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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

02 JUL 2009

2009 JUL -8 AM 9:32

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 142(COR) "AN ACT TO ADOPT THE PERSONNEL RULES AND REGULATIONS FOR JOSE D. LEON GUERRERO COMMERCIAL PORT AND TO AUTHORIZE COMPENSATION AND BENEFIT ADJUSTMENTS " which I signed into law on July 2, 2009 as **Public Law 30-43**.

Sinseru yan Magåhet,

MICHAEL W. CRUZ, M.D.
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

Attachment: copy of Bill

30-09-0805

Office of the Speaker
Judith T. Won Pat, Ed. D.

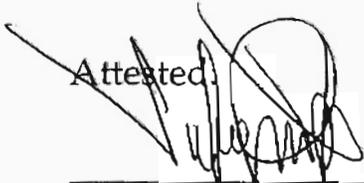
Date _____
Time _____
Received by _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 142 (COR), "AN ACT TO ADOPT THE PERSONNEL RULES AND REGULATIONS FOR JOSE D. LEON GUERRERO COMMERCIAL PORT AND TO AUTHORIZE COMPENSATION AND BENEFIT ADJUSTMENTS," was on the 2nd day of July 2009, duly and regularly passed.

Attested:


Tina Rose Muña Barnes
Senator and Legislative Secretary



Judith T. Won Pat, Ed. D.
Speaker

This Act was received by I Maga'lahaen Guåhan this 2 day of July, 2009, at
2:43 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date:

07.02.09

Public Law No.

30-43

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 142 (COR)

As substituted by the Committee on Utilities
Transportation, Public Works and Veterans Affairs
and amended on the Floor.

Introduced by:

T. C. Ada
F. F. Blas, Jr.
Adolpho B. Palacios, Sr.
Ray Tenorio
F. B. Aguon, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
M. J. Rector
R. J. Respicio
Telo Taitague
Judith T. Won Pat, Ed.D.

**AN ACT TO ADOPT THE PERSONNEL RULES AND
REGULATIONS FOR JOSE D. LEON GUERRERO
COMMERCIAL PORT AND TO AUTHORIZE
COMPENSATION AND BENEFIT ADJUSTMENTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Jose D. Leon Guerrero Commercial Port (Port) serves as the entry point for
4 approximately ninety percent (90%) of goods consumed on Guam, hence, the
5 services provided are critical to the economic viability of the community. The Port
6 must retain qualified workers in maritime positions and employ personnel who are

1 certified with necessary technical *or* professional skills and experience. The ability
2 to maintain experienced, trained and skilled employees is a significant factor in the
3 efficiency of the Port and ensures the expeditious movement of cargo. Public Law
4 29-24 authorizes the Port to promulgate personnel rules and regulations and
5 provides limited authority to the Port to establish pay scales for certified, technical
6 and professional positions subject to the provisions of the Administrative
7 Adjudication Act.

8 Pursuant to the Administrative Adjudication Act, the Port held a public
9 hearing on its proposed Rules and Regulations for Maritime-Related Positions
10 Unique to Port Operations and Certified, Technical and Professional Employees on
11 February 9, 2009. The Board of Directors of the Port approved the proposed Rules
12 and Regulations on March 26, 2009, and voted to transmit such rules and
13 regulations, via the Office of the Governor, to *I Mina'Trenta Na Liheslaturan*
14 *Guåhan* for final approval and adoption.

15 *I Mina'Trenta Na Liheslaturan Guåhan* finds that the Port Compensation
16 and Classification Plan Study has analyzed and reviewed one hundred seventy-six
17 (176) positions within the Port. Further, *I Liheslaturan Guåhan* finds that Public
18 Law 29-24 defines Maritime Positions Unique to Port Operations and Certified,
19 Technical and Professional Positions in part as positions with multi-skill
20 qualification requirements and with specific maritime knowledge and skills and
21 technical and professional qualifications which are unique and critical to the Port's
22 operation and which are found in no other government entity which is *not* a port of
23 entry. Further, *I Liheslaturan Guåhan* finds that of the one hundred seventy-six
24 (176) positions analyzed, all are multi-skill and require specific maritime
25 knowledge and skills and technical and professional qualifications which are
26 unique and critical to the Port's operation and, which are found in no other
27 government entity and which is not a port of entry within the meaning of Public

1 Law 29-24. These requirements include, but are *not limited to*, undergoing
2 maritime security training on the Maritime Security Levels and Port Facility
3 Security Plan, as mandated by the Maritime Transportation Security Act of 2002
4 (MTSA), the United States Coast Guard IS 100 and IS 200 training, orientation on
5 Port Security Plan and Maritime Security Act. *I Liheslaturan Guåhan* finds,
6 therefore, that these one hundred seventy-six (176) positions are Maritime
7 Positions Unique to Port Operations and Certified, Technical and Professional
8 Positions which *shall* be included in the compensation and classification plan.

9 **Section 2.** A new subsection (e) is hereby added to §10111.3, Chapter 10
10 of Title 12, Guam Code Annotated is hereby *added* as follows:

11 **“(e) Adoption of the Personnel Rules and Regulations for Jose**
12 **D. Leon Guerrero Commercial Port.**

13 (1) The Personnel Rules and Regulations for Jose D. Leon
14 Guerrero Commercial Port (hereafter referred to as the “Proposed
15 Rules”) as received by the Legislative Secretary of *I Mina’Trenta Na*
16 *Liheslaturan Guåhan* on May 14, 2009, are hereby adopted with the
17 exclusion of: “Appendix A: Listing of Maritime positions Unique to
18 Port Operations and Certified and Technical positions” and
19 “Appendix B: Pay Schedule” found in the Proposed Rules document
20 and *shall* apply to all classified positions within the Jose D. Leon
21 Guerrero Commercial Port.

22 The Compensation and Classification Plan *shall* apply to all
23 positions, classified and unclassified, within the Jose D. Leon
24 Guerrero Commercial Port, inclusive *if* the positions for Port Police
25 Officers, notwithstanding the DOA’s current study for Law
26 Enforcements and Public Safety positions.

1 (2) The General Manager *shall* identify and list by title, the
2 position description and starting pay range *no later than sixty (60)*
3 days after the effective date of this Act.

4 (3) The compiled information shall be posted on the PAG
5 website for *no less than two (2)* weeks to enable affected employees
6 to review and comment on the identified positions and to provide the
7 opportunity to appeal the findings to the General Manager.

8 (4) The General Manager *shall* submit said list to the Board
9 of Directors of PAG. The Board, *shall* approve, disapprove, *or* amend
10 said list at any regularly scheduled Board meeting and *shall* transmit a
11 copy of the approved list to the Legislature. The list which the Board
12 acted upon *shall not* take effect until forty-five (45) days after the date
13 of receipt by the Legislative Secretary.

14 (5) The implementation of the new Pay Scale levels will *not*
15 go into effect until the Board of Directors has approved a financial
16 plan to fund the proposed Pay Scale.

17 (6) The General Manager may petition the Board of
18 Directors to amend, to include, but *not limited to*, deleting, adding, *or*
19 modifying such positions, the approved list of the Port's Positions.

20 (a) The Petition *shall* include:

- 21 (1) The justification for the amendment;
22 (2) The essential details of the amendment;
23 (3) An analysis of the similarities *or* differences
24 between the existing position and the amendment;
25 and
26 (4) The job title, pay range and position
27 description affected by the amendment.

1 (b) The General Manager *shall* post the petition on the
2 Port's website for ten (10) days (Saturday, Sunday and
3 government of Guam holidays excepted).

4 **Section 3.** Notwithstanding any other provisions of law, rule, regulation,
5 *or* Executive Order, the Personnel Rules and Regulations submitted by the Port
6 Authority of Guam is hereby approved by *I Mina'Trenta Na Liheslaturan Guåhan*
7 and a new Chapter 8 of Title 10 of the Guam Administrative Rules and
8 Regulations is hereby enacted.

9 **Section 4. Severability.** *If* any provision of this law or its application to
10 any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall *not* affect other provisions or applications of this law which can be
12 given effect without the invalid provisions or applications, and to this end the
13 provisions of this law are severable.

PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port

ADOPTION OF PERSONNEL RULES AND REGULATIONS

FOR

**MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS
AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES**

5 G.C.A. § 9301
12 G.C.A. §10112(h)

*This
is the
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42.*

I. STATUTORY AUTHORITY FOR RULE; COMPLIANCE

A. Administrative Adjudication Act

The attached Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Employees (the "Rules") are submitted by the Jose D. Leon Guerrero Commercial Port (the "Authority") to the Legislative Secretary of *I Liheslaturan Guåhan* pursuant to the Administrative Adjudication Act ("AAA") which is codified at 5 G.C.A. §§ 9300 *et seq.*

B. Need for Rule

The attached Rules are needed for the Authority to comply with the mandate of Public Law 29-24. Public Law 29-24, which became law on October 24, 2007, recognized the need of the Authority to hire and to retain certified personnel who have the proper technical or professional skills and experience in order to prepare for the impending military build-up on Guam. Under Section 3 of Public Law 29-24 *I Liheslaturan Guåhan* mandated that the Board of Directors of the Authority adopt personnel rules and regulations for personnel occupying maritime positions unique to port operations and certified, technical and professional positions subject to the provisions of the AAA.

C. Compliance with the AAA

5 G.C.A. § 9301 of the AAA, which is entitled, "Adoption, Repeal, Rescission or Amendment of Rules: Procedure" provides the procedure for an agency to adopt rules, including filing with the Legislative Secretary. Prior to the filing of the attached forms, the Authority complied with the other conditions precedent and requirements of 5 G.C.A. § 9301 as follows:

1. On January 29, 2009, the Authority published notice of a public hearing in the Pacific Daily News, a newspaper of general circulation, and therefore the notice of public hearing was published at least ten (10) days prior to the date set for public hearing. Said notice included a statement of the time and place of hearing, a reference to the subject matter of the proposed Rules and referred to the fact that a copy of the proposed Rules was on file at the Authority for examination;¹
2. Five (5) copies of the proposed Rules were on file at the Authority from the date of publication of notice of hearing until the hearing and were also available at the public hearing for examination;
3. On February 9, 2009, the Authority conducted a public hearing on the proposed Rules as published; and

¹ A copy of the notice published is attached to this filing.

4. The Authority prepared an Economic Impact Statement on the Proposed Rules which was made available to the public at the Authority's administrative offices prior to the public hearing and which was also available for examination at the public hearing.
5. A copy of the Minutes of the Public Hearing which was held on February 9, 2009, as well as all documents available for review at the hearing, including an Economic Impact Statement, is attached to this filing. These items constitute the record of the hearing. The remainder of this document supports the filing of the Rules.

II. APPROVED BY BOARD OF DIRECTORS

The Rules submitted and which are attached hereto was approved by the Board of Directors of the Authority at a regular meeting on March 26, 2009.

III. CONCLUSION

The Authority has filed herein, pursuant to the rule making procedures of the AAA, Rules for personnel occupying Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions. We look forward to your favorable approval.

Respectfully submitted,

JOSE D. LEON GUERRERO COMMERCIAL PORT

By: 

GLENN A. LEON GUERRERO, General Manager

Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and
Certified, Technical and Professional Positions

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CHAPTER 1

PURPOSE AND SCOPE OF PERSONNEL RULES AND REGULATIONS

STATEMENT OF POLICY:

It is the policy of the General Manager to set forth the fundamental character of the system of personnel administration governed by these Personnel Rules and Regulations consistent with the merit principles and the principles of Equal Employment Opportunity; provisions of Title 4 of the Guam Code Annotated; and other laws pertaining to employment in the Government of Guam.

AUTHORITY. These Rules and Regulations (“Rules”) are established by the authority of Section 2 of Public Law 29-24 and its amendment to 12 G.C.A. §10111 requiring that the Board of Directors (“the Board”) of the Jose D. Leon Guerrero Commercial Port (“the Authority”) adopt personnel rules and regulations for personnel occupying Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions, subject to the provisions of the Administrative Adjudication Act.

1.100 PURPOSE. The purpose of these Rules is the formulation of sound personnel policies designed to promote efficiency and economy, reward meritorious service, provide for the settlement of grievances, develop and maintain morale, and establish non-discriminatory standards for the classification and compensation of Maritime Positions unique to Port Operations and Certified, Technical, and Professional Positions at the Authority. In this regard, it is the intent of the Authority to consider the rules and regulations of similarly sized ports in the United States mainland when promulgating its classification and compensation study for Maritime Positions unique to Port Operations and Certified, Technical, and Professional Positions at the Authority.

1.200 COVERAGE.

- A. These Rules shall apply to all employees occupying classified Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions at the Authority.
- B. Unclassified employees occupying Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions are not covered by these Rules unless otherwise identified.
- C. These rules and regulations may be supplemented by administrative policies and procedures established by the General Manager.

1.201 EXCLUSION FROM COVERAGE

- A. Law Enforcement Personnel: One recent law which was passed after the enactment of Public Law 29-24 is Public Law 29-105. As a subsequently enacted law, its provisions supersede the provisions of Public Law 29-24 with respect to public safety and law enforcement officials of the government of Guam. Section 3 of Public Law 29-105 mandated that the Director of Administration perform a compensation review of all public safety and law enforcement officers of the government of Guam, including those employed at the Authority. The result of the review by the Director of Administration will be the development of a compensation plan (“The Public Safety and Law Enforcement Compensation Review Report”) (“the Plan”) which shall treat all aspects of compensation (base salaries, benefits, pay differential and other factors) “with said Plan to be uniformly administered throughout the government.” Prior to the issuance of the Plan, the law provides for an increase in compensation for Employees covered by the review conducted by the Director of Administration. That increase in compensation provides for up to a forty percent (40%) increase of base rates as of September 30, 2008, over a period of four (4) years effective October 1, 2008, or the amount determined by the Plan, whichever is greater by 2011. Consequently, any part of these rules, including the compensation plan to be adopted by the Board of the Authority pursuant to Public Law 29-24 and the rules, which are in conflict with the provisions of Public Law 29-105 and Plan developed by the Director of Administration are not applicable to the public safety and law enforcement personnel at the Authority. This is because the provisions of Public Law 29-105 control by applying the “Last in Time” rule of statutory construction, which can be summarized as follows: When two statutes conflict, the one enacted last prevails. Or in other words, subsequent laws repeal those enacted before to the contrary. Consequently, even though the Authority included its public safety and law enforcement officers in its compensation study pursuant to Public Law 29-24, Public Law 29-105, a subsequently enacted law, makes it clear that all aspects of compensation are to be determined by the Public Safety and Law Enforcement Compensation Review Report by the Director of Administration because Public Law 29-105 had applied uniformly to all public safety and law enforcement personnel throughout the government, including those at the Authority. The passage of Public Law 29-105 does not entitle the public safety and law enforcement personnel at the Authority to receive double compensation by applying increments pursuant to both Public Law 29-24 and Public Law 29-105 to them.

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- B. Positions not defined in Chapter 4 of the Personnel Rules and Regulations shall be compensated consistent with those compensation plans and pay scales as determined by law.

1.300 GUIDING PERSONNEL PRINCIPLES

The following are the guiding personnel principles which the Authority shall apply in the implementation of personnel administration:

- A. Recruiting, selecting and advancing employees on the basis of their abilities, knowledge and skills;
- B. Providing a uniform compensation policy for maritime positions unique to Port operations and certified, technical and professional positions;
- C. Training employees to assure high quality performance;
- D. Retaining employees based on performance;
- E. Classifying positions systematically through job evaluation; and
- F. Providing fair, expedient and responsive processes for grievance, adverse action, and conflict resolution.

1.400 EQUAL EMPLOYMENT OPPORTUNITY (EEO)

- A. It is the policy of the Authority that there shall be no discrimination against any person on the basis of race, color, sex, including sexual harassment and orientation, religion, national origin, age, marital status, physical or mental disability or political, affiliation and retaliation, except for bona fide occupational qualifications or legal requirements.
- B. The General Manager will design and develop Equal Employment Opportunity programs pursuant to the guidelines of Department of Administration. Department of Administration is hereinafter referred to as "DOA" in these rules and regulations.
- C. The EEO program calls for positive results-oriented action toward equal opportunity. Affirmative efforts will be made by the General Manager to assure equal opportunity in employment and to assure non-discrimination in government programs and activities.

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- D. In order for this EEO program to become a management objective, all levels of management, which includes first-line supervisors, will continue to be trained in legal requirements of equal employment opportunity.

1.500 PENALTIES

Any penalty imposed on any employee for violation of these rules shall be in accordance with applicable rules, regulations and statutes.

1.600 GENDER

Words used in the masculine gender include the feminine.

1.700 CIVIL SERVICE COMMISSION

Nothing in these rules and regulations is intended to limit or deprive the Civil Service Commission of jurisdiction or authority vested by the Organic Act or the laws of Guam. The Civil Service Commission is hereafter referred to as "Commission" in these rules and regulations.

1.800 STATUTORY CONFLICT

In the event any rule or regulation is in conflict with statute, the statute shall prevail to the extent of inconsistency.

1.900 SEVERABILITY

If any part of the Personnel Rules and Regulations are held inorganic, then the remaining Personnel Rules and Regulations shall continue in force and effect.

CHAPTER 2

ADMINISTRATION

STATEMENT OF POLICY

This policy sets forth the responsibilities of the General Manager in the implementation of Title 4 of the GCA, these Personnel Rules and Regulations, Section 10111 of Title 12 of the GCA and other laws.

2.000 RESPONSIBILITY OF THE GENERAL MANAGER

- A. The provisions of Titles 4 and 12 of the GCA and these rules and regulations, and other applicable statutes shall control the personnel administration in the Port.
- B. The General Manager shall:
 - 1. Be responsible for the enforcement of these Personnel Rules and Regulations and all other applicable statutes.
 - 2. Advise the Board of Directors, hereinafter referred to as "Board", the Governor, the Commission, and employees on policies and procedures concerning personnel management matters.
 - 3. Maintain an adequate monitoring system to ensure statutes, executive orders, rules, regulations and standards relating to personnel management are properly carried out. Whenever the review with established policies, rules, regulations and standards reveal that there have been infractions, the General Manager shall take such affirmative resolution as may be appropriate to obtain compliance therewith.
 - 4. Exercise and provide leadership in personnel matters.
 - 5. Develop and promulgate policies, rules, regulations and standards to promote the efficiency of the Port services.
 - 6. Maintain complete employment records of all employees.
 - 7. Maintain the position classification and compensation plan.

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8. Carry out such other personnel administration activities as are necessary to assure the promotion of merit based personnel systems.
9. Provide for initial and periodic orientation to all employees concerning the provisions of these rules and regulations, and the training of all supervisors and managers in their specific responsibilities for advising employees on requirements and provisions of these rules and regulations.
10. Assure that each supervisor and manager is provided a copy of these rules and regulations, and any subsequent changes.
11. Assure that each employee is provided a copy of the Personnel Rules and Regulations and subsequent amendments to the rules and regulations.

CHAPTER 3

CODE OF CONDUCT

STATEMENT OF POLICY

All employees are expected to maintain the highest standards of conduct to ensure that the services in the Port are properly administered.

3.000 ETHICAL CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

- A. Public service is a public trust. Employees are expected to be loyal to the U.S. Constitution, the Organic Act of Guam, and to perform their duties and responsibilities ethically and in accordance with laws.
- B. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- C. Employees shall not engage in financial transactions using confidential or non-public government information or allow the improper use of such information to further any private interest.
- D. An employee shall not, except as permitted by statute or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the Port, to include persons whose interests may be substantially affected by the performance or non-performance of the employee's duties, or that of the Port.
- E. Employees shall put forth honest effort in the performance of their duties.
- F. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Port.
- G. Employees shall not use public office for private gain.
- H. Employees shall protect and conserve public property and shall not use it for other than authorized activities.

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- I. Employees shall not engage in unauthorized outside employment or activities, including seeking or negotiating for employment that conflicts with official government duties and responsibilities.
- J. Employees shall, in good faith, disclose waste and abuse and corruption to appropriate authority and in doing so shall be protected from reprisal.
- K. Employees shall respect the rights and privacy of other employees and shall not use their position, authority or other means, to injure another person or employee for personal reasons or malicious purposes.
- L. Employees shall refrain from unlawful use of drugs and alcohol. Drugs shall mean those identified in the Drug-Free Workplace Program Operating Procedures (DFWPOP).
- M. Employees shall be courteous and helpful to clients and members of the public.
- N. Employees shall be courteous to other employees and respect supervisory authority.

3.100 OATH OF OFFICE

All persons employed by the Port or accepting employment with the Port shall subscribe and certify to the prescribed loyalty oath. This oath may be administered by the General Manager or the officers, or the employees designated by him at the time of employment processing. Failure to take such oath, or certifying falsely to such oath, shall be cause for disciplinary action, dismissal or rescindment of employment offer.

3.200 NEPOTISM

- A. Spouses and persons within the first degree of relation, such as, brother/sister or parent/child, may not be employed with the Port in a direct supervisor-subordinate relationship in the classified or unclassified service.
- B. The spouse of the General Manager may not be employed with the Port.
- C. Whenever there are already two or more members of an immediate family in the public service under the Port, no other members of such family shall be eligible to appointment. As used in this Section, "immediate family" means a collective body of persons living together in the same house.

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3.300 CONVICTED FELONS

- A. In accordance with Section 4203.1 of Title 4 of the GCA, no person shall be employed as a peace officer in the law enforcement positions with the Authority who has been previously convicted of a felony in any civilian or military court, a crime involving moral turpitude, a crime of domestic or family violence, regardless of whether he was pardoned or commuted by *I Maga'lahaen Guahan* regarding such conviction.
- B. In accordance with Section 4203.3 of Title 4 of the GCA, no person shall be employed with the Authority who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the GCA or an offense as defined in Article 2 of Chapter 28, Title 9 of the GCA, or an offense in any jurisdiction, which includes, at a minimum all of the elements of said offenses, or who is listed on the Sex Offender Registry, after February 7, 2006.
- C. In accordance with the Family Violence Act, after August 14, 1998, no person thereafter who is convicted of a felony concerning family violence (not a misdemeanor) is eligible to hold the following positions:
 - 1. General Manager,
 - 2. Deputy General Manager,
 - 3. Managerial or supervisory position.

3.400 CRIMINAL CHARGES OR CONVICTION

- A. Employee's Duty to Report: An employee in the classified service who is charged by indictment, information or magistrate's complaint with any crime in any court or who is convicted of a crime in any court except Traffic Court shall provide the General Manager with written notice of the charges or the conviction within 72 hours thereof.
- B. Failure to Report: An employee's failure to provide notice as required is grounds for a separate Adverse Action. The 60 day limitation imposed by Title 4, GCA, Section 4406 commences when the employee gives notice of the charges or conviction of a crime to the General Manager as required in Rule 3.400.A.

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3.500 CONFIDENTIAL INFORMATION

No employee shall disclose information which is considered a private document by existing law, and which the employee acquires in the course of official duties, or use the information for personal gain or for the benefit of someone else.

3.600 FAIR TREATMENT

No employee shall use or attempt to use an official position to secure or grant unwarranted privileges, exemptions, advantages, contracts or treatment, for himself, a spouse, children or others, including but not limited to the following:

- A. Seeking other employment or contract for services by the use or attempted use of the individual's office or position;
- B. Accepting, receiving, or soliciting compensation for the performance of official duties or responsibilities, except as provided by law;
- C. Using government time, equipment, or other facilities for private business purposes;
- D. Soliciting, selling, or otherwise engaging in a financial transaction with a subordinate or a person or business that the employee inspects or supervises in an official capacity.

CHAPTER 4

EMPLOYMENT OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

STATEMENT OF POLICY

This policy implements a system of recruitment and selection of employees of the Authority occupying Maritime Positions unique to Port Operations and Certified, Technical and Professional Positions in accordance with the merit system principles and equal employment opportunity guidelines. It also defines what classes of positions are Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions.

4.000 DEFINITION

“Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions” are defined as and may include, but are not limited to:

- (A) Positions whose qualification requirements mandates certifications and/or licensing requirements, e.g., equipment operators, stevedores, cargo checkers, marine traffic controllers, etc.;
- (B) Positions with multi-skill qualification requirements, e.g., preventive maintenance mechanics, crane mechanics, etc.;
- (C) Positions with specific maritime knowledge and skills, e.g., tariff technicians, etc.; and
- (D) Other similar technical and professional positions which are unique and critical to the Authority’s needs and no other government entity, which is not a port of entry, but not limited to, those jobs listed herein. (12 G.C.A. §10111.3(c))

4.100 IDENTIFICATION OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS, AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

A listing of those positions in Classification and Compensation Plan identified and listed, by title, position description and pay range as Maritime Positions Unique to Port

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Operations and Certified, Technical and Professional Positions and approved by the Board shall be attached to the Personnel Rules and Regulations as Appendix A.

The General Manager shall publish the Board approved list on the Authority's website and a copy of the list shall be maintained by the Authority's Human Resources Division and be available for public inspection.

4.200 AMENDMENT OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS, AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

The General Manager may make a written request to the Board for it to amend, including but not limited to deleting, adding, or modifying positions on the approved list of the Authority's Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions.

- A. The request shall include:
 - 1. The justification for amendment.
 - 2. The essential details of the amendment.
 - 3. An analysis of the similarities or differences between the existing position and the amendment.
 - 4. The job title, pay range, and position description affected by the amendment.

- B. The General Manager shall post the request for amendment 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 request, along with evidence that prompt notice of the posting was provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam, to the Board. The Board shall approve, disapprove, or amend the request at any regularly scheduled meeting or at a special meeting called for this purpose.

4.300 APPOINTMENT THROUGH THE MERIT SYSTEM

4.301 Recruitment and Examinations

Recruitment of persons for employment in the classified service shall be accomplished consistent with the merit principles of recruiting, selecting applicants, and advancing employees on the basis of their relative knowledge, ability and skill.

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4.302 Filling of Vacancies

- A. No person shall be appointed to, or employed in, or paid for service in any permanent classified position until that position has been established, funded, and allocated to its proper class by the General Manager. Nor, shall any person be allowed to begin work before such person submits an employment application, is placed on the eligibility list as "eligible" for the position applied for, and is certified, selected and processed by following competitive examination procedures. This applies to all original and promotional appointments. Exception to the certification requirements may be made for those actions listed in Rule 4.800 of the Personnel Rules and Regulations.
- B. Competitive examinations procedures shall also apply to the following:
1. demotion to a position with known promotional potential within a class series;
 2. transfer to a position with known promotional potential within a class series;
 3. reinstatement or reemployment to a position with known promotional potential within a class series; or
 4. appointment to a position with known promotional potential within a class series.
- C. Drug Testing: Applicants selected for and offered employment with the Port shall undergo and pass a mandatory drug test before being employed. Failure to submit to, or pass such drug test shall be grounds for rescinding the offer of employment, unless the applicant is undergoing treatment through a rehabilitation program approved or recognized by the Department of Mental Health and Substance Abuse, in which case the applicant must successfully complete the program within the prescribed time before being employed.

Employees selected for any position within the Authority will be tested as provided in the Drug Free Workplace Program Operating Procedures (DFWPOP).

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- D. Minimum Educational Requirements: All new employment in the service of the Authority shall have, as a reasonable measure of job performance, minimum requirement of high school diploma or a successful completion of a General Educational Development (GED) Test, or any equivalent of a general education high school program, apprenticeship program or successful completion of certification program, from a recognized, accredited or certified vocational technical institution, in specialized field required for the job. This section shall not be applicable to the Summer Youth Employment and any person with a disability which prevent him from complying with this section consistent with the Americans with Disabilities Act or its successor's laws.

4.303 Maintenance List of Authorized Positions

- A. The General Manager shall maintain a list of authorized positions for each organized unit within the Port, showing by class of positions those that have been established and the current status of the positions. No change in the numbers of authorized positions shall be made except upon approval of the Board of Directors.
- B. The procedure for authorizing additional positions shall be subject to the approved budget by the Board. Filling of vacancies shall not be more than the number of authorized positions within its Full-Time Equivalency (FTE) ceiling, except as authorized by law as follows:
1. Part-time employees may be counted as a fraction, which is determined by dividing 40 hours into the average number of hours of such employees' regularly scheduled workweek.
 2. The number of employees may be increased beyond the number authorized for a period of no longer than ninety (90) days in the event Guam is declared to be a condition of disaster or emergency by the Governor, or by the President of the United States.

4.304 Certification from Eligibility Lists

All original and promotional appointments to positions shall be made through certifications from eligibility lists resulting from competitive examinations and for selections covered under the Merit Career Plan.

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4.305 Order of Use and Limitation on the Establishment of Lists

The order listed below shall be followed in the use of the eligibility lists, and the General Manager shall be restricted to selection from the top five/ten (5/10) found on these lists in the order of precedence herewith established:

- A. Port-wide
 - 1. Priority Placement/Lay-off Reinstatement List
 - 2. Promotional List
 - 3. Temporary or Short-Term Appointments List

- B. Government-wide or Open
 - 1. Preferential/Priority Placement List; Lay-off Reinstatement List; Enhanced Placement for Public Employees Displaced Due to Outsourcing
 - 2. Re-employment List
 - 3. Promotional List; Temporary or Short-Term Appointment List;
 - 4. Open Competitive List

4.400 RECRUITMENT

4.401 Announcement of Recruitment and Examination

- A. Upon receipt of a Request for Personnel Action (GG-1) and if there is a need to establish a list of eligibles, the General Manager shall publish and disseminate announcements of recruitment and examination on a Port-wide, Government-wide and/or Open competitive basis, and shall cause such announcements to be posted throughout the Port, Government of Guam instrumentalities, departments and agencies and community. Other methods of announcing examinations may be used at the discretion of the General Manager, so as to better disseminate information to the employees and the public.
 - 1. Port-wide competitive examinations shall be held to allow all interested and qualified employees within the Port the opportunity to compete for vacant positions.
 - 2. Government-wide or open competitive examinations may be held when there are insufficient number of qualified applicants within

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the Port for adequate competition and flexibility of selection. The Port shall determine the need for open competitive announcements.

- B. Competitive examinations may be re-announced when the General Manager determines that there is an insufficient list of eligibles for the positions or within one month of the anticipated expiration date of the eligibility list of the positions.
- C. A job announcement may be cancelled upon approval of the General Manager. If this occurs, all applicants shall be notified of the cancellation.
- D. The General Manager may publish job announcements pending the receipt of the GG-1 provided the Division Head submits justification in writing of the urgency of the recruitment request.
- E. The General Manager may request for certification of eligibles regardless of the number of eligibles in the eligibility listing.

4.402 Selective Factors

- A. Upon the request of the Division Head and approval of the General Manager, selective factors may be used on job announcements when specific identifiable knowledge, abilities or skills are essential to the successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, abilities and skills pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining eligibility based on a selective factor, applicants must have at least six (6) months of work experience in the particular selective knowledge, ability and skill or the equivalent in education.
- B. All selective factor statements must be job related and must be included in the proper job announcement.
- C. The General Manager shall establish appropriate procedures for selective factor requests and approvals.

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4.403 Bona Fide Occupational Qualification Requirements:

Job announcements may include bona fide occupational qualification (BFOQ) requirements when justified. For example, certification based on sex is a BFOQ 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.

4.404 Maintenance of Distribution Lists

The General Manager shall establish and maintain distribution lists of public and private agencies or groups, by occupation or other appropriate categories, to which appropriate examination announcements or other information regarding prospective examinations shall be sent for further dissemination to prospective applicants.

4.405 Content of Recruitment and Examination Announcements

- A. Each recruitment and examination announcement for an original appointment or promotion shall contain the title of the class, applicable pay grade, selective certification when applicable, area of consideration, character of duties and responsibilities and examples thereof, minimum qualifications for entry into the position, the required supporting documents, such as, but not limited to education, police and/or court clearances, closing date and place for filing applications, and other information deemed necessary by the General Manager.
- B. Appointments other than from an eligibility list, for example by transfer, demotion, or reinstatement shall be bound by the minimum qualification requirements.

4.406 Minimum Period of Recruitment

- A. Job announcements shall be posted for at least ten (10) working days for Government-wide and Open examination announcements and at least five (5) working days for Port-wide examination announcements.
- B. The General Manager may post job announcements on a continuous basis for positions deemed to be difficult to recruit. Notice of the final closing of such announcement shall be sent to the original distribution list at least one week prior to the final closing date for receipt of applications.

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- C. The General Manager may extend the announcement period for receipt of applications. Announcement of such extension shall be disseminated to the original distribution list for posting.

4.407 The Application Form

- A. The General Manager shall prescribe a form to be used by applicants, which shall require information covering experience, education, training, and other pertinent data, indicated as being necessary in the examination announcement. Applications shall be signed and the truth of all statements therein certified to by such signature. The form may be submitted through an electronic format and should include an electronic signature.
- B. The General Manager may not make any pre-employment inquiry about a disability or about the nature or severity of a disability on application forms, job interviews, or in background or reference checks.
- C. Medical information received on an employee as a result of an employment requirement shall be filed separate and apart from the employee's active personnel records.

4.408 Acceptance of Employment Applications

- A. Applications for competitive examinations shall be accepted only during the filing period specified in the examination announcement. All applications submitted shall be date stamped to indicate the date received by the Human Resources Division.
- B. Applications submitted by mail must be postmarked by midnight of the announced last day for filing applications in order to be accepted.
- C. Late applications for competitive examinations may be accepted if the examination has not been administered and an eligibility list established. This is provided that the late filer is a Government of Guam employee who can establish to the satisfaction of the General Manager that he was not aware of the job announcement and unable to file a job application due to factors beyond his control (i.e., official off-island training, on extended annual or sick leave, etc.).

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4.409 Evaluation of Applications

- A. An eligibility list shall be established no later than one (1) month after the closing date of the position announcement. Failure to establish an eligibility list within one (1) month of the closing date will require that the position be re-announced with a new closing date and that all applications previously received shall be re-stamped and re-accepted to coincide with the new announcement period.
- B. The closing date of the announcement shall be the ending date to credit the job applicant's education, experience and training for the position applied for.
- C. For continuous job announcements, the ending date to credit the job applicant's education, experience and training shall be the date of application.

4.410 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 an examination when any of the following conditions exists:

- A. Conviction of a crime within seven (7) years from date of application, which bears a nexus to the position, applied for, unless otherwise required by statute.
- B. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to not possess the appropriate legal status to work in the Territory or pose to be a security threat.
- C. Conviction of a sex offense or listed on the Sex Offender Registry.
- D. Refusal or failure to furnish documents required verifying any statements made in the application.
- E. Intentional false statements or deception or fraud in the application process.

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- F. Failure to attest to the accuracy of information presented on the application form.
- G. Failure to submit an application within the announcement period, with exception of Rules 4.408.B and 4.408.C.
- H. Evidence that the applicant has been removed from the position with the Port, other Government departments or agencies, or otherwise for reasons which would render him unsatisfactory for the position in the Port's services for the class for which he is applying.
- I. Failure to submit to a drug test for a position with the Port or successfully complete the drug rehabilitation program.

When such finding is made, the General Manager may reject the application and notify the applicant of such action.

4.411 Notification of Rejection of Applicants

- A. A rejected applicant shall be notified promptly of such action and reasons for rejection within ten (10) workdays of the rejection.
- B. Whenever an application has been rejected prior to a schedule examination (assembled), notice thereof, with the reason or reasons for such rejection, shall be given ample time to permit the applicant to respond in writing, or to amend an incomplete or defective application at least three (3) days before the date of the examination. If sufficient time is not available for this purpose, the applicant may be admitted to the examination with the condition that the applicant shall not be certified as eligible until all the established requirements for eligibility are met.

4.500 EXAMINATIONS

4.501 Scope and Character of Examinations

- A. Competitive examinations 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 examination is held.

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- B. Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of skill, knowledge, ability, intelligence or aptitude; medical examinations, appraisals of personal suitability; and any other matters that the General Manager deems appropriate.
- C. All examinations shall be either or both:
 - 1. Assembled, wherein the applicants assemble in a designated place at a specific time to take written, oral or performance tests pertinent to the position(s) sought; or
 - 2. Unassembled, wherein interested persons responding to an examination announcement, submit to designated places and by designated times, their records of education, training, experience and such other information as requested in the announcement be evaluated and rated by a qualified analyst or by a board of rating examiners.

4.502 Parts of Examination

- A. The parts of total examination may consist, in various combinations of such selection devices as work sample and performance tests, written tests, individual or group oral examinations, assessment center exams, medical examinations, rating of training and experience and background and reference inquiries. Examination parts will be appropriately weighed.
- B. An applicant for any examination must pass all parts of that examination in order to qualify for appointment to a position.

4.503 Education and Experience

If education and experience form a part of the total examination, the General Manager shall determine a procedure for the evaluation of the education and experience qualifications of the various applicants. The formula used in appraisal shall give regard to recent and quality, as well as, quantity of experience and to the pertinence of the education. This procedure shall allow for the substitution of the education for experience, and experience for education within the limits stated in the class standards.

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4.504 Development and Validation of Tests

Tests for each examination shall be developed and validated in compliance with EEO objectives and merit system principles, and in accordance with professionally approved validation strategies, such as, content, criterion-related or construct validation where it is technically feasible.

4.505 Admission to Compete in Assembled 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 requirement for admission is 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 or appointment until the General Manager has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

4.506 Conduct of Examinations

- A. Examinations shall be held at the time and place which is most practical and meets the need of the service, and shall be administered by an authorized representative designated by the General Manager.
- B. If an assembled examination is to be administered, qualified applicants shall be notified of the date, time and place of the examination. The General Manager shall not be responsible if a notice is lost or delayed in the mail, or sent to an applicant's former address through failure of the applicant to inform the Port of a change of address.
- C. No applicant shall be entitled to take an examination at a date, time or place other than that stated in his notification, except as the General Manager may authorize.
- D. All applicants for examinations involving physical ability or performance tests may be required to sign a waiver of liability.

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- E. All reasonable precautions shall be taken to protect the confidentiality of information about applicants.
- F. Applicants with disabilities shall be given reasonable accommodation in the administration of tests.

4.507 Assembled Examinations for Closed and Continuous Announcements

- A. For announcements having a specific closing date, and closed announcements, an examination shall not be administered until after the closing date and until such time all applications have been evaluated. Applicants applying under a closed announcement may take the required examination only once and only one eligibility list established.
- B. For continuous announcements, the following provisions shall prevail:
 - 1. No examination shall be administered until ten (10) workdays after the date of the announcement.
 - 2. Candidates who fail an examination may retake the same examination after thirty (30) days have elapsed. Exception to this rule may apply when the General Manager has certified that there are less than five (5) eligibles for each vacancy in a given class of position.
 - 3. An applicant who has passed all parts of an examination for a particular position and who requests to retake the examination for the purpose of upgrading his final earned rating, may retake the examination provided that thirty (30) days have elapsed since his last examination, and provided the announcement has not been closed. The higher score shall be used to determine the final earned rating.
 - 4. When a closing date is announced, a final eligibility list shall be established and no examinations shall be administered thereafter.

4.508 Ratings of Examinations

- A. Appropriate psychometrics and measurement techniques and procedures shall be used in evaluating the results of examinations, and in determining

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the minimum rating by which eligibility may be achieved, and the relative rank of candidates.

- B. The General Manager shall set the minimum ratings for each part of an examination. All candidates shall be required to obtain the set minimum passing score for each part of the examination in order to proceed to each successive test. In order to receive a final passing rating, the final earned rating of each applicant shall be determined by combining the earned rating of each part of the examination in accordance with the weights established for each part.

4.509 Notification of Examination Results

Each applicant who participates in an examination shall be given written notice, in person or by mail, of his examination results. The record of ratings, as well as, examination papers, shall be held as official records for the life of the resulting eligibility lists.

4.510 Inspection of Written Examination Papers

The General Manager shall, upon request of a candidate, authorize such candidate to inspect his own written examination papers, within thirty (30) days of the date of examination and in the presence of a representative of the Human Resources Division, except that when a candidate is scheduled to retake the same examination, inspection shall not be allowed more than five (5) work days prior to the examination date. The privilege of inspection shall not be deemed to include authorization to copy examination papers; or to inspect or to copy examination instructions, questions, or answers.

4.511 Administrative Review of Examination Ratings

An applicant may request administrative review of his rating assigned in an examination by submitting to the General Manager, in writing, information to substantiate his request within ten (10) workdays following the date of his examination notice was postmarked. Certification of eligibles is authorized only after the administrative review period has elapsed. Unless the General Manager determines that a delay in services will hamper the operations of a division, certification of eligibles is authorized only after the administrative review period has elapsed.

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4.512 Changes in Rating

- A. Changes in rating may be made as a result of a discovery of errors in the rating or scoring process, or as a result of an administrative review wherein the facts warrant a change.
- B. Rating errors may be corrected throughout the life of the eligibility list.
- C. Any such changes shall be reported to the applicants affected.
- D. Changes in rating will not affect a certification issued, or invalidate an appointment made from the eligibility list.

4.513 Duration of Examination Ratings

- A. Examination ratings are good only for the life of the eligibility list and shall not be carried over to a new eligibility list for the same position after a period of one (1) year.
- B. Exceptions to this rule shall also apply when minimum qualifications are amended or when written, oral or performance examinations are likewise amended. In this event, the existing eligibility list will be invalidated and candidates must take and pass any and all new examinations, both assembled and unassembled, in order to remain eligible for certification.

4.514 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 the examination. Proved disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.

4.515 Protection of Confidentiality of Materials

- A. Because of the continuing use of the examination materials prepared by the Human Resources Division, and where exposure would jeopardize the

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confidentiality of the examination questions, the review of such test materials shall not be permitted.

- B. All examination materials relating to a particular applicant, or applicants including, but not limited to reports of character and material regarding personal suitability of the applicant, shall be considered confidential material. Such examination material shall be maintained for a period of one (1) year from date the eligibility list was established.

4.516 Special Provisions

Special arrangement for examinations on a non-competitive basis, such as, upon reallocation of position and temporary appointments, may be made by the General Manager subject to the limitations which follows:

A. Non-Competitive Examinations

The General Manager may authorize non-competitive examinations under the following conditions:

1. No more than one person applies who meets the minimum qualification requirements.
2. Examination given is to test the fitness of an employee who has a permanent appointment and who seeks transfer to a position in a class in the same pay grade, but which requires a skill not required in the present classification. However, the provisions of the Merit Career Plan shall apply to a transfer to a position with Known Promotional Potential (KPP).
3. The examination is to test an employee who has a permanent appointment in a position, which has been reallocated to a class requiring a new skill.
4. When a permanent position is to be filled by a temporary appointment.
5. To facilitate the employment of qualified persons with disabilities consistent with provisions of law and these rules.

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6. Examination given is to test the fitness of a permanent employee who has been previously selected under an announcement for a position with Known Promotional Potential (KPP) and who is promoted to a higher grade position.

B. Appointment of Qualified Individuals with Disabilities

1. The Port shall employ at least two percent (2%) of the work force with severe disabilities and certified by the Division of Vocational Rehabilitation of Department of Integrated Services for Individuals with Disabilities (DISID). The Port may meet such requirement through direct employment or by contract with non-profit organizations employing individuals with disabilities. Such employment shall be on a temporary limited-term appointment not to exceed a total of six (6) months regardless of whether the position being filled is budgeted as temporary or permanent.
2. All such individuals with disabilities shall possess the qualifications for the position to which appointed. Eligibility lists shall be developed for the various positions for which individuals with disabilities are certified.
3. Nothing contained in this section shall be construed to deter or prevent the General Manager from employing:
 - a. Individuals with disabilities when available and eligible for permanent employment.
 - b. Individuals with disabilities employed pursuant to the provisions of Rule 4.516.B.2, if such persons qualify for permanent employment before the termination of their temporary appointment.
 - c. If such individual is appointed pursuant to this rule to a permanent position during or immediately after the six (6) month period, such six (6) months or portion thereof shall be credited toward such employee's probationary period.
 - d. Appointment of individuals with disabilities to permanent positions must be consistent with the merit system requirements. In this exception, if the immediate

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supervisor determines satisfactory performance either prior to, or after the expiration of the six (6) months appointment, the position occupied by the person with a disability shall be converted to permanent employment.

- e. If the performance evaluation recommends that the individual may require an extension of employment, the immediate supervisor and Division of Vocational Rehabilitation shall develop a revised Individual Work Rehabilitation Plan to assure successful placement not to exceed an additional six (6) months, which may include consideration of the Port's acquisition, or modification of assistive technology devices or services, or placement to other positions in another Government of Guam department or agency. Division of Vocational Rehabilitation shall provide a work coach to assist the Port when necessary.

4.600 PREFERENCE

4.601 Preference Credit for Individuals with Disabilities

Residents of Guam 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 only to a position. The preference credit does not apply to subsequent applications for employment in the Government after separation.

4.602 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 services in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing examination scores upon initial employment only. The preference credit does not apply to subsequent applications for employment in the Government after separation.

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4.603 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 or Discharge. A person must have completed at least 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.

4.604 Offer of Employment for Preference Credit Recipient

When two applicants are equally qualified for the position to be filled and one is a recipient, pursuant to Rules 4.601 or 4.602, while the other is not, the former shall be given the first offer of position.

4.605 Preferential Hiring of a Recipient of an Award or Scholarship

Residents of Guam, who have completed their post-secondary education assisted by the award of educational scholarships or loans from the Government of Guam, shall be given preference to jobs with the Authority for which they have applied and are qualified. Such preference shall be applicable only in selection for initial employment. The preference does not apply to subsequent applications for employment after separation or after an initial job offer is declined.

4.700 CERTIFICATION

4.701 Eligibility Lists

Employees shall be selected from among the eligibles on appropriate eligibility lists, established and maintained by the General Manager, except those employees who are demoted, transferred, reinstated or re-employed. Within the limitations found elsewhere in these rules, qualified applicants shall be placed on eligibility lists as a result of examinations. When more than one (1) competitive examination, or area of consideration is announced simultaneously for a particular class, an appropriate eligibility list shall be established for each competitive or area of consideration for that class.

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4.702 Establishment of Eligibility Lists

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

4.703 Ranking of Eligibles

After each examination, the General Manager shall prepare a list of persons with passing scores. The names of such persons shall be placed on eligibility lists in order of their final earned rating, starting with the highest. Prior eligibility lists resulting from a continuous examination announcement shall be merged by ranking the names of all successful applicants in order of their final earned rating.

4.704 Determination of Rank in Event of Tie

Final earned ratings shall be calculated in three decimal places and ranked from highest to lowest. When, upon certification of eligibles in accordance with Rule 4.710 a tie score occurs, such tied scores shall not be broken and all such eligibles shall be certified as being the fifth (5th) eligible.

4.705 Duration of the Eligibility List

An eligible on a Port-wide, Government-wide, or open competitive eligibility list, shall have eligibility for employment consideration for one (1) year from the establishment date of the eligibility list. Once a list is established, its life should be viable for one (1) year. Whenever a position is re-announced at the discretion of the General Manager, and a new eligible is established, the names of eligibles on a former list, which has yet to expire, shall be combined with those on a new list according to the final score.

4.706 Port-wide Competitive Eligibility Lists

Authority-wide competitive lists shall be established consistent with Rules 4.702 and 4.703 and selections shall be made in accordance with the Merit Career Plan.

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4.707 Government-wide Competitive Eligibility Lists

Government-wide competitive lists shall be established consistent with Rules 4.702 and 4.703 and selections shall be made in accordance with the Merit Career Plan.

4.708 Open Competitive Eligibility Lists

Open competitive eligibility lists shall be established consistent with Rules 4.702 and 4.703.

4.709 Certification of Eligibles

Certification of eligibles shall consist of five (5) or such fewer eligibles as may be available for the class. Eligibles shall be certified in the order that they appear on the eligible list provided that:

- A. eligibles with reemployment rights shall be accorded priority certification.
- B. when the fifth (5th) eligible to be certified is one (1) of two (2) or more eligibles who have identical examination scores, such two (2) or more eligibles shall be certified notwithstanding the fact that more than five (5) persons are thereby certified to fill a vacancy.
- C. in the event one (1) or more eligibles decline or fail to respond to an employment interview, the Division Head shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.712, Supplemental Certification.)
- D. if the Division Head rejects one (1) or more of the eligibles certified, he shall submit in writing to the General Manager the reasons for rejection. If the rejections are approved by the General Manager, the Division Head shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.712, Supplemental Certification.)
- E. a certification of eligibles shall be effective for no more than thirty (30) days after the date of certification, unless extended by the General Manager.

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4.710 Certification of Eligibles from a Multiple List

After eligibility lists are established for a particular job announcement with multiple competitive examinations or areas of consideration, the General Manager may request to certify in one (1) of two (2) ways:

- A. Merge the lists and certify according to Rules 4.710 and 4.712; or
- B. Certify, in accordance with Rules 4.710 and 4.712 from each list in the following order: Port-wide, Government-wide, and Open. Each list must be exhausted in accordance with these rules before certification from the next list will be authorized.

Merging Open competitive lists with Port-wide or Government-wide competitive lists is prohibited.

4.711 Certification of Eligibles for More than One (1) Vacancy

- A. For more than one (1) vacancy, the General Manager shall certify an additional eligible for each additional vacancy.
- B. 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.
- C. For example, when certification is made for two (2) vacancies, certification of eligibles will appear as follows:

First Ranked Eligible
Second Ranked Eligible
Third Ranked Eligible
Fourth Ranked Eligible
Fifth Ranked Eligible
Sixth Ranked Eligible

The General Manager shall make his selection according to the following:

- 1. The General Manager may select two (2) persons from the six (6) certified to fill two (2) vacancies.
- 2. Should the General Manager decide to fill only one (1) of two (2) vacancies to be filled, he shall be restricted to select from the first

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five (5) eligibles on the certification and may not select the sixth (6th) ranked eligible.

3. Should an additional vacancy exist and certification was not made for such vacancy, the General Manager may not select from among the six (6) eligibles to fill the third (3rd) vacancy. He must request an additional eligible and then make the selection for the third (3rd) vacancy from among the seven (7) certified eligibles.
4. If the General Manager does not wish to select any of the eligibles certified, he must document the reasons for non-selection of each eligible, before a new certification is authorized.

4.712 Supplemental Certification

The General Manager may submit a supplemental certification of eligibles to provide the Division Head with a full certification.

- A. The supplemental certification may be used only upon failure to appear for an interview, refusal of appointment by eligibles, or the rejection of eligibles by the Division Head for cause.
- B. The additional eligibles to be certified shall be of such number that will provide the Division Head with a full certification.
- C. The Division Head shall contact eligibles in descending order to ascertain their interest in the vacant position. If the last eligible contacted is one (1) of two (2) or more eligibles with identical examination scores, such two (2) or more eligibles shall also be contacted.

4.713 Selective Certification

- A. Upon approval of the General Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, skills and abilities pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining qualifications on a selective factor basis, applicants must have at least six (6) months of work experience in the particular selective knowledge, skill or ability or the equivalent in education.

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- B. Selective certification may also be made which specifies a BFOQ when justified. For example, certification based on sex is a BFOQ when 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.
- C. All selective certifications must be indicated on the proper job announcement and be job-related.

4.714 Interview of Eligibles and Notification of Selection/Non-Selection

- A. The General Manager shall establish procedures for interviewing certified eligibles for selection.
- B. Within thirty (30) calendar days from the date a selection is made, the General Manager shall notify, in writing, all eligibles certified as to whether they were selected or not.

4.715 Suspension and Removal of Eligible from Competitive List of Eligibles; Restoration to List

- A. The General Manager may suspend or remove an eligible from an Eligibility List for any of the following reasons:
 - 1. Refusal to two (2) offers of permanent employment in the class of position for which eligibility has been established.
 - 2. Failure to reply within fifteen (15) calendar days to a written inquiry relative to availability for employment.
 - 3. Appointment to a permanent position for the class.
 - 4. Failure to report after two (2) days after notice, or failure to report for duty within the prescribed time.
 - 5. In the case of Port-wide or Government-wide lists, termination of service with the Government.
 - 6. When further investigation of eligible's suitability needs to be conducted.

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7. Withdrawal by the eligible.
8. Findings of deception and fraud in the employment process.
9. Conviction of a crime, which bears a nexus to the position, applied for.
10. Conviction of a sex offense under the provisions of Chapter 25 of Title 9 of the GCA, or an offense as defined in Article 2 of Chapter 28 of Title 9 of the GCA, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry.
11. Advocates, aids or belongs to any party, organization or association which advocates the overthrow of the Government of Guam or United States.
12. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to not possess the appropriate legal status to work in the Territory or pose to be a security threat.
13. Refuses or ignores the requirement to take a drug test without cause or the verified drug test result is found to be positive and the applicant is not participating in a rehabilitation treatment program.

In the event, the eligible has already received an appointment; the General Manager shall take appropriate action to ensure the termination of the employee.

- B. The following eligibles, upon their request, may have their names restored to the list of eligibles if the list is still active:
1. A probational employee who is separated without cause.
 2. An eligible who had been removed from the list under A.7 above, and who then makes himself available for employment.
 3. An eligible who received an appointment as a result of this list, then resigned in good standing and wishes to be placed on the list for future consideration. This provision applies only to open

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competitive eligibility lists.

4. An eligible who had been removed from the list as a result of a positive drug test, and who then submits documentation that he has successfully completed a rehabilitation program.

4.716 Notification of Disqualification of Eligibles

An eligible who is disqualified pursuant to Rule 4.715 shall be notified in writing of such action and the reasons of disqualification within ten (10) workdays of the action:

4.717 Cancellation of Competitive Eligibility Lists

The General Manager may cancel an eligibility list for any of the following reasons:

- A. Changes in the minimum qualifications or classification standards of a class of position.
- B. Abolishment of the class for which the list of eligibles was established.
- C. All eligibles on the list are unavailable for employment.

4.800 NON-COMPETITIVE ACTIONS

4.801 Transfer

A. Transfer Defined

A transfer is defined as a change from one position to another position of the same class, or a change to a related position in another class, which carries the same pay grade and substantially the same qualification requirements.

B. Involuntary Transfer

No employee may be involuntarily transferred to a position, which is unrelated with respect to duties and responsibilities to the position occupied by the employee before the transfer.

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C. Transfer Prohibited

1. No employee shall be transferred:
 - a. if the employee has filed a legitimate grievance with the Commission for discrimination based on political affiliation, gender or sexual harassment; or
 - b. if employees, acting in good faith, report or expose bad business practices, illegal activities, or inappropriate conduct by public officials.
2. Such transfer can be made only if it has been agreed to by the employee.

D. Intra-departmental and Inter-departmental

Upon the approval of the General Manager, employees may transfer within the Port or from another Government of Guam department or agency when the following conditions are met:

1. the employee meets the minimum qualification requirements for the position which he seeks movement, including any assembled examination requirements.
2. movement is within the same class of position or from one class of position to another class of position having comparable duties and responsibilities and qualification requirements.
3. any such transfer shall require the clearance of the General Manager and the consent of the employee. The employee shall give the releasing department reasonable notice of the transfer. Prior approval of the transfer is not required by the releasing department. The releasing department cannot require the employee to resign.
4. any employee affected by this section shall not have affected adversely his government service, retirement credits, sick or annual leave and other fringe benefits normally granted to an employee of the Government.

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5. The General Manager may require a transferred employee to serve a probationary period.

E. Inter-Government

The transfer of an employee of any Federal, State or other local government to the Port may be made when the following conditions are met:

1. the position requires highly developed skills and technical abilities as determined by the General Manager.
2. the employee meets the minimum qualification requirements for the position, including any assembled examination requirements.

4.802 Reemployment

A permanent classified employee who separated through resignation or retirement while in good standing may be eligible for reemployment, without competition to the same or comparable position within the Port within four (4) years from the date of separation. For reemployment, the General Manager must determine that the person has met the current minimum qualification requirements for the class to which reemployment are requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described in these rules. Former employees covered by this rule shall not be affected by the Merit Career Plan requirements.

4.803 Reinstatement Immediately After Active Military Service

- A. To be entitled to reinstatement rights at the Authority, a veteran must meet the following requirements:
 1. Leave a classified position at the Authority for the purpose of entering the Armed Forces, voluntarily or involuntarily.

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2. Provided written or verbal notice to the Port prior to leaving for military training or service, except when precluded by military necessity. Written notification for military leave without pay is to be submitted to the General Manager for approval accompanied with a copy of the military orders or other appropriate documents authorizing such duty.
 3. Must not have exceeded the five (5) cumulative limit on periods of service. There are certain limited circumstances in which the five (5) year limit may be extended, including, but not limited to, when the military service beyond five (5) years is required to complete an initial period of obligated service or the employee was unable to obtain orders releasing him from service before the end of the five (5) year period and the inability to obtain such orders was not at the fault of the employee.
 4. Released from active military service under conditions other than dishonorable.
 5. Be qualified to perform the duties of his position. If the employee is disabled during military service and cannot perform the duties of his former position, the employee may be entitled to the nearest comparable job he is qualified to perform.
 6. Make timely application for reinstatement within ninety (90) days after discharge from military service.
- B. Upon meeting the foregoing requirements, the veteran employee shall submit a written request for reinstatement provided written documentation, such as, a copy of the military orders and/or a DD-214, to show that:
1. the request is timely;
 2. the cumulative length of military service did not exceed the allowable limit; and
 3. the employee's entitlement to benefits under USERRA (Uniformed Services Employment and Reemployment Rights Act) has not been terminated, e.g., due to a dishonorable discharge.

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Pursuant to USERRA, the veteran employee who submits a written request for reinstatement shall simultaneously provide the documents requested by the Port as indicated in B above.

The Port shall not refuse to reinstate the veteran employee who does not provide this documentation, if documentation does not exist or is not available at the time of the request. However, if documentation becomes available at a later time which shows that the employee was not entitled to be reinstated, the Port may dismiss him and terminate any rights or benefits otherwise required by USERRA.

- C. The veteran employee is entitled to reinstatement to his previous position or its equivalent, in the step within his former pay, to which such employee would have attained before military service. In the event, the veteran employee's former position is reallocated to a higher or lower pay grade, appropriate pay adjustments shall be made. An employee on military leave without pay forfeits his reinstatement rights if he re-enlists or voluntarily extends the original tour of active duty, except as authorized in Rule 4.803.A.3 above.
- D. The Port is not required to reinstate the veteran employee if:
 - 1. Circumstances have changed to such an extent that reinstatement is impossible or unreasonable;
 - 2. In certain situations as outlined in USERRA, if employment would cause an undue hardship for the Port; or
 - 3. The employee's job was for a brief, non-recurrent period and there was no reasonable expectation that the job would continue indefinitely or for a significant period of time.

4.804 Voluntary Demotion

A voluntary demotion may be made when the following conditions are met:

- A. The employee meets the minimum qualification requirements of the position to which he seeks movement, including any assembled examination requirements.
- B. The employee to be demoted is a permanent employee and the movement

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is from a position in which he last held permanent appointment.

- C. Such demotion shall require the prior approval of the General Manager with the consent of the employee.

4.805 Developmental Promotions under Known Promotional Potential (KPP) Conditions

- A. Promotions without competition may be made where at an earlier date, an employee was selected under an announcement (competitive examination) for a position with Known Promotional Potential (KPP) and the employee is now to be promoted to the higher level position, provided the employee:

1. has completed the probationary period in the position he currently holds;
2. meets the minimum qualifications of the higher grade position including any assembled examination requirements; and
3. meets management's developmental criteria guidelines for advancement to the higher grade position.

- B. The types of KPP are:

1. KPP within a class or related class series not to exceed the highest non-supervisory level position within the series.
2. KPP within a class series up to the supervisory position within the series (first line), provided the KPP position is no more than two levels below the supervisory position.
3. KPP within an organizational program for supervisory positions not to include the managerial position ultimately responsible for the operational or conceptual integration, or coordination of activities within the organizational program.

(NOTE: Organizational charts shall be utilized to determine the position for KPP.)

- C. To be eligible for promotion without competition when the position is upgraded under these conditions, an employee must continue to perform

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the same basic functions; and his former position must be absorbed in the new one.

- D. When an additional position is created, or when the new position is not a clear successor to the former position, non-competitive promotion is not authorized and the provisions of the Merit Career Plan must be complied with.

4.806 Detail Assignments

- A. A detail is a 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, the Division Head must provide to the General Manager a position description and justification for such detail prior to the detail appointment.
- B. Details shall be made only for meeting temporary needs of the Authority's programs, 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 commencing on the first calendar day must be documented and submitted to the General Manager prior to the effective date of the detail for approval. No personnel action shall be transacted unless proper documentation is provided.
- D. An employee shall not be detailed while serving an original 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

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ninety (90) days within a calendar year, unless the General Manager obtains an exemption upon written application to DOA. Such exemption shall not extend beyond the additional ninety (90) days within that calendar year.

- F. An employee in the 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, for brief periods immediately on the first calendar day.
- H. Employees serving on a detail in excess of thirty (30) days in a position having a higher pay grade than his regular position, shall receive a payment differential in accordance with Rule 6.009, provided the detail appointment is consistent with classification principles as determined by the General Manager.
- I. Employees serving a detail on the first calendar day 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 180 calendar days to any classified position, unless the employee has met all of the qualification requirements of the position.
- K. Payment of differential shall be deferred until the employee has served at least thirty (30) calendar days in a detail.

4.807 Acting Capacity as General Manager

- A. The Board, at its discretion, may appoint a classified or unclassified employee to serve temporarily in an acting capacity as General Manager not to exceed one (1) year.
- B. An employee so appointed has the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the one (1) year period is exhausted. The time limitation of this section may not be circumvented by an interruption in the appointment to an acting capacity or the position the employee held before the appointment for a period of less than thirty (30) days.

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- C. Such employee shall receive a payment differential according to Rule 6.010.

4.900 TYPES OF APPOINTMENTS

4.901 Permanent Appointment

A permanent appointment is granted to an employee after successfully completing a probationary period in the permanent position.

4.902 Probationary Appointment

A. Probationary Period

The probationary period shall be utilized as fully as possible to determine the fitness of the employee for the position.

B. Original Probationary Period

An original probationary period shall be required when an individual who has not obtained permanent status is appointed a permanent position. This also applies to former employees who have not been employed in the Government of Guam service after four (4) years of separation in good standing.

C. Duration of Probationary Period

1. Original probationary periods will be for six (6) months, except that service as a result of the six (6) months employment program provided for placement of persons with severe disabilities may be credited consistent with statute. Employees holding classified positions under temporary employment, who are subsequently appointed to the same position under a permanent appointment, may be credited for time served towards their probationary period under temporary appointment.
2. In entry level trainee positions, the probationary period may be established at not more than twelve (12) months, upon the request of the Division Head and approval of the General Manager.

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3. Upon the request of the Division Head, the General Manager may extend an original probationary period not to exceed a total of twelve (12) months. The General Manager prior to the expiration of the probationary period shall give written notice of extension to the employee.

D. Discontinuance of a Probationary Appointment

If the employee fails to render satisfactory service during the original probationary period, the General Manager may dismiss him provided he has served a probationary period of at least three (3) months. The Division Head shall submit a recommendation for dismissal, together with the employee's performance evaluation report, to the General Manager for his approval. The dismissal notice shall indicate the effective date of the action.

Failure by the General Manager to submit a probationary letter to the employee prior to the expiration of the established end date of the probationary period does not grant him permanent status.

Employees dismissed while completing an original probationary period may appeal the dismissal only if the employee alleges that the dismissal was discriminatory based on sex, race, color, creed, religion, age, marital status, political affiliation, disability, or national origin. Submission of such appeals shall be in accordance with the EEO Discrimination Complaint Procedures adopted by DOA.

4.903 Temporary Appointment

A. Short-Term Appointments

1. Short-term appointments may be made to fill temporary vacancies in temporary positions. Appointments of this nature shall be restricted to waterfront and support personnel of the Port, involved in the loading and unloading of cargo.
2. Employees on such short-term appointments shall not be entitled to any employee benefits; any civil service protections reserved for classified employees of the Government of Guam; nor any right for promotions.

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3. Employees on such appointments shall work on an "on-call" basis and may be terminated when their services are no longer required for the operations prescribed in this section.

B. Limited-Term Appointments

1. Limited-term appointments may be made to fill:
 - a. federally funded positions, grant specific positions and project specific positions for specific periods of time that are commensurate with the funding sources or the project's duration; or
 - b. professional level position in the classified service for a specific project or program which commensurate with the duration of a specific project or program.
2. Limited-term appointments are made through the competitive process and that any person appointed on a limited-term basis must meet all qualification requirements including any assembled examinations.
3. Separation from government service of employees serving in limited-term appointments is through resignation, layoff, suspension, dismissal, termination or completion of a grant, federal grant, source of federal funds, specific program or project and for incapacity to perform required duties, provided that the employee is provided with an opportunity to seek reconsideration of suspension, dismissal and removal for incapacity to perform by answering any charges within ten (10) days in having a conference with the General Manager.

Notice of separation of government service must be provided to the employee by written notice at least sixty (60) days prior to the effective date of separation for any reason. In situations where the convenience of the Port is necessary to separate the employment without giving sixty (60) days notice, the employee shall be retained in pay status until the notice period shall have run.

4. Employees appointed on a limited-term basis shall be given the usual employee benefits.

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5. Limited-term employees do not serve a probationary period.

C. 120-Day Appointments

Temporary appointments shall be consistent with the provisions of GCA, Title 4, Sections 4102(a)(6) and 4103(e) as follows:

1. A person may not be temporarily employed in a non-professional capacity for more than 120 work days or 960 hours in any calendar year except pursuant to an exception provided for in Section 4103(d).
2. A person may not be temporarily employed in a professional capacity for more than 120 work days or 960 hours except, upon a contract in writing and a determination in writing by the General Manager that such employment is critical to the public health, safety or welfare of the community. (A person is employed as a professional if the person's job description in the Dictionary of Occupational Titles published by the U.S. Department of Labor, has as its first digit zero (0) or one (1). Any person whose job description does not have as its first digit zero (0) or one (1) shall be deemed to be a non-professional employee.)
3. The following provisions shall apply to appointments made consistent with Sub-rules 1 and 2 above:
 - a. A classified employee who fills a temporary classified or unclassified position has classified employment status absent other controlling legislation.
 - b. A newly hired employee who fills a temporary classified or unclassified position has unclassified employment status.
 - c. Such temporary appointments shall be made without competition, except that any person appointed on a temporary basis must meet the minimum qualification requirements and satisfy all examination requirements for the position as determined by the General Manager prior to appointment.

