

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

FILE COPY

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

This is to certify that **Bill No. 384 (LS)**, "AN ACT TO *ADOPT* THE PERSONNEL RULES AND REGULATIONS FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES, AS REQUIRED BY P.L. 29-24, AND AS RECEIVED BY THE LEGISLATIVE SECRETARY OF *I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN* ON NOVEMBER 7, 2008, AND TO MAKE COMPENSATION AND BENEFITS ADJUSTMENTS FOR CURRENT EMPLOYEES EFFECTIVE ON THE FIRST DAY OF FISCAL YEAR 2009," was on the 23rd day of December, 2008, duly and regularly passed.



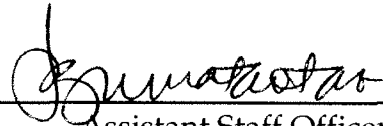
Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 31 day of Dec, 2008, at 3:10 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN
2008 (SECOND) Regular Session

Bill No. 384 (LS)

As amended.

Introduced by:

R. J. Respicio
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Judith P. Guthertz, DPA
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Tina Rose Muña Barnes
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Dr. David L.G. Shimizu
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Judith T. Won Pat, Ed.D.

AN ACT TO *ADOPT* THE PERSONNEL RULES AND REGULATIONS FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES, AS REQUIRED BY P.L. 29-24, AND AS RECEIVED BY THE LEGISLATIVE SECRETARY OF *I MINA'BENTE NUEBI NA LIHESLATURAN GUÁHAN* ON NOVEMBER 7, 2008, AND TO MAKE COMPENSATION AND BENEFITS ADJUSTMENTS FOR CURRENT EMPLOYEES EFFECTIVE ON THE FIRST DAY OF FISCAL YEAR 2009.

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

2 **Section 1. *Adoption of Personnel Rules and Regulations.*** The Personnel
3 Rules and Regulations for Aviation-Related Positions Unique to Airport
4 Operations and Certified, Technical, and Professional Employees, as required by

1 P.L. 29-24 and as submitted to, and received by the Legislative Secretary of *I*
2 *Mina'Bente Nuebi Na Liheslaturan Guåhan* on November 7, 2008, are hereby
3 *adopted.*

4 **Section 2. Compensation and Benefits Adjustments: Effective Date.**

5 Any required changes in compensation *or* benefits, *or* both compensation and
6 benefits for current employees as a result of the adoption of these Personnel Rules
7 and Regulations for Aviation-Related Positions Unique to Airport Operations and
8 Certified, Technical, and Professional Employees, as required by P.L. 29-24 and as
9 submitted to, and received by the Legislative Secretary of *I Mina'Bente Nuebi Na*
10 *Liheslaturan Guåhan* on November 7, 2008, *shall* be effective retroactively to
11 October 1, 2008.



**ANTONIO B. WON PAT INTERNATIONAL
AIRPORT AUTHORITY, GUAM (THE “AUTHORITY”)**

ADOPTION OF PERSONNEL RULES AND REGULATIONS

FOR

**AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT
OPERATIONS AND CERTIFIED, TECHNICAL, AND PROFESSIONAL
EMPLOYEES**

**5 G.C.A. § 9301
12 G.C.A. §1112(h)**

Submitted to the Legislative Secretary

I Mina’ Bente Nuebi Na Liheslaturan Guåhan

November 7, 2008

I. STATUTORY AUTHORITY FOR RULE; COMPLIANCE

A. Administrative Adjudication Act

The attached Personnel Rules and Regulations for Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees (the "Rules") are submitted by the Antonio B. Won Pat International Airport Authority, Guam (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 aviation-related Employees unique to Airport operations and certified technical and professional Employees 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 July 28, 2008 and August 8, 2008 the Authority published notice of a public hearing in the *Pacific Daily News*, a newspaper of general circulation; and on July 31, 2008 and August 5, 2008, in the *Marianas Variety*, also 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;

¹ A copy of the notice published in the *Pacific Daily News* on July 28, 2008, is attached to this filing.

3. On August 11, 2008, the Authority conducted a public hearing on the proposed Rules as published; and
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 August 11, 2008, 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 AND COUNSEL

The Rules submitted and which are attached hereto were approved by the Board of Directors of the Authority at a regular meeting on July 31, 2008. The Rules were also approved by Legal Counsel to the Authority as evidenced by its certification herein.

III. CONCLUSION

The Authority has filed herein, pursuant to the rule making procedures of the AAA, Rules for personnel occupying Aviation-Related Positions Unique to Airport Operations and Certified, Technical and Professional Employees. We look forward to your favourable approval.

Respectfully submitted,

**ANTONIO B. WON PAT INTERNATIONAL
AIRPORT AUTHORITY, GUAM**

By: _____

CARLOS H. SALAS, Executive Manager

ATTORNEY CERTIFICATION

The Rules submitted herein have been reviewed by the undersigned attorney and approved as to form.

**MAIR, MAIR, SPADE & THOMPSON
A Professional Corporation**

By: _____

JUNE S. MAIR, ESQ.

