



**UNIVERSITY OF GUAM
UNIBETSEDÁT GUÅHAN
Board of Regents**

Resolution No. 20-37

**RELATIVE TO APPROVING THE NEW PERSONNEL RULES AND REGULATIONS FOR
CLASSIFIED EMPLOYEES OF THE UNIVERSITY OF GUAM**

WHEREAS, the University of Guam (UOG) is the primary U.S. Land Grant institution accredited by the Western Association of Schools and Colleges Senior College and University Commission serving the post-secondary needs of the people of Guam and the Western Pacific region;

WHEREAS, the governance and well-being of UOG is vested in the Board of Regents (BOR);

WHEREAS, the BOR is authorized to develop rules and regulations governing the recruitment and selection of all employees of the University;

WHEREAS, in 2003, the BOR adopted Interim Personnel Rules and Regulations for Classified Employees of the University under BOR Resolution No. 03-17;

WHEREAS, these "Interim" Personnel Rules and Regulations have remained in place until now;

WHEREAS, the Human Resources Office has developed a revised set of Personnel Rules and Regulations for Classified Employees of the University;


WHEREAS, the new set of rules incorporates recent changes in law, recent policies adopted by the University, and incorporates practices that have been in place at the University since adoption of the rules; and

WHEREAS, this new Personnel Rules and Regulations for Classified Employees will supersede the Interim Personnel Rules and Regulations for Classified Employees approved by BOR Resolution No. 03-17; and

WHEREAS, the Academic, Personnel & Tenure Committee and the President now seeks approval from the BOR to adopt the new Personnel Rules and Regulations for Classified Employees of UOG.


NOW, THEREFORE, BE IT RESOLVED, the BOR hereby adopts the Personnel Rules and Regulations for Classified Employees of UOG.

Adopted this 24th day of November, 2020.



Jerald W. Filush, Chairperson

ATTESTED:



Thomas W. Krise, Ph.D., Executive Secretary

*University
of
Guam*



**PERSONNEL RULES &
REGULATIONS FOR
CLASSIFIED EMPLOYEES**

CHAPTER 1

PURPOSE AND SCOPE OF PERSONNEL RULES AND REGULATIONS

STATEMENT OF POLICY

This Chapter establishes the fundamental character of the system of personnel administration governed by these rules and regulations, consistent with the merit principles and the principles of equal employment opportunity; provisions of Title 4 of the Guam Code Annotated (GCA); and other paramount laws pertaining to the employment of classified employees at the University of Guam.

1.000 COVERAGE

- A. These rules shall apply to all employees occupying classified positions employed by the University of Guam, hereinafter referred to as "University".
- B. Unclassified or non-classified employees occupying positions at the University are not governed by these rules and regulations, unless otherwise identified. Furthermore, Academic Personnel are not covered by these rules pursuant to Title 17 GCA Chapter 16 Section 16113.
- C. These rules and regulations may be supplemented by administrative policies and procedures established by the President of the University.

1.100 GUIDING PERSONNEL PRINCIPLES

The following merit system principles shall guide personnel administration:

- A. Recruiting, selecting applicants and advancing employees on the basis of their knowledge, abilities, and skills;
- B. Providing a uniform compensation policy pursuant to Title 4 GCA Chapter 6 Section 6201;
- C. Training employees to improve performance;
- D. Retaining employees based on their performance;
- E. Classifying positions systematically through job evaluation; and
- F. Providing fair, expedient and responsive processes for grievance, adverse action, and conflict resolution.

1.200 AVAILABILITY OF FUNDS

Employment in the classified service is subject to the availability of funds, except where otherwise specified.

1.300 EQUAL EMPLOYMENT OPPORTUNITY

- A. The University is an Equal Employment Opportunity Employer and Provider. It is the policy of the University that there shall be no discrimination in employment against any person on the basis of race, color, religion, age, sex, political affiliation, marital status, national origin,

disability, or sexual orientation, except for *bona fide* occupational qualifications or legal requirements. Employees should refer to the University's EEO/ADA & Title IX Office for further information.

- B. Pursuant to Title 4 GCA, Chapter 4, Section 4701, sex discrimination includes Sexual Harassment. Sexual harassment is a specific form of prohibited harassment which occurs when an individual's behavior constitutes (1) unwelcome sexual advances, or (2) unwelcome requests for sexual favors, or (3) other unwelcome verbal or physical behavior of a sexual nature where:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
 - 2. Submission to, or rejection of, such conduct by an individual is used as a basis for employment decisions affecting the individual's welfare, or
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic, residential life or work performance, or creates an intimidating, hostile, or offensive educational, living or work environment at the University.
- C. The University shall implement Equal Employment Opportunity (EEO) programs pursuant to the guidelines of Federal and Local Statutes.
- D. The EEO program calls for positive results-oriented action toward equal opportunity. Affirmative efforts will be made by the President to assure equal opportunity in employment and to assure non-discrimination in programs and activities offered and/or conducted by the University.
- E. For this EEO program to become a management objective, all levels of management which includes the first line supervisors, will continue to be trained in the legal requirements of equal employment opportunity.

1.400 PENALTIES

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

1.500 GENDER

Words used in the masculine gender include the feminine pursuant to Title 1 GCA, Chapter 7, Section 715

1.600 STATUTORY CONFLICT

- A. In the event any rule or regulation is in conflict with statute, the statute shall prevail.
- B. In the event that any rule or regulation is amended or repealed explicitly by a public law, the new law shall prevail.

1.700 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 President as defined in Title 17 GCA Section 16108 in the implementation of the University of Guam Charter; Title 4 GCA; these Personnel Rules and Regulations; and other laws.

2.000 AUTHORITIES DEFINED

President – Shall mean the President of the University of Guam pursuant to Title 17 GCA Chapter 16 Section 16110. The President shall be the hiring authority for all classified positions that do not fall under the authority of the Senior Vice President of Academic and Student Affairs and Provost or the Vice President Administration and Finance and Chief Business Officer. Unless otherwise delegated. To the extent the President retains inherent hiring authority for positions that fall under the authority of the Senior Vice President of Academic and Student Affairs and Provost and the Vice President Administration and Finance and Chief Business Officer, they are hereby delegated to the Senior Vice President of Academic and Student Affairs and Provost and the Vice President Administration and Finance and Chief Business Officer

Board of Regents- Shall mean Board of Regents of the University of Guam pursuant to Title 17 GCA Chapter 16 Section 16104.

Commission – Shall mean the Civil Service Commission of the Government of Guam pursuant to Title 4 GCA Chapter 4 Article 4 Section 4401.

Vice President – shall mean the Senior Vice President of Academic and Student Affairs and Provost and the Vice President Administration and Finance and Chief Business Officer and any other position the President designates as serving the Vice President role under which the position reports. Some duties of the President are delegated to the Vice Presidents in this document pursuant to Title 17 Chapter 16 Section 16108..

Unit Heads – Shall mean Deans and Directors of the University of Guam pursuant to Title 17 GCA Chapter 16 Section 16108. Some duties of the President are delegated to Unit Heads in this document.

Immediate Supervisor – Shall mean one who supervises the work of employees to include approval of leave requests and performance evaluations pursuant to Title 17 GCA Chapter 16 Section 16108. Some duties of the President are delegated to the Immediate Supervisors in this document.

2.100 RESPONSIBILITY OF THE PRESIDENT.

A. The University of Guam Charter, the provisions of Title 4 GCA and Title 17 GCA Division 3 and these rules and regulations, and other applicable statutes shall control the administration of classified personnel within the University.

B. The President shall:

1. Be responsible for the implementation and enforcement of these Personnel Rules and

Regulations and all other applicable statutes pursuant to Title 17 GCA Chapter 16 Section 16110.