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- d. A person appointed on a temporary basis shall not perform the duties and responsibilities of a position other than that to which he was appointed.

4.904 Contracts for Personnel Services

- A. Contracts shall not be used as a substitute for merit system employment. The Authority will not contract for personnel services, which normally are performed by employees under the merit system, unless every effort has been exhausted to recruit on-island. Such effort must be documented to prove there was lack of qualified individual on-island.
- B. Contracts for personnel services may be used only when the use of a contract is in accordance with all legal provisions, including the merit system, laws, and rules.
- C. All contracts shall, after approval by the Board, the Commission, and Attorney General, be submitted to the Governor for his signature. All contracts of whatever nature shall be executed upon the approval of the Governor.
- D. Factors to be considered which could provide an adequate justification for using contracts with individuals for services include:
 - 1. emergency short-term (less than two months) normally exempt from competitive appointment methods;
 - 2. part-time professional work;
 - 3. inability of the Authority's merit personnel system to provide qualified employees;
 - 4. contract for expert consultation services not available in the Authority, when full-time employment is not needed or practical, or when the need is intermittent or for a short period of time. Such an expert might provide views or recommendations, but would not perform or supervise the performance of any of the Authority's functions;
 - 5. part-time services of a medical, dental, or other professional specialists; and

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6. contract with an individual to produce a product such as an individual research paper.

4.905 Vacation Employment for Students

The General Manager may employ during the vacation period between school years, at a rate not exceeding the minimum wage specified by any applicable Federal or Guam law, students of the various public or private schools in Guam who are at least 16 years of age, provided that such employment may not exceed eight hours in one (1) day and five (5) days in one (1) week and that such employment may not be of a hazardous nature or in any way injurious to, or endangering the student. Students employed under the authority under this section shall not be eligible for retirement, sick, or annual leave benefits.

CHAPTER 5

POSITION CLASSIFICATION SYSTEM AND COMPENSATION PLAN

STATEMENT OF POLICY

The purpose of this chapter is to develop and maintain a system for the objective, consistent and timely classification of Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions and for the reasonable and consistent assignment of classes of such positions to pay grades.

Compensation of position classes shall be based on a strategic pay job evaluation system which assesses the content and relative importance of jobs within an organization using a total of twelve (12) measurement factors.

5.000 POSITION CLASSIFICATION SYSTEM

5.001 The Classification Plan

Title 12, Chapter 10 of the GCA authorized the Board to adopt rules and regulations governing the selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment of personnel occupying maritime positions unique to Port operations and certified, technical and professional positions.

5.002 Preparation and Publication of Classification Standards

Established classification standards placed positions in their proper classes and pay grades to:

- A. define the various classes of positions that exist in the classified service in terms of duties, responsibilities and qualification requirements. Standards may be created, amended or abolished;
- B. establish the official class titles; and
- C. set forth the pay grades.

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5.003 Delegation of Classification Authority and Responsibilities

The General Manager is authorized to classify maritime positions unique to Port operations and certified, technical and professional positions under its jurisdiction, subject to:

- A. existing policies and procedures;
- B. established class standards;
- C. post-audit by the Commission; and
- D. classification appeal by the employee.

The General Manager may review published standards and submit amendments to the standards for approval to the Board.

5.004 Classification Maintenance

- A. The Commission may review maritime positions unique to Port operations and certified, technical and professional positions to determine whether positions are allocated to classes and grades in conformance with, or consistent with the Port's position classification and compensation plan.
- B. Positions shall be placed in its appropriate class and grade, provided that if a position is downgraded, the position title and pay grade shall not be applicable to an incumbent until the expiration of two (2) years from the date of downgrade. The General Manager shall take action in accordance with such determination.
- C. Whenever the Commission finds that the positions are not placed in classes and grades in conformance with the classification and compensation plan, it may prescribe, revoke or suspend in whole, or in part the classification authority of the General Manager. Further, the Commission may require its prior approval be secured before an action placing a position in a class and pay grade becomes effective for payroll and other purposes. The Commission may at any time restore such authority to the extent that it is satisfied that subsequent actions placing positions in classes and pay grades will be taken in conformance with the Classification Plan.

5.005 Class Standards

The class standards shall be considered in allocating positions and shall be applied as follows:

- A. Class standards are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration of duties, qualification

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requirements or other attributes shall not be regarded as excluding others not mentioned which are of similar nature.

- B. In determining the class to which any position shall be allocated, the standards for each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, minimum qualification requirements, and relationships to other classes consistent with statutory provisions.
- C. A class standard shall be construed as general description of kinds of work characteristic of positions that are properly allocated to that class, and not as prescribing what the duties or responsibilities of any position shall be; nor as limiting or modifying the authority which the General Manager has to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities; to assign duties or delegate responsibilities to employees; or direct and control their work.
- D. The fact that all of the actual tasks performed by the incumbent of a position do not appear in the standards of a class to which the position has been allocated, shall not be taken to mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to the other parts of the specification be construed as determining that a position should be allocated to the class.
- E. The statement of minimum qualification is to be construed as an expression of the minimum knowledge, abilities and skills, and experience and training which would be required of any appointee to a position in the class as partial evidence of his ability to perform the work satisfactorily.
- F. Qualification requirements in the standard for any class, as interpreted herein, shall constitute the basis for other tests to be included in examinations for the class, and for the evaluation of qualifications of applicants.

5.006 Title of Positions

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

5.007 Position Description

- A. The Port must prepare a written description of duties and responsibilities of each budgeted position on a form prescribed by the Board. A group of

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like positions may be covered by a single description. The employee, supervisor and/or position classifier may prepare the description. However, the major responsibility to insure accurate descriptions is on the supervisor.

- B. The supervisor must certify as to the accuracy of the duties assigned and such certification should be authenticated by the Division Head and the General Manager. The position classifier must certify as to the proper classification of the position. Copies of the position description must be filed with the Port's Human Resources Division and the respective division concerned.
- C. 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 General Manager so that a review of the position can be made to determine the proper classification of the position.

5.008 Port Responsibilities

- A. The Port shall insure that the duties and responsibilities assigned to each of its positions are accurately reflected in an official position description. Amended descriptions should be submitted on a timely basis if significant changes in the duties and responsibilities of a position are made.
- B. The Authority shall not use the classification process to evade the principles of the merit system and effect personnel changes for which other personnel processes exist.

5.009 Periodic Review of Descriptions and Classifications

In addition to the day to day work of describing and classifying new or changed positions to reflect current duties assigned and reported by supervisors, or employees, the General Manager must review, at intervals not exceeding two (2) years, all positions of the classified service within the Port 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.

5.010 Determination of Proper Allocation for Newly Budgeted or Vacant Positions

When a new position is to be established/budgeted or vacant position is to be filled, the Division Head shall submit a position description to the General Manager in order that a determination of proper classification and pay allocation may be made. After the General Manager approves the allocation, he shall notify the Division Head affected, in writing, of the approved allocation. No position may be filled until the General Manager certifies that the position is properly

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classified. Copies of all classification reviews shall be filed with the Commission for post-audit purposes.

5.011 Reclassification/Reallocation of Positions

- A. The General Manager may, upon his own initiative, or upon the written request of a permanent employee, or the Division Head, review the duties of any position to determine if it is properly classified; and shall take appropriate action as necessary, in accordance with the Port regulations, policies and procedures.

In making a request for the review of a position, the employee or division head shall set forth the changes that have occurred in the particular position since the last review or other factors which in his opinion warrant reclassification provided, that such changes in duties and responsibilities have been acquired or performed for at least three (3) months and are not temporary in nature.

- B. The General Manager shall, after a thorough review of position, notify the division head and employee affected of the classification study result within twenty (20) work days from the completion of the audit. A copy of the study, documented in a form prescribed by the Port, and the personnel action shall be filed with the Commission for post audit purposes.

5.012 Effective Date of Reclassification of Positions

- A. When a position is reclassified to a class of the same or higher pay grade, the effective date of such reclassification shall not be prior to the date of the General Manager's approval.
- B. When a position is reclassified to a class of a lower pay grade, the effective date of such reclassification shall not be applicable to an incumbent until the expiration of two (2) years from the date of downgrade.

5.013 Status of Incumbents when Positions are Reallocated

- A. When a position is reallocated as a result of gradual accretion of duties and responsibilities, the employee in the position shall be entitled to serve in that class provided he continues to perform the same basic functions and meets the minimum qualifications for the class to which the position is reallocated. Reallocation within a series of positions that is non-supervisory shall be without competition.

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- B. When a position is reallocated as a result of planned management action, the requirements of the Merit Career Plan must be complied with. The employee holding a permanent position shall retain the position currently held should the requirements of the Merit Career Plan result in his non-selection.
- C. 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.
- D. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted. This salary adjustment is subsequent to Rule 5.012.B.

5.014 Administrative Review

- A. An administrative review may be requested by an employee of the position, his designated representative acting on his behalf or, the division head in which the position is located under.
- B. All requests for administrative review must be in writing, shall contain the specific reason(s) for disagreement with the classification action taken by the General Manager, and shall state the action requested and the reasons the action is deemed more appropriate.
- C. An administrative review consists of a reevaluation of a classification action and is, therefore confined to the duties and responsibilities assigned to the position at the time the description were prepared, and which were the basis for the classification action. Subsequent changes in duties and responsibilities cannot be the basis for a request for administrative review, but must be reported on a new description and submitted for another classification action.
- D. The division head shall notify the affected employees of the original notice of classification action immediately upon receipt from the General Manager. Requests for administrative review shall be filed with the General Manager within twenty (20) calendar days of the date of notice of classification action was received by the employee.
- E. The General Manager shall take such action as he deems appropriate, which may include rescinding the earlier action and taking a different classification action. The affected employee and department head shall be notified of the action taken.
- F. Any permanent employee whose position is reviewed may appeal to the

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Commission. The employee may file a written appeal with the Commission within fifteen (15) calendar days upon receipt of the General Manager's decision.

5.015 Creation of New Positions and Classes of Positions

- A. Pursuant to Section 6303(d), Title 4, GCA, the General Manager shall petition the Board to create new positions or classes of positions when necessary for the efficient performance of the duties and functions of the Port.
- B. The petition shall include:
 - 1. the justification for the new position;
 - 2. the essential details concerning the creation of the position;
 - 3. an analysis of the similarities and differences between the position to be created and the positions listed pursuant to Title 4, GCA, Section 4101.1(d);
 - 4. the position description;
 - 5. the proposed pay range and demonstration of compliance with Section 6301 of Title 4, GCA; and
 - 6. a fiscal note as that term is described in Title 2, GCA, Section 9101 *et seq.*; and any other pertinent information.
- C. The petition shall be posted on the Port'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 of his compliance with Title 5, GCA, Section 6303.1(a) to the Board who, if they approve the same, shall approve the petition by resolution and file the petition and resolution for record with the Director of Administration and the Legislative Secretary.
- D. No new position may be filled until after compliance of the provisions of this Section and thirty (30) days have elapsed from the date of filing with the Legislative Secretary.

5.016. Transparency and Disclosure of Creation of New Positions or Classes of Positions

- A. Prompt notice of the postings required by Title 4, GCA, Sections 6205 and 6303 shall be provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam.

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- B. The petitions required by Title 4, GCA, Sections 6205 and 6303 are public documents for the purposes of Title 5, GCA, Chapter 10, Article 1 (The Sunshine Law).
- C. Any attempted creation of a position or above-step recruitment are not in compliance with provisions of Title 4, GCA, Sections 6205, 6303 and 6303.1(a) is void.

5.100 COMPENSATION PLAN

5.101 Authority

Pursuant to Title 12, GCA, Section 10111.3, the Port is authorized to adopt rules and regulations governing the compensation for Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions. The compensation policy and following rules shall only apply to the maritime positions unique to Port operations and certified, technical and professional positions. Compensation for all other positions shall remain consistent with compensation plans and pay scales as determined by law.

5.102 Compensation Policy

- A. The Port's compensation for maritime positions unique to Port operations and certified, technical and professional positions 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 be recognized and reward individual employees commensurate with performance.
- E. All aspects of compensation (base salaries, benefits, pay differentials, and other factors) will be considered as a total reward and incentive package for employees and shall be consistent and uniformly administered through the Port.
- F. A program of on-going communications and training shall be a critical component of compensation administration.

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5.103 Administration of a Unified Pay Scale

The Board shall approve a unified pay scale for maritime positions unique to Port operations and certified, technical and professional positions as recommended by the Port Position Classification and Benefits Study.

5.104 Assignment of Classes to Pay Grades

Pay grades for all classes of maritime positions unique to Port operations and certified, technical and professional positions are assigned as recommended by the Port Position Classification, Compensation and Benefits Study and approved by the Board.

5.105 Evaluation of Classes for Assignment to Pay Grades

- A. The evaluation is a systematic process of assessing the relative size and importance of maritime positions unique to Port operations and certified, technical and professional positions in the Port.
- B. The evaluation provides a structured approach to assessing the relative work of each position and used measurement factors universally applicable across all sectors of industry, commerce and government.
- C. Classes shall be evaluated on the basis of twelve (12) measurement factors. Each factor indicates a point rating and the sum of all points represents the total "points" value for the job.
- D. The 12 factors, consistent with the Methodology of Position Classification and Salary Administration Guidelines, are:
 - 1. Education: The minimum level of education required to perform the functions of the position. This combines both formal and informal levels of training and education.
 - 2. Experience: The length of practical experience and nature of specialist or managerial familiarity required. This experience is in addition to formal education.
 - 3. Complexity: Measured in terms of:
 - (a) the time taken to learn and adjust to the specific job requirements;
 - (b) the level to which the job functions are defined and must follow established and predictable patterns;
 - (c) the thinking challenge required to adapt to rapidly changing circumstances, and the innovative or conceptual thinking required to initiate new corporate directions.

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4. Scope of Work: The managerial breadth or scope of the position.
 5. Problem-Solving: The nature and complexity of problem solving expected of the job. Judgment exercised, availability of rules and guidelines to assist in problem solving, the degree of analysis and research required, and the originality, ingenuity and initiative required to arrive at a solution are all considered.
 6. Freedom to Act/Supervision Received: The extent of supervision, direction or guidance imposed on the job holder and the freedom the job holder has to take action.
 7. Work Environment: This factor measure the physical work environment in which the job is substantially performed. It considers environmental influences, such as, noise, dirt, heat, cold and dampness in excess of that normally associated with office conditions.
 8. Physical Demands: This factor measures the physical demands of the job in terms of work posture and physical exertion.
 9. Impact of Discretionary Decisions: The level of discretionary decision making taken solely by the job holder and the direct cost to the organization as a result of poor judgment or the direct contribution to the organization achieved through good judgment.
 10. Human Relations Skills/Contacts: The requirement for human relations skills in dealing with other personnel and external contacts.
 11. Authority Exercised: Authority levels expressed in term: staffing, contractual and financial.
 12. Supervisory/Managerial Responsibility: The responsibility for the control and management of staff within the Port, including direct line management and project team management.
- E. The assignment of classes of pay grades shall be in accordance with policies and standards established in conformance with statute and the following principles:
1. Classes, which are related and are substantially equal, shall be assigned to the same pay grade.

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2. Significant differences between related classes in the twelve (12) factors shall be reflected in the relative difference in assignment to pay grades.

5.106 Approval of Amendments of Unified Pay Scale and Implementation Plan: The General Manager shall petition the Board for approval of the future amendments of unified pay scale as recommended by the Port Position Classification, Compensation and Benefits Study as follows:

- A. The petition shall include:
 1. the amendment to the unified pay scale;
 2. the justification for the amendment of the unified pay scale; and
 3. the implementation plan.
- B. The petition shall be posted on the Port's website for ten (10) days (Saturdays, Sundays and Government of Guam holidays excepted).
- C. The 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 posting, the General Manager shall forward the petition, along with the evidence of his compliance with posting to the Board.
- D. The Board may approve, disapprove or amend the amendments to the unified pay scale by resolution at any regularly scheduled meeting or a special meeting called for this purpose.

CHAPTER 6

PAY ADMINISTRATION

STATEMENT OF POLICY

It is the policy of the General Manager to provide a uniformed pay administration to facilitate pay actions, while ensuring the proper compensation of employees occupying maritime positions unique to Port operations and certified, technical and professional positions and to provide the opportunity for the Port to carry out its mission.

6.000 PAY ACTIONS RELATED TO APPOINTMENTS

6.001 Compensation at Initial Appointments

All initial appointments shall be made using the position's designated implementation range within the appropriate pay grade except as provided below:

- A. The General Manager may, with the approval of the Board, authorize initial employment in a position above the position's designated implementation range if such action is warranted by recruitment difficulties or exceptional qualifications. This petition to the Board shall be made before the applicant is hired.
- B. The pay grade schedule consisting of Steps 11 through 20 shall not be used for recruitment above-step.

The General Manager may establish policies to administer this action.

6.002 Compensation for Recruitment Above Designated (Above-Step) Implementation Range

- A. Policy: The Board expects that every request for recruitment above designated (above-step) implementation range is based on good faith recruitment efforts, objective evaluation of candidates' qualifications, and in the best interest of the Port.
- B. Recruitment Above Current Market Percentile (Above-Step): The General Manager may make a request to the Board for recruitment not to exceed twenty-five percent (25%) above current market percentile (upon which the Port's compensation plan is currently based) because of the documented recruitment difficulty or exceptional qualifications.

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Increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above current market percentile.

The request to recruit above the current market percentile shall include the following:

1. Identifying information about the applicant and the position to be filled.
 2. For exceptional qualifications, documentation supporting the quality of experience.
 - a. performance evaluations;
 - b. professional accomplishments;
 - c. professional awards/recognition;
 - d. training certificates/certifications;
 - e. academic achievements; and
 - f. other testimonials
 3. Application and rating forms of all candidates competing for the position.
 4. Justification for pay grade, step and salary being requested. Justification must include information of the applicant's current salary.
 5. A complete justification on the basis for the recruitment above the current market percentile.
 6. The applicant was advised before being hired that all initial appointments shall be made using the position's designated implementation range within the appropriate pay grade unless the request is approved by the Board.
 7. Organization and functional charts of the division of which the position is located.
 8. Staffing pattern of the division of which the position is located.
 9. Other information as may be requested by the Board.
- C. Transparency and Disclosure Process: The following transparency and disclosure process shall be used to authorize recruitment for initial employment above the current market percentile:
1. The General Manger shall request for recruitment above the current market percentile to the Board for their review and approval to authorize management to proceed with the transparency process.
 2. Once authorization is granted by the Board, the General Manager shall post the petition and supporting documents for ten (10) days (Saturdays, Sundays, and Government of Guam holidays excepted).

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3. Issue press releases to each newspaper of general circulation and broadcasting stations which airs a local news program within Guam of the Port's request to recruit above the current market percentile. Such notice shall include the availability of the request under the Sunshine Act.
 4. In addition, a memorandum is to be issued to all employees notifying them of the request and acceptance of comments to the request.
- D. Board Action of Recruitment Above Current Market Percentile (Above-Step): After the expiration of the ten (10) days and at the next regularly scheduled or special meeting, the request, documents showing compliance of the transparency process and comments received by the public and/or employees shall be presented to the Board for review and possible approval. Approval of the request shall not occur if the transparency process was not complied with.

Approval by the Board shall include a resolution authorizing recruitment above the current market percentile which must be passed by a majority of the members present at the meeting.

The General Manager shall notify the applicant of the approval or disapproval of the request.

If approved, the personnel action reflecting the recruitment above the current market percentile shall be effective the date of the Board's approval. Copies of the personnel action, request, supporting transparency documents and Board resolution shall be provided to the Commission and filed in the employee's personnel jacket.

6.003 Compensation Adjustment Following a Promotion

- A. A payment adjustment resulting in a promotion is effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to promotion plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to promotion is below the low end of the new implementation range shall be slotted at the lowest sub-step of the new implementation range plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- C. The General Manager, at his discretion, or upon the recommendation of the Division Head, may grant up to three (3) additional sub-steps based on

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superior performance, significant contributions made to the business unit or the Port as a whole, or demonstration of personal enrichment and development related to and beyond the requirements of the position. All requests for additional sub-step placement must be in writing and approved by the General Manager prior to the effective date of the promotion, reclassification or pay grade reassignment.

6.004 Compensation Adjustment Following a Voluntary Demotion

- A. A pay adjustment resulting in a decrease by a voluntary demotion is effectuated by identifying the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to demotion less an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to a voluntary demotion is below the lowest sub-step of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.

6.005 Compensation Adjustment Following an Involuntary Demotion

- A. A pay adjustment resulting from an involuntary demotion is effectuated by identifying from the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being reviewed prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to the involuntary demotion is below the lowest sub-step of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.
- C. The General Manager, at his discretion, may further adjust the amended base salary following an involuntary demotion for cause or due to an adverse action (as opposed to an involuntary demotion due to a medical disability, which is not an adverse action) to an even lower sub-step to that outlined in Sections A and B above.

6.006 Compensation Following a Non-Service Connected Disability Demotion
(Medical Condition)

A pay adjustment resulting from the employee who is unfit to perform the duties and responsibilities of his position due to a medical condition that is non-service connected, is effectuated by identifying from the amended pay grade the salary (sub-step) closest to, but not more than the salary (sub-step) currently being

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reviewed prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary of the employee.

6.007 Compensation Adjustment Following Reemployment

A person who is reemployed under the provisions of Rule 4.802, shall be paid at the rate to which he would have been entitled had he remained in service, but that no credit shall be given toward progressive salary step increases within the pay grade.

6.008 Compensation Following a Transfer

An employee who is laterally transferred to a position in the same pay grade or reclassified to another class of position within the same pay grade, the current salary (sub-step) is maintained provided it is not less than the lowest sub-step of the new implementation range. Should the latter occur, a pay adjustment to the lowest sub-step of the new implementation range will identify the new base salary.

6.009 Compensation Following a Detail Appointment

- A. A pay adjustment due to a detail appointment effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to the detail appointment plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment due to a detail appointment where the salary received prior to the detail appointment is below the low end of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.
- C. Employees serving a detail appointment, consistent with Rule 4.806 in excess of 30 consecutive calendar days in a detailed position shall receive a pay adjustment in accordance with Sections A or B above. Payment of differential shall begin on the first calendar day the employee is serving in a detail.

6.010 Compensation Following Appointment in an Acting Capacity

An employee who is appointed by the Board to serve temporarily in an acting capacity as the General Manager shall be compensated during the period of such services by a payment differential to be added to his base rate of pay, measured by the difference in the amount between the step in the pay grade he holds and the salary paid the General Manager position, provided that:

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1. The period in an acting capacity shall not be less than thirty (30) calendar days and not to exceed one (1) year.
2. Payment differential shall be deferred until the employee has served thirty (30) calendar days in an acting capacity.

6.100 PAY ACTIONS RELATED TO REALLOCATION OF POSITIONS

6.101 Compensation Following Reallocation of Positions

- A. When a position is reallocated to a class of a higher pay grade, the pay adjustment effectuated is by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to reallocation plus an additional six (6) sub-steps.
- B. When a position is reallocated to another class of the same pay grade, the current salary (sub-step) is retained provided it is not less than the lowest sub-step of the new implementation range. Should the latter occur, a pay adjustment to the lowest sub-step of the new implementation range will identify the new base salary.
- C. When a position is reallocated to a class of a lower pay grade, the implementation shall not be effected until the expiration of the two (2) year waiver, as provided for in Rule 5.012.B.

6.102 Salary Adjustment Upon Demotion Due to Position Reclassification Action

- A. The pay adjustment resulting in a decrease because of a position reclassification action is effectuated by identifying the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary.
- B. Implementation of the reclassification in terms of position title shall be made upon approval of the reclassification determination by the General Manager.
- C. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted.
- D. The salary increment anniversary date before reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade. Where there is no change in the waiting period, the salary increment date and the pay grade before the reclassification

shall be maintained.

6.200 PAY ACTIONS RELATED TO PAY GRADE REASSIGNMENT

6.201 Pay Grade Reassignment

An employee and/or supervisory official may initiate a written request for consideration of an amendment to the pay grade allocation for the class of position with justification to the General Manager. If the findings of the General Manager indicate the need to amend the pay grade allocation, he shall submit a written request with justification to the Board in accordance with the Board's policies and procedures. Changes adopted shall become effective as directed by the Board.

6.202 Pay Adjustment Following Pay Grade Reassignment

- A. A pay adjustment resulting in a higher pay grade reassignment and there is no change in the position classification is effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to the pay grade reassignment plus an additional six (6) sub-steps. This identifies the new base salary.
- B. A pay adjustment resulting in a lower pay grade reassignment and there is no change in position classification is effectuated by identifying from the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to the lower reassignment less an additional six (6) sub-steps. This identifies the new base salary.

6.300 PAY ACTIONS RELATED TO INCREMENTS

6.301 General Provisions Relating to Salary Increment Increases

- A. Salary increment increases shall be granted as authorized in the Personnel Rules and Regulations.
- B. Increment Status upon Demotion Due to Position Reclassification:

The salary increment anniversary date before the reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade.
- C. Personnel Actions Not Affecting Increment Anniversary Dates:

The following personnel actions shall not change increment anniversary dates:

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1. the pay grade for a class or classes of positions have been reassigned;
2. pay adjustments from statutory amendments to the pay grade schedule;
3. detail appointment;
4. transfer from one position to another of the same or related class of position while retaining the same salary rate upon transfer;
5. involuntary demotion for other than adverse or disciplinary reasons;
6. reclassification to a class of the same pay grade or lower while the employee retains the same salary rate;
7. salary increment freeze; and
8. other situations as may be determined by the Board.

D. Voluntary Demotion to the Same or Related Class of Positions:

The employee's next salary increment shall include the period served prior to the voluntary demotion; and provided that work performed is satisfactory.

E. Creditable Service Upon Reemployment:

Permanent classified employees who separated with the Port in good standing shall be credited for time served in the increment held prior to separation when exercising their reemployment rights.

6.302 Salary Increment - Procedure

Employees entitled to an increment increase shall be based on an annual review of performance as outlined in Chapter 7. As part of the appraisal process, an employee's performance will be assessed against a performance range of zero (0) to six (6) sub-steps. As sub-steps (within the pay schedule) increase by one percent (1%) the performance (and resulting salary increment) range from zero (0), or a nil increase, through up to six percent (6%).

The salary increment will be granted upon certification by the General Manager that satisfactory service has been rendered for the performance rating period preceding such increase.

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When a division head determines that a particular employee shall not be granted a salary increment, the division head shall notify the General Manager of such denial prior to the employee's anniversary date. If the General Manager does not receive a performance report or a notification of denial of an employee's salary increment, no action will be taken to adjust the employee's pay.

6.400 ONE-STEP MERIT PAY INCREASE – DR. PEDRO SANCHEZ SCHOLARSHIP GRADUATES

- A. Employees are eligible for a mandatory pay merit increase upon graduation from the Pedro "Doc" Sanchez Scholarship Program. The employees entered into the program, as evidenced with the awarding of an undergraduate or graduate degree in Public Administration or Business Administration by the University of Guam shall be entitled to receive one-step merit pay raise from the Port effective Fiscal Year 2008 following certification by the University of Guam that the employee has completed all degree requirements.
- B. Employees who were enrolled in the Pedro "Doc" Sanchez Scholarship Program and graduated with a degree between the enactment of Public Law 23-111 (effective July 23, 1996) and the enactment of Public Law 29-137 (January 30, 2009) who would otherwise have received the one-step merit pay raise, shall be entitled to the same incentive benefit, provided that the employee is an active employee at the time of enactment of Public Law 29-137 and the merit pay increase shall not be retroactive. Awarding of the one-step merit pay raise shall be subject to the availability of funds.

6.500 TRANSMITTAL OF PERSONNEL ACTIONS TO COMMISSION

6.501 Filing of Personnel Actions:

All personnel actions regarding the classified service shall be filed with the Commission within twenty (20) days after their effective date. The Commission may set aside and declare null and void any personnel action if the Commission finds that it was taken in violation of personnel laws or rules, except for those personnel actions for adverse actions, such null and void must be in accordance with the Adverse Action Appeals and Hearing Procedures.

6.502 Agency Response

Prior to declaring any personnel action null and void, the Commission shall provide written notice of the alleged violation to the General Manager. The General Manager shall respond within ten (10) days after receipt of the notice to the Commission's proposed action.

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6.503 Commission Action

All actions taken by the commission pursuant to Section 4403(d) of Title 4, GCA shall be taken within 120 days after personnel action is filed with the Commission.

The Commission shall submit its final decision to the Guam Legislature. The Commission's decision shall be final but subject to judicial review.

CHAPTER 7

PERFORMANCE APPRAISAL

STATEMENT OF POLICY

The purpose of this Chapter encourages efficiency and productivity among employees and the orderly and constructive relationships between management and employees in the interest of effective personnel management, and the efficient operation of the Authority.

7.000 PERFORMANCE APPRASIAL

7.001 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 twelve (12) month basis;
- D. 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; or
- L. Determine whether disciplinary action is warranted.

7.002 Training

The General Manager shall be responsible for providing periodic training for all levels of management concerning the performance appraisal system, including the development of performance standards, performance interview techniques and performance ratings.

7.003 Performance Appraisal Records

- A. The performance appraisal report shall be transmitted to the General Manager, thirty (30) days prior to the anniversary date. Upon receipt of the performance evaluation report and recommendations, the General Manager shall effect the appropriate personnel action in accordance with

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the recommendation of the supervisor and Division Manager. No action will be taken by the General Manager until receipt of the performance appraisal report.

- B. Records of the performance appraisal report shall be filed in the employee's personnel file.

7.004 General Manager's Responsibility for Performance Appraisal

The General Manager shall be responsible for the effective implementation and administration of the performance appraisal system within the Port. He shall approve all performance ratings made within the Port and shall ensure that supervisory personnel receive adequate training in the performance evaluation system. He shall ensure that performance appraisal and reports are completed and submitted on a timely basis.

7.005 Supervisor's Responsibility for Performance Appraisal

- A. The performance standards shall be developed and the performance appraisal shall be completed by the supervisor immediately responsible for the employee's work with input from the employee. The rater should be the individual who oversees, reviews, and checks the daily performance of the employee being rated, or is the supervisor who is most closely acquainted with the employee's work. The supervisor shall also be responsible for the timely preparation and submission of performance appraisals of all employees under his supervision. The employee's supervisor must have supervised the employee for at least ninety (90) days to render a fair appraisal. When a supervisor retires, resigns or transfers, he shall render an appraisal for the assigned employees before leaving the Port.
- B. For employees on temporary assignments due to work injury, disability (light duty), details, etc. for ninety (90) days or more, the supervisor may establish additional performance standards to reflect current duties. A composite rating for the temporary assignment and permanent position may be made.

7.006 Performance Appraisal Form

Performance appraisals shall be accomplished on a form approved by the General Manager, consistent with the performance appraisal system in effect. The performance appraisal form shall be filed in the employee's personnel jacket.

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7.007 Performance Appraisal Period

- A. Supervisors shall evaluate and submit the employee's work performance for every twelve (12) months of service to the General Manager.
- B. Performance appraisal reports must be prepared and submitted for processing to the General Manager no sooner than thirty (30) days prior to above period.
- C. Supervisors are required to conduct mid-term performance appraisal for all of their subordinates.
- D. No later than the end of the probationary period for those employees serving original probationary appointments, including those probationary periods that have been extended. The final Probationary Performance Appraisal Report shall be submitted and received by the General Manager no later than (10) work days prior to the probationary due date.

7.008 Salary Increment

The salary increment of all Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions shall be based on an annual review of performance as outlined in this Chapter. As part of the appraisal process an individual's performance will be assessed against a performance range of zero (0) to six (6) sub-steps. As sub-steps (within the pay schedule) increase by one percent (1%) the performance (and resulting salary increment) range from zero (0), or a nil increase, through up to six percent (6%).

All salary increments will require the approval by the General Manager.

7.009 Performance Appraisal for Original Probationary Employees

- A. An overall performance rating of at least a **Satisfactory** shall be necessary before an employee serving an original probationary period may receive a permanent appointment in the class of position he occupies.
- B. When an employee serving an original probationary period receives an overall performance rating of **Marginal**, the probationary period shall be extended for a minimum period of sixty (60) days during which the employee has the opportunity to improve work performance, provided the total probationary period does not exceed twelve (12) months. The Division Head 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 twelve (12) months may be granted.

- C. When an employee, serving an original probationary period, receives an overall performance rating of Unsatisfactory, the employee serving the original probationary period shall be terminated from the Port. A probationary employee who is dismissed has no recourse to file a grievance or appeal his release from employment unless the release from employment is a result of discriminatory action by management.

7.1010 Approval of Performance Appraisal

A Division Head shall submit, on a twelve (12) month basis, a written recommendation to the General Manager regarding the performance appraisal of every employee occupying a maritime position unique to Port operations and certified, technical and professional position. The General Manager shall make a final performance appraisal accepting or rejecting said recommendation and make the corresponding salary adjustments.

7.100 APPEAL PROCEDURES FOR RE-DETERMINATION OF PERFORMANCE APPRAISAL

7.101 Purpose

This procedure outlines the responsibilities and procedures to be followed by management and employees in handling performance appraisal appeals.

7.102 Coverage

Employees occupying maritime positions unique to Port operations and certified, technical, and professional positions covered by these procedures are those employees who have satisfactorily completed their original probationary period and have attained permanent status with the Port. Such employee who believes he was unjustly rated may request for redetermination of the performance rating. Original probationary period performance ratings are not appealable under this procedure.

7.103 Representation

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

7.104 Freedom of Reprisal or Interference

An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal.

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7.105 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.

7.106 Informal Appeal Procedure – Division Head

- A. After the rating conference has been held and the employee has been informed of his overall annual rating, the employee who believes that he was unjustly rated shall bring the matter to the attention of his Division Head not later than five (5) workdays after the conference date.
- B. A review of the rating shall be afforded the employee by the rater and/or 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 Division Head.
- C. If the employee's concerns are not resolved, or a decision is not issued within five (5) workdays, the employee may file a formal appeal to the General Manager.

7.107 Formal Appeal Procedure – General Manager/Performance Rating Board of Review

- A. Whenever resolution of a performance rating cannot be reached at the informal level, an employee may appeal to the Performance Rating Board of Review via the General Manager. The appeal shall be in writing to the General Manager and filed within five (5) workdays after the employee receives the Division Head's decision.
- B. The Board shall be appointed by the General Manager and consist of three members, who are classified employees and occupy maritime positions unique to Port operations and certified, professional and technical positions, of which one shall be at the same position level as the appellant, one shall be at the managerial level or designated official who will serve as the hearing officer. Board members shall not be from the same division where appellant is assigned. The General Manager shall appoint the Board within five (5) workdays of receipt of the written appeal.
- C. The Board shall conduct its first hearing within five (5) workdays 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

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pertinent documents related to the appeal to the employee, his representative, the rater, and all other parties concerned.

The conduct of the hearings 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, shall be submitted and other information the Board requests concerning the appeal.

- D. 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 the employees and supervisors during proceedings before the Board. All members of the Board shall be present at all times during hearings and shall participate in the decision. Hearings shall be recorded and summarized in writing.
- E. 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 final 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 immediately sent to the appellant, and signed copies forwarded to the Division Head and General Manager.

- F. When the Division Head receives a Board decision amending the employee's rating, the Division Head shall immediately substitute the original rating for the amended rating. The Division Head must reconsider administrative actions based on the original rating and re-determine and adjust those administrative actions to conform to the amended rating.

CHAPTER 8

HOURS OF WORK, OVERTIME AND PREMIUM PAY

STATEMENT OF POLICY

The purpose of this Chapter is to establish the standard for hours of work, wages, overtime compensation, compensatory time-off in lieu of overtime pay, observance of holidays and a system under which the pay of certain employees shall be adjusted for certain hours, days or conditions of work. These provisions shall be in compliance with the Fair Labor Standards Act (FLSA).

8.000 GENERAL PROVISIONS

8.001 Work Week

- A. The basic work week is forty (40) hours. Alternatively, a workweek is a regular recurring period of 168 consecutive hours—seven (7) consecutive 24-hour periods. The workweek need not coincide with the calendar week. It may begin any day of the week and any hour of the day, but it must in each case, be established in advance. The workweek may be changed, but only if the change is intended to be permanent and is not made to evade overtime requirements or policies.
- B. An employee's work week may be in accordance with office hours, with designated shifts, or with such flexible or variable hours program as are implemented by the Port provided that the Port shall not operate less than a forty (40) hour work week, except as provided by law.

8.002 Break Periods

A full-time employee may be allowed a fifteen (15) minute break period in the first half and second half of the work day, except for law enforcement employees subject to Section 7(K) of the FLSA provided further that:

- A. No single work break shall exceed fifteen (15) minutes absence from the employee's workstation.
- B. An employee may not accumulate unused work breaks.
- C. Work break time shall not be authorized for covering an employee's late arrival on duty or early departure from duty.

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8.003 Meal Periods

- A. Full-time employees shall be allowed a minimum of thirty (30) minutes and up to a one-hour meal period during each workday of more than five hours.
- B. When a work day of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the employee and the Port.
- C. Meal period shall not be considered "on duty" or counted as time worked, unless the nature of work prevents an employee from being relieved of duty.

8.004 Work Week Schedule

- A. The schedule of workweek for shift workers shall be prepared and prominently posted at least two (2) weeks in advance so that the employees affected will be informed. Such schedules shall not be less than two (2) weeks and shall not be changed, except for good cause and provided affected employees are given at least 24 hours prior notice. Whenever possible, work schedules should permit an employee to enjoy a holiday on the day it is observed.
- B. The General Manager may permit flexible work schedules as may be appropriate.

8.005 Safe Hours of Work

- A. To ensure that the employee's work is performed in a safe manner, the following maximum hours of work will be observed:
 - 1. An employee shall not be allowed to work more than 14 hours consecutively, or in one 24-hour day.
 - 2. An employee shall not be authorized to work more than 84 hours total within a single seven-day period.
 - 3. An employee shall not be required to work more than 28 hours within a time span of two days.
- B. Exceptions to the above may be made only:
 - 1. if the employee volunteers his services and has the specific approval of his Division Head; or

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2. in cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities or emergencies.

Should such an occasion for Section A arise, written documentation must be submitted by the Division Head to the General Manager within 48 hours of such occurrence.

8.100 MINIMUM WAGE

Employees shall be paid not less than the established minimum wage for Guam.

8.200 HOURS WORKED

- A. As a general rule, hours worked will include:
 1. All time during which an employee is required to be on the Port's premises or at a prescribed work place.
 2. All time during which an employee is suffered or permitted to work, whether or not required to do so. The determination of an employee's working hours will include, in the ordinary case, all hours from the beginning of the work day to the end of the work day, with the exception of periods when the employee is relieved of all duties for the purpose of eating meals.

8.300 HOURLY RATE OF PAY

The hourly rate of pay is the rate reflected on the pay grade schedule approved by the Board.

8.400 OVERTIME

8.401 Coverage

- A. Upon the occurrence of overtime work, covered classified employees shall be entitled to receive overtime compensation calculated at the rate of 1 and $\frac{1}{2}$ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- B. In determining the number of hours worked by an employee within a given workweek or work period, time spent off on annual, administrative, sick, compensatory time-off, other leave (with or without pay), or holidays will not be counted as time worked. Such time off with pay shall be included in the straight time pay, but it is not included in computing whether a covered employee has worked in excess of forty (40) straight time hours in a workweek.

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- C. Any fraction of an hour of overtime worked shall be converted to the nearest fifteen (15) minutes.
- D. Covered employees, include those classes of positions that are not in the executive, administrative, and professional categories, in accordance with the FLSA.

8.402 Occurrence of Overtime Work

- A. Overtime work may be authorized by the General Manager in cases of emergency, or when the best interests of the Port indicate that overtime work is required.
- B. The General Manager shall hold hours worked by the employees to the Port's established forty (40) hour work week standard, except in those cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities, or emergencies.
- C. It shall be the responsibility of each Division Head to determine that the provisions of overtime pay are administered in the best interest of the Port's services. Recognizing that the General Manager is responsible for the manner in which overtime work is authorized, it is especially important to control unauthorized overtime.
- D. Each Division Head is responsible for internal controls, which will provide a means of reviewing and evaluating the use of overtime. The practice of overtime work will be subject to review by the General Manager.
- E. Overtime work will occur when an employee renders service under any of the following conditions:
 - 1. The employee renders service in excess of forty (40) straight time hours per workweek.
 - 2. The employee renders service on the employee's scheduled day off and there has been no change, by mutual consent or by due prior notice, in the work schedule.

8.403 Emergency Situations Defined

The General Manager shall arrange the employment and work programs of the Port in such a way that overtime is not required except in emergency situations.

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Overtime work may be required for any covered employee in emergency situations as described below:

- A. Where an established post of duty must be covered twenty-four (24) hours per day, and an employee is not available to cover that post on a given shift.
- B. When danger to life, health, or well-being of the public, employees, patients, inmates or other persons could occur if an employee is not required to be on duty or where danger to property is eminent.
- C. Other situations where the General Manager determines that the responsibilities prescribed for the Port cannot be accomplished unless overtime work is authorized.
- D. Employees who work during emergency periods as declared by the Governor of Guam.

8.404 Compensation for Overtime Work

- A. Payment for overtime work shall be made no later than the next pay period after the overtime work is performed.
- B. Overtime compensation shall be at the rate of 1 and ½ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- C. An employee who is subject to the maximum 240 (480 for law enforcement) hours of compensatory time under the FLSA, as amended, shall be paid cash wages of time and one-half (1½) the regular rate of pay for overtime hours in excess of this maximum. Overtime must be authorized in advance and applicable only for the pay period.
- D. The requirement that overtime must be paid after forty (40) hours a week may not be waived by an agreement between management and the employee except provided in Rule 8.405.
- E. Consistent with Section 4105(d)(3) , Title 4 of the GCA, no person shall be required to work overtime unless the employee has received certification by the General Manager that funds for overtime pay are available.
- F. Employees, who work during emergency periods as declared by the Governor of Guam, shall be compensated in the following manner.
 - 1. Employees occupying permanent positions in the classified service or the unclassified service, except for the General Manager and his first assistants, by whatever title called, whose regularly scheduled

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hours of work fall within such an emergency period, but whose presence is not required at work, shall be granted administrative leave. Employees not occupying permanent positions are not eligible for administrative leave.

2. Employees not occupying permanent positions in the classified service, who were required to report to, and did work during such an emergency period, shall be entitled to overtime pay for all such hours worked.
3. Employees occupying permanent positions in the classified service or unclassified service, except for General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work fall within such an emergency period, and who are required to report for, and be on duty during such emergency period, shall be entitled to overtime pay for all such hours worked, in addition to full compensation for any administrative leave taken.
4. Employees occupying permanent positions in the classified service or the unclassified service, except the General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work do not fall within such an emergency period, but who are required to report for, and be on duty, shall be entitled to overtime pay for all such hours worked, including overtime, but not for administrative leave.
5. In the event that a typhoon emergency period includes a legal holiday, then such employees required to report for and be on duty, shall be entitled to overtime pay for all hours worked, including overtime, in addition to full compensation for holiday leave.

8.405 Compensatory Time Off in Lieu of Overtime Pay

- A. In the absence of any funds for overtime compensation, compensatory time off shall be granted in lieu of overtime pay by mutual agreement between the employee and management, before the work is performed. A record of this agreement must be kept with Payroll Office.
- B. The number of hours of overtime work shall be converted to compensatory time credit at the rate of 1 and ½ hours for each hour of overtime work, or portion of the hour consistent with Rule 8.401.
- C. Employees engaged in law enforcement work may accrue not more than 480 hours of compensatory time. Employees engaged in non-law enforcement work may accrue not more than 240 hours of compensatory time.

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- D. Any additional overtime work performed by employees, who have already accumulated the maximum 240 of compensatory time off, or 160 hours of actual overtime work, (480 for law enforcement), compensatory time off credits shall be compensated not later than the pay period immediately following the period during which the overtime was worked.
- E. When sickness lasting one or more days occurs during a scheduled compensatory time off, and the employee substantiates such to the satisfaction of the General Manager, the employee shall be charged for sick leave and permitted to reschedule his compensatory time off. Application for such substitution of sick leave for compensatory time off shall be made within three (3) workdays upon return to duty and shall be in conformance to applicable provisions of the sick leave policies and rules and regulations.
- F. An employee who has requested the use of compensatory time-off shall be permitted to use such time, within a reasonable period after making the request, if the use of the compensatory time does not unduly disrupt the operations of the Port.
- G. An employee on compensatory time off shall be deemed to be on official leave with pay status.
- H. The General Manager may require an employee to use any accumulated compensatory time off credits upon mutual agreement with the employee as to the schedule and use of these credits.

8.406 Conversion of Compensatory Time Off to Cash

- A. The General Manager may direct, at the option of the employee, payments for accrued compensatory time earned, at any time, in any combination, and which shall be paid at the regular rate earned by the employee at the time the employee receives such payment.
- B. At the time of separation, the employee shall be paid in cash for all unused compensatory time credit earned at a rate of compensation not less than:
 - 1. the average regular rate received by such employee during the last three (3) years of the employee's employment; or
 - 2. the final three (3) regular rate received by such employee, whichever is higher.

8.450 CANCELLATION TIME

The General Manager shall establish a policy on the payment of cancellation pay for those employees who are assigned to work on water carriers and the assignment is cancelled either prior, during, or completion.

8.500 NON-OVERTIME WORK WEEKS

When an employee is on non-duty pay status for less than forty (40) hours during a work week, such work week shall be considered a non-overtime work week and all hours shall be paid at the regular rate in accordance with established personnel policies except as provided by law.

8.600 UNAUTHORIZED WORK

Hours worked by an employee without the General Manager's permission or contrary to his instructions, or not authorized by such applicable budget funds shall not be considered as hours worked. Unrecorded hours worked during a workweek or work period by an employee at the job site, or at his home or other duly authorized designated place, must be counted as hours worked if the General Manager has reason to know of such practice. The General Manager must enforce his no work rule and may not unjustly benefit from work performed without his knowledge.

8.700 HOLIDAY PAY

- A. When an employee is absent from duty at the close of the work day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to have been on leave without pay status, the employee shall not be eligible for compensation for the holiday under these rules, but shall be considered as on leave without pay status.
- B. Employees who are required, because of an emergency or other reasons, to work on holidays (or their equivalent day) shall be paid at the rate equivalent to double their hourly rate of pay exclusive of any additional pay, except as otherwise provided by statute.
- C. For purposes of these rules, holidays are declared to be those identified in rules.

8.750 NIGHT DIFFERENTIAL PAY

Work performed between the hours of 6:00 p.m. to 6:00 a.m. shall be compensated as follows:

- A. Any employee (except the General Manager and his first assistants, by whatever title called) who works between the hours of 6:00 p.m. to 6:00 a.m. shall be

entitled to night differential pay, calculated at the rate of their regular wage plus 10% for all periods worked between the hours of 6:00 p.m. and 6:00 a.m., provided the employee works a minimum of four (4) consecutive hours within that time period.

8.800 HAZARDOUS/ENVIRONMENTAL PAY DIFFERENTIALS

8.801 Hazardous/Environmental Pay Policy:

- A. The General Manager may grant pay differentials in accordance with Department of Administration's Hazardous/Environmental Pay Policy and Procedure to employees who are temporarily exposed to hazardous duty, or duty involving physical hardship (environmental) when the following conditions are met:
 - 1. the exposure of hazardous duty or duty involving physical hardship (environmental) is temporary;
 - 2. the hazardous duty or duty involving physical hardship (environmental) has not been considered in the assignment of the position class or pay grade;
 - 3. the hazardous duty is performed by the employee for each assigned hazardous duty; and
 - 4. subject to Guam Occupational Safety & Health review and certification of the hazardous/environmental duty.
- B. It shall be the responsibility of the General Manager to eliminate or reduce to the lowest possible level, all hazards and physical hardships, and implement safe working conditions.
- C. Hazardous/environmental pay shall not be used as an incentive to encourage employees to work in an unsafe place, or under safe conditions.
- D. In no event shall the General Manager grant or authorize multiple differential rates of pay to an employee for the same period. In the event the employee performs more than one hazardous or physical hardship (environmental) duty, the highest authorized differential rate shall be used to calculate the differential pay.
- E. The General Manager shall submit a copy of all approved hazardous pay requests to the Civil Service Commission for post audit review.
- F. Hazardous/environmental differentials are in addition to the employee's base pay and shall not be used to compute overtime pay, holiday pay, night differential and other pay differential, including paid leave and severance pay.

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- G. Approved hazardous/environmental differentials shall be paid within four (4) pay periods from which the performance of hazardous or physical hardship (environmental) duty began.
- H. The assignment of hazardous/environmental duty shall not exclude person(s) with disabilities.
- I. Employees who are not certain (aware) of existing hazardous/environmental conditions may request certification via the General Manager from the Office of Guam Occupational Safety and Health (GOSH) of Department of Labor. Certifications approved by GOSH shall qualify employees for differential pay.
- J. Hazardous duty certifications from the Office of GOSH are valid for a period of five (5) years from date of approval. Requests for an extension are subject to GOSH review, certification and approval.

8.802 Hazardous/Environmental Pay Request Procedures:

- A. The initial determination of the existence of a temporary, unusually hazardous working condition shall be made by the immediate supervisor of the affected employee. Upon making this determination, the supervisor shall alert the Division Head, Safety Administrator and General Manager and shall request an inspection from the GOSH Administrator of the identified unusually hazardous working conditions prior to the planned work activity. When pre-work inspections are conducted by GOSH, the following procedures will be followed when a determination of the existence of a temporary, unusually hazardous condition is identified:

1. The supervisor completes the Hazardous Environmental Pay Request Form. The form and any supporting documents are forwarded to the Division Head, Safety Administrator and General Manager for review.
2. The General Manager may concur or not concur with the request. The request is then forwarded to GOSH for inspection, investigation and certification.

The General Manager shall notify the immediate supervisor, Division Head and Safety Administrator of his non-concurrence of the hazardous pay request within ten (10) working days after receipt of the request.

3. The GOSH Administrator shall determine if the hazardous/environmental or hardship condition exists.

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4. Upon certification from GOSH, the General Manager will forward the approved request to the Payroll Section of the Finance Division for processing and payment to employee. If not certified, one copy is returned back to the supervisor with a copy to the Safety Administrator.

8.803 GOSH Certification

- A. Request for hazardous pay certifications shall be submitted to GOSH at least thirty (30) days prior to the scheduled operations, where exposure to hazardous working conditions or hardships is projected.
- B. Requests for certification resulting from unanticipated exposure to hazardous working conditions or physical hardship (environmental), must be submitted to GOSH within ten (10) working days from the start of the hazardous/environmental or hardship condition.

8.804 Funds Certification

The differential pay granted under this Chapter is subject to certification by the General Manager or designated fiscal officer as to the availability of funds.

8.805 Table of Hazardous/Environmental Duties

The following table shall be used by the General Manager when authorizing pay differentials for employees. The percentage shall be calculated by multiplying the employee's hourly rate times the number of hour(s) the hazardous/environmental duty was performed.

CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
COLD WORK: Working in cold storage or other climate controlled areas where the employee is subjected to temperatures at or below freezing (32 degrees Fahrenheit) where such exposure is not practically eliminated by mechanical equipment or protective devices being used.	4%
HOT WORK: A. Physical Hardship: Working in spaces wherein the employee is subjected to temperatures in excess of 110 degrees Fahrenheit.	4%
B. Hazardous Condition: Exposure to burning gasoline/fuel as a result of vehicular accidents/impacts where such exposure is not practically eliminated by mechanical equipment or protective devices being used.	25%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>HIGH VOLTAGE ELECTRIC ENERGY: 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.</p>	50%
<p>WORK IN OPEN TRENCHES: Work in an open trench five (5) feet deep or more until proper shoring has been installed.</p>	25%
<p>EXPLOSIVES INCENDIARIES: Working with or close proximity to any situation where explosives are being handled.</p>	25%
<p>HIGH WORK: Working, training, or rappelling from any structure of at least 50 feet above the base level, ground, deck, floor, roof, etc. under open conditions, if structure is unstable or 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.</p>	25%
<p>MICRO-ORGANISMS: LOW DEGREE HAZARD: Working with or in close proximity to micro-organisms in situations for which the nature of the work does not require the individual to be in direct contact with primary containers or organisms pathogenic for man, such as, culture flasks, culture test tubes, hypodermic syringes, and similar instruments, and biopsy and autopsy material and wherein the use of safety measures have been practically eliminated the potential for personal injury.</p>	4%
<p>COMMUNICABLE/INFECTIOUS DISEASES: Assigned to work with or in close proximity to micro-organisms in situations for which the nature of work requires the employee to be in direct contact with communicable/infectious diseases, such as, tuberculosis, human immune deficiency virus, Hepatitis B, measles, mumps, and other reportable communicable/infectious diseases.</p>	8%
<p>UNDERGROUND WORK: Work underground performed in the construction of tunnels and shafts, and in the inspection of such underground constructions, until the necessary lining of the shaft or tunnel has eliminated the hazard.</p>	25%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
WORK IN UNSAFE STRUCTURES: 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.	25%
ASBESTOS: Working in an area where airborne concentrations of asbestos fibers may expose the employee to potential illness or injury and protective devices or safety measures have not practically eliminated the potential for such personal illness or injury.	8%
FIBROUS GLASS WORK: Working with or in close proximity to fibrous glass materials which results in exposures on the skin, eyes or respiratory system to irritating fibrous glass particles or slivers where exposure is not practically eliminated by the mechanical equipment or preventive devices being used.	6%
DEEP SEA DIVING AND DANGEROUS SEAS: Deep sea diving below 20 feet requiring the use of scuba (underwater breathing apparatus) or working in dangerous water or similar factors which make the work unusually hazardous when such work is considered necessary for the rescue of human lives or the recovery of human bodies; to obtain water samples from the sewage treatment plant outfalls, and to conduct inspection, research and other activities underwater.	25%
LAW ENFORCEMENT: When assigned duties that expose the employee to unusually hazardous factors. The differential shall only be applicable during times of exposure.	10%
MENTALLY ILL, EMOTIONALLY DISTURBED AND PSYCHOTIC SUBSTANCE ABUSE DISORDER PATIENTS: When confronting or working in close proximity to mentally ill or emotionally disturbed or psychotic substance use disorder patients who are unpredictable, combative or volatile.	10%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>GUARDING PRISONERS: A uniformed officer or any employee of the Government who performs the duty of guarding prisoners in transit or is otherwise exposed to a life-threatening environment with respect to incarceration of prisoners shall be entitled to hazardous pay for all periods he or she is on such duty. The differential shall be applicable only during time of exposure.</p>	10%
<p>POISONS (TOXIC CHEMICALS): HIGH DEGREE HAZARD: Working with or close proximity to poisons (toxic chemicals), other than tear gas or similar irritants, which involves potential serious personal injury, such as, permanent or temporary, partial or complete loss of faculties and/or loss of life including exposure of an unusual degree to toxic chemicals, dust, fumes or equal toxicity generated in work situations by processes required to perform work assignments wherein protective devices and/or safety measures have been developed but have not practically eliminated the potential for such personal injury.</p> <p>EXAMPLES: Handling and storing toxic chemical agents including monitoring of areas to detect presence of vapor or liquid chemical agents; examining of material for signs of leakage or deteriorated material; decontaminating equipment and work sites; work relating to disposal of deteriorated materials; (exposure to conjunctivitis, pulmonary edema, blood infection, impairment of the nervous systems, possible death.)</p>	8%
<p>POISONS (TOXIC CHEMICALS): LOW DEGREE HAZARD: 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 the work does not require the individual to be in as 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.</p> <p>EXAMPLES: Handling for shipping, marketing, labeling, hauling and storing loaded containers or toxic chemical agents that have been monitored.</p>	4%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>DIRTY WORK: Performing work which subjects the employee to soil of body or clothing:</p> <ol style="list-style-type: none"> 1. beyond that normally to be expected in performing the duties of the classification; and 2. where the condition is not adequately alleviated by the mechanical equipment or protective devices being used, or which are readily available, or when such devices are not feasible for use due to health consideration (excessive temperature, asthmatic conditions, etc.); or 3. when the use of mechanical equipment, or protective devices, or protective clothing results in an unusual degree of discomfort. 	4%
<p>NATURAL DISASTERS: Working in a hazardous environment, such as, high velocity wind, darkness and unsafe structure; and exposing employees to hazard duties, such as, evacuation, search and rescue and damage assessment efforts.</p>	25%
<p>LOW LEVEL AIRCRAFT OPERATIONS: Low-level flights in an aircraft flying at altitudes of 200 feet and under while conducting wildlife surveys and law enforcement activities, animal depredation abatement and making agriculture applications, and conducting or facilitating search and rescue operations; flights in helicopters at low levels involving line inspection, maintenance, erection, or salvage operations.</p>	100%

8.900 DUAL EMPLOYMENT

No employee of the Port may be employed on a full-time, part-time, or contractual basis or hold an appointment to more than one (1) position in the classified or unclassified service in any department or agency or by more than one department, agency, or branch of the Government of Guam at any time, except for:

- A. Persons serving as part-time teachers, part-time school health counselors and University of Guam instructors for the Guam Community College, and instructors for the University of Guam and instructors who may be employed during the summer or at any other time not in conflict with their primary employment with the Port.
- B. Persons employed by the Youth Congress.

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- C. Persons employed on a part-time basis by boards or commissions.
- D. Persons employed as nurses, physicians, and as ancillary/allied health professionals in the Government of Guam.
- E. Attorneys engaging in the active practice of law, or part-time judges or part-time court referees.
- F. Persons employed on a part-time or contractual basis who are individuals and family counselors or chemical dependency specialists.
- G. Any employee of the Government whose primary employment is not in any of the agencies or professions listed above, but has training and experience to qualify to be employed in the professions listed above may be employed in secondary jobs in such professions within the Government; provided that such secondary job is not in conflict with that person's primary job and there are no qualified applicants not within the employ of the Government.

8.950 OUTSIDE EMPLOYMENT

Employees may be permitted to work at outside private employment not in conflict with their service to the Port, nor such as would bring the Port or its employees into disrepute. Any employee may undertake outside employment only if such is not in conflict with his work assignments and duly scheduled hours of work with the Port and only with the consent in writing of the General Manager. Consent may not be unreasonably withheld. The General Manager may review the adequacy of such request and the approval shall be renewed on an annual basis. In the case of an employee placed on furlough, the Furlough Policy shall govern.

8.960 RECORD KEEPING

Records of hours worked and wages paid are required to be kept for each employee subject to this policy. The General Manager is responsible for making available the following information for review by the Federal Wage and Hour Division. Records must be preserved for at least three (3) years.

- A. Name
- B. Home Address
- C. Date of birth
- D. Sex and position classification in which employed
- E. Time and day of work, the workweek or work period begins
- F. Total wages paid each pay period
- G. Date of payment and pay period covered
- H. Basis on which wages are paid
- I. Regular hourly rate of pay for any week in which overtime is worked
- J. Amount and nature of each payment excluded from regular rate

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- K. Hours worked each work day and total hours worked each workweek
- L. Total daily or weekly straight time earned or wages
- M. Other records or information as the General Manager may require.

8.970 OFFICIAL PERSONNEL FOLDER

An official personnel folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's employment application, employment history, pertinent letters and papers, personal data, and any training and education records sponsored by the Port or other educational training or institutions. Employees are required to keep the Human Resources Office informed of name, address, telephone number and next of kin changes.

8.980 OFFICIAL MEDICAL FOLDER

An official medical folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's medical documents, drug testing results, life insurance and other pertinent documents. The authorized personnel to have accessibility to an employee's official medical folder shall be the employee's supervisor, division head, General Manager and safety and human resources personnel.

8.990 IDENTIFICATION CARDS

- A. Any person accepting employment with the Port 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 identification card, he will be charged a replacement fee. Identification cards will be surrendered to the Port upon separation from employment.
- B. In addition to a Port identification card, newly hired employees whose work assignments are in the secured areas of the Port terminal facility is required to possess a Transportation Workers Identification Card (TWIC) from Transportation Security Agency. During employment processing, the employee will be processed for enrollment for the TWIC by Human Resources Division. The processing fee will be at no cost to the employee. While receiving clearance from Transportation Security Agency and pending the arrival of the TWIC card, the employee will be granted a temporary badge at Port Police Division. Replacement of the TWIC will be at the cost of the employee. The General Manager will issue procedures on the initial employment processing of employees whose assignments are in the secured areas of the Port terminal facility.

CHAPTER 9

LEAVE OF ABSENCE

STATEMENT OF POLICY

The purpose of this Chapter establishes a uniform and equitable system where employees may be reasonably excused from work for rest, recreation, health, education, welfare and other purposes without any appreciable decrease in the productivity of and services provided by the Port.

The Procedures for Leave Sharing may be used to augment the provisions of this Chapter.

9.000 GENERAL PROVISIONS FOR LEAVE OF ABSENCE

9.001 Leave of Absence Defined

A leave of absence is an approved absence from duty, by the General Manager or his designated representative, for a prescribed period of time, with or without pay.

9.002 Revocation of Leave

Approved leave may be revoked by the General Manager or any delegated authority when the good of the service requires it, or when evidence shows that the employee on leave is engaged in activities for which the leave would not have been granted.

9.003 Denial of Leave of Absence

- A. No leave of absence, with or without pay, shall be authorized where it appears or was discovered that it was requested for the purpose of:
 - 1. Allowing the employee to work at his outside employment.
 - 2. Engaging in prohibited or unlawful activities.
- B. Leave may also be denied when the loss of the employee's services on days for which leave is requested would result in discontinuance of critical services to the public.

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9.004 Form of Leave Application

Application for leave of absence shall be made in the form prescribed by the General Manager.

9.005 Failure to Return

Failure to report for assignment at the expiration of leave of absence without acceptable excuse shall be subject to Employee Disciplinary Action pursuant to Chapter 11.

9.100 ANNUAL LEAVE

9.101 Policy

It shall be the policy of the Port to afford an opportunity for employees to take leave, and particularly to avoid, whenever possible, loss of leave by forfeiture. However, leave may be denied by the General Manager or delegated authority when the services of the employee are required after good faith consideration of the employee's request and operational requirements.

9.102 Request for Annual Leave

Requests for annual leave shall be submitted to the appropriate supervisor by the employee, at least forty-eight (48) hours in advance, for leaves in excess of forty (40) consecutive hours; and twenty-four (24) hours in advance for leaves less than forty (40) hours, in order to avoid unnecessary disruption of work. Reasonable consideration shall be afforded for emergency situations.

9.103 Minimum Charge for Annual Leave

An employee, who uses annual leave in the amount of time which is less than a full hour, shall be charged leave daily according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

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9.104 Accrual of Annual Leave

- A. Employees occupying permanent positions shall accrue annual leave in accordance with the following schedule:
 - 1. One-half day (four hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service.
 - 2. Three-fourths day (six hours) for each full bi-weekly pay period in case of employees with five (5) years of service but less than fifteen (15) years of service.
 - 3. One day (eight hours) for each full bi-weekly pay period in the case of employees with fifteen (15) years or more service.
- B. Annual leave earned during any pay period shall be credited to the employee's account on the last day of that pay period or, in case of separation, the last day the employee is on the payroll.
- C. An employee shall continue to earn annual leave credits during leave of absence with pay for each bi-weekly pay period; otherwise there shall be no accrual for such period.

9.105 Determination of Years of Service for Annual Leave Accrual Purposes

Computation of years of service as a basis for the rate of accrual of annual leave shall be in accordance with the following:

- A. In determining the years of service prior to the 1961 leave year, employees shall be credited with:
 - 1. All periods of employment to include service with the Naval Government of Guam, or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950.
 - 2. Period of service with the Armed Forces of the United States subsequent to August 1, 1950.

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- B. In determining years of service commencing with the 1961 leave year, employees shall be credited with:
 - 1. All service for which annual leave shall accrue.
 - 2. Full-time employment in the Judicial or Legislative branches.
 - 3. Service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school year employee.

9.106 Maximum Accumulation and Carry Over of Annual Leave

- A. Employees entitled to annual leave may accumulate up to 320 hours.
- B. Any annual leave earned by eligible employees in excess of shall be credited to employee's accumulated sick leave; provided that no more than 100 hours shall be credited to said sick leave at the end of each fiscal year.
- C. However, employees who have accumulated annual leave in excess of 320 hour as of February 28, 2003 may carry over their excess and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave in excess of 320 hours.
- D. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year. Leave year commences October 1 and ends September 30.

9.107 Avoiding Forfeiture of Annual Leave

- A. Employees shall submit advance requests for planned annual leave which will be earned in the current leave year to preclude forfeiture of annual leave.

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- B. Supervisors share the responsibility with employees for avoiding forfeiture of annual leave. Supervisors shall develop by the end of the first quarter of each leave year, a schedule of annual leave for employees under their supervision. Employees shall be expected to submit reasonable estimates for use of their leave for the current leave year.

9.108 Liberal Consideration of Annual Leave Requests upon Birth or Adoption of a Child

Employees may, upon the birth or adoption of a child, submit a request on the appropriate leave form for annual leave for the purposes of assisting or caring for the child. Such requests should be liberally considered by supervisors and for other leaves set forth in the Family and Medical Leave Act (FMLA).

9.109 Annual Leave Requests to Participate in a Athletic Contingent Recognized by the Guam National Olympic Committee

An employee, who is a participating athletic, coach or General Manager in an athletic contingent recognized by the Guam National Olympic Committee representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the Committee, shall be granted leave by the General Manager for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days, provided that his accumulated annual leave or compensatory time is charged with the hours he is absent from duty. The employee must request such leave in writing thirty (30) calendar days prior to his first day of leave. If the employee has exhausted his annual leave, or chooses not to use such, he shall be granted leave without pay. The employee may be granted said leave for competition not more than three (3) times in a calendar year.