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ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM

PERSONNEL RULES AND REGULATIONS

FOR

**AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS
AND CERTIFIED TECHNICAL AND PROFESSIONAL EMPLOYEES**

CHAPTER 1

PURPOSE AND SCOPE OF PERSONNEL RULES AND REGULATIONS

1.000 AUTHORITY. These Rules and Regulations (“Rules”) are established by the authority of Section 3 of Public Law 29-24 and its amendment to 12 G.C.A. §1112 requiring that the Board of Directors (“the Board”) of the Antonio B. Won Pat International Airport Authority, Guam (“the Authority”) adopt personnel rules and regulations for personnel occupying Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees 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 Aviation-Related Positions unique to Airport Operations and Certified, Technical, and Professional Employees at the Authority. In this regard, it is the intent of the Authority to consider the rules and regulations of similarly sized airports in the United States mainland when promulgating its classification and compensation study for Aviation-Related Positions unique to Airport Operations and Certified, Technical, and Professional Employees at the Authority

1.200 COVERAGE.

A. These Rules shall apply to all employees occupying classified Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees at the Authority. Unclassified employees occupying Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees are not covered by these Rules unless otherwise identified.

B. These Rules expressly incorporate by this reference herein the Authority’s existing Personnel Rules and Regulations which were promulgated by Executive Order 98-22 on July 29, 1998, to the extent that the existing Personnel Rules and Regulations are not in conflict with the provisions herein. Any amendments to the existing Personnel Rules and Regulations shall also be incorporated herein, to the extent that the amendments are not in conflict with the provisions herein.

- C. These Rules shall not be inconsistent with but complementary to related local and federal laws and regulations. If any provision becomes invalid due to subsequent passage or interpretation of related legislation or court rulings, the remaining provisions shall not be invalidated. These Rules may further be supplemented by administrative policies and procedures established by the Executive Manager.
- D. 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 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 and applied uniformly to all public safety and law enforcement personnel throughout the government, including those at the Authority. Contrary to certain comments made at the Public Hearing on these Rules, 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.
- E. As used throughout these Rules, whether expressly stated or not, the term “Executive Manager” shall mean the Executive Manager or his Designee.

CHAPTER 2

AVIATION-RELATED POSITIONS; AND CERTIFIED, TECHNICAL AND PROFESSIONAL EMPLOYEES:

2.000 Definition

“Aviation-Related Positions Unique to Airport Operations, and Certified, Technical or Professional Employees” are defined as and may include, but are not limited to:

- (A) Positions whose qualifications requirements mandate certification and/or licensing requirements, e.g., equipment operators, ramp controllers, etc.;
- (B) Positions with multi-skill qualification requirements, e.g., preventive maintenance mechanics, specialty equipment mechanics, etc.;
- (C) Positions with specific aviation-related knowledge and skills, e.g., tariff technicians, airport concession agreements, use of airport facilities / property, expertise in federal grant administration, etc.; and
- (D) Other similar technical and professional which, by nature of Airport operations, are unique and critical to the Authority’s needs and no other government entity, which is not a port of entry, including, but not limited to, those jobs listed herein. (12 G.C.A. §1112(h))

2.100 Identification of Aviation-Related Employees Unique to Airport Operations, and Certified, Technical or Professional Employees. No later than thirty (30) days after the effective date of these Rules, the Executive Manager shall identify and list, by title, position description, and pay range, all the Aviation-Related Positions Unique to Airport Operations, and Certified, Technical or Professional Employees that currently exist in the Authority. The Executive Manager shall submit said list to the Board and the Board shall approve, disapprove, or amend said list at any regularly scheduled Board Meeting or a special Board Meeting called for this purpose. The Executive 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 Personnel Department and be available for public inspection.

2.200 Amendment of Aviation-Related Positions Unique to Airport Operations, and Certified, Technical or Professional Employees. The Executive Manager may make a written request to the Board for it to amend, including but not limited to deleting, adding, or modifying Employees on the approved list of the Authority’s Aviation-Related Positions Unique to Airport Operations, and Certified, Technical or Professional Employees.

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

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

CHAPTER 3

EMPLOYMENT OF AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL EMPLOYEES

3.000 RECRUITMENT

3.001 Announcement of Recruitment and Examination

- A. When there is a need to establish a list of eligibles, the Executive Manager shall publish and disseminate announcements of recruitment and examination on either an "Open" or "In-House" competitive basis. The Executive Manager shall use "Open Announcements" whenever new personnel are required to augment the Authority's existing staff. The Executive Manager shall use In-House Competitive Announcements whenever the Authority can provide promotional opportunities for its existing Employees without the need to acquire additional Employees.
- (a) "In-House" competitive announcements shall be published to allow all interested permanent classified Employees of the Authority to compete for vacancies. Applicants who are not permanent classified Employees of the Authority will not be allowed to submit applications under this type of announcement.
- (b) "Open" competitive announcements shall be published to allow all interested and qualified persons or Employees to compete for Authority vacancies.
- B. Each recruitment and announcement for an initial appointment or a promotion shall contain the title of the class, the applicable range of pay, the character of the duties and responsibilities and examples thereof, the closing date and place for filing applications, the minimum qualifications for entry into the position, the required supporting documentation such as, but not limited to , a high school diploma, official college transcripts, police and court clearances, and other information deemed necessary. Appointments from other than the eligibility list, as for example by transfer, demotion, or re-employment, shall be bound by minimum qualifications requirements set forth in such announcement.
- C. The announcement of a position must be opened for at least ten (10) working days to allow ample time for candidates to submit employment applications.

3.002 Application Form

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

3.003 Submission of Supporting Documents

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

3.004 Rejection of Applicants

The Executive Manager shall not be required to accept applications or, after acceptance and evaluation, establish an applicant as eligible on an eligibility list, or allow an applicant admission to the recruitment process when any of the following conditions exists regarding the applicant:

- A. Conviction of a crime if the crime is directly related to the work to be performed.
- B. Refusal or failure to furnish documents required to verify any statements made in the application.
- C. Intentional false statements, deception, or fraud in the application process.
- D. Failure to attest to the accuracy of information presented on the application form.