2. Advise the Board of Regents and employees on policies and procedures concerning personnel management matters pursuant to Title 17 GCA Chapter 16 Section 16110.
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 of established policies, rules, regulations, and standards reveal that there have been infractions, the President shall take such affirmative resolution as may be appropriate to obtain compliance pursuant to Title 17 GCA Chapter 16 Section 16108.
4. Develop and promulgate policies, rules, regulations, and standards to promote the efficiency of services pursuant to Title 17 GCA Chapter 16 Section 16110.

2.200 RESPONSIBILITY OF THE CHIEF HUMAN RESOURCES OFFICER

Within the University's administrative organization, the Chief Human Resources Officer shall provide direction and assistance to all Unit Heads regarding employment matters such as staff projections, classification, recruitment, staffing, compensation, labor and employee management relations, and training, and employee development. The Chief Human Resources Officer shall provide professional advice to ensure proper administration of the University's personnel management program and compliance with provisions of these rules and all other applicable personnel laws. In addition to the above, the Chief Human Resources Officer shall:

- A. Determine through reviews, the appropriate classification standards for all positions in the classified service, maintain a schematic list of all classes in the classification plan, and prepare and maintain job specifications for each class.
- B. Direct, prepare, coordinate, and conduct all employment examinations.
- C. Ensure that managers and supervisors are equipped with proper training, skills, and information required to manage, supervise, evaluate, and discipline employees.
- D. Determine the minimum qualifications of all applicants, the subjects to be covered in each examination, methods of testing, and the relative weights for requirement.
- E. Respond to all inquiries and/or appeals relating to the subjects to be covered in each examination, methods of testing, and the relative weights for requirement.
- F. Perform all other functions necessary to execute and carry out the intentions of these rules.
- G. Maintain records of all personnel employed by the University covered by these rules.
- H. Consult with and provide guidance and direction to the President in maintaining an adequate system of review to determine whether the application of statutes, rules, regulations, and standards relating to personnel management are being carried out by all units and divisions.
- I. Carry out personnel administration activities for the promotion and continuity of the merit-based personnel system.

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- J. Provide initial and periodic orientation to all employees concerning the provisions of these rules, to include training of all Unit Heads, and immediate supervisors in their specific responsibilities for advising employees about the requirements and provisions of these rules.

CHAPTER 3 CODE OF CONDUCT

STATEMENT OF POLICY

All classified employees are expected to maintain the highest standards of conduct to ensure that University services are properly performed consistent with the mission of the institution.

3.000 ETHICAL CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

- A. Public service is a public trust. Employees are expected to follow/adhere 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 put forth honest effort in the performance of their duties.
- C. Employees shall be courteous and helpful to employees, students, and members of the public.
- D. Employees shall respect supervisory authority and follow supervisory instructions.
- E. Pursuant to Title 4 GCA Chapter 15 Article 2 Section 15205 employees shall not hold financial interests in any organization and/or business where there is potential conflict with their duties and position held.
- F. Pursuant to Title 4 GCA Chapter 15 Article 2 Section 15203 employees shall not engage in financial transactions using confidential or non-public information or allow the improper use of such information to further any private interest.
- G. Pursuant to Title 4 GCA Chapter 15 Article 2 Section 15201 employees shall not, except as permitted by statute or regulation, solicit or accept directly or indirectly any gift or other item of monetary value greater than \$200.00 from any person or entity seeking official action from, doing business with, or conducting activities regulated by the University or government, to include persons whose interests may be substantially affected by the performance or non-performance of the employee's duties, or that of the University.
- H. Pursuant to Title 17 GCA Chapter 3 Section 3103.1 employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the University.
- I. Pursuant to Title 5 GCA Chapter 5 Section 5626 employees shall not use public office for private gain.
- J. Employee shall protect and conserve University property and shall not use it for other than authorized activities.
- K. Pursuant to Title 4 GCA Chapter 15 Article 2 Section 15205 employees shall not engage in unauthorized outside employment or activities, including seeking or negotiating for employment that conflict with official University or government duties and responsibilities.
- L. Employees shall, in good faith, disclose waste and abuse and corruption to their Vice President and in doing so shall be protected from reprisal.
- M. 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.

- N. Pursuant to U.S. Public Law 100-690 and Title 10 GCA Chapter 75 employees shall refrain from unlawful use of drugs and alcohol while on University grounds and off-campus facilities. Drugs shall mean those identified in the Drug-Free Workplace Policy (DFWP) as approved by the Board of Regents found in Chapter 15 and Appendix A.
- O. Pursuant to Title 10 GCA Chapter 90 Section 90106 employees will adhere to the tobacco free policy on campus.

3.100 OATH OF OFFICE

All persons employed by the University or accepting employment with the University shall subscribe and certify to the prescribed loyalty oath. This oath may be administered by the President, 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 rescission 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 University in a direct supervisor-subordinate relationship in the classified or unclassified service. Exception to this rule may be made when it is in the best interest of the University and with the approval of the President.
- B. Pursuant to Title 4 GCA Chapter 4 Article 2 Section 4105(d)(2) no spouse of any Unit Head within the University may be employed in a college/ school / unit headed by such person.
- B. Pursuant to Title 4 GCA Chapter 4 Article 2 Section 4104 whenever there are already two or more members of an immediate family in the public service under the University, no other members of such family shall be eligible for appointment to any such division; provided, however, that such prohibition shall not apply to employees in the medical, paramedical field. As used in this Section, "immediate family" means a collective body of persons living together in the same house.

3.300 CONVICTED FELONS

- A. No person who is convicted of a felony concerning family violence (not a misdemeanor) after August 14, 1998, is eligible to hold a managerial or supervisory position. (Title 4 GCA Section 4203.2)
- B. No person convicted of a sex offense under the provisions of Title 9 GCA Chapter 25 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 shall work for the University. (Title 4 GCA, Chapter 4, Section 4203.3)
- C. The University shall not request that a police or a court clearance be provided as part of the application for employment; however, upon a conditional offer, the University may request an employee provide evidence as to any pending criminal cases or criminal history. (Title 22 GCA, Chapter 6)

D. The University shall not make an inquiry about, or require the disclosure of, an applicant's arrest record or criminal cases which resulted in dismissal, expungement, sealing, or did not result in a conviction. (Title 22 GCA, Chapter 6)

3.400 METHODS OF COMMUNICATION

Electronic forms of communication, e-mail, and Internet use have become an efficient, fast, and cost-effective method of communication that has many advantages over printed communication. Because of the importance of this type of communication, e-mail is considered one of the official forms of communication at the University. University confidential information must not be shared outside of the University, without authorization, at any time.

Telephones, computers, voice mail, email, Internet usage, and other equipment assigned to an employee are solely for the purpose of conducting University business. Some require access to the Internet and the use of software. Software needed, in addition to the Microsoft Office suite of products, must be authorized by the Department/Unit Head and downloaded by the Office of Information Technology staff. Only employees appropriately authorized, for University purposes, may use the Internet or access hardware, software, and networks. Subject to any violation of University's IT Policy, this policy and procedure is subject to disciplinary action as noted on Rule 11.402.

3.500 CONFIDENTIALITY

University confidential information must not be shared inside or outside of the University, without authorization, at any time. The University owns any and all communications sent via email or that is stored on University equipment. The Unit Heads and other authorized staff have the right to access any material in the employee's email or on his computer at any time. Electronic communication, storage, or access should not be considered private if it is created or stored at work.

CHAPTER 4

FILLING POSITIONS IN THE UNIVERSITY

STATEMENT OF POLICY

This policy implements a system of recruitment and selection of University classified employees in accordance with the merit system principles and Equal Employment Opportunity guidelines.