9.110 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, the employee shall be placed on leave without pay status or request for leave sharing provided that all requirements are met under the Leave Sharing Policy.

9.111 Advance Lump Sum Payment for Annual Leave

In accordance with Section 4111, Chapter 4 of Title 4 of the GCA, an employee may, prior to taking authorized annual vacation leave, receive a lump sum payment

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in advance for the period of leave authorized. If any such employee returns to work status prior to the expiration of the leave period for which he received a payment in advance, he shall reimburse the Port for any portion of such period which shall not have expired no later than the pay period following the return to work status and shall be credited with the unused annual leave for future use.

9.112 Lump Sum Payment for Annual Leave upon Separation or Transfer

- A. When an employee is separated from the Port's service, he shall be given a lump sum payment for any accrued and unused annual leave up to a maximum of 320 hours as of the date of separation. In computing lump sum payment, leave on leave shall not be allowed.
- B. 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 of Guam to another department, agency, instrumentality or corporation at his option, may accept cash value of his earned leave, up to a maximum of 320 hours, at the time of transfer, or transfer his accumulated annual leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reappointment.
- C. Employees who have accumulated annual leave in excess of 320 hours as of February 28, 2003 may carry over their excess annual leave and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion shall be credited and the remainder of excess leave, if any, shall be lost.

9.200 SICK LEAVE

9.201 Purpose and Eligibility

- A. Sick leave shall be allowed to an employee when the employee:
 - 1. receives medical, dental or optical examination or treatment, or any mental health examination, counseling or treatment;
 - 2. is incapacitated for the performance of duties by sickness, injury, complications due to pregnancy, medical confinement; or would jeopardize the health of others by his presence at his duty assignment because of exposure to a contagious disease; or

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3. gives birth or becomes a father pursuant to maternity or paternity statutes.
 4. to provide health care for a member of the employee's immediate family as a result of serious illness or injury and the employee has exhausted all annual leave and compensatory time available.
 - a. "serious illness or injury" means an urgent condition that is certified by the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support.
- B. Sick leave with pay shall be allowed during leaves of absence or vacations, provided, however, that any sick leave taken by an employee while on vacation must be supported by a certificate issued by a licensed physician.
- C. Responsibility for administration of this section shall remain with the General Manager, subject to such audit as may be ordered by the Department of Administration.

9.202 Notification of Sickness

Notification of absence on account of sickness shall be given to the immediate supervisor or Division on the first day of absence, preferably within two (2) hours of the employee's scheduled work hours, or if impracticable, as soon thereafter as circumstances permit. If such notification has not been given in accordance with this section, the employee may be subject to disciplinary action.

9.203 Application for Sick Leave

- A. Application for sick leave shall be filed on a form prescribed by the General Manager.
- B. Sick leave shall be granted in accordance with statute, rules, policies and procedures.

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9.204 Sick Leave Charged Only for Working Hours

An employee shall be charged for sickness for only those hours for which he was, or would have been scheduled to work.

9.205 Accrual of Sick Leave

Employees occupying permanent positions shall accrue sick leave at the rate of one-half day (four hours) for each bi-weekly pay period in which the employees are on pay status for the entire ten (10) days, otherwise there shall be no accrual.

9.206 Minimum Charge for Sick Leave

An employee who uses sick leave in an amount of time, which is less than a full hour shall be, charged leave according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

9.207 Accumulation and Carry Over of Sick Leave

Unused sick leave may be accumulated and carried over to succeeding leave years without limitation.

9.208 Vesting of Sick Leave

Sick leave accrued for service with the Government of Guam or any of its instrumentalities, branches, authorities or any entity, corporation or agency, shall vest in the employee upon accrual and shall remain vested in such employee while he is employed by the Government notwithstanding the fact, that from time to time, he may be transferred from one branch to another or to an autonomous agency, Port or entity within the Government of Guam. Sick leave accrued and unused at the time of separation from Government shall remain credited to the employee if such employee returns to Government service. An employee, approved for disability medical retirement under the Retirement Fund's Defined Benefit Plan, shall exhaust his accrued sick leave prior to effecting his retirement.

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9.209 Advance of Sick Leave

- A. An employee who has suffered a serious illness or ailment and has exhausted his sick leave and who intends to return to work may submit a written request, for advance of sick leave to the General Manager. Each request for advance of sick leave must be accompanied by a certification of incapacitation for duty by the employee's physician. An advance of sick leave may not exceed thirteen (13) days, and shall be subject to the approval by the General Manager.
- B. If an employee is separated from service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due him at the time of separation, an amount equal to his salary for the period of unearned sick leave allowed and taken.
- C. If the employee is medically certified as being unable to return to work after all accrued and/or advanced sick leave credits have been used, the employee shall be allowed to use any accrued compensatory or annual leave credits before being placed on leave without pay.

9.210 Physician's Certification of Incapacitation

- A. An employee, who is absent because of illness, injury, or quarantine in excess of three (3) consecutive days, or for the full day immediately before or after a holiday, weekend, day off or vacation, may be required to furnish a certification as to the incapacitation by a licensed physician or furnish administratively acceptable evidence. The General Manager or his delegated authority may require certification for such other periods of illness he deems advisable. Supervisors shall apply reasonable judgment when requesting a doctor's certification.
- B. If the certification required is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.
- C. If the medical certification furnished by the employee is not acceptable, the General Manager may require the employee to submit to a medical examination which shall be paid for by the Port. Based on the medical certification, the General Manager:

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1. shall not approve further use of sick leave if the employee is medically evaluated as fit to return for work.
 2. shall allow the employee to use accrued sick leave if the employee is medically evaluated as unfit to return to work. In the event, the employee exhausts his sick leave; the provisions of these rules shall apply.
- D. An employee who, upon a written request by the General Manager, refuses to comply with these rules shall not be eligible to use accrued sick leave credits and any absence from work shall be handled in accordance with Rule 9.700.

9.211 Lump Sum Payment for Sick Leave Prohibited

No employee who separates from the Port for any reason may receive a cash payment for sick leave accrued at the time he leaves such service, except for:

- A. death of the employee as provided for by Section 7102, Title 4 of the GCA; and
- B. retirement of an employee under the Defined Contribution Retirement System.

The Port shall issue a lump sum payment for an employee who retires under the Defined Contribution Retirement system shall be calculated by multiplying:

- A. the employee's hourly rate based on the average of three (3) highest salaries received him during his years of credited service by one-half ($\frac{1}{2}$) of the employee's unused accumulated sick leave hours.
- B. payment of the lump sum for unused sick leave shall be the responsibility of the Port.

9.300 ON-THE-JOB INJURY

9.301 Policy

It is the policy of the Port that all employees are provided with safe working conditions. This policy is intended as an employee benefit separate and apart from Workers' Compensation Law (Title 22, GCA, Section 9101). Unless otherwise provided by statute, this policy shall control in the event of conflict with other rules or policies.

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9.302 Definitions

- A. Classified employee: A probationary or permanent status employee occupying a classified position.
- B. Day: A work day unless otherwise specified.
- C. Death: Death resulting from an on-the-job injury.
- D. Disability: Physical or mental incapacity due to an on-the-job injury, which prevents the employee from performing the essential functions of the employee's regular position or other temporary duties.
- E. Essential Functions: Those that an employee must be able to perform in the employee's regular position, with or without reasonable accommodation.
- F. Lateral Position: A position with substantially comparable minimum qualifications or equivalent pay grade as the employee's regular position.
- G. Management Official: Official with supervisory or management responsibilities.
- H. On-the-Job Injury: Injury or death arising out of and in the course of employment, including an accidental injury or injury caused by the willful act of a third person directed against an employee because of his employment, and such occupational disease or infection as arises naturally out of such employment, or as naturally or unavoidably results from such accidental injury.
- I. Personal Leave: Annual or sick leave or compensatory time off.
- J. Physician: A person licensed to practice medicine in the United States or its territories or in other medical licensing jurisdictions recognized by the American Medical Association or other practitioners of the healing arts recognized by the Workers' Compensation Commission.
- K. Public Employment: Employment by a department, agency, or instrumentality of the Government of Guam.

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- L. Reasonable Accommodation: A modification or adjustment to the employee's regular position, the work environment, or the way things are usually done that enables the employee to perform the essential functions of his regular position.
- M. Regular Position: The position for which the employee was hired.
- N. Temporary Duties: Specific duties of limited duration assigned to the employee during the work-injury period in lieu of the regular duties of the employee.
- O. Unclassified Employee: An employee occupying an unclassified position or one employed on a temporary or limited term status.
- P. Work-Injury Leave: Leave with pay granted by the General Manager under the provisions of Rule 9.300.
- Q. WCC: Workers' Compensation Commission

9.303 Coverage

- A. A classified or an unclassified employee who suffers an on-the-job injury will be eligible for work-injury leave for up to thirty (30) days without charge to personal leave, beginning the day of the injury, provided:
 - 1. The employee is unable to perform the essential functions of the employee's regular position, or temporary duties, during the 30-day period, or portions thereof, as certified to by the employee's physician, the General Manager shall refer the case to WCC for further medical evaluation to include any necessary tests or testing such as laboratory tests of radiological, sonographic, and computerized axial tomography, and magnetic resonance imagery evaluation. The decision of the WCC shall be final. The General Manager shall identify the essential functions of the employee's position for the purpose of this section.
 - 2. The injury results in the death of the employee. In this event, the employee's designated beneficiary or beneficiaries, or if there are none, the estate of the employee, shall be entitled to a lump sum payment for the entire 30-day work-injury period, or, that portion of

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the work-injury period the employee would have been entitled to had the employee survived.

- B. If an employee is able to perform at least the essential functions of his position or undertake temporary assignments, but requires follow-up medical treatment for injuries, the employee shall be allowed work-injury leave for this purpose. The administration of this provision shall be closely monitored by the General Manager or delegated authority and coordinated with the WCC.
- C. An employee who is absent from work due to a work-injury and has completed a minimum of 50% of the performance rating period will be evaluated on his performance for that period. The employee will be entitled to a salary increment upon receiving a satisfactory rating.
- D. The employee on work-injury leave will continue to accrue annual and sick leave as provided in Title 4, GCA, Sections 4108 and 4109.
- E. Employment insurance benefits will continue pursuant to contract provisions in effect for the group life and health insurance program.
- F. Work-injury leave will not be allowed if the death or injury of the employee was self-inflicted or the result of the employee's use of illegal drugs, intoxication, recklessness, gross negligence, criminal conduct, or the result of disciplinary action against the employee.
- G. To prevent dual compensation, work-injury leave will not be allowed if the employee is receiving workers' compensation.

9.304 Responsibilities

- A. An employee's responsibilities include:
 - 1. Immediately reporting the injury to the employee's supervisor. If the supervisor is not available, the employee shall report the injury to the Port's safety personnel or any available management official within the Port.
 - 2. Pursuing a workers' compensation claim in an expedient and timely fashion prior to the expiration of the approved work-injury leave

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period or converting to other leave status at the end of the leave period.

3. Acting in good faith in pursuing work-injury claims. Any employee, who engages in fraud, misrepresentation, or abuse, shall be subject to discipline, prosecution, and be required to provide restitution for all monies and benefits received under Rule 9.300.
4. Obtaining physician's certification to include medical evaluation and physician's detailed recommendation.

B. Management's responsibilities include:

1. Completing all work-injury reports, including the supervisor's portion of the worker's compensation form, to be distributed as follows:
 - a. The original to WCC.
 - b. One copy to the employee, the employee's division, the Port's Occupational Safety & Health Division and Human Resources Division for placement in the employee's medical jacket.
2. The supervisory official who receives the employee's report must take immediate and expedient action to provide necessary medical treatment and prepare and submit injury report to the General Manager and other parties specified in Rule 9.304.B.1.
3. In cases requiring immediate treatment, medical assistance shall be sought for the employee at the nearest available medical facility. If the employee is not ambulatory, or otherwise should not be moved without medical intervention, an ambulance shall be called to transport the employee. A supervisory official or safety personnel shall accompany the injured employee to the medical facility for medical treatment as may be determined by the treating physician. Prompt notification of the employee's immediate family shall be made by the supervisor, Division Head, or General Manager or his delegated authority.
4. Completion of all work-injury reports and immediate submission to the Division Head, who shall submit such reports to the General

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Manager within five (5) working days following the date of notification of injury.

5. Notifying the General Manager if the employee is absent from work without authorization after the expiration of the approved work-injury leave period.
6. Immediately notifying the WCC that an employee is on work-injury leave status for the approved period.
7. Placing the employee on personal leave status pursuant to the provisions of these rules after the expiration of the approved work injury leave period. The type of personal leave to be taken is at the employee's option.
8. Obtaining from the employee per Rule 9.303.A.1. a doctor's certification of the employee's capacity to perform the essential functions of the employee's regular position, along with any specified mental/physical restrictions (e.g., no lifting over 20 pounds, no prolonged walking, standing, bending, stooping, no climbing of ladders, etc.), and recommendations of the physician as to other temporary duties which may be assigned without aggravating the existing condition.
9. Acting in good faith.
10. Complying with all applicable rules and regulations.

9.305 Employment Status

- A. A classified employee, who as a result of an on-the-job injury becomes disabled and is unable to perform the essential functions of his regular position within six (6) months after the date of injury may, if eligible, retire from the Port.

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- B. If the classified employee is ineligible or declines to retire, the General Manager may allow the employee to exhaust personal leave; otherwise, the employee shall be placed in lateral or lower vacant position to which the employee qualifies, or be downgraded to a position needed by the Port for which the employee qualifies, at the discretion of the General Manager. If the employee assumes the lateral position, the employee shall maintain his current salary. If the employee is downgraded or placed in a lower position, the employee shall maintain the current salary for one (1) year.

If there is no vacant position to which the employee qualifies, or the General Manager determines that a downgrade is not proper, the General Manager shall exercise expedient and good faith efforts to place the employee in a position in which he qualifies in another division. If placement is unsuccessful, the General Manager shall immediately notify the employee in writing that the employee will be terminated within sixty (60) days from the receipt of the notice by the employee. The notice shall include the employee's right to appeal under Rule 9.306. If the employee is unavailable for personal service, service may be made by certified mail to the last known address, provided management has made reasonable good faith efforts to personally serve the employee. In cases of service by mail, the sixty (60) days begin to run on the date of the mailing.

9.306 Appeal

A classified employee who is terminated in accordance with Rule 9.305.B may appeal the termination to the Commission within twenty (20) days from the effective date of the termination in accordance with Commission's appeal procedures. The Commission may uphold the termination or take whatever action or remedies it deems appropriate. The Commission's decision is final, but subject to judicial review within thirty (30) days after the losing party receives the Commission's written decision.

9.400 EXCUSED ABSENCES/ADMINISTRATIVE LEAVE

9.401 General Provision

An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Supervisors and employees will apply the following procedures for excused absences.

9.402 Attendance at Official Meetings/Conferences On or Off-Island

- A. Employees shall initiate a written request via his supervisor and division head for an excused absence citing the purpose of the meeting/conference, dates involved, and costs, if any, to the General Manager.

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- B. The General Manager will evaluate the relative costs, availability of funds, potential for the employee's development, and desirability of the Port's representation when approving the attendance at On or Off-island meetings/conferences.
- C. Upon approval of the request, a copy shall be provided to both the employee and Payroll Office.

9.403 Jury Duty

- A. An employee who is called for jury duty in any court in Guam shall be excused from duty with full pay and without charge to leave for all hours required for such duty, not to exceed the number of hours in the employee's normal work day. However, if the jury duty does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called for jury duty is required to show the Jury Duty Call Notification to his immediate supervisor.
- C. Supervisors are responsible for advising employees that all compensation earned for such jury service, except for the following, must be paid to the Port in accordance with Section 6505, Chapter 6, Title 4 of the GCA:
 - 1. allowances for travel;
 - 2. service rendered on days the employee is not required to report to work;
 - 3. services rendered when employee is sequestered and unable to report to his home after normal working hours; and/or
 - 4. services rendered during the employee's normal working hours but that the Port requires the employee to make up work before or after normal working hours, including work on weekends and Government of Guam holidays.

An employee may elect to request for annual leave for the purpose of jury duty service, which case the employee may keep the compensation earned for such jury duty.

9.404 Witness Leave

- A. Employees who are called to testify or produce official records on behalf of the Government of Guam in any court in Guam shall be excused for duty with full pay and without charge to leave required for such service, not to exceed the number of hours in the employee's normal work day. However, if the witness service does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.

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- B. An employee called to serve, as a witness is required to show the notification to his supervisor. The employee must provide to his immediate supervisor a certificate or certificates showing the time devoted to witness service. The fees shall be the same as the fees of witnesses before the Superior Court, except if the witness is a government employee no witness fees shall be given.
- C. Such leave is applicable to law enforcement officers, who are required to appear in any court of Guam, for contested traffic citations they issued to the public found violating the Motor Vehicle Code. The employee must provide to his immediate supervisor with a copy of the summons requiring his presence in court.

9.405 Participation as a Competitor in a Government of Guam Personnel Examination or Interview

- A. Employees who are participating in a competitive examination or interview for Government of Guam employment shall be excused from work with pay and without charge to leave for the time required for the examination or interview. Employees are required to report to their work location after completion of the examination or interview.
- B. Employees must advise their supervisor in advance of the need for excused absence to participate in a scheduled examination or interview. This notice should be given as soon as the employee receives information of the scheduled date and time of examination or interview.

9.406 Participation in Examinations for Military Service

An employee, who is scheduled to appear for an examination for entrance into the United States military service, shall be excused from work with pay and without charge to leave for the time required for the examination. The employee shall submit written confirmation of scheduled examination to his immediate supervisor.

9.407 Military Training Leave

- A. An employee who is a member of a Reserve Component of the Department of Defense or Transportation, including but not limited to, the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, Army National Guard, Air National Guard and U.S. Coast Guard, shall be entitled to military training leave with pay, without charge to annual leave not to exceed fifteen (15) working days per fiscal year. The leave not used in a fiscal year will be transferred to the next fiscal year until it totals fifteen (15) work days at the beginning of the fiscal year.

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- B. The employee shall submit a copy of his military orders or other documents which place the employee on military training, to the General Manager.
- C. A copy of the official orders shall be filed in the employee's personnel files.
- D. Any absence in excess of fifteen (15) work days may, upon request by the employee and approval of the General Manager, be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by the General Manager as annual or compensatory time off leave, such absences in excess of fifteen (15) work days shall be considered as leave without pay.

9.408 Military Leave

- A. Purpose: The Uniformed Service Employment and Reemployment Act of 1994 (USERRA) prohibits employers from discriminating against employees who fulfill non-career military obligations in the Uniformed Services and requires employers to provide a leave of absence to allow employees to perform obligations. The purpose of this Rule is to provide military leave as required by law and to comply with other relevant provisions of USERRA.
- B. Eligibility: All full-time and part-time employees who are also members, or intend to become members of one of the Uniformed Service.
- C. Definitions: For the purposes of this Rule, the following definitions apply:
 - 1. Benefit, Benefit of Employment, Rights and Benefits or any variation of these terms means any advantage, profit, privilege, gain, status, account or interest (other than wages or salary for work performed that accrues by reason of employment. These terms include, but not limited to, retirement pension plan, health plan, other types of insurance coverage, awards, paid leave, title, work schedule, and clothing allowance.
 - 2. Federal fiscal year: October 1 through September 30 of each year.
 - 3. Military leave with pay: A period of approved absence, not more than fifteen (15) working days per Federal fiscal year, during which employees are paid their regular rate of compensation while performing military service.

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4. Military leave without pay: A period of approved absence during which employees do not receive compensation while performing military service.
5. Military service: The performance of military duty on a voluntary or involuntary basis in a uniformed service. It includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, time spent undergoing an examination to determine fitness to perform military duty, and a period for which an employee is absent to perform funeral honors 10 USC 12503 or 32 USC 115.
6. Qualified or qualify: With respect to an employment position, means having the ability to perform the tasks of the position.
7. Reasonable efforts: In cases of actions required of an employer pursuant to USERRA, means actions, including training provided by the Port that do not place an undue hardship on the Port.
8. Seniority: Longevity in employment, together with any benefit that accrues with or is determined by longevity.
9. Undue hardship: In the case of actions taken by an employer, means requiring significant difficulty or expense when considered in light of:
 - (a) the nature and cost of the action required;
 - (b) the overall financial resources;
 - (c) the effect on expenses and resources as set forth in USERRA.
10. Uniformed services: The Armed Forces (U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard); the reserve components of the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty; and any other category of service designated by the President of the United States in time of war or national emergency.
11. Working days: A working day for a full-time employment shall mean eight (8) hours a day.

D. Leave of Absence for Military Service:

1. Pursuant to USERRA (38 USC Section 4301), a full-time employee who is a former or current member of the uniformed

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service shall be entitled to paid leave for military service not to exceed fifteen (15) working days per Federal fiscal year.

2. Employees whose military service was less than thirty-one (31) days, are entitled to an eight (8) hour rest period after safely arriving home from the place of military service before the employee is required to return to work pursuant to Rule 9.408.G, Returning from Military Service, and USERRA.
3. When an employee returns from military service and the eight (8) hour rest period overlaps the employee's scheduled work shift, the employee shall receive paid military leave to the extent of the overlap. For example, if an employee returns home Sunday at 2:00 a.m. and his regular work shift normally begins Monday at 8:00 a.m., the eight (8) hour rest period would overlap the work schedule by two (2) hours and the employee would receive his regular salary for that two (2) hour period.
4. Where leave of absence for military service exceed fifteen (15) working days of paid military leave, employees shall be permitted, upon request, to use any accrued annual, compensatory time-off, leave sharing leave or military leave without pay during the period of military service. However, extended specifically by the terms of USERRA military leave and without pay shall not exceed five (5) years of cumulative military service.

E. Advance Notice:

An employee who is leaving to perform military service shall provide advance written or verbal notice to his immediate supervisor of the need for a leave of absence (including the approximation of the expected dates of the leave.) However, advance notice is not required if precluded by military necessity or under all relevant circumstances it is impossible or unreasonable to give notice. Employees shall submit leave request indicating the type of leave he wants to take. i.e., military leave with pay (if the fifteen (15) days has not been exhausted), military leave without pay, annual leave, compensatory time-off, leave sharing, or an appropriate combination of leaves. It is requested that the employee provide a copy of their military orders, if available, to the supervisor, preferably before leave is taken.

F. Employee Benefit:

- A. During the fifteen (15) days military leave with pay or when an employee requests to use another kind of paid leave to cover a period of military service, an employee shall receive the same

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benefits as if the employee remained continuously employed with the Port.

B. If on military leave without pay, the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with these rules. The Port shall pay the employer's and employee's Government of Guam retirement contributions, group health and life insurance premiums during the period the employee is on leave without pay status and on active military duty.

C. All unused leave benefits shall be retained by the employee, who shall have the same credited to the employee's record upon return to his assigned position consistent with Section 6218(d) of Title 4, GCA.

G. Returning from Military Service:

1. Upon completion of military service, the employee shall report back to work in accordance with the time limits indicated below:

Length of Military Service	Employee's Obligation to Report Back to Work
1-30 days (or an absence of any length to have an examination to determine fitness for military service)	<ul style="list-style-type: none"> • An employee shall report to work no later than the first full regularly scheduled work shift on the first full calendar day after service ended and the eight (8) hour rest period allowing for the safe transportation back to his home expired; OR • As soon as possible after the expiration of the eight (8) hour rest period, if through no fault of the employee, it would be impossible or unreasonable to report within the time described above.
31-180 days	An employee shall report to work at least fourteen (14) calendar days after completion of military service. If complying with this deadline is impossible or unreasonable through no fault of the employee, the request shall be submitted on the first next full calendar day when submitting the request becomes possible.
More than 180 days	An employee must report to work within ninety (90) calendar days after completion of the period of military service.

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2. An employee hospitalized for, or convalescing from an illness or injury incurred in or aggravated during military service shall, at the end of the period necessary to recover from the illness or injury, which cannot exceed two (2) years, report for work. The two (2) year period for recovery from illness or injury shall be extended by the minimum time required to accommodate circumstances beyond the employee's control that make compliance with the reporting deadline impossible or unreasonable. Placement of such employee shall be in accordance with Rule 10.100.
3. If an employee does not comply with the above reporting deadlines, disciplinary action can be imposed by the Port in accordance with Chapter 11, Adverse Action Procedures.

9.409 Military Family Leave

- A. Mandate: The Military Family Leave Act is established through Public Law 29-149 enacted in law on December 31, 2008 and shall apply to all qualified employees of the Government of Guam as defined in this Rule.
- B. Purpose: The purpose of this Act and in order to serve the families of those troops currently serving in the military conflicts in Iraq, Afghanistan, and throughout the world, serving in the Global War on Terrorism, and to assure that these families are able to spend time together during the qualified service member's leave to and from deployment, to include pre-deployment, post-deployment, during deployment, any return from Rest and Relaxation (R&R) leave during deployment or reintegration from deployment, and to handle their personal affairs by their spouse or designated next of kin or attorney in fact, it is necessary that this Act become effective immediately.
- C. Definitions: The following definitions shall be used in this Rule:
 1. Qualified Employee means a person who satisfies all of the following:
 - a. Is the spouse, authorized representative, designated next of kin, or attorney-in-fact of a qualified member.
 - b. Performs service for hire for an employer for an average of twenty (20) or more hours per week, but does not include an independent contractor.
 - c. Provides the qualified employer with notice, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of his or her

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intention to take leave provided for in Rule 9.409.D. as requested.

- d. Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave provided for in Rule 9.409.C.4. is requested.
2. Qualified Employer means any Government of Guam instrumentality, military related unit on Guam, municipal village instrumentality, public authority, or any other governmental entity on Guam subdivision that employs fifteen (15) or more employees.
 3. Period of military-conflict means either of the following:
 - a. A service member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States.
 - b. A service member of the National Guard who has been deployed during a period of military conflict; or
 - c. A service member of the Reserves who has been deployed during a period of military conflict.
 4. Qualified leave period means the period during which the qualified service member is on leave from deployment during a period of military conflict, to include pre-deployment, post deployment, return from R&R, reintegration, or after deployment.
- D. Leave Required: A qualified employer may allow a qualified employee to take up to fifteen (15) days of unpaid leave during a qualified leave period.
- E. Provisions:
1. A qualified employer shall not retaliate against a qualified employee for requesting or taking the leave provided for in this Rule.
 2. The leave provided for in this Rule shall not affect or prevent a qualified employer from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.

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3. This Rule shall not affect the qualified employee's rights with respect to any other employee benefits provided for in other laws.

9.410 Disabled Veteran's Re-examination or Treatment

An employee, who has been rated by the Veteran's Administration to have incurred a service-connected disability and has been scheduled by the Veterans Administration to be re-examined or treated for such disability shall, upon presentation of written confirmation of having been so scheduled, be excused from duty without charge to leave for such re-examination or treatment. Excused absences shall not exceed five (5) work days in a calendar year. Thereafter, the employee may utilize other forms of leave as provided in these rules.

9.411 Natural Disasters and Other Emergency Conditions

- A. Excused absence with pay and without charge to leave shall be granted to employees when natural disasters or other emergency conditions create unsafe working conditions.
- B. Excused absence, for natural disaster or other emergency conditions, may be granted only when there has been an official proclamation of the hazardous conditions by Executive Order, or an equivalent announcement by the Governor.
- C. When the Governor declares a State of Emergency, the General Manager shall determine whether affected facilities or portions thereof, which are located in the area covered by the Executive Order or proclamation, are to be closed. With the exception of the following:
 1. Employees determined by the General Manager as non-essential for the cause in such emergency situation shall be released from duty with pay, without charge to leave, for the period the facility is closed.
 2. Employees, required to remain on duty to provide essential services, shall be paid at double the regular rate, or granted compensatory leave credits for the hours worked during the period the facility is closed and the other employees are on excused leave.
- D. Employees who are on annual or sick leave status when an emergency condition is declared by Executive Order or announcement by the Governor and are not required to report to duty, shall be considered as released from duty with pay without charge to leave for the period the work facility is closed.

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9.412 Volunteer Services During Disasters/Emergencies

An employee who performs volunteer services, privately or as a member of an organization, in times of civil unrest, disasters, search and rescue operations, and other civil emergencies shall be excused from duty with pay, without charge to accrued leave not to exceed two (2) work days.

9.413 Participation in Officially Sanctioned Events

An employee, who is a participating member of an official Guam delegation which is sanctioned by the Governor, shall be excused from duty with pay and without charge to leave for a period not to exceed five (5) work days in a calendar year.

9.414 Absence Pending Formal Investigation

An employee, who is under formal investigation by the Port for misconduct, or violation of a rule or statute, may be placed on excused absence from duty without charge to leave, not to exceed twenty (20) work days when the employee's absence from the work location is essential to the investigation.

9.415 Bereavement Leave

- A. An employee, upon request, shall be granted two (2) days of excused absence with pay, and without charge to leave upon the death of any member of the employee's immediate family as defined in these rules and regulations.
- B. Each employee requesting bereavement leave due to a death in the immediate family, shall submit such request to the General Manager stating the name of the deceased and the relationship to the deceased.

9.416 Paternity Leave

- A. Paternity leave shall be granted to a male employee occupying a permanent position upon the birth of child/children by his wife, including common-law, or adoption of his child/children five (5) years old or younger.
- B. Paternity leave shall not exceed twenty (20) days of paid leave and must encompass the date of childbirth or adoption of child/children.
- C. Additional leave taken for such purpose may be charged against accumulated sick leave, or may be unpaid leave at the option of the

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employee. Total leave, whether paternity, sick or unpaid leave, shall not exceed six (6) months without approval of employee's supervisor.

9.417 Maternity Leave

A. General Provisions of Leave Related to Pregnancy

1. A pregnant employee is responsible for notifying her supervisor, in advance of her intention to request leave for maternity purposes including the type of leave, approximate dates and anticipated date of return to duty, to allow the Port time to prepare for any staffing adjustments which may be necessary.
2. The supervisor is responsible for providing gainful employment and making use of her skills for as long as the employee is not incapacitated for duty.
3. Sick leave shall be made available during pregnancy to cover for physical examinations and periods of incapacitation based on certification by the employee's physician.
4. An employee may request for annual or sick leave, or leave without pay (in addition to the authorized maternity leave) to provide for a reasonable period of adjustment, or to make arrangements for the care of the child. Additional leave requirements for maternity purposes must be supported by physician certification or furnish other administratively acceptable evidence of fitness for duty and approved by the General Manager.
5. An employee who wishes to return to work following delivery or confinement shall be assured continued employment in her position or a position of like seniority, status and pay upon presentation of her personal physician's certification of fitness for duty or furnish other administratively acceptable evidence of fitness for duty.
6. The marital status of the pregnant employee shall not adversely affect her right to continued employment or use of leave.

B. Granting of Maternity Leave

1. Maternity leave shall be granted to a female employee occupying a permanent position who is absent from work as a result of childbirth or adoption of a child/children five (5) years old or younger.

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2. Such maternity shall not exceed twenty (20) work days encompassing the date of childbirth or adoption.
3. Any additional leave taken for such childbirth or adoption purposes, may be charged against accumulated sick leave, or may be unpaid leave, at the option of the employee.
4. Total leave, whether maternity, sick or unpaid leave, shall not exceed six (6) months without approval of the employee's supervisor.

9.418 Participation in a Medical Examination Requested by the Port

An employee who is required to undergo a medical examination, such as, to determine fitness for the job, shall be excused from work with pay and without charge to leave for the time required for the examination.

9.419 Educational Leave Without Pay

- A. In the event, the Port is desirous of establishing a program where employees are allowed to take educational leave with pay must have the program approved by the Board.
- B. An employee may be granted excused absence from duty with pay, and without charge to leave to attend on a full-time basis a college, university, or training academy for not more than the equivalent of 2,080 hours of pay status for the purpose of receiving training that is of clearly foreseeable benefit to the Port.
- C. The granting of educational leave shall be in accordance with the Port's approved educational program.
- D. Only employees who have completed their original probationary period are eligible to participate in this program.

9.420 Parental Involvement Initiative Leave

- A. An employee, who is a parent and who is not otherwise prohibited from such contact with his child by order of a court, may use up to four (4) hours every two (2) pay periods to meet with a teacher or other school official concerning the employee's child's performance or to volunteer parental-involvement time at his child's school.
- B. The four (4) hours every two (2) pay periods may be utilized at the arrangement of the employee with the employee's supervisor, and may be split into smaller separate segments over the two (2) pay periods. Such

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leave hours is not to be accumulative.

- C. An employee requesting such leave shall submit a request to his supervisor in advance and is required to obtain from his child's teacher or school official signed certification that the employee has visited the school for a conference, a function, or as a volunteer to assist in the child's school activities.

9.421 Disaster Service Volunteer Leave

- A. Purpose: It is the purpose of the Government of Guam to allow for its employees to request for disaster leave during periods of disasters and humanitarian need assisting the American Red Cross without loss of seniority, vacation time, sick leave or earned overtime accumulation.

- B. Definitions:

- 1. "Disaster" means a local disaster designated at Level I or higher in the American Red Cross regulations and procedures or a national disaster at Level III or higher in the American National Red Cross regulations.
- 2. "Certified disaster service volunteer" or "volunteer" means any person who has completed the necessary training for and has been certified as a disaster service specialist by the American Red Cross.

- C. Disaster Service Volunteer Leave

- 1. An employee who is a certified disaster service volunteer may be granted leave from work with pay in accordance with Rule 9.421.C.2 for up to an aggregate of fifteen (15) days, consecutively, or in any twelve (12) month period to participate in specialized disaster relief service for the American Red Cross in connection with any disaster, upon the request of American Red Cross for such employee's services and upon approval of the Port.
- 2. An employee granted leave pursuant to Rule 9.421.C.1 shall be compensated by the Port at his regular rate of pay for those regular work hours during which the employee is absent from work, but shall not receive overtime pay, shift differential pay, hazardous pay or any other form of pay or compensation in addition to the employee's regular pay.
- 3. An employee who is granted leave pursuant to Rule 9.421.C.1 shall not lose any seniority or any already accumulated vacation

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time, sick time or earned overtime due to such leave.

4. The Port shall not be liable for worker's compensation claims arising from accident or injury while an employee is on assignment as a certified disaster service volunteer for the American Red Cross.
5. Duties performed while on disaster leave shall not be considered as a work assignment by the Authority.
6. In determining whether to grant leave to an employee, the Port may consider the needs of the American Red Cross for expertise in a particular certified area.
7. The employee's activities and job functions while on leave, however, shall not be directed by the Port but shall be determined and controlled solely by the American Red Cross.
8. An employee who is on leave pursuant to this section shall not be deemed to be an employee of the Port for the purposes of the Government Claims Act, Chapter 6, Title 5 of GCA.

D. Certification as a Certified Disaster Service Volunteer: No employee shall be paid during regular work hours in the completion of any training towards a certification as a disaster service volunteer unless such employee uses personal or annual leave.

9.422 Medical Donor Leave

Any employee of the Port who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by the General Manager for the time it takes to complete the medical procedure involved, however, not to exceed ten (10) working days.

9.500 HOLIDAYS

9.501 General Provisions

- A. Employees may absent themselves from duty on the holidays established by these rules, provided, however, that work assignments may be required to be carried out if previous notification is given by the General Manager.
- B. When an employee is absent from duty at the close of the working day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to

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have been on a leave without pay status, the employee shall not be considered eligible for compensation for the holiday under these rules but shall be considered as on leave without pay status.

9.502 Legal Holidays

1. New Year's Day.....January 1
2. Martin Luther King's Day.....Third Monday in January
3. Memorial Day.....Last Monday in May
4. Independence Day.....July 4
5. Liberation Day.....July 21
6. Labor Day.....1st Monday in September
7. All Soul's Day.....November 2
8. Veteran's Day.....November 11
9. Thanksgiving Day.....4th Thursday in November
10. Lady of Camarin Day.....December 8
11. Christmas Day.....December 25

If any of the numbered holidays listed above falls on a Sunday, the following Monday is a holiday, and if any of such holidays falls upon a Saturday, the preceding Friday is a holiday.

9.503 Legal Holiday for Irregular Hours of Duty

For employees whose workweek is other than Monday through Friday, and whose holiday falls on a non-workday, their holiday shall be determined as follows:

A. Sunday Holiday

1. When an employee's workweek does not include Sunday, and a holiday falls on Sunday, his next regular workday within his workweek is his holiday.
2. When an employee's workweek includes Sunday and a holiday falls on the day that has been designated as his non-workday in lieu of Sunday, his next regular workday after his "in lieu of Sunday" within his work week is his holiday.

B. Other Holidays

When a holiday falls on an employee's non-workday other than Sunday, the regular workday preceding the employee's non-workday is his holiday.

9.600 LEAVE WITHOUT PAY

9.601 Leave of Absence Without Pay

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- A. Employees may request leave without pay for good cause when their current authorized annual or sick leave with pay will not cover the total period of requested leave. Leave without pay may be granted for a period not to exceed one (1) year. For extenuating circumstances, the General Manager may extend the leave without pay for an additional year. No extension may be granted thereafter.
- B. When an employee is on leave without pay status, accrual of sick, annual, or retirement credit is not allowed.

9.602 Request by the Employee

Leave without pay is temporary non-pay status and absence granted in response to an employee's request. Leave without pay covers only those hours, which an employee would otherwise work or, for which he would be paid.

9.603 Authorization

- A. Authorizing leave without pay is a matter of administrative discretion. An employee cannot demand that he be granted leave without pay as a matter of right, except in the case of:
 - 1. disabled veterans who are entitled to leave without pay, if necessary, for medical treatment; and
 - 2. members of the Reserve Components of the U.S. Armed Forces who are entitled to leave without pay, if necessary, to perform military service duties.
- B. An employee who does not have adequate annual or sick leave credits may submit a written request for leave without pay to his supervisor, which requires the final approval of the General Manager. The employee's request should indicate the reasons and the need for leave without pay and the date employee intends to return to duty from leave.

9.604 Conditions for Approval of Leave Without Pay

- A. Each request, for extended leave without pay, should be evaluated carefully to assure that the value to the Port or the serious needs of the employee is sufficient to offset the costs and administrative inconveniences to the Port which results from the retention of an employee in a leave without pay status. Among these costs are:
 - 1. encumbrance of a position;

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2. loss of services which may be needed in the organization; and
 3. obligation to provide active employment at the end of the approved leave period.
- B. As a basic condition for approval of extended leave without pay, there should be reasonable expectation that the employee will return to work at the end of the approved period. In addition, it should be apparent that at least one of the following benefits would result:
1. increased job ability.
 2. protection or improvement of employee's health.
 3. retention of a desirable employee.
 4. furtherance of a program of interest to the Port.

9.605 Examples of Appropriate Use of Leave Without Pay

The following examples of types of cases are not all inclusive for which approval of extended leave without pay would be proper, all other factors being favorable, are:

- A. For educational purposes, when the course of study or research is in line with a type of work which is being performed by the Port, and completion of which would contribute to the Port's best interests.
- B. For the purpose of recovery from illness or disability, not of a permanent or disqualifying nature, when continued employment or immediate return to employment would impact on the employee's health, or the health of other employees.
- C. For the purpose of caring for a child upon birth or adoption.
- D. For the purpose of providing care to a spouse or child who is ill or disabled, or to provide care to elderly parents or parents-in-laws.
- E. For the purpose of conducting union-related business and to address issues important to the employees' collective bargaining units. Such leave without pay is authorized for those employees who are a president or head of a union representing a recognized collective bargaining unit of the Government.

9.700 UNAUTHORIZED LEAVE OF ABSENCE FROM DUTY

An employee who is absent from duty without proper authorization shall be placed on unauthorized leave of absence without pay for payroll purposes. Repeated unauthorized absences may be grounds for disciplinary action.

9.800 FAMILY AND MEDICAL LEAVE ACT

9.801. Policy Statement

FMLA provides eligible employees with job-protected leave for qualifying events or circumstances as described below. Some of those events or circumstances may involve the employee's own health event or circumstance, or may involve the health or military service of the employee's family member, as defined below.

Leave may be taken in continuous full-time periods or may include a reduced or intermittent schedule when medically necessary or for a qualifying exigency due to a call to active duty. When intermittent or reduced scheduled leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must consult with the supervisor and make reasonable effort to schedule treatment so as not to unduly disrupt the Port's operations.

9.802 Employee Eligibility

- A. An employee is eligible for FMLA leave if he has worked for the Government of Guam for at least twelve (12) months and worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA leave.
- B. Temporary employees working part-time, after completion of 1,250 hours, are counted as completing the work week even if they do not work a forty (40) hour workweek.
- C. For the purposes of this Rule, full-time employment is considered to be 2,080 hours per year. An employee returning from fulfilling his or her National Guard or Reserve military obligation will be credited with the hours of work that would have been performed during the period of military service.

9.803 Reasons for Leave

The FMLA allows eligible employees to take leave for the following qualifying events or circumstances.

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9.804 Family Leave

- A. An employee may take family leave for the following events or circumstances:
 - 1. Birth and care of a child during the first year.
 - 2. Adoption or foster placement of a child and care during first year.
 - 3. Care of employee's spouse, domestic partner, child or parent with a diagnosed serious health condition, defined under Definitions.
- B. Amount of Leave: Employees taking family leave may take up to twelve (12) weeks of family leave per calendar year (January 1 to December 31).

Leave for birth, adoption of a child or placement of a foster child must be taken in one single period and must be taken within one (1) year of the birth or placement of the child. If both parents work for the Port and request leave for birth or placement of the child, care of that child in the first year, or care for a parent with a serious health condition, the twelve (12) week leave period for both employees is combined. The parents do not each have twelve (12) weeks of FMLA available for those situations.

9.805 Medical Leave

- A. An employee may take leave for his own diagnosed serious health condition, as defined below under Definitions.
- B. Amount of Leave: Employees taking medical leave for their own serious health condition may take up to twelve (12) weeks of medical leave per calendar year (January 1 to December 31).

9.806 Service Member Leave

- A. Exigency: Employees with a spouse, son, daughter, or parent (i.e., the service member) on active duty or call to active duty in the National Guard or Reserves I support of a contingency operation may use leave to address certain qualifying exigencies arising out of the active duty or impending active duty.
- B. Examples of qualifying exigencies include attending certain military events, arranging or providing for alternate child care or school, addressing certain financial and legal arrangements, addressing issues arising from short-notice deployment, attending certain counseling sessions, and attending post-deployment reintegration briefings.

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- C. An employee whose family member is on active duty or call to active duty as a member of the Regular Armed Forces is not eligible to take leave because of a qualifying exigency.
- D. Amount of Leave: An employee may take up to twelve (12) weeks of leave per calendar year (January 1 to December 31).

9.807 Injury or Illness

- A. Employees may also take leave to care for a covered current service member (the service member) who has a serious injury or illness incurred in line of duty that may render the service member medically unfit to perform his own duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.
- B. In order to care for the covered service member, the employee must be the spouse, son, daughter, parent, or next of kin of the service member.
- C. Amount of Leave: An employee may take up to twenty-six (26) weeks of leave per service member or per injury/illness during the twelve (12) month period, beginning on the first day of leave.

If both parents work for the Port and request leave for birth or placement of child, care of that child in the first year, care for a parent with a serious health condition, or care for a service member, the twenty-six (26) week total leave period for both employees is combined. The parents do not each have twenty-six (26) weeks of FMLA available for those situations.

9.808 Notice and Documentation

- A. When the need for leave is foreseeable, the employee shall notify the Port within thirty (30) days of the need for leave. When the need for leave is not foreseeable, the employee shall notify the Port as soon as possible. An employee requesting leave must explain the reasons for the needed leave so as to allow the Port to determine whether the leave qualifies under the policy.
- B. The employee must provide complete and sufficient medical or military documentation in support of a request for FMLA leave. Failure to provide such documentation may result in the denial or delay of FMLA. The Port may seek a second or third opinion of medical documentation, and may request reasonable updates of supporting documentation. The employee may also be required to provide documentation of the familia relationship to support service member leave.

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- C. The Port will promptly notify the employee in writing if the employee is eligible for FMLA and, if so, whether the requested leave will be counted as FMLA leave. In certain circumstances the Port may designate an absence as FMLA even if the employee did not request FMLA. The Port may not retroactively designate an absence as FMLA unless the reasons for the absence were not known to the Port at the time leave began.
- D. An employee taking FMLA leave must comply with the Port's leave notification requirements appropriate for the situation. When notifying the Port, employees must inform the Division Head if requested leave or absence is for a reason for which FMLA was previously taken or certified.
- E. An employee on leave for his own medical condition must present a medical release to return to work. The employee may be asked to medically certify that the employee is able to perform essential functions of the position. Failure to submit a sufficient and complete release may delay the employee's return to work.

9.809 Paid Versus Unpaid Leave

- A. FMLA does not provide paid leave. However, employee wages during a FMLA covered absence(s) will be provided in accordance to the Port leave policies.
- B. Employees eligible for FMLA will use applicable paid leave benefits concurrently with FMLA. Leave benefits may be sick, annual or donated leave dependent on the FMLA reason. If sick and/or annual leave is exhausted, leave will be unpaid (leave without pay). Employees who are qualified for FMLA leave are eligible to retain up to two (2) weeks (80 hours) of accrued annual leave each calendar year.

9.810 Continuation of Insurance Benefits

- A. During an approved leave, paid or unpaid leave, the Port will continue to pay the employer share of the employee's government health insurance benefits. If the employee is responsible for a share of the premium through payroll deduction, the employee must continue to pay his share during any unpaid leave.
- B. Life, long term disability and retirement contribution benefits may be continued at employee expense under the leave without pay regulations. If leave is due to an employee's illness, life, long term disability and retirement contribution benefit coverage may be continued through policy provisions.

9.811 Return to Employment After Leave

- A. At the end of FMLA leave, an employee must be restored to the job he left or one with equivalent benefits, pay and other terms and conditions of employment. Employees on FMLA must receive unconditional pay raises that were granted during their absence.
- B. The FMLA contemplates that there may be situations when an employee cannot return to employment during or after leave. Termination of employment may occur, for example, while an employee is on leave if there is a layoff or reduction in force, or cause that would otherwise support dismissal, if the employee's job would have been lost if he was actively working. Similarly, termination of employment may occur if the employee is unable to perform one or more essential functions of the position, with or without reasonable accommodation, after the leave is over.

9.812 No Retaliation or Interference

The Port will not discriminate or retaliate against an employee who exercises his rights under the FMLA, or otherwise interfere with those rights.

9.813 Definitions

- A. Child – May be a biological, adopted, foster or step child or legal ward, or child of a person standing “in loco parentis” by providing day-to-day care and financial support, where the child is under age 18, or age 18 or older and incapable of self care because of a mental or physical disability.
- B. Next of Kin – The nearest blood relative other than the covered service member's spouse, parent, son or daughter in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his nearest blood relative for purposes of military caregiver leave under the FMLA.
- C. Parent – A biological, adoptive, step or foster parent or other person who stood “in loco parentis” to a child by providing day-to-day care and financial support. In-laws are not covered by this policy.
- D. Spouse – A legal or common-law spouse. This policy also covers domestic partners. Both spouses and domestic partners must have on file an

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Affidavit of Domestic Relationship to be eligible for leave to care for the spouse or partner.

- E. Serious health condition – An illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.
1. Incapacity – Inability to work, attend school or perform other regularly daily activities due to the serious health condition, treatment therefore, or recovery therefrom.
 2. Inpatient care – An overnight stay in the hospital, hospice or residential medical care or any subsequent treatment in connection with the inpatient care.
 3. Treatment – Includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.
 4. Continuing treatment by a health care provider – any one of the following:
 - (a) A period of incapacity of more than three (3) consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves either treatment two (2) or more times within thirty (30) days or treatment by a health care provider on at least one (1) occasion, which results in a regimen of continuing treatment under the supervision of a health care provider.
 - (b) Any period of incapacity due to pregnancy or prenatal care.
 - (c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits (i.e., at least twice per year) for treatment by a health care provider, which continues over an extended period of time, and any cause episodic rather than a continuing period of incapacity.
 - (d) Permanent or long-term conditions.
 - (e) Conditions requiring multiple treatments.

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9.814 Enforcement

If an employee has concerns or complaints regarding FMLA, the employee may contact the Human Resources Division. In addition, an employee may file a complaint with the Department of Labor or may file a private lawsuit.

CHAPTER 10

HEALTH AND SAFETY

STATEMENT OF POLICY

The purpose of this chapter is to ensure that applicants and employees meet the health and physical requirements for the efficient performance of their duties. In addition, this chapter is to develop a safe and healthful environment for employees and for the public when using the Port's facilities, by establishing/maintaining and properly supervising an active safety and health program tailored to meet the needs of the organizations.

10.000 MEDICAL STANDARDS

10.001 Establishment of Medical Standards

Medical standards shall include, but need not be limited to, pre-entry medical examinations, medical re-evaluations, the method of administration of medical examinations, and the consequences of failure to meet health and physical condition requirements.

The General Manager is authorized to establish medical standards in order to:

- A. Ensure that persons seeking employment with the Port meet the health and physical requirements necessary for the safe and efficient performance of the duties of the class of position in which they seek employment, and can continue to meet the health and physical requirements for a reasonable period of time.
- B. Ensure that each employee is able to perform the duties of his position satisfactorily and without undue hazard or imminent threat to himself or others or without undue hardship on the operation of the program.
- C. After making a conditional job offer and before an individual starts work, the General Manager may request a medical examination or ask health-related questions, provided that all candidates who receive a conditional job offer in the same job category are required to take the same examination and/or respond to the same inquiries.

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10.002 Kinds of Employment Medical Examinations

The General Manager is authorized to require three (3) types of medical examinations:

A. Pre-entry

Pre-entry physical examinations shall be required of all persons prior to initial appointment to the position.

B. Periodic

Periodic physical examinations shall be required of all employees holding positions in classes which the Division Head and Safety Administrator certifies, and the General Manager approves, that the nature of the work performed is such that a periodic check of ability to meet the health and physical condition standards is necessary. The General Manager will determine the intervals, at which periodic physical examinations shall be taken consistent with the Port's operational requirements. The Port shall implement the standards imposed by the U.S. Department of Transportation and other OSHA standards applicable to periodic medical physical examinations for certain type of vehicle operations. Other OSHA standards are applicable relating to periodic medical examinations of certain vehicle operations (Chapter 87, Title 10, GCA).

C. Special

The Division Head may request the General Manager to authorize special medical physical or psychological examinations to determine the fitness for duty of employees to continue with their assigned duties. Special physical or psychological medical examinations shall have as their purpose the determination of whether an employee should be retired from the government service or assigned to duties and responsibilities that are within his physical or psychological ability to perform. The Port shall pay costs for the special medical examinations.

10.003 Administration of Employment Medical Examinations

Medical examinations shall be administered by a licensed physician or other licensed professional on forms prescribed by the General Manager. The examination form shall request a medical determination of the individual's fitness for employment in the class of position. For special medical examinations, forms shall provide a means for recommendations by the examining physician or licensed professional, as to whether the individual employee should be retired or placed in other employment more suited to his physical or mental condition and ability and for which the employee can perform the essential function of the job.

10.004 Temporary Medical Exemptions

The General Manager may determine that a position must be filled immediately, making it impossible to complete the medical examination prior to appointment. In these unusual cases, the General Manager may temporarily waive the medical examination, provided that the medical examination is completed at the earliest possible date and in no instance, later than thirty (30) days after the appointment.

10.100 PLACEMENT OF EMPLOYEES WHO BECOME MEDICALLY NON-QUALIFIED

10.101 General Provisions

- A. The provisions of this section shall apply to permanent employees who become medically non-qualified and to original probationary employees with a service-connected disability.
- B. It is the responsibility of the Port to assure, to the extent possible, the continued employment of employees who:
 - 1. become disabled as a result of an injury, accident or illness that is not a result of misconduct;
 - 2. are found to be medically non-qualified for their present position;
or
 - 3. has a disability incurred in or aggravated during military service but who are medically qualified for other types of positions within the Port.
- C. The employee shall be examined at the expense of the Port by a government or private physician or physicians, in such field or fields of medicine and/or psychiatry as may be applicable to evaluate the employee's qualifications for his present position, or assess his current physical and emotional capacities and/or evaluate his qualifications for a vacancy for which he is being considered under the provisions of this section.
- D. Employees affected by this rule shall be considered for those vacancies for which they qualify.
- E. In the placement of an employee with a disability, the Port shall consider the following:

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1. The ability of the employee to safely perform the essential functions of the position without undue interruption to the work program and/or undue hardship on the operations of the program.
 2. The ability of the employee to absorb any required training or re-training; and
 3. The mutual interest of both the Port and the employee.
- F. If demotion is involved, whether or not initiated by the employee, he shall be compensated in accordance with Rule 6.006.

10.102 Placement of Employees with Disabilities

After medical, physical, or psychological re-evaluation, an employee who is no longer qualified to perform the duties of his position satisfactorily within a stated reasonable period of time and in spite of reasonable accommodations due to permanent medical physical or mental incapacity, the General Manager shall take the following action (provided the employee is qualified and able to perform the new duties within the limitations established by these rules and the American with Disabilities Act (ADA)):

- A. Transfer the employee to an equivalent position elsewhere in the Port organizational structure; or
- B. Placement of the employee consistent with Chapter 4; or
- C. If no equivalent position is available, to reassign the employee to a lower graded position, without loss of pay, elsewhere in the Port.

10.103 Reasonable Accommodation

Every effort shall be made by the General Manager to provide reasonable accommodations to assure continued employment.

10.104 Termination of Employment

The General Manager shall terminate the employment of those employees who become disabled as a result of an injury, accident or illness that is not a result of misconduct or found to be medically non-qualified for their present position only for the following reasons:

- A. If no suitable placement can be made or if the employee refuses placement in a suitable position.
- B. If the employee refuses or is ineligible for retirement.

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- C. If the General Manager has evidence that the employee is permanently disabled from performing the job, or will be disabled for a long time that termination is necessary in light of demonstrated business realities.

Such termination shall be consistent with the Adverse Action Procedures, Chapter 11.

10.200 SAFETY STANDARDS

The minimum safety standards shall be those as established in the Occupational Safety and Health Code (Chapter 87, Title 10 of the GCA) and administered by the Division of Occupational Safety and Health of Department of Labor.

CHAPTER 11

ADVERSE ACTION PROCEDURES

STATEMENT OF POLICY

This chapter sets forth the guidelines and procedures by which the General Manager may suspend, demote, or dismiss a permanent employee.

11.000 COVERAGE

This chapter shall apply to all permanent classified employees.

11.100 SCOPE

For the purpose of this Chapter, the term “dismissal” shall not be interpreted to include:

- A. Actions taken by the General Manager referenced in the Chapter on “Resignation, Termination and Clearance”; or
- B. Action taken by the General Manager in the termination of services of an original probationary employee.

11.200 EMPLOYEE DISCIPLINE

11.201 General Provisions

A. Responsibility for Discipline

The General Manager derives its authority and responsibility for employee discipline under the provisions of Section 4105, Title 4, of the GCA.

The General Manager has the responsibility to remove, suspend, or demote to another position on a fair and equal basis, any employee in the classified service whose conduct or capacity is such that his removal, suspension or demotion will promote the efficiency of government service.

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B. Delegation of Authority

The General Manager may delegate responsibility for administration of day-to-day discipline to his line-management, to include such progressive discipline, as oral admonitions, letters of warning, letters of reprimands, and recommendation of adverse actions.

C. Vested Authority

The General Manager is the only official vested with the final authority to take adverse action, including removal, demotion, or suspension against an employee.

11.202 Job Protection Procedures in Employee Discipline Actions

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

1. Informal counseling at the first indication that an on-the-job or personal problem is affecting the employee's job performance.
2. A reasonable opportunity for the employee to correct inadequate performance including providing specific training to the employee to improve the level of his 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 proposed adverse action that may result in a suspension, demotion or dismissal.
4. The right to reply to the notice of proposed adverse action and careful consideration of any reply; and
5. The right to appeal to the Commission as provided in the CSC Rules and Regulations Relative to Demotion, Suspension, Dismissal and Appeal of Adverse Actions.

- B. The General Manager shall require each supervisor and manager receive orientation and training on the Authority's basic intent that discipline is a tool for correcting 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.

11.300 ADVERSE ACTION PROCEDURES

11.301 General Requirements

- A. An employee must be given the final notice and statement of the charges pursuant to Title 4, GCA, Section 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.

In no event may an employee in the classified service be given notice and statement of the charges required by this Rule after the sixtieth (60) day after management knew or should have known of the facts or even that form the alleged basis for such action. Any action brought by management is in violation of Section 4406 of Title 4, GCA is barred and any decision based upon such action is void.

- B. An employee covered by the Adverse Action Procedures may be suspended for not 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 the result of multiple adverse actions taken by the Authority.
- C. Copies of the adverse action rules and appeal procedures should be made available upon request by the employee.

11.302 Definition

- A. **Suspension:** The temporary removal of an employee from his position with loss of pay as a disciplinary measure.
- B. **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.
- C. **Dismissal:** The termination of an employee for authorized cause for adverse action.

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D. Day: Refers to calendar day unless otherwise specified.

11.303 Authorized Causes for Adverse Action

The General Manager may remove an employee for such misconduct(s), which affect(s) the efficiency of the service. The authorized causes for adverse action include:

- A. Fraud in securing appointment.
- B. Refusal or failure to perform prescribed duties and responsibilities.
- C. Violation of the Authority's Drug Free Workplace Policy.
- D. Falsification of records, such as, but not limited to reports, time records, information system records, leave records, employment applications, or other official Authority documents.
- E. Insubordination, including but not limited to, resisting management's directives through actions and/or verbal exchange, or failure or refusal to follow supervisor's instructions to perform assigned work, or otherwise failure to comply with applicable established written policy(ies).
- F. Reporting to work under the influence of, or when ability is impaired by the use of alcohol or the unlawful use of controlled substance.
- G. Unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the Authority's premises including while operating the Authority's equipment.
- H. Unauthorized absence.
- I. Criminal convictions for felonies or misdemeanors while employed, including conviction of a moving traffic violation while operating the Authority's equipment.
- J. Discourteous treatment of the public, customers or other employees.
- K. Engaging in political activity prohibited by law.
- L. Misuse or theft of government property.
- M. Acts of physical violence or fighting endangering and threatening the life or safety of customers, employees, or the public.
- N. Violation of safety rules and regulations.

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- O. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- P. Acts prohibited by Section 9102, Title 4 of GCA relating to strikes against the Government.
- Q. Threatening, coercing, harassing or acts of discrimination to employees, supervisor, customers or individuals, to include sexual harassment.
- R. Unsatisfactory performance.

11.304 Employees Covered

All employees in the classified service are covered by these Rules, except for the following:

- A. Contract employees whose contracts are not renewed upon expiration.
- B. Probationary employees serving original appointments.
- C. Employees on limited-term, temporary, seasonal, intermittent, part-time, provisional, or only for a specific project.
- D. Employees who are exempt by law or other legal authority from the jurisdiction of the Commission with regards to adverse actions.

11.305 Adverse Action Covered

- A. These Rules apply to the following adverse actions:
 - 1. Suspension
 - 2. Demotion (disciplinary action)
 - 3. Dismissal
- B. The use of any combination of the adverse actions listed for the same offense is prohibited.

11.306 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. A copy of the notice of proposed adverse action shall be submitted to the Commission. The General

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Manager or delegated management official may issue the proposed adverse action to the employee.

11.307 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 during the notice period to meet with the employee at the designated date and time requested by the employee. The General Manager may designate a committee to hear the employee's answer. The employee may be represented by a person of his 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 an answer, and the General Manager may proceed with the adverse action upon expiration of the notice period. The employee is not prohibited from meeting the General Manager during the notice period.

The entire ten (10) days for the employee to respond to the notice of proposed adverse action must expire before a final notice of adverse action is issued.

11.308 Suspension During Notice Period

- A. 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:
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.
 2. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property, or important documents.
 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.
- B. Suspension under this Section is a separate adverse action and it is appealable to the Commission within twenty (20) days of the effective date of the action. A copy of the notice of immediate suspension shall be filed with the Commission not later than the working day next following the effective date of the suspension.

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- C. If the Commission 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 suspension be more than thirty (30) work days.

11.309 Leave Pending Investigation

In cases requiring investigations of allegations against an employee involving misappropriation of public funds or property, mistreatment of persons in a government institution or acts which constitutes 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.

11.310 Employment Status During Imprisonment

- A. 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.
- B. The General Manager shall determine whether to take adverse action against an employee so imprisoned or take such appropriate action as he deems necessary pursuant to laws and the Authority's Personnel Rules and Regulations. Nothing in this Section shall preclude the General Manager from taking adverse action against an employee during imprisonment or upon release.

11.311 Final Notice of Adverse Action

- A. 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 charge(s) except as provided in the Commission's Hearing Procedures for Adverse Action Appeals, and provided further that the General Manager shall not issue a final decision during the notice period. 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 except as provided in the Commission's Hearing Procedures for Adverse Action Appeals. 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 Commission; and, inform him of the time limit within which an appeal may be submitted as provided in the Commission's Hearing Procedures for Adverse Action Appeals.
- B. Prior to the final notice of adverse action, the General Manager may conduct an inquiry or investigation into the charges and proposed adverse

action, including calling a meeting with the employee.

- C. Copies of the final notice of adverse action shall be filed by the Authority with the Commission not later than the next work day following the effective date of the action. A copy of the final notice shall be retained by the Human Resources Division.

11.312 Appeal to the Civil Service Commission

The Hearing Procedures for Adverse Action Appeals adopted by the Commission shall be applicable for all Adverse Action Appeals Proceedings.

11.313 Service of 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 registered mailing the notice to the employee at the last known address. Service by registered mail is complete upon mailing.

11.400 GUIDELINES FOR DISCIPLINARY OFFENSES AND PENALTIES

11.401 General Provisions

- A. The list that follows is not intended to cover every possible type of offense affecting the efficiency of the service. Penalties for offenses not listed will be prescribed by the General Manager.
- B. Many of the items listed on this schedule combine several offenses in one statement, connected by the word "OR". Usage of the word "OR" in a charge makes it non-specific. Use only the items, which describe the employee's actual conduct and leave out parts which do not apply.
- C. Penalties for disciplinary offenses will, in general, range from the minimum penalty to the maximum indicated. In unusual circumstances, depending on the gravity of the offense, the past record, and the position of the employee, a penalty outside the general range may be imposed.
- D. Suspension penalties on this schedule apply to work days and holidays.
- E. Depending on the gravity of the offenses, dismissal proceedings may be instituted against an employee for any number of offenses committed. A greater penalty may be imposed for any offense if the circumstances justify greater penalty.

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- F. In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule of penalty to provide certain flexibility for management's discretion to institute progressive disciplinary action against an employee or group of employees.
- G. Documents relating to reprimand(s) shall not remain in an employee's personnel jacket for more than one (1) year from date of issue.

11.402 Range of Penalties for Stated Offenses: (Reprimands – Suspensions – Dismissals)

In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule to institute a progressive disciplinary action against an employee or group of employees. Reprimands shall not remain in an employee's personnel jacket for more than one (1) year.

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
A.	Unauthorized absence	Reprimand	Suspension	Suspension	Dismissal
B.	Falsifying attendance record for oneself or another employee.	Reprimand	Suspension	Suspension	Dismissal
C.	Leaving job to which assigned at any time during working hours without proper permission.	Reprimand	Suspension	Suspension	Dismissal
D.	Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime.	Reprimand	Suspension	Suspension	Dismissal
E.	Unexcused tardiness	Reprimand	Suspension	Suspension	Dismissal
F.	Actual or attempted theft of government or Authority's property or property of others.	Reprimand	Dismissal	Suspension	Dismissal

CONDUCT

A.	Criminal, dishonest, infamous or notoriously disgraceful conduct adversely affecting the employee-employer relationship (on duty or off-duty).	Reprimand	Suspension	Suspension	Dismissal
B.	Disobedience to constituted authorities, or deliberate refusal to carry out any proper order from any supervisor having responsibility for the work of the employee; Insubordination.	Reprimand	Dismissal	Suspension	Dismissal

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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
C.	Disorderly conduct, fighting, threatening or attempting to inflict bodily injury to another; engaging in dangerous horseplay or resisting competent authority.	Reprimand	Dismissal	Suspension	Dismissal
D.	Disrespectful conduct; use of insulting, abusive, or obscene language to or about other personnel.	Reprimand	Dismissal	Suspension	Dismissal
E.	Falsification, misstatement, or concealment of material fact in connection with any official record.	Reprimand	Dismissal	Suspension	Dismissal
F.	False testimony or refusal to testify in an inquiry, investigation or other official proceeding.	Reprimand	Dismissal	Suspension	Dismissal
G.	Knowingly make false or malicious statements with the intent to harm or destroy the reputation of authority, or other official standing of individuals or organizations.	Reprimand	Dismissal	Suspension	Dismissal
H.	Gambling or unlawful betting during working hours.	Reprimand	Dismissal	Suspension	Dismissal
I.	Promotion of gambling on Government or Port premises	Reprimand	Dismissal	Suspension	Dismissal
J.	Willful damage to Government or Port premises or the property of others.	Reprimand	Dismissal	Suspension	Dismissal
K.	Engaging in prohibited acts covered in Section 9102 of Title 4, GCA.	Penalty shall be imposed pursuant to Section 9103, Title 4, GCA			

DISCRIMINATION

A.	Discriminating against an employee or applicant because of race, color, religion, sex, national origin, age, disability, creed, political affiliation or marital status or other prohibited discriminatory practices.	Reprimand	Dismissal	Suspension	Dismissal
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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum

INTOXICANTS

A.	Reporting for duty or being on duty under the influence of intoxicants, unauthorized possession of or attempting to bring intoxicants on Government or Port premises.	Reprimand	Dismissal	Suspension	Dismissal
B.	Reporting for duty while under the influence of a narcotic or dangerous drug or use of same on Government or Port property or on duty.	Reprimand	Dismissal	Suspension	Dismissal
C.	Unauthorized sale or transfer of narcotic or dangerous drug on Government or Port property or during duty hours.	Reprimand	Dismissal	Suspension	Dismissal

PERFORMANCE

A.	Careless workmanship resulting in spoilage or delay in production.	Reprimand	Suspension	Suspension	Dismissal
B.	Covering up or attempting to conceal defective work; removing or destroying same without permission.	Reprimand	Suspension	Suspension	Dismissal
C.	Failure or delay in carrying out orders, work assignments or instructions of superiors.	Reprimand	Suspension	Suspension	Dismissal
D.	Loafing, wasting time or inattention to duty.	Reprimand	Suspension	Suspension	Dismissal
E.	Sleeping on duty where life or property is endangered.	Reprimand	Suspension	Suspension	Dismissal
F.	Unauthorized use or possession of, loss of, or damage to Government or Port property or the property of others.	Reprimand	Suspension	Suspension	Dismissal

SAFETY

A.	Failure to observe precautions for personal safety, posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment.	Reprimand	Suspension	Suspension	Dismissal
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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
B.	Violation of safety regulations which endangers life or property.	Reprimand	Suspension	Suspension	Dismissal
C.	Endangering the safety of or causing injury to personnel through carelessness.	Reprimand	Suspension	Suspension	Dismissal
D.	Failure to observe no smoking regulations or carrying matches in restricted areas.	Reprimand	Suspension	Suspension	Dismissal
E.	Violating traffic regulations driving on Government premises, or improper operation of government motor vehicles.	Reprimand	Dismissal	Suspension	Dismissal

**11.500 CIVIL SERVICE COMMISSION HEARING PROCEDURES COVERING
SUSPENSIONS, DEMOTIONS AND DISMISSALS.**

It shall be the responsibility of the General Manager to ensure that the Commission's hearing procedures be disseminated to each employee.