- E. Failure to submit an application within the announcement period except in those instances where the applicant can certify in writing extenuating circumstances to the satisfaction of the Executive Manager.
- F. Evidence that the applicant has been removed from a position, either within the Authority or government of Guam or otherwise for reasons which would render him unsatisfactory for or disqualify him from the position for which he is applying.
- G. A criminal history background check discloses that that the applicant's criminal history will disqualify him from being issued a security or SIDA badge at the Airport, and the position applied for requires that the applicant have access to sterile areas of the Airport which requires the issuance of a security or SIDA badge for that position.

3.005 Notification of Rejection of Applicants

- A. A rejected applicant shall be notified promptly of such action and the reasons for rejection in writing.
- B. Any person who has been disqualified based on non-submission of supporting documents may appeal such action within ten (10) calendar days of the date of the written notice to the Executive Manager.

3.006 Rating Process

- A. Competitive announcements shall be held for original appointments and promotions and shall be job-related in nature and designed to reveal the capacity and fitness of the applicant to satisfactorily perform the characteristic duties of the class or position for which the announcement is published.
- B. Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of knowledge, skill, ability, intelligence or aptitude; medical examinations, appraisals or personal suitability; and any other matter that the Executive Manager deems appropriate.

3.007 Notification to Report for Interview or Examination

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

authorization or other satisfactory evidence of conditional acceptance of his application.

3.008 Rating of Employment Applications

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

3.009 Notification of Rating Results

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

3.010 Inspection of Written Examination Papers

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

3.011 Duration of Final Earned Ratings

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

3.100 PREFERENCE

3.101 Preference Credit for Individuals with Disabilities

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

3.102 Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol

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

3.103 Proof of Eligibility for Veteran's Preference Credit

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

3.200 EMPLOYMENT LISTS

3.201 Certification of Eligibles

- A. Rule of Eight. Eligibles shall consist of eight (8) or such fewer eligibles as may be available for the class. Eligibles shall be certified by the Executive Manager in the order that they appear on the eligibility list as follows:
- (a) First Ranked Eligible.
 - (b) Second Ranked Eligible.
 - (c) Third Ranked Eligible.
 - (d) Fourth Ranked Eligible.
 - (e) Fifth Ranked Eligible.
 - (f) Sixth Ranked Eligible.
 - (g) Seventh Ranked Eligible.
 - (h) Eighth Ranked Eligible.
- B. In case of a tie for the eighth ranked eligible, the eligibles will be certified until the earned ratings are changed in numerical places. For example, the eighth, ninth ranked eligible has earned a score of 71.00 and the tenth eligible rating is 70.00, the eighth and ninth eligibles will be certified along with the first seven (7) eligibles.

3.202 Certification of Eligibles for More Than One Vacancy

- A. For more than one (1) vacancy, the Executive Manager may 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. If the division head does not wish to select any of the candidates certified, he must justify to the Executive Manager his reasons for non-selection before a new certification is authorized.

3.203 Establishment of Eligibility Lists

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

3.204 Duration of Eligibility Lists

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

3.205 Types of Lists

- A. **In-House List:** The In-House List shall consist of names of Employees of the Authority who have passed their initial probationary period and meet the minimum requirements of the position applied for and were certified as eligibles. The In-House List shall be used whenever an In-House Competitive announcement is used to announce the position as set forth in Section 3.001(A)(a) above.
- B. **Open List:** The Open List shall consist of names from the general public who are not employed by the Authority, as well as current Employees of the Authority. The names of such persons shall be placed on the list in

order of their final earned ratings starting from the highest. Open Lists shall be used whenever an Open Competitive announcement is used as set forth in Section 3.001(A)(b) above.

3.206 Removal of Names from Eligibility List

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

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

3.207 Selection of Employees

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

3.208 Supplemental Certification

The Executive Manager may certify supplemental eligibles to provide a full certification under the following conditions:

- A. The supplemental certification may be used only upon the failure to appear for a selection interview, refusal of appointment by eligibles or the rejection of eligibles by the Executive Manager for cause.
- B. The additional eligibles to be certified shall be of such number that will provide the Authority with a full certification of up to eight (8) eligibles.

3.209 Selection Interview Consideration

When an applicant is interviewed for a position within the Authority and is not selected for an appointment, the applicant shall be considered for selection at a

later time to the same position within the same division without another interview. This selection interview consideration shall remain in effect for the life of the eligibility list.

3.210 Selective Certification

Upon request of the division head and approval of the Executive Manager, selective certification may be made when specific identifiable qualifications and skills are essential to successfully perform the duties and responsibilities of the position. These factors shall pertain to knowledge, skills and abilities pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. Selective certification requirements must be established in the job announcement.

3.211 Selection Interviews

The Executive Manager, at his discretion, may schedule a selection interview immediately after the establishment of an eligibility list for the position.

3.212 Types of Appointments

- A. Probationary Appointment: An appointment to a permanent classified position in which the employee will commence serving a probationary period on an initial recruitment for duration of six (6) months.
- B. Permanent Appointment: An appointment granted to a classified employee in a permanent position, subject to satisfactory completion of a probationary period on an initial recruitment.
- C. Re-employment Appointment: A former classified employee of the Authority who separated in good standing may be appointed to the same class and salary level held at the time of separation in accordance with Rule 3.213 below.
- D. Unclassified Appointment: Where no specific term of appointment or employment is specified in law regarding a position, appointment shall be at the pleasure of the Executive Manager or the Board without competition.
- E. Reinstatement Appointment: A former classified employee who returns to his former position as a result of a Civil Service Commission ruling, or as a result of military service in accordance with Rule 3.214 below.