4.000 APPOINTMENT THROUGH THE MERIT SYSTEM

4.001 Recruitment and Examinations

- A. Recruitment of persons for employment in the classified service within the University shall be accomplished consistent with the merit principles of recruiting, selecting applicants, and advancing employees on the basis of their relative knowledge, abilities and skill.
- B. A person may be employed in the classified service contingent upon the availability of a grant, federal program or federal funds. An appointment in the classified service may be commensurate with the duration of a grant, federal grant, federal program or federal funds including renewals and extensions (Title 4 GCA, Chapter 4, Subsections 4103 (g)).
- C. A person may be employed in a professional level position in the classified service for a specific project or program. An appointment in the classified service may be commensurate with the duration of a specific project or program (Title 4 GCA, Chapter 4, Subsection 4103 (h)).

4.002 Filling of Vacancies

- A. No person shall be appointed to, or employed in, or paid for service in any classified position until that position has been established, funded, and allocated to its proper class. No person shall 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 under University competitive examination. This applies to all initial and promotional appointments. Exception to the establishment and certification requirement may be made for transfers, demotions, and reinstatement immediately after active military service and temporary appointments consistent with these rules.
- B. Competitive examinations shall also apply to the following:
 - 1. Demotion to a position with Known Promotion Potential (KPP) per section 4.505 within a class series;
 - 2. Transfer to a position with KPP per section 4.501 within a class series;
 - 3. Reinstatement or reemployment to a position with KPP per section 4.502 and 4.503 within a class series;
 - 4. Appointment to a position with KPP within a class series.
- C. All employees and applicants selected and offered employment with the University must have a test for tuberculosis (skin or x-ray) performed and found free of communicable diseases by a physician licensed to practice within a state or territory of the United States

prior to starting employment and annually thereafter. For retirement purposes, physical examinations must be done within sixty (60) days from hire date (Title 10 GCA, Chapter 25, Section 25103).

Employees selected for Testing Designated Positions (TDP) will be tested as provided in Chapter 15.

4.003 Certification from Eligibility Lists

All initial and promotional appointments to University positions shall be made through certifications from eligibility lists resulting from competitive examinations and for selections covered under the Merit Career Plan and Preferential Hiring for Scholarship Recipients (Title 4 GCA, Chapter 4, Section 4104.1).

4.004 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 Vice President shall be limited to selection from the top five (5) or ten (10) Labor/Custodial found on these lists the order of precedence herewith established with the exception of Preferential Hiring for Scholarship Recipients (Title 4 GCA, Chapter 4, Section 4104.1):

- A. All qualified Student Financial Assistance Program (SFAP) recipients shall be certified ahead of all other qualified applicants on an eligibility list. Certifying with other qualified applicants is prohibited.
- B. University-wide
 - 1. Priority Placement/Lay-off Reinstatement List
 - 2. Promotional List
- C. Government-wide or Open
 - 1. Preferential/Priority Placement/Lay-off Reinstatement Lists
 - 2. Reemployment List
 - 3. Promotional List/Open Competitive List

4.100 RECRUITMENT

4.101 Announcement of Recruitment and Examination

- A. Whenever there is a need to establish a list of eligibles, the Chief Human Resources Officer shall publish and disseminate announcements of recruitment and examination on a University-wide, Government-wide and/or Open competitive basis, and shall cause such announcements to be posted throughout the University, government of Guam instrumentalities, departments and agencies. Other methods of announcing examinations may be used at the discretion of the Chief Human Resources Officer so as to better disseminate information to the employees and the public.
 - 1. University-wide competitive examinations shall be held to allow all interested and qualified permanent status employees occupying classified positions within the University the opportunity to compete for vacant positions.

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2. Government-wide or open competitive examinations may be held when, in the judgment of the Chief Human Resources Officer, there are insufficient number of qualified applicants within the University for adequate competition and flexibility of selection. The Chief Human Resources Officer shall determine the need for open competitive announcements.
- B. Open competitive examinations may be re-announced when the Chief Human Resources Officer determines that there are less than five (5) / ten (10) -Labor/Custodial individuals meeting the qualifications for the class.
 - C. The Vice President may request for certification of eligibles even if there are less than five (5) /ten (10) – Labor/Custodial on the eligibility listing.

4.102 Maintenance or Distribution Lists

The Chief Human Resources Officer 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 uploaded onto the University's Human Resources website and further dissemination to prospective applicants on the Guam Department of Labor website.

4.103 Content of Recruitment and Examination Announcements

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, character of duties and responsibilities and illustrative sample of duties to be performed, closing date and place for filing applications, minimum qualifications for entry into the position, and other information deemed necessary by the Chief Human Resources Officer. Appointments other than from an eligibility list, for example by transfer, demotion, or reinstatement shall be bound by the minimum qualification requirements.

4.104 Minimum Period of Recruitment

- A. Job announcements shall be posted for a minimum of ten (10) working days.
- B. The Human Resources Office may post job announcements on a continuous basis upon the request of the Unit Head. Notice of the final closing of an announcement shall be sent to the original distribution list at least five (5) days prior to the final closing date for receipt of applications.
- C. The Human Resources Office in consultation with the Unit Head may extend the period for receipt of applications. Announcement of an extension shall be disseminated to the original distribution list for posting.

4.105 The Application Form

- A. The Human Resources Office shall prescribe a form to be used by applicants, which shall require information covering experience, training, and other pertinent data, indicated as being necessary in the examination announcement as provided in Appendix B. Applications shall be signed and the truth of all statements therein certified to by such signature.
- B. No one may 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 (Title 29 Code of Federal Regulations, Chapter 14, Section 1630.13(a)).

- 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.

4.106 Acceptance of Employment Applications

- A. Applications for competitive examinations shall be accepted 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 Office.
- B. Applications submitted online by midnight Chamorro Standard Time 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 subject to the approval of the Chief Human Resources Officer. The reasons for such acceptance shall be duly documented.

4.107 Evaluation of Applications

- A. An eligibility list shall be established within sixty (60) business days after the closing date of the position announcement. Failure to establish an eligibility list within sixty (60) business days of the closing date may 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 under application. For continuous job announcements, the ending date to credit the job applicant's education, experience and training shall be the date of application.

4.108 Rejection of Applicants

The Human Resources Office 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. Refusal or failure to furnish documents required verifying any statements made in the application.
- B. Intentional false statements, deception or fraud omission in the application process.
- C. Failure to attest to the accuracy of information presented on the application.
- D. Failure to submit an application within the announcement period, with exception of Rules 4.106B and 4.106C.
- E. Evidence that the applicant has been removed from his position within the University, other Government departments or agencies, or otherwise for reasons, which would render him, unsatisfactory for the position and for the class for which he is applying.

When any such finding is made, the Chief Human Resources Officer shall reject the application and notify the applicant of such action.

4.109 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 scheduled examination (assembled), notice thereof, with the reason or reasons for such rejection, ample time shall be given to permit the applicant to respond in writing, or to amend an incomplete or defective application at least three 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.

4.200 EXAMINATIONS

4.201 Scopes 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.
- B. Any accepted personnel examination technique may be employed, including a verification and evaluation of education, training and experience, tests of skill, knowledge, ability, intelligence or aptitude, medical examinations, appraisals of personal suitability, social media searches, and any other matters that the Chief Human Resources Officer 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.

4.202 Parts of Examination

- A. The examination may consist, in various combinations, of selection criteria such 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.
- B. An applicant for any examination must pass all parts of that examination with a minimum of 70.00 in order to qualify for appointment to a position.

4.203 Education and Experience

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- A. The minimum requirement of a high school diploma or a successful completion of a General Educational Development (GED) Test, or any equivalent of a general education high school program, to include the “Onra I Manfayi” program (Title 17 GCA, Chapter 3, Section 3219), or a successful completion of a certification program from a recognized accredited or certified vocational technical institution, in a specialized field shall be required for the job (Title 4 GCA, Chapter 4 Section 4101(c) and Public Law 29-113).
 - B. If education and experience form a part of the total examination, the Chief Human Resources Officer shall determine a procedure for the evaluation of the education and experience qualifications of the various applicants. The criteria used in appraisal shall give regard to recency 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.