CHAPTER 12

GRIEVANCE PROCEDURES

STATEMENT OF POLICY

It shall be the policy of the Authority to promote favorable relations between management and its employees by resolving complaints expeditiously; prevent similar complaints; assure fair and equitable treatment of all employees; and promote harmonious working relationships among all levels of employees.

The General Manager shall develop procedures outlining the responsibilities and steps to be followed by employees in the presentation of an informal or formal grievance. All levels of management shall carefully and promptly respond to an employee's grievance and shall be guided by these procedures.

12.000 APPLICABILITY

The regulations shall apply to all permanent classified employees.

12.100 DEFINITION

A grievance is any question or complaint filed by a permanent employee alleging that there has been a misinterpretation, misapplication or violation of a personnel statute, rule, regulation, written policy which directly affects the employee in the performance of his official duties; or that he has received prejudicial, unfair, arbitrary, capricious treatment in his working conditions or work relationships.

The time frames will serve as guide and may be extended or shortened based on concurrence of the parties involved.

12.200 COVERAGE

Grievances may include, but are not limited to, such actions as employee-supervisor relationships, duty assignments not related to job classification, shift and job location assignments, hours worked, working facilities and conditions, policies for granting leave, and other related matters.

12.300 EXCLUSIONS

12.301 General Exclusions

The following actions are not covered by the grievance procedures:

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- A. Disqualification of an applicant;
- B. Disqualification of an eligible;
- C. Examination ratings;
- D. Removal during original probationary period;
- E. Appeals from classification determinations;
- F. Appeals from adverse personnel actions;
- G. Allegations or complaints of discrimination; and
- H. Appeals of performance evaluations.

12.302 Grievance Procedures for Employee Organizations

The procedures are also not applicable when the employee is in a unit covered by an exclusive recognition, as an employee organization, which has negotiated grievance procedures for that unit. When negotiated procedures exist, they shall be the exclusive procedures available to public employees in the unit for settlement or group grievances.

12.303 Equal Employment Opportunity Discrimination Complaint

When an aggrieved employee submits a written allegation of discrimination on grounds of race, color, religion, sex, national origin, marital status, age, disability or political affiliation in connection with a matter which is subject to the Authority's grievance procedures, as well as, the EEO Discrimination Complaint Procedures, that allegation shall be processed under the EEO Discrimination Complaint Procedures.

12.400 GENERAL PROVISIONS FOR USE OF GRIEVANCE PROCEDURES

12.401 Freedom from Reprisal or Interference

- A. An employee and his representative shall be free to use the grievance system without restraint, interference, coercion, discrimination, or reprisal.
- B. An employee, whether acting in an official capacity for the Authority, or on any other basis, must not interfere with, or attempt to interfere with, another employee's exercise of his rights under the grievance system. To be fully effective, the spirit as well as the letter of this non-interference requirement must be enforced. It is not enough for an official to abstain from overt threats or interference. He should refrain from making any statement or taking any action, which has the appearance or even the flavor of a threat, interference, or intimidation.

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12.402 Employee's Status During Grievance Procedures

An employee's status during each procedural level shall be status quo.

12.403 Right to Seek Advice

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

- A. The Authority's Human Resources Division;
- B. The EEO Coordinator or Counselor; or
- C. A supervisory or management official of higher rank than the employee's immediate supervisor.

12.404 Representation

- A. An employee has the right to present a grievance without representation.
- B. An employee has the right to present a grievance with representation.
 - 1. An employee has the right to be accompanied, represented, and advised by a representative of his choice at any stage of the grievance proceedings.
 - 2. An employee may change his representative, but to do so, he must notify his supervisor and the General Manager of the change in writing.
 - 3. A person chosen by the employee must be willing to represent him.

12.405 Official Time for Presentation of the Grievance

- A. An employee must be given a reasonable amount of official time to present his grievance if he is otherwise in an active duty status.
- B. An employee's representative, if he is an employee of the Government of Guam 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 the presentation include time for investigation or preparation, or that it includes travel expense or per diem travel allowance or consultation with private attorney.

12.406 Termination of Grievance

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

any time.

- B. Failure on the part of the employee to proceed to a higher step of the grievance procedure within the time period specified will terminate the grievance.

12.407 Management's Responsibility for Timely Action and Settlement At the Lowest Possible Level

- A. It shall be the responsibility of management to settle grievances fairly and promptly at, or near the organizational level where the employee brought the grievance to their attention.
- B. Failure by management to render a decision to the employee within the allotted time at any step constitutes denial; the employee may then proceed to the next step of the grievance procedures.

12.500 STEP 1 – INFORMAL GRIEVANCE PROCEDURES

12.501 Management Responsibility

An employee's grievance may or may not be objectively justified. What is important is that the grievance is real to the employee. When the grievance is well founded, management official has both a duty and a need to eliminate the cause. When the grievance is not well founded, it is equally important to reach an understanding based on the full facts. Therefore, the informal procedure should assure consideration of every employee's grievance with a degree of promptness, sympathy, understanding, fairness, competence, and authority which convinces the employee that he has been treated fairly.

12.502 Settlement at the Lowest Possible Level of Management

The informal procedures should be as simple as possible consonant with bonafide consideration of grievances. It should encourage settlement of matters at the lowest possible administrative level in the shortest possible time and should not, therefore, require any written explanation from the employee. The employee may present his grievance under the informal procedures, either orally or in writing, and he should not be prevented from submitting a written explanation if he desires.

12.503 Supervisor's Responsibility

- A. Normal day-to-day discussions between employees and supervisors regarding working conditions and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships.

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- B. Each employee of the Authority has the right to present matters to his supervisor, and each supervisor has the obligation to act promptly and fairly upon them, seeking advice and assistance of others when necessary.

12.504 Employee's Responsibility

- A. Each employee is expected to make a concerted effort to achieve informal settlement of his grievance. He should promptly bring his grievance to the attention of the appropriate supervisory level.
- B. Tolling Period: In counting the number of days for each step, if the last day of the period falls on a weekend, the filing time or receipt time falls on the next working day.

12.505 Using the Informal Grievance Procedure -- Step 1

A. Initiation by Employee

In keeping with the personal nature of matters covered by grievance procedures, only employees can initiate grievances, singly or jointly. They may not be initiated by employee organizations. Employee organizations may be permitted to present a grievance on behalf of an employee or a group of employees when requested to do so by the employee or employees.

B. Time Limit

1. An employee may present a grievance to his immediate supervisor concerning a continuing practice or condition at any time. Grievances concerning a particular act or occurrence must be presented within fifteen (15) calendar days of that action or occurrence.
2. The immediate supervisor shall render a decision within ten (10) calendar days of the presentation of the grievance.

C. Form of the Grievance

An employee may present a grievance under the informal procedure either orally or in writing.

D. Non-rejection Provision

A grievance may not be rejected in the informal procedure for any reason.

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If the grievance is not timely or consists of a matter not covered under the grievance system, the employee should be so advised but he must be allowed to submit his grievance under the formal procedures if he insists.

E. Mandatory Use of the Informal Procedure

An employee must complete the informal procedure before the Authority may accept from him a grievance concerning the same matter under the formal procedure.

12.600 STEP 2 – FORMAL GRIEVANCE PROCEDURES – NEXT ADMINISTRATIVE LEVEL

12.601 Presentation of the Grievance – Step 2

- A. An employee is entitled to present a grievance under the formal procedure if:
1. he has completed the informal procedure;
 2. the grievance is not satisfactorily resolved at the informal level; and
 3. the immediate supervisor failed to render a decision within ten (10) calendar days of the presentation of the grievance at the informal level.
- B. The grievance presented in Step 2 must:
1. be in writing on a form prescribed by the General Manager;
 2. contain sufficient detail to identify and clarify the basis for the grievance;
 3. specify the remedy requested by the employee or the appropriate supervisory level; and
 4. be submitted to the appropriate division manager who is the next higher supervisor than the immediate supervisor within five (5) calendar days after receipt of the answer in Step 1 or after the answer was due.

12.602 Responsibility of Next Higher Supervisor

- A. The next higher supervisor must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed

through the informal procedure.

- B. The next higher supervisor shall make a positive attempt to resolve the grievance. He shall render a decision, in writing, to the employee within five (5) calendar days of receipt of the written grievance.

12.700 STEP 3 – FORMAL GRIEVANCE PROCEDURES – GENERAL MANAGER

12.701 Presentation of the Grievance – Step 3

- A. An employee is entitled to present a grievance under Step 3 if:
 - 1. he has completed Step 2 of the procedures; and
 - 2. the grievance is not satisfactorily resolved at Step 2 level; or
 - 3. specify the remedy requested by the employee; and
 - 4. be submitted to the General Manager within five (5) calendar days after receipt of the answer in Step 2 or after the answer was due.

12.702 Authority Grievance Committee

- A. Appointment of the Committee

Within three (3) calendar days of receipt of the written grievance from the employee, the General Manager shall appoint a Grievance Committee to investigate the circumstances of the grievance and to make a recommendation as to its disposition.

- B. Committee Membership

The Committee shall consist of four (4) members who are permanent government employees: two (2) members from the employee's peer group and two (2) members who are permanent employees at the managerial level.

- C. Responsibility of the Committee

The Committee must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed through the informal procedure.

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D. Committee Inquiry

The Committee shall be expected to convene and initiate a grievance inquiry appropriate to 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.

E. Grievance File

When the Committee begins a grievance inquiry, the Committee Chairperson (elected by the members of the Committee) shall establish an employee grievance file. This is an independent file, separate and distinct from the personnel folder. The grievance file must contain all documents pertaining to the grievance including:

1. statements of witnesses;
2. records or copies of records; and
3. Reports of personal interviews.

F. 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 a file in a form, which the employee can review or it must not be used.

G. Committee Report

The Committee shall complete its investigation within fifteen (15) calendar days of the date the Committee was appointed and shall submit a written report of its findings and recommendations to the General Manager within two (2) calendar days following completion of its investigation.

H. General Manager's Written Decision

The General Manager shall render a written decision to the employee within five (5) calendar days of receipt of the written report from the Committee.

12.800 STEP 4 – APPEAL TO THE COMMISSION

12.801 Presentation of the Grievance – Step 4

- A. An employee is entitled to present a grievance appeal under Step 4 if:
1. he has completed Step 3 of these procedures; and
 2. the grievance is not satisfactorily resolved at Step 3 level; or
 3. the General Manager failed to render a decision within five (5) calendar days of the submission of the written report from the Authority Grievance Committee at Step 3 level; or
 4. there has been a violation of the Government Code or Authority Personnel Rules and Regulations; or
 5. the procedural rights of the employee filing the complaint as outlined have been disregarded; or
 6. the decision of the supervisor, Authority Grievance Committee and the General Manager has been unjust, inequitable or not in accord with the facts; or
 7. the General Manager fails to act on the Authority Grievance Committee's recommendations.
- B. The grievance presented in Step 4 must:
1. be in writing on a form prescribed by the General Manager;
 2. contain sufficient details to identify and clarify the basis of the grievance;
 3. include copies of the grievance forms submitted in Steps 2 and 3;
 4. specify the remedy requested by the employee; and
 5. be submitted to the Commission within five (5) calendar days after receipt of the answer in Step 3 or after the answer was due.

CHAPTER 13

RESIGNATION AND TERMINATION

STATEMENT OF POLICY

The purpose of this Chapter is to provide an orderly, uniformed and fair procedures for non-disciplinary separation of employees from the Authority's service.

13.000 RESIGNATION

13.001 Coverage

This section shall apply to all classified service employees.

13.002 Notice of Resignation

An employee may resign by giving written notice of the resignation to the General Manager. The employee shall notify the General Manager in writing at least ten (10) workdays before the date of separation. When a resignation letter is directed to the General Manager, it shall by its terms, be effective immediately or on a certain date. If no effective date is indicated, it shall be effective upon delivery to the General Manager.

Upon receipt by the General Manager of any resignation letter, the General Manager may make the resignation effective immediately or sooner than the effective date in the resignation letter. Such resignation shall be effective according to its terms unless the General Manager, at his discretion, makes the resignation effective immediately or at sometime sooner than the resignation letter. Acceptance of such resignation by the General Manager is not required for the resignation to become effective.

13.003 Withdrawal of Resignation

With the consent of the General Manager, the employee may withdraw a resignation at any time prior to the effective date of the resignation.

13.004 Resignation in Good Standing

A resignation shall be deemed to be in good standing when it is made voluntarily and not as a direct result of a final adverse action or criminal conviction. With the exception of an employee serving an original probationary period, an employee who resigns in good standing shall have reemployment rights consistent with Title 4, GCA and Rules 4.706 and 4.802.

13.005 Resignation Pending Adverse Action

An employee who resigns after receipt of a notice of proposed adverse action is deemed to have resigned voluntarily and has no right to appeal to the Commission. Any employee, who resigns under this rule and is subsequently convicted of a crime based on the same facts, which forms the basis of the adverse action, shall be deemed not to resign in good standing.

13.100 TERMINATION OF EMPLOYMENT

13.101 Termination of Employment

The General Manager may terminate the services of an employee for any of, but not limited to the following reasons:

- A. The duration of the temporary period of employment is ended.
- B. The employee failed to demonstrate satisfactory work performance during the original probationary period or failed to satisfy other conditions of employment.
- C. For misconduct, in which case, the adverse action procedures shall be adhered to. (Refer to Adverse Action Procedures.)

13.200 EXIT INTERVIEW

A personal interview shall be conducted with each employee separating from the services of the Authority. The interview shall be held prior to the employee's effective date of separation. The interview shall be conducted in such manner as to obtain from the separating employee the true reason or reasons for his separation. Such interview shall be recorded on forms prescribed by the General Manager and made part of the separating employee's personnel folder. A representative of the Human Resources Division shall conduct the interview.

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13.201 Clearance

Each separating employee must be cleared of all obligations within the Authority no later than the employee's last working day. Final payment of wages will be withheld pending completion of exit interview and clearance of all obligations to the Authority.

CHAPTER 14

MERIT CAREER PLAN

14.000 PURPOSE

This procedure outlines the responsibilities of the General Manager when permanent classified Authority employees apply and are being considered for career opportunities.

14.100 COVERAGE OF THE MERIT CAREER PLAN

This plan applies only to permanent classified employees.

14.200 EXAMINATION UNDER THE MERIT CAREER PLAN

The same examination will be used for all persons responding to a particular Merit Career Job Announcement.

14.300 REFERRAL OF CERTIFICATION LIST

The top five (10 for entry level labor/custodial and waterfront positions) eligibles shall be furnished to the General Manager based on rank order. However, in the event of tie scores with the fifth (10th for entry level labor/custodial and waterfront positions) eligible, all eligibles with the same score as the fifth (10th for entry level labor/custodial and waterfront positions) eligible will be referred.

14.400 SELECTION INTERVIEW

The General Manager shall establish procedures for interviewing certified eligibles.

14.500 EVALUATION OF CANDIDATES DURING THE SELECTION PROCESS

- A. Evaluation of candidates shall be based on job-related criteria, which measures the knowledge, skills, abilities and personal characteristics essential to successful performance in the position to be filled. Due consideration shall be given to formal recognition of superior performance of candidates, job-related training, and performance appraisals.
- B. Length of service, length of experience or level of formal education may be used as an evaluation factor when there is a clear and positive relationship with the requirements of the job to be performed. Length of service or experience may not be the factor given the greatest weight unless the nature of the vacant job is such that other factors cannot be

expected to identify significant qualitative differences between qualified candidates.

14.600 SELECTION DOCUMENTATION REQUIREMENTS

- A. The basis for selection must be job-related. The results of the selection process must be on file with the Personnel Division. Evaluation results are confidential and form a part of the selection process for the candidates being considered for the position. The Commission reserves the right to post audit selection documentation records.
- B. The General Manager will advise all persons certified under a Merit Career Job Announcement about the selection within ten (10) working days of the selection.
- C. Individuals who were certified and were not selected may request the General Manager to review the adequacy of the consideration they received provided that such a request is received in writing by the General Manager within five (5) working days after the non-selectee received the notice about the selection.

The minimum qualifications established for the position may not be contested by a competitor. The following information shall be made available to competitors under a Merit Career Job Announcement upon request, and the General Manager shall periodically publish the competitor's right to this information:

- 1. whether the individual was considered eligible on the basis of minimum qualification requirements for the position;
- 2. whether an individual was one of those in the group from which selection was made; and
- 3. who was selected.

14.700 HANDLING EMPLOYEE COMPLAINTS

- A. The General Manager shall respond to employee questions or complaints about the career program, or about a specific promotion action, and provide the employee with appropriate information or explanation.
- B. Issues that are not a basis for a formal complaint are:

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1. failure to be selected when proper procedures are used. A complaint may not be filed for non-selection from a group of properly ranked and certified candidates; and
2. any action required to be taken under the provisions of the statute, or instructions of the Commission.

14.800 EXCEPTIONS TO THE MERIT CAREER PLAN

A. The provisions of the Merit Career Plan are not required for career promotions which are:

1. Promotions without current competition where at an earlier date an employee was selected under a Merit Career Job Announcement for a position with known promotional potential to the position to which he is being promoted. The promotional potential must have been included in the announcement, and where appropriate, the career ladder (intervening promotion) documented in the original announcement.
2. Where the employee's position is reconstituted in a higher grade because of gradual accretion of additional duties and responsibilities and the accretion was not the result of planned management action. For example, an increase in the level of the employee's performance or change in workload, procedures, or organization that affects the grade of the positions only incidentally.

To be eligible for a career promotion when the position is upgraded under these conditions, an employee must continue to perform the same basic function and his former position must be absorbed in the new one. When an additional position is created, or when the new position is not a clear successor to the former position, career promotion is not authorized. Similarly, a career promotion may not be made from a non-supervisory position to a supervisor or manager position because these levels of position inherently have specific administrative authority which can only be delegated by management.

B. The provisions of this Merit Career Plan are not required for the following personnel actions:

1. A transfer from a position having known promotional potential to a position having no higher promotional potential.
2. A detail appointment.

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3. An action taken as a remedy for failure to receive proper consideration in a competitive promotion procedure.
4. A promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to issuance of a new classification specification (standards) or the correction of a classification error.
5. Re-promotion to a class or position from which an employee was demoted without personal cause and not at his request. Acceptance of a demotion in lieu of layoff is not a demotion at the employee's request for these purposes.

The competitive procedures of the Merit Career Plan will not be used before these individuals are accorded their rights for re-promotion.

14.900 ADMINISTRATION REQUIREMENTS

- A. The General Manager shall provide for initial and periodic orientation to all employees, supervisors and managers concerning the provisions of this Merit Career Plan and the training of all division managers in their respective responsibilities for assuring the maximum publicity of Merit Career Job Announcements and for advising employees on requirements and provisions of this Merit Career Plan.
- B. The General Manager shall institute controls and audit procedures as deemed necessary to assure that all promotion actions are consistent with the provisions of the Merit Career Plan.
- C. The General Manager will assure that each current and future Division Manager is provided a copy of the Merit Career Plan and any subsequent changes to the Plan.

CHAPTER 15

DRUG FREE WORKPLACE PROGRAM POLICY

STATEMENT OF POLICY

The Authority is committed to maintaining a safe and healthy work environment free from the influence of alcohol and drugs. To that end, the Authority has adopted a Drug-Free Workplace Program. Compliance with the Authority's drug policy is a condition of employment. The Authority intends to take severe disciplinary action, up to including termination, against an employee who violates the Authority's Drug Free Workplace Program.

15.000 PREVENTION AND TREATMENT

The Authority encourages any employee with a drug or alcohol abuse problem to voluntarily seek treatment. The Authority has established an employee assistance program to provide counseling and referral services for employees with drug or alcohol abuse problems who voluntarily seek help.

15.100 PROHIBITED ACTIVITY

The Authority strictly prohibits unauthorized use, possession (including storage in a desk, locker, car or other repository), manufacture, distribution, dispensation or sale of illegal drugs, drug paraphernalia, controlled substances, or alcohol on the Authority's premises, in official vehicles, during working hours or any activity that compromises the integrity or accuracy of the Authority's drug and alcohol program, or any failure or refusal to abide by the Drug-Free Workplace Program, and conviction under any criminal drug statute.

15.200 TESTING

The Authority may require employees and applicants to be tested for drugs or alcohol upon hiring; when the Authority suspects that the employee's work performance or on-the-job behavior may have been affected in any way by drugs or alcohol; or when the Authority determines that an employee may have contributed to an accident involving fatality, serious bodily injury, or substantial damage to property. In addition, employees will be subject to random drug testing. Any positive drug or alcohol test is a violation of the Authority's Drug Free Workplace Program. Any test for drug or alcohol abuse will be conducted using reasonable procedural safeguards.

15.300 PROCEDURES

The procedures to effectively administer the Drug Free Workplace Program shall be those established by Port.

CHAPTER 16

EMPLOYEE INCENTIVE AWARDS PROGRAM

STATEMENT OF POLICY

It is the policy of the Port to develop Employee Incentive Awards program to recognize employees who by their suggestions, inventions, superior accomplishments or other personal effort contribute to the efficiency, economy or improvements of the Port operations; and perform special acts or services in the public interest in connection with or related to his official employment.

16.000 SERVICE MEDALS

16.001 Silver Medal

A silver medal for faithful service to the Government of Guam is granted to an employee and will be known as the Twenty-five (25) Year Service Medal.

This medal may be granted by the Port, to any person who has faithfully served the Government of Guam for a total for at least twenty-five (25) years. Creditable service to the Naval Government of Guam in a civil capacity, or active service in the Guam militia, shall be counted toward the time necessary to establish eligibility for this medal. Service in a federal capacity shall also be counted, provided such service has been directly in connection with the Government of Guam activities.

The Twenty-five (25) Year Service Medal will be of silver and may be worn by its recipient on occasions of ceremony.

A Five (5) Year Silver Bar may be granted by the Port for each five (5) years of service over the twenty-five (25) year basic period provided the additional service would have been eligible to count toward original award of the medal.

16.002 Gold Medal

An award for faithful service to the Government of Guam is established and shall be known as the Gold Service Medal.

This medal shall be granted by the Port to any person who has faithfully served the Government of Guam not less than thirty-five (35) years. Creditable service to the Naval Government of Guam in a civil capacity, or active service in the

Guam militia, shall be counted toward the time necessary to establish eligibility for this medal. Service in a Federal capacity shall also be counted, provided such service has been directly in connection with Government of Guam activities.

The Gold Service Medal may be worn by its recipient on occasions of ceremony.

16.100 INCENTIVE AWARDS PROGRAM

16.101 Purpose: The Port's incentive award programs should be designed to recognize competent, efficient, dedicated employees who:

- A. contributed to the services of the Port above and beyond the requirement of their position titles;
- B. rendered outstanding service to the Port to the best of their ability and knowledge in performing their assigned duties;
- C. by their outstanding accomplishments or other personal efforts contributed to the effectiveness of their division or to the mission accomplishments of the Port as a whole; or
- D. recognizes and reward employees who offer suggestions, ideas, recommendations, whose implementation would result in monetary savings or improve Port's operations.

Additionally, the program is to be used as a tool to motivate and inspire other employees of the Port for such recognition and at the same time enhance the overall work attitude.

16.102 Policies and Procedures: The General Manager shall establish policies and procedures for granting an award under the Port's Incentive Awards Program.

**PERSONNEL RULES AND REGULATIONS
GLOSSARY**

1. **ADVERSE ACTION:** Action taken by the General Manager or his designated representative which may suspend, demote, or dismiss a permanent employee.
2. **ADMINISTRATIVE LEAVE:** Leave with pay without charge to annual leave.
3. **ADMINISTRATIVE WORKWEEK:** Consists of 40 hours of work or paid leave per workweek.
4. **ALLOCATION/CLASSIFICATION:** The assignment of an individual position to an appropriate class in the classification plan on the basis of kind and difficulty of the duties and job requirements of work performed in the position.
5. **APPOINTING AUTHORITY:** The General Manager of the Port Authority of Guam.
6. **BOARD:** Shall mean the Port Authority of Guam Board of Directors.
7. **CERTIFICATION OF ELIGIBLES:** A document containing names from which competitive appointment is made.
8. **CLASS OF POSITION:** Includes all positions, which are sufficiently similar, as to:
 - (a) kind and subject matter of work;
 - (b) level of difficulty and responsibility; and
 - (c) the qualification requirements of the work to warrant similar treatment in personnel and pay administration.
9. **CLASS SERIES:** Consists of two or more classes that are similar as to line of work but differ as to level of responsibility and difficulty.
10. **CLASS STANDARD:** An official document which describes the general characteristics of the class, including title, nature of work summary, statement of examples of typical duties performed, a statement of minimum qualifications, and the minimum knowledge, abilities, and skills needed to perform the work which provides the criteria for placing each position in its proper class.
11. **CLASS TITLE:** The official name given to a class of positions to identify the class and all positions in the class, and shall be used for personnel, budget and fiscal purposes.

12. **CLASSIFICATION PLAN (Position Classification Plan):** A plan in which classes of positions are arranged in a logical and systematic order according to similarities and differences in duties, responsibilities, and qualifications requirements.
13. **CLASSIFIED SERVICE:** Government service of which employees have attained permanent status and cannot be removed from employment without cause.
14. **COMMISSION:** Shall mean the Guam Civil Service Commission.
15. **COMMON-LAW:** Persons who have co-habituated for at least two consecutive years and who are readily eligible to marry without emancipation under the laws of Guam.
16. **COMPARABLE POSITIONS:** Positions of equivalent or lower grade and pay in the same occupational category.
17. **COMPENSATION PLAN:** A compilation of all classes of positions in the classification plan setting forth their assignments of pay grades in accordance with Chapter 6 of Title 4 of the GCA.
18. **COMPENSATORY TIME-OFF:** Time off in lieu of overtime pay. The amount of time off shall be granted at time and one half.
19. **CREATION OF NEW CLASS OR CLASSES OF POSITIONS:** Those creations pursuant to Section 6303 of Title 4 of the GCA, because there is no existing class in the classification plan to which a position creation can be properly allocated.
20. **CREDITABLE SERVICE:** Service period for increment step increases.
21. **DEMOTION:** The change of an employee's position to a position with a lower maximum salary rate.
22. **DEMOTION (Involuntary):** Demotion of an employee for cause.
23. **DEMOTION (Voluntary):** Demotion requested by an employee in order to retain employment, when lay-off from his position is eminent, or for other reasons when the action is entirely voluntary on the part of the employee and not for cause.
24. **DETAIL:** The temporary assignment of an employee to perform a particular function other than the position to which regularly assigned. Detail shall not be for a period of more than 90 days, except where the Department of Administration has granted an extension of up to an additional 90 days per calendar year.

25. **DISCIPLINE:** Corrective action(s) taken by the General Manager, which is/are necessary to maintain the efficiency of the service.
26. **DISMISSAL:** Separation, discharge or removal for cause of an employee from his position.
27. **DIVISION HEAD:** The head of a respective division within the Port Authority of Guam.
28. **DUTY:** A task assigned to an employee by a responsible management authority.
29. **EMERGENCY:** Situations which may jeopardize human life and property or Port's operations which require immediate action.
30. **EMPLOYEE:** Any person employed by the Port.
31. **ESSENTIAL FUNCTIONS:** Those functions contained in a job specification that the General Manager believes to be important in accomplishing the purpose of the job.
32. **FIRST DEGREE OF CONSANGUINITY:** Blood relationship restricted to parent-child or sibling-sibling, to include adoptive and step-parents and children.
33. **GCA:** Shall mean the Guam Code Annotated.
34. **GOVERNMENT-WIDE:** Includes permanent status employees occupying classified positions within the Government of Guam departments and agencies.
35. **GRADUAL ACCRETION OF DUTIES AND RESPONSIBILITIES:** The acquiring of duties and responsibilities over a period of time. The employee must continue to perform the same basic function and his former position must be absorbed in the new one.
36. **GRIEVANCE:** Complaints, which relate to the working condition and relationship to Port policies, rules and regulations, and which cannot be resolved through informal discussions with the immediate supervisor.
37. **IMMEDIATE FAMILY:** With respect to leave, immediate family is defined as the employee's spouse, common-law, mother, father, grandparents, guardian, children, in-loco parentis, sister, brother, mother-in-law, and father-in-law. Step, adoptive, and spouse of adoptive parents, children, and grandchildren would also be considered "Immediate Family".

38. **IN-LOCO PARENTIS:** Refers to the situation of an individual who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
39. **JOB CONTENT:** Duties and responsibilities assigned to a particular position.
40. **KNOWN PROMOTIONAL POTENTIAL:** Upward career mobility in a series of positions within the Port without competition and where at an earlier date an employee was selected under a competitive examination.
41. **LAY-OFF:** The involuntary termination of employment as a result of reorganization or lack of funds.
42. **LEAVE YEAR:** The period from the beginning of the first complete pay period in the fiscal year commencing October 1, to the beginning of the first complete pay period in the following fiscal year.
43. **LIMITED-TERM APPOINTMENT (LTA):** An appointment to positions, which are permanent in nature, not to exceed one year.
44. **LINE MANAGEMENT:** The line of authority from the General Manager down to the first level supervisors.
45. **MERIT CAREER:** Promotion within the classified service, which is covered under the Merit Career plan of these rules.
46. **MINIMUM QUALIFICATION:** Minimum experience and training requirements derived from the knowledge, abilities, and skills and other qualification required to perform the duties and responsibilities of the position.
47. **MISCONDUCT:** Any action of an employee which is of a personal nature not related to the employee's ability to perform the job, but which constitutes a violation of regulations governing expected employee conduct on the job.
48. **NEPOTISM:** Supervisor-subordinate relationship between and among spouses and persons within the first degree of consanguinity, or as prescribed in Title 4, Section 4204, of the GCA.
49. **NEXUS:** Refers to a conflicting link between a job and a criminal offense where there is a strong likelihood that employment will impair the government's ability to provide safe and efficient government services.

50. **NON-PERMANENT STATUS:** Those employees in the government's merit personnel system who do not have permanent status and are non-permanent employees until such time as they acquire permanent status.
51. **OPEN COMPETITIVE:** This is an examination, which permits the competition of persons who meets the requirements of the official announcement for the position, and is not restricted to persons currently employed in the classified service.
52. **ORIGINAL OR INITIAL APPOINTMENT:** First-time permanent appointment to the classified position.
53. **ORIGINAL PROBATIONARY PERIOD:** It is that period in which an employee initially serves to attain permanent status as a Government of Guam employee. This also applies to former employees who have not been employed in the Government of Guam service after four years of separation in good standing.
54. **OVERTIME:** Actual hours worked in excess of 40 hours in an administrative work week. For classified employees whose normal work week schedule does not consist of five working days and two days off in a work week, overtime shall mean only hours worked in excess of their administrative workweek.
55. **PASSING SCORE:** A score of 70.00 or above.
56. **PAY GRADE:** The designated grade of compensation, as provided in the Compensation Schedule.
57. **PAY GRADE REASSIGNMENT:** Change of pay grade allocation of a class as determined by Board.
58. **PAY GRADE SCHEDULE:** A systematic arrangement of salary grades set forth by the Chapter 6, Title 4 of GCA or as authorized in Chapter 10, Title 12 of GCA.
59. **PERMANENT APPOINTMENT:** An appointment made by the General Manager to a position subject to the probationary period requirements.
60. **PERMANENT STATUS:** Permanent status is attained once an employee completes a satisfactory original probationary period.
61. **PERSONNEL JACKET:** The file shall contain documents or information of the employee's classification, performance evaluation, training, past work experience, commendations, and disciplinary actions. A separate jacket shall be established to include the employee's medical documents and information, drug testing results, inclusive of health and life insurance.

62. **PLANNED MANAGEMENT ACTION:** Refers to the pre-determination of a position via the vehicle of management budget or classification review where the new position is not a clear successor to the former position or where a promotion is recommended from a non-supervisory position to a supervisory or manager position. The requirements for competitive examinations shall apply.
63. **POSITION:** The work consisting of duties and responsibilities assigned by the General Manager for performance by an employee whether part-time or full-time, temporary or permanent, occupied or vacant.
64. **POSITION DESCRIPTION:** A formal written record describing the essential function, scope, and principal duties and responsibilities for a position and/or employee; used as an aid in evaluation of jobs and for such other purposes as selection, development, performance appraisal, training and other similar human resource functions.
65. **PRIORITY PLACEMENT LIST:** List established for displaced permanent classified employees to be afforded first offer of employment to positions that they previously filled, or to comparable positions they are qualified for.
66. **PROBATIONARY APPOINTMENT:** The initial appointment by the General Manager of an employee to a class of position in which the employee will commence serving a probationary period.
67. **PROBATIONARY PERIOD:** A working test period and is part of the examination process following an appointment from certification list during which an employee is required to demonstrate fitness for the position to which appointed by the satisfactory performance of the duties and responsibilities of the position.
68. **PROMOTION:** The movement of a permanent employee to a position with a higher maximum salary rate.
69. **PROMOTIONAL COMPETITIVE:** Competitive recruitment under the merit system that are only open to permanent status employees of the Government of Guam.
70. **RAW SCORE:** The numerical score, which is attained by an examinant without the application of a formula.
71. **REALLOCATION (Reclassification):** The change in the allocation of position by assigning it to a higher or lower class, or another class at the same level for any of the following reasons:

- A. Significant changes in the nature or variety of work which influence the overall level of difficulty.
 - B. Re-determination of the initial classification judgment without a change in duties and responsibilities.
72. **RECRUITMENT:** The process of announcing positions in an effort to solicit candidates for appointments in the Port service.
 73. **RE-EMPLOYMENT:** A former permanent classified employee who returns to Government service within four years of separation in good standing to the same or comparable job in the Port. The pay remains the same.
 74. **REINSTATEMENT:** A permanent classified employee who returns to his former position as a result of Commission ruling, or as a result of military service.
 75. **RESIGNATION:** The voluntary termination of employment by an employee without cause.
 76. **REVIEW COMMITTEE (PERFORMANCE APPRAISAL):** An option which the General Manager may elect and which is comprised of at least five Port employees to make recommendations for a final decision regarding the performance elements and standards.
 77. **SELECTIVE CERTIFICATION:** Certifying of eligible applicants who meet special requirements set forth and approved by the General Manager.
 78. **SERIES OF CLASSES:** Consists of two or more classes that are similar as to kind of work, but differ as to level of responsibility and difficulty.
 79. **SPOUSE:** Husband or wife.
 80. **SUSPENSION:** The temporary removal of an employee from his position with loss of pay for cause.
 81. **TEMPORARY APPOINTMENT (90 DAY APPOINTMENT):** An appointment to positions, which are permanent in nature, not to exceed 90 work days or 720 work hours, whichever comes first, within a calendar year.
 82. **TERMINATION:** The removal of an employee from employment for authorized cause.
 83. **TRANSFER:** The lateral movement of an employee without any change in position title or salary, or from one class of position to another class of position having similar duties

and responsibilities and qualification requirements, or a movement from one department to another department.

84. **UNCLASSIFIED SERVICE:** Government service of which employees serve at the pleasure of the Board and do not attain permanent status.
85. **WEIGHTED SCORE:** A product of raw score and the appropriate formula for the particular examination.
86. **WORKDAY:** A regularly recurring period of eight consecutive hours exclusive of lunch hour.
87. **WORKWEEK:** A regularly recurring period of seven consecutive 24-hour intervals. A workweek need not coincide with a calendar week. It may be any day of the week at any hour of the day. A workweek must remain the same unless any change is intended to be permanent.

6

I MINA' TRENTA NA LIHESLATURAN GUÅHAN

2009 (FIRST) Regular Session

Date: July 2, 2009

VOTING SHEET

SBill No. 142(COR)

Resolution No. _____

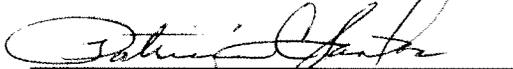
Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.					EA
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.					EA
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.					EA
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera		✓			
RECTOR, Matthew			E		
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T.	✓				

TOTAL

10 1 1 _____ 3

CERTIFIED TRUE AND CORRECT:



 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



COMMITTEE ON RULES

I Mina'Trenta na Libeslaturan Guåhan • 30th Guam Legislature

155 Hesler Place, Hagatña, Guam 96910 • tel: (671)472-7679 • fax: (671)472-3547 • roryforguam@gmail.com

**SENATOR
RORY J.
RESPICIO
CHAIRPERSON**

**SENATOR
Judith P. Guthertz
VICE
CHAIRPERSON**

**MAJORITY
MEMBERS:**

**Judith T. Won Pat
SPEAKER**

**Benjamin J. F. Cruz
VICE SPEAKER**

**Tina Rose Muña Barnes
LEGISLATIVE SECRETARY**

**Thomas C. Ada
SENATOR**

**Frank B. Aguon, Jr.
SENATOR**

**Adolpho B. Palacios, Sr.
SENATOR**

**Vicente C. Pangelinan
SENATOR**

**Matthew Rector
SENATOR**

**MINORITY
MEMBERS:**

**Frank F. Blas, Jr.
SENATOR**

**James V. Espaldon
SENATOR**

June 30, 2009

Memorandum

To: Pat Santos
Clerk of the Legislature

From: Senator Rory J. Respicio 
Chairperson, Committee on Rules

Subject: Supplement to Committee Report
on Bill No. 142 (COR) As Substituted

2009 JUN 30 PM 4:52 

Transmitted herewith is a supplement to the Committee Report on Bill No. 142 (COR) As Substituted by the Committee on Utilities, Transportation, Public Works, and Veterans Affairs, has been approved.

Please attach this to the said committee report and forward to MIS for posting on the Legislature's website.

Si Yu'os Ma'åse!

cc: Senator Thomas C. Ada, Chairperson
Committee on Utilities, Transportation, Public Works, and Veterans Affairs



COMMITTEE ON RULES

I Mina'Trenta na Libeslaturan Guåhan • 30th Guam Legislature

155 Hesler Place, Hagatña, Guam 96910 • tel: (671)472-7679 • fax: (671)472-3547 • roryforguam@gmail.com

**SENATOR
RORY J.
RESPICIO
CHAIRPERSON**

June 30, 2009

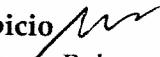
**SENATOR
Judith P. Guthertz
VICE
CHAIRPERSON**

Memorandum

**MAJORITY
MEMBERS:**

To: Senator Thomas C. Ada
Chairperson, Committee on Utilities, Transportation, Public Works,
& Veterans Affairs

**Judith T. Won Pat
SPEAKER**

From: Senator Rory J. Respicio 
Chairperson, Committee on Rules

**Benjamin J. F. Cruz
VICE SPEAKER**

**Subject: Supplement to Committee Report on
Bill No. 142 (COR) As Substituted**

**Tina Rose Muña Barnes
LEGISLATIVE SECRETARY**

Your request to attached the Port Authority of Guam, Jose D. Leon Guerrero Commercial Port's Personnel Rules and Regulations for maritime-related positions unique to port operations and certified, technical, and professional employees as a supplement to the Committee Report on Bill No. 142 (COR) As Substituted by the Committee on Utilities, Transportation, Public Works, and Veterans Affairs, has been approved.

**Thomas C. Ada
SENATOR**

**Frank B. Aguon, Jr.
SENATOR**

**Adolpho B. Palacios, Sr.
SENATOR**

**Vicente C. Pangelinan
SENATOR**

I will advise the Clerk of the Legislature of this matter and will have the appropriate changes made accordingly.

**Matthew Rector
SENATOR**

Si Yu'os Ma'åse!

**MINORITY
MEMBERS:**

**Frank F. Blas, Jr.
SENATOR**

**James V. Espaldon
SENATOR**

RECEIVED
06 30 09
C/MS



Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30TH Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

June 30, 2009

Memorandum

To: Senator Rory J. Respicio
Chairperson, Committee on Rules

From: Senator Thomas C. Ada 

Subject: Supplement to Committee Report on Bill No. 142 (COR) As **Substituted**

Attached are the Port Authority of Guam, Jose D. Leon Guerrero Commercial Port's Personnel Rules and Regulations for maritime-related positions unique to port operations and certified, technical, and professional employees as adopted by the Board of Directors on March 26, 2009.

I respectfully request that this be attached as a supplement to the Committee Report on Bill No. 142 (COR) As **Substituted** by the Committee on Utilities, Transportation, Public Works, and Veterans Affairs, which was filed with the Clerk's Office on June 26, 2009.

Si Yu'os Ma'ase!

COR
RECEIVED
06 30 09 

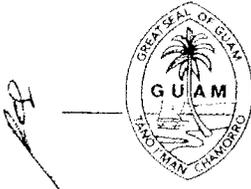


Senator Thomas C. Ada

CHAIRMAN - Committee on Utilities, Transportation, Public Works, and Veterans Affairs
30th Guam Legislature • *I Mina' Trenta Na Liheslaturan Guahan*

SUPPLEMENT TO COMMITTEE REPORT ON Bill No. 142 (COR) As Substituted

*NOTE: Original Committee Report
on Bill No. 142 (COR) As Substituted
was filed on June 26, 2009



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

12 MAY 2009

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina' Trenta Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is the Port Authority of Guam, Jose D. Leon Guerrero Commercial Port's Personnel Rules and Regulations for maritime-related positions unique to port operations and certified, technical, and professional employees as adopted by the Board of Directors on March 26, 2009. Pursuant to 5 G.C.A. §9303 I have approved the Port Authority of Guam's Personnel Rules and Regulations for maritime-related positions unique to port operations and certified, technical, and professional employees

Sinseru yan Magahet,

FELIX P. CAMACHO
I Maga'Lahen Guahan
Governor of Guam

Enclosures

cc: Tina Rose Muña-Barnes, Secretary, *I Mina' Trenta Na Liheslaturan Guåhan*

2009 MAY 15 PM 2:20

30-09-0638
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date May 14, 2009
Time 4:20 PM
Received by [Signature]

0645



PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
Jose D. Leon Guerrero Commercial Port
GOVERNMENT OF GUAM

1026 Cabras Highway, Suite 201
 Piti, Guam 96925



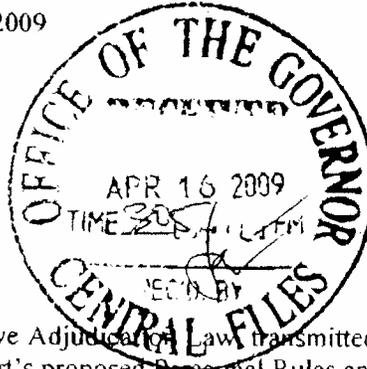
Telephone: (671) 477-5931/35
 (671) 477-2683/85
 Facsimile: (671) 477-2689/4445
 Webpage: www.portofguam.com

FELIX P. CAMACHO
 Governor of Guam

MICHAEL W. CRUZ
 Lieutenant Governor

April 16, 2009

The Honorable Felix P. Camacho
 Governor of Guam
 Office of the Governor
 Ricardo J. Bordallo Governor's Complex
 Adelup, Guam 96910



Dear Governor Camacho,

Pursuant to 5 GCA Chapter 9 §9303, Administrative Adjudication Law transmitted herewith for **your approval** is the Jose D. Leon Guerrero Commercial Port's proposed Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions, as required by Public Law 29-24, which was further adopted by the Port's Board of Directors through Board Resolution No. 09-03 at its March 26, 2009 regular meeting.

In compliance with the Administrative Adjudication Law process, the Port Authority has produced an Economic Impact Statement in accordance with 5 GCA §9301(d)(i) and as reviewed by its Legal Counsel found that the evaluation satisfies the requirements of such section.

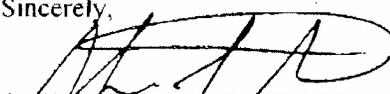
The Port Authority conducted a Public Hearing on February 9, 2009 of the proposed Personnel Rules and Regulations with its Legal Counsel serving as Hearing Officer.

Documents attached include:

- a. Personnel Rules and Regulations
- b. Resolution No. 09-03
- c. Economic Impact Statement
- d. Summary of Testimony
- e. Record of Minutes with Written Testimony
- f. Publication Notice

Should you have any questions, please do not hesitate to contact this office.

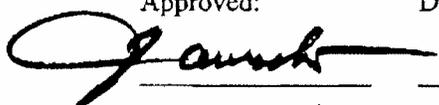
Sincerely,


 GLENN A. LEON GUERRERO
 General Manager



Attachments

cc: Senator Thomas C. Ada, Port Oversight Committee Chair
 Corporate Services Manager
 Personnel Services Administrator
 Port Marketing Administrator

Approved:  Disapproved: _____

Date: 5/11/09 Date: _____



PORT AUTHORITY OF GUAM
ATURIDAT I PUETTON GUAJIAN
Jose D. Leon Guerrero Commercial Port
GOVERNMENT OF GUAM

1026 Cabras Highway, Suite 201
Piti, Guam 96925



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Facsimile: (671) 477-2689/4445

Webpage: www.portofguam.com

FELIX P. CAMACHO
Governor of Guam

MICHAEL W. CRUZ
Lieutenant Governor

**ADOPTION OF PERSONNEL RULES AND REGULATIONS
FOR
MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS
AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES**

PUBLIC HEARING

Port Authority Board Conference Room - Piti

Monday, February 9, 2009

2:00 p.m.

AGENDA

- I. CALL TO ORDER
- II. INTRODUCTION
 - Glenn A. Leon Guerrero, General Manager
 - Vivian C. Leon, Corporate Services Manager
 - Francine T. Rocio, Personnel Services Administrator
 - Attorney Rebecca Santo Tomas, Hearing Officer
- III. PUBLIC COMMENT PERIOD
- IV. ADJOURNMENT

Each speaker during the public comment period will be allotted five minutes for a presentation. Written testimony (include name) may be submitted online to comments@portofguam.com or at the General Manager's office located at 1026 Cabras Highway, Suite 201, Piti, Guam. Deadline submission is **Wednesday, March 11, 2009** at 5:00 p.m.

Port Authority of Guam
ADOPTION OF PERSONNEL RULES AND REGULATIONS

FOR

**MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS
 AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES**

Public Hearing - February 9, 2009 @ 2pm

PAG Board Conference Room, Piti

ATTENDANCE SHEET

NO.	PRINT NAME	AGENCY/COMPANY	Contact No./Email Address	Signature
1	Yessica Deleaga	PAG		
2	Joni Lem Guenvera	PAG		
3	LITA SANDS	SEN. ESPARDO		
4	Simon Rodriguez	PAG		
5	Herman T. Paulino	PAG		
6	FRANK SAUTOS	PAG		
7	Simon Pinabach	PAG		
8	FRANCIS OZAKI	PAG		
9	Jolie Sanchez	PAG	05 49	
10	Carmelita C. Nededag	PAG	x307	
11	SHAWN CEPEDA	PAG	x564	
12	FRANCIS T. ARRIOLA	PAG	x341	
13	HIGNIO N. CARRASCO	PAG		
14	JONAN B. SANABES	PAG	4715948	

Port Authority of Guam
ADOPTION OF PERSONNEL RULES AND REGULATIONS
FOR

MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS
AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES

Public Hearing - February 9, 2009 @ 2pm
 PAG Board Conference Room, Piti

ATTENDANCE SHEET

NO.	PRINT NAME	AGENCY/COMPANY	Contact No./Email Address	Signature
1	RAYMOND B. SANTOS	PAG	477-5931 X238	
2	Ann Mondona	41	11 Y382	
3	Amanda Cruz	PAG	477-593 X320	
4	Josua Conway	PAG	X352	
5	Doris Aguero	PAG	X254/217	
6	Kenneth J. Quinteros	P.P.	Y313	
7	Scotty Sanchez	PAG	X217	
8				
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14				

**ADOPTION OF PERSONNEL RULES AND REGULATIONS
PUBLIC HEARING**

(Maritime-Related Positions Unique to Port Operations
And Certified, Technical, and Professional Employees)

Port Authority Board Conference Room - Piti

Monday, February 9, 2009

2:00 p.m.

MINUTES

I. CALL TO ORDER

The Public Hearing for the Proposed Rules and Regulations was called to order at 2:05 p.m., Monday, February 9, 2009. Present at the meeting were:

Glenn Leon Guerrero, General Manager
Vivian C. Leon, Corporate Services Manager
Francine Rocio, Personnel Services Administrator
Josette Javelosa, Program Coordinator IV – Marketing
Atty. Rebecca Santo Tomas, Legal Counsel (Hearing Officer)

Those who presented oral testimony were Jennifer Leon Guerrero, Simon Pinaula, and Francisco Roberto (attendance sheet attached).

II. INTRODUCTION - Glenn Leon Guerrero, General Manager

Glenn Leon Guerrero, General Manager – This Public Hearing is for the adoption of the Personnel Rules and Regulations for the Maritime-Related Positions to Port Operations and Certified, Technical, and Professional Employee positions. I'm Glenn Leon Guerrero, General Manager, to my immediate right is Francine Rocio, who is our Personnel Services Administrator, to my immediate left is Vivian Leon, who is our Corporate Services Manager, and to her left is our Attorney, Rebecca Santo Tomas, who is basically our hearing officer. We want to welcome you all. This public hearing is for the Adoption of Personnel Rules and Regulations for Maritime-Related Positions Unique to Port Operations and Certified, Technical, and Professional Employees, and to hear your comments and opinions. Again, feel free to talk. I'm going to pass the baton on to Francine who can give us the background and take the meeting on from there. Francine.

Francine Rocio, Personnel Services Administrator – The Port already has an established Personnel Rules and Regulations which was accommodated in 2001 and that was done through executive order 2001-02 signed by our former Governor Carl Gutierrez. Under public law 29-24, our current Governor who is Felix Camacho had went ahead and authorized Jose D. Leon Guerrero and the Airport the opportunity to accommodate rules and regulations and provide limited authority to establish pay scales for certified, technical, and professional positions. Based on that, back in 1991 we had what was called the Hay Plan. Currently what we're doing through public law 29-24 is we're working with Alan Searle and his company to establish the new compensation plan

under Searle and Associates and we started on a contract back in August of 2008. Now this compensation study that is being done by Alan is done through three formal stages. The 1st stage is called the job evaluation process and what this does is it reestablishes the eternal equity of all positions based on job site okay. The purpose of this particular stage is to achieve a new structure methodology that encompasses twelve factors and using a point system for each particular position. Now through this, if he is going to provide us with aggression analysis which consists of the base salary, a pay line is generated through comparison against the market, alright. Stage 2 is called the compensation structuring and this stage initially focuses on gathering external pay data and through regression analysis the resulting market percentile can be compared to the Port's current pay line. Different structural adjustments are then assessed in order to determine the cost in litigating to more competitive market positions, bringing the port to a more competitive market position. Stage 3 is the implementation process which requires the adoption of the study by the Port Board of Directors. Once this has been done and it has been agreed upon through the preferred market position, the final stage involves litigating all CTP certified technical position into the new compensation model. In the last Board meeting the proposed rules were approved for public review and comment through the website and media and we're here today for the hearing.

Atty. Rebecca Santo-Tomas, Legal Counsel (Hearing Officer) - As mentioned, pursuant to Public Law 29-24 allows for adoptions of rules and regulation specific to the positions of unique maritime and certified technical professional positions. That law actually requires that the port conform to the requirements of the Administrative Adjudication Act found in 5 GCA 9300 et. sec. In accordance with that statute we are now going to open the hearing for public comment. If you have signed in your name will be called in the order of signing in. We do ask that you state your name because this proceeding is being recorded. So please state your name and thereafter you are welcome to provide your testimony with regards to the proposed rules and regulations. As your name is called, please come up and have a seat. Like I said, introduce yourself and if anybody else is interested in signing in for comment, please feel free to come up. Is there anybody here to make comments regarding the proposed rules and regulations? Anyone at all?

III. PUBLIC COMMENT PERIOD

Jennifer Leon Guerrero, Accounting Technician II - Yeah. I have a question. Do I have to come in and state my name?

Hearing Officer - Yes, just because it's being recorded please. Are we ready?

Ms. Leon Guerrero - We're ready. Okay. Jennifer Leon Guerrero, Accounting Tech II. I was wondering why the Accounting Tech II's are not under the CTP.

Hearing Officer – With regard to the hearing act, I mean it was just - anybody would like to answer? What's the purpose of this hearing is to hear public comments so that it can be used to look at what the proposals are and to see if there are changes that need to be made. However, the draft of the study is not present here right now. These may not be answered with me. Additionally, you're welcome to state the questions, of course. This may not be the opportunity to answer it, but if you got any comments, that should be included.

Ms. Leon Guerrero – No, because even with us, the Accounting Techs are also doing the tariff. You know, at first they converted, I don't know way back in 2002 where they converted all, everybody to Accounting Techs, no longer Tariff Techs, and now they reopened the Tariff Techs. So us Accounting Techs are doing tariff, as well as myself, especially anything like going out to the building sites. I don't see why then I didn't fall under the CTP if this thing was approved. How do I fall under the CTP doing billings? I think it would not be fair for me if I'm doing all these billings and not being the CTP. Especially some Accounting Techs don't have any comments, they are doing billings too.

Hearing Officer – I'm sorry I did forget to mention, this may be relevant to you, if you also have any comments to make. The Port will keep taking comments up until March 11th, so if you also want to submit any written comments regarding that you can do that at that time. Any other comments?

Ms. Leon Guerrero – Okay.

Hearing Officer - The copy of this proposed rules and regulations have been available for public inspection and review at each of the Port divisions and on the Port's website as well. They have been available since the notice of the publication on January 29.

Simon Pinaula, Stevedoring Superintendent – My name is Simon Pinaula I'm a Stevedoring Superintendent. You know it's been, when I first came into the Port our starting salary was supposed to be \$12.00 and something cents. Right after the Hay Study, it drop down to \$8.01 and throughout the 1 year it went up to \$8.48. I believe this is a good plan but everybody has to be compensated properly. Whether they are in the water front or you're upstairs in Admin. You know I really agree with this study. A long time I've been waiting for this plan. I have no further comments.

Frank Roberto, Safety Administrator – I have a comment. My name is Frank Roberto, I am the Safety Administrator. I just one simple comment here on the number of days of the work injury. Here it says 30 days and what we had was 60 days. I want keep the 30 days, whether calendar days or work days we need to try to keep that up at 30 calendar days. That would equal about 42 days, you know, to get in line with the federal

government. But at 60 days is just too much for any injury that we have here. That's coming from the Worker's Compensation downtown.

Vivian Leon, Corporate Services Manager – You know the Proposed Rules and Regulations indicate that it has been changed specifically from 60 to 30.

Mr. Roberto – This is what it is, so but I didn't get that information up to the safety officer. I never had that information. Right now we're standing at 60 calendar days.

Mrs. Leon – The Propose Rules and Regulation are recommending that it goes down.

Mr. Roberto – To 30 days, yes. So is it calendar days or is it working days? There is a difference. I think it should say work days, that would be easier to clarify.

IV. ADJOURNMENT

Hearing Officer– Any other comments? Okay last call, any other comments at this time? Comments will be welcomed by the Port until March 11, 2009. You could submit them via the Port website or the Port email address that is available. Francine, do you have that on, to state it for the record, the Ports email address?

Josette Javelosa, Program Coordinator IV (Marketing) – www. Hold on I'm sorry, it's at comments@portguam.com

Hearing Officer – comments@portguam.com. They can also be submitted, written comments maybe submitted at the Port offices until that time. All comments that are received will be taken into account by Port Administration with regards to the Proposed Rules and Regulations. The General Managers office will accept any comments. Then again any comments will be taken into account when proceeding with the process of adopting the Propose Rules and Regulations. So if there are no further comments at this time thank you for your attendance.

Mr. Leon Guerrero – Thank you very much.

Public Hearing adjourned at 2:20 p.m.

COMMENTS

RE: Proposed Personnel Rules and Regulations

1. Page 19; Section #4.410 – Rejection of Applicants

Because Port Police is currently involved with the Peace Officer Standardized Training, I recommend that the background checks for uniformed positions be integrated as part of the application process. The National Security background investigation form is under review by P.O.S.T. members and may be an adopted standard.

2. Page 41; Section #4.806 – Detail Assignments Page 46; Section #4.903 – Temporary Appointments

At Port Police, a Port Police II is designated to take over the shift during the supervisor's day off [ranging between 8 to 12 hours] to ensure the continuity of security operation. This assignment may carry a responsibility of a leader without any compensation. We encountered several officers refusing to take on the responsibility due to non-compensation while others view as an exposure and experience to explore their leadership skills in running a shift. Can there be something that identifies this type of assignment to be compensated? Or submitting a request for leader positions (Port Police III) is a more reasonable approach?

3. Page 74; Section #8.001 – Work Week

Port Police are working 40 hours work week and compensatory time is given for beginning of the shift briefing (15 minutes) and end of the shift stand-by (15 minutes) times for each day the officer is on-duty. But the 30 minute per day does not compensate retrieval and securing of their firearms and other equipment required to be carried which should be considered because it is job related.

If Port Police is to remain on a 40-hour work week, then compensation hours should be identified on the rules and clearly define the conditions to be applied; if compensation is not to be considered, then overtime may be applied because time will exceed the traditional 40 hour work week.

4. Page 75; Section #8.003(C) - Meal Periods

To insert the same language identified in Break Periods; "except for law enforcement employees subject to Section 7(K) of the FLSA.

5. Page 79; Section #8.405 – Compensatory Time Off in lieu of Overtime Pay

Can there be a standardize agreement form regarding CTO? In the past, employees were informed to create their own document and submit to G.M. for signature.

6. Page 106; Section #9.400 – Excuse Absences/Administrative Leave

Traffic citations are issued by certified Port Police Officers to individuals found violating the Motor Vehicle Code (GCA Title 16) identifying court appearance date and time. When the violating wishes to contest the issued citation another court date is schedule and the officer is given a subpoena to appear. Can summons be part of an excused leave for the identified officer, provided that documentation is attached to leave?

DORIS C. AGUERO

**ADOPTION OF PERSONNEL RULES AND REGULATIONS
PUBLIC HEARING**

(Maritime-Related Positions Unique to Port Operations
and Certified, Technical, and Professional Employees)

Port Authority Board Conference Room – Piti

Monday, February 9, 2009

2:00 p.m.

SUMMARY OF TESTIMONY

The meeting was called to order by Mr. Glenn Leon Guerrero, General Manager at 2:05 p.m., Monday, February 9, 2009.

PAG Management: Glenn Leon Guerrero, General Manager
Vivian C. Leon, Corporate Services Manager
Francine Rocio, Personnel Services Administrator
Josette Javelosa, Program Coordinator IV – Marketing
Atty. Rebecca Santo Tomas, Legal Counsel
(Hearing Officer)

Oral Testimonies Presented: Jennifer Leon Guerrero, Accounting Technician II
Simon Pinaula, Stevedoring Superintendent
Frank Roberto, Safety Administrator

Mr. Glenn Leon Guerrero, General Manager, opened up the meeting and announced that Public Hearing is for the adoption of the Personnel Rules and Regulations for the Maritime-Related Position to Port Operations and Certified, Technical, and Professional Employee positions. He introduced himself as well as Mrs. Francine Rocio - Personnel Services Administrator, Mrs. Vivian Leon – Corporate Services Manager, and Atty. Rebecca Santo Tomas – Hearing Officer. He welcomed everyone and told them to feel free to talk.

Mrs. Rocio briefed on the establishment of the Personnel Rules and Regulations through Executive Order No. 2001-02 which was signed by former Governor Carl Gutierrez. Public Law 29-24, signed by current Governor Felix Camacho, authorized Jose D. Leon Guerrero Commercial Port and the Airport to accommodate rules and regulations and provide limited authority to establish pay scales for certified, technical, and professional positions. In 1991, it was called the Hay Plan. We are currently working with Alan Searle and his company to establish the new compensation plan. The contract started in August 2008. There are 3 phases. She explained the three different phases.

Atty. Rebecca Santo Tomas added that Public Law 29-24 allows for the adoption of rules and regulations specific to positions of unique maritime and certified technical and professional positions. The law requires that the Port conform to the requirements of the Administrative Adjudication Act found in 5 GCA 9300 et. Sec. She opened the hearing

for public comment. She announced that names will be called in the order that was signed in. She requested that they state their name then provide their testimony. She called for anyone that had comments. She stated that the purpose of the hearing is to hear public comments so that it can be used to look at what the proposals are and see if there are changes that need to be made. The Port will continue to take comments up until March 11. Copies of the Proposed Rules and Regulations have been available for public inspection and review at each of the Port divisions and on the Port's website. They have been available since the notice of the publication on January 29.

Ms. Jennifer Leon Guerrero, Accounting Technician II, asked why the Accounting Technicians II position is not included under the CTP. She mentioned that the Accounting Technicians also do the tariff. In 2002, the position was converted from Tariff Technician to Accounting Technician. She stated that it is not fair that she bills yet doesn't fall under the CTP.

Mr. Simon Pinaula, Stevedoring Superintendent, mentioned that when he first was hired here at the Port, the starting salary was supposed to be about \$12.00. After the Hay Study, it dropped to \$8.01 and went up to \$8.48 that first year. He agrees with the study and believes that it's a good plan but everyone has to be compensated properly, whether they work in the waterfront or in administration. He has been waiting for this plan for a long time.

Mr. Frank Roberto, Safety Administrator commented on the number of days of work injury. The proposed rule indicates 30 days and the current number is 60 days. He would like to keep the 30 days, whether it be calendar days or work days. He feels that it should be work days. That would equal about 43 days to be in line with the federal government. 60 days is too much for any injury. It's based on Worker's Compensation Commission. Mrs. Vivian Leon advised that the Proposed Rules and Regulations indicates that it has been changed from 60 to 30 days.

The Hearing Officer mentioned that written comments may also be submitted to comments@portguam.com or at the Port offices. All comments received will be taken into account by Port Administration. The General Manager's Office will accept any comments. Any comments will be taken into account when proceeding with the process of adopting the Proposed Rules and Regulations.

There being no further comments, the Hearing Officer and Mr. Leon Guerrero thanked everyone for attending.

PORT AUTHORITY OF GUAM
 Jose D. Leon Guerrero Commercial Port
 1026 Cabras Highway, Suite 201, Piti, GU 96915
 Phone: (671) 477-5931/475-PORT • Fax: (671) 477-2689
 Website: www.portofguam.com

NOTICE OF PUBLIC HEARING

In compliance with 5 GCA Section 9301, the Jose D. Leon Guerrero Commercial Port of Guam (Port) will hold a public hearing on the proposed "Personnel Rules and Regulations for Maritime-Related Positions Unique to Port Operations and Certified, Technical, and Professional Employees." The hearing will take place on February 9, 2009, 2:00 p.m. at the Port Board of Directors Conference Room in Piti. Proposed revisions are available for public review on the Port's website, www.portofguam.com, under "News and Announcements." Hard copies also are available for review at the Human Resources Division located at 1026 Cabras Highway Piti, Guam. All interested parties are invited to attend. Oral or written testimonies will be accepted at the hearing or may be submitted online to comments@portofguam.com. Please include your name when submitting testimonies online. The deadline to submit comments is February 19, 2009 at 5:00 p.m.

For further information, please contact the Port's Administrative Office at 477-5931 ext. 302/303. Individuals with disabilities, who may need special accommodations, may contact Mr. Simeon Debes Santos, ADA Coordinator at 477-5931-4.

GLENN A. LEON GUERRERO
 General Manager

Paid for by Port Authority Funds.

GENERAL ORDER

No. 00-00014
 The "Pacific Daily News", a newspaper of general circulation published in Hagena, Guam, is designated the official newspaper of the court. Unless otherwise provided by order, every notice required to be published shall be published in the "Pacific Daily News."
 District Court of Guam • Territory of Guam
 Filed Sept. 29, 2000

SPORTS

es on outside courts to be moved indoors, other outdoor matches to be suspended, and the roof at Rod Laver Arena to be closed after the first set of the Serena Williams-Svetlana Kuznetsova match.

ATTENDANCE: Day, 14,056.
WINNERS: Quarterfinals: Men: No. 14 Fernando Verdasco; Women: No. 2 Serena Williams, No. 4 Elena Dementieva.
LOSERS: Men: No. 5 Jo-Wilfried Tsonga; Women: No. 8 Svetlana Kuznetsova, unseeded Carla Suarez-Navarro.
STAT OF THE DAY: 2; number of break points converted by Jo-Wilfried Tsonga out of 13 opportunities — versus 4 out of 4 by his opponent Verdasco.
QUOTE OF THE DAY: "I was in like an out-of-body experience. — Serena Williams, on how she was affected by the heat before the stadium roof was closed.