- F. Detail Appointment: Is the temporary assignment of an employee by the Executive Manager to perform a particular function in accordance with Rule 3.215 below.

3.213 Re-employment

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

- A. The same or comparable position in the Authority within four (4) years from the date of separation. A re-employed employee that is re-employed at the same or comparable position may be hired at not less than the salary earned at his former position. Re-employment appointments are not subject to the certification procedures as described in these Rules.
- B. If the same or comparable position is not available, the former employee may be re-employed at a lower level position in the class series with a rate of pay in that class series closest to the salary earned in the position the former employee was in at the date of his separation from the Authority. If the former employee accepts the aforementioned lower level position, the former employee shall be deemed to have exhausted his or her re-employment rights and cannot later exercise any right to re-employment at a higher level. Re-employment to the aforementioned lower level position is not subject to the certification procedures as described in these Rules.

3.214 Reinstatement After Active Military Service

A permanent classified employee who terminates such employment for the sole purpose of entering active duty in the Armed Forces of the United States, shall be entitled to limited military leave for such periods and under such conditions as may be from time to time determined by the Director of Administration and upon release from employment under honourable conditions of such active duty, be entitled to reinstatement in his previous position or its equivalent, in the substep within his former pay range, to which such employee would have been entitled but for his military service, provided that such employee makes application for such reinstatement within ninety (90) days after discharge, and provided further that at the time of such application he shall be on military leave status with the government of Guam.

3.215 Detail Assignment

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 ninety (90) days within a calendar year unless the Executive Manager obtains an exemption upon written application to the Director of Administration, which exemption shall not extend beyond an additional ninety (90) days within a calendar year.

CHAPTER 4

PAY ADMINISTRATION FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL POSITIONS

4.000 RECRUITMENT ABOVE DESIGNATED IMPLEMENTATION RANGE

4.001 Purpose

This guide is intended to be used for salary placement for initial hires above the unique implementation range (within a given pay grade) for Aviation-Related Employees Unique to Airport Operations including all Certified, Technical and Professional Employees within the Authority. This is a management tool and may be used at the discretion of the Executive Manager.

4.002 Recruitment Above Current Market Percentile

The Executive Manager may make a request to the Board for recruitment not to exceed twenty-five percent (25%) above the current market percentile (upon which the Authority's compensation model is currently based) because of documented recruitment difficulty or exceptional qualifications. The request shall be posted on the agency's website for ten (10) days (Saturdays, Sundays and government of Guam holidays excepted). This request shall be made before an applicant is hired. Every such request shall be scrutinized and amply justified before being approved. Increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above step.

4.003 Recruitment Above Designated Implementation Range

- A. The Executive Manager may make a request to the GIAA Board for recruitment above the designated implementation range i.e. to a higher step / sub-step because of documented recruitment difficulties or exceptional qualifications. The request shall be posted on the agency's website for ten (10) days (Saturdays, Sundays and government of Guam holidays excepted). This request shall be made before an applicant is hired. Every such request shall be scrutinized and amply justified in writing before being considered or approved.
- B. The appropriate placement above the designated implementation range shall be determined by exceptional education, work experience, and other credentials or evidence accepted by the Executive Manager.

- C. Exceptional qualifications can be established by the quality of major accomplishments, expertise, professional growth and leadership, and by an individual's personal enhancement initiatives. These qualifications can be demonstrated through the following:
 - a. Performance evaluations
 - b. Professional accomplishments
 - c. Professional awards/recognition
 - d. Training certificates/certifications
 - e. Academic achievements
 - f. Other testimonials
- D. Recruitment difficulty exists when recruitment efforts fail to produce the minimum applicants needed to establish a list of eligibles as defined by these personnel rules and regulations.
- E. Recruitment announcements shall be made for at least one (1) month in advance and at least twice in a local news media of general circulation and other viable means of electronic communication to include, but not be limited to, internet postings. Such media announcements shall be two (2) weeks apart. All recruitment announcements shall be made for no more than one (1) month preceding the submission of the request to the Executive Manager.
- F. Internet postings for job announcements on a continuous basis may be considered on a cumulative basis totalling a period of one (1) month. Internet postings constitute off-island recruitment.

4.004 Discretionary Approval

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

4.005 Request to Recruit Above the Designated Implementation Range Shall Include the Following Information

- A. The request for recruitment above the designated implementation range shall come through the Executive Manager for submission to the Board for approval.

- B. Identifying information about the candidate and the position to be filled.
- C. Justification for salary being requested. Justifications must include information of the applicant's current salary. The applicant must inform the Authority, in writing, a salary minimally acceptable for the job.
- D. The candidate is advised before being hired that the position's the designated implementation range outlines the normal pay rate of employment pending the Executive Manager's approval of additional step/sub-step placement.

4.006 Miscellaneous Provisions

- A. The effective date of the additional step / sub-step placement rate (above the designated implementation range) is the Executive Manager's date of approval of such rate.
- B. No additional step / sub-step placement (above the designated implementation range) will be considered after ten (10) working days of the incumbent's date of hire, except for just cause as determined by the Executive Manager.
- C. All documentation for consideration of step / sub-step placement (above the designated implementation range) must be submitted to the Personnel Department within ten (10) working days of the incumbent's date of hire.
- D. The Board shall determine the compensation of the Executive Manager, Deputy Executive Manager, Comptroller, Attorney, Treasurer and Secretary Employees.

