.	Written instruction and cautioning.	Instruction and 3 days suspension.	Instruction and 5 days suspension or dismissal.
32	Making or publishing of false, vicious or malicious statements concerning any employee, supervisor, the Authority or its	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
	operations.			
33	Posting or removing any material on bulletin boards or Authority property at any time unless authorized.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
34	Refusal to give testimony in accident investigations.	Written instruction and cautioning.	Instruction and 5 days suspension or dismissal.	Dismissal.
35	Making false claims or misrepresentations in an attempt to obtain sickness, worker's compensation or unemployment compensation benefits.	Instruction and 5 days suspension or dismissal.	Dismissal.	
36	Unauthorized possession of firearms, explosives or weapons on Authority property.	Instruction and 5 days suspension or dismissal.	Dismissal.	
37	Failure to return from an authorized leave of absence. If the absence is for 3 consecutive workdays, consider the employee to have abandoned the position and resigned.	Dismissal.		
38	Knowingly harbor a communicable disease.	Dismissal.		
39	Concerted curtailment or restriction of production or interference with work in or about the Authority's work stations including, but not limited to, instigating, leading or participating in any walkout, strike, sitdown, standing, slowdown, refusal to return to work at the scheduled time for the scheduled shift.	Dismissal.		
40	Conviction of a misdemeanor	Dismissal.		

Rule	Offenses and Deficiencies On/Off the Job	First Offense	Second Offense	Third Offense
	involving physical violence, theft or driving under the influence of alcohol or drugs. Conviction of a federal offense or a felony.			
41	Use of bribery or political pressure to secure appointment or advantages.	Dismissal.		
42	Regularly loaning money with interest to or collecting money from Authority employees on Authority time or property.	Written instruction and 5 days suspension or dismissal.	Dismissal.	
43	Abusive language or misuse of two-way radio.	Written instruction and 3 days suspension or dismissal.	Instructions and 5 days suspension or dismissal.	Dismissal.