TRANSACTIONS

Baseball
American League
BOSTON RED SOX—First baseman Sean Casey announced his retirement. Agreed to terms with INF Angel Chavez, INF Nick Green, INF Ivan Octavo, OF Chip Ambres, RHP Fernando Calavera and C Carlos Maldonado on minor league contracts.
DETROIT TIGERS—Agreed to terms with RHP Kyle Bloom, RHP Alfredo Figaro, RHP Chris Lambert, RHP Zach Simons, C Dusty Ryan, INF Michael Horton and OF Ceasar Weeks on one-year contracts.
NEW YORK YANKEES—Designated LHP Chase Wright for assignment.
National League
COLORADO ROCKIES—Agreed to terms with RHP Ubaldo Jimenez on a four-year contract.
LOS ANGELES DODGERS—Agreed to terms with RHP Jayson Stroman and SS Juan Castro on minor league contracts.

BASKETBALL

National Basketball Association
MEMPHIS GRIZZLIES—Named assistant coach Kevin O'Neil special assistant to the general manager and Barry Hester assistant coach. Waived G Steve Francis.

SCOREBOARD

▲ Continued from Page 38

Anaheim	24	21	5	53	143	140
Dallas	21	18	7	49	132	152
Los Angeles	19	20	7	45	117	131

Two points for a win, one point for overtime loss or shootout loss.

TENNIS
AUSTRALIAN OPEN GLANCE
MELBOURNE, Australia—A look at Wednesday's play through the end of the day session at the Australian Open tennis championships.
WEATHER: Sunny and very hot, high of 105 degrees. The tournament's Extreme Heat Policy was put in effect in the afternoon, forcing several matches to be postponed.

LOCO BOUTIQUE
 is now accepting applications for:
Sales Associates
 • Fluent in Japanese or Korean
 Apply at Loco Boutique,
 GPO / Micronesia Mall / Royal Orchid / Pacific Place
 E-mail to: job@locoboutique.com
 Tel/Fax: 647-6600 or 649-3667

PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port
Piti, Guam

January 26, 2009

INTER-OFFICE MEMORANDUM

TO: Division Heads
FROM: General Manager
SUBJECT: Proposed Personnel Rules and Regulations for Maritime Positions
Unique to Port Operations and Certified, Technical and Professional
Positions

Please disseminate or make available the attached proposed Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions to employees under your supervision for their review and possible inputs at the public hearing scheduled for Monday, February 9, 2009 at 2:00 p.m. in the Board Conference Room.

Should you have any questions, please feel free to contact the Human Resources Office.


GLENN A. LEON GUERRERO

Attachment

Cc: Corporate Services Manager
Personnel Services Administrator

PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port
Piti, Guam

January 26, 2009

MEMORANDUM

TO: All Employees

FROM: General Manager

SUBJECT: Proposed Personnel Rules and Regulations for Maritime Positions
Unique to Port Operations, and Certified, Technical and Professional
Positions

On October 24, 2007, the *I Maga'låhen Guåhan* signed Public Law 29-24, which authorized the Board of Directors of the Port to promulgate personnel rules and regulations; and to provide limited authority to establish pay scales for Certified, Technical and Professional Personnel. In August 2008, the Board contracted Alan Searle & Associates to conduct the Position Classification and Benefits Study. The study is currently in its 3rd stage and final implementation recommendations will be presented to the Board at its February or March meeting.

On January 22, 2009, the Board of Directors authorized management to proceed with the Administrative Adjudication Process for the adoption of the proposed Personnel Rules and Regulations for Maritime Positions Unique to Port Operations, and Certified, Technical and Professional positions. Highlights of the proposed Personnel Rules and Regulations for CTP Positions are as follows:

1. Recruitment and Selection Procedures
2. Recruitment Above the Current Market Percentile for Employees in CTP Positions
3. Pay Adjustments for CTP Positions
4. Performance Appraisal for CTP Positions

A copy of the proposed rules and regulations has been provided to your division head for your review. In addition, we have posted a copy on the Port's website, www.portofguam.com.

To comply with the Administrative Adjudication Act, a public hearing has been scheduled for **February 9, 2009 at 2:00 p.m. in the Board Conference Room**. This hearing will allow the employees the opportunity to provide their inputs on the proposed rules and regulations.

You are highly encouraged to attend this hearing to provide us with your inputs. Should you have any questions, please feel free to contact the Human Resources Office.


GLENN A. LEON GUERRERO

PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port
Piti, Guam

January 16, 2009

MEMORANDUM

TO: Board of Directors

FROM: General Manager

SUBJECT: Proposed Personnel Rules and Regulations – Maritime Positions Unique
To Port Operations and Certified, Professional & Technical Positions

Attached is the proposed Personnel Rules and Regulations for the Maritime Positions Unique to Port Operations and Certified, Professional & Technical Positions for approval to begin the administrative adjudication process as mandated in Public Law 29-24.

Once approved, the following timelines are proposed:

Action	Anticipated Date
Issuance of proposed Personnel Rules and Regulations to all employees for comments	January 23, 2009
Advertisement of public hearing	January 29, 2009
Hearing Date	February 9, 2009
Deadline to receive comments	March 11, 2009
Present to Board for approval	March 20, 2009
Transmit to Governor for approval	March 21, 2009
Anticipated date to transmit to Guam Legislative Secretary by Governor	March 29, 2009
Rules Approved	June 27, 2009

Please be advised the approval date of the Personnel Rules and Regulations may be accelerated if legislation is passed by the Guam Legislature and Governor.

Your approval to begin the administrative adjudication process is greatly appreciated.


GLENN A. LEON GUERRERO

Attachments



FELIX P. CAMACHO
Governor of Guam

MICHAEL W. CRUZ
Lieutenant Governor

PORT AUTHORITY OF GUAM
ATURIDAT I PUEYTON GUAHAN
Jose D. Leon Guerrero Commercial Port
GOVERNMENT OF GUAM

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ECONOMIC IMPACT STATEMENT

Proposed Personnel Rules and Regulations for Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions

January 2009

I. STATUTORY REQUIREMENT FOR ECONOMIC IMPACT STATEMENT

A. Introduction

Pursuant to Public Law 29-24, the Jose D. Leon Guerrero Commercial Port (hereinafter referred to as the "Port") Board of Directors is adopting the Personnel Rules and Regulations for personnel occupying Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions (hereinafter referred to as "CTP Positions") employed with the Port.

Highlights of the proposed Personnel Rules and Regulations for CTP Positions are as follows:

1. Recruitment and Selection Procedures
2. Recruitment Above the Current Market Percentile for Employees in CTP Positions
3. Pay Adjustments for CTP Positions
4. Performance Appraisal for CTP Positions

B. Administrative Adjudication Act

This Economic Impact Statement is submitted by the Port to the Legislative Secretary of the Guam Legislature in accordance with Title 5, Guam Code Annotated, Section 9301 of the Administrative Adjudication Act (hereinafter referred to as "AAA"), which is entitled "Adoption, Repeal, Recession [sic], or Amendment of Rules: Procedures."

Section 9301, Subsections (d) through (f) state as follows:

"§9301. Adoption, Repeal, Recession, or Amendment of Rules: Procedures.

- (d) Any Government of Guam department, agency, autonomous agency, office or instrumentality promulgating rules and regulations under the Administrative Adjudication Act, shall include, as part of the promulgation of such rules and regulations, an economic impact statement. This statement must be completed and made available to the public prior to any required hearings on the proposed rules or regulations.*
- (e) No proposed rule or regulation shall be transmitted to the I Liheslaturan Guåhan for consideration without an economic impact statement, nor shall any proposed rule or regulation go in to effect without a completed economic impact statement.*

- (f) *The economic impact statement required by Subsections (d) and (e) of this Section must directly address, at a minimum, the following:*
1. *The purpose and the need for the rule or regulation; an assessment of the risk and the cost of the imposed rule or regulation. In addition, government agencies proposing a new rule or regulation must include with the assessment, the justification for the new rule or regulation.*
 2. *The financial impact of the proposed rule or regulation upon those persons or corporate entities directly affected by the proposed rule or regulation, and upon the people and economy of Guam.*
 3. *Any potential increase or decrease in the cost of living on Guam, or any specific increase or decrease in the price or availability of any goods or services on Guam directly or indirectly attributable to the proposed rule or regulation.*
 4. *Any direct or indirect impact upon employment on Guam or any increase or decrease in the availability of a particular job or jobs, or jobs in general, attributable to the proposed rule or regulation.*
 5. *Any increase or decrease in the cost of doing business as an enterprise or industry on Guam, or any increase or decrease in doing business in general, which is attributable to the proposed rule or regulation.*
 6. *Any adverse or beneficial economic impact, which is attributable to the proposed rule or regulation.*

Background information on the Personnel Rules and Regulations for CTP Positions is presented in Section II. Section III provides a description of requirements for an economic impact statement and a discussion of the anticipated effects of the implementation of the new compensation plan in each of the areas required under statute

II. BACKGROUND

A. Port Personnel Rules and Regulations

The Port's personnel rules and regulations for classified personnel employed by the Port was promulgated on January 25, 2001 through Executive Order 2001-02, signed by then Governor of Guam Carl T.C. Gutierrez. Unclassified employees occupying unclassified positions at the Port were not governed by these rules and regulations.

B. Public Law 29-24

Public Law 29-24, "*An Act to Authorize the Jose D. Leon Guerrero Commercial Port and the Antonio B. Won Pat International Airport Authority, Guam to Promulgate Personnel Rules and Regulations; and to Provide Limited Authority to Establish Pay Scales for Certified, Technical and Professional Positions*", was signed into law by Governor Felix P. Camacho on October 24, 2007.

C. Position Classification/Compensation & Benefits Study

The current Port position classification and compensation plan is in accordance with the Hay Methodology. Since its introduction in 1991, the plan:

1. has not been adjusted to reflect U.S. national compensation levels relevant to the industry and economic standards; and
2. does not take into account additional responsibilities resulting in the increased workload on the Port staff due to increased safety and security mandates following the 9-11 attacks on America.

On August 2008, the Port entered into contractual services with Alan Searle & Associates, Limited to conduct a Position Classification/Compensation & Benefits Study (hereinafter referred to as "Study") for all positions at the Port. The components of the Study included the following:

1. Stage 1: Job Evaluation: A process that re-establishes the internal equity of all positions based on job size. This is achieved by applying a structured methodology (encompassing 12 factors) that derives a total

point value for each position. Through regression analysis, a base salary pay line is subsequently generated for comparison against the market.

2. Stage 2: Compensation Structuring: This stage initially focused on gathering external pay data. Through regression analysis, the resulting market percentiles can then be compared to Port's current pay line. Different structural adjustments are then assessed in order to determine the cost in mitigating to a more competitive market position.
3. Stage 3: Implementation: This requires adoption of the Study by the Port Board of Directors. Once the Board has agreed on a preferred market position, the final stage involves mitigating all CTP Positions into the new compensation model.

III. REQUIREMENTS OF THE ECONOMIC IMPACT STATEMENT

The present evaluation is in response to Section 9301 of the AAA, which requires that an economic impact statement be prepared for proposed rules and regulations that will have an estimated annual impact greater than \$500,000. To comply with AAA, this impact statement identifies potentially affected persons or industries, examines the financial impact of the proposed rules on these persons or industries, and discusses the effects on employment, the cost of living and the cost of doing business in Guam.

A. Purpose, Risk Assessment, Cost Assessment and Justification:

The purpose and need for the proposed rules are primarily to aid in the retention and recruitment of critical or CTP positions at the Port. These personnel are critical to the operations of the Port. Public Law 29-24 gives the Port the authority to promulgate rules and regulations and to establish competitive pay scales for CTP positions. The cost of the proposed rules is nominal as Port does not rely on the General Fund of the Government of Guam for operation and maintenance of the Port. The total estimated costs to implement the new rules and regulations for CTP positions are approximately \$2,554,631 at the 10th market percentile. The Port's personnel costs will be 53% percent of its total operating budget for Fiscal Year 2009. However, a 14% increase in personnel costs is necessary to attract and retain a highly skilled workforce which is primarily responsible for the safety and security of the maritime cargoes and to prepare for

the impending military build-up on Guam. Preliminary estimates in the Port's recent adopted Master Plan find that Port traffic will increase tremendously. Movements in lifts (containers) will increase from the current levels of 103,000 to a peak of 190,000 during the proposed Navy base construction program before settling a higher plateau represented at 163,000 in year 2027.

B. Financial Impact

The implementation of the proposed rules is expected to have a positive impact on the beneficiaries on the annual income of CTP personnel. Approximately 133 positions at Port have been deemed CTP positions. The increase in compensation will have qualitative impacts such as less overtime payments to cover for vacant positions, reduction in re-training costs associated with filling vacancies, and a full staff of professionals qualified to ensure Port continues to be a safe and secure port in this region.

Because there is no direct cost to the general public as a result of the implementation of the proposed rules and regulations, the financial impact is a gross positive. Alternatively, should these rules not be passed, the Port will incur substantial increased costs for areas that require critical work to be completed by the CTP personnel. To alleviate personnel shortages, the Port may have to contract consultants at a substantially higher cost to perform work that could be done by CTP staff. Additionally, the Port may continue to train personnel at its expense many of whom may leave for its federal counterparts or mainland where compensation levels are much higher than Guam.

C. Potential Increase or Decrease in Cost of Living

The implementation of the proposed rules should not increase the cost of living on Guam, but may decrease the cost of living for those employees who have their annual salaries increased as a result of the implementation of the Study. However, this impact is isolated, and will have an inconsequential effect on the cost of living in the community as a whole. The increased spending power of CTP personnel will infuse more cash into the economy thus increasing revenues for both the private sector and the Government of Guam via tax revenues. In

addition, as disposable income increases, so does the demand for goods and services for the economy.

D. Direct or Indirect Impact on Employment

The proposed rules will create a nominal and isolated effect on employment at the Port as it may immediately commence recruitment of needed CTP positions. There will be no lay-offs or pay reduction as a result of the implementation of the rules. With the implementation of the new rules and regulations, the Port will be able to attract and maintain a qualified workforce who will bring it closer to becoming more marketable with comparable Ports nation-wide. Attracting and maintaining CTP positions should increase the CTP personnel at the Port.

E. Increase or Decrease in Cost of Doing Business

There are no anticipated impacts to the cost of doing business in Guam as a result of the proposed rules. Hiring a well-qualified workforce will allow the Port to continue to maintain a safe and secure Port and will ultimately result in cost savings to the end users of the Port.

F. Adverse or Beneficial Economic Impact

There are no anticipated adverse economic impacts as a result of the proposed rules upon the parties directly affected, or upon the island community as a whole. However, there may be potential positive economic impacts for beneficiaries. Primarily, there may be a substantial impact on the quality of life for those directly affected, particularly those who are CTP personnel employed by the Port. In addition, the quality and productivity of the Port will be improved by maintaining a higher quality workforce. The results will have a positive economic impact on the island.

IV. CONCLUSION

The Port's Board of Directors is adopting the Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions. This Economic Impact Statement completed in accordance with Title 5, Section 9301 concludes that the implementation of the Compensation and Benefits Study will have a gross positive impact on the beneficiaries and community as a whole.

Moreover, the implementation of the Study on or before March 2009 may generate approximately \$2,554,631 in new economic activity because of the increased spending power of CTP personnel. Any potential increase in the cost of living in Guam due to the implementation of the Compensation and Benefit Study will be nominal and isolated because the Port does not require funding from the General Fund of the Government of Guam for operation and maintenance of the Port. The implementation of the Study will have a beneficial impact on employment, mainly with respect to CTP positions at the Port, and will also have induced effects on employment due to spending that will be felt island-wide. A primary socio-economic benefit of the implementation of the Study will be the long-term positive improvement on the quality of the Port and of professional and personal lives of the employees of the Port.

PORT AUTHORITY OF GUAM
Jose D. Leon Guerrero Commercial Port

ADOPTION OF PERSONNEL RULES AND REGULATIONS

FOR

**MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS
AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES**

5 G.C.A. § 9301
12 G.C.A. §10112(h)

I. STATUTORY AUTHORITY FOR RULE; COMPLIANCE

A. Administrative Adjudication Act

The attached Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Employees (the "Rules") are submitted by the Jose D. Leon Guerrero Commercial Port (the "Authority") to the Legislative Secretary of *I Liheslaturan Guåhan* pursuant to the Administrative Adjudication Act ("AAA") which is codified at 5 G.C.A. §§ 9300 *et seq.*

B. Need for Rule

The attached Rules are needed for the Authority to comply with the mandate of Public Law 29-24. Public Law 29-24, which became law on October 24, 2007, recognized the need of the Authority to hire and to retain certified personnel who have the proper technical or professional skills and experience in order to prepare for the impending military build-up on Guam. Under Section 3 of Public Law 29-24 *I Liheslaturan Guåhan* mandated that the Board of Directors of the Authority adopt personnel rules and regulations for personnel occupying maritime positions unique to port operations and certified, technical and professional positions subject to the provisions of the AAA.

C. Compliance with the AAA

5 G.C.A. § 9301 of the AAA, which is entitled, "Adoption, Repeal, Rescission or Amendment of Rules: Procedure" provides the procedure for an agency to adopt rules, including filing with the Legislative Secretary. Prior to the filing of the attached forms, the Authority complied with the other conditions precedent and requirements of 5 G.C.A. § 9301 as follows:

1. On January 29, 2009, the Authority published notice of a public hearing in the Pacific Daily News, a newspaper of general circulation, and therefore the notice of public hearing was published at least ten (10) days prior to the date set for public hearing. Said notice included a statement of the time and place of hearing, a reference to the subject matter of the proposed Rules and referred to the fact that a copy of the proposed Rules was on file at the Authority for examination;¹
2. Five (5) copies of the proposed Rules were on file at the Authority from the date of publication of notice of hearing until the hearing and were also available at the public hearing for examination;
3. On February 9, 2009, the Authority conducted a public hearing on the proposed Rules as published; and

¹ A copy of the notice published is attached to this filing.

4. The Authority prepared an Economic Impact Statement on the Proposed Rules which was made available to the public at the Authority's administrative offices prior to the public hearing and which was also available for examination at the public hearing.
5. A copy of the Minutes of the Public Hearing which was held on February 9, 2009, as well as all documents available for review at the hearing, including an Economic Impact Statement, is attached to this filing. These items constitute the record of the hearing. The remainder of this document supports the filing of the Rules.

II. APPROVED BY BOARD OF DIRECTORS

The Rules submitted and which are attached hereto was approved by the Board of Directors of the Authority at a regular meeting on March 26, 2009.

III. CONCLUSION

The Authority has filed herein, pursuant to the rule making procedures of the AAA, Rules for personnel occupying Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions. We look forward to your favorable approval.

Respectfully submitted,

JOSE D. LEON GUERRERO COMMERCIAL PORT

By: 

GLENN A. LEON GUERRERO, General Manager

Personnel Rules and Regulations for Maritime Positions Unique to Port Operations and
Certified, Technical and Professional Positions

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CHAPTER 1

PURPOSE AND SCOPE OF PERSONNEL RULES AND REGULATIONS

STATEMENT OF POLICY:

It is the policy of the General Manager to set forth the fundamental character of the system of personnel administration governed by these Personnel Rules and Regulations consistent with the merit principles and the principles of Equal Employment Opportunity; provisions of Title 4 of the Guam Code Annotated; and other laws pertaining to employment in the Government of Guam.

AUTHORITY. These Rules and Regulations (“Rules”) are established by the authority of Section 2 of Public Law 29-24 and its amendment to 12 G.C.A. §10111 requiring that the Board of Directors (“the Board”) of the Jose D. Leon Guerrero Commercial Port (“the Authority”) adopt personnel rules and regulations for personnel occupying Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions, subject to the provisions of the Administrative Adjudication Act.

1.100 PURPOSE. The purpose of these Rules is the formulation of sound personnel policies designed to promote efficiency and economy, reward meritorious service, provide for the settlement of grievances, develop and maintain morale, and establish non-discriminatory standards for the classification and compensation of Maritime Positions unique to Port Operations and Certified, Technical, and Professional Positions at the Authority. In this regard, it is the intent of the Authority to consider the rules and regulations of similarly sized ports in the United States mainland when promulgating its classification and compensation study for Maritime Positions unique to Port Operations and Certified, Technical, and Professional Positions at the Authority.

1.200 COVERAGE.

- A. These Rules shall apply to all employees occupying classified Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions at the Authority.
- B. Unclassified employees occupying Maritime Positions Unique to Port Operations and Certified, Technical, and Professional Positions are not covered by these Rules unless otherwise identified.
- C. These rules and regulations may be supplemented by administrative policies and procedures established by the General Manager.

1.201 EXCLUSION FROM COVERAGE

- A. Law Enforcement Personnel: One recent law which was passed after the enactment of Public Law 29-24 is Public Law 29-105. As a subsequently enacted law, its provisions supersede the provisions of Public Law 29-24 with respect to public safety and law enforcement officials of the government of Guam. Section 3 of Public Law 29-105 mandated that the Director of Administration perform a compensation review of all public safety and law enforcement officers of the government of Guam, including those employed at the Authority. The result of the review by the Director of Administration will be the development of a compensation plan (“The Public Safety and Law Enforcement Compensation Review Report”) (“the Plan”) which shall treat all aspects of compensation (base salaries, benefits, pay differential and other factors) “with said Plan to be uniformly administered throughout the government.” Prior to the issuance of the Plan, the law provides for an increase in compensation for Employees covered by the review conducted by the Director of Administration. That increase in compensation provides for up to a forty percent (40%) increase of base rates as of September 30, 2008, over a period of four (4) years effective October 1, 2008, or the amount determined by the Plan, whichever is greater by 2011. Consequently, any part of these rules, including the compensation plan to be adopted by the Board of the Authority pursuant to Public Law 29-24 and the rules, which are in conflict with the provisions of Public Law 29-105 and Plan developed by the Director of Administration are not applicable to the public safety and law enforcement personnel at the Authority. This is because the provisions of Public Law 29-105 control by applying the “Last in Time” rule of statutory construction, which can be summarized as follows: When two statutes conflict, the one enacted last prevails. Or in other words, subsequent laws repeal those enacted before to the contrary. Consequently, even though the Authority included its public safety and law enforcement officers in its compensation study pursuant to Public Law 29-24, Public Law 29-105, a subsequently enacted law, makes it clear that all aspects of compensation are to be determined by the Public Safety and Law Enforcement Compensation Review Report by the Director of Administration because Public Law 29-105 had applied uniformly to all public safety and law enforcement personnel throughout the government, including those at the Authority. The passage of Public Law 29-105 does not entitle the public safety and law enforcement personnel at the Authority to receive double compensation by applying increments pursuant to both Public Law 29-24 and Public Law 29-105 to them.

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- B. Positions not defined in Chapter 4 of the Personnel Rules and Regulations shall be compensated consistent with those compensation plans and pay scales as determined by law.

1.300 GUIDING PERSONNEL PRINCIPLES

The following are the guiding personnel principles which the Authority shall apply in the implementation of personnel administration:

- A. Recruiting, selecting and advancing employees on the basis of their abilities, knowledge and skills;
- B. Providing a uniform compensation policy for maritime positions unique to Port operations and certified, technical and professional positions;
- C. Training employees to assure high quality performance;
- D. Retaining employees based on performance;
- E. Classifying positions systematically through job evaluation; and
- F. Providing fair, expedient and responsive processes for grievance, adverse action, and conflict resolution.

1.400 EQUAL EMPLOYMENT OPPORTUNITY (EEO)

- A. It is the policy of the Authority that there shall be no discrimination against any person on the basis of race, color, sex, including sexual harassment and orientation, religion, national origin, age, marital status, physical or mental disability or political, affiliation and retaliation, except for bona fide occupational qualifications or legal requirements.
- B. The General Manager will design and develop Equal Employment Opportunity programs pursuant to the guidelines of Department of Administration. Department of Administration is hereinafter referred to as "DOA" in these rules and regulations.
- C. The EEO program calls for positive results-oriented action toward equal opportunity. Affirmative efforts will be made by the General Manager to assure equal opportunity in employment and to assure non-discrimination in government programs and activities.

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D. In order for this EEO program to become a management objective, all levels of management, which includes first-line supervisors, will continue to be trained in legal requirements of equal employment opportunity.

1.500 PENALTIES

Any penalty imposed on any employee for violation of these rules shall be in accordance with applicable rules, regulations and statutes.

1.600 GENDER

Words used in the masculine gender include the feminine.

1.700 CIVIL SERVICE COMMISSION

Nothing in these rules and regulations is intended to limit or deprive the Civil Service Commission of jurisdiction or authority vested by the Organic Act or the laws of Guam. The Civil Service Commission is hereafter referred to as "Commission" in these rules and regulations.

1.800 STATUTORY CONFLICT

In the event any rule or regulation is in conflict with statute, the statute shall prevail to the extent of inconsistency.

1.900 SEVERABILITY

If any part of the Personnel Rules and Regulations are held inorganic, then the remaining Personnel Rules and Regulations shall continue in force and effect.

CHAPTER 2

ADMINISTRATION

STATEMENT OF POLICY

This policy sets forth the responsibilities of the General Manager in the implementation of Title 4 of the GCA, these Personnel Rules and Regulations, Section 10111 of Title 12 of the GCA and other laws.

2.000 RESPONSIBILITY OF THE GENERAL MANAGER

- A. The provisions of Titles 4 and 12 of the GCA and these rules and regulations, and other applicable statutes shall control the personnel administration in the Port.
- B. The General Manager shall:
 - 1. Be responsible for the enforcement of these Personnel Rules and Regulations and all other applicable statutes.
 - 2. Advise the Board of Directors, hereinafter referred to as "Board", the Governor, the Commission, and employees on policies and procedures concerning personnel management matters.
 - 3. Maintain an adequate monitoring system to ensure statutes, executive orders, rules, regulations and standards relating to personnel management are properly carried out. Whenever the review with established policies, rules, regulations and standards reveal that there have been infractions, the General Manager shall take such affirmative resolution as may be appropriate to obtain compliance therewith.
 - 4. Exercise and provide leadership in personnel matters.
 - 5. Develop and promulgate policies, rules, regulations and standards to promote the efficiency of the Port services.
 - 6. Maintain complete employment records of all employees.
 - 7. Maintain the position classification and compensation plan.

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8. Carry out such other personnel administration activities as are necessary to assure the promotion of merit based personnel systems.
9. Provide for initial and periodic orientation to all employees concerning the provisions of these rules and regulations, and the training of all supervisors and managers in their specific responsibilities for advising employees on requirements and provisions of these rules and regulations.
10. Assure that each supervisor and manager is provided a copy of these rules and regulations, and any subsequent changes.
11. Assure that each employee is provided a copy of the Personnel Rules and Regulations and subsequent amendments to the rules and regulations.

CHAPTER 3

CODE OF CONDUCT

STATEMENT OF POLICY

All employees are expected to maintain the highest standards of conduct to ensure that the services in the Port are properly administered.

3.000 ETHICAL CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

- A. Public service is a public trust. Employees are expected to be loyal to the U.S. Constitution, the Organic Act of Guam, and to perform their duties and responsibilities ethically and in accordance with laws.
- B. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- C. Employees shall not engage in financial transactions using confidential or non-public government information or allow the improper use of such information to further any private interest.
- D. An employee shall not, except as permitted by statute or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the Port, to include persons whose interests may be substantially affected by the performance or non-performance of the employee's duties, or that of the Port.
- E. Employees shall put forth honest effort in the performance of their duties.
- F. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Port.
- G. Employees shall not use public office for private gain.
- H. Employees shall protect and conserve public property and shall not use it for other than authorized activities.

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- I. Employees shall not engage in unauthorized outside employment or activities, including seeking or negotiating for employment that conflicts with official government duties and responsibilities.
- J. Employees shall, in good faith, disclose waste and abuse and corruption to appropriate authority and in doing so shall be protected from reprisal.
- K. Employees shall respect the rights and privacy of other employees and shall not use their position, authority or other means, to injure another person or employee for personal reasons or malicious purposes.
- L. Employees shall refrain from unlawful use of drugs and alcohol. Drugs shall mean those identified in the Drug-Free Workplace Program Operating Procedures (DFWPOP).
- M. Employees shall be courteous and helpful to clients and members of the public.
- N. Employees shall be courteous to other employees and respect supervisory authority.

3.100 OATH OF OFFICE

All persons employed by the Port or accepting employment with the Port shall subscribe and certify to the prescribed loyalty oath. This oath may be administered by the General Manager or the officers, or the employees designated by him at the time of employment processing. Failure to take such oath, or certifying falsely to such oath, shall be cause for disciplinary action, dismissal or rescindment of employment offer.

3.200 NEPOTISM

- A. Spouses and persons within the first degree of relation, such as, brother/sister or parent/child, may not be employed with the Port in a direct supervisor-subordinate relationship in the classified or unclassified service.
- B. The spouse of the General Manager may not be employed with the Port.
- C. Whenever there are already two or more members of an immediate family in the public service under the Port, no other members of such family shall be eligible to appointment. As used in this Section, "immediate family" means a collective body of persons living together in the same house.

3.300 CONVICTED FELONS

- A. In accordance with Section 4203.1 of Title 4 of the GCA, no person shall be employed as a peace officer in the law enforcement positions with the Authority who has been previously convicted of a felony in any civilian or military court, a crime involving moral turpitude, a crime of domestic or family violence, regardless of whether he was pardoned or commuted by *I Maga'lahaen Guåhan* regarding such conviction.
- B. In accordance with Section 4203.3 of Title 4 of the GCA, no person shall be employed with the Authority who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the GCA or an offense as defined in Article 2 of Chapter 28, Title 9 of the GCA, or an offense in any jurisdiction, which includes, at a minimum all of the elements of said offenses, or who is listed on the Sex Offender Registry, after February 7, 2006.
- C. In accordance with the Family Violence Act, after August 14, 1998, no person thereafter who is convicted of a felony concerning family violence (not a misdemeanor) is eligible to hold the following positions:
 - 1. General Manager,
 - 2. Deputy General Manager,
 - 3. Managerial or supervisory position.

3.400 CRIMINAL CHARGES OR CONVICTION

- A. Employee's Duty to Report: An employee in the classified service who is charged by indictment, information or magistrate's complaint with any crime in any court or who is convicted of a crime in any court except Traffic Court shall provide the General Manager with written notice of the charges or the conviction within 72 hours thereof.
- B. Failure to Report: An employee's failure to provide notice as required is grounds for a separate Adverse Action. The 60 day limitation imposed by Title 4, GCA, Section 4406 commences when the employee gives notice of the charges or conviction of a crime to the General Manager as required in Rule 3.400.A.

3.500 CONFIDENTIAL INFORMATION

No employee shall disclose information which is considered a private document by existing law, and which the employee acquires in the course of official duties, or use the information for personal gain or for the benefit of someone else.

3.600 FAIR TREATMENT

No employee shall use or attempt to use an official position to secure or grant unwarranted privileges, exemptions, advantages, contracts or treatment, for himself, a spouse, children or others, including but not limited to the following:

- A. Seeking other employment or contract for services by the use or attempted use of the individual's office or position;
- B. Accepting, receiving, or soliciting compensation for the performance of official duties or responsibilities, except as provided by law;
- C. Using government time, equipment, or other facilities for private business purposes;
- D. Soliciting, selling, or otherwise engaging in a financial transaction with a subordinate or a person or business that the employee inspects or supervises in an official capacity.

CHAPTER 4

EMPLOYMENT OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

STATEMENT OF POLICY

This policy implements a system of recruitment and selection of employees of the Authority occupying Maritime Positions unique to Port Operations and Certified, Technical and Professional Positions in accordance with the merit system principles and equal employment opportunity guidelines. It also defines what classes of positions are Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions.

4.000 DEFINITION

“Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions” are defined as and may include, but are not limited to:

- (A) Positions whose qualification requirements mandates certifications and/or licensing requirements, e.g., equipment operators, stevedores, cargo checkers, marine traffic controllers, etc.;
- (B) Positions with multi-skill qualification requirements, e.g., preventive maintenance mechanics, crane mechanics, etc.;
- (C) Positions with specific maritime knowledge and skills, e.g., tariff technicians, etc.; and
- (D) Other similar technical and professional positions which are unique and critical to the Authority’s needs and no other government entity, which is not a port of entry, but not limited to, those jobs listed herein. (12 G.C.A. §10111.3(c))

4.100 IDENTIFICATION OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS, AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

A listing of those positions in Classification and Compensation Plan identified and listed, by title, position description and pay range as Maritime Positions Unique to Port

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Operations and Certified, Technical and Professional Positions and approved by the Board shall be attached to the Personnel Rules and Regulations as Appendix A.

The General Manager shall publish the Board approved list on the Authority's website and a copy of the list shall be maintained by the Authority's Human Resources Division and be available for public inspection.

4.200 AMENDMENT OF MARITIME POSITIONS UNIQUE TO PORT OPERATIONS, AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

The General Manager may make a written request to the Board for it to amend, including but not limited to deleting, adding, or modifying positions on the approved list of the Authority's Maritime Positions Unique to Port Operations, and Certified, Technical and Professional Positions.

- A. The request shall include:
 - 1. The justification for amendment.
 - 2. The essential details of the amendment.
 - 3. An analysis of the similarities or differences between the existing position and the amendment.
 - 4. The job title, pay range, and position description affected by the amendment.
- B. The General Manager shall post the request for amendment 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 request, along with evidence that prompt notice of the posting was provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam, to the Board. The Board shall approve, disapprove, or amend the request at any regularly scheduled meeting or at a special meeting called for this purpose.

4.300 APPOINTMENT THROUGH THE MERIT SYSTEM

4.301 Recruitment and Examinations

Recruitment of persons for employment in the classified service shall be accomplished consistent with the merit principles of recruiting, selecting applicants, and advancing employees on the basis of their relative knowledge, ability and skill.

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4.302 Filling of Vacancies

- A. No person shall be appointed to, or employed in, or paid for service in any permanent classified position until that position has been established, funded, and allocated to its proper class by the General Manager. Nor, shall any person be allowed to begin work before such person submits an employment application, is placed on the eligibility list as "eligible" for the position applied for, and is certified, selected and processed by following competitive examination procedures. This applies to all original and promotional appointments. Exception to the certification requirements may be made for those actions listed in Rule 4.800 of the Personnel Rules and Regulations.
- B. Competitive examinations procedures shall also apply to the following:
1. demotion to a position with known promotional potential within a class series;
 2. transfer to a position with known promotional potential within a class series;
 3. reinstatement or reemployment to a position with known promotional potential within a class series; or
 4. appointment to a position with known promotional potential within a class series.
- C. Drug Testing: Applicants selected for and offered employment with the Port shall undergo and pass a mandatory drug test before being employed. Failure to submit to, or pass such drug test shall be grounds for rescinding the offer of employment, unless the applicant is undergoing treatment through a rehabilitation program approved or recognized by the Department of Mental Health and Substance Abuse, in which case the applicant must successfully complete the program within the prescribed time before being employed.

Employees selected for any position within the Authority will be tested as provided in the Drug Free Workplace Program Operating Procedures (DFWPOP).

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- D. Minimum Educational Requirements: All new employment in the service of the Authority shall have, as a reasonable measure of job performance, minimum requirement of high school diploma or a successful completion of a General Educational Development (GED) Test, or any equivalent of a general education high school program, apprenticeship program or successful completion of certification program, from a recognized, accredited or certified vocational technical institution, in specialized field required for the job. This section shall not be applicable to the Summer Youth Employment and any person with a disability which prevent him from complying with this section consistent with the Americans with Disabilities Act or its successor's laws.

4.303 Maintenance List of Authorized Positions

- A. The General Manager shall maintain a list of authorized positions for each organized unit within the Port, showing by class of positions those that have been established and the current status of the positions. No change in the numbers of authorized positions shall be made except upon approval of the Board of Directors.
- B. The procedure for authorizing additional positions shall be subject to the approved budget by the Board. Filling of vacancies shall not be more than the number of authorized positions within its Full-Time Equivalency (FTE) ceiling, except as authorized by law as follows:
1. Part-time employees may be counted as a fraction, which is determined by dividing 40 hours into the average number of hours of such employees' regularly scheduled workweek.
 2. The number of employees may be increased beyond the number authorized for a period of no longer than ninety (90) days in the event Guam is declared to be a condition of disaster or emergency by the Governor, or by the President of the United States.

4.304 Certification from Eligibility Lists

All original and promotional appointments to positions shall be made through certifications from eligibility lists resulting from competitive examinations and for selections covered under the Merit Career Plan.

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4.305 Order of Use and Limitation on the Establishment of Lists

The order listed below shall be followed in the use of the eligibility lists, and the General Manager shall be restricted to selection from the top five/ten (5/10) found on these lists in the order of precedence herewith established:

- A. Port-wide
 - 1. Priority Placement/Lay-off Reinstatement List
 - 2. Promotional List
 - 3. Temporary or Short-Term Appointments List

- B. Government-wide or Open
 - 1. Preferential/Priority Placement List; Lay-off Reinstatement List; Enhanced Placement for Public Employees Displaced Due to Outsourcing
 - 2. Re-employment List
 - 3. Promotional List; Temporary or Short-Term Appointment List;
 - 4. Open Competitive List

4.400 RECRUITMENT

4.401 Announcement of Recruitment and Examination

- A. Upon receipt of a Request for Personnel Action (GG-1) and if there is a need to establish a list of eligibles, the General Manager shall publish and disseminate announcements of recruitment and examination on a Port-wide, Government-wide and/or Open competitive basis, and shall cause such announcements to be posted throughout the Port, Government of Guam instrumentalities, departments and agencies and community. Other methods of announcing examinations may be used at the discretion of the General Manager, so as to better disseminate information to the employees and the public.
 - 1. Port-wide competitive examinations shall be held to allow all interested and qualified employees within the Port the opportunity to compete for vacant positions.
 - 2. Government-wide or open competitive examinations may be held when there are insufficient number of qualified applicants within

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the Port for adequate competition and flexibility of selection. The Port shall determine the need for open competitive announcements.

- B. Competitive examinations may be re-announced when the General Manager determines that there is an insufficient list of eligibles for the positions or within one month of the anticipated expiration date of the eligibility list of the positions.
- C. A job announcement may be cancelled upon approval of the General Manager. If this occurs, all applicants shall be notified of the cancellation.
- D. The General Manager may publish job announcements pending the receipt of the GG-1 provided the Division Head submits justification in writing of the urgency of the recruitment request.
- E. The General Manager may request for certification of eligibles regardless of the number of eligibles in the eligibility listing.

4.402 Selective Factors

- A. Upon the request of the Division Head and approval of the General Manager, selective factors may be used on job announcements when specific identifiable knowledge, abilities or skills are essential to the successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, abilities and skills pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining eligibility based on a selective factor, applicants must have at least six (6) months of work experience in the particular selective knowledge, ability and skill or the equivalent in education.
- B. All selective factor statements must be job related and must be included in the proper job announcement.
- C. The General Manager shall establish appropriate procedures for selective factor requests and approvals.

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4.403 Bona Fide Occupational Qualification Requirements:

Job announcements may include bona fide occupational qualification (BFOQ) requirements when justified. For example, certification based on sex is a BFOQ 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.

4.404 Maintenance of Distribution Lists

The General Manager shall establish and maintain distribution lists of public and private agencies or groups, by occupation or other appropriate categories, to which appropriate examination announcements or other information regarding prospective examinations shall be sent for further dissemination to prospective applicants.

4.405 Content of Recruitment and Examination Announcements

- A. Each recruitment and examination announcement for an original appointment or promotion shall contain the title of the class, applicable pay grade, selective certification when applicable, area of consideration, character of duties and responsibilities and examples thereof, minimum qualifications for entry into the position, the required supporting documents, such as, but not limited to education, police and/or court clearances, closing date and place for filing applications, and other information deemed necessary by the General Manager.
- B. Appointments other than from an eligibility list, for example by transfer, demotion, or reinstatement shall be bound by the minimum qualification requirements.

4.406 Minimum Period of Recruitment

- A. Job announcements shall be posted for at least ten (10) working days for Government-wide and Open examination announcements and at least five (5) working days for Port-wide examination announcements.
- B. The General Manager may post job announcements on a continuous basis for positions deemed to be difficult to recruit. Notice of the final closing of such announcement shall be sent to the original distribution list at least one week prior to the final closing date for receipt of applications.

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- C. The General Manager may extend the announcement period for receipt of applications. Announcement of such extension shall be disseminated to the original distribution list for posting.

4.407 The Application Form

- A. The General Manager shall prescribe a form to be used by applicants, which shall require information covering experience, education, training, and other pertinent data, indicated as being necessary in the examination announcement. Applications shall be signed and the truth of all statements therein certified to by such signature. The form may be submitted through an electronic format and should include an electronic signature.
- B. The General Manager may not make any pre-employment inquiry about a disability or about the nature or severity of a disability on application forms, job interviews, or in background or reference checks.
- C. Medical information received on an employee as a result of an employment requirement shall be filed separate and apart from the employee's active personnel records.

4.408 Acceptance of Employment Applications

- A. Applications for competitive examinations shall be accepted only during the filing period specified in the examination announcement. All applications submitted shall be date stamped to indicate the date received by the Human Resources Division.
- B. Applications submitted by mail must be postmarked by midnight of the announced last day for filing applications in order to be accepted.
- C. Late applications for competitive examinations may be accepted if the examination has not been administered and an eligibility list established. This is provided that the late filer is a Government of Guam employee who can establish to the satisfaction of the General Manager that he was not aware of the job announcement and unable to file a job application due to factors beyond his control (i.e., official off-island training, on extended annual or sick leave, etc.).

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4.409 Evaluation of Applications

- A. An eligibility list shall be established no later than one (1) month after the closing date of the position announcement. Failure to establish an eligibility list within one (1) month of the closing date will require that the position be re-announced with a new closing date and that all applications previously received shall be re-stamped and re-accepted to coincide with the new announcement period.
- B. The closing date of the announcement shall be the ending date to credit the job applicant's education, experience and training for the position applied for.
- C. For continuous job announcements, the ending date to credit the job applicant's education, experience and training shall be the date of application.

4.410 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 an examination when any of the following conditions exists:

- A. Conviction of a crime within seven (7) years from date of application, which bears a nexus to the position, applied for, unless otherwise required by statute.
- B. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to not possess the appropriate legal status to work in the Territory or pose to be a security threat.
- C. Conviction of a sex offense or listed on the Sex Offender Registry.
- D. Refusal or failure to furnish documents required verifying any statements made in the application.
- E. Intentional false statements or deception or fraud in the application process.

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- F. Failure to attest to the accuracy of information presented on the application form.
- G. Failure to submit an application within the announcement period, with exception of Rules 4.408.B and 4.408.C.
- H. Evidence that the applicant has been removed from the position with the Port, other Government departments or agencies, or otherwise for reasons which would render him unsatisfactory for the position in the Port's services for the class for which he is applying.
- I. Failure to submit to a drug test for a position with the Port or successfully complete the drug rehabilitation program.

When such finding is made, the General Manager may reject the application and notify the applicant of such action.

4.411 Notification of Rejection of Applicants

- A. A rejected applicant shall be notified promptly of such action and reasons for rejection within ten (10) workdays of the rejection.
- B. Whenever an application has been rejected prior to a schedule examination (assembled), notice thereof, with the reason or reasons for such rejection, shall be given ample time to permit the applicant to respond in writing, or to amend an incomplete or defective application at least three (3) days before the date of the examination. If sufficient time is not available for this purpose, the applicant may be admitted to the examination with the condition that the applicant shall not be certified as eligible until all the established requirements for eligibility are met.

4.500 EXAMINATIONS

4.501 Scope and Character of Examinations

- A. Competitive examinations 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 examination is held.

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- B. Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of skill, knowledge, ability, intelligence or aptitude; medical examinations, appraisals of personal suitability; and any other matters that the General Manager deems appropriate.
- C. All examinations shall be either or both:
 - 1. Assembled, wherein the applicants assemble in a designated place at a specific time to take written, oral or performance tests pertinent to the position(s) sought; or
 - 2. Unassembled, wherein interested persons responding to an examination announcement, submit to designated places and by designated times, their records of education, training, experience and such other information as requested in the announcement be evaluated and rated by a qualified analyst or by a board of rating examiners.

4.502 Parts of Examination

- A. The parts of total examination may consist, in various combinations of such selection devices as work sample and performance tests, written tests, individual or group oral examinations, assessment center exams, medical examinations, rating of training and experience and background and reference inquiries. Examination parts will be appropriately weighed.
- B. An applicant for any examination must pass all parts of that examination in order to qualify for appointment to a position.

4.503 Education and Experience

If education and experience form a part of the total examination, the General Manager shall determine a procedure for the evaluation of the education and experience qualifications of the various applicants. The formula used in appraisal shall give regard to recent and quality, as well as, quantity of experience and to the pertinence of the education. This procedure shall allow for the substitution of the education for experience, and experience for education within the limits stated in the class standards.

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4.504 Development and Validation of Tests

Tests for each examination shall be developed and validated in compliance with EEO objectives and merit system principles, and in accordance with professionally approved validation strategies, such as, content, criterion-related or construct validation where it is technically feasible.

4.505 Admission to Compete in Assembled 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 requirement for admission is 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 or appointment until the General Manager has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

4.506 Conduct of Examinations

- A. Examinations shall be held at the time and place which is most practical and meets the need of the service, and shall be administered by an authorized representative designated by the General Manager.
- B. If an assembled examination is to be administered, qualified applicants shall be notified of the date, time and place of the examination. The General Manager shall not be responsible if a notice is lost or delayed in the mail, or sent to an applicant's former address through failure of the applicant to inform the Port of a change of address.
- C. No applicant shall be entitled to take an examination at a date, time or place other than that stated in his notification, except as the General Manager may authorize.
- D. All applicants for examinations involving physical ability or performance tests may be required to sign a waiver of liability.

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- E. All reasonable precautions shall be taken to protect the confidentiality of information about applicants.
- F. Applicants with disabilities shall be given reasonable accommodation in the administration of tests.

4.507 Assembled Examinations for Closed and Continuous Announcements

- A. For announcements having a specific closing date, and closed announcements, an examination shall not be administered until after the closing date and until such time all applications have been evaluated. Applicants applying under a closed announcement may take the required examination only once and only one eligibility list established.
- B. For continuous announcements, the following provisions shall prevail:
 - 1. No examination shall be administered until ten (10) workdays after the date of the announcement.
 - 2. Candidates who fail an examination may retake the same examination after thirty (30) days have elapsed. Exception to this rule may apply when the General Manager has certified that there are less than five (5) eligibles for each vacancy in a given class of position.
 - 3. An applicant who has passed all parts of an examination for a particular position and who requests to retake the examination for the purpose of upgrading his final earned rating, may retake the examination provided that thirty (30) days have elapsed since his last examination, and provided the announcement has not been closed. The higher score shall be used to determine the final earned rating.
 - 4. When a closing date is announced, a final eligibility list shall be established and no examinations shall be administered thereafter.

4.508 Ratings of Examinations

- A. Appropriate psychometrics and measurement techniques and procedures shall be used in evaluating the results of examinations, and in determining

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the minimum rating by which eligibility may be achieved, and the relative rank of candidates.

- B. The General Manager shall set the minimum ratings for each part of an examination. All candidates shall be required to obtain the set minimum passing score for each part of the examination in order to proceed to each successive test. In order to receive a final passing rating, the final earned rating of each applicant shall be determined by combining the earned rating of each part of the examination in accordance with the weights established for each part.

4.509 Notification of Examination Results

Each applicant who participates in an examination shall be given written notice, in person or by mail, of his examination results. The record of ratings, as well as, examination papers, shall be held as official records for the life of the resulting eligibility lists.

4.510 Inspection of Written Examination Papers

The General Manager shall, upon request of a candidate, authorize such candidate to inspect his own written examination papers, within thirty (30) days of the date of examination and in the presence of a representative of the Human Resources Division, except that when a candidate is scheduled to retake the same examination, inspection shall not be allowed more than five (5) work days prior to the examination date. The privilege of inspection shall not be deemed to include authorization to copy examination papers; or to inspect or to copy examination instructions, questions, or answers.

4.511 Administrative Review of Examination Ratings

An applicant may request administrative review of his rating assigned in an examination by submitting to the General Manager, in writing, information to substantiate his request within ten (10) workdays following the date of his examination notice was postmarked. Certification of eligibles is authorized only after the administrative review period has elapsed. Unless the General Manager determines that a delay in services will hamper the operations of a division, certification of eligibles is authorized only after the administrative review period has elapsed.

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4.512 Changes in Rating

- A. Changes in rating may be made as a result of a discovery of errors in the rating or scoring process, or as a result of an administrative review wherein the facts warrant a change.
- B. Rating errors may be corrected throughout the life of the eligibility list.
- C. Any such changes shall be reported to the applicants affected.
- D. Changes in rating will not affect a certification issued, or invalidate an appointment made from the eligibility list.

4.513 Duration of Examination Ratings

- A. Examination ratings are good only for the life of the eligibility list and shall not be carried over to a new eligibility list for the same position after a period of one (1) year.
- B. Exceptions to this rule shall also apply when minimum qualifications are amended or when written, oral or performance examinations are likewise amended. In this event, the existing eligibility list will be invalidated and candidates must take and pass any and all new examinations, both assembled and unassembled, in order to remain eligible for certification.

4.514 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 the examination. Proved disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.

4.515 Protection of Confidentiality of Materials

- A. Because of the continuing use of the examination materials prepared by the Human Resources Division, and where exposure would jeopardize the

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confidentiality of the examination questions, the review of such test materials shall not be permitted.

- B. All examination materials relating to a particular applicant, or applicants including, but not limited to reports of character and material regarding personal suitability of the applicant, shall be considered confidential material. Such examination material shall be maintained for a period of one (1) year from date the eligibility list was established.

4.516 Special Provisions

Special arrangement for examinations on a non-competitive basis, such as, upon reallocation of position and temporary appointments, may be made by the General Manager subject to the limitations which follows:

A. Non-Competitive Examinations

The General Manager may authorize non-competitive examinations under the following conditions:

1. No more than one person applies who meets the minimum qualification requirements.
2. Examination given is to test the fitness of an employee who has a permanent appointment and who seeks transfer to a position in a class in the same pay grade, but which requires a skill not required in the present classification. However, the provisions of the Merit Career Plan shall apply to a transfer to a position with Known Promotional Potential (KPP).
3. The examination is to test an employee who has a permanent appointment in a position, which has been reallocated to a class requiring a new skill.
4. When a permanent position is to be filled by a temporary appointment.
5. To facilitate the employment of qualified persons with disabilities consistent with provisions of law and these rules.

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6. Examination given is to test the fitness of a permanent employee who has been previously selected under an announcement for a position with Known Promotional Potential (KPP) and who is promoted to a higher grade position.

B. Appointment of Qualified Individuals with Disabilities

1. The Port shall employ at least two percent (2%) of the work force with severe disabilities and certified by the Division of Vocational Rehabilitation of Department of Integrated Services for Individuals with Disabilities (DISID). The Port may meet such requirement through direct employment or by contract with non-profit organizations employing individuals with disabilities. Such employment shall be on a temporary limited-term appointment not to exceed a total of six (6) months regardless of whether the position being filled is budgeted as temporary or permanent.
2. All such individuals with disabilities shall possess the qualifications for the position to which appointed. Eligibility lists shall be developed for the various positions for which individuals with disabilities are certified.
3. Nothing contained in this section shall be construed to deter or prevent the General Manager from employing:
 - a. Individuals with disabilities when available and eligible for permanent employment.
 - b. Individuals with disabilities employed pursuant to the provisions of Rule 4.516.B.2, if such persons qualify for permanent employment before the termination of their temporary appointment.
 - c. If such individual is appointed pursuant to this rule to a permanent position during or immediately after the six (6) month period, such six (6) months or portion thereof shall be credited toward such employee's probationary period.
 - d. Appointment of individuals with disabilities to permanent positions must be consistent with the merit system requirements. In this exception, if the immediate

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supervisor determines satisfactory performance either prior to, or after the expiration of the six (6) months appointment, the position occupied by the person with a disability shall be converted to permanent employment.

- e. If the performance evaluation recommends that the individual may require an extension of employment, the immediate supervisor and Division of Vocational Rehabilitation shall develop a revised Individual Work Rehabilitation Plan to assure successful placement not to exceed an additional six (6) months, which may include consideration of the Port's acquisition, or modification of assistive technology devices or services, or placement to other positions in another Government of Guam department or agency. Division of Vocational Rehabilitation shall provide a work coach to assist the Port when necessary.

4.600 PREFERENCE

4.601 Preference Credit for Individuals with Disabilities

Residents of Guam 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 only to a position. The preference credit does not apply to subsequent applications for employment in the Government after separation.

4.602 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 services in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing examination scores upon initial employment only. The preference credit does not apply to subsequent applications for employment in the Government after separation.

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4.603 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 or Discharge. A person must have completed at least 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.

4.604 Offer of Employment for Preference Credit Recipient

When two applicants are equally qualified for the position to be filled and one is a recipient, pursuant to Rules 4.601 or 4.602, while the other is not, the former shall be given the first offer of position.

4.605 Preferential Hiring of a Recipient of an Award or Scholarship

Residents of Guam, who have completed their post-secondary education assisted by the award of educational scholarships or loans from the Government of Guam, shall be given preference to jobs with the Authority for which they have applied and are qualified. Such preference shall be applicable only in selection for initial employment. The preference does not apply to subsequent applications for employment after separation or after an initial job offer is declined.

4.700 CERTIFICATION

4.701 Eligibility Lists

Employees shall be selected from among the eligibles on appropriate eligibility lists, established and maintained by the General Manager, except those employees who are demoted, transferred, reinstated or re-employed. Within the limitations found elsewhere in these rules, qualified applicants shall be placed on eligibility lists as a result of examinations. When more than one (1) competitive examination, or area of consideration is announced simultaneously for a particular class, an appropriate eligibility list shall be established for each competitive or area of consideration for that class.

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4.702 Establishment of Eligibility Lists

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

4.703 Ranking of Eligibles

After each examination, the General Manager shall prepare a list of persons with passing scores. The names of such persons shall be placed on eligibility lists in order of their final earned rating, starting with the highest. Prior eligibility lists resulting from a continuous examination announcement shall be merged by ranking the names of all successful applicants in order of their final earned rating.

4.704 Determination of Rank in Event of Tie

Final earned ratings shall be calculated in three decimal places and ranked from highest to lowest. When, upon certification of eligibles in accordance with Rule 4.710 a tie score occurs, such tied scores shall not be broken and all such eligibles shall be certified as being the fifth (5th) eligible.

4.705 Duration of the Eligibility List

An eligible on a Port-wide, Government-wide, or open competitive eligibility list, shall have eligibility for employment consideration for one (1) year from the establishment date of the eligibility list. Once a list is established, its life should be viable for one (1) year. Whenever a position is re-announced at the discretion of the General Manager, and a new eligible is established, the names of eligibles on a former list, which has yet to expire, shall be combined with those on a new list according to the final score.

4.706 Port-wide Competitive Eligibility Lists

Authority-wide competitive lists shall be established consistent with Rules 4.702 and 4.703 and selections shall be made in accordance with the Merit Career Plan.

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4.707 Government-wide Competitive Eligibility Lists

Government-wide competitive lists shall be established consistent with Rules 4.702 and 4.703 and selections shall be made in accordance with the Merit Career Plan.

4.708 Open Competitive Eligibility Lists

Open competitive eligibility lists shall be established consistent with Rules 4.702 and 4.703.

4.709 Certification of Eligibles

Certification of eligibles shall consist of five (5) or such fewer eligibles as may be available for the class. Eligibles shall be certified in the order that they appear on the eligible list provided that:

- A. eligibles with reemployment rights shall be accorded priority certification.
- B. when the fifth (5th) eligible to be certified is one (1) of two (2) or more eligibles who have identical examination scores, such two (2) or more eligibles shall be certified notwithstanding the fact that more than five (5) persons are thereby certified to fill a vacancy.
- C. in the event one (1) or more eligibles decline or fail to respond to an employment interview, the Division Head shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.712, Supplemental Certification.)
- D. if the Division Head rejects one (1) or more of the eligibles certified, he shall submit in writing to the General Manager the reasons for rejection. If the rejections are approved by the General Manager, the Division Head shall be entitled to such additional eligibles as would provide him with a full certification. (Refer to Rule 4.712, Supplemental Certification.)
- E. a certification of eligibles shall be effective for no more than thirty (30) days after the date of certification, unless extended by the General Manager.

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4.710 Certification of Eligibles from a Multiple List

After eligibility lists are established for a particular job announcement with multiple competitive examinations or areas of consideration, the General Manager may request to certify in one (1) of two (2) ways:

- A. Merge the lists and certify according to Rules 4.710 and 4.712; or
- B. Certify, in accordance with Rules 4.710 and 4.712 from each list in the following order: Port-wide, Government-wide, and Open. Each list must be exhausted in accordance with these rules before certification from the next list will be authorized.

Merging Open competitive lists with Port-wide or Government-wide competitive lists is prohibited.

4.711 Certification of Eligibles for More than One (1) Vacancy

- A. For more than one (1) vacancy, the General Manager shall certify an additional eligible for each additional vacancy.
- B. 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.
- C. For example, when certification is made for two (2) vacancies, certification of eligibles will appear as follows:

First Ranked Eligible
Second Ranked Eligible
Third Ranked Eligible
Fourth Ranked Eligible
Fifth Ranked Eligible
Sixth Ranked Eligible

The General Manager shall make his selection according to the following:

- 1. The General Manager may select two (2) persons from the six (6) certified to fill two (2) vacancies.
- 2. Should the General Manager decide to fill only one (1) of two (2) vacancies to be filled, he shall be restricted to select from the first

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- five (5) eligibles on the certification and may not select the sixth (6th) ranked eligible.
3. Should an additional vacancy exist and certification was not made for such vacancy, the General Manager may not select from among the six (6) eligibles to fill the third (3rd) vacancy. He must request an additional eligible and then make the selection for the third (3rd) vacancy from among the seven (7) certified eligibles.
 4. If the General Manager does not wish to select any of the eligibles certified, he must document the reasons for non-selection of each eligible, before a new certification is authorized.

4.712 Supplemental Certification

The General Manager may submit a supplemental certification of eligibles to provide the Division Head with a full certification.

- A. The supplemental certification may be used only upon failure to appear for an interview, refusal of appointment by eligibles, or the rejection of eligibles by the Division Head for cause.
- B. The additional eligibles to be certified shall be of such number that will provide the Division Head with a full certification.
- C. The Division Head shall contact eligibles in descending order to ascertain their interest in the vacant position. If the last eligible contacted is one (1) of two (2) or more eligibles with identical examination scores, such two (2) or more eligibles shall also be contacted.

4.713 Selective Certification

- A. Upon approval of the General Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, skills and abilities pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining qualifications on a selective factor basis, applicants must have at least six (6) months of work experience in the particular selective knowledge, skill or ability or the equivalent in education.

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- B. Selective certification may also be made which specifies a BFOQ when justified. For example, certification based on sex is a BFOQ when 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.
- C. All selective certifications must be indicated on the proper job announcement and be job-related.

4.714 Interview of Eligibles and Notification of Selection/Non-Selection

- A. The General Manager shall establish procedures for interviewing certified eligibles for selection.
- B. Within thirty (30) calendar days from the date a selection is made, the General Manager shall notify, in writing, all eligibles certified as to whether they were selected or not.

4.715 Suspension and Removal of Eligible from Competitive List of Eligibles; Restoration to List

- A. The General Manager may suspend or remove an eligible from an Eligibility List for any of the following reasons:
 - 1. Refusal to two (2) offers of permanent employment in the class of position for which eligibility has been established.
 - 2. Failure to reply within fifteen (15) calendar days to a written inquiry relative to availability for employment.
 - 3. Appointment to a permanent position for the class.
 - 4. Failure to report after two (2) days after notice, or failure to report for duty within the prescribed time.
 - 5. In the case of Port-wide or Government-wide lists, termination of service with the Government.
 - 6. When further investigation of eligible's suitability needs to be conducted.

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7. Withdrawal by the eligible.
8. Findings of deception and fraud in the employment process.
9. Conviction of a crime, which bears a nexus to the position, applied for.
10. Conviction of a sex offense under the provisions of Chapter 25 of Title 9 of the GCA, or an offense as defined in Article 2 of Chapter 28 of Title 9 of the GCA, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry.
11. Advocates, aids or belongs to any party, organization or association which advocates the overthrow of the Government of Guam or United States.
12. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to not possess the appropriate legal status to work in the Territory or pose to be a security threat.
13. Refuses or ignores the requirement to take a drug test without cause or the verified drug test result is found to be positive and the applicant is not participating in a rehabilitation treatment program.

In the event, the eligible has already received an appointment; the General Manager shall take appropriate action to ensure the termination of the employee.

- B. The following eligibles, upon their request, may have their names restored to the list of eligibles if the list is still active:
1. A probational employee who is separated without cause.
 2. An eligible who had been removed from the list under A.7 above, and who then makes himself available for employment.
 3. An eligible who received an appointment as a result of this list, then resigned in good standing and wishes to be placed on the list for future consideration. This provision applies only to open

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competitive eligibility lists.

4. An eligible who had been removed from the list as a result of a positive drug test, and who then submits documentation that he has successfully completed a rehabilitation program.

4.716 Notification of Disqualification of Eligibles

An eligible who is disqualified pursuant to Rule 4.715 shall be notified in writing of such action and the reasons of disqualification within ten (10) workdays of the action.

4.717 Cancellation of Competitive Eligibility Lists

The General Manager may cancel an eligibility list for any of the following reasons:

- A. Changes in the minimum qualifications or classification standards of a class of position.
- B. Abolishment of the class for which the list of eligibles was established.
- C. All eligibles on the list are unavailable for employment.

4.800 NON-COMPETITIVE ACTIONS

4.801 Transfer

A. Transfer Defined

A transfer is defined as a change from one position to another position of the same class, or a change to a related position in another class, which carries the same pay grade and substantially the same qualification requirements.

B. Involuntary Transfer

No employee may be involuntarily transferred to a position, which is unrelated with respect to duties and responsibilities to the position occupied by the employee before the transfer.

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C. Transfer Prohibited

1. No employee shall be transferred:
 - a. if the employee has filed a legitimate grievance with the Commission for discrimination based on political affiliation, gender or sexual harassment; or
 - b. if employees, acting in good faith, report or expose bad business practices, illegal activities, or inappropriate conduct by public officials.
2. Such transfer can be made only if it has been agreed to by the employee.

D. Intra-departmental and Inter-departmental

Upon the approval of the General Manager, employees may transfer within the Port or from another Government of Guam department or agency when the following conditions are met:

1. the employee meets the minimum qualification requirements for the position which he seeks movement, including any assembled examination requirements.
2. movement is within the same class of position or from one class of position to another class of position having comparable duties and responsibilities and qualification requirements.
3. any such transfer shall require the clearance of the General Manager and the consent of the employee. The employee shall give the releasing department reasonable notice of the transfer. Prior approval of the transfer is not required by the releasing department. The releasing department cannot require the employee to resign.
4. any employee affected by this section shall not have affected adversely his government service, retirement credits, sick or annual leave and other fringe benefits normally granted to an employee of the Government.

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5. The General Manager may require a transferred employee to serve a probationary period.

E. Inter-Government

The transfer of an employee of any Federal, State or other local government to the Port may be made when the following conditions are met:

1. the position requires highly developed skills and technical abilities as determined by the General Manager.
2. the employee meets the minimum qualification requirements for the position, including any assembled examination requirements.

4.802 Reemployment

A permanent classified employee who separated through resignation or retirement while in good standing may be eligible for reemployment, without competition to the same or comparable position within the Port within four (4) years from the date of separation. For reemployment, the General Manager must determine that the person has met the current minimum qualification requirements for the class to which reemployment are requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described in these rules. Former employees covered by this rule shall not be affected by the Merit Career Plan requirements.

4.803 Reinstatement Immediately After Active Military Service

- A. To be entitled to reinstatement rights at the Authority, a veteran must meet the following requirements:
 1. Leave a classified position at the Authority for the purpose of entering the Armed Forces, voluntarily or involuntarily.

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2. Provided written or verbal notice to the Port prior to leaving for military training or service, except when precluded by military necessity. Written notification for military leave without pay is to be submitted to the General Manager for approval accompanied with a copy of the military orders or other appropriate documents authorizing such duty.
 3. Must not have exceeded the five (5) cumulative limit on periods of service. There are certain limited circumstances in which the five (5) year limit may be extended, including, but not limited to, when the military service beyond five (5) years is required to complete an initial period of obligated service or the employee was unable to obtain orders releasing him from service before the end of the five (5) year period and the inability to obtain such orders was not at the fault of the employee.
 4. Released from active military service under conditions other than dishonorable.
 5. Be qualified to perform the duties of his position. If the employee is disabled during military service and cannot perform the duties of his former position, the employee may be entitled to the nearest comparable job he is qualified to perform.
 6. Make timely application for reinstatement within ninety (90) days after discharge from military service.
- B. Upon meeting the foregoing requirements, the veteran employee shall submit a written request for reinstatement provided written documentation, such as, a copy of the military orders and/or a DD-214, to show that:
1. the request is timely;
 2. the cumulative length of military service did not exceed the allowable limit; and
 3. the employee's entitlement to benefits under USERRA (Uniformed Services Employment and Reemployment Rights Act) has not been terminated, e.g., due to a dishonorable discharge.

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Pursuant to USERRA, the veteran employee who submits a written request for reinstatement shall simultaneously provide the documents requested by the Port as indicated in B above.

The Port shall not refuse to reinstate the veteran employee who does not provide this documentation, if documentation does not exist or is not available at the time of the request. However, if documentation becomes available at a later time which shows that the employee was not entitled to be reinstated, the Port may dismiss him and terminate any rights or benefits otherwise required by USERRA.

- C. The veteran employee is entitled to reinstatement to his previous position or its equivalent, in the step within his former pay, to which such employee would have attained before military service. In the event, the veteran employee's former position is reallocated to a higher or lower pay grade, appropriate pay adjustments shall be made. An employee on military leave without pay forfeits his reinstatement rights if he re-enlists or voluntarily extends the original tour of active duty, except as authorized in Rule 4.803.A.3 above.
- D. The Port is not required to reinstate the veteran employee if:
 - 1. Circumstances have changed to such an extent that reinstatement is impossible or unreasonable;
 - 2. In certain situations as outlined in USERRA, if employment would cause an undue hardship for the Port; or
 - 3. The employee's job was for a brief, non-recurrent period and there was no reasonable expectation that the job would continue indefinitely or for a significant period of time.