4.204 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.

4.205 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 that 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 Chief Human Resources Officer may authorize conditional admission. Such action shall not be construed as entitling the applicant to certification or appointment until the Chief Human Resources Officer has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

4.206 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 Chief Human Resources Officer.
- B. If an assembled examination is to be administered, qualified applicants shall be notified of the date, time and place of the examination. The Chief Human Resources Officer 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 University of any 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 Chief Human Resources Officer may authorize.
- D. All applicants for examinations involving physical ability or performance tests shall be required to sign a waiver of liability.
- E. Reasonable precautions shall be taken to protect the confidentiality of information about applicants.

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- F. Applicants with disabilities shall be given reasonable accommodation in the administration of tests, if so requested in advance of the date of the test.

4.207 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 Human Resources Office 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.

4.208 Ratings of Examinations

- A. Appropriate psychometrics and measurement techniques and procedures shall be used in evaluating the results of examinations, and in determining the minimum rating by which eligibility may be achieved, and the relative rank of candidates.
- B. The Human Resources Office 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.

4.209 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.

4.210 Inspection of Written Examination Papers

The Chief Human Resources Officer 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 an authorized representative except that when a candidate is scheduled to retake the same examination, inspection shall not be allowed more than five workdays 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.

4.211 Administrative Review of Examination Rating

An applicant may request administrative review of his rating assigned in an examination by submitting to the Chief Human Resources Officer, in writing, information to substantiate his request within ten (10) workdays following the date his examination notice was postmarked. The applicant has the burden of proof and must demonstrate substantial evidence that there was an error on the rating assignment given on his application. Certification of Eligibles is authorized only after the administrative review period has elapsed. Unless the Chief Human Resources Officer determines that a delay in the services will hamper the operations of a division, Certification of Eligibles is authorized only after the administrative review period has elapsed.

4.212 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 that generally will not affect a certification already issued, or invalidate an appointment already made from the eligibility list.

4.213 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 or as deemed appropriate by the Chief Human Resources Officer.
- 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.

4.214 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. Disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.

4.215 Protection of Confidentiality of Materials

- A. The review of test materials shall not be permitted due to the continuing use of the examination materials prepared by the Human Resources Office. Exposure would jeopardize

the confidentiality of the examination questions.

- B. All examination materials relating to a particular applicant or applicants including, but not limited to rating scores, 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 year from date the eligibility list was established or as deemed appropriate by the Chief Human Resources Officer.

4.216 Special Provisions

Special arrangement for examination on a non-competitive basis, upon reallocation of position and for employment of labor or custodial personnel, may be made by the President subject to the limitations which follows:

A. Non-competitive Examinations

The Chief Human Resources Officer 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 Promotion Potential (KPP) as per section 4.505.
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.
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) per section 4.505 and who is promoted to a higher grade position.

B. Labor/Custodial Positions

Examinations of applicants for entry level labor/custodial positions shall be governed by the following regulations:

1. Each applicant for these classes shall, prior to appointment, qualify by examination, which shall consist of completing an application form. The Chief Human Resources Officer shall certify the names of the ten (10) top applicants in order of their rating.
2. Notwithstanding the limitation of this rule, the Chief Human Resources Officer may at any time prescribe such additional tests for applicants in these classes, as he shall deem practical and feasible to assure equitable consideration of all applicants.

C. Appointment of Qualified Individuals with Disabilities

1. The University shall employ at least two percent of the work force with severe disabilities and certified by the Division of Vocational Rehabilitation of the Department of Integrated Services for Individual with Disabilities. Such employment shall be on a temporary limited-term appointment not to exceed a total of six months regardless of whether the position being filled is budgeted as temporary or permanent (Title 17 GCA, Chapter 4, Chapter 41, Section 41210(b))
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 Vice President from employing:
 - a. Individuals with disabilities when available and eligible for permanent employment.
 - b. Individuals with disabilities employed pursuant to Rule 4.216.C.2 above, if such persons qualify for permanent employment before the termination of their temporary appointment.
 - c. If such individual is appointed pursuant to this section to a permanent position during or immediately after the six-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 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(ies) may be converted to permanent employment by the Vice President.

4.300 PREFERENCE

4.301 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 (points which shall be added to their passing examination score for initial appointment only. The preference credit does not apply to subsequent applications for employment in the government after separation (Title 4 GCA, Chapter 4, Section 4104).

4.302 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 competitive 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 competitive scores upon initial employment only. The preference credit does not apply to subsequent applications for employment in the government after separation (Title 4 GCA, Chapter 4, Section 4104).

4.303 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 (Title 4 GCA, Chapter 2, Section 2103.5).

4.304 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 Rule 4.301 or 4.302, while the other is not, the former shall be given the first offer of position.

4.305 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 for which they have applied and are qualified as certified by the University's Director of Financial Aid. 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. All qualified applicants shall be certified ahead of all eligibles on the eligibility list pursuant to this rule (Title 4 GCA Section 4104.1).

4.400 CERTIFICATION

4.401 Eligibility Lists

Employees shall be selected from among the eligibles on appropriate eligibility lists, established and maintained by the Human Resources Office, except those employees who are demoted, transferred within the University, or reinstated. 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 competitive examination is announced simultaneously for a particular class, an appropriate eligibility list shall be established for each competitive for that class.

4.402 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. After the Human Resources Office has approved the eligibility list, it shall then be considered "established".

4.403 Ranking of Eligibles

After each examination, the Chief Human Resources Officer 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.

4.404 Determination of Rank in Event of Tie

Final earned ratings shall be calculated in two decimal places and ranked from highest to lowest. When, upon certification of eligibles in accordance with Rule 4.410 a tie score occurs, such tied scores shall not be broken and all such eligibles shall be certified as being the fifth (5TH)/ tenth (10th) - entry level labor/custodial eligible.

4.405 Duration of the Eligibility List

An eligible on a University-wide, Government-wide, or open competitive eligibility list, shall have eligibility for employment consideration until a selection is made or as deemed appropriate by the Chief Human Resources Officer for one (1) year from the establishment date of the eligibility list or as deemed by the Chief Human Resources Officer.

4.406 University-wide Competitive Eligibility Lists

University-wide competitive lists shall be established consistent with Rules 4.402 and 4.403 and selections shall be made in accordance with the Merit Career Plan.

4.407 Government-Wide Competitive Eligibility Lists

Government-wide competitive lists shall be established consistent with Rules 4.402, 4.403, 4.404 and 4.405 and selections shall be made in accordance with the Merit Career Plan.

4.408 Open Competitive Eligibility Lists

Open competitive eligibility lists shall be established consistent with Rules 4.402, 4.403, 4.404 and 4.40

4.409 Certification of Eligibles

Certification of eligibles shall consist of five (5)/ ten (10) for entry level labor/custodial positions 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. All eligibles who are recipients of a scholarship pursuant to Rule 4.305 shall be provided priority certification ahead of other eligibles.
- B. Eligibles with reemployment rights shall be accorded priority certification if there are no eligibles pursuant to A. above.
- C. When the fifth (5TH)/tenth (10th) - entry level labor/custodial eligible to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five (5)/ ten (10) persons are thereby certified to fill a vacancy.
- D. For entry level labor and custodial positions, the top ten (10) eligibles on the eligibility list shall be certified.
- E. In the event one or more eligibles decline or fail to respond to an employment interview, the Vice President shall be entitled to such additional eligibles as would provide him with a full

certification. (Refer to Rule 4.412, Supplemental Certification.)