4.100 COMPENSATION OF AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES

4.101 Authority

Pursuant to 12 G.C.A. §1112(h), the Authority is authorized to adopt rules and regulations governing the compensation for Aviation-Related Positions Unique to Airport Operations, and Certified, Technical, and Professional Employees. This Compensation Policy and the following rules and procedures shall only apply to the Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees of the Authority. Compensation for all

other personnel shall remain consistent with compensation plans and pay scales as determined by law.

4.102 Compensation Policy

- A. Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employee compensation shall be based on internal equity and external competitiveness.
- B. To the extent practical, compensation will be targeted at the U.S. National Average levels compared to the appropriate labor markets and account shall be taken of the relevant economic factors.
- C. Internal equity should be reviewed annually and external competitiveness at least every three (3) years.
- D. Compensation structures and administrative policies should also recognize and reward individual Employees commensurate with performance.
- E. All aspects of compensation (base salaries, benefits, pay differentials, and other factors) shall be considered as a total reward and incentive package for Employees and shall be consistent and uniformly administered through the Authority.
- F. A program of ongoing communications and training shall be a critical component of compensation administration.

4.103 Administration of Unified Pay Scale

The Board shall approve a unified pay scale for Aviation-Related Positions Unique to Airport Operations and, Certified, Technical, and Professional Employees that has been developed by the Executive Manager using the following process:

- A. Position, Classification, Compensation, and Benefits Study. The Executive Manager shall complete a Position Classification, Compensation, and Benefits Study for every Aviation-Related Position Unique to Airport Operations and Certified, Technical, and Professional Employee in the Authority. The study shall include the following:
 - (1) Job Evaluation. This evaluation must use a systematic process of assessing the relative size and importance of Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees in the Authority. The job evaluation

must provide a structured approach to assessing the relative worth of each Certified, Technical, and Professional Position. It must use measurement factors universally applicable across all sectors of industry, commerce, and government.

- (2) Compensation Structuring. This shall incorporate the compensation policy set forth in paragraph 1 above. The compensation structure shall be in the form of a unified pay scale for Certified, Technical & Professional Employees.
- (3) Pay Incentive Development.
- (4) Implementation Plan.

B. Approval of Unified Pay Scale and Implementation Plan. The Executive Manager shall make a written request to the Board for approval of the unified pay scale developed from the Position, Classification, and Benefits Study as follows:

- (a) The Request shall include:
 - (i) The unified pay scale.
 - (ii) The Position, Classification, and Benefits Study justifying the pay scale.
 - (iii) The Implementation Plan.
- (b) The Request shall be posted on the Authority's website for ten (10) days (Saturdays, Sundays, and government of Guam holidays excepted) and a notice of posting shall be sent to each newspaper of general circulation and broadcasting station which airs a regular local news program on Guam. After the posting, the Executive Manager shall forward the request, along with evidence of his or her compliance with notice of posting requirements, to the Board.
- (c) The Board may approve, disapprove, or amend the unified pay scale at any regularly scheduled meeting or a special meeting called for this purpose.

4.200 ADMINISTRATION OF PAY ACTIONS RELATED TO APPOINTMENTS; STATEMENT OF POLICY

It is the policy of the Authority to provide a uniform pay administration to facilitate pay actions, while ensuring the equitable and competitive compensation of Employees

occupying Aviation-related Employees unique to Airport operations including Certified, Technical and Professional Employees (“CTP”).

4.201 Compensation Regarding 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 Executive Manager may, with the approval of the Board of Directors, authorize initial employment above the position’s designated implementation range if such action is warranted by recruitment difficulties. This petition shall be consistent with Rule 4.003 of these Rules and Regulations.

4.202 Compensation Adjustment Following a Promotion

- A. A pay adjustment resulting in a promotion either by competition, reclassification, or pay grade reassignment 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.
- 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.
- C. The Executive Manager in his discretion, or upon the recommendation of a Divisional Manager, may grant up to three (3) additional sub-steps, based on superior performance, significant contributions made to the business unit or the Authority as a whole, or demonstration of personal enrichment and development related to and beyond the requirements of the job. All requests for additional sub-step placement must be justified in writing.

4.203 Compensation Adjustment Following a Voluntary Demotion

- A. A pay adjustment resulting in a decrease either by demotion, voluntary, reclassification or pay grade reassignment 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 demotion less an additional six (6) sub steps. This identifies the new base salary.

- B. A pay adjustment where the salary received prior to demotion, voluntary, reclassification or pay grade reassignment 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.

4.204 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 received prior to demotion less an additional six (6) sub-steps. This identifies the new base salary.
- 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.
- C. The Executive Manager in 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 medical disability which is not an adverse action) to an even lower sub-step to that outlined in above.

4.205 Compensation Following a Transfer

- A. For a transfer to another position within the same pay grade or a reclassification of a position to another class within 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.

4.206 Compensation Adjustment for Detail Appointments

- A. A pay adjustment due to a detail appointment 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 detail appointment plus an additional six (6) sub-steps. This identifies the new base salary.
- 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.

- C. For Employees receiving a pay adjustment due to a detail appointment, the amended salary shall not take effect unless the employee has served a minimum of thirty (30) consecutive calendar days in the detailed position.

4.300 PERFORMANCE APPRAISAL FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES

4.301 Purpose

It shall be policy of the Authority to ensure that formal and informal performance appraisal processes are developed and implemented for Aviation-Related Positions Unique to Airport Operations and Certified, Technical and Professional Employees. Such appraisal process shall be developed by the Executive Manager and approved by the Board, and shall take into consideration the objectives and provisions of this Section 4.200.