4.804 Voluntary Demotion

A voluntary demotion may be made when the following conditions are met:

- A. The employee meets the minimum qualification requirements of the position to which he seeks movement, including any assembled examination requirements.
- B. The employee to be demoted is a permanent employee and the movement

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is from a position in which he last held permanent appointment.

- C. Such demotion shall require the prior approval of the General Manager with the consent of the employee.

4.805 Developmental Promotions under Known Promotional Potential (KPP) Conditions

- A. Promotions without competition may be made where at an earlier date, an employee was selected under an announcement (competitive examination) for a position with Known Promotional Potential (KPP) and the employee is now to be promoted to the higher level position, provided the employee:

1. has completed the probationary period in the position he currently holds;
2. meets the minimum qualifications of the higher grade position including any assembled examination requirements; and
3. meets management's developmental criteria guidelines for advancement to the higher grade position.

- B. The types of KPP are:

1. KPP within a class or related class series not to exceed the highest non-supervisory level position within the series.
2. KPP within a class series up to the supervisory position within the series (first line), provided the KPP position is no more than two levels below the supervisory position.
3. KPP within an organizational program for supervisory positions not to include the managerial position ultimately responsible for the operational or conceptual integration, or coordination of activities within the organizational program.

(NOTE: Organizational charts shall be utilized to determine the position for KPP.)

- C. To be eligible for promotion without competition when the position is upgraded under these conditions, an employee must continue to perform

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the same basic functions; and his former position must be absorbed in the new one.

- D. When an additional position is created, or when the new position is not a clear successor to the former position, non-competitive promotion is not authorized and the provisions of the Merit Career Plan must be complied with.

4.806 Detail Assignments

- A. A detail is a 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, the Division Head must provide to the General Manager a position description and justification for such detail prior to the detail appointment.
- B. Details shall be made only for meeting temporary needs of the Authority's programs, 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 commencing on the first calendar day must be documented and submitted to the General Manager prior to the effective date of the detail for approval. No personnel action shall be transacted unless proper documentation is provided.
- D. An employee shall not be detailed while serving an original 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

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ninety (90) days within a calendar year, unless the General Manager obtains an exemption upon written application to DOA. Such exemption shall not extend beyond the additional ninety (90) days within that calendar year.

- F. An employee in the 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, for brief periods immediately on the first calendar day.
- H. Employees serving on a detail in excess of thirty (30) days in a position having a higher pay grade than his regular position, shall receive a payment differential in accordance with Rule 6.009, provided the detail appointment is consistent with classification principles as determined by the General Manager.
- I. Employees serving a detail on the first calendar day 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 180 calendar days to any classified position, unless the employee has met all of the qualification requirements of the position.
- K. Payment of differential shall be deferred until the employee has served at least thirty (30) calendar days in a detail.

4.807 Acting Capacity as General Manager

- A. The Board, at its discretion, may appoint a classified or unclassified employee to serve temporarily in an acting capacity as General Manager not to exceed one (1) year.
- B. An employee so appointed has the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the one (1) year period is exhausted. The time limitation of this section may not be circumvented by an interruption in the appointment to an acting capacity or the position the employee held before the appointment for a period of less than thirty (30) days.

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- C. Such employee shall receive a payment differential according to Rule 6.010.

4.900 TYPES OF APPOINTMENTS

4.901 Permanent Appointment

A permanent appointment is granted to an employee after successfully completing a probationary period in the permanent position.

4.902 Probationary Appointment

A. Probationary Period

The probationary period shall be utilized as fully as possible to determine the fitness of the employee for the position.

B. Original Probationary Period

An original probationary period shall be required when an individual who has not obtained permanent status is appointed a permanent position. This also applies to former employees who have not been employed in the Government of Guam service after four (4) years of separation in good standing.

C. Duration of Probationary Period

1. Original probationary periods will be for six (6) months, except that service as a result of the six (6) months employment program provided for placement of persons with severe disabilities may be credited consistent with statute. Employees holding classified positions under temporary employment, who are subsequently appointed to the same position under a permanent appointment, may be credited for time served towards their probationary period under temporary appointment.
2. In entry level trainee positions, the probationary period may be established at not more than twelve (12) months, upon the request of the Division Head and approval of the General Manager.

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3. Upon the request of the Division Head, the General Manager may extend an original probationary period not to exceed a total of twelve (12) months. The General Manager prior to the expiration of the probationary period shall give written notice of extension to the employee.

D. Discontinuance of a Probationary Appointment

If the employee fails to render satisfactory service during the original probationary period, the General Manager may dismiss him provided he has served a probationary period of at least three (3) months. The Division Head shall submit a recommendation for dismissal, together with the employee's performance evaluation report, to the General Manager for his approval. The dismissal notice shall indicate the effective date of the action.

Failure by the General Manager to submit a probationary letter to the employee prior to the expiration of the established end date of the probationary period does not grant him permanent status.

Employees dismissed while completing an original probationary period may appeal the dismissal only if the employee alleges that the dismissal was discriminatory based on sex, race, color, creed, religion, age, marital status, political affiliation, disability, or national origin. Submission of such appeals shall be in accordance with the EEO Discrimination Complaint Procedures adopted by DOA.

4.903 Temporary Appointment

A. Short-Term Appointments

1. Short-term appointments may be made to fill temporary vacancies in temporary positions. Appointments of this nature shall be restricted to waterfront and support personnel of the Port, involved in the loading and unloading of cargo.
2. Employees on such short-term appointments shall not be entitled to any employee benefits; any civil service protections reserved for classified employees of the Government of Guam; nor any right for promotions.

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3. Employees on such appointments shall work on an "on-call" basis and may be terminated when their services are no longer required for the operations prescribed in this section.

B. Limited-Term Appointments

1. Limited-term appointments may be made to fill:
 - a. federally funded positions, grant specific positions and project specific positions for specific periods of time that are commensurate with the funding sources or the project's duration; or
 - b. professional level position in the classified service for a specific project or program which commensurate with the duration of a specific project or program.
2. Limited-term appointments are made through the competitive process and that any person appointed on a limited-term basis must meet all qualification requirements including any assembled examinations.
3. Separation from government service of employees serving in limited-term appointments is through resignation, layoff, suspension, dismissal, termination or completion of a grant, federal grant, source of federal funds, specific program or project and for incapacity to perform required duties, provided that the employee is provided with an opportunity to seek reconsideration of suspension, dismissal and removal for incapacity to perform by answering any charges within ten (10) days in having a conference with the General Manager.

Notice of separation of government service must be provided to the employee by written notice at least sixty (60) days prior to the effective date of separation for any reason. In situations where the convenience of the Port is necessary to separate the employment without giving sixty (60) days notice, the employee shall be retained in pay status until the notice period shall have run.

4. Employees appointed on a limited-term basis shall be given the usual employee benefits.

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5. Limited-term employees do not serve a probationary period.

C. 120-Day Appointments

Temporary appointments shall be consistent with the provisions of GCA, Title 4, Sections 4102(a)(6) and 4103(e) as follows:

1. A person may not be temporarily employed in a non-professional capacity for more than 120 work days or 960 hours in any calendar year except pursuant to an exception provided for in Section 4103(d).
2. A person may not be temporarily employed in a professional capacity for more than 120 work days or 960 hours except, upon a contract in writing and a determination in writing by the General Manager that such employment is critical to the public health, safety or welfare of the community. (A person is employed as a professional if the person's job description in the Dictionary of Occupational Titles published by the U.S. Department of Labor, has as its first digit zero (0) or one (1). Any person whose job description does not have as its first digit zero (0) or one (1) shall be deemed to be a non-professional employee.)
3. The following provisions shall apply to appointments made consistent with Sub-rules 1 and 2 above:
 - a. A classified employee who fills a temporary classified or unclassified position has classified employment status absent other controlling legislation.
 - b. A newly hired employee who fills a temporary classified or unclassified position has unclassified employment status.
 - c. Such temporary appointments shall be made without competition, except that any person appointed on a temporary basis must meet the minimum qualification requirements and satisfy all examination requirements for the position as determined by the General Manager prior to appointment.

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- d. A person appointed on a temporary basis shall not perform the duties and responsibilities of a position other than that to which he was appointed.

4.904 Contracts for Personnel Services

- A. Contracts shall not be used as a substitute for merit system employment. The Authority will not contract for personnel services, which normally are performed by employees under the merit system, unless every effort has been exhausted to recruit on-island. Such effort must be documented to prove there was lack of qualified individual on-island.
- B. Contracts for personnel services may be used only when the use of a contract is in accordance with all legal provisions, including the merit system, laws, and rules.
- C. All contracts shall, after approval by the Board, the Commission, and Attorney General, be submitted to the Governor for his signature. All contracts of whatever nature shall be executed upon the approval of the Governor.
- D. Factors to be considered which could provide an adequate justification for using contracts with individuals for services include:
 - 1. emergency short-term (less than two months) normally exempt from competitive appointment methods;
 - 2. part-time professional work;
 - 3. inability of the Authority's merit personnel system to provide qualified employees;
 - 4. contract for expert consultation services not available in the Authority, when full-time employment is not needed or practical, or when the need is intermittent or for a short period of time. Such an expert might provide views or recommendations, but would not perform or supervise the performance of any of the Authority's functions;
 - 5. part-time services of a medical, dental, or other professional specialists; and

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6. contract with an individual to produce a product such as an individual research paper.

4.905 Vacation Employment for Students

The General Manager may employ during the vacation period between school years, at a rate not exceeding the minimum wage specified by any applicable Federal or Guam law, students of the various public or private schools in Guam who are at least 16 years of age, provided that such employment may not exceed eight hours in one (1) day and five (5) days in one (1) week and that such employment may not be of a hazardous nature or in any way injurious to, or endangering the student. Students employed under the authority under this section shall not be eligible for retirement, sick, or annual leave benefits.

CHAPTER 5

POSITION CLASSIFICATION SYSTEM AND COMPENSATION PLAN

STATEMENT OF POLICY

The purpose of this chapter is to develop and maintain a system for the objective, consistent and timely classification of Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions and for the reasonable and consistent assignment of classes of such positions to pay grades.

Compensation of position classes shall be based on a strategic pay job evaluation system which assesses the content and relative importance of jobs within an organization using a total of twelve (12) measurement factors.

5.000 POSITION CLASSIFICATION SYSTEM

5.001 The Classification Plan

Title 12, Chapter 10 of the GCA authorized the Board to adopt rules and regulations governing the selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment of personnel occupying maritime positions unique to Port operations and certified, technical and professional positions.

5.002 Preparation and Publication of Classification Standards

Established classification standards placed positions in their proper classes and pay grades to:

- A. define the various classes of positions that exist in the classified service in terms of duties, responsibilities and qualification requirements. Standards may be created, amended or abolished;
- B. establish the official class titles; and
- C. set forth the pay grades.

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5.003 Delegation of Classification Authority and Responsibilities

The General Manager is authorized to classify maritime positions unique to Port operations and certified, technical and professional positions under its jurisdiction, subject to:

- A. existing policies and procedures;
- B. established class standards;
- C. post-audit by the Commission; and
- D. classification appeal by the employee.

The General Manager may review published standards and submit amendments to the standards for approval to the Board.

5.004 Classification Maintenance

- A. The Commission may review maritime positions unique to Port operations and certified, technical and professional positions to determine whether positions are allocated to classes and grades in conformance with, or consistent with the Port's position classification and compensation plan.
- B. Positions shall be placed in its appropriate class and grade, provided that if a position is downgraded, the position title and pay grade shall not be applicable to an incumbent until the expiration of two (2) years from the date of downgrade. The General Manager shall take action in accordance with such determination.
- C. Whenever the Commission finds that the positions are not placed in classes and grades in conformance with the classification and compensation plan, it may prescribe, revoke or suspend in whole, or in part the classification authority of the General Manager. Further, the Commission may require its prior approval be secured before an action placing a position in a class and pay grade becomes effective for payroll and other purposes. The Commission may at any time restore such authority to the extent that it is satisfied that subsequent actions placing positions in classes and pay grades will be taken in conformance with the Classification Plan.

5.005 Class Standards

The class standards shall be considered in allocating positions and shall be applied as follows:

- A. Class standards are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration of duties, qualification

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requirements or other attributes shall not be regarded as excluding others not mentioned which are of similar nature.

- B. In determining the class to which any position shall be allocated, the standards for each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, minimum qualification requirements, and relationships to other classes consistent with statutory provisions.
- C. A class standard shall be construed as general description of kinds of work characteristic of positions that are properly allocated to that class, and not as prescribing what the duties or responsibilities of any position shall be; nor as limiting or modifying the authority which the General Manager has to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities; to assign duties or delegate responsibilities to employees; or direct and control their work.
- D. The fact that all of the actual tasks performed by the incumbent of a position do not appear in the standards of a class to which the position has been allocated, shall not be taken to mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to the other parts of the specification be construed as determining that a position should be allocated to the class.
- E. The statement of minimum qualification is to be construed as an expression of the minimum knowledge, abilities and skills, and experience and training which would be required of any appointee to a position in the class as partial evidence of his ability to perform the work satisfactorily.
- F. Qualification requirements in the standard for any class, as interpreted herein, shall constitute the basis for other tests to be included in examinations for the class, and for the evaluation of qualifications of applicants.

5.006 Title of Positions

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

5.007 Position Description

- A. The Port must prepare a written description of duties and responsibilities of each budgeted position on a form prescribed by the Board. A group of

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like positions may be covered by a single description. The employee, supervisor and/or position classifier may prepare the description. However, the major responsibility to insure accurate descriptions is on the supervisor.

- B. The supervisor must certify as to the accuracy of the duties assigned and such certification should be authenticated by the Division Head and the General Manager. The position classifier must certify as to the proper classification of the position. Copies of the position description must be filed with the Port's Human Resources Division and the respective division concerned.
- C. 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 General Manager so that a review of the position can be made to determine the proper classification of the position.

5.008 Port Responsibilities

- A. The Port shall insure that the duties and responsibilities assigned to each of its positions are accurately reflected in an official position description. Amended descriptions should be submitted on a timely basis if significant changes in the duties and responsibilities of a position are made.
- B. The Authority shall not use the classification process to evade the principles of the merit system and effect personnel changes for which other personnel processes exist.

5.009 Periodic Review of Descriptions and Classifications

In addition to the day to day work of describing and classifying new or changed positions to reflect current duties assigned and reported by supervisors, or employees, the General Manager must review, at intervals not exceeding two (2) years, all positions of the classified service within the Port 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.

5.010 Determination of Proper Allocation for Newly Budgeted or Vacant Positions

When a new position is to be established/budgeted or vacant position is to be filled, the Division Head shall submit a position description to the General Manager in order that a determination of proper classification and pay allocation may be made. After the General Manager approves the allocation, he shall notify the Division Head affected, in writing, of the approved allocation. No position may be filled until the General Manager certifies that the position is properly

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classified. Copies of all classification reviews shall be filed with the Commission for post-audit purposes.

5.011 Reclassification/Reallocation of Positions

- A. The General Manager may, upon his own initiative, or upon the written request of a permanent employee, or the Division Head, review the duties of any position to determine if it is properly classified; and shall take appropriate action as necessary, in accordance with the Port regulations, policies and procedures.

In making a request for the review of a position, the employee or division head shall set forth the changes that have occurred in the particular position since the last review or other factors which in his opinion warrant reclassification provided, that such changes in duties and responsibilities have been acquired or performed for at least three (3) months and are not temporary in nature.

- B. The General Manager shall, after a thorough review of position, notify the division head and employee affected of the classification study result within twenty (20) work days from the completion of the audit. A copy of the study, documented in a form prescribed by the Port, and the personnel action shall be filed with the Commission for post audit purposes.

5.012 Effective Date of Reclassification of Positions

- A. When a position is reclassified to a class of the same or higher pay grade, the effective date of such reclassification shall not be prior to the date of the General Manager's approval.
- B. When a position is reclassified to a class of a lower pay grade, the effective date of such reclassification shall not be applicable to an incumbent until the expiration of two (2) years from the date of downgrade.

5.013 Status of Incumbents when Positions are Reallocated

- A. When a position is reallocated as a result of gradual accretion of duties and responsibilities, the employee in the position shall be entitled to serve in that class provided he continues to perform the same basic functions and meets the minimum qualifications for the class to which the position is reallocated. Reallocation within a series of positions that is non-supervisory shall be without competition.

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- B. When a position is reallocated as a result of planned management action, the requirements of the Merit Career Plan must be complied with. The employee holding a permanent position shall retain the position currently held should the requirements of the Merit Career Plan result in his non-selection.
- C. 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.
- D. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted. This salary adjustment is subsequent to Rule 5.012.B.

5.014 Administrative Review

- A. An administrative review may be requested by an employee of the position, his designated representative acting on his behalf or, the division head in which the position is located under.
- B. All requests for administrative review must be in writing, shall contain the specific reason(s) for disagreement with the classification action taken by the General Manager, and shall state the action requested and the reasons the action is deemed more appropriate.
- C. An administrative review consists of a reevaluation of a classification action and is, therefore confined to the duties and responsibilities assigned to the position at the time the description were prepared, and which were the basis for the classification action. Subsequent changes in duties and responsibilities cannot be the basis for a request for administrative review, but must be reported on a new description and submitted for another classification action.
- D. The division head shall notify the affected employees of the original notice of classification action immediately upon receipt from the General Manager. Requests for administrative review shall be filed with the General Manager within twenty (20) calendar days of the date of notice of classification action was received by the employee.
- E. The General Manager shall take such action as he deems appropriate, which may include rescinding the earlier action and taking a different classification action. The affected employee and department head shall be notified of the action taken.
- F. Any permanent employee whose position is reviewed may appeal to the

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Commission. The employee may file a written appeal with the Commission within fifteen (15) calendar days upon receipt of the General Manager's decision.

5.015 Creation of New Positions and Classes of Positions

- A. Pursuant to Section 6303(d), Title 4, GCA, the General Manager shall petition the Board to create new positions or classes of positions when necessary for the efficient performance of the duties and functions of the Port.
- B. The petition shall include:
 - 1. the justification for the new position;
 - 2. the essential details concerning the creation of the position;
 - 3. an analysis of the similarities and differences between the position to be created and the positions listed pursuant to Title 4, GCA, Section 4101.1(d);
 - 4. the position description;
 - 5. the proposed pay range and demonstration of compliance with Section 6301 of Title 4, GCA; and
 - 6. a fiscal note as that term is described in Title 2, GCA, Section 9101 *et seq.*; and any other pertinent information.
- C. The petition shall be posted on the Port'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 of his compliance with Title 5, GCA, Section 6303.1(a) to the Board who, if they approve the same, shall approve the petition by resolution and file the petition and resolution for record with the Director of Administration and the Legislative Secretary.
- D. No new position may be filled until after compliance of the provisions of this Section and thirty (30) days have elapsed from the date of filing with the Legislative Secretary.

5.016. Transparency and Disclosure of Creation of New Positions or Classes of Positions

- A. Prompt notice of the postings required by Title 4, GCA, Sections 6205 and 6303 shall be provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam.

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- B. The petitions required by Title 4, GCA, Sections 6205 and 6303 are public documents for the purposes of Title 5, GCA, Chapter 10, Article 1 (The Sunshine Law).
- C. Any attempted creation of a position or above-step recruitment are not in compliance with provisions of Title 4, GCA, Sections 6205, 6303 and 6303.1(a) is void.

5.100 COMPENSATION PLAN

5.101 Authority

Pursuant to Title 12, GCA, Section 10111.3, the Port is authorized to adopt rules and regulations governing the compensation for Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions. The compensation policy and following rules shall only apply to the maritime positions unique to Port operations and certified, technical and professional positions. Compensation for all other positions shall remain consistent with compensation plans and pay scales as determined by law.

5.102 Compensation Policy

- A. The Port's compensation for maritime positions unique to Port operations and certified, technical and professional positions 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 be recognized and reward individual employees commensurate with performance.
- E. All aspects of compensation (base salaries, benefits, pay differentials, and other factors) will be considered as a total reward and incentive package for employees and shall be consistent and uniformly administered through the Port.
- F. A program of on-going communications and training shall be a critical component of compensation administration.

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5.103 Administration of a Unified Pay Scale

The Board shall approve a unified pay scale for maritime positions unique to Port operations and certified, technical and professional positions as recommended by the Port Position Classification and Benefits Study.

5.104 Assignment of Classes to Pay Grades

Pay grades for all classes of maritime positions unique to Port operations and certified, technical and professional positions are assigned as recommended by the Port Position Classification, Compensation and Benefits Study and approved by the Board.

5.105 Evaluation of Classes for Assignment to Pay Grades

- A. The evaluation is a systematic process of assessing the relative size and importance of maritime positions unique to Port operations and certified, technical and professional positions in the Port.
- B. The evaluation provides a structured approach to assessing the relative work of each position and used measurement factors universally applicable across all sectors of industry, commerce and government.
- C. Classes shall be evaluated on the basis of twelve (12) measurement factors. Each factor indicates a point rating and the sum of all points represents the total "points" value for the job.
- D. The 12 factors, consistent with the Methodology of Position Classification and Salary Administration Guidelines, are:
 - 1. Education: The minimum level of education required to perform the functions of the position. This combines both formal and informal levels of training and education.
 - 2. Experience: The length of practical experience and nature of specialist or managerial familiarity required. This experience is in addition to formal education.
 - 3. Complexity: Measured in terms of:
 - (a) the time taken to learn and adjust to the specific job requirements;
 - (b) the level to which the job functions are defined and must follow established and predictable patterns;
 - (c) the thinking challenge required to adapt to rapidly changing circumstances, and the innovative or conceptual thinking required to initiate new corporate directions.

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4. Scope of Work: The managerial breadth or scope of the position.
 5. Problem-Solving: The nature and complexity of problem solving expected of the job. Judgment exercised, availability of rules and guidelines to assist in problem solving, the degree of analysis and research required, and the originality, ingenuity and initiative required to arrive at a solution are all considered.
 6. Freedom to Act/Supervision Received: The extent of supervision, direction or guidance imposed on the job holder and the freedom the job holder has to take action.
 7. Work Environment: This factor measure the physical work environment in which the job is substantially performed. It considers environmental influences, such as, noise, dirt, heat, cold and dampness in excess of that normally associated with office conditions.
 8. Physical Demands: This factor measures the physical demands of the job in terms of work posture and physical exertion.
 9. Impact of Discretionary Decisions: The level of discretionary decision making taken solely by the job holder and the direct cost to the organization as a result of poor judgment or the direct contribution to the organization achieved through good judgment.
 10. Human Relations Skills/Contacts: The requirement for human relations skills in dealing with other personnel and external contacts.
 11. Authority Exercised: Authority levels expressed in term: staffing, contractual and financial.
 12. Supervisory/Managerial Responsibility: The responsibility for the control and management of staff within the Port, including direct line management and project team management.
- E. The assignment of classes of pay grades shall be in accordance with policies and standards established in conformance with statute and the following principles:
1. Classes, which are related and are substantially equal, shall be assigned to the same pay grade.

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2. Significant differences between related classes in the twelve (12) factors shall be reflected in the relative difference in assignment to pay grades.

5.106 Approval of Amendments of Unified Pay Scale and Implementation Plan: The General Manager shall petition the Board for approval of the future amendments of unified pay scale as recommended by the Port Position Classification, Compensation and Benefits Study as follows:

- A. The petition shall include:
 1. the amendment to the unified pay scale;
 2. the justification for the amendment of the unified pay scale; and
 3. the implementation plan.
- B. The petition shall be posted on the Port's website for ten (10) days (Saturdays, Sundays and Government of Guam holidays excepted).
- C. The 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 posting, the General Manager shall forward the petition, along with the evidence of his compliance with posting to the Board.
- D. The Board may approve, disapprove or amend the amendments to the unified pay scale by resolution at any regularly scheduled meeting or a special meeting called for this purpose.

CHAPTER 6

PAY ADMINISTRATION

STATEMENT OF POLICY

It is the policy of the General Manager to provide a uniformed pay administration to facilitate pay actions, while ensuring the proper compensation of employees occupying maritime positions unique to Port operations and certified, technical and professional positions and to provide the opportunity for the Port to carry out its mission.

6.000 PAY ACTIONS RELATED TO APPOINTMENTS

6.001 Compensation at Initial Appointments

All initial appointments shall be made using the position's designated implementation range within the appropriate pay grade except as provided below:

- A. The General Manager may, with the approval of the Board, authorize initial employment in a position above the position's designated implementation range if such action is warranted by recruitment difficulties or exceptional qualifications. This petition to the Board shall be made before the applicant is hired.
- B. The pay grade schedule consisting of Steps 11 through 20 shall not be used for recruitment above-step.

The General Manager may establish policies to administer this action.

6.002 Compensation for Recruitment Above Designated (Above-Step) Implementation Range

- A. Policy: The Board expects that every request for recruitment above designated (above-step) implementation range is based on good faith recruitment efforts, objective evaluation of candidates' qualifications, and in the best interest of the Port.
- B. Recruitment Above Current Market Percentile (Above-Step): The General Manager may make a request to the Board for recruitment not to exceed twenty-five percent (25%) above current market percentile (upon which the Port's compensation plan is currently based) because of the documented recruitment difficulty or exceptional qualifications.

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Increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above current market percentile.

The request to recruit above the current market percentile shall include the following:

1. Identifying information about the applicant and the position to be filled.
 2. For exceptional qualifications, documentation supporting the quality of experience.
 - a. performance evaluations;
 - b. professional accomplishments;
 - c. professional awards/recognition;
 - d. training certificates/certifications;
 - e. academic achievements; and
 - f. other testimonials
 3. Application and rating forms of all candidates competing for the position.
 4. Justification for pay grade, step and salary being requested. Justification must include information of the applicant's current salary.
 5. A complete justification on the basis for the recruitment above the current market percentile.
 6. The applicant was advised before being hired that all initial appointments shall be made using the position's designated implementation range within the appropriate pay grade unless the request is approved by the Board.
 7. Organization and functional charts of the division of which the position is located.
 8. Staffing pattern of the division of which the position is located.
 9. Other information as may be requested by the Board.
- C. Transparency and Disclosure Process: The following transparency and disclosure process shall be used to authorize recruitment for initial employment above the current market percentile:
1. The General Manger shall request for recruitment above the current market percentile to the Board for their review and approval to authorize management to proceed with the transparency process.
 2. Once authorization is granted by the Board, the General Manager shall post the petition and supporting documents for ten (10) days (Saturdays, Sundays, and Government of Guam holidays excepted).

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3. Issue press releases to each newspaper of general circulation and broadcasting stations which airs a local news program within Guam of the Port's request to recruit above the current market percentile. Such notice shall include the availability of the request under the Sunshine Act.
 4. In addition, a memorandum is to be issued to all employees notifying them of the request and acceptance of comments to the request.
- D. Board Action of Recruitment Above Current Market Percentile (Above-Step): After the expiration of the ten (10) days and at the next regularly scheduled or special meeting, the request, documents showing compliance of the transparency process and comments received by the public and/or employees shall be presented to the Board for review and possible approval. Approval of the request shall not occur if the transparency process was not complied with.

Approval by the Board shall include a resolution authorizing recruitment above the current market percentile which must be passed by a majority of the members present at the meeting.

The General Manager shall notify the applicant of the approval or disapproval of the request.

If approved, the personnel action reflecting the recruitment above the current market percentile shall be effective the date of the Board's approval. Copies of the personnel action, request, supporting transparency documents and Board resolution shall be provided to the Commission and filed in the employee's personnel jacket.

6.003 Compensation Adjustment Following a Promotion

- A. A payment adjustment resulting in a promotion is effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to promotion plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to promotion is below the low end of the new implementation range shall be slotted at the lowest sub-step of the new implementation range plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- C. The General Manager, at his discretion, or upon the recommendation of the Division Head, may grant up to three (3) additional sub-steps based on

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superior performance, significant contributions made to the business unit or the Port as a whole, or demonstration of personal enrichment and development related to and beyond the requirements of the position. All requests for additional sub-step placement must be in writing and approved by the General Manager prior to the effective date of the promotion, reclassification or pay grade reassignment.

6.004 Compensation Adjustment Following a Voluntary Demotion

- A. A pay adjustment resulting in a decrease by a voluntary demotion is effectuated by identifying the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to demotion less an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to a voluntary demotion is below the lowest sub-step of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.

6.005 Compensation Adjustment Following an Involuntary Demotion

- A. A pay adjustment resulting from an involuntary demotion is effectuated by identifying from the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being reviewed prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment where the salary received prior to the involuntary demotion is below the lowest sub-step of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.
- C. The General Manager, at his discretion, may further adjust the amended base salary following an involuntary demotion for cause or due to an adverse action (as opposed to an involuntary demotion due to a medical disability, which is not an adverse action) to an even lower sub-step to that outlined in Sections A and B above.

6.006 Compensation Following a Non-Service Connected Disability Demotion
(Medical Condition)

A pay adjustment resulting from the employee who is unfit to perform the duties and responsibilities of his position due to a medical condition that is non-service connected, is effectuated by identifying from the amended pay grade the salary (sub-step) closest to, but not more than the salary (sub-step) currently being

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reviewed prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary of the employee.

6.007 Compensation Adjustment Following Reemployment

A person who is reemployed under the provisions of Rule 4.802, shall be paid at the rate to which he would have been entitled had he remained in service, but that no credit shall be given toward progressive salary step increases within the pay grade.

6.008 Compensation Following a Transfer

An employee who is laterally transferred to a position in the same pay grade or reclassified to another class of position within the same pay grade, the current salary (sub-step) is maintained provided it is not less than the lowest sub-step of the new implementation range. Should the latter occur, a pay adjustment to the lowest sub-step of the new implementation range will identify the new base salary.

6.009 Compensation Following a Detail Appointment

- A. A pay adjustment due to a detail appointment effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to the detail appointment plus an additional six (6) sub-steps. This identifies the new base salary of the employee.
- B. A pay adjustment due to a detail appointment where the salary received prior to the detail appointment is below the low end of the new implementation range shall be slotted at the lowest sub-step of the new implementation range. This identifies the new base salary of the employee.
- C. Employees serving a detail appointment, consistent with Rule 4.806 in excess of 30 consecutive calendar days in a detailed position shall receive a pay adjustment in accordance with Sections A or B above. Payment of differential shall begin on the first calendar day the employee is serving in a detail.

6.010 Compensation Following Appointment in an Acting Capacity

An employee who is appointed by the Board to serve temporarily in an acting capacity as the General Manager shall be compensated during the period of such services by a payment differential to be added to his base rate of pay, measured by the difference in the amount between the step in the pay grade he holds and the salary paid the General Manager position, provided that:

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1. The period in an acting capacity shall not be less than thirty (30) calendar days and not to exceed one (1) year.
2. Payment differential shall be deferred until the employee has served thirty (30) calendar days in an acting capacity.

6.100 PAY ACTIONS RELATED TO REALLOCATION OF POSITIONS

6.101 Compensation Following Reallocation of Positions

- A. When a position is reallocated to a class of a higher pay grade, the pay adjustment effectuated is by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to reallocation plus an additional six (6) sub-steps.
- B. When a position is reallocated to another class of the same pay grade, the current salary (sub-step) is retained provided it is not less than the lowest sub-step of the new implementation range. Should the latter occur, a pay adjustment to the lowest sub-step of the new implementation range will identify the new base salary.
- C. When a position is reallocated to a class of a lower pay grade, the implementation shall not be effected until the expiration of the two (2) year waiver, as provided for in Rule 5.012.B.

6.102 Salary Adjustment Upon Demotion Due to Position Reclassification Action

- A. The pay adjustment resulting in a decrease because of a position reclassification action is effectuated by identifying the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to demotion less than an additional six (6) sub-steps. This identifies the new base salary.
- B. Implementation of the reclassification in terms of position title shall be made upon approval of the reclassification determination by the General Manager.
- C. The incumbent of the position designated for downgrade shall not have his current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary increment in the new grade is granted.
- D. The salary increment anniversary date before reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade. Where there is no change in the waiting period, the salary increment date and the pay grade before the reclassification

shall be maintained.

6.200 PAY ACTIONS RELATED TO PAY GRADE REASSIGNMENT

6.201 Pay Grade Reassignment

An employee and/or supervisory official may initiate a written request for consideration of an amendment to the pay grade allocation for the class of position with justification to the General Manager. If the findings of the General Manager indicate the need to amend the pay grade allocation, he shall submit a written request with justification to the Board in accordance with the Board's policies and procedures. Changes adopted shall become effective as directed by the Board.

6.202 Pay Adjustment Following Pay Grade Reassignment

- A. A pay adjustment resulting in a higher pay grade reassignment and there is no change in the position classification is effectuated by identifying from the new pay grade, the salary (sub-step) closest to, but not less than the salary currently being received prior to the pay grade reassignment plus an additional six (6) sub-steps. This identifies the new base salary.
- B. A pay adjustment resulting in a lower pay grade reassignment and there is no change in position classification is effectuated by identifying from the amended pay grade, the salary (sub-step) closest to, but not more than the salary (sub-step) currently being received prior to the lower reassignment less an additional six (6) sub-steps. This identifies the new base salary.

6.300 PAY ACTIONS RELATED TO INCREMENTS

6.301 General Provisions Relating to Salary Increment Increases

- A. Salary increment increases shall be granted as authorized in the Personnel Rules and Regulations.
- B. Increment Status upon Demotion Due to Position Reclassification:

The salary increment anniversary date before the reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade.
- C. Personnel Actions Not Affecting Increment Anniversary Dates:

The following personnel actions shall not change increment anniversary dates:

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1. the pay grade for a class or classes of positions have been reassigned;
2. pay adjustments from statutory amendments to the pay grade schedule;
3. detail appointment;
4. transfer from one position to another of the same or related class of position while retaining the same salary rate upon transfer;
5. involuntary demotion for other than adverse or disciplinary reasons;
6. reclassification to a class of the same pay grade or lower while the employee retains the same salary rate;
7. salary increment freeze; and
8. other situations as may be determined by the Board.

D. Voluntary Demotion to the Same or Related Class of Positions:

The employee's next salary increment shall include the period served prior to the voluntary demotion; and provided that work performed is satisfactory.

E. Creditable Service Upon Reemployment:

Permanent classified employees who separated with the Port in good standing shall be credited for time served in the increment held prior to separation when exercising their reemployment rights.

6.302 Salary Increment - Procedure

Employees entitled to an increment increase shall be based on an annual review of performance as outlined in Chapter 7. As part of the appraisal process, an employee's performance will be assessed against a performance range of zero (0) to six (6) sub-steps. As sub-steps (within the pay schedule) increase by one percent (1%) the performance (and resulting salary increment) range from zero (0), or a nil increase, through up to six percent (6%).

The salary increment will be granted upon certification by the General Manager that satisfactory service has been rendered for the performance rating period preceding such increase.

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When a division head determines that a particular employee shall not be granted a salary increment, the division head shall notify the General Manager of such denial prior to the employee's anniversary date. If the General Manager does not receive a performance report or a notification of denial of an employee's salary increment, no action will be taken to adjust the employee's pay.

6.400 ONE-STEP MERIT PAY INCREASE – DR. PEDRO SANCHEZ SCHOLARSHIP GRADUATES

- A. Employees are eligible for a mandatory pay merit increase upon graduation from the Pedro "Doc" Sanchez Scholarship Program. The employees entered into the program, as evidenced with the awarding of an undergraduate or graduate degree in Public Administration or Business Administration by the University of Guam shall be entitled to receive one-step merit pay raise from the Port effective Fiscal Year 2008 following certification by the University of Guam that the employee has completed all degree requirements.
- B. Employees who were enrolled in the Pedro "Doc" Sanchez Scholarship Program and graduated with a degree between the enactment of Public Law 23-111 (effective July 23, 1996) and the enactment of Public Law 29-137 (January 30, 2009) who would otherwise have received the one-step merit pay raise, shall be entitled to the same incentive benefit, provided that the employee is an active employee at the time of enactment of Public Law 29-137 and the merit pay increase shall not be retroactive. Awarding of the one-step merit pay raise shall be subject to the availability of funds.

6.500 TRANSMITTAL OF PERSONNEL ACTIONS TO COMMISSION

6.501 Filing of Personnel Actions:

All personnel actions regarding the classified service shall be filed with the Commission within twenty (20) days after their effective date. The Commission may set aside and declare null and void any personnel action if the Commission finds that it was taken in violation of personnel laws or rules, except for those personnel actions for adverse actions, such null and void must be in accordance with the Adverse Action Appeals and Hearing Procedures.

6.502 Agency Response

Prior to declaring any personnel action null and void, the Commission shall provide written notice of the alleged violation to the General Manager. The General Manager shall respond within ten (10) days after receipt of the notice to the Commission's proposed action.

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6.503 Commission Action

All actions taken by the commission pursuant to Section 4403(d) of Title 4, GCA shall be taken within 120 days after personnel action is filed with the Commission.

The Commission shall submit its final decision to the Guam Legislature. The Commission's decision shall be final but subject to judicial review.

CHAPTER 7

PERFORMANCE APPRAISAL

STATEMENT OF POLICY

The purpose of this Chapter encourages efficiency and productivity among employees and the orderly and constructive relationships between management and employees in the interest of effective personnel management, and the efficient operation of the Authority.

7.000 PERFORMANCE APPRASIAL

7.001 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 twelve (12) month basis;
- D. 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; or
- L. Determine whether disciplinary action is warranted.

7.002 Training

The General Manager shall be responsible for providing periodic training for all levels of management concerning the performance appraisal system, including the development of performance standards, performance interview techniques and performance ratings.

7.003 Performance Appraisal Records

- A. The performance appraisal report shall be transmitted to the General Manager, thirty (30) days prior to the anniversary date. Upon receipt of the performance evaluation report and recommendations, the General Manager shall effect the appropriate personnel action in accordance with

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the recommendation of the supervisor and Division Manager. No action will be taken by the General Manager until receipt of the performance appraisal report.

- B. Records of the performance appraisal report shall be filed in the employee's personnel file.

7.004 General Manager's Responsibility for Performance Appraisal

The General Manager shall be responsible for the effective implementation and administration of the performance appraisal system within the Port. He shall approve all performance ratings made within the Port and shall ensure that supervisory personnel receive adequate training in the performance evaluation system. He shall ensure that performance appraisal and reports are completed and submitted on a timely basis.

7.005 Supervisor's Responsibility for Performance Appraisal

- A. The performance standards shall be developed and the performance appraisal shall be completed by the supervisor immediately responsible for the employee's work with input from the employee. The rater should be the individual who oversees, reviews, and checks the daily performance of the employee being rated, or is the supervisor who is most closely acquainted with the employee's work. The supervisor shall also be responsible for the timely preparation and submission of performance appraisals of all employees under his supervision. The employee's supervisor must have supervised the employee for at least ninety (90) days to render a fair appraisal. When a supervisor retires, resigns or transfers, he shall render an appraisal for the assigned employees before leaving the Port.
- B. For employees on temporary assignments due to work injury, disability (light duty), details, etc. for ninety (90) days or more, the supervisor may establish additional performance standards to reflect current duties. A composite rating for the temporary assignment and permanent position may be made.

7.006 Performance Appraisal Form

Performance appraisals shall be accomplished on a form approved by the General Manager, consistent with the performance appraisal system in effect. The performance appraisal form shall be filed in the employee's personnel jacket.

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7.007 Performance Appraisal Period

- A. Supervisors shall evaluate and submit the employee's work performance for every twelve (12) months of service to the General Manager.
- B. Performance appraisal reports must be prepared and submitted for processing to the General Manager no sooner than thirty (30) days prior to above period.
- C. Supervisors are required to conduct mid-term performance appraisal for all of their subordinates.
- D. No later than the end of the probationary period for those employees serving original probationary appointments, including those probationary periods that have been extended. The final Probationary Performance Appraisal Report shall be submitted and received by the General Manager no later than (10) work days prior to the probationary due date.

7.008 Salary Increment

The salary increment of all Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions shall be based on an annual review of performance as outlined in this Chapter. As part of the appraisal process an individual's performance will be assessed against a performance range of zero (0) to six (6) sub-steps. As sub-steps (within the pay schedule) increase by one percent (1%) the performance (and resulting salary increment) range from zero (0), or a nil increase, through up to six percent (6%).

All salary increments will require the approval by the General Manager.

7.009 Performance Appraisal for Original Probationary Employees

- A. An overall performance rating of at least a **Satisfactory** shall be necessary before an employee serving an original probationary period may receive a permanent appointment in the class of position he occupies.
- B. When an employee serving an original probationary period receives an overall performance rating of **Marginal**, the probationary period shall be extended for a minimum period of sixty (60) days during which the employee has the opportunity to improve work performance, provided the total probationary period does not exceed twelve (12) months. The Division Head 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 twelve (12) months may be granted.

- C. When an employee, serving an original probationary period, receives an overall performance rating of **Unsatisfactory**, the employee serving the original probationary period shall be terminated from the Port. A probationary employee who is dismissed has no recourse to file a grievance or appeal his release from employment unless the release from employment is a result of discriminatory action by management.

7.100 Approval of Performance Appraisal

A Division Head shall submit, on a twelve (12) month basis, a written recommendation to the General Manager regarding the performance appraisal of every employee occupying a maritime position unique to Port operations and certified, technical and professional position. The General Manager shall make a final performance appraisal accepting or rejecting said recommendation and make the corresponding salary adjustments.

7.100 APPEAL PROCEDURES FOR RE-DETERMINATION OF PERFORMANCE APPRAISAL

7.101 Purpose

This procedure outlines the responsibilities and procedures to be followed by management and employees in handling performance appraisal appeals.

7.102 Coverage

Employees occupying maritime positions unique to Port operations and certified, technical, and professional positions covered by these procedures are those employees who have satisfactorily completed their original probationary period and have attained permanent status with the Port. Such employee who believes he was unjustly rated may request for redetermination of the performance rating. Original probationary period performance ratings are not appealable under this procedure.

7.103 Representation

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

7.104 Freedom of Reprisal or Interference

An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal.

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7.105 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.

7.106 Informal Appeal Procedure – Division Head

- A. After the rating conference has been held and the employee has been informed of his overall annual rating, the employee who believes that he was unjustly rated shall bring the matter to the attention of his Division Head not later than five (5) workdays after the conference date.
- B. A review of the rating shall be afforded the employee by the rater and/or 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 Division Head.
- C. If the employee's concerns are not resolved, or a decision is not issued within five (5) workdays, the employee may file a formal appeal to the General Manager.

7.107 Formal Appeal Procedure – General Manager/Performance Rating Board of Review

- A. Whenever resolution of a performance rating cannot be reached at the informal level, an employee may appeal to the Performance Rating Board of Review via the General Manager. The appeal shall be in writing to the General Manager and filed within five (5) workdays after the employee receives the Division Head's decision.
- B. The Board shall be appointed by the General Manager and consist of three members, who are classified employees and occupy maritime positions unique to Port operations and certified, professional and technical positions, of which one shall be at the same position level as the appellant, one shall be at the managerial level or designated official who will serve as the hearing officer. Board members shall not be from the same division where appellant is assigned. The General Manager shall appoint the Board within five (5) workdays of receipt of the written appeal.
- C. The Board shall conduct its first hearing within five (5) workdays 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

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pertinent documents related to the appeal to the employee, his representative, the rater, and all other parties concerned.

The conduct of the hearings 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, shall be submitted and other information the Board requests concerning the appeal.

- D. 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 the employees and supervisors during proceedings before the Board. All members of the Board shall be present at all times during hearings and shall participate in the decision. Hearings shall be recorded and summarized in writing.
- E. 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 final 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 immediately sent to the appellant, and signed copies forwarded to the Division Head and General Manager.

- F. When the Division Head receives a Board decision amending the employee's rating, the Division Head shall immediately substitute the original rating for the amended rating. The Division Head must reconsider administrative actions based on the original rating and re-determine and adjust those administrative actions to conform to the amended rating.

CHAPTER 8

HOURS OF WORK, OVERTIME AND PREMIUM PAY

STATEMENT OF POLICY

The purpose of this Chapter is to establish the standard for hours of work, wages, overtime compensation, compensatory time-off in lieu of overtime pay, observance of holidays and a system under which the pay of certain employees shall be adjusted for certain hours, days or conditions of work. These provisions shall be in compliance with the Fair Labor Standards Act (FLSA).

8.000 GENERAL PROVISIONS

8.001 Work Week

- A. The basic work week is forty (40) hours. Alternatively, a workweek is a regular recurring period of 168 consecutive hours—seven (7) consecutive 24-hour periods. The workweek need not coincide with the calendar week. It may begin any day of the week and any hour of the day, but it must in each case, be established in advance. The workweek may be changed, but only if the change is intended to be permanent and is not made to evade overtime requirements or policies.
- B. An employee's work week may be in accordance with office hours, with designated shifts, or with such flexible or variable hours program as are implemented by the Port provided that the Port shall not operate less than a forty (40) hour work week, except as provided by law.

8.002 Break Periods

A full-time employee may be allowed a fifteen (15) minute break period in the first half and second half of the work day, except for law enforcement employees subject to Section 7(K) of the FLSA provided further that:

- A. No single work break shall exceed fifteen (15) minutes absence from the employee's workstation.
- B. An employee may not accumulate unused work breaks.
- C. Work break time shall not be authorized for covering an employee's late arrival on duty or early departure from duty.

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8.003 Meal Periods

- A. Full-time employees shall be allowed a minimum of thirty (30) minutes and up to a one-hour meal period during each workday of more than five hours.
- B. When a work day of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the employee and the Port.
- C. Meal period shall not be considered "on duty" or counted as time worked, unless the nature of work prevents an employee from being relieved of duty.

8.004 Work Week Schedule

- A. The schedule of workweek for shift workers shall be prepared and prominently posted at least two (2) weeks in advance so that the employees affected will be informed. Such schedules shall not be less than two (2) weeks and shall not be changed, except for good cause and provided affected employees are given at least 24 hours prior notice. Whenever possible, work schedules should permit an employee to enjoy a holiday on the day it is observed.
- B. The General Manager may permit flexible work schedules as may be appropriate.

8.005 Safe Hours of Work

- A. To ensure that the employee's work is performed in a safe manner, the following maximum hours of work will be observed:
 - 1. An employee shall not be allowed to work more than 14 hours consecutively, or in one 24-hour day.
 - 2. An employee shall not be authorized to work more than 84 hours total within a single seven-day period.
 - 3. An employee shall not be required to work more than 28 hours within a time span of two days.
- B. Exceptions to the above may be made only:
 - 1. if the employee volunteers his services and has the specific approval of his Division Head; or

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2. in cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities or emergencies.

Should such an occasion for Section A arise, written documentation must be submitted by the Division Head to the General Manager within 48 hours of such occurrence.

8.100 MINIMUM WAGE

Employees shall be paid not less than the established minimum wage for Guam.

8.200 HOURS WORKED

A. As a general rule, hours worked will include:

1. All time during which an employee is required to be on the Port's premises or at a prescribed work place.
2. All time during which an employee is suffered or permitted to work, whether or not required to do so. The determination of an employee's working hours will include, in the ordinary case, all hours from the beginning of the work day to the end of the work day, with the exception of periods when the employee is relieved of all duties for the purpose of eating meals.

8.300 HOURLY RATE OF PAY

The hourly rate of pay is the rate reflected on the pay grade schedule approved by the Board.

8.400 OVERTIME

8.401 Coverage

- A. Upon the occurrence of overtime work, covered classified employees shall be entitled to receive overtime compensation calculated at the rate of 1 and $\frac{1}{2}$ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- B. In determining the number of hours worked by an employee within a given workweek or work period, time spent off on annual, administrative, sick, compensatory time-off, other leave (with or without pay), or holidays will not be counted as time worked. Such time off with pay shall be included in the straight time pay, but it is not included in computing whether a covered employee has worked in excess of forty (40) straight time hours in a workweek.

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- C. Any fraction of an hour of overtime worked shall be converted to the nearest fifteen (15) minutes.
- D. Covered employees, include those classes of positions that are not in the executive, administrative, and professional categories, in accordance with the FLSA.

8.402 Occurrence of Overtime Work

- A. Overtime work may be authorized by the General Manager in cases of emergency, or when the best interests of the Port indicate that overtime work is required.
- B. The General Manager shall hold hours worked by the employees to the Port's established forty (40) hour work week standard, except in those cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities, or emergencies.
- C. It shall be the responsibility of each Division Head to determine that the provisions of overtime pay are administered in the best interest of the Port's services. Recognizing that the General Manager is responsible for the manner in which overtime work is authorized, it is especially important to control unauthorized overtime.
- D. Each Division Head is responsible for internal controls, which will provide a means of reviewing and evaluating the use of overtime. The practice of overtime work will be subject to review by the General Manager.
- E. Overtime work will occur when an employee renders service under any of the following conditions:
 - 1. The employee renders service in excess of forty (40) straight time hours per workweek.
 - 2. The employee renders service on the employee's scheduled day off and there has been no change, by mutual consent or by due prior notice, in the work schedule.

8.403 Emergency Situations Defined

The General Manager shall arrange the employment and work programs of the Port in such a way that overtime is not required except in emergency situations.

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Overtime work may be required for any covered employee in emergency situations as described below:

- A. Where an established post of duty must be covered twenty-four (24) hours per day, and an employee is not available to cover that post on a given shift.
- B. When danger to life, health, or well-being of the public, employees, patients, inmates or other persons could occur if an employee is not required to be on duty or where danger to property is eminent.
- C. Other situations where the General Manager determines that the responsibilities prescribed for the Port cannot be accomplished unless overtime work is authorized.
- D. Employees who work during emergency periods as declared by the Governor of Guam.

8.404 Compensation for Overtime Work

- A. Payment for overtime work shall be made no later than the next pay period after the overtime work is performed.
- B. Overtime compensation shall be at the rate of 1 and ½ times the regular rate of pay for each hour or portion of the hour of overtime worked.
- C. An employee who is subject to the maximum 240 (480 for law enforcement) hours of compensatory time under the FLSA, as amended, shall be paid cash wages of time and one-half (1½) the regular rate of pay for overtime hours in excess of this maximum. Overtime must be authorized in advance and applicable only for the pay period.
- D. The requirement that overtime must be paid after forty (40) hours a week may not be waived by an agreement between management and the employee except provided in Rule 8.405.
- E. Consistent with Section 4105(d)(3) , Title 4 of the GCA, no person shall be required to work overtime unless the employee has received certification by the General Manager that funds for overtime pay are available.
- F. Employees, who work during emergency periods as declared by the Governor of Guam, shall be compensated in the following manner.
 - 1. Employees occupying permanent positions in the classified service or the unclassified service, except for the General Manager and his first assistants, by whatever title called, whose regularly scheduled

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hours of work fall within such an emergency period, but whose presence is not required at work, shall be granted administrative leave. Employees not occupying permanent positions are not eligible for administrative leave.

2. Employees not occupying permanent positions in the classified service, who were required to report to, and did work during such an emergency period, shall be entitled to overtime pay for all such hours worked.
3. Employees occupying permanent positions in the classified service or unclassified service, except for General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work fall within such an emergency period, and who are required to report for, and be on duty during such emergency period, shall be entitled to overtime pay for all such hours worked, in addition to full compensation for any administrative leave taken.
4. Employees occupying permanent positions in the classified service or the unclassified service, except the General Manager and his first assistants, by whatever title called, whose regularly scheduled hours of work do not fall within such an emergency period, but who are required to report for, and be on duty, shall be entitled to overtime pay for all such hours worked, including overtime, but not for administrative leave.
5. In the event that a typhoon emergency period includes a legal holiday, then such employees required to report for and be on duty, shall be entitled to overtime pay for all hours worked, including overtime, in addition to full compensation for holiday leave.

8.405 Compensatory Time Off in Lieu of Overtime Pay

- A. In the absence of any funds for overtime compensation, compensatory time off shall be granted in lieu of overtime pay by mutual agreement between the employee and management, before the work is performed. A record of this agreement must be kept with Payroll Office.
- B. The number of hours of overtime work shall be converted to compensatory time credit at the rate of 1 and ½ hours for each hour of overtime work, or portion of the hour consistent with Rule 8.401.
- C. Employees engaged in law enforcement work may accrue not more than 480 hours of compensatory time. Employees engaged in non-law enforcement work may accrue not more than 240 hours of compensatory time.

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- D. Any additional overtime work performed by employees, who have already accumulated the maximum 240 of compensatory time off, or 160 hours of actual overtime work, (480 for law enforcement), compensatory time off credits shall be compensated not later than the pay period immediately following the period during which the overtime was worked.
- E. When sickness lasting one or more days occurs during a scheduled compensatory time off, and the employee substantiates such to the satisfaction of the General Manager, the employee shall be charged for sick leave and permitted to reschedule his compensatory time off. Application for such substitution of sick leave for compensatory time off shall be made within three (3) workdays upon return to duty and shall be in conformance to applicable provisions of the sick leave policies and rules and regulations.
- F. An employee who has requested the use of compensatory time-off shall be permitted to use such time, within a reasonable period after making the request, if the use of the compensatory time does not unduly disrupt the operations of the Port.
- G. An employee on compensatory time off shall be deemed to be on official leave with pay status.
- H. The General Manager may require an employee to use any accumulated compensatory time off credits upon mutual agreement with the employee as to the schedule and use of these credits.

8.406 Conversion of Compensatory Time Off to Cash

- A. The General Manager may direct, at the option of the employee, payments for accrued compensatory time earned, at any time, in any combination, and which shall be paid at the regular rate earned by the employee at the time the employee receives such payment.
- B. At the time of separation, the employee shall be paid in cash for all unused compensatory time credit earned at a rate of compensation not less than:
 - 1. the average regular rate received by such employee during the last three (3) years of the employee's employment; or
 - 2. the final three (3) regular rate received by such employee, whichever is higher.

8.450 CANCELLATION TIME

The General Manager shall establish a policy on the payment of cancellation pay for those employees who are assigned to work on water carriers and the assignment is cancelled either prior, during, or completion.

8.500 NON-OVERTIME WORK WEEKS

When an employee is on non-duty pay status for less than forty (40) hours during a work week, such work week shall be considered a non-overtime work week and all hours shall be paid at the regular rate in accordance with established personnel policies except as provided by law.

8.600 UNAUTHORIZED WORK

Hours worked by an employee without the General Manager's permission or contrary to his instructions, or not authorized by such applicable budget funds shall not be considered as hours worked. Unrecorded hours worked during a workweek or work period by an employee at the job site, or at his home or other duly authorized designated place, must be counted as hours worked if the General Manager has reason to know of such practice. The General Manager must enforce his no work rule and may not unjustly benefit from work performed without his knowledge.

8.700 HOLIDAY PAY

- A. When an employee is absent from duty at the close of the work day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to have been on leave without pay status, the employee shall not be eligible for compensation for the holiday under these rules, but shall be considered as on leave without pay status.
- B. Employees who are required, because of an emergency or other reasons, to work on holidays (or their equivalent day) shall be paid at the rate equivalent to double their hourly rate of pay exclusive of any additional pay, except as otherwise provided by statute.
- C. For purposes of these rules, holidays are declared to be those identified in rules.

8.750 NIGHT DIFFERENTIAL PAY

Work performed between the hours of 6:00 p.m. to 6:00 a.m. shall be compensated as follows:

- A. Any employee (except the General Manager and his first assistants, by whatever title called) who works between the hours of 6:00 p.m. to 6:00 a.m. shall be

entitled to night differential pay, calculated at the rate of their regular wage plus 10% for all periods worked between the hours of 6:00 p.m. and 6:00 a.m., provided the employee works a minimum of four (4) consecutive hours within that time period.

8.800 HAZARDOUS/ENVIRONMENTAL PAY DIFFERENTIALS

8.801 Hazardous/Environmental Pay Policy:

- A. The General Manager may grant pay differentials in accordance with Department of Administration's Hazardous/Environmental Pay Policy and Procedure to employees who are temporarily exposed to hazardous duty, or duty involving physical hardship (environmental) when the following conditions are met:
 - 1. the exposure of hazardous duty or duty involving physical hardship (environmental) is temporary;
 - 2. the hazardous duty or duty involving physical hardship (environmental) has not been considered in the assignment of the position class or pay grade;
 - 3. the hazardous duty is performed by the employee for each assigned hazardous duty; and
 - 4. subject to Guam Occupational Safety & Health review and certification of the hazardous/environmental duty.
- B. It shall be the responsibility of the General Manager to eliminate or reduce to the lowest possible level, all hazards and physical hardships, and implement safe working conditions.
- C. Hazardous/environmental pay shall not be used as an incentive to encourage employees to work in an unsafe place, or under safe conditions.
- D. In no event shall the General Manager grant or authorize multiple differential rates of pay to an employee for the same period. In the event the employee performs more than one hazardous or physical hardship (environmental) duty, the highest authorized differential rate shall be used to calculate the differential pay.
- E. The General Manager shall submit a copy of all approved hazardous pay requests to the Civil Service Commission for post audit review.
- F. Hazardous/environmental differentials are in addition to the employee's base pay and shall not be used to compute overtime pay, holiday pay, night differential and other pay differential, including paid leave and severance pay.

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- G. Approved hazardous/environmental differentials shall be paid within four (4) pay periods from which the performance of hazardous or physical hardship (environmental) duty began.
- H. The assignment of hazardous/environmental duty shall not exclude person(s) with disabilities.
- I. Employees who are not certain (aware) of existing hazardous/environmental conditions may request certification via the General Manager from the Office of Guam Occupational Safety and Health (GOSH) of Department of Labor. Certifications approved by GOSH shall qualify employees for differential pay.
- J. Hazardous duty certifications from the Office of GOSH are valid for a period of five (5) years from date of approval. Requests for an extension are subject to GOSH review, certification and approval.

8.802 Hazardous/Environmental Pay Request Procedures:

- A. The initial determination of the existence of a temporary, unusually hazardous working condition shall be made by the immediate supervisor of the affected employee. Upon making this determination, the supervisor shall alert the Division Head, Safety Administrator and General Manager and shall request an inspection from the GOSH Administrator of the identified unusually hazardous working conditions prior to the planned work activity. When pre-work inspections are conducted by GOSH, the following procedures will be followed when a determination of the existence of a temporary, unusually hazardous condition is identified:

1. The supervisor completes the Hazardous Environmental Pay Request Form. The form and any supporting documents are forwarded to the Division Head, Safety Administrator and General Manager for review.
2. The General Manager may concur or not concur with the request. The request is then forwarded to GOSH for inspection, investigation and certification.

The General Manager shall notify the immediate supervisor, Division Head and Safety Administrator of his non-concurrence of the hazardous pay request within ten (10) working days after receipt of the request.

3. The GOSH Administrator shall determine if the hazardous/environmental or hardship condition exists.

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4. Upon certification from GOSH, the General Manager will forward the approved request to the Payroll Section of the Finance Division for processing and payment to employee. If not certified, one copy is returned back to the supervisor with a copy to the Safety Administrator.

8.803 GOSH Certification

- A. Request for hazardous pay certifications shall be submitted to GOSH at least thirty (30) days prior to the scheduled operations, where exposure to hazardous working conditions or hardships is projected.
- B. Requests for certification resulting from unanticipated exposure to hazardous working conditions or physical hardship (environmental), must be submitted to GOSH within ten (10) working days from the start of the hazardous/environmental or hardship condition.

8.804 Funds Certification

The differential pay granted under this Chapter is subject to certification by the General Manager or designated fiscal officer as to the availability of funds.

8.805 Table of Hazardous/Environmental Duties

The following table shall be used by the General Manager when authorizing pay differentials for employees. The percentage shall be calculated by multiplying the employee's hourly rate times the number of hour(s) the hazardous/environmental duty was performed.

CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
COLD WORK: Working in cold storage or other climate controlled areas where the employee is subjected to temperatures at or below freezing (32 degrees Fahrenheit) where such exposure is not practically eliminated by mechanical equipment or protective devices being used.	4%
HOT WORK: A. Physical Hardship: Working in spaces wherein the employee is subjected to temperatures in excess of 110 degrees Fahrenheit.	4%
B. Hazardous Condition: Exposure to burning gasoline/fuel as a result of vehicular accidents/impacts where such exposure is not practically eliminated by mechanical equipment or protective devices being used.	25%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
HIGH VOLTAGE ELECTRIC ENERGY: 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.	50%
WORK IN OPEN TRENCHES: Work in an open trench five (5) feet deep or more until proper shoring has been installed.	25%
EXPLOSIVES INCENDIARIES: Working with or close proximity to any situation where explosives are being handled.	25%
HIGH WORK: Working, training, or rappelling from any structure of at least 50 feet above the base level, ground, deck, floor, roof, etc. under open conditions, if structure is unstable or 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.	25%
MICRO-ORGANISMS: LOW DEGREE HAZARD: Working with or in close proximity to micro-organisms in situations for which the nature of the work does not require the individual to be in direct contact with primary containers or organisms pathogenic for man, such as, culture flasks, culture test tubes, hypodermic syringes, and similar instruments, and biopsy and autopsy material and wherein the use of safety measures have been practically eliminated the potential for personal injury.	4%
COMMUNICABLE/INFECTIOUS DISEASES: Assigned to work with or in close proximity to micro-organisms in situations for which the nature of work requires the employee to be in direct contact with communicable/infectious diseases, such as, tuberculosis, human immune deficiency virus, Hepatitis B, measles, mumps, and other reportable communicable/infectious diseases.	8%
UNDERGROUND WORK: Work underground performed in the construction of tunnels and shafts, and in the inspection of such underground constructions, until the necessary lining of the shaft or tunnel has eliminated the hazard.	25%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>WORK IN UNSAFE STRUCTURES: 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.</p>	25%
<p>ASBESTOS: Working in an area where airborne concentrations of asbestos fibers may expose the employee to potential illness or injury and protective devices or safety measures have not practically eliminated the potential for such personal illness or injury.</p>	8%
<p>FIBROUS GLASS WORK: Working with or in close proximity to fibrous glass materials which results in exposures on the skin, eyes or respiratory system to irritating fibrous glass particles or slivers where exposure is not practically eliminated by the mechanical equipment or preventive devices being used.</p>	6%
<p>DEEP SEA DIVING AND DANGEROUS SEAS: Deep sea diving below 20 feet requiring the use of scuba (underwater breathing apparatus) or working in dangerous water or similar factors which make the work unusually hazardous when such work is considered necessary for the rescue of human lives or the recovery of human bodies; to obtain water samples from the sewage treatment plant outfalls, and to conduct inspection, research and other activities underwater.</p>	25%
<p>LAW ENFORCEMENT: When assigned duties that expose the employee to unusually hazardous factors. The differential shall only be applicable during times of exposure.</p>	10%
<p>MENTALLY ILL, EMOTIONALLY DISTURBED AND PSYCHOTIC SUBSTANCE ABUSE DISORDER PATIENTS: When confronting or working in close proximity to mentally ill or emotionally disturbed or psychotic substance use disorder patients who are unpredictable, combative or volatile.</p>	10%

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>GUARDING PRISONERS: A uniformed officer or any employee of the Government who performs the duty of guarding prisoners in transit or is otherwise exposed to a life-threatening environment with respect to incarceration of prisoners shall be entitled to hazardous pay for all periods he or she is on such duty. The differential shall be applicable only during time of exposure.</p>	<p align="center">10%</p>
<p>POISONS (TOXIC CHEMICALS): HIGH DEGREE HAZARD: Working with or close proximity to poisons (toxic chemicals), other than tear gas or similar irritants, which involves potential serious personal injury, such as, permanent or temporary, partial or complete loss of faculties and/or loss of life including exposure of an unusual degree to toxic chemicals, dust, fumes or equal toxicity generated in work situations by processes required to perform work assignments wherein protective devices and/or safety measures have been developed but have not practically eliminated the potential for such personal injury.</p> <p>EXAMPLES: Handling and storing toxic chemical agents including monitoring of areas to detect presence of vapor or liquid chemical agents; examining of material for signs of leakage or deteriorated material; decontaminating equipment and work sites; work relating to disposal of deteriorated materials; (exposure to conjunctivitis, pulmonary edema, blood infection, impairment of the nervous systems, possible death.)</p>	<p align="center">8%</p>
<p>POISONS (TOXIC CHEMICALS): LOW DEGREE HAZARD: 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 the work does not require the individual to be in as 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.</p> <p>EXAMPLES: Handling for shipping, marketing, labeling, hauling and storing loaded containers or toxic chemical agents that have been monitored.</p>	<p align="center">4%</p>

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CATEGORY OF HAZARDOUS/ENVIRONMENTAL DUTY	DIFFERENTIAL RATE (%)
<p>DIRTY WORK: Performing work which subjects the employee to soil of body or clothing:</p> <ol style="list-style-type: none"> 1. beyond that normally to be expected in performing the duties of the classification; and 2. where the condition is not adequately alleviated by the mechanical equipment or protective devices being used, or which are readily available, or when such devices are not feasible for use due to health consideration (excessive temperature, asthmatic conditions, etc.); or 3. when the use of mechanical equipment, or protective devices, or protective clothing results in an unusual degree of discomfort. 	4%
<p>NATURAL DISASTERS: Working in a hazardous environment, such as, high velocity wind, darkness and unsafe structure; and exposing employees to hazard duties, such as, evacuation, search and rescue and damage assessment efforts.</p>	25%
<p>LOW LEVEL AIRCRAFT OPERATIONS: Low-level flights in an aircraft flying at altitudes of 200 feet and under while conducting wildlife surveys and law enforcement activities, animal depredation abatement and making agriculture applications, and conducting or facilitating search and rescue operations; flights in helicopters at low levels involving line inspection, maintenance, erection, or salvage operations.</p>	100%

8.900 DUAL EMPLOYMENT

No employee of the Port may be employed on a full-time, part-time, or contractual basis or hold an appointment to more than one (1) position in the classified or unclassified service in any department or agency or by more than one department, agency, or branch of the Government of Guam at any time, except for:

- A. Persons serving as part-time teachers, part-time school health counselors and University of Guam instructors for the Guam Community College, and instructors for the University of Guam and instructors who may be employed during the summer or at any other time not in conflict with their primary employment with the Port.
- B. Persons employed by the Youth Congress.