- F. If the Unit Head rejects one (1) or more of the eligibles certified, they shall submit in writing to the Vice President the reasons for rejection. If the rejections are within the confines of the Merit System Principles, the Unit Head shall be entitled to such additional eligibles as would provide them with a full certification. The Chief Human Resources Officer shall ascertain the validity of the rejections before providing additional qualified eligibles. (Refer to Rule 4.412, Supplemental Certification.)
- G. A certification of eligibles shall be effective for no more than thirty (30) days after the date of certification, unless extended by the Chief Human Resources Officer.

4.410 Certification of Eligibles from a Multiple List

After eligibility lists are established for a particular job announcement with multiple competitive examinations, the Chief Human Resources Officer may certify in one of three ways:

Certify, in accordance with Rules 4.409, 4.411, 4.412 and 4.413 from each list in the following order: University-wide, Government-wide, and Open. Each list must be exhausted in accordance with these rules before certification from the next list will be authorized.

4.411 Certification of Eligibles for More than One Vacancy

- A. For more than one vacancy, the Chief Human Resources Officer shall certify an additional eligible for each additional vacancy with the exception of preferential hiring of qualified scholarship recipients pursuant to Rule 4.305.
- 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:

All qualified scholarship recipients pursuant to Rule 4.305
First Ranked Eligible
Second Ranked Eligible
Third Ranked Eligible
Fourth Ranked Eligible
Fifth Ranked Eligible
Sixth Ranked Eligible

The Vice President shall make their selections according to the following:

1. The Vice President must select from the qualified applicant(s) of scholarship recipients pursuant to Rule 4.305.
2. The Vice President may select two (2) persons from the six (6) certified to fill two (2) vacancies.
3. Should the Vice President decide to fill only one (1) of two (2) vacancies to be filled, he shall be restricted to select from the first five (5) eligibles on the certification and may not select the sixth (6th) ranked eligible.

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

4.412 Supplemental Certification

The Chief Human Resources Officer may submit a supplemental certification of eligibles to provide the Vice President 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 Vice President.
- B. The additional eligibles to be certified shall be of such number that will provide the Vice President with a full certification.
- C. The Human Resources Office 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.

4.413 Selective Certification

- A. Upon approval of the Chief Human Resources Officer, 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, abilities and skills 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, ability and skill or the equivalent in education.
- B. Selective certification may also be made which specifies a Bona Fide Occupational Qualification Requirement (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 for the recipient of the services.
- C. All selective certifications must be indicated on the proper job announcement and be job-related.

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

- A. The Chief Human Resources Officer shall establish procedures for interviewing certified eligibles for selection.
- B. Within thirty (30) calendar days from the date of the interview a selection must be made and must include administrative review.

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- C. Within thirty (30) calendar days from the date a selection is made, the Chief Human Resources Officer shall notify, in writing, all eligibles certified as to whether they were selected or not.

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

- A. The Chief Human Resources Officer may suspend or remove an eligible from an Eligibility List for any of the following reasons:
1. Refusal of an offer 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 to work within the prescribed time provided a legitimate reason beyond the control of the applicant such as death in the immediate family, serious illness or other extenuating circumstances is approved by the Vice President;
 5. In the case of University-wide or Government-wide lists, termination of service with the Government;
 6. When further investigation of eligible's suitability needs to be conducted;
 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;
 10. Advocates, aids or belongs to any party, organization or association which advocates the overthrow of the government of Guam or United States;
 11. Refuses or ignores the requirement to take a Drug test and a physical examination to include the TB test, without cause; or the verified Drug test or physical examination to include the TB test, result is found to be positive; and the applicant is not participating in a rehabilitation or medical treatment program.

In the event that the eligible has already received an appointment, the Vice President shall take appropriate action to ensure the termination of the employee.

4.416 Notification of Disqualification of Eligibles

An eligible who is disqualified pursuant to Rule 4.415B shall be notified in writing of such action and the reasons of disqualification within ten (10) workdays of the action.

4.417 Cancellation of Competitive Eligibility Lists

The Chief Human Resources Officer 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.

The eligibility list shall be null and void after one (1) year from date of establishment or as deemed appropriate by the Chief Human Resources Officer.

4.500 NON-COMPETITIVE ACTIONS

4.501 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 as determined by the Chief Human Resources Officer.

B. Involuntary Transfer

1. 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.
2. No employee shall be transferred if the employee has filed a viable grievance with the Civil Service Commission for harassment, unless the employee consents to such transfer (Public Law 34-42, Chapter 12, Section 10(a)(3)).
3. No employee shall be transferred for reporting or exposing bad business practices, illegal activities and unofficial conduct by public or University officials, (Title 4 GCA , Chapter 4, Section 4504.1).
4. No employee shall be involuntarily transferred into a line department or agency of the government of Guam without his consent.

C. Intra-departmental and Inter-departmental

Upon the approval of the appropriate Vice President, employees may transfer within the University when all of the following conditions are met:

1. The employee meets the minimum qualification 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.

Any such transfer shall require the clearance of the Vice President and the consent of the employee. The employee shall give the releasing unit reasonable notice of the transfer. Prior approval of the transfer is not required by the releasing unit or agency. The releasing unit or department/agency cannot require the employee to resign.

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.

D. Inter-Governmental

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

1. The position requires highly developed skills and technical abilities as determined by the Chief Human Resources Officer;
2. The employee meets the minimum qualification requirements for the position, including any assembled examination requirements;
3. The President or his designee approves.

4.502 Reemployment

A permanent classified employee who separated from the University through resignation while in good standing may be eligible for reemployment without competition to the same or comparable position within the University within four years from the date of separation upon the approval of the appropriate Vice President if such position is unfilled and funded. The former employee shall submit an official request to apply for reemployment to the Chief Human Resources Officer. For reemployment, the Chief Human Resources Officer 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. Per section 6.006, 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.

4.503 Reinstatement Immediately After Active Military Service

In accordance with the Uniform Services Employment Reemployment Act (USERRA) (Appendix C), to be entitled to reinstatement rights at the University, a veteran must meet the following requirements:

- A. Leave a classified position at the University for the purpose of entering the Armed Forces, voluntarily or involuntarily;
- B. Have completed his original probationary period;
- C. Serve for not more than four years plus any involuntary service thereafter, plus a one-year additional voluntary extension of active duty, if this is at the request and for the convenience of the Federal Government;
- D. Satisfactorily completed the period of active duty and has a certificate of discharge under

honorable conditions;

- E. 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;
- F. Prior to enlistment in the Armed Forces, the employee must have submitted a military leave without pay request to the Vice President for approval accompanied with a copy of the military orders or other appropriate documents authorizing such duty;
- G. Make timely application for reinstatement within ninety (90) days after discharge from military service.

Upon meeting the foregoing requirements, the veteran employee shall be 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 as per section 6.006. 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 4.503 C above.

4.504 Voluntary Demotions

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 is from a position in which he last held a permanent appointment;
- c. Such demotion shall require the prior approval of the Vice President with the consent of the employee;
- d. Movement is to a lower grade position within the same class series or from one class to another class of position provided that the employee is returning to a former permanent position or to a position within a former class series.

4.505 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 Promotion Potential (KPP) and the employee is now to be promoted to the higher level position (Title 4 GCA Section 6229.13), 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.

(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 the same basic functions; 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, non-competitive promotion is not authorized and the provisions of the Merit Career Plan must be complied with.

4.506 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 if 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 President must provide to the Chief Human Resources Officer a position description and justification for such detail (Title 4 GCA, Chapter 4, Section 4117).

B. Details shall be made only for meeting temporary needs of the University's programs, such as, but not limited to:

1. Details to meet emergencies or urgent needs occasioned by abnormal workload, change in organization, or unanticipated absences: or
2. Pending description and formal classification of a new position; or
3. To replace an incumbent who is undergoing training.