4.302 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;
- (l) Determine whether disciplinary action is warranted.

4.303 Supervisor Responsibilities

The individual doing the performance review shall be the supervisor immediately responsible for the employee's work. The evaluator shall be the person who directly oversees, reviews and checks the daily work performance of the

employee being rated or is the supervisor who is closely acquainted with the employee's work. Supervisors may submit a performance appraisal for an employee during any single rating period provided the employee has worked for ninety (90) calendar days during that period.

4.304 Period Covered

- A. Supervisors shall evaluate and submit the employee's work performance for every twelve (12) months of service for Employees to the Executive Manager.
- B. Performance appraisal reports must be prepared and submitted for processing to the Executive Manager no sooner than thirty (30) days prior to the above periods.

4.305 Salary Increment

The salary increment of all Aviation-Related Positions Unique to Airport Operations and Certified, Technical and Professional Employees shall be based on an annual review of performance as outlined in 4.204 above. 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 (1) percent the performance (and resulting salary increment) range from zero (0), or a nil increase, through to six (6) percent.

All salary increments will require the endorsement/sign-off by the Executive Manager.

4.306 Probationary Performance Appraisal

- A. Aviation-Related Positions Unique to Airport Operations and Certified, Technical and Professional Employees in the classified service shall serve a probationary period of six (6) months. An extension of up to six (6) additional months may be granted. The division manager must justify, in writing, to the Executive 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 six (6) months may be granted.
- B. Employees in the unclassified service where no specific term of appointment or employment is specified shall serve at the pleasure of the Executive Manager or in the Board.

- C. A probationary employee who is dismissed has no recourse to file a grievance or appeal his/her release from employment unless the release from employment is a result of discrimination.

4.307 Approval of Performance Appraisal

A division manager shall submit, on a twelve (12) month basis, a written recommendation to the Executive Manager regarding the performance appraisal of every Aviation-Related Position Unique to Airport Operations and Certified, Technical and Professional employee. The Executive Manager shall make a final performance appraisal accepting or rejecting said recommendation and make the corresponding salary adjustments.

4.308 Appeals

- A. Purpose: This procedure outlines the responsibilities and procedures to be followed by management and Employees in handling performance rating appeals.
- B. Coverage: Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees covered in the procedure are those Employees who have satisfactorily completed their original and new probationary period and have attained permanent status in the Authority. Such Aviation-Related Positions Unique to Airport Operations and Certified, Technical, and Professional Employees who believe they are unjustly rated may request for determination from employment of their performance ratings. Original probation period performance ratings are not appealable under this procedure.
- C. Representation: An employee has the right to present an appeal with or without representation. He or she also has the right to be accompanied, represented, and advised by a representative of his choice at any step of the appeal proceeding.
- D. Freedom from Reprisal or Interference: An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal.
- E. 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.

F. Informal Appeal Procedure

- (a) The Aviation-Related Positions Unique to Airport Operations and Certified, Technical, Or Professional Employee who believe that he or she was unjustly rated shall bring the matter to the attention of his immediate supervisor not later than five (5) work days after he was notified of his or her performance evaluation rating by his or her supervisor.
- (b) A review of the rating shall be afforded the employee by a higher-level supervisor. Settlement of aggrieved matters is encouraged at the lowest possible administrative level and in the shortest possible time. The employee shall be notified of the decision not later than five (5) work days after presentation of his informal appeal to his or her immediate supervisor.
- (c) If the employee's concerns are not resolved by his or her immediate supervisor, the employee may present his or her informal appeal orally or in writing to his or her Division Head. The employee shall be notified of the decision not later than five (5) work days after presentation of his informal appeal to his or her Division Head. If the employee's are not resolved by the Division Head, or if a decision is not issued within five (5) work days, the employee may file an informal appeal to the Executive Manager.
- (d) If the employee's concerns are not resolved by the Executive Manager, or if a decision is not issued within five (5) work days, the employee may file a formal appeal to the Board.

G. Formal Appeal Procedure - Performance Rating Board of Review

- (a) When the decision of the Executive Manager fails to satisfy the employee, the employee may file a formal appeal in writing to the Executive Manager within five (5) work days after he receives the Executive Manager's decision. The Executive Manager shall then appoint a Performance Rating Board of Review pursuant to the following

subparagraph (b) within five (5) work days after receipt of the employee's formal appeal.

- (b) A Performance Rating Board of Review ("Board of Review") shall be appointed by the Executive Manager to hear an employee's appeal. The Board of Review shall consist of three (3) persons who are Certified, Technical, or Professional Employees in the classified service, of which two (2) shall be the same position level as the appellant, and one (1) shall be at the managerial level and shall serve as the Hearing Officer. Board of Review members shall not be from the same section, department, or division where the appellant is employed. The Board of Review shall conduct its first hearing within five (5) work days of its appointment. The Board of Review shall complete the investigation and conduct the final hearing not later than ten (10) work days from the date the Board of Review convened. The Board of Review shall give written notice of hearings and shall provide all pertinent documents related to the appeal to the appellant, his representative, the rater, and all other parties concerned. The conduct of the hearing shall be consistent with the opportunity to present all information necessary to decide the merits of the appeal. Both oral and written information which the Board of Review considers pertinent or that the Board of Review requests concerning the appeal shall given.
- H. The Hearing Officer shall preside and shall rule on all questions and conduct of the hearing during the proceedings. Board of Review members shall consider the case and vote objectively. They shall give consideration to the merits of the case and secure all necessary information. They shall encourage a harmonious relationship between Employees and supervisors during the proceeding of the Board of Review. All members of the Board of Review shall be present at all times during hearings and shall participate in decisions. The hearing shall be recorded and summarize in writing.
 - I. When all pertinent information in an appeal has been presented to the Board of Review, it shall render a decision by majority vote. The Board of Review may either amend the performance rating, or sustain the rating without change. When an amendment is made by the Board of Review to the performance rating, that amended rating shall not be lower than the original rating. The Board of Review shall make its decision within five (5) work days of the final hearing. The Board of Review'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 of Review based its decision. The written decision shall be sent immediately to the appellant and signed copies forward to the Executive Manager.