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- C. Persons employed on a part-time basis by boards or commissions.
- D. Persons employed as nurses, physicians, and as ancillary/allied health professionals in the Government of Guam.
- E. Attorneys engaging in the active practice of law, or part-time judges or part-time court referees.
- F. Persons employed on a part-time or contractual basis who are individuals and family counselors or chemical dependency specialists.
- G. Any employee of the Government whose primary employment is not in any of the agencies or professions listed above, but has training and experience to qualify to be employed in the professions listed above may be employed in secondary jobs in such professions within the Government; provided that such secondary job is not in conflict with that person's primary job and there are no qualified applicants not within the employ of the Government.

8.950 OUTSIDE EMPLOYMENT

Employees may be permitted to work at outside private employment not in conflict with their service to the Port, nor such as would bring the Port or its employees into disrepute. Any employee may undertake outside employment only if such is not in conflict with his work assignments and duly scheduled hours of work with the Port and only with the consent in writing of the General Manager. Consent may not be unreasonably withheld. The General Manager may review the adequacy of such request and the approval shall be renewed on an annual basis. In the case of an employee placed on furlough, the Furlough Policy shall govern.

8.960 RECORD KEEPING

Records of hours worked and wages paid are required to be kept for each employee subject to this policy. The General Manager is responsible for making available the following information for review by the Federal Wage and Hour Division. Records must be preserved for at least three (3) years.

- A. Name
- B. Home Address
- C. Date of birth
- D. Sex and position classification in which employed
- E. Time and day of work, the workweek or work period begins
- F. Total wages paid each pay period
- G. Date of payment and pay period covered
- H. Basis on which wages are paid
- I. Regular hourly rate of pay for any week in which overtime is worked
- J. Amount and nature of each payment excluded from regular rate

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- K. Hours worked each work day and total hours worked each workweek
- L. Total daily or weekly straight time earned or wages
- M. Other records or information as the General Manager may require.

8.970 OFFICIAL PERSONNEL FOLDER

An official personnel folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's employment application, employment history, pertinent letters and papers, personal data, and any training and education records sponsored by the Port or other educational training or institutions. Employees are required to keep the Human Resources Office informed of name, address, telephone number and next of kin changes.

8.980 OFFICIAL MEDICAL FOLDER

An official medical folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's medical documents, drug testing results, life insurance and other pertinent documents. The authorized personnel to have accessibility to an employee's official medical folder shall be the employee's supervisor, division head, General Manager and safety and human resources personnel.

8.990 IDENTIFICATION CARDS

- A. Any person accepting employment with the Port 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 identification card, he will be charged a replacement fee. Identification cards will be surrendered to the Port upon separation from employment.
- B. In addition to a Port identification card, newly hired employees whose work assignments are in the secured areas of the Port terminal facility is required to possess a Transportation Workers Identification Card (TWIC) from Transportation Security Agency. During employment processing, the employee will be processed for enrollment for the TWIC by Human Resources Division. The processing fee will be at no cost to the employee. While receiving clearance from Transportation Security Agency and pending the arrival of the TWIC card, the employee will be granted a temporary badge at Port Police Division. Replacement of the TWIC will be at the cost of the employee. The General Manager will issue procedures on the initial employment processing of employees whose assignments are in the secured areas of the Port terminal facility.

CHAPTER 9

LEAVE OF ABSENCE

STATEMENT OF POLICY

The purpose of this Chapter establishes a uniform and equitable system where employees may be reasonably excused from work for rest, recreation, health, education, welfare and other purposes without any appreciable decrease in the productivity of and services provided by the Port.

The Procedures for Leave Sharing may be used to augment the provisions of this Chapter.

9.000 GENERAL PROVISIONS FOR LEAVE OF ABSENCE

9.001 Leave of Absence Defined

A leave of absence is an approved absence from duty, by the General Manager or his designated representative, for a prescribed period of time, with or without pay.

9.002 Revocation of Leave

Approved leave may be revoked by the General Manager or any delegated authority when the good of the service requires it, or when evidence shows that the employee on leave is engaged in activities for which the leave would not have been granted.

9.003 Denial of Leave of Absence

- A. No leave of absence, with or without pay, shall be authorized where it appears or was discovered that it was requested for the purpose of:
 - 1. Allowing the employee to work at his outside employment.
 - 2. Engaging in prohibited or unlawful activities.
- B. Leave may also be denied when the loss of the employee's services on days for which leave is requested would result in discontinuance of critical services to the public.

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9.004 Form of Leave Application

Application for leave of absence shall be made in the form prescribed by the General Manager.

9.005 Failure to Return

Failure to report for assignment at the expiration of leave of absence without acceptable excuse shall be subject to Employee Disciplinary Action pursuant to Chapter 11.

9.100 ANNUAL LEAVE

9.101 Policy

It shall be the policy of the Port to afford an opportunity for employees to take leave, and particularly to avoid, whenever possible, loss of leave by forfeiture. However, leave may be denied by the General Manager or delegated authority when the services of the employee are required after good faith consideration of the employee's request and operational requirements.

9.102 Request for Annual Leave

Requests for annual leave shall be submitted to the appropriate supervisor by the employee, at least forty-eight (48) hours in advance, for leaves in excess of forty (40) consecutive hours; and twenty-four (24) hours in advance for leaves less than forty (40) hours, in order to avoid unnecessary disruption of work. Reasonable consideration shall be afforded for emergency situations.

9.103 Minimum Charge for Annual Leave

An employee, who uses annual leave in the amount of time which is less than a full hour, shall be charged leave daily according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

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9.104 Accrual of Annual Leave

- A. Employees occupying permanent positions shall accrue annual leave in accordance with the following schedule:
 - 1. One-half day (four hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service.
 - 2. Three-fourths day (six hours) for each full bi-weekly pay period in case of employees with five (5) years of service but less than fifteen (15) years of service.
 - 3. One day (eight hours) for each full bi-weekly pay period in the case of employees with fifteen (15) years or more service.
- B. Annual leave earned during any pay period shall be credited to the employee's account on the last day of that pay period or, in case of separation, the last day the employee is on the payroll.
- C. An employee shall continue to earn annual leave credits during leave of absence with pay for each bi-weekly pay period; otherwise there shall be no accrual for such period.

9.105 Determination of Years of Service for Annual Leave Accrual Purposes

Computation of years of service as a basis for the rate of accrual of annual leave shall be in accordance with the following:

- A. In determining the years of service prior to the 1961 leave year, employees shall be credited with:
 - 1. All periods of employment to include service with the Naval Government of Guam, or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950.
 - 2. Period of service with the Armed Forces of the United States subsequent to August 1, 1950.

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- B. In determining years of service commencing with the 1961 leave year, employees shall be credited with:
 - 1. All service for which annual leave shall accrue.
 - 2. Full-time employment in the Judicial or Legislative branches.
 - 3. Service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school year employee.

9.106 Maximum Accumulation and Carry Over of Annual Leave

- A. Employees entitled to annual leave may accumulate up to 320 hours.
- B. Any annual leave earned by eligible employees in excess of shall be credited to employee's accumulated sick leave; provided that no more than 100 hours shall be credited to said sick leave at the end of each fiscal year.
- C. However, employees who have accumulated annual leave in excess of 320 hour as of February 28, 2003 may carry over their excess and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave in excess of 320 hours.
- D. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year. Leave year commences October 1 and ends September 30.

9.107 Avoiding Forfeiture of Annual Leave

- A. Employees shall submit advance requests for planned annual leave which will be earned in the current leave year to preclude forfeiture of annual leave.

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B. Supervisors share the responsibility with employees for avoiding forfeiture of annual leave. Supervisors shall develop by the end of the first quarter of each leave year, a schedule of annual leave for employees under their supervision. Employees shall be expected to submit reasonable estimates for use of their leave for the current leave year.

9.108 Liberal Consideration of Annual Leave Requests upon Birth or Adoption of a Child

Employees may, upon the birth or adoption of a child, submit a request on the appropriate leave form for annual leave for the purposes of assisting or caring for the child. Such requests should be liberally considered by supervisors and for other leaves set forth in the Family and Medical Leave Act (FMLA).

9.109 Annual Leave Requests to Participate in a Athletic Contingent Recognized by the Guam National Olympic Committee

An employee, who is a participating athletic, coach or General Manager in an athletic contingent recognized by the Guam National Olympic Committee representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the Committee, shall be granted leave by the General Manager for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days, provided that his accumulated annual leave or compensatory time is charged with the hours he is absent from duty. The employee must request such leave in writing thirty (30) calendar days prior to his first day of leave. If the employee has exhausted his annual leave, or chooses not to use such, he shall be granted leave without pay. The employee may be granted said leave for competition not more than three (3) times in a calendar year.

9.110 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, the employee shall be placed on leave without pay status or request for leave sharing provided that all requirements are met under the Leave Sharing Policy.

9.111 Advance Lump Sum Payment for Annual Leave

In accordance with Section 4111, Chapter 4 of Title 4 of the GCA, an employee may, prior to taking authorized annual vacation leave, receive a lump sum payment

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in advance for the period of leave authorized. If any such employee returns to work status prior to the expiration of the leave period for which he received a payment in advance, he shall reimburse the Port for any portion of such period which shall not have expired no later than the pay period following the return to work status and shall be credited with the unused annual leave for future use.

9.112 Lump Sum Payment for Annual Leave upon Separation or Transfer

- A. When an employee is separated from the Port's service, he shall be given a lump sum payment for any accrued and unused annual leave up to a maximum of 320 hours as of the date of separation. In computing lump sum payment, leave on leave shall not be allowed.
- B. 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 of Guam to another department, agency, instrumentality or corporation at his option, may accept cash value of his earned leave, up to a maximum of 320 hours, at the time of transfer, or transfer his accumulated annual leave to his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reappointment.
- C. Employees who have accumulated annual leave in excess of 320 hours as of February 28, 2003 may carry over their excess annual leave and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion shall be credited and the remainder of excess leave, if any, shall be lost.

9.200 SICK LEAVE

9.201 Purpose and Eligibility

- A. Sick leave shall be allowed to an employee when the employee:
 - 1. receives medical, dental or optical examination or treatment, or any mental health examination, counseling or treatment;
 - 2. is incapacitated for the performance of duties by sickness, injury, complications due to pregnancy, medical confinement; or would jeopardize the health of others by his presence at his duty assignment because of exposure to a contagious disease; or

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3. gives birth or becomes a father pursuant to maternity or paternity statutes.
 4. to provide health care for a member of the employee's immediate family as a result of serious illness or injury and the employee has exhausted all annual leave and compensatory time available.
 - a. "serious illness or injury" means an urgent condition that is certified by the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support.
- B. Sick leave with pay shall be allowed during leaves of absence or vacations, provided, however, that any sick leave taken by an employee while on vacation must be supported by a certificate issued by a licensed physician.
- C. Responsibility for administration of this section shall remain with the General Manager, subject to such audit as may be ordered by the Department of Administration.

9.202 Notification of Sickness

Notification of absence on account of sickness shall be given to the immediate supervisor or Division on the first day of absence, preferably within two (2) hours of the employee's scheduled work hours, or if impracticable, as soon thereafter as circumstances permit. If such notification has not been given in accordance with this section, the employee may be subject to disciplinary action.

9.203 Application for Sick Leave

- A. Application for sick leave shall be filed on a form prescribed by the General Manager.
- B. Sick leave shall be granted in accordance with statute, rules, policies and procedures.

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9.204 Sick Leave Charged Only for Working Hours

An employee shall be charged for sickness for only those hours for which he was, or would have been scheduled to work.

9.205 Accrual of Sick Leave

Employees occupying permanent positions shall accrue sick leave at the rate of one-half day (four hours) for each bi-weekly pay period in which the employees are on pay status for the entire ten (10) days, otherwise there shall be no accrual.

9.206 Minimum Charge for Sick Leave

An employee who uses sick leave in an amount of time, which is less than a full hour shall be, charged leave according to the following table:

<u>Minutes Used</u>	<u>Time Charged (Minutes)</u>
0 - 14	00
15 - 30	30
31 - 60	60

9.207 Accumulation and Carry Over of Sick Leave

Unused sick leave may be accumulated and carried over to succeeding leave years without limitation.

9.208 Vesting of Sick Leave

Sick leave accrued for service with the Government of Guam or any of its instrumentalities, branches, authorities or any entity, corporation or agency, shall vest in the employee upon accrual and shall remain vested in such employee while he is employed by the Government notwithstanding the fact, that from time to time, he may be transferred from one branch to another or to an autonomous agency, Port or entity within the Government of Guam. Sick leave accrued and unused at the time of separation from Government shall remain credited to the employee if such employee returns to Government service. An employee, approved for disability medical retirement under the Retirement Fund's Defined Benefit Plan, shall exhaust his accrued sick leave prior to effecting his retirement.

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9.209 Advance of Sick Leave

- A. An employee who has suffered a serious illness or ailment and has exhausted his sick leave and who intends to return to work may submit a written request, for advance of sick leave to the General Manager. Each request for advance of sick leave must be accompanied by a certification of incapacitation for duty by the employee's physician. An advance of sick leave may not exceed thirteen (13) days, and shall be subject to the approval by the General Manager.
- B. If an employee is separated from service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due him at the time of separation, an amount equal to his salary for the period of unearned sick leave allowed and taken.
- C. If the employee is medically certified as being unable to return to work after all accrued and/or advanced sick leave credits have been used, the employee shall be allowed to use any accrued compensatory or annual leave credits before being placed on leave without pay.

9.210 Physician's Certification of Incapacitation

- A. An employee, who is absent because of illness, injury, or quarantine in excess of three (3) consecutive days, or for the full day immediately before or after a holiday, weekend, day off or vacation, may be required to furnish a certification as to the incapacitation by a licensed physician or furnish administratively acceptable evidence. The General Manager or his delegated authority may require certification for such other periods of illness he deems advisable. Supervisors shall apply reasonable judgment when requesting a doctor's certification.
- B. If the certification required is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.
- C. If the medical certification furnished by the employee is not acceptable, the General Manager may require the employee to submit to a medical examination which shall be paid for by the Port. Based on the medical certification, the General Manager:

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1. shall not approve further use of sick leave if the employee is medically evaluated as fit to return for work.
 2. shall allow the employee to use accrued sick leave if the employee is medically evaluated as unfit to return to work. In the event, the employee exhausts his sick leave; the provisions of these rules shall apply.
- D. An employee who, upon a written request by the General Manager, refuses to comply with these rules shall not be eligible to use accrued sick leave credits and any absence from work shall be handled in accordance with Rule 9.700.

9.211 Lump Sum Payment for Sick Leave Prohibited

No employee who separates from the Port for any reason may receive a cash payment for sick leave accrued at the time he leaves such service, except for:

- A. death of the employee as provided for by Section 7102, Title 4 of the GCA; and
- B. retirement of an employee under the Defined Contribution Retirement System.

The Port shall issue a lump sum payment for an employee who retires under the Defined Contribution Retirement system shall be calculated by multiplying:

- A. the employee's hourly rate based on the average of three (3) highest salaries received him during his years of credited service by one-half ($\frac{1}{2}$) of the employee's unused accumulated sick leave hours.
- B. payment of the lump sum for unused sick leave shall be the responsibility of the Port.

9.300 ON-THE-JOB INJURY

9.301 Policy

It is the policy of the Port that all employees are provided with safe working conditions. This policy is intended as an employee benefit separate and apart from Workers' Compensation Law (Title 22, GCA, Section 9101). Unless otherwise provided by statute, this policy shall control in the event of conflict with other rules or policies.

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9.302 Definitions

- A. Classified employee: A probationary or permanent status employee occupying a classified position.
- B. Day: A work day unless otherwise specified.
- C. Death: Death resulting from an on-the-job injury.
- D. Disability: Physical or mental incapacity due to an on-the-job injury, which prevents the employee from performing the essential functions of the employee's regular position or other temporary duties.
- E. Essential Functions: Those that an employee must be able to perform in the employee's regular position, with or without reasonable accommodation.
- F. Lateral Position: A position with substantially comparable minimum qualifications or equivalent pay grade as the employee's regular position.
- G. Management Official: Official with supervisory or management responsibilities.
- H. On-the-Job Injury: Injury or death arising out of and in the course of employment, including an accidental injury or injury caused by the willful act of a third person directed against an employee because of his employment, and such occupational disease or infection as arises naturally out of such employment, or as naturally or unavoidably results from such accidental injury.
- I. Personal Leave: Annual or sick leave or compensatory time off.
- J. Physician: A person licensed to practice medicine in the United States or its territories or in other medical licensing jurisdictions recognized by the American Medical Association or other practitioners of the healing arts recognized by the Workers' Compensation Commission.
- K. Public Employment: Employment by a department, agency, or instrumentality of the Government of Guam.

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- L. Reasonable Accommodation: A modification or adjustment to the employee's regular position, the work environment, or the way things are usually done that enables the employee to perform the essential functions of his regular position.
- M. Regular Position: The position for which the employee was hired.
- N. Temporary Duties: Specific duties of limited duration assigned to the employee during the work-injury period in lieu of the regular duties of the employee.
- O. Unclassified Employee: An employee occupying an unclassified position or one employed on a temporary or limited term status.
- P. Work-Injury Leave: Leave with pay granted by the General Manager under the provisions of Rule 9.300.
- Q. WCC: Workers' Compensation Commission

9.303 Coverage

- A. A classified or an unclassified employee who suffers an on-the-job injury will be eligible for work-injury leave for up to thirty (30) days without charge to personal leave, beginning the day of the injury, provided:
 - 1. The employee is unable to perform the essential functions of the employee's regular position, or temporary duties, during the 30-day period, or portions thereof, as certified to by the employee's physician, the General Manager shall refer the case to WCC for further medical evaluation to include any necessary tests or testing such as laboratory tests of radiological, sonographic, and computerized axial tomography, and magnetic resonance imagery evaluation. The decision of the WCC shall be final. The General Manager shall identify the essential functions of the employee's position for the purpose of this section.
 - 2. The injury results in the death of the employee. In this event, the employee's designated beneficiary or beneficiaries, or if there are none, the estate of the employee, shall be entitled to a lump sum payment for the entire 30-day work-injury period, or, that portion of

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the work-injury period the employee would have been entitled to had the employee survived.

- B. If an employee is able to perform at least the essential functions of his position or undertake temporary assignments, but requires follow-up medical treatment for injuries, the employee shall be allowed work-injury leave for this purpose. The administration of this provision shall be closely monitored by the General Manager or delegated authority and coordinated with the WCC.
- C. An employee who is absent from work due to a work-injury and has completed a minimum of 50% of the performance rating period will be evaluated on his performance for that period. The employee will be entitled to a salary increment upon receiving a satisfactory rating.
- D. The employee on work-injury leave will continue to accrue annual and sick leave as provided in Title 4, GCA, Sections 4108 and 4109.
- E. Employment insurance benefits will continue pursuant to contract provisions in effect for the group life and health insurance program.
- F. Work-injury leave will not be allowed if the death or injury of the employee was self-inflicted or the result of the employee's use of illegal drugs, intoxication, recklessness, gross negligence, criminal conduct, or the result of disciplinary action against the employee.
- G. To prevent dual compensation, work-injury leave will not be allowed if the employee is receiving workers' compensation.

9.304 Responsibilities

- A. An employee's responsibilities include:
 - 1. Immediately reporting the injury to the employee's supervisor. If the supervisor is not available, the employee shall report the injury to the Port's safety personnel or any available management official within the Port.
 - 2. Pursuing a workers' compensation claim in an expedient and timely fashion prior to the expiration of the approved work-injury leave

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period or converting to other leave status at the end of the leave period.

3. Acting in good faith in pursuing work-injury claims. Any employee, who engages in fraud, misrepresentation, or abuse, shall be subject to discipline, prosecution, and be required to provide restitution for all monies and benefits received under Rule 9.300.
 4. Obtaining physician's certification to include medical evaluation and physician's detailed recommendation.
- B. Management's responsibilities include:
1. Completing all work-injury reports, including the supervisor's portion of the worker's compensation form, to be distributed as follows:
 - a. The original to WCC.
 - b. One copy to the employee, the employee's division, the Port's Occupational Safety & Health Division and Human Resources Division for placement in the employee's medical jacket.
 2. The supervisory official who receives the employee's report must take immediate and expedient action to provide necessary medical treatment and prepare and submit injury report to the General Manager and other parties specified in Rule 9.304.B.1.
 3. In cases requiring immediate treatment, medical assistance shall be sought for the employee at the nearest available medical facility. If the employee is not ambulatory, or otherwise should not be moved without medical intervention, an ambulance shall be called to transport the employee. A supervisory official or safety personnel shall accompany the injured employee to the medical facility for medical treatment as may be determined by the treating physician. Prompt notification of the employee's immediate family shall be made by the supervisor, Division Head, or General Manager or his delegated authority.
 4. Completion of all work-injury reports and immediate submission to the Division Head, who shall submit such reports to the General

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Manager within five (5) working days following the date of notification of injury.

5. Notifying the General Manager if the employee is absent from work without authorization after the expiration of the approved work-injury leave period.
6. Immediately notifying the WCC that an employee is on work-injury leave status for the approved period.
7. Placing the employee on personal leave status pursuant to the provisions of these rules after the expiration of the approved work injury leave period. The type of personal leave to be taken is at the employee's option.
8. Obtaining from the employee per Rule 9.303.A.1. a doctor's certification of the employee's capacity to perform the essential functions of the employee's regular position, along with any specified mental/physical restrictions (e.g., no lifting over 20 pounds, no prolonged walking, standing, bending, stooping, no climbing of ladders, etc.), and recommendations of the physician as to other temporary duties which may be assigned without aggravating the existing condition.
9. Acting in good faith.
10. Complying with all applicable rules and regulations.

9.305 Employment Status

- A. A classified employee, who as a result of an on-the-job injury becomes disabled and is unable to perform the essential functions of his regular position within six (6) months after the date of injury may, if eligible, retire from the Port.

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- B. If the classified employee is ineligible or declines to retire, the General Manager may allow the employee to exhaust personal leave; otherwise, the employee shall be placed in lateral or lower vacant position to which the employee qualifies, or be downgraded to a position needed by the Port for which the employee qualifies, at the discretion of the General Manager. If the employee assumes the lateral position, the employee shall maintain his current salary. If the employee is downgraded or placed in a lower position, the employee shall maintain the current salary for one (1) year.

If there is no vacant position to which the employee qualifies, or the General Manager determines that a downgrade is not proper, the General Manager shall exercise expedient and good faith efforts to place the employee in a position in which he qualifies in another division. If placement is unsuccessful, the General Manager shall immediately notify the employee in writing that the employee will be terminated within sixty (60) days from the receipt of the notice by the employee. The notice shall include the employee's right to appeal under Rule 9.306. If the employee is unavailable for personal service, service may be made by certified mail to the last known address, provided management has made reasonable good faith efforts to personally serve the employee. In cases of service by mail, the sixty (60) days begin to run on the date of the mailing.

9.306 Appeal

A classified employee who is terminated in accordance with Rule 9.305.B may appeal the termination to the Commission within twenty (20) days from the effective date of the termination in accordance with Commission's appeal procedures. The Commission may uphold the termination or take whatever action or remedies it deems appropriate. The Commission's decision is final, but subject to judicial review within thirty (30) days after the losing party receives the Commission's written decision.

9.400 EXCUSED ABSENCES/ADMINISTRATIVE LEAVE

9.401 General Provision

An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Supervisors and employees will apply the following procedures for excused absences.

9.402 Attendance at Official Meetings/Conferences On or Off-Island

- A. Employees shall initiate a written request via his supervisor and division head for an excused absence citing the purpose of the meeting/conference, dates involved, and costs, if any, to the General Manager.

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- B. The General Manager will evaluate the relative costs, availability of funds, potential for the employee's development, and desirability of the Port's representation when approving the attendance at On or Off-island meetings/conferences.
- C. Upon approval of the request, a copy shall be provided to both the employee and Payroll Office.

9.403 Jury Duty

- A. An employee who is called for jury duty in any court in Guam shall be excused from duty with full pay and without charge to leave for all hours required for such duty, not to exceed the number of hours in the employee's normal work day. However, if the jury duty does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called for jury duty is required to show the Jury Duty Call Notification to his immediate supervisor.
- C. Supervisors are responsible for advising employees that all compensation earned for such jury service, except for the following, must be paid to the Port in accordance with Section 6505, Chapter 6, Title 4 of the GCA:
 - 1. allowances for travel;
 - 2. service rendered on days the employee is not required to report to work;
 - 3. services rendered when employee is sequestered and unable to report to his home after normal working hours; and/or
 - 4. services rendered during the employee's normal working hours but that the Port requires the employee to make up work before or after normal working hours, including work on weekends and Government of Guam holidays.

An employee may elect to request for annual leave for the purpose of jury duty service, which case the employee may keep the compensation earned for such jury duty.

9.404 Witness Leave

- A. Employees who are called to testify or produce official records on behalf of the Government of Guam in any court in Guam shall be excused for duty with full pay and without charge to leave required for such service, not to exceed the number of hours in the employee's normal work day. However, if the witness service does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.

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- B. An employee called to serve, as a witness is required to show the notification to his supervisor. The employee must provide to his immediate supervisor a certificate or certificates showing the time devoted to witness service. The fees shall be the same as the fees of witnesses before the Superior Court, except if the witness is a government employee no witness fees shall be given.
- C. Such leave is applicable to law enforcement officers, who are required to appear in any court of Guam, for contested traffic citations they issued to the public found violating the Motor Vehicle Code. The employee must provide to his immediate supervisor with a copy of the summons requiring his presence in court.

9.405 Participation as a Competitor in a Government of Guam Personnel Examination or Interview

- A. Employees who are participating in a competitive examination or interview for Government of Guam employment shall be excused from work with pay and without charge to leave for the time required for the examination or interview. Employees are required to report to their work location after completion of the examination or interview.
- B. Employees must advise their supervisor in advance of the need for excused absence to participate in a scheduled examination or interview. This notice should be given as soon as the employee receives information of the scheduled date and time of examination or interview.

9.406 Participation in Examinations for Military Service

An employee, who is scheduled to appear for an examination for entrance into the United States military service, shall be excused from work with pay and without charge to leave for the time required for the examination. The employee shall submit written confirmation of scheduled examination to his immediate supervisor.

9.407 Military Training Leave

- A. An employee who is a member of a Reserve Component of the Department of Defense or Transportation, including but not limited to, the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, Army National Guard, Air National Guard and U.S. Coast Guard, shall be entitled to military training leave with pay, without charge to annual leave not to exceed fifteen (15) working days per fiscal year. The leave not used in a fiscal year will be transferred to the next fiscal year until it totals fifteen (15) work days at the beginning of the fiscal year.

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- B. The employee shall submit a copy of his military orders or other documents which place the employee on military training, to the General Manager.
- C. A copy of the official orders shall be filed in the employee's personnel files.
- D. Any absence in excess of fifteen (15) work days may, upon request by the employee and approval of the General Manager, be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by the General Manager as annual or compensatory time off leave, such absences in excess of fifteen (15) work days shall be considered as leave without pay.

9.408 Military Leave

- A. Purpose: The Uniformed Service Employment and Reemployment Act of 1994 (USERRA) prohibits employers from discriminating against employees who fulfill non-career military obligations in the Uniformed Services and requires employers to provide a leave of absence to allow employees to perform obligations. The purpose of this Rule is to provide military leave as required by law and to comply with other relevant provisions of USERRA.
- B. Eligibility: All full-time and part-time employees who are also members, or intend to become members of one of the Uniformed Service.
- C. Definitions: For the purposes of this Rule, the following definitions apply:
 - 1. Benefit, Benefit of Employment, Rights and Benefits or any variation of these terms means any advantage, profit, privilege, gain, status, account or interest (other than wages or salary for work performed that accrues by reason of employment. These terms include, but not limited to, retirement pension plan, health plan, other types of insurance coverage, awards, paid leave, title, work schedule, and clothing allowance.
 - 2. Federal fiscal year: October 1 through September 30 of each year.
 - 3. Military leave with pay: A period of approved absence, not more than fifteen (15) working days per Federal fiscal year, during which employees are paid their regular rate of compensation while performing military service.

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4. Military leave without pay: A period of approved absence during which employees do not receive compensation while performing military service.
5. Military service: The performance of military duty on a voluntary or involuntary basis in a uniformed service. It includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, time spent undergoing an examination to determine fitness to perform military duty, and a period for which an employee is absent to perform funeral honors 10 USC 12503 or 32 USC 115.
6. Qualified or qualify: With respect to an employment position, means having the ability to perform the tasks of the position.
7. Reasonable efforts: In cases of actions required of an employer pursuant to USERRA, means actions, including training provided by the Port that do not place an undue hardship on the Port.
8. Seniority: Longevity in employment, together with any benefit that accrues with or is determined by longevity.
9. Undue hardship: In the case of actions taken by an employer, means requiring significant difficulty or expense when considered in light of:
 - (a) the nature and cost of the action required;
 - (b) the overall financial resources;
 - (c) the effect on expenses and resources as set forth in USERRA.
10. Uniformed services: The Armed Forces (U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard); the reserve components of the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty; and any other category of service designated by the President of the United States in time of war or national emergency.
11. Working days: A working day for a full-time employment shall mean eight (8) hours a day.

D. Leave of Absence for Military Service:

1. Pursuant to USERRA (38 USC Section 4301), a full-time employee who is a former or current member of the uniformed

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service shall be entitled to paid leave for military service not to exceed fifteen (15) working days per Federal fiscal year.

2. Employees whose military service was less than thirty-one (31) days, are entitled to an eight (8) hour rest period after safely arriving home from the place of military service before the employee is required to return to work pursuant to Rule 9.408.G, Returning from Military Service, and USERRA.
3. When an employee returns from military service and the eight (8) hour rest period overlaps the employee's scheduled work shift, the employee shall receive paid military leave to the extent of the overlap. For example, if an employee returns home Sunday at 2:00 a.m. and his regular work shift normally begins Monday at 8:00 a.m., the eight (8) hour rest period would overlap the work schedule by two (2) hours and the employee would receive his regular salary for that two (2) hour period.
4. Where leave of absence for military service exceed fifteen (15) working days of paid military leave, employees shall be permitted, upon request, to use any accrued annual, compensatory time-off, leave sharing leave or military leave without pay during the period of military service. However, extended specifically by the terms of USERRA military leave and without pay shall not exceed five (5) years of cumulative military service.

E. Advance Notice:

An employee who is leaving to perform military service shall provide advance written or verbal notice to his immediate supervisor of the need for a leave of absence (including the approximation of the expected dates of the leave.) However, advance notice is not required if precluded by military necessity or under all relevant circumstances it is impossible or unreasonable to give notice. Employees shall submit leave request indicating the type of leave he wants to take. i.e., military leave with pay (if the fifteen (15) days has not been exhausted), military leave without pay, annual leave, compensatory time-off, leave sharing, or an appropriate combination of leaves. It is requested that the employee provide a copy of their military orders, if available, to the supervisor, preferably before leave is taken.

F. Employee Benefit:

- A. During the fifteen (15) days military leave with pay or when an employee requests to use another kind of paid leave to cover a period of military service, an employee shall receive the same

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benefits as if the employee remained continuously employed with the Port.

B. If on military leave without pay, the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with these rules. The Port shall pay the employer's and employee's Government of Guam retirement contributions, group health and life insurance premiums during the period the employee is on leave without pay status and on active military duty.

C. All unused leave benefits shall be retained by the employee, who shall have the same credited to the employee's record upon return to his assigned position consistent with Section 6218(d) of Title 4, GCA.

G. Returning from Military Service:

1. Upon completion of military service, the employee shall report back to work in accordance with the time limits indicated below:

Length of Military Service	Employee's Obligation to Report Back to Work
1-30 days (or an absence of any length to have an examination to determine fitness for military service)	<ul style="list-style-type: none"> • An employee shall report to work no later than the first full regularly scheduled work shift on the first full calendar day after service ended and the eight (8) hour rest period allowing for the safe transportation back to his home expired; OR • As soon as possible after the expiration of the eight (8) hour rest period, if through no fault of the employee, it would be impossible or unreasonable to report within the time described above.
31-180 days	An employee shall report to work at least fourteen (14) calendar days after completion of military service. If complying with this deadline is impossible or unreasonable through no fault of the employee, the request shall be submitted on the first next full calendar day when submitting the request becomes possible.
More than 180 days	An employee must report to work within ninety (90) calendar days after completion of the period of military service.

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2. An employee hospitalized for, or convalescing from an illness or injury incurred in or aggravated during military service shall, at the end of the period necessary to recover from the illness or injury, which cannot exceed two (2) years, report for work. The two (2) year period for recovery from illness or injury shall be extended by the minimum time required to accommodate circumstances beyond the employee's control that make compliance with the reporting deadline impossible or unreasonable. Placement of such employee shall be in accordance with Rule 10.100.
3. If an employee does not comply with the above reporting deadlines, disciplinary action can be imposed by the Port in accordance with Chapter 11, Adverse Action Procedures.

9.409 Military Family Leave

- A. Mandate: The Military Family Leave Act is established through Public Law 29-149 enacted in law on December 31, 2008 and shall apply to all qualified employees of the Government of Guam as defined in this Rule.
- B. Purpose: The purpose of this Act and in order to serve the families of those troops currently serving in the military conflicts in Iraq, Afghanistan, and throughout the world, serving in the Global War on Terrorism, and to assure that these families are able to spend time together during the qualified service member's leave to and from deployment, to include pre-deployment, post-deployment, during deployment, any return from Rest and Relaxation (R&R) leave during deployment or reintegration from deployment, and to handle their personal affairs by their spouse or designated next of kin or attorney in fact, it is necessary that this Act become effective immediately.
- C. Definitions: The following definitions shall be used in this Rule:
 1. Qualified Employee means a person who satisfies all of the following:
 - a. Is the spouse, authorized representative, designated next of kin, or attorney-in-fact of a qualified member.
 - b. Performs service for hire for an employer for an average of twenty (20) or more hours per week, but does not include an independent contractor.
 - c. Provides the qualified employer with notice, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of his or her

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intention to take leave provided for in Rule 9.409.D. as requested.

- d. Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave provided for in Rule 9.409.C.4. is requested.
2. Qualified Employer means any Government of Guam instrumentality, military related unit on Guam, municipal village instrumentality, public authority, or any other governmental entity on Guam subdivision that employs fifteen (15) or more employees.
 3. Period of military-conflict means either of the following:
 - a. A service member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States.
 - b. A service member of the National Guard who has been deployed during a period of military conflict; or
 - c. A service member of the Reserves who has been deployed during a period of military conflict.
 4. Qualified leave period means the period during which the qualified service member is on leave from deployment during a period of military conflict, to include pre-deployment, post deployment, return from R&R, reintegration, or after deployment.
- D. Leave Required: A qualified employer may allow a qualified employee to take up to fifteen (15) days of unpaid leave during a qualified leave period.
- E. Provisions:
1. A qualified employer shall not retaliate against a qualified employee for requesting or taking the leave provided for in this Rule.
 2. The leave provided for in this Rule shall not affect or prevent a qualified employer from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.

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3. This Rule shall not affect the qualified employee's rights with respect to any other employee benefits provided for in other laws.

9.410 Disabled Veteran's Re-examination or Treatment

An employee, who has been rated by the Veteran's Administration to have incurred a service-connected disability and has been scheduled by the Veterans Administration to be re-examined or treated for such disability shall, upon presentation of written confirmation of having been so scheduled, be excused from duty without charge to leave for such re-examination or treatment. Excused absences shall not exceed five (5) work days in a calendar year. Thereafter, the employee may utilize other forms of leave as provided in these rules.

9.411 Natural Disasters and Other Emergency Conditions

- A. Excused absence with pay and without charge to leave shall be granted to employees when natural disasters or other emergency conditions create unsafe working conditions.
- B. Excused absence, for natural disaster or other emergency conditions, may be granted only when there has been an official proclamation of the hazardous conditions by Executive Order, or an equivalent announcement by the Governor.
- C. When the Governor declares a State of Emergency, the General Manager shall determine whether affected facilities or portions thereof, which are located in the area covered by the Executive Order or proclamation, are to be closed. With the exception of the following:
 1. Employees determined by the General Manager as non-essential for the cause in such emergency situation shall be released from duty with pay, without charge to leave, for the period the facility is closed.
 2. Employees, required to remain on duty to provide essential services, shall be paid at double the regular rate, or granted compensatory leave credits for the hours worked during the period the facility is closed and the other employees are on excused leave.
- D. Employees who are on annual or sick leave status when an emergency condition is declared by Executive Order or announcement by the Governor and are not required to report to duty, shall be considered as released from duty with pay without charge to leave for the period the work facility is closed.

9.412 Volunteer Services During Disasters/Emergencies

An employee who performs volunteer services, privately or as a member of an organization, in times of civil unrest, disasters, search and rescue operations, and other civil emergencies shall be excused from duty with pay, without charge to accrued leave not to exceed two (2) work days.

9.413 Participation in Officially Sanctioned Events

An employee, who is a participating member of an official Guam delegation which is sanctioned by the Governor, shall be excused from duty with pay and without charge to leave for a period not to exceed five (5) work days in a calendar year.

9.414 Absence Pending Formal Investigation

An employee, who is under formal investigation by the Port for misconduct, or violation of a rule or statute, may be placed on excused absence from duty without charge to leave, not to exceed twenty (20) work days when the employee's absence from the work location is essential to the investigation.

9.415 Bereavement Leave

- A. An employee, upon request, shall be granted two (2) days of excused absence with pay, and without charge to leave upon the death of any member of the employee's immediate family as defined in these rules and regulations.
- B. Each employee requesting bereavement leave due to a death in the immediate family, shall submit such request to the General Manager stating the name of the deceased and the relationship to the deceased.

9.416 Paternity Leave

- A. Paternity leave shall be granted to a male employee occupying a permanent position upon the birth of child/children by his wife, including common-law, or adoption of his child/children five (5) years old or younger.
- B. Paternity leave shall not exceed twenty (20) days of paid leave and must encompass the date of childbirth or adoption of child/children.
- C. Additional leave taken for such purpose may be charged against accumulated sick leave, or may be unpaid leave at the option of the

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employee. Total leave, whether paternity, sick or unpaid leave, shall not exceed six (6) months without approval of employee's supervisor.

9.417 Maternity Leave

A. General Provisions of Leave Related to Pregnancy

1. A pregnant employee is responsible for notifying her supervisor, in advance of her intention to request leave for maternity purposes including the type of leave, approximate dates and anticipated date of return to duty, to allow the Port time to prepare for any staffing adjustments which may be necessary.
2. The supervisor is responsible for providing gainful employment and making use of her skills for as long as the employee is not incapacitated for duty.
3. Sick leave shall be made available during pregnancy to cover for physical examinations and periods of incapacitation based on certification by the employee's physician.
4. An employee may request for annual or sick leave, or leave without pay (in addition to the authorized maternity leave) to provide for a reasonable period of adjustment, or to make arrangements for the care of the child. Additional leave requirements for maternity purposes must be supported by physician certification or furnish other administratively acceptable evidence of fitness for duty and approved by the General Manager.
5. An employee who wishes to return to work following delivery or confinement shall be assured continued employment in her position or a position of like seniority, status and pay upon presentation of her personal physician's certification of fitness for duty or furnish other administratively acceptable evidence of fitness for duty.
6. The marital status of the pregnant employee shall not adversely affect her right to continued employment or use of leave.

B. Granting of Maternity Leave

1. Maternity leave shall be granted to a female employee occupying a permanent position who is absent from work as a result of childbirth or adoption of a child/children five (5) years old or younger.

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2. Such maternity shall not exceed twenty (20) work days encompassing the date of childbirth or adoption.
3. Any additional leave taken for such childbirth or adoption purposes, may be charged against accumulated sick leave, or may be unpaid leave, at the option of the employee.
4. Total leave, whether maternity, sick or unpaid leave, shall not exceed six (6) months without approval of the employee's supervisor.

9.418 Participation in a Medical Examination Requested by the Port

An employee who is required to undergo a medical examination, such as, to determine fitness for the job, shall be excused from work with pay and without charge to leave for the time required for the examination.

9.419 Educational Leave Without Pay

- A. In the event, the Port is desirous of establishing a program where employees are allowed to take educational leave with pay must have the program approved by the Board.
- B. An employee may be granted excused absence from duty with pay, and without charge to leave to attend on a full-time basis a college, university, or training academy for not more than the equivalent of 2,080 hours of pay status for the purpose of receiving training that is of clearly foreseeable benefit to the Port.
- C. The granting of educational leave shall be in accordance with the Port's approved educational program.
- D. Only employees who have completed their original probationary period are eligible to participate in this program.

9.420 Parental Involvement Initiative Leave

- A. An employee, who is a parent and who is not otherwise prohibited from such contact with his child by order of a court, may use up to four (4) hours every two (2) pay periods to meet with a teacher or other school official concerning the employee's child's performance or to volunteer parental-involvement time at his child's school.
- B. The four (4) hours every two (2) pay periods may be utilized at the arrangement of the employee with the employee's supervisor, and may be split into smaller separate segments over the two (2) pay periods. Such

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leave hours is not to be accumulative.

- C. An employee requesting such leave shall submit a request to his supervisor in advance and is required to obtain from his child's teacher or school official signed certification that the employee has visited the school for a conference, a function, or as a volunteer to assist in the child's school activities.

9.421 Disaster Service Volunteer Leave

- A. Purpose: It is the purpose of the Government of Guam to allow for its employees to request for disaster leave during periods of disasters and humanitarian need assisting the American Red Cross without loss of seniority, vacation time, sick leave or earned overtime accumulation.

- B. Definitions:

1. "Disaster" means a local disaster designated at Level I or higher in the American Red Cross regulations and procedures or a national disaster at Level III or higher in the American National Red Cross regulations.
2. "Certified disaster service volunteer" or "volunteer" means any person who has completed the necessary training for and has been certified as a disaster service specialist by the American Red Cross.

- C. Disaster Service Volunteer Leave

1. An employee who is a certified disaster service volunteer may be granted leave from work with pay in accordance with Rule 9.421.C.2 for up to an aggregate of fifteen (15) days, consecutively, or in any twelve (12) month period to participate in specialized disaster relief service for the American Red Cross in connection with any disaster, upon the request of American Red Cross for such employee's services and upon approval of the Port.
2. An employee granted leave pursuant to Rule 9.421.C.1 shall be compensated by the Port at his regular rate of pay for those regular work hours during which the employee is absent from work, but shall not receive overtime pay, shift differential pay, hazardous pay or any other form of pay or compensation in addition to the employee's regular pay.
3. An employee who is granted leave pursuant to Rule 9.421.C.1 shall not lose any seniority or any already accumulated vacation

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time, sick time or earned overtime due to such leave.

4. The Port shall not be liable for worker's compensation claims arising from accident or injury while an employee is on assignment as a certified disaster service volunteer for the American Red Cross.
5. Duties performed while on disaster leave shall not be considered as a work assignment by the Authority.
6. In determining whether to grant leave to an employee, the Port may consider the needs of the American Red Cross for expertise in a particular certified area.
7. The employee's activities and job functions while on leave, however, shall not be directed by the Port but shall be determined and controlled solely by the American Red Cross.
8. An employee who is on leave pursuant to this section shall not be deemed to be an employee of the Port for the purposes of the Government Claims Act, Chapter 6, Title 5 of GCA.

- D. Certification as a Certified Disaster Service Volunteer: No employee shall be paid during regular work hours in the completion of any training towards a certification as a disaster service volunteer unless such employee uses personal or annual leave.

9.422 Medical Donor Leave

Any employee of the Port who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by the General Manager for the time it takes to complete the medical procedure involved, however, not to exceed ten (10) working days.

9.500 HOLIDAYS

9.501 General Provisions

- A. Employees may absent themselves from duty on the holidays established by these rules, provided, however, that work assignments may be required to be carried out if previous notification is given by the General Manager.
- B. When an employee is absent from duty at the close of the working day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to

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have been on a leave without pay status, the employee shall not be considered eligible for compensation for the holiday under these rules but shall be considered as on leave without pay status.

9.502 Legal Holidays

1. New Year's Day.....January 1
2. Martin Luther King's Day.....Third Monday in January
3. Memorial Day.....Last Monday in May
4. Independence Day.....July 4
5. Liberation Day.....July 21
6. Labor Day.....1st Monday in September
7. All Soul's Day.....November 2
8. Veteran's Day.....November 11
9. Thanksgiving Day.....4th Thursday in November
10. Lady of Camarin Day.....December 8
11. Christmas Day.....December 25

If any of the numbered holidays listed above falls on a Sunday, the following Monday is a holiday, and if any of such holidays falls upon a Saturday, the preceding Friday is a holiday.

9.503 Legal Holiday for Irregular Hours of Duty

For employees whose workweek is other than Monday through Friday, and whose holiday falls on a non-workday, their holiday shall be determined as follows:

A. Sunday Holiday

1. When an employee's workweek does not include Sunday, and a holiday falls on Sunday, his next regular workday within his workweek is his holiday.
2. When an employee's workweek includes Sunday and a holiday falls on the day that has been designated as his non-workday in lieu of Sunday, his next regular workday after his "in lieu of Sunday" within his work week is his holiday.

B. Other Holidays

When a holiday falls on an employee's non-workday other than Sunday, the regular workday preceding the employee's non-workday is his holiday.

9.600 LEAVE WITHOUT PAY

9.601 Leave of Absence Without Pay

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- A. Employees may request leave without pay for good cause when their current authorized annual or sick leave with pay will not cover the total period of requested leave. Leave without pay may be granted for a period not to exceed one (1) year. For extenuating circumstances, the General Manager may extend the leave without pay for an additional year. No extension may be granted thereafter.
- B. When an employee is on leave without pay status, accrual of sick, annual, or retirement credit is not allowed.

9.602 Request by the Employee

Leave without pay is temporary non-pay status and absence granted in response to an employee's request. Leave without pay covers only those hours, which an employee would otherwise work or, for which he would be paid.

9.603 Authorization

- A. Authorizing leave without pay is a matter of administrative discretion. An employee cannot demand that he be granted leave without pay as a matter of right, except in the case of:
 - 1. disabled veterans who are entitled to leave without pay, if necessary, for medical treatment; and
 - 2. members of the Reserve Components of the U.S. Armed Forces who are entitled to leave without pay, if necessary, to perform military service duties.
- B. An employee who does not have adequate annual or sick leave credits may submit a written request for leave without pay to his supervisor, which requires the final approval of the General Manager. The employee's request should indicate the reasons and the need for leave without pay and the date employee intends to return to duty from leave.

9.604 Conditions for Approval of Leave Without Pay

- A. Each request, for extended leave without pay, should be evaluated carefully to assure that the value to the Port or the serious needs of the employee is sufficient to offset the costs and administrative inconveniences to the Port which results from the retention of an employee in a leave without pay status. Among these costs are:
 - 1. encumbrance of a position;

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2. loss of services which may be needed in the organization; and
 3. obligation to provide active employment at the end of the approved leave period.
- B. As a basic condition for approval of extended leave without pay, there should be reasonable expectation that the employee will return to work at the end of the approved period. In addition, it should be apparent that at least one of the following benefits would result:
1. increased job ability.
 2. protection or improvement of employee's health.
 3. retention of a desirable employee.
 4. furtherance of a program of interest to the Port.

9.605 Examples of Appropriate Use of Leave Without Pay

The following examples of types of cases are not all inclusive for which approval of extended leave without pay would be proper, all other factors being favorable, are:

- A. For educational purposes, when the course of study or research is in line with a type of work which is being performed by the Port, and completion of which would contribute to the Port's best interests.
- B. For the purpose of recovery from illness or disability, not of a permanent or disqualifying nature, when continued employment or immediate return to employment would impact on the employee's health, or the health of other employees.
- C. For the purpose of caring for a child upon birth or adoption.
- D. For the purpose of providing care to a spouse or child who is ill or disabled, or to provide care to elderly parents or parents-in-laws.
- E. For the purpose of conducting union-related business and to address issues important to the employees' collective bargaining units. Such leave without pay is authorized for those employees who are a president or head of a union representing a recognized collective bargaining unit of the Government.

9.700 UNAUTHORIZED LEAVE OF ABSENCE FROM DUTY

An employee who is absent from duty without proper authorization shall be placed on unauthorized leave of absence without pay for payroll purposes. Repeated unauthorized absences may be grounds for disciplinary action.

9.800 FAMILY AND MEDICAL LEAVE ACT

9.801. Policy Statement

FMLA provides eligible employees with job-protected leave for qualifying events or circumstances as described below. Some of those events or circumstances may involve the employee's own health event or circumstance, or may involve the health or military service of the employee's family member, as defined below.

Leave may be taken in continuous full-time periods or may include a reduced or intermittent schedule when medically necessary or for a qualifying exigency due to a call to active duty. When intermittent or reduced scheduled leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must consult with the supervisor and make reasonable effort to schedule treatment so as not to unduly disrupt the Port's operations.

9.802 Employee Eligibility

- A. An employee is eligible for FMLA leave if he has worked for the Government of Guam for at least twelve (12) months and worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA leave.
- B. Temporary employees working part-time, after completion of 1,250 hours, are counted as completing the work week even if they do not work a forty (40) hour workweek.
- C. For the purposes of this Rule, full-time employment is considered to be 2,080 hours per year. An employee returning from fulfilling his or her National Guard or Reserve military obligation will be credited with the hours of work that would have been performed during the period of military service.

9.803 Reasons for Leave

The FMLA allows eligible employees to take leave for the following qualifying events or circumstances.

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9.804 Family Leave

- A. An employee may take family leave for the following events or circumstances:
1. Birth and care of a child during the first year.
 2. Adoption or foster placement of a child and care during first year.
 3. Care of employee's spouse, domestic partner, child or parent with a diagnosed serious health condition, defined under Definitions.
- B. Amount of Leave: Employees taking family leave may take up to twelve (12) weeks of family leave per calendar year (January 1 to December 31).

Leave for birth, adoption of a child or placement of a foster child must be taken in one single period and must be taken within one (1) year of the birth or placement of the child. If both parents work for the Port and request leave for birth or placement of the child, care of that child in the first year, or care for a parent with a serious health condition, the twelve (12) week leave period for both employees is combined. The parents do not each have twelve (12) weeks of FMLA available for those situations.

9.805 Medical Leave

- A. An employee may take leave for his own diagnosed serious health condition, as defined below under Definitions.
- B. Amount of Leave: Employees taking medical leave for their own serious health condition may take up to twelve (12) weeks of medical leave per calendar year (January 1 to December 31).

9.806 Service Member Leave

- A. Exigency: Employees with a spouse, son, daughter, or parent (i.e., the service member) on active duty or call to active duty in the National Guard or Reserves I support of a contingency operation may use leave to address certain qualifying exigencies arising out of the active duty or impending active duty.
- B. Examples of qualifying exigencies include attending certain military events, arranging or providing for alternate child care or school, addressing certain financial and legal arrangements, addressing issues arising from short-notice deployment, attending certain counseling sessions, and attending post-deployment reintegration briefings.

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- C. An employee whose family member is on active duty or call to active duty as a member of the Regular Armed Forces is not eligible to take leave because of a qualifying exigency.
- D. Amount of Leave: An employee may take up to twelve (12) weeks of leave per calendar year (January 1 to December 31).

9.807 Injury or Illness

- A. Employees may also take leave to care for a covered current service member (the service member) who has a serious injury or illness incurred in line of duty that may render the service member medically unfit to perform his own duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.
- B. In order to care for the covered service member, the employee must be the spouse, son, daughter, parent, or next of kin of the service member.
- C. Amount of Leave: An employee may take up to twenty-six (26) weeks of leave per service member or per injury/illness during the twelve (12) month period, beginning on the first day of leave.

If both parents work for the Port and request leave for birth or placement of child, care of that child in the first year, care for a parent with a serious health condition, or care for a service member, the twenty-six (26) week total leave period for both employees is combined. The parents do not each have twenty-six (26) weeks of FMLA available for those situations.

9.808 Notice and Documentation

- A. When the need for leave is foreseeable, the employee shall notify the Port within thirty (30) days of the need for leave. When the need for leave is not foreseeable, the employee shall notify the Port as soon as possible. An employee requesting leave must explain the reasons for the needed leave so as to allow the Port to determine whether the leave qualifies under the policy.
- B. The employee must provide complete and sufficient medical or military documentation in support of a request for FMLA leave. Failure to provide such documentation may result in the denial or delay of FMLA. The Port may seek a second or third opinion of medical documentation, and may request reasonable updates of supporting documentation. The employee may also be required to provide documentation of the familia relationship to support service member leave.

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- C. The Port will promptly notify the employee in writing if the employee is eligible for FMLA and, if so, whether the requested leave will be counted as FMLA leave. In certain circumstances the Port may designate an absence as FMLA even if the employee did not request FMLA. The Port may not retroactively designate an absence as FMLA unless the reasons for the absence were not known to the Port at the time leave began.
- D. An employee taking FMLA leave must comply with the Port's leave notification requirements appropriate for the situation. When notifying the Port, employees must inform the Division Head if requested leave or absence is for a reason for which FMLA was previously taken or certified.
- E. An employee on leave for his own medical condition must present a medical release to return to work. The employee may be asked to medically certify that the employee is able to perform essential functions of the position. Failure to submit a sufficient and complete release may delay the employee's return to work.

9.809 Paid Versus Unpaid Leave

- A. FMLA does not provide paid leave. However, employee wages during a FMLA covered absence(s) will be provided in accordance to the Port leave policies.
- B. Employees eligible for FMLA will use applicable paid leave benefits concurrently with FMLA. Leave benefits may be sick, annual or donated leave dependent on the FMLA reason. If sick and/or annual leave is exhausted, leave will be unpaid (leave without pay). Employees who are qualified for FMLA leave are eligible to retain up to two (2) weeks (80 hours) of accrued annual leave each calendar year.

9.810 Continuation of Insurance Benefits

- A. During an approved leave, paid or unpaid leave, the Port will continue to pay the employer share of the employee's government health insurance benefits. If the employee is responsible for a share of the premium through payroll deduction, the employee must continue to pay his share during any unpaid leave.
- B. Life, long term disability and retirement contribution benefits may be continued at employee expense under the leave without pay regulations. If leave is due to an employee's illness, life, long term disability and retirement contribution benefit coverage may be continued through policy provisions.

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9.811 Return to Employment After Leave

- A. At the end of FMLA leave, an employee must be restored to the job he left or one with equivalent benefits, pay and other terms and conditions of employment. Employees on FMLA must receive unconditional pay raises that were granted during their absence.
- B. The FMLA contemplates that there may be situations when an employee cannot return to employment during or after leave. Termination of employment may occur, for example, while an employee is on leave if there is a layoff or reduction in force, or cause that would otherwise support dismissal, if the employee's job would have been lost if he was actively working. Similarly, termination of employment may occur if the employee is unable to perform one or more essential functions of the position, with or without reasonable accommodation, after the leave is over.

9.812 No Retaliation or Interference

The Port will not discriminate or retaliate against an employee who exercises his rights under the FMLA, or otherwise interfere with those rights.

9.813 Definitions

- A. Child – May be a biological, adopted, foster or step child or legal ward, or child of a person standing “in loco parentis” by providing day-to-day care and financial support, where the child is under age 18, or age 18 or older and incapable of self care because of a mental or physical disability.
- B. Next of Kin – The nearest blood relative other than the covered service member's spouse, parent, son or daughter in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his nearest blood relative for purposes of military caregiver leave under the FMLA.
- C. Parent – A biological, adoptive, step or foster parent or other person who stood “in loco parentis” to a child by providing day-to-day care and financial support. In-laws are not covered by this policy.
- D. Spouse – A legal or common-law spouse. This policy also covers domestic partners. Both spouses and domestic partners must have on file an

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Affidavit of Domestic Relationship to be eligible for leave to care for the spouse or partner.

- E. Serious health condition – An illness, injury, impairment or physical or mental condition that involves inpatient care of continuing treatment by a health care provider.
1. Incapacity – Inability to work, attend school or perform other regularly daily activities due to the serious health condition, treatment therefore, or recovery therefrom.
 2. Inpatient care – An overnight stay in the hospital, hospice or residential medical care or any subsequent treatment in connection with the inpatient care.
 3. Treatment – Includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.
 4. Continuing treatment by a health care provider – any one of the following:
 - (a) A period of incapacity of more than three (3) consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves either treatment two (2) or more times within thirty (30) days or treatment by a health care provider on at least one (1) occasion, which results in a regimen of continuing treatment under the supervision of a health care provider.
 - (b) Any period of incapacity due to pregnancy or prenatal care.
 - (c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which requires periodic visits (i.e., at least twice per year) for treatment by a health care provider, which continues over an extended period of time, and any cause episodic rather than a continuing period of incapacity.
 - (d) Permanent or long-term conditions.
 - (e) Conditions requiring multiple treatments.

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9.814 Enforcement

If an employee has concerns or complaints regarding FMLA, the employee may contact the Human Resources Division. In addition, an employee may file a complaint with the Department of Labor or may file a private lawsuit.

CHAPTER 10

HEALTH AND SAFETY

STATEMENT OF POLICY

The purpose of this chapter is to ensure that applicants and employees meet the health and physical requirements for the efficient performance of their duties. In addition, this chapter is to develop a safe and healthful environment for employees and for the public when using the Port's facilities, by establishing/maintaining and properly supervising an active safety and health program tailored to meet the needs of the organizations.

10.000 MEDICAL STANDARDS

10.001 Establishment of Medical Standards

Medical standards shall include, but need not be limited to, pre-entry medical examinations, medical re-evaluations, the method of administration of medical examinations, and the consequences of failure to meet health and physical condition requirements.

The General Manager is authorized to establish medical standards in order to:

- A. Ensure that persons seeking employment with the Port meet the health and physical requirements necessary for the safe and efficient performance of the duties of the class of position in which they seek employment, and can continue to meet the health and physical requirements for a reasonable period of time.
- B. Ensure that each employee is able to perform the duties of his position satisfactorily and without undue hazard or imminent threat to himself or others or without undue hardship on the operation of the program.
- C. After making a conditional job offer and before an individual starts work, the General Manager may request a medical examination or ask health-related questions, provided that all candidates who receive a conditional job offer in the same job category are required to take the same examination and/or respond to the same inquiries.

10.002 Kinds of Employment Medical Examinations

The General Manager is authorized to require three (3) types of medical examinations:

A. Pre-entry

Pre-entry physical examinations shall be required of all persons prior to initial appointment to the position.

B. Periodic

Periodic physical examinations shall be required of all employees holding positions in classes which the Division Head and Safety Administrator certifies, and the General Manager approves, that the nature of the work performed is such that a periodic check of ability to meet the health and physical condition standards is necessary. The General Manager will determine the intervals, at which periodic physical examinations shall be taken consistent with the Port's operational requirements. The Port shall implement the standards imposed by the U.S. Department of Transportation and other OSHA standards applicable to periodic medical physical examinations for certain type of vehicle operations. Other OSHA standards are applicable relating to periodic medical examinations of certain vehicle operations (Chapter 87, Title 10, GCA).

C. Special

The Division Head may request the General Manager to authorize special medical physical or psychological examinations to determine the fitness for duty of employees to continue with their assigned duties. Special physical or psychological medical examinations shall have as their purpose the determination of whether an employee should be retired from the government service or assigned to duties and responsibilities that are within his physical or psychological ability to perform. The Port shall pay costs for the special medical examinations.

10.003 Administration of Employment Medical Examinations

Medical examinations shall be administered by a licensed physician or other licensed professional on forms prescribed by the General Manager. The examination form shall request a medical determination of the individual's fitness for employment in the class of position. For special medical examinations, forms shall provide a means for recommendations by the examining physician or licensed professional, as to whether the individual employee should be retired or placed in other employment more suited to his physical or mental condition and ability and for which the employee can perform the essential function of the job.

10.004 Temporary Medical Exemptions

The General Manager may determine that a position must be filled immediately, making it impossible to complete the medical examination prior to appointment. In these unusual cases, the General Manager may temporarily waive the medical examination, provided that the medical examination is completed at the earliest possible date and in no instance, later than thirty (30) days after the appointment.

10.100 PLACEMENT OF EMPLOYEES WHO BECOME MEDICALLY NON-QUALIFIED

10.101 General Provisions

- A. The provisions of this section shall apply to permanent employees who become medically non-qualified and to original probationary employees with a service-connected disability.
- B. It is the responsibility of the Port to assure, to the extent possible, the continued employment of employees who:
 - 1. become disabled as a result of an injury, accident or illness that is not a result of misconduct;
 - 2. are found to be medically non-qualified for their present position;
or
 - 3. has a disability incurred in or aggravated during military service but who are medically qualified for other types of positions within the Port.
- C. The employee shall be examined at the expense of the Port by a government or private physician or physicians, in such field or fields of medicine and/or psychiatry as may be applicable to evaluate the employee's qualifications for his present position, or assess his current physical and emotional capacities and/or evaluate his qualifications for a vacancy for which he is being considered under the provisions of this section.
- D. Employees affected by this rule shall be considered for those vacancies for which they qualify.
- E. In the placement of an employee with a disability, the Port shall consider the following:

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1. The ability of the employee to safely perform the essential functions of the position without undue interruption to the work program and/or undue hardship on the operations of the program.
 2. The ability of the employee to absorb any required training or re-training; and
 3. The mutual interest of both the Port and the employee.
- F. If demotion is involved, whether or not initiated by the employee, he shall be compensated in accordance with Rule 6.006.

10.102 Placement of Employees with Disabilities

After medical, physical, or psychological re-evaluation, an employee who is no longer qualified to perform the duties of his position satisfactorily within a stated reasonable period of time and in spite of reasonable accommodations due to permanent medical physical or mental incapacity, the General Manager shall take the following action (provided the employee is qualified and able to perform the new duties within the limitations established by these rules and the American with Disabilities Act (ADA)):

- A. Transfer the employee to an equivalent position elsewhere in the Port organizational structure; or
- B. Placement of the employee consistent with Chapter 4; or
- C. If no equivalent position is available, to reassign the employee to a lower graded position, without loss of pay, elsewhere in the Port.

10.103 Reasonable Accommodation

Every effort shall be made by the General Manager to provide reasonable accommodations to assure continued employment.

10.104 Termination of Employment

The General Manager shall terminate the employment of those employees who become disabled as a result of an injury, accident or illness that is not a result of misconduct or found to be medically non-qualified for their present position only for the following reasons:

- A. If no suitable placement can be made or if the employee refuses placement in a suitable position.
- B. If the employee refuses or is ineligible for retirement.

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- C. If the General Manager has evidence that the employee is permanently disabled from performing the job, or will be disabled for a long time that termination is necessary in light of demonstrated business realities.

Such termination shall be consistent with the Adverse Action Procedures, Chapter 11.

10.200 SAFETY STANDARDS

The minimum safety standards shall be those as established in the Occupational Safety and Health Code (Chapter 87, Title 10 of the GCA) and administered by the Division of Occupational Safety and Health of Department of Labor.

CHAPTER 11

ADVERSE ACTION PROCEDURES

STATEMENT OF POLICY

This chapter sets forth the guidelines and procedures by which the General Manager may suspend, demote, or dismiss a permanent employee.

11.000 COVERAGE

This chapter shall apply to all permanent classified employees.

11.100 SCOPE

For the purpose of this Chapter, the term "dismissal" shall not be interpreted to include:

- A. Actions taken by the General Manager referenced in the Chapter on "Resignation, Termination and Clearance"; or
- B. Action taken by the General Manager in the termination of services of an original probationary employee.

11.200 EMPLOYEE DISCIPLINE

11.201 General Provisions

A. Responsibility for Discipline

The General Manager derives its authority and responsibility for employee discipline under the provisions of Section 4105, Title 4, of the GCA.

The General Manager has the responsibility to remove, suspend, or demote to another position on a fair and equal basis, any employee in the classified service whose conduct or capacity is such that his removal, suspension or demotion will promote the efficiency of government service.

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B. Delegation of Authority

The General Manager may delegate responsibility for administration of day-to-day discipline to his line-management, to include such progressive discipline, as oral admonitions, letters of warning, letters of reprimands, and recommendation of adverse actions.

C. Vested Authority

The General Manager is the only official vested with the final authority to take adverse action, including removal, demotion, or suspension against an employee.

11.202 Job Protection Procedures in Employee Discipline Actions

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

1. Informal counseling at the first indication that an on-the-job or personal problem is affecting the employee's job performance.
2. A reasonable opportunity for the employee to correct inadequate performance including providing specific training to the employee to improve the level of his 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 proposed adverse action that may result in a suspension, demotion or dismissal.
4. The right to reply to the notice of proposed adverse action and careful consideration of any reply; and
5. The right to appeal to the Commission as provided in the CSC Rules and Regulations Relative to Demotion, Suspension, Dismissal and Appeal of Adverse Actions.

- B. The General Manager shall require each supervisor and manager receive orientation and training on the Authority's basic intent that discipline is a tool for correcting 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.

11.300 ADVERSE ACTION PROCEDURES

11.301 General Requirements

- A. An employee must be given the final notice and statement of the charges pursuant to Title 4, GCA, Section 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.

In no event may an employee in the classified service be given notice and statement of the charges required by this Rule after the sixtieth (60) day after management knew or should have known of the facts or even that form the alleged basis for such action. Any action brought by management is in violation of Section 4406 of Title 4, GCA is barred and any decision based upon such action is void.

- B. An employee covered by the Adverse Action Procedures may be suspended for not 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 the result of multiple adverse actions taken by the Authority.
- C. Copies of the adverse action rules and appeal procedures should be made available upon request by the employee.

11.302 Definition

- A. **Suspension:** The temporary removal of an employee from his position with loss of pay as a disciplinary measure.
- B. **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.
- C. **Dismissal:** The termination of an employee for authorized cause for adverse action.

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- D. Day: Refers to calendar day unless otherwise specified.