C. All details in excess of thirty (30) calendar days must be documented and submitted to the Chief Human Resources Officer 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 a probationary period.

E. No employee shall be temporarily assigned or detailed to a position nor, shall the employee assume the duties and responsibilities of a position other than the one to which he has been appointed for a period in excess of ninety (90) days within a calendar year, unless the President obtains an exemption upon written application to the Civil Service Commission. Such exemption shall not extend beyond the additional ninety (90) days within that calendar year. No exception shall be granted to the ninety (90) day detail limitation except upon express approval of the Civil Service Commission.

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- 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 on a permanent basis.
 - 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 up to thirty (30) calendar days, work normally performed by another employee.
 - H. Employees serving on a detail in excess of thirty (30) consecutive calendar days in a position having a higher pay grade than his regular position, shall receive a retroactive payment differential in accordance with Rule 6.008 provided, the detail appointment is consistent with classification principles as determined by the President.
 - I. Employees serving a detail in excess of thirty (30) calendar days in a position having a lower pay grade shall not have their pay adjusted to the lower pay.
 - J. An employee may not be detailed beyond ninety (90) calendar days to any classified position, unless the employee has met all of the qualification requirements of the position.
 - K. A classified employee who is temporarily detailed to an unclassified or Academic position must follow the rules provided herein.

4.600 TYPES OF APPOINTMENTS

4.601 Permanent Appointment

A permanent appointment is granted to an employee after successfully completing a probationary period in the permanent position as per section 4.602.

4.602 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 University 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 or limited term appointment, who are subsequently appointed to the same position in the same unit under a permanent appointment, shall be credited for time served towards their probationary period under temporary appointment provided they received the temporary or limited term appointment through a competitive process. Those who have not been appointed through

a competitive process shall compete for the position in order for the time served in the position to be credited to the probationary period.

2. In entry-level trainee positions, the probationary period may be established at not more than twelve (12) months, upon the approval of the Vice President
3. The Vice President may extend an original probationary period not to exceed a total of (12) months. Written notice of the extension shall be given to the employee by the Vice President prior to the expiration of the probationary period. Failure to provide written notice of the extension of the probationary period does not automatically lead to the acceptance of the employee into the classified service.

D. Discontinuance of a Probationary Appointment

If the employee fails to render satisfactory service during the original probationary period, the Vice President may dismiss him at any time. The Vice President shall submit a notice of dismissal, together with the employee's performance evaluation report, to the Chief Human Resources Officer. The dismissal notice shall indicate the effective date of the action..

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

4.603 Temporary Appointment

A. Limited-Term Appointments for Classified, Unclassified and Non-Classified

1. Limited-term appointments may be made to fill temporary vacancies in permanent positions, where there are no eligibles or an insufficient number of eligibles for that particular position.
2. Where limited-term appointments are proper, the appointments shall not be made until the Chief Human Resources Officer certifies that the candidate has qualified for the position.
3. Limited-term appointments are for a specified period not to exceed one (1) year unless authorized by the Vice President and subject to availability of funds.
4. Limited-term appointments may be made without competition except that any person appointed on a limited-term basis must meet all qualification requirements including any assembled examinations.
5. Limited-term appointments are unclassified appointments and may be terminated at any time prior to the expiration of the term of employment.
6. Employees appointed on a limited-term basis may be given the usual employee benefits, as approved by the Vice President and subject to the availability of funds.
7. Limited-term employees do not serve a probationary period and will not become classified employees unless and until they apply through the merit system..

B. 90-Day Appointments

Temporary appointments shall be consistent with the provisions of Title 4 GCA, Chapter 4, Sections 4117 as follows:

1. A person may not be temporarily employed in a non-professional capacity for more than 90 in any calendar year.
2. A person may not be temporarily employed in a professional capacity for more than 90 workdays except, upon a contract in writing and a determination in writing by the President that such employment is critical to either 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 or one. Any person whose job description does not have as its first digit zero or one 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 Chief Human Resources Officer prior to appointment.
 - 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.

4.604 Contracts for Personnel Services

- A. Contracts shall not be used as a substitute for merit system employment. Except on a limited and temporary basis, the University will not contract for personnel services, which normally are performed by classified 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 after approval by the Vice President shall be submitted to the University's Legal Counsel for review and approval as to form. All contracts of whatever nature shall be executed upon the approval of the Vice President
- D. Factors to be considered which could provide an adequate justification for using contracts with individuals for services include:

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1. Emergency short-term (less than two (2) months) normally exempt from competitive appointment methods;
 2. Temporary – to augment staff during peak load periods.
 3. Part-time professional work;
 4. Inability of the University's merit personnel system to provide qualified employees;
 5. A contract for expert consultation services not available in the University, 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 University's functions;
 6. Part-time services of a medical, dental, legal, or other professional specialists; and
 7. Contract with an individual to produce an identifiable work product.

4.605 Vacation Employment for Students

The President may employ during the vacation period between school years, at a rate not exceeding the minimum wage specified any applicable Federal or Guam law, students of the various public or private schools in Guam who are at least sixteen (16) years of age, provided that such employment may not exceed eight hours in one day and five days in one 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 University under this section shall not be eligible for retirement, sick, or annual leave benefits, and except as may be specifically provided therein, the personnel rules shall not apply to such employment, provided, however, that such employment shall be considered as employment for purposes of the Worker's Compensation Act, pursuant to Title 4 GCA, Chapter 4, Section 4112 and the availability of funds.

4.700 RECRUITMENT ABOVE STEP

Step 1 of the Pay Grade assigned to a classified position shall be the regular rate for initial employment; however, provided that the President may with the approval of the Board of Regents, authorize initial employment at a higher step not to exceed Step 10, if such action is warranted by recruitment difficulties or exceptional qualifications. The petition shall be posted upon the approval of the President on the University's website for ten (10) days (except for Saturdays, Sundays and government of Guam holidays). The petition to the Board of Regents shall be made before an applicant is hired (Title 4 GCA, Chapter 6, Section 6205).

4.800 EMPLOYMENT ELIGIBILITY VERIFICATION

- A. The Chief Human Resources Officer or his designee must complete Section 2 of the Form I-9; Employment Eligibility Verification (Appendix E) by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins.
- B. If the employee is authorized to work, but is unable to present the required document(s) within three business days, he must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days.
- C. If the employee is hired for a duration of less than three business days, Section 2 of the Employment Eligibility Verification, Form I-9, must be completed at the time employment

begins.

D. The Human Resources Office must record:

1. document title
2. issuing authority
3. document number
4. expiration date, if any
5. the date employment begins

E. The Chief Human Resources Officer or his designee must sign and date the certification.

F. The employee must present original documents.

G. The Human Resources Office may, but is not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the Form I-9. However, the Chief Human Resources Officer or his designee is still responsible for completing the Form I-9.

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 all classified positions and for the reasonable and consistent assignment of classes of positions to pay grades.

Compensation of position classes shall be based on The Hay Methodology concepts of Know-How, Problem Solving, and Accountability. Where not otherwise specified by laws, pay relationships shall take into consideration prevailing wage in the primary area of recruitment for the same or related classes of positions.

5.000 POSITION CLASSIFICATION SYSTEM

5.001 The Official Classification Plan

Title 4 GCA, Chapter 6 established the "Uniform Position Classification and Salary Administration Act of 1991".

5.002 Preparation and Publication of Classification Standards

Classification standards established by the Director, Department of Administration 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.

5.003 Delegation of Classification Authority and Responsibility

The President, is authorized to assign the Chief Human Resources Officer to classify individual positions under its jurisdiction, subject to:

- A. Existing policies and procedures;
- B. Class standards published by the Director, Department of Administration;
- C. Post-audit by the Civil Service Commission; and
- D. Classification appeal by the employee.