- J. When the Executive Manager receives a Board of Review decision amending the employee's rating, the Executive Manager shall immediately substitute the amended rating. The Executive Manager must reconsider administrative actions based on the original rating using the amended rating and adjust those administrative actions to conform to the amended rating.

CHAPTER 5

DISCIPLINARY ACTIONS FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL EMPLOYEES

5.000 DISCIPLINARY ACTIONS FOR AVIATION-RELATED POSITIONS UNIQUE TO AIRPORT OPERATIONS AND CERTIFIED, TECHNICAL AND PROFESSIONAL EMPLOYEES

5.001 Purpose

The guidelines and procedures by which the Executive Manager or his Designee may suspend, demote or dismiss a permanent, classified Aviation-Related Positions Unique to Airport Operations and Certified, Technical, or Professional Employee are set forth in Chapter 11 of the Personnel Rules and Regulations for the Authority which were promulgated on July 29, 1998, and which are incorporated by reference herein. Classified Aviation-Related Positions Unique to Airport Operations and Certified, Technical, or Professional Employees shall have the same rights as all other Employees at the Authority, including a right to appeal an Adverse Action taken against him or her to the Civil Service Commission as provided in Title 4 G.C.A. § 4403.

CHAPTER 6

POLICY REGARDING REASONABLE ACCOMMODATIONS FOR QUALIFIED INDIVIDUALS WITH A DISABILITY

6.000 STATEMENT OF POLICY

The Authority stands committed to fulfilling its obligations under the Americans with Disabilities Act (“ADA”) and all other applicable state and federal statutes governing the workplace. It is the policy of the Authority to hire, train, promote, compensate, and administer all employment practices without regard to race, color, sex, age, religion, veteran status, national origin, or disability unrelated to the ability to perform a job with or without reasonable accommodation: Discrimination against job applicants or Employees because they are disabled is prohibited and will not be tolerated.

6.001 GUIDELINES

When dealing with situations involving job applicants or Employees with a disability, the Authority will endeavor to follow these guidelines:

- A. It is against the policy of the Authority to discriminate against qualified individuals with disabilities who, with or without reasonable accommodation, can perform the essential functions of a job.
- B. The Authority is committed to ensuring that qualified individuals with a disability are not discriminated against in applying for employment and once such individuals have been employed in the workplace. It is the policy of the Authority, where possible and readily achievable, to make existing facilities used by Employees readily accessible to and usable by individuals with disabilities. However, there may be instances where the Authority is not aware that an employee has a disability which might impact on an aspect of his employment or whether an existing facility is accessible to and usable by individuals with disabilities. It is incumbent upon any job applicant or employee to alert the Authority or his Supervisor as to the existence of a disability which the job applicant or employee believes needs to be accommodated so that he will enjoy and be afforded equal employment opportunity in the workplace.
- C. An individual may be considered disabled if he has a physical or mental impairment and the impairment substantially limits one or more of the individual’s major activities in life, has a record or history of such an impairment, or is perceived as having such an impairment. The Authority is committed to making reasonable accommodations in job duties, the

work environment, and the application process to enable a qualified person with a disability to enjoy equal employment opportunities, so long as such accommodations do not constitute an undue hardship.

- D. At the same time, the Authority also has an obligation to provide a safe work environment for all Employees and customers. Reasonable precautions will be taken to ensure that an employee's disability, or any attempted reasonable accommodations thereto, do not present a direct threat to the health and/or safety of the individual employee with a disability or to others.

6.002 PROCEDURAL CHANNELS

The employee should advise his Supervisor of the existence of a disability which the employee believes needs to be accommodated so that he will have equal employment opportunities in the workplace. The Authority will attempt to work with the employee to determine if the employee's disability can be reasonably accommodated. Employees also should advise their Division Head of any facilities which they believe need to be made accessible and usable by individuals with disabilities. In addition, the employee may contact his Supervisor or Division Head if he believes that he has been discriminated against by reason of a disability. Any complaint of disability discrimination shall be investigated and treated in a confidential manner to the extent reasonable. If the investigation leads to a determination from employment that the charges are true, corrective action will be taken immediately

6.100 PLACEMENT OF EMPLOYEES WITH DISABILITIES

6.101 Placement of Employees with Disabilities

- A. The Authority reserves the right to require any employee to undergo a physical or mental examination if the Authority determines that there is an issue with respect to the employee's ability to perform the essential functions of their job or whether a reasonable accommodation is necessary or even possible to enable the employee to perform the essential functions of their position. An employee whose ability to perform the essential functions of his position is in question as a result of a medical, physical or psychological condition may be required by the Authority to undergo a medical, physical or psychological evaluation by a practitioner chosen by the Authority and to pay for the cost of the evaluation. After medical, physical, or psychological 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 a permanent medical physical or mental incapacity, the Executive Manager shall take the following action (assuming the employee is

qualified and able to perform the new duties within the limitations established by these Rules and the ADA):