11.303 Authorized Causes for Adverse Action

The General Manager may remove an employee for such misconduct(s), which affect(s) the efficiency of the service. The authorized causes for adverse action include:

- A. Fraud in securing appointment.
- B. Refusal or failure to perform prescribed duties and responsibilities.
- C. Violation of the Authority's Drug Free Workplace Policy.
- D. Falsification of records, such as, but not limited to reports, time records, information system records, leave records, employment applications, or other official Authority documents.
- E. Insubordination, including but not limited to, resisting management's directives through actions and/or verbal exchange, or failure or refusal to follow supervisor's instructions to perform assigned work, or otherwise failure to comply with applicable established written policy(ies).
- F. Reporting to work under the influence of, or when ability is impaired by the use of alcohol or the unlawful use of controlled substance.
- G. Unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the Authority's premises including while operating the Authority's equipment.
- H. Unauthorized absence.
- I. Criminal convictions for felonies or misdemeanors while employed, including conviction of a moving traffic violation while operating the Authority's equipment.
- J. Discourteous treatment of the public, customers or other employees.
- K. Engaging in political activity prohibited by law.
- L. Misuse or theft of government property.
- M. Acts of physical violence or fighting endangering and threatening the life or safety of customers, employees, or the public.
- N. Violation of safety rules and regulations.

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- O. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- P. Acts prohibited by Section 9102, Title 4 of GCA relating to strikes against the Government.
- Q. Threatening, coercing, harassing or acts of discrimination to employees, supervisor, customers or individuals, to include sexual harassment.
- R. Unsatisfactory performance.

11.304 Employees Covered

All employees in the classified service are covered by these Rules, except for the following:

- A. Contract employees whose contracts are not renewed upon expiration.
- B. Probationary employees serving original appointments.
- C. Employees on limited-term, temporary, seasonal, intermittent, part-time, provisional, or only for a specific project.
- D. Employees who are exempt by law or other legal authority from the jurisdiction of the Commission with regards to adverse actions.

11.305 Adverse Action Covered

- A. These Rules apply to the following adverse actions:
 - 1. Suspension
 - 2. Demotion (disciplinary action)
 - 3. Dismissal
- B. The use of any combination of the adverse actions listed for the same offense is prohibited.

11.306 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. A copy of the notice of proposed adverse action shall be submitted to the Commission. The General

Manager or delegated management official may issue the proposed adverse action to the employee.

11.307 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 during the notice period to meet with the employee at the designated date and time requested by the employee. The General Manager may designate a committee to hear the employee's answer. The employee may be represented by a person of his 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 an answer, and the General Manager may proceed with the adverse action upon expiration of the notice period. The employee is not prohibited from meeting the General Manager during the notice period.

The entire ten (10) days for the employee to respond to the notice of proposed adverse action must expire before a final notice of adverse action is issued.

11.308 Suspension During Notice Period

- A. 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:
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.
 2. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property, or important documents.
 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.
- B. Suspension under this Section is a separate adverse action and it is appealable to the Commission within twenty (20) days of the effective date of the action. A copy of the notice of immediate suspension shall be filed with the Commission not later than the working day next following the effective date of the suspension.

- C. If the Commission 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 suspension be more than thirty (30) work days.

11.309 Leave Pending Investigation

In cases requiring investigations of allegations against an employee involving misappropriation of public funds or property, mistreatment of persons in a government institution or acts which constitutes 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.

11.310 Employment Status During Imprisonment

- A. 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.
- B. The General Manager shall determine whether to take adverse action against an employee so imprisoned or take such appropriate action as he deems necessary pursuant to laws and the Authority's Personnel Rules and Regulations. Nothing in this Section shall preclude the General Manager from taking adverse action against an employee during imprisonment or upon release.

11.311 Final Notice of Adverse Action

- A. 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 charge(s) except as provided in the Commission's Hearing Procedures for Adverse Action Appeals, and provided further that the General Manager shall not issue a final decision during the notice period. 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 except as provided in the Commission's Hearing Procedures for Adverse Action Appeals. 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 Commission; and, inform him of the time limit within which an appeal may be submitted as provided in the Commission's Hearing Procedures for Adverse Action Appeals.
- B. Prior to the final notice of adverse action, the General Manager may conduct an inquiry or investigation into the charges and proposed adverse

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action, including calling a meeting with the employee.

- C. Copies of the final notice of adverse action shall be filed by the Authority with the Commission not later than the next work day following the effective date of the action. A copy of the final notice shall be retained by the Human Resources Division.

11.312 Appeal to the Civil Service Commission

The Hearing Procedures for Adverse Action Appeals adopted by the Commission shall be applicable for all Adverse Action Appeals Proceedings.

11.313 Service of 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 registered mailing the notice to the employee at the last known address. Service by registered mail is complete upon mailing.

11.400 GUIDELINES FOR DISCIPLINARY OFFENSES AND PENALTIES

11.401 General Provisions

- A. The list that follows is not intended to cover every possible type of offense affecting the efficiency of the service. Penalties for offenses not listed will be prescribed by the General Manager.
- B. Many of the items listed on this schedule combine several offenses in one statement, connected by the word "OR". Usage of the word "OR" in a charge makes it non-specific. Use only the items, which describe the employee's actual conduct and leave out parts which do not apply.
- C. Penalties for disciplinary offenses will, in general, range from the minimum penalty to the maximum indicated. In unusual circumstances, depending on the gravity of the offense, the past record, and the position of the employee, a penalty outside the general range may be imposed.
- D. Suspension penalties on this schedule apply to work days and holidays.
- E. Depending on the gravity of the offenses, dismissal proceedings may be instituted against an employee for any number of offenses committed. A greater penalty may be imposed for any offense if the circumstances justify greater penalty.

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- F. In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule of penalty to provide certain flexibility for management's discretion to institute progressive disciplinary action against an employee or group of employees.
- G. Documents relating to reprimand(s) shall not remain in an employee's personnel jacket for more than one (1) year from date of issue.

11.402 Range of Penalties for Stated Offenses: (Reprimands – Suspensions – Dismissals)

In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule to institute a progressive disciplinary action against an employee or group of employees. Reprimands shall not remain in an employee's personnel jacket for more than one (1) year.

	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
A.	Unauthorized absence	Reprimand	Suspension	Suspension	Dismissal
B.	Falsifying attendance record for oneself or another employee.	Reprimand	Suspension	Suspension	Dismissal
C.	Leaving job to which assigned at any time during working hours without proper permission.	Reprimand	Suspension	Suspension	Dismissal
D.	Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime.	Reprimand	Suspension	Suspension	Dismissal
E.	Unexcused tardiness	Reprimand	Suspension	Suspension	Dismissal
F.	Actual or attempted theft of government or Authority's property or property of others.	Reprimand	Dismissal	Suspension	Dismissal

CONDUCT

A.	Criminal, dishonest, infamous or notoriously disgraceful conduct adversely affecting the employee-employer relationship (on duty or off-duty).	Reprimand	Suspension	Suspension	Dismissal
B.	Disobedience to constituted authorities, or deliberate refusal to carry out any proper order from any supervisor having responsibility for the work of the employee; Insubordination.	Reprimand	Dismissal	Suspension	Dismissal

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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
C.	Disorderly conduct, fighting, threatening or attempting to inflict bodily injury to another; engaging in dangerous horseplay or resisting competent authority.	Reprimand	Dismissal	Suspension	Dismissal
D.	Disrespectful conduct; use of insulting, abusive, or obscene language to or about other personnel.	Reprimand	Dismissal	Suspension	Dismissal
E.	Falsification, misstatement, or concealment of material fact in connection with any official record.	Reprimand	Dismissal	Suspension	Dismissal
F.	False testimony or refusal to testify in an inquiry, investigation or other official proceeding.	Reprimand	Dismissal	Suspension	Dismissal
G.	Knowingly make false or malicious statements with the intent to harm or destroy the reputation of authority, or other official standing of individuals or organizations.	Reprimand	Dismissal	Suspension	Dismissal
H.	Gambling or unlawful betting during working hours.	Reprimand	Dismissal	Suspension	Dismissal
I.	Promotion of gambling on Government or Port premises	Reprimand	Dismissal	Suspension	Dismissal
J.	Willful damage to Government or Port premises or the property of others.	Reprimand	Dismissal	Suspension	Dismissal
K.	Engaging in prohibited acts covered in Section 9102 of Title 4, GCA.	Penalty shall be imposed pursuant to Section 9103, Title 4, GCA			

DISCRIMINATION

A.	Discriminating against an employee or applicant because of race, color, religion, sex, national origin, age, disability, creed, political affiliation or marital status or other prohibited discriminatory practices.	Reprimand	Dismissal	Suspension	Dismissal
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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum

INTOXICANTS

A.	Reporting for duty or being on duty under the influence of intoxicants, unauthorized possession of or attempting to bring intoxicants on Government or Port premises.	Reprimand	Dismissal	Suspension	Dismissal
B.	Reporting for duty while under the influence of a narcotic or dangerous drug or use of same on Government or Port property or on duty.	Reprimand	Dismissal	Suspension	Dismissal
C.	Unauthorized sale or transfer of narcotic or dangerous drug on Government or Port property or during duty hours.	Reprimand	Dismissal	Suspension	Dismissal

PERFORMANCE

A.	Careless workmanship resulting in spoilage or delay in production.	Reprimand	Suspension	Suspension	Dismissal
B.	Covering up or attempting to conceal defective work; removing or destroying same without permission.	Reprimand	Suspension	Suspension	Dismissal
C.	Failure or delay in carrying out orders, work assignments or instructions of superiors.	Reprimand	Suspension	Suspension	Dismissal
D.	Loafing, wasting time or inattention to duty.	Reprimand	Suspension	Suspension	Dismissal
E.	Sleeping on duty where life or property is endangered.	Reprimand	Suspension	Suspension	Dismissal
F.	Unauthorized use or possession of, loss of, or damage to Government or Port property or the property of others.	Reprimand	Suspension	Suspension	Dismissal

SAFETY

A.	Failure to observe precautions for personal safety, posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment.	Reprimand	Suspension	Suspension	Dismissal
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	NATURE OF OFFENSE	FIRST OFFENSE		SECOND OFFENSE	
		Minimum	Maximum	Minimum	Maximum
B.	Violation of safety regulations which endangers life or property.	Reprimand	Suspension	Suspension	Dismissal
C.	Endangering the safety of or causing injury to personnel through carelessness.	Reprimand	Suspension	Suspension	Dismissal
D.	Failure to observe no smoking regulations or carrying matches in restricted areas.	Reprimand	Suspension	Suspension	Dismissal
E.	Violating traffic regulations driving on Government premises, or improper operation of government motor vehicles.	Reprimand	Dismissal	Suspension	Dismissal

**11.500 CIVIL SERVICE COMMISSION HEARING PROCEDURES COVERING
SUSPENSIONS, DEMOTIONS AND DISMISSALS.**

It shall be the responsibility of the General Manager to ensure that the Commission's hearing procedures be disseminated to each employee.

CHAPTER 12

GRIEVANCE PROCEDURES

STATEMENT OF POLICY

It shall be the policy of the Authority to promote favorable relations between management and its employees by resolving complaints expeditiously; prevent similar complaints; assure fair and equitable treatment of all employees; and promote harmonious working relationships among all levels of employees.

The General Manager shall develop procedures outlining the responsibilities and steps to be followed by employees in the presentation of an informal or formal grievance. All levels of management shall carefully and promptly respond to an employee's grievance and shall be guided by these procedures.

12.000 APPLICABILITY

The regulations shall apply to all permanent classified employees.

12.100 DEFINITION

A grievance is any question or complaint filed by a permanent employee alleging that there has been a misinterpretation, misapplication or violation of a personnel statute, rule, regulation, written policy which directly affects the employee in the performance of his official duties; or that he has received prejudicial, unfair, arbitrary, capricious treatment in his working conditions or work relationships.

The time frames will serve as guide and may be extended or shortened based on concurrence of the parties involved.

12.200 COVERAGE

Grievances may include, but are not limited to, such actions as employee-supervisor relationships, duty assignments not related to job classification, shift and job location assignments, hours worked, working facilities and conditions, policies for granting leave, and other related matters.

12.300 EXCLUSIONS

12.301 General Exclusions

The following actions are not covered by the grievance procedures:

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- A. Disqualification of an applicant;
- B. Disqualification of an eligible;
- C. Examination ratings;
- D. Removal during original probationary period;
- E. Appeals from classification determinations;
- F. Appeals from adverse personnel actions;
- G. Allegations or complaints of discrimination; and
- H. Appeals of performance evaluations.

12.302 Grievance Procedures for Employee Organizations

The procedures are also not applicable when the employee is in a unit covered by an exclusive recognition, as an employee organization, which has negotiated grievance procedures for that unit. When negotiated procedures exist, they shall be the exclusive procedures available to public employees in the unit for settlement or group grievances.

12.303 Equal Employment Opportunity Discrimination Complaint

When an aggrieved employee submits a written allegation of discrimination on grounds of race, color, religion, sex, national origin, marital status, age, disability or political affiliation in connection with a matter which is subject to the Authority's grievance procedures, as well as, the EEO Discrimination Complaint Procedures, that allegation shall be processed under the EEO Discrimination Complaint Procedures.

12.400 GENERAL PROVISIONS FOR USE OF GRIEVANCE PROCEDURES

12.401 Freedom from Retaliation or Interference

- A. An employee and his representative shall be free to use the grievance system without restraint, interference, coercion, discrimination, or reprisal.
- B. An employee, whether acting in an official capacity for the Authority, or on any other basis, must not interfere with, or attempt to interfere with, another employee's exercise of his rights under the grievance system. To be fully effective, the spirit as well as the letter of this non-interference requirement must be enforced. It is not enough for an official to abstain from overt threats or interference. He should refrain from making any statement or taking any action, which has the appearance or even the flavor of a threat, interference, or intimidation.

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12.402 Employee's Status During Grievance Procedures

An employee's status during each procedural level shall be status quo.

12.403 Right to Seek Advice

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

- A. The Authority's Human Resources Division;
- B. The EEO Coordinator or Counselor; or
- C. A supervisory or management official of higher rank than the employee's immediate supervisor.

12.404 Representation

- A. An employee has the right to present a grievance without representation.
- B. An employee has the right to present a grievance with representation.
 - 1. An employee has the right to be accompanied, represented, and advised by a representative of his choice at any stage of the grievance proceedings.
 - 2. An employee may change his representative, but to do so, he must notify his supervisor and the General Manager of the change in writing.
 - 3. A person chosen by the employee must be willing to represent him.

12.405 Official Time for Presentation of the Grievance

- A. An employee must be given a reasonable amount of official time to present his grievance if he is otherwise in an active duty status.
- B. An employee's representative, if he is an employee of the Government of Guam 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 the presentation include time for investigation or preparation, or that it includes travel expense or per diem travel allowance or consultation with private attorney.

12.406 Termination of Grievance

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

any time.

- B. Failure on the part of the employee to proceed to a higher step of the grievance procedure within the time period specified will terminate the grievance.

12.407 Management's Responsibility for Timely Action and Settlement At the Lowest Possible Level

- A. It shall be the responsibility of management to settle grievances fairly and promptly at, or near the organizational level where the employee brought the grievance to their attention.
- B. Failure by management to render a decision to the employee within the allotted time at any step constitutes denial; the employee may then proceed to the next step of the grievance procedures.

12.500 STEP 1 – INFORMAL GRIEVANCE PROCEDURES

12.501 Management Responsibility

An employee's grievance may or may not be objectively justified. What is important is that the grievance is real to the employee. When the grievance is well founded, management official has both a duty and a need to eliminate the cause. When the grievance is not well founded, it is equally important to reach an understanding based on the full facts. Therefore, the informal procedure should assure consideration of every employee's grievance with a degree of promptness, sympathy, understanding, fairness, competence, and authority which convinces the employee that he has been treated fairly.

12.502 Settlement at the Lowest Possible Level of Management

The informal procedures should be as simple as possible consonant with bonafide consideration of grievances. It should encourage settlement of matters at the lowest possible administrative level in the shortest possible time and should not, therefore, require any written explanation from the employee. The employee may present his grievance under the informal procedures, either orally or in writing, and he should not be prevented from submitting a written explanation if he desires.

12.503 Supervisor's Responsibility

- A. Normal day-to-day discussions between employees and supervisors regarding working conditions and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships.

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- B. Each employee of the Authority has the right to present matters to his supervisor, and each supervisor has the obligation to act promptly and fairly upon them, seeking advice and assistance of others when necessary.

12.504 Employee's Responsibility

- A. Each employee is expected to make a concerted effort to achieve informal settlement of his grievance. He should promptly bring his grievance to the attention of the appropriate supervisory level.
- B. Tolling Period: In counting the number of days for each step, if the last day of the period falls on a weekend, the filing time or receipt time falls on the next working day.

12.505 Using the Informal Grievance Procedure – Step 1

A. Initiation by Employee

In keeping with the personal nature of matters covered by grievance procedures, only employees can initiate grievances, singly or jointly. They may not be initiated by employee organizations. Employee organizations may be permitted to present a grievance on behalf of an employee or a group of employees when requested to do so by the employee or employees.

B. Time Limit

1. An employee may present a grievance to his immediate supervisor concerning a continuing practice or condition at any time. Grievances concerning a particular act or occurrence must be presented within fifteen (15) calendar days of that action or occurrence.
2. The immediate supervisor shall render a decision within ten (10) calendar days of the presentation of the grievance.

C. Form of the Grievance

An employee may present a grievance under the informal procedure either orally or in writing.

D. Non-rejection Provision

A grievance may not be rejected in the informal procedure for any reason.

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If the grievance is not timely or consists of a matter not covered under the grievance system, the employee should be so advised but he must be allowed to submit his grievance under the formal procedures if he insists.

E. Mandatory Use of the Informal Procedure

An employee must complete the informal procedure before the Authority may accept from him a grievance concerning the same matter under the formal procedure.

12.600 STEP 2 – FORMAL GRIEVANCE PROCEDURES – NEXT ADMINISTRATIVE LEVEL

12.601 Presentation of the Grievance – Step 2

- A. An employee is entitled to present a grievance under the formal procedure if:
1. he has completed the informal procedure;
 2. the grievance is not satisfactorily resolved at the informal level; and
 3. the immediate supervisor failed to render a decision within ten (10) calendar days of the presentation of the grievance at the informal level.
- B. The grievance presented in Step 2 must:
1. be in writing on a form prescribed by the General Manager;
 2. contain sufficient detail to identify and clarify the basis for the grievance;
 3. specify the remedy requested by the employee or the appropriate supervisory level; and
 4. be submitted to the appropriate division manager who is the next higher supervisor than the immediate supervisor within five (5) calendar days after receipt of the answer in Step 1 or after the answer was due.

12.602 Responsibility of Next Higher Supervisor

- A. The next higher supervisor must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed

through the informal procedure.

- B. The next higher supervisor shall make a positive attempt to resolve the grievance. He shall render a decision, in writing, to the employee within five (5) calendar days of receipt of the written grievance.

12.700 STEP 3 – FORMAL GRIEVANCE PROCEDURES – GENERAL MANAGER

12.701 Presentation of the Grievance – Step 3

- A. An employee is entitled to present a grievance under Step 3 if:
 - 1. he has completed Step 2 of the procedures; and
 - 2. the grievance is not satisfactorily resolved at Step 2 level; or
 - 3. specify the remedy requested by the employee; and
 - 4. be submitted to the General Manager within five (5) calendar days after receipt of the answer in Step 2 or after the answer was due.

12.702 Authority Grievance Committee

- A. Appointment of the Committee

Within three (3) calendar days of receipt of the written grievance from the employee, the General Manager shall appoint a Grievance Committee to investigate the circumstances of the grievance and to make a recommendation as to its disposition.

- B. Committee Membership

The Committee shall consist of four (4) members who are permanent government employees: two (2) members from the employee's peer group and two (2) members who are permanent employees at the managerial level.

- C. Responsibility of the Committee

The Committee must determine whether the grievance is timely, is covered by the grievance procedures, and has been processed through the informal procedure.

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D. Committee Inquiry

The Committee shall be expected to convene and initiate a grievance inquiry appropriate to 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.

E. Grievance File

When the Committee begins a grievance inquiry, the Committee Chairperson (elected by the members of the Committee) shall establish an employee grievance file. This is an independent file, separate and distinct from the personnel folder. The grievance file must contain all documents pertaining to the grievance including:

1. statements of witnesses;
2. records or copies of records; and
3. Reports of personal interviews.

F. 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 a file in a form, which the employee can review or it must not be used.

G. Committee Report

The Committee shall complete its investigation within fifteen (15) calendar days of the date the Committee was appointed and shall submit a written report of its findings and recommendations to the General Manager within two (2) calendar days following completion of its investigation.

H. General Manager's Written Decision

The General Manager shall render a written decision to the employee within five (5) calendar days of receipt of the written report from the Committee.

12.800 STEP 4 – APPEAL TO THE COMMISSION

12.801 Presentation of the Grievance – Step 4

- A. An employee is entitled to present a grievance appeal under Step 4 if:
1. he has completed Step 3 of these procedures; and
 2. the grievance is not satisfactorily resolved at Step 3 level; or
 3. the General Manager failed to render a decision within five (5) calendar days of the submission of the written report from the Authority Grievance Committee at Step 3 level; or
 4. there has been a violation of the Government Code or Authority Personnel Rules and Regulations; or
 5. the procedural rights of the employee filing the complaint as outlined have been disregarded; or
 6. the decision of the supervisor, Authority Grievance Committee and the General Manager has been unjust, inequitable or not in accord with the facts; or
 7. the General Manager fails to act on the Authority Grievance Committee's recommendations.
- B. The grievance presented in Step 4 must:
1. be in writing on a form prescribed by the General Manager;
 2. contain sufficient details to identify and clarify the basis of the grievance;
 3. include copies of the grievance forms submitted in Steps 2 and 3;
 4. specify the remedy requested by the employee; and
 5. be submitted to the Commission within five (5) calendar days after receipt of the answer in Step 3 or after the answer was due.

CHAPTER 13

RESIGNATION AND TERMINATION

STATEMENT OF POLICY

The purpose of this Chapter is to provide an orderly, uniformed and fair procedures for non-disciplinary separation of employees from the Authority's service.

13.000 RESIGNATION

13.001 Coverage

This section shall apply to all classified service employees.

13.002 Notice of Resignation

An employee may resign by giving written notice of the resignation to the General Manager. The employee shall notify the General Manager in writing at least ten (10) workdays before the date of separation. When a resignation letter is directed to the General Manager, it shall by its terms, be effective immediately or on a certain date. If no effective date is indicated, it shall be effective upon delivery to the General Manager.

Upon receipt by the General Manager of any resignation letter, the General Manager may make the resignation effective immediately or sooner than the effective date in the resignation letter. Such resignation shall be effective according to its terms unless the General Manager, at his discretion, makes the resignation effective immediately or at sometime sooner than the resignation letter. Acceptance of such resignation by the General Manager is not required for the resignation to become effective.

13.003 Withdrawal of Resignation

With the consent of the General Manager, the employee may withdraw a resignation at any time prior to the effective date of the resignation.

13.004 Resignation in Good Standing

A resignation shall be deemed to be in good standing when it is made voluntarily and not as a direct result of a final adverse action or criminal conviction. With the exception of an employee serving an original probationary period, an employee who resigns in good standing shall have reemployment rights consistent with Title 4, GCA and Rules 4.706 and 4.802.

13.005 Resignation Pending Adverse Action

An employee who resigns after receipt of a notice of proposed adverse action is deemed to have resigned voluntarily and has no right to appeal to the Commission. Any employee, who resigns under this rule and is subsequently convicted of a crime based on the same facts, which forms the basis of the adverse action, shall be deemed not to resign in good standing.

13.100 TERMINATION OF EMPLOYMENT

13.101 Termination of Employment

The General Manager may terminate the services of an employee for any of, but not limited to the following reasons:

- A. The duration of the temporary period of employment is ended.
- B. The employee failed to demonstrate satisfactory work performance during the original probationary period or failed to satisfy other conditions of employment.
- C. For misconduct, in which case, the adverse action procedures shall be adhered to. (Refer to Adverse Action Procedures.)

13.200 EXIT INTERVIEW

A personal interview shall be conducted with each employee separating from the services of the Authority. The interview shall be held prior to the employee's effective date of separation. The interview shall be conducted in such manner as to obtain from the separating employee the true reason or reasons for his separation. Such interview shall be recorded on forms prescribed by the General Manager and made part of the separating employee's personnel folder. A representative of the Human Resources Division shall conduct the interview.

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13.201 Clearance

Each separating employee must be cleared of all obligations within the Authority no later than the employee's last working day. Final payment of wages will be withheld pending completion of exit interview and clearance of all obligations to the Authority.

CHAPTER 14

MERIT CAREER PLAN

14.000 PURPOSE

This procedure outlines the responsibilities of the General Manager when permanent classified Authority employees apply and are being considered for career opportunities.

14.100 COVERAGE OF THE MERIT CAREER PLAN

This plan applies only to permanent classified employees.

14.200 EXAMINATION UNDER THE MERIT CAREER PLAN

The same examination will be used for all persons responding to a particular Merit Career Job Announcement.

14.300 REFERRAL OF CERTIFICATION LIST

The top five (10 for entry level labor/custodial and waterfront positions) eligibles shall be furnished to the General Manager based on rank order. However, in the event of tie scores with the fifth (10th for entry level labor/custodial and waterfront positions) eligible, all eligibles with the same score as the fifth (10th for entry level labor/custodial and waterfront positions) eligible will be referred.

14.400 SELECTION INTERVIEW

The General Manager shall establish procedures for interviewing certified eligibles.

14.500 EVALUATION OF CANDIDATES DURING THE SELECTION PROCESS

- A. Evaluation of candidates shall be based on job-related criteria, which measures the knowledge, skills, abilities and personal characteristics essential to successful performance in the position to be filled. Due consideration shall be given to formal recognition of superior performance of candidates, job-related training, and performance appraisals.
- B. Length of service, length of experience or level of formal education may be used as an evaluation factor when there is a clear and positive relationship with the requirements of the job to be performed. Length of service or experience may not be the factor given the greatest weight unless the nature of the vacant job is such that other factors cannot be

expected to identify significant qualitative differences between qualified candidates.

14.600 SELECTION DOCUMENTATION REQUIREMENTS

- A. The basis for selection must be job-related. The results of the selection process must be on file with the Personnel Division. Evaluation results are confidential and form a part of the selection process for the candidates being considered for the position. The Commission reserves the right to post audit selection documentation records.
- B. The General Manager will advise all persons certified under a Merit Career Job Announcement about the selection within ten (10) working days of the selection.
- C. Individuals who were certified and were not selected may request the General Manager to review the adequacy of the consideration they received provided that such a request is received in writing by the General Manager within five (5) working days after the non-selectee received the notice about the selection.

The minimum qualifications established for the position may not be contested by a competitor. The following information shall be made available to competitors under a Merit Career Job Announcement upon request, and the General Manager shall periodically publish the competitor's right to this information:

- 1. whether the individual was considered eligible on the basis of minimum qualification requirements for the position;
- 2. whether an individual was one of those in the group from which selection was made; and
- 3. who was selected.

14.700 HANDLING EMPLOYEE COMPLAINTS

- A. The General Manager shall respond to employee questions or complaints about the career program, or about a specific promotion action, and provide the employee with appropriate information or explanation.
- B. Issues that are not a basis for a formal complaint are:

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1. failure to be selected when proper procedures are used. A complaint may not be filed for non-selection from a group of properly ranked and certified candidates; and
2. any action required to be taken under the provisions of the statute, or instructions of the Commission.

14.800 EXCEPTIONS TO THE MERIT CAREER PLAN

A. The provisions of the Merit Career Plan are not required for career promotions which are:

1. Promotions without current competition where at an earlier date an employee was selected under a Merit Career Job Announcement for a position with known promotional potential to the position to which he is being promoted. The promotional potential must have been included in the announcement, and where appropriate, the career ladder (intervening promotion) documented in the original announcement.
2. Where the employee's position is reconstituted in a higher grade because of gradual accretion of additional duties and responsibilities and the accretion was not the result of planned management action. For example, an increase in the level of the employee's performance or change in workload, procedures, or organization that affects the grade of the positions only incidentally.

To be eligible for a career promotion when the position is upgraded under these conditions, an employee must continue to perform the same basic function and his former position must be absorbed in the new one. When an additional position is created, or when the new position is not a clear successor to the former position, career promotion is not authorized. Similarly, a career promotion may not be made from a non-supervisory position to a supervisor or manager position because these levels of position inherently have specific administrative authority which can only be delegated by management.

B. The provisions of this Merit Career Plan are not required for the following personnel actions:

1. A transfer from a position having known promotional potential to a position having no higher promotional potential.
2. A detail appointment.

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3. An action taken as a remedy for failure to receive proper consideration in a competitive promotion procedure.
4. A promotion resulting from the upgrading of a position without significant change in duties and responsibilities due to issuance of a new classification specification (standards) or the correction of a classification error.
5. Re-promotion to a class or position from which an employee was demoted without personal cause and not at his request. Acceptance of a demotion in lieu of layoff is not a demotion at the employee's request for these purposes.

The competitive procedures of the Merit Career Plan will not be used before these individuals are accorded their rights for re-promotion.

14.900 ADMINISTRATION REQUIREMENTS

- A. The General Manager shall provide for initial and periodic orientation to all employees, supervisors and managers concerning the provisions of this Merit Career Plan and the training of all division managers in their respective responsibilities for assuring the maximum publicity of Merit Career Job Announcements and for advising employees on requirements and provisions of this Merit Career Plan.
- B. The General Manager shall institute controls and audit procedures as deemed necessary to assure that all promotion actions are consistent with the provisions of the Merit Career Plan.
- C. The General Manager will assure that each current and future Division Manager is provided a copy of the Merit Career Plan and any subsequent changes to the Plan.

CHAPTER 15

DRUG FREE WORKPLACE PROGRAM POLICY

STATEMENT OF POLICY

The Authority is committed to maintaining a safe and healthy work environment free from the influence of alcohol and drugs. To that end, the Authority has adopted a Drug-Free Workplace Program. Compliance with the Authority's drug policy is a condition of employment. The Authority intends to take severe disciplinary action, up to including termination, against an employee who violates the Authority's Drug Free Workplace Program.

15.000 PREVENTION AND TREATMENT

The Authority encourages any employee with a drug or alcohol abuse problem to voluntarily seek treatment. The Authority has established an employee assistance program to provide counseling and referral services for employees with drug or alcohol abuse problems who voluntarily seek help.

15.100 PROHIBITED ACTIVITY

The Authority strictly prohibits unauthorized use, possession (including storage in a desk, locker, car or other repository), manufacture, distribution, dispensation or sale of illegal drugs, drug paraphernalia, controlled substances, or alcohol on the Authority's premises, in official vehicles, during working hours or any activity that compromises the integrity or accuracy of the Authority's drug and alcohol program, or any failure or refusal to abide by the Drug-Free Workplace Program, and conviction under any criminal drug statute.

15.200 TESTING

The Authority may require employees and applicants to be tested for drugs or alcohol upon hiring; when the Authority suspects that the employee's work performance or on-the-job behavior may have been affected in any way by drugs or alcohol; or when the Authority determines that an employee may have contributed to an accident involving fatality, serious bodily injury, or substantial damage to property. In addition, employees will be subject to random drug testing. Any positive drug or alcohol test is a violation of the Authority's Drug Free Workplace Program. Any test for drug or alcohol abuse will be conducted using reasonable procedural safeguards.

15.300 PROCEDURES

The procedures to effectively administer the Drug Free Workplace Program shall be those established by Port.

CHAPTER 16

EMPLOYEE INCENTIVE AWARDS PROGRAM

STATEMENT OF POLICY

It is the policy of the Port to develop Employee Incentive Awards program to recognize employees who by their suggestions, inventions, superior accomplishments or other personal effort contribute to the efficiency, economy or improvements of the Port operations; and perform special acts or services in the public interest in connection with or related to his official employment.

16.000 SERVICE MEDALS

16.001 Silver Medal

A silver medal for faithful service to the Government of Guam is granted to an employee and will be known as the Twenty-five (25) Year Service Medal.

This medal may be granted by the Port, to any person who has faithfully served the Government of Guam for a total for at least twenty-five (25) years. Creditable service to the Naval Government of Guam in a civil capacity, or active service in the Guam militia, shall be counted toward the time necessary to establish eligibility for this medal. Service in a federal capacity shall also be counted, provided such service has been directly in connection with the Government of Guam activities.

The Twenty-five (25) Year Service Medal will be of silver and may be worn by its recipient on occasions of ceremony.

A Five (5) Year Silver Bar may be granted by the Port for each five (5) years of service over the twenty-five (25) year basic period provided the additional service would have been eligible to count toward original award of the medal.

16.002 Gold Medal

An award for faithful service to the Government of Guam is established and shall be known as the Gold Service Medal.

This medal shall be granted by the Port to any person who has faithfully served the Government of Guam not less than thirty-five (35) years. Creditable service to the Naval Government of Guam in a civil capacity, or active service in the

Guam militia, shall be counted toward the time necessary to establish eligibility for this medal. Service in a Federal capacity shall also be counted, provided such service has been directly in connection with Government of Guam activities.

The Gold Service Medal may be worn by its recipient on occasions of ceremony.

16.100 INCENTIVE AWARDS PROGRAM

16.101 Purpose: The Port's incentive award programs should be designed to recognize competent, efficient, dedicated employees who:

- A. contributed to the services of the Port above and beyond the requirement of their position titles;
- B. rendered outstanding service to the Port to the best of their ability and knowledge in performing their assigned duties;
- C. by their outstanding accomplishments or other personal efforts contributed to the effectiveness of their division or to the mission accomplishments of the Port as a whole; or
- D. recognizes and reward employees who offer suggestions, ideas, recommendations, whose implementation would result in monetary savings or improve Port's operations.

Additionally, the program is to be used as a tool to motivate and inspire other employees of the Port for such recognition and at the same time enhance the overall work attitude.

16.102 Policies and Procedures: The General Manager shall establish policies and procedures for granting an award under the Port's Incentive Awards Program.

**PERSONNEL RULES AND REGULATIONS
GLOSSARY**

1. **ADVERSE ACTION:** Action taken by the General Manager or his designated representative which may suspend, demote, or dismiss a permanent employee.
2. **ADMINISTRATIVE LEAVE:** Leave with pay without charge to annual leave.
3. **ADMINISTRATIVE WORKWEEK:** Consists of 40 hours of work or paid leave per workweek.
4. **ALLOCATION/CLASSIFICATION:** The assignment of an individual position to an appropriate class in the classification plan on the basis of kind and difficulty of the duties and job requirements of work performed in the position.
5. **APPOINTING AUTHORITY:** The General Manager of the Port Authority of Guam.
6. **BOARD:** Shall mean the Port Authority of Guam Board of Directors.
7. **CERTIFICATION OF ELIGIBLES:** A document containing names from which competitive appointment is made.
8. **CLASS OF POSITION:** Includes all positions, which are sufficiently similar, as to:
 - (a) kind and subject matter of work;
 - (b) level of difficulty and responsibility; and
 - (c) the qualification requirements of the work to warrant similar treatment in personnel and pay administration.
9. **CLASS SERIES:** Consists of two or more classes that are similar as to line of work but differ as to level of responsibility and difficulty.
10. **CLASS STANDARD:** An official document which describes the general characteristics of the class, including title, nature of work summary, statement of examples of typical duties performed, a statement of minimum qualifications, and the minimum knowledge, abilities, and skills needed to perform the work which provides the criteria for placing each position in its proper class.
11. **CLASS TITLE:** The official name given to a class of positions to identify the class and all positions in the class, and shall be used for personnel, budget and fiscal purposes.

12. **CLASSIFICATION PLAN (Position Classification Plan):** A plan in which classes of positions are arranged in a logical and systematic order according to similarities and differences in duties, responsibilities, and qualifications requirements.
13. **CLASSIFIED SERVICE:** Government service of which employees have attained permanent status and cannot be removed from employment without cause.
14. **COMMISSION:** Shall mean the Guam Civil Service Commission.
15. **COMMON-LAW:** Persons who have co-habituated for at least two consecutive years and who are readily eligible to marry without emancipation under the laws of Guam.
16. **COMPARABLE POSITIONS:** Positions of equivalent or lower grade and pay in the same occupational category.
17. **COMPENSATION PLAN:** A compilation of all classes of positions in the classification plan setting forth their assignments of pay grades in accordance with Chapter 6 of Title 4 of the GCA.
18. **COMPENSATORY TIME-OFF:** Time off in lieu of overtime pay. The amount of time off shall be granted at time and one half.
19. **CREATION OF NEW CLASS OR CLASSES OF POSITIONS:** Those creations pursuant to Section 6303 of Title 4 of the GCA, because there is no existing class in the classification plan to which a position creation can be properly allocated.
20. **CREDITABLE SERVICE:** Service period for increment step increases.
21. **DEMOTION:** The change of an employee's position to a position with a lower maximum salary rate.
22. **DEMOTION (Involuntary):** Demotion of an employee for cause.
23. **DEMOTION (Voluntary):** Demotion requested by an employee in order to retain employment, when lay-off from his position is eminent, or for other reasons when the action is entirely voluntary on the part of the employee and not for cause.
24. **DETAIL:** The temporary assignment of an employee to perform a particular function other than the position to which regularly assigned. Detail shall not be for a period of more than 90 days, except where the Department of Administration has granted an extension of up to an additional 90 days per calendar year.

25. **DISCIPLINE:** Corrective action(s) taken by the General Manager, which is/are necessary to maintain the efficiency of the service.
26. **DISMISSAL:** Separation, discharge or removal for cause of an employee from his position.
27. **DIVISION HEAD:** The head of a respective division within the Port Authority of Guam.
28. **DUTY:** A task assigned to an employee by a responsible management authority.
29. **EMERGENCY:** Situations which may jeopardize human life and property or Port's operations which require immediate action.
30. **EMPLOYEE:** Any person employed by the Port.
31. **ESSENTIAL FUNCTIONS:** Those functions contained in a job specification that the General Manager believes to be important in accomplishing the purpose of the job.
32. **FIRST DEGREE OF CONSANGUINITY:** Blood relationship restricted to parent-child or sibling-sibling, to include adoptive and step-parents and children.
33. **GCA:** Shall mean the Guam Code Annotated.
34. **GOVERNMENT-WIDE:** Includes permanent status employees occupying classified positions within the Government of Guam departments and agencies.
35. **GRADUAL ACCRETION OF DUTIES AND RESPONSIBILITIES:** The acquiring of duties and responsibilities over a period of time. The employee must continue to perform the same basic function and his former position must be absorbed in the new one.
36. **GRIEVANCE:** Complaints, which relate to the working condition and relationship to Port policies, rules and regulations, and which cannot be resolved through informal discussions with the immediate supervisor.
37. **IMMEDIATE FAMILY:** With respect to leave, immediate family is defined as the employee's spouse, common-law, mother, father, grandparents, guardian, children, in-loco parentis, sister, brother, mother-in-law, and father-in-law. Step, adoptive, and spouse of adoptive parents, children, and grandchildren would also be considered "Immediate Family".

38. **IN-LOCO PARENTIS:** Refers to the situation of an individual who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
39. **JOB CONTENT:** Duties and responsibilities assigned to a particular position.
40. **KNOWN PROMOTIONAL POTENTIAL:** Upward career mobility in a series of positions within the Port without competition and where at an earlier date an employee was selected under a competitive examination.
41. **LAY-OFF:** The involuntary termination of employment as a result of reorganization or lack of funds.
42. **LEAVE YEAR:** The period from the beginning of the first complete pay period in the fiscal year commencing October 1, to the beginning of the first complete pay period in the following fiscal year.
43. **LIMITED-TERM APPOINTMENT (LTA):** An appointment to positions, which are permanent in nature, not to exceed one year.
44. **LINE MANAGEMENT:** The line of authority from the General Manager down to the first level supervisors.
45. **MERIT CAREER:** Promotion within the classified service, which is covered under the Merit Career plan of these rules.
46. **MINIMUM QUALIFICATION:** Minimum experience and training requirements derived from the knowledge, abilities, and skills and other qualification required to perform the duties and responsibilities of the position.
47. **MISCONDUCT:** Any action of an employee which is of a personal nature not related to the employee's ability to perform the job, but which constitutes a violation of regulations governing expected employee conduct on the job.
48. **NEPOTISM:** Supervisor-subordinate relationship between and among spouses and persons within the first degree of consanguinity, or as prescribed in Title 4, Section 4204, of the GCA.
49. **NEXUS:** Refers to a conflicting link between a job and a criminal offense where there is a strong likelihood that employment will impair the government's ability to provide safe and efficient government services.

50. **NON-PERMANENT STATUS:** Those employees in the government's merit personnel system who do not have permanent status and are non-permanent employees until such time as they acquire permanent status.
51. **OPEN COMPETITIVE:** This is an examination, which permits the competition of persons who meets the requirements of the official announcement for the position, and is not restricted to persons currently employed in the classified service.
52. **ORIGINAL OR INITIAL APPOINTMENT:** First-time permanent appointment to the classified position.
53. **ORIGINAL PROBATIONARY PERIOD:** It is that period in which an employee initially serves to attain permanent status as a Government of Guam employee. This also applies to former employees who have not been employed in the Government of Guam service after four years of separation in good standing.
54. **OVERTIME:** Actual hours worked in excess of 40 hours in an administrative work week. For classified employees whose normal work week schedule does not consist of five working days and two days off in a work week, overtime shall mean only hours worked in excess of their administrative workweek.
55. **PASSING SCORE:** A score of 70.00 or above.
56. **PAY GRADE:** The designated grade of compensation, as provided in the Compensation Schedule.
57. **PAY GRADE REASSIGNMENT:** Change of pay grade allocation of a class as determined by Board.
58. **PAY GRADE SCHEDULE:** A systematic arrangement of salary grades set forth by the Chapter 6, Title 4 of GCA or as authorized in Chapter 10, Title 12 of GCA.
59. **PERMANENT APPOINTMENT:** An appointment made by the General Manager to a position subject to the probationary period requirements.
60. **PERMANENT STATUS:** Permanent status is attained once an employee completes a satisfactory original probationary period.
61. **PERSONNEL JACKET:** The file shall contain documents or information of the employee's classification, performance evaluation, training, past work experience, commendations, and disciplinary actions. A separate jacket shall be established to include the employee's medical documents and information, drug testing results, inclusive of health and life insurance.

62. **PLANNED MANAGEMENT ACTION:** Refers to the pre-determination of a position via the vehicle of management budget or classification review where the new position is not a clear successor to the former position or where a promotion is recommended from a non-supervisory position to a supervisory or manager position. The requirements for competitive examinations shall apply.
63. **POSITION:** The work consisting of duties and responsibilities assigned by the General Manager for performance by an employee whether part-time or full-time, temporary or permanent, occupied or vacant.
64. **POSITION DESCRIPTION:** A formal written record describing the essential function, scope, and principal duties and responsibilities for a position and/or employee; used as an aid in evaluation of jobs and for such other purposes as selection, development, performance appraisal, training and other similar human resource functions.
65. **PRIORITY PLACEMENT LIST:** List established for displaced permanent classified employees to be afforded first offer of employment to positions that they previously filled, or to comparable positions they are qualified for.
66. **PROBATIONARY APPOINTMENT:** The initial appointment by the General Manager of an employee to a class of position in which the employee will commence serving a probationary period.
67. **PROBATIONARY PERIOD:** A working test period and is part of the examination process following an appointment from certification list during which an employee is required to demonstrate fitness for the position to which appointed by the satisfactory performance of the duties and responsibilities of the position.
68. **PROMOTION:** The movement of a permanent employee to a position with a higher maximum salary rate.
69. **PROMOTIONAL COMPETITIVE:** Competitive recruitment under the merit system that are only open to permanent status employees of the Government of Guam.
70. **RAW SCORE:** The numerical score, which is attained by an examinant without the application of a formula.
71. **REALLOCATION (Reclassification):** The change in the allocation of position by assigning it to a higher or lower class, or another class at the same level for any of the following reasons:

- A. Significant changes in the nature or variety of work which influence the overall level of difficulty.
 - B. Re-determination of the initial classification judgment without a change in duties and responsibilities.
- 72. **RECRUITMENT:** The process of announcing positions in an effort to solicit candidates for appointments in the Port service.
 - 73. **RE-EMPLOYMENT:** A former permanent classified employee who returns to Government service within four years of separation in good standing to the same or comparable job in the Port. The pay remains the same.
 - 74. **REINSTATEMENT:** A permanent classified employee who returns to his former position as a result of Commission ruling, or as a result of military service.
 - 75. **RESIGNATION:** The voluntary termination of employment by an employee without cause.
 - 76. **REVIEW COMMITTEE (PERFORMANCE APPRAISAL):** An option which the General Manager may elect and which is comprised of at least five Port employees to make recommendations for a final decision regarding the performance elements and standards.
 - 77. **SELECTIVE CERTIFICATION:** Certifying of eligible applicants who meet special requirements set forth and approved by the General Manager.
 - 78. **SERIES OF CLASSES:** Consists of two or more classes that are similar as to kind of work, but differ as to level of responsibility and difficulty.
 - 79. **SPOUSE:** Husband or wife.
 - 80. **SUSPENSION:** The temporary removal of an employee from his position with loss of pay for cause.
 - 81. **TEMPORARY APPOINTMENT (90 DAY APPOINTMENT):** An appointment to positions, which are permanent in nature, not to exceed 90 work days or 720 work hours, whichever comes first, within a calendar year.
 - 82. **TERMINATION:** The removal of an employee from employment for authorized cause.
 - 83. **TRANSFER:** The lateral movement of an employee without any change in position title or salary, or from one class of position to another class of position having similar duties

and responsibilities and qualification requirements, or a movement from one department to another department.

84. **UNCLASSIFIED SERVICE:** Government service of which employees serve at the pleasure of the Board and do not attain permanent status.
85. **WEIGHTED SCORE:** A product of raw score and the appropriate formula for the particular examination.
86. **WORKDAY:** A regularly recurring period of eight consecutive hours exclusive of lunch hour.
87. **WORKWEEK:** A regularly recurring period of seven consecutive 24-hour intervals. A workweek need not coincide with a calendar week. It may be any day of the week at any hour of the day. A workweek must remain the same unless any change is intended to be permanent.

Appendix A: Listing of Maritime Positions Unique to Port Operations and Certified and Technical Positions

Accountant I	Crane Mechanic Supervisor
Accountant II	
Accountant III	Crane Operator
	Crane Operator Leader
Accounting Technician Supervisor	
	Deputy General Manager
Administrative Officer	
Administrative Services Officer	Electrician I
	Electrician II
Assistant Comptroller	Electrician Leader
	Electrician Supervisor
Assistant Harbor Master	
	Engineer I
Automotive Body Worker	Engineer II
	Engineer III
Budget Analyst	Engineer Manager
Building Maintenance Leader	Engineering Technician I
Building Maintenance Supervisor	Engineering Technician II
Building Maintenance Superintendent	
	Equipment Maintenance Superintendent
Buyer II	
Buyer Supervisor	Equipment Operator I
	Equipment Operator II
Cargo Checker	Equipment Operator III
Cargo Checker Leader	Equipment Operator Leader
Cargo Checker Supervisor	
	Financial Affairs Controller
Carpenter I	
Carpenter II	General Accounting Supervisor
Chief Planner	General Manager
Claims Officer	Harbor Master
Commercial Manager	Heavy Equipment Mechanic I
	Heavy Equipment Mechanic II
Comptroller	Heavy Equipment Mechanic Leader
	Heavy Equipment Mechanic Supervisor
Computer Operator I	
Computer Operator II	Maintenance Manager
Computer Operator III	
	Maintenance Worker I
Computer Operator Specialist	Maintenance Worker II
Corporate Services Manager	Management/Program Analyst
	Management/Program Analysis Officer
Crane Mechanic I	
Crane Mechanic II	Manager, Equipment Support Services
Crane Mechanic Leader	

Appendix A: Listing of Maritime Positions Unique to Port Operations and Certified and Technical Positions

Marine Traffic Controller	Safety Inspector I
Mobile Equipment Dispatcher	Safety Inspector II
	Safety Inspector III
Operations Manager	Safety Administrator
Painter I	Security Guard (Armed)
Painter II	Stevedore
	Stevedore Leader
Payroll Supervisor	Stevedore Supervisor I
	Stevedore Supervisor II
Personnel Specialist I	Stevedoring Superintendent
Personnel Specialist II	
Personnel Specialist III	Supply Management Administrator
Personnel Specialist IV	
Personnel Services Administrator	Supply Technician I
	Supply Technician II
Planner-Work Coordinator	Supply Supervisor
Planner I	Systems Manager
Planner II	
Planner III	Systems Programmer
Planner IV	
Plumber I	Tariff Technician
Plumber II	
Port Marketing Administrator	Terminal Superintendent
Port Police I	Transportation Supervisor
Port Police II	Transportation Superintendent
Port Police Supervisor	
Assistant Port Police Chief	Welder I
Port Police Chief	Welder II
	Welder Leader
	Welder Supervisor
Preventive Maintenance Mechanic	Winch Operator
Preventive Maintenance Mechanic Leader	
Preventive Maintenance Mechanic Supervisor	
Program Coordinator I	
Program Coordinator II	
Program Coordinator III	
Program Coordinator IV	
Refrigeration Mechanic I	
Refrigeration Mechanic II	
Rigger	
Rigger Leader	

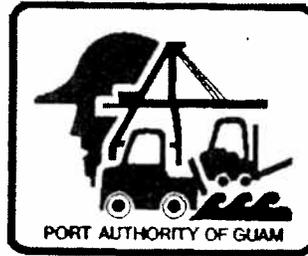
Appendix B: PAY SCHEDULE

	Step 15		Step 16		Step 17		Step 18		Step 19		Step 20					
	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D
18,318	18,014	18,284	18,596	18,980	19,464	19,968	20,504	21,080	21,696	22,352	23,056	23,808	24,608	25,456	26,352	27,296
21,481	21,176	21,482	21,812	22,172	22,568	22,992	23,444	23,924	24,432	24,968	25,536	26,136	26,772	27,444	28,152	28,904
24,666	24,370	24,687	25,037	25,423	25,836	26,276	26,744	27,240	27,764	28,316	28,896	29,504	30,140	30,804	31,496	32,224
27,881	27,590	27,911	28,272	28,664	29,088	29,544	30,032	30,552	31,104	31,688	32,304	32,952	33,632	34,344	35,088	35,872
31,126	30,848	31,183	31,550	31,948	32,376	32,836	33,328	33,852	34,408	34,996	35,616	36,268	36,952	37,672	38,428	39,224
34,397	34,132	34,478	34,856	35,264	35,704	36,176	36,680	37,216	37,784	38,384	39,016	39,680	40,384	41,128	41,912	42,736
37,694	37,442	37,792	38,164	38,568	39,004	39,472	39,972	40,504	41,068	41,664	42,292	42,952	43,644	44,372	45,136	45,944
40,916	40,676	40,948	41,332	41,736	42,172	42,640	43,140	43,672	44,236	44,832	45,460	46,120	46,812	47,536	48,296	49,096
44,161	43,932	44,216	44,612	45,028	45,476	45,956	46,468	47,012	47,588	48,196	48,836	49,508	50,212	50,948	51,716	52,516
47,428	47,212	47,408	47,816	48,244	48,692	49,172	49,684	50,228	50,804	51,412	52,052	52,724	53,428	54,164	54,932	55,732
50,716	50,512	50,720	51,136	51,572	52,036	52,528	53,048	53,596	54,172	54,776	55,408	56,068	56,756	57,472	58,216	58,996
54,024	53,832	54,052	54,476	54,920	55,384	55,876	56,396	56,944	57,520	58,124	58,756	59,416	60,104	60,828	61,588	62,384
57,348	57,168	57,396	57,828	58,280	58,752	59,244	59,764	60,312	60,888	61,492	62,124	62,784	63,472	64,196	64,956	65,752
60,688	60,516	60,752	61,192	61,652	62,132	62,632	63,152	63,700	64,276	64,880	65,512	66,172	66,860	67,584	68,344	69,144
64,036	63,872	64,116	64,564	65,032	65,520	66,028	66,556	67,104	67,680	68,284	68,916	69,576	70,264	70,988	71,748	72,544
67,392	67,236	67,488	67,944	68,416	68,908	69,420	69,952	70,504	71,080	71,680	72,304	72,952	73,632	74,344	75,088	75,872
70,756	70,608	70,872	71,336	71,816	72,316	72,836	73,376	73,936	74,520	75,128	75,760	76,416	77,096	77,796	78,528	79,296
74,128	73,988	74,256	74,728	75,216	75,724	76,252	76,800	77,368	77,956	78,572	79,216	79,888	80,588	81,316	82,072	82,856
77,504	77,372	77,648	78,120	78,608	79,116	79,644	80,192	80,760	81,348	81,956	82,592	83,256	83,944	84,656	85,396	86,172
80,884	80,760	81,048	81,528	82,028	82,548	83,088	83,648	84,228	84,828	85,448	86,088	86,748	87,432	88,144	88,884	89,656
84,268	84,152	84,448	84,928	85,428	85,948	86,488	87,048	87,628	88,228	88,848	89,488	90,148	90,832	91,544	92,284	93,056
87,656	87,548	87,848	88,328	88,828	89,348	89,888	90,448	91,028	91,628	92,248	92,888	93,548	94,232	94,944	95,684	96,456
91,048	90,948	91,256	91,736	92,236	92,756	93,296	93,856	94,436	95,036	95,656	96,296	96,956	97,640	98,352	99,092	99,864
94,448	94,356	94,672	95,152	95,652	96,172	96,712	97,272	97,852	98,452	99,072	99,712	100,372	101,052	101,764	102,504	103,276
97,848	97,764	98,088	98,568	99,068	99,588	100,128	100,688	101,268	101,868	102,488	103,128	103,788	104,468	105,176	105,912	106,676
101,248	101,172	101,504	102,084	102,684	103,304	103,944	104,604	105,284	105,984	106,704	107,444	108,204	108,984	109,784	110,604	111,444
104,648	104,580	104,920	105,500	106,100	106,720	107,360	108,020	108,700	109,400	110,120	110,860	111,620	112,400	113,200	114,020	114,860
108,048	107,988	108,336	108,916	109,516	110,136	110,776	111,436	112,116	112,816	113,536	114,276	115,036	115,816	116,616	117,436	118,276
111,448	111,396	111,744	112,324	112,924	113,544	114,184	114,844	115,524	116,224	116,944	117,684	118,444	119,224	120,024	120,844	121,684
114,848	114,800	115,152	115,732	116,332	116,952	117,592	118,252	118,932	119,632	120,352	121,092	121,852	122,632	123,432	124,252	125,092
118,248	118,200	118,552	119,132	119,732	120,352	120,992	121,652	122,332	123,032	123,752	124,492	125,252	126,032	126,832	127,652	128,492
121,648	121,600	121,952	122,532	123,132	123,752	124,392	125,052	125,732	126,432	127,152	127,892	128,652	129,432	130,232	131,052	131,892
125,048	125,000	125,352	125,932	126,532	127,152	127,792	128,452	129,132	129,832	130,552	131,292	132,052	132,832	133,632	134,452	135,292
128,448	128,400	128,752	129,332	129,932	130,552	131,192	131,852	132,532	133,232	133,952	134,692	135,452	136,232	137,032	137,852	138,692
131,848	131,800	132,152	132,732	133,332	133,952	134,592	135,252	135,932	136,632	137,352	138,092	138,852	139,632	140,432	141,252	142,092
135,248	135,200	135,552	136,132	136,732	137,352	137,992	138,652	139,332	140,032	140,752	141,492	142,252	143,032	143,832	144,652	145,492
138,648	138,600	138,952	139,532	140,132	140,752	141,392	142,052	142,732	143,432	144,152	144,892	145,652	146,432	147,232	148,052	148,892
142,048	142,000	142,352	142,932	143,532	144,152	144,792	145,452	146,132	146,832	147,552	148,292	149,052	149,832	150,632	151,452	152,292
145,448	145,400	145,752	146,332	146,932	147,552	148,192	148,852	149,532	150,232	150,952	151,692	152,452	153,232	154,032	154,852	155,692
148,848	148,800	149,152	149,732	150,332	150,952	151,592	152,252	152,932	153,632	154,352	155,092	155,852	156,632	157,432	158,252	159,092
152,248	152,200	152,552	153,132	153,732	154,352	154,992	155,652	156,332	157,032	157,752	158,492	159,252	160,032	160,832	161,652	162,492
155,648	155,600	155,952	156,532	157,132	157,752	158,392	159,052	159,732	160,432	161,152	161,892	162,652	163,432	164,232	165,052	165,892
159,048	159,000	159,352	159,932	160,532	161,152	161,792	162,452	163,132	163,832	164,552	165,292	166,052	166,832	167,632	168,452	169,292
162,448	162,400	162,752	163,332	163,932	164,552	165,192	165,852	166,532	167,232	167,952	168,692	169,452	170,232	171,032	171,852	172,692
165,848	165,800	166,152	166,732	167,332	167,952	168,592	169,252	169,932	170,632	171,352	172,092	172,852	173,632	174,432	175,252	176,092
169,248	169,200	169,552	170,132	170,732	171,352	171,992	172,652	173,332	174,032	174,752	175,492	176,252	177,032	177,832	178,652	179,492
172,648	172,600	172,952	173,532	174,132	174,752	175,392	176,052	176,732	177,432	178,152	178,892	179,652	180,432	181,232	182,052	182,892
176,048	176,000	176,352	176,932	177,532	178,152	178,792	179,452	180,132	180,832	181,552	182,292	183,052	183,832	184,632	185,452	186,292
179,448	179,400	179,752	180,332	180,932	181,552	182,192	182,852	183,532	184,232	184,952	185,692	186,452	187,232	188,032	188,852	189,692
182,848	182,800	183,152	183,732	184,332	184,952	185,592	186,252	186,932	187,632	188,352	189,092	189,852	190,632	191,432	192,252	193,092
186,248	186,200	186,552	187,132	187,732	188,352	188,992	189,652	190,332	191,032	191,752	192,492	193,252	194,032	194,832	195,652	196,492
189,648	189,600	189,952	190,532	191,132	191,752	192,392	193,052	193,732	194,432	195,152	195,892	196,652	197,432	198,232	199,052	199,892
193,048	193,000	193,352	193,932	194,532	195,152	195,792	196,452	197,132	197,832	198,552	199,292	200,052	200,832	201,632	202,452	203,292
196,448	196,400	196,752	197,332	197,932	198,552	199,192	199,852	200,532	201,232	201,952	202,692	203,452	204,232	205,032	205,852	206,692
199,848	199,800	200,152	200,732	201,332	201,952	202,592	203,252	203,932	204,632	205,352	206,092	206,852	207,632	208,432	209,252	210,092
203,248	203,200	203,552	204,132	204,732	205,352	205,992	206,652	207,332	208,032	208,752	209,492	210,252	211,032	211,832	212,652	213,492
206,648	206,600	206,952	207,532	208,132	208,752	209,392	210,052	210,732	211,432	212,152	212,892	213,652	214,432	215,232	216,052	216,892
210,048	210,000	210,352	210,932	211,532	212,152	212,792	213,452	214,132	214,832	215,552	216,292	217,052	217,832	218,632	219,452	220,292
213,448	213,400	213,752	214,332	214,932	215,552	216,192	216,852	217,532	218,232	218,952	219,692	220,452	221,232	222,032	222,852	223,692
216,848	216,800	217,152	217,732	218,332	218,952	219,592	220,252	220,932	221,632	222,352	223,092	223,852	224,632			

BOARD OF DIRECTORS

Resolution No. 09-03

Chairman:
Monte Mesa
Vice Chairperson:
Jovyna Lujan
Secretary:
Marilou Lacson
Members:
Joseph Camacho



RELATIVE TO APPROVING THE PROPOSED PERSONNEL RULES AND REGULATIONS FOR MARITIME RELATED POSITIONS UNIQUE TO PORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS AS REQUIRED BY PUBLIC LAW 29-24.

BE IT RESOLVED BY THE BOARD OF DIRECTORS:

WHEREAS, Public Law 29-24 authorized the Jose D. Leon Guerrero Commercial Port Board of Directors to promulgate the Personnel Rules and Regulations and to provide limited authority to establish pay scales for maritime related positions unique to Port operations and certified, technical and professional personnel subject to the provisions of the Administrative Adjudication Act; and

WHEREAS, in August 2008, the Board of Directors contracted Alan Searle & Associates to conduct the Position and Classification Study; and

WHEREAS, on January 22, 2009, the proposed Personnel Rules and Regulations for Maritime Related Positions Unique to Port Operations and Certified, Technical and Professional Positions, which included the preferred market percentile pay adjustment implementation for affected employees was presented to the Board at its regular meeting; and

WHEREAS, the proposed Personnel Rules and Regulations also incorporated the criteria outlined in Section 4105 of Title 4, Guam Code Annotated relative to employee rights, conduct and obligations and management's responsibilities and actions and is in compliance with the federal personnel management laws applicable to Guam, such as, the Americans with Disabilities Act, Fair Labor Standards Act, Family Medical Leave Act, Uniformed Services Employment and Reemployment Act and other pertinent laws; and

WHEREAS, the Board of Directors authorized management to proceed with the Administrative Adjudication Act Process on the proposed Personnel Rules and Regulations for Maritime Related Positions Unique to Port Operations and Certified, Technical and Professional Positions; and

WHEREAS, a public hearing was held on the proposed Personnel Rules and Regulations on February 9, 2009, which three (3) oral testimonies and one (1) written comment was received and revealed no opposition; and

WHEREAS, the proposed Personnel Rules and Regulations were presented to the Board of Directors for their approval at their meeting of March 26, 2009; and

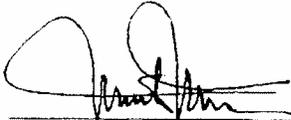
WHEREAS, the Board concurs that the Administrative Adjudication Act Process was adhered to by the Port as mandated by Public Law 29-24 for the proposed Personnel Rules and Regulations for Maritime Related Positions Unique to Port Operations and Certified, Technical and Professional Positions; and

WHEREAS, the Board also finds that the implementation of the new Personnel Rules and Regulations will be supportive of the legislative intent of Public Law 29-24 to "bring compensation to a competitive level in order to retain an experienced, certified and skilled workforce, as well as, attract essential professionals to ensure continuous and efficient operations at the islands' ports of entry"; now therefore be it

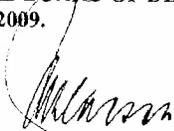
RESOLVED, the Board of Directors approve the present form of the Proposed Personnel Rules and Regulations and forward the document to the Office of the Governor and the 30th Guam Legislature for final approval pursuant to the Administrative Adjudication Law; and be it further

RESOLVED, that the Chairman certify to and the Secretary attest the adoption hereof and a copy of the resolution be transmitted to the *I Maga'laha*n Guåhan and Legislative Secretary of the 30th Guam Legislature.

**PASSED AND ADOPTED UNANIMOUSLY BY THE BOARD OF DIRECTORS
THIS 26th DAY OF March, 2009.**



MONTE D. MESA
CHAIRMAN, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM



MARIA LOURDES S. LACSON
SECRETARY, BOARD OF DIRECTORS
PORT AUTHORITY OF GUAM



I MINA' TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 142 (COR)

Introduced by:

T.C. Ada

2009 JUN 05 PM 3:48

AN ACT TO ADOPT THE PERSONNEL RULES AND REGULATIONS FOR MARITIME-RELATED POSITIONS UNIQUE TO PORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS AS REQUIRED BY PUBLIC LAW 29-24 AND AS RECEIVED BY THE LEGISLATIVE SECRETARY OF *I MINA' TRENTA NA LIHESLATURAN GUÅHAN* ON MAY 14, 2009, AND TO AUTHORIZE COMPENSATION AND BENEFIT ADJUSTMENTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the Jose D. Leon Guerrero Commercial Port (Port) serves as the entry point for approximately 90% of goods consumed on Guam, hence, the services provided is critical to the economic viability of the community. The Port must retain qualified workers in maritime positions and employ personnel who are certified with necessary technical or professional skills and experience. The ability to maintain experienced, trained and skilled employees is a significant factor in the efficiency of the Port and ensures the expeditious movement of cargo. Public Law 29-24 authorizes the Port to promulgate personnel rules and regulations and provides limited authority to the Port to establish pay scales for certified, technical and professional positions subject to the provisions of the Administrative Adjudication Act.

Pursuant to the Administrative Adjudication Act, the Port held a public hearing on its proposed Rules and regulations for Maritime-Related Positions Unique to Port Operations and

Certified, Technical and Professional Employees on February 9, 2009. The Board of Directors of the Port approved the proposed Rules and regulations on March 26, 2009, and voted to transmit such rules and regulations to *I Mina' Trenta Na Liheslaturan Guåhan* for final approval and adoption.

I Liheslaturan Guåhan finds that the Port has acted in accordance with the Administration Adjudication Act and Public Law 29-24 in the development of its proposed Rules and Regulations for Maritime-Related Positions Unique to Port Operations and Certified, Technical and Professional Employees.

Section 2. Adoption of the Personnel Rules and Regulations. The Personnel Rules and Regulations for Maritime-Related Positions Unique to Port Operations and Certified, Technical and Professional Positions as required by Public Law 29-24 and as received by the Legislative Secretary of *I Mina' Trenta Na Liheslaturan Guåhan* on May 14, 2009 are hereby adopted.

Section 3. Compensation and Benefits Adjustment: Effective Date. Any changes in compensation or benefits, or both compensation and benefits, for current employees required as a result of the adoption of the Personnel Rules and Regulations for Maritime-Related Positions Unique to Port Operations and Certified, Technical and Professional Positions as such rules and regulations were received by the Legislative Secretary of *I Mina' Trenta Na Liheslaturan Guåhan* on May 14, 2009, shall be effective on the date when the Board of Directors has approved the financial plan to fund the compensation and benefits adjustments.

Section 4. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this law which can be given effect without the invalid provisions or applications, and to this end the provisions of this law are severable.