The President may review published standards and may submit requests to the Chief Human Resources Officer for amendments to the standards for approval by the Director, Department of Administration.

5.004 Classification Maintenance

- A. The Director, Department of Administration may review positions in the University to determine whether positions are allocated to classes and grades in conformance with, or consistent with the uniform and unified system of position classification and compensation.
- 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 years from the date of downgrade as provisioned in Rule 5.012. The President shall take action in accordance with such determination.
- C. Whenever the Director, Department of Administration finds that the positions are not placed in classes and grades in conformance with the uniform and unified system, it may prescribe, revoke or suspend in whole, or in part the classification authority of the President. Further, the Director, Department of Administration 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 Director, Department of Administration 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 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 President 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 standard.
- 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 University must prepare a written description of duties and responsibilities of each budgeted position on a form prescribed by the Director, Department of Administration. A group of 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 President, the Chief Human Resources Officer and the Unit Head. The position classifier must certify as to the proper classification of the position. Copies of the position description must be filed with the Director, Department of Administration, the University's Human Resources Office and the respective unit 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 President and the Chief Human Resources Officer so that a review of the position can be made to determine the proper classification of the position.

5.008 University Responsibilities

- A. The University 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 University 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 the Unit Head, the supervisors or the employees, the President or the Chief Human Resources Officer must review, at reasonable intervals as appropriate to changes taking place, all positions of the classified service within the University 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 Unit Head within the University shall submit a position description to the Chief Human Resources Officer via the President in order that a determination of proper classification may be made. The Chief Human Resources Officer will recommend an allocation. After the President approves the allocation, he shall notify the Unit Head within the University affected, in writing, of the approved allocation. No position may be filled until the Chief Human Resources Officer certifies that the position is properly classified. Copies of all classification reviews shall be filed with the Director, Department of Administration for post-audit purposes.

5.011 Reclassification/Reallocation of Positions

- A. The Chief Human Resources Officer may, upon his own initiative, or upon the written request of a permanent employee, the Unit Head, or the President, review the duties of any position to determine if it is properly classified; and shall take appropriate action as necessary in accordance with the Director, Department of Administration regulations, policies and procedures.

In making a request for the review of a position, the employee, Unit Head within the University or the President 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 Chief Human Resources Officer and the Vice President shall, after a thorough review and approval of position, notify the Unit Head within the University and the 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 and the personnel action shall be filed with the Civil Service 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 President's and the Chief Human Resources Officer's approval and;
- 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.
- C. Six months prior to execution of the downgrade, a classification audit must be performed to ascertain the current duties and responsibilities of the incumbent.

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 series 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 class 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 as per section 5.011, the requirements of the Merit Career Plan per section 14.800 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 Unit Head in which the position is located.
- 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 President and Chief Human Resources Officer, 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 was prepared, and which was 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 Unit Head within the University shall notify the affected employees of the original notice of classification action immediately upon receipt from the President and the Chief Human Resources Officer. Requests for administrative review shall be filed with the President and the Chief Human Resources Officer within twenty (20) calendar days of the date of notice of classification action was received by the employee.
- E. The President and Chief Human Resources Officer shall take such action as deemed appropriate, which may include rescinding the earlier action and taking a different classification action. The affected employee and Unit Head within the University shall be notified of the action taken.
- F. Any permanent employee whose position is reviewed may appeal to the Civil Service Commission. The employee may file a written appeal with the Civil Service Commission within fifteen (15) calendar days upon receipt of the decision of the President and Chief Human Resources Officer.

5.015 Creation of New Positions and Classes of Positions

- A. New positions or classes of positions may be created by the President and Chief Human Resources Officer when necessary for the efficient performance of the duties and functions of the University, in accordance with Title 4 GCA, Chapter 6, Section 6303. The petition of the President and Chief Human Resources Officer shall include:

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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 positions listed pursuant to Title 4 GCA, Chapter 4, Section 4101.1;
 4. The position description;
 5. The proposed pay range and demonstration of compliance with Title 4 GCA, Chapter 6, Section 6301;
 6. A fiscal note as that term is described in Title 2 GCA, Chapter 9, Section 9101 et seq.; and any other pertinent information.
- B. The petition shall be posted on the University’s website for ten (10) days (except Saturdays, Sundays and government of Guam holidays). After the posting, the President and Chief Human Resources Officer shall forward the petition, along with evidence of compliance with Title 4 GCA Section 6303.1, to the Board of Regents who, if they approve the same, shall approve the petition by resolution and file the petition and resolution for record with the Director, Department of Administration and the Legislative Secretary.
- C. No new position may be filled until after compliance with the provisions of this Section and thirty (30) days have elapsed from the date of filing with the Legislative Secretary.
- D. In accordance with Title 4 GCA, Chapter 6, Sections 6205, 6303 and 6303.1, when creating a new position, transparency and disclosure shall include:
1. Prompt notice of the posting shall be provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam. In this section “prompt notice” shall be defined as no more than five (5) work days from the date of approval.
 2. Petitions are public documents for the purpose of Title 5 GCA Chapter 10 Article 1 (Sunshine Law).
 3. Any attempted creation of a position not in compliance with the provisions stipulated above shall be void.

5.100 COMPENSATION PLAN

5.101 Assignment of Classes to Pay Grades

Pay grades for all classes of positions are assigned by the Director, Department of Administration pursuant to Title 4 GCA Chapter 6 Article 3.

5.102 Evaluation of Classes for Assignment to Pay Grades

- A. Pursuant to Title 4 GCA Chapter 6 Article 1, classes shall be evaluated on the basis of job know-how, problem solving and accountability consistent with the Hay Methodology concepts and salary administration procedures.

B. 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.

2. Significant differences between related classes in job know-how, problem solving and accountability shall be reflected in the relative difference in assignment to pay grades.

CHAPTER 6

PAY ADMINISTRATION

STATEMENT OF POLICY

It is the University's policy to provide a uniformed pay administration to facilitate pay actions, while ensuring the proper compensation of employees and to provide the opportunity for the University to carry out its mission.

These pay administration rules are subject to the Board of Regents' policies and procedures.

6.000 PAY ACTIONS RELATED TO APPOINTMENTS

6.001 Compensation at Initial Appointments

All initial appointments shall be made at the first step of the appropriate pay grade, except as provided below:

- A. The President may authorize initial employment in a position at a higher step not to exceed Step 10 of the pay grade, if such action is warranted by recruitment difficulties or exceptional qualifications. This petition to the Board of Regents shall be posted on the University's website for ten (10) days (except for Saturday, Sunday and government of Guam holidays). This petition to the Board of Regents shall be made before the applicant is hired.
- B. The increment schedule consisting of Steps 11 through 20 shall not be used for recruitment above-step.
- C. The Board of Regents may establish policies to administer this action.
- D. In accordance with Title 4 GCA Sections 6205, 6303 and 6303.1, when recruiting above minimum step, transparency and disclosure shall include:
 1. Prompt notice of the posting shall be provided to each newspaper of general circulation and broadcasting station, which airs a regular local news program within Guam.
 2. Petitions are public documents for the purpose of Title 5 GCA Chapter 10 Article 1 (Sunshine Law).
 3. Any attempted above-step recruitment not in compliance with the provisions stipulated above shall be void.
 4. In this section "prompt notice" shall be defined as no more than five (5) work days from the date of petition.

6.002 Compensation Adjustment Following a Promotion

- A. An employee, when promoted from one class to another of a higher pay grade, shall receive a salary increase closest to and not less than a two-step salary increase in the pay grade held prior to the promotion.
- B. For employees on Step 20 or beyond prior to the promotion, an equivalent rate increase provided in Rule 6.002.A above is added to the salary held prior to the promotion for the

purpose of determining the employee's salary in the higher grade.