1. Transfer the employee to an equivalent position elsewhere in the Authority, provided the position is vacant; or
 2. If no equivalent position is available, reassign the employee to a lower graded position elsewhere in the Authority, provided the position is vacant. Such reassignment for Employees occupying Aviation-Related Positions Unique to Airport Operations, and Certified, Technical or Professional Employees shall be without loss of pay provided the disability is work-related. If the disability is not work-related, the employee shall be compensated at the lowest sub-step of the new implementation range of the lower graded position. This identifies the employee's new base salary; or
 3. Promote the employee consistent with these Rules.
- B. If there is no appropriate position in which the employee can be placed within the Authority, the Executive Manager will coordinate placement of the employee in a suitable position with other government of Guam departments and agencies. If an appropriate vacancy is found, the receiving department or agency is required to employ the employee who is medically disabled consistent with these Rules and provisions of the ADA.
- C. Release the employee from employment if the conditions of 6.103 below are applicable.

6.102 Reasonable Accommodation

Every effort shall be made by the Executive Manager to provide reasonable accommodations to assure continued employment of an employee with a disability.

6.103 Release from Employment

The Executive Manager shall release the employee from employment at the Authority if:

- 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.

- C. If the employee refuses to undergo a medical, physical or psychological evaluation, the Authority may reasonably conclude that the employee is permanently disabled from performing the job, or will be disabled for a long time that release from employment is necessary in light of demonstrated business realities.
- D. If the Executive Manager has evidence that the employee is permanently disabled from performing the job, or will be disabled for a long time that release from employment is necessary in light of demonstrated business realities. Such release from employment shall not be considered a disciplinary measure or Adverse Action due to misconduct, but shall be effected to include the following procedure:
- a) The employee shall be entitled to receive a written Notice of Proposed Release from Employment from the Executive Manager including the grounds for the release from employment, including the medical, physical or psychological evaluation and any subsequent efforts to provide reasonable accommodation, transfer, or otherwise place the employee, if applicable.
 - b) The Notice of Proposed Release from Employment, the Notice of Withdrawal of Proposed Release from Employment, Findings of Facts or the Final Notice of Release from Employment as set forth herein shall be personally served upon the employee. In the event that the serving party cannot locate the employee, service may be made by leaving the document at the employee's dwelling or usual place of abode with some person of suitable age and discretion residing therein, or by mailing the document to the employee at his last known address. Service by mail is complete upon mailing.
 - c) Within ten (10) working days of receiving a Notice of Proposed Release from Employment, the employee or his designated representative may respond in writing to the Notice of Proposed Release from Employment and seek reconsideration of the same. The employee's response shall include the grounds for reconsideration and shall indicate whether he would like to have a hearing on his response as part of the reconsideration. If the employee fails to respond in writing during the notice period, the employee's inaction shall be construed as a response. The employee will not be released from employment during the notice period.
 - d) If the employee makes a timely written response, the Executive Manager shall appoint a committee of three (3) persons who

occupy Aviation-Related Positions Unique to Airport Operations, and Certified, Technical, or Professional Employees in the classified service, of which two (2) shall be the same position level as the employee seeking reconsideration of the Notice of Release from employment, and one (1) who shall serve as the Hearing Officer shall be at the managerial level. Committee members shall not be from the same section, department, or division where the employee is employed. The committee shall consider the employee's response to the Notice of Proposed Release from Employment in light of the applicable Personnel Rules and Regulations, and if requested, afford the employee a hearing during which the employee shall have the right to be represented by a person of his choice, the right to present relevant evidence, and the right to call and cross-examine witnesses.

- e) In the event the employee has requested a hearing, the committee shall conduct the hearing within twenty (20) working days of its appointment. The committee shall give the employee and the Executive Manager no less than fifteen (15) working days written notice of the hearing, which notice shall request that the employee and the Executive Manager provide the committee as well as the other party with copies of all pertinent documents and a list of proposed witnesses related to the Notice of Proposed Release from Employment and the employee's request for reconsideration. Such documentary evidence and witness list shall be served on the committee and the other party no less than five (5) working days before the scheduled hearing.
- f) The conduct of the hearing shall be consistent with the opportunity to present all information necessary to decide the merits of the possible release from employment. Within ten (10) working days of the close of the hearing, the committee shall issue a Findings of Facts in writing addressed to and to be delivered to both parties but which shall be advisory in nature only.
- g) Within five (5) working days of the Executive Manager's receipt of the Findings of Facts of the committee, the Executive Manager may either withdraw its Notice of Proposed Release from Employment in writing and seek further options to assist the employee to continue employment, or he may issue Final Notice of Release from Employment in writing stating the specific facts upon which the action is based and deliver the same to the employee at or before the effective date of release from employment. The Final Notice of Release from Employment may

be based on the grounds set forth in the Notice of Proposed Release from employment and/or may adopt any or all of the Findings of Facts issued by the committee.

- h) Should the employee submit his or her resignation at any time before the Authority releases him or her from employment, provided that the last day of duty is within a reasonable period of time from the determination from employment that the employee is permanently disabled from performing the job, or will be disabled for a long time that release from employment is necessary in light of demonstrated business realities. The resignation by the employee shall automatically conclude any further proceedings on any request for reconsideration by the employee and shall also relieve the Executive Manager from having to issue a Final Notice of Release from Employment.

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