6.003 Compensation Adjustment Following a Voluntary Demotion

The minimum reduction shall be to the salary in the new pay grade closest to, but not more than, the employee's salary at the time of demotion.

6.004 Compensation Adjustment Following an Involuntary Demotion

- A. Employees demoted for adverse action shall have their compensation reduced at least one step and may, upon the discretion of the Vice President have their compensation reduced to the lowest step on the pay grade of the position to which they are demoted.
- B. Employees demoted involuntarily due to fiscal constraints or lack of funds shall be compensated at a rate, which is less than the rate held prior to the demotion.

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

Employees who are unfit to perform the duties and responsibilities of their position due to a medical condition, may be demoted to the salary that is closest to and not more than their current salary; provided that the maximum salary authorized shall not exceed Step 20 of the demoted position.

6.006 Compensation Adjustment Following Reemployment

A person, who is reemployed under the provisions of Rule 4.502, 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.

6.007 Compensation Following a Transfer

An employee who is laterally transferred shall continue at the same pay grade and step.

6.008 Compensation Following a Detail Appointment

- A. Employees serving a detail appointment, consistent with Rule 4.506 in a position having a higher pay grade than his regular position, shall receive a salary increase closest to and not less than a two (2) step increase in the current pay grade. Payment differential shall be made when the employee has served a waiting period of thirty (30) consecutive calendar days from the effective date of the detail appointment.
- B. At the discretion of the Vice President, employees detailed to an unclassified position, whose detailed step does not exceed Step 10, may receive up to Step 10 of the unclassified position or the difference in the amount between the step in the pay grade he holds and the salary paid.

6.100 PAY ACTIONS RELATED TO REALLOCATION OF POSITIONS

6.101 Compensation Following Reallocation of Position

- A. When a position is reallocated to a class of a higher pay grade, the employee shall receive a salary increase closest to, and not less than a two-step increase in the pay grade held prior to

reallocation.

- B. When a position is reallocated to another class of the same pay grade, the salary of the incumbent shall remain unchanged.
- 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-year waiver, as provided in Rule 5.012.

6.102 Salary Adjustment Upon Demotion Due to Position Reclassification Action

- A. The salary in the new grade that is closest to and not more than the incumbent's salary shall be identified as the incumbent's step in the new pay grade.
- B. Implementation of the reclassification in terms of position title shall be made upon approval of the reclassification determination by Chief Human Resources Officer.
- 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.

Where there is a change to a shorter waiting period (Steps 1-7), the salary increment date before the reclassification shall be maintained. Where there is a change to a longer waiting period (Steps 8 - 10, 11 - 20), the new waiting period shall be applied.

6.200 PAY ACTIONS RELATED TO PAY GRADE REASSIGNMENT

6.201 Pay Grade Reassignment

Any employee, Unit Head or immediate supervisor may initiate a written request for consideration of an amendment to the pay grade allocation for the class of position with justification to the Chief Human Resources Officer. If the findings of the Chief Human Resources Officer indicate the need to amend the pay grade allocation, he shall submit a written request with justification to the Director, Department of Administration in accordance with the Department of Administration's policies and procedures. Changes adopted shall become effective as directed by the Director, Department of Administration.

6.202 Pay Adjustment Following Pay Grade Reassignment

When a pay grade for any class is reassigned to a higher or lower pay grade and there is no change in the position classification, the pay adjustment shall be consistent with Department of Administration's current policies.

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 by law.

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. Where there is no change in the waiting period, the salary increment date in the pay grade before the reclassification shall be maintained. Where there is a change to a shorter waiting period (Steps 1-7), the salary increment date before the reclassification shall be maintained. Where there is a change to a longer waiting period (Steps 8-10, 11-20), the new waiting period shall be applied.

C. Personnel Actions Not Affecting Increment Anniversary Dates:

The following personnel actions shall not change increment anniversary dates:

1. The pay grade for a class or classes of positions has 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 Department of Administration

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 University 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 receive such increase according to the following schedule and upon certification by the Vice President that satisfactory service has been

rendered for the performance rating period preceding such increase, (Title 4 GCA Section 6202);

- A. Employees at Steps 1 through 6 shall be entitled to one step adjustment after 12 months of satisfactory performance;
- B. Employees at Steps 7 through 9 shall be entitled to one step adjustment after 18 months of satisfactory performance;
- C. Employees at Steps 10 through 19 shall be entitled to a one step adjustment after 24 months of satisfactory performance.
- D. Employees at Step 20 shall be entitled to a pay increment equivalent to 3.5 percent of an employee's base salary, subject to satisfactory performance. The schedule will be determined by the Civil Service Commission.

When the Vice President determines that a particular employee shall not be granted a salary increment, the Vice President shall inform the Chief Human Resources Officer of such denial thirty (30) days prior to the employee's anniversary date as illustrated in Rule 10.003. If the Chief Human Resources Officer 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.

CHAPTER 7

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) found in Title 22 GCA Chapter 3.

7.000 GENERAL PROVISIONS

7.001 Workweek

- A. The basic workweek is forty (40) hours. Alternatively, a workweek is a regular recurring period of 168 consecutive hours seven 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 workweek may be in accordance with office hours, with designated shifts, or with such flexible or variable hours program as are implemented by the University provided that the University shall not operate less than a forty (40) hour workweek, except as provided by law.

7.002 Break Periods

A full-time employee may be allowed a fifteen (15) minute break period in the first half and second half of the workday 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.

7.003 Meal Periods

The meal periods shall apply as follows pursuant to Title 22 GCA, Division 1, Chapter 3, Article 1, Section 3107(c):

- 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 workday 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 Unit Head.
- 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.

7.004 Workweek Schedule

- A. The schedule of workweek for shift workers will be prepared and prominently posted two (2) weeks where possible up to one (1) week 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 twenty-four (24) hours prior notice. Whenever possible, work schedules should permit an employee to enjoy a holiday on the day it is observed. The posting requirements may be waived if the schedule is intended to stay in place continuously.
- B. The Unit Heads may permit flexible work schedules as may be appropriate to meet the needs of the University.

7.005 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 sixteen (16) hours consecutively, or in one 24-hour period.
 - 2. An employee shall not be authorized to work more than eighty-four (84) hours total within a single seven-day period.
 - 3. An employee shall not be required to work more than twenty-eight (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 the Vice President; or
 - 2. In cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activities or emergencies.

Should such an occasion for Item 1 arise, written documentation must be submitted to the Vice President within forty-eight (48) hours of such occurrence.

7.100 MINIMUM WAGE

Employees shall be paid not less than the established minimum wage for Guam. (Title 22 GCA, Division 1, Chapter 3, Article 1, Section 3105)

7.200 HOURS WORKED

As a general rule, hours worked will include:

- A. All time during which an employee is required to be on the University's premises or at a prescribed work place.
- B. 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 workday to the end of the workday, with the exception of periods when the employee is relieved of all duties for the purpose of eating meals.

C. All time worked in accordance with the UOG Telecommuting policy.

7.300 HOURLY RATE OF PAY

The hourly rate of pay is the rate published by the Director, Department of Administration.

7.400 OVERTIME

7.401 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 ½ 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.
- 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.
- E. Employees in the executive, administrative, and professional categories are expected to work additional hours required to get the job task completed. A Vice President may approve overtime for a classified employee in the executive, administrative, and professional categories who is asked to consistently work additional hours beyond what is normal for the category.

7.402 Occurrence of Overtime Work

- A. Overtime work may be authorized by the Vice President in cases of emergency or when the best interests of the University indicate that overtime work is required.
- B. The Vice Presidents shall hold hours worked by the employees to the University's established 40-hour workweek standard, except in those cases where excessive hours of work are necessary because of weather, health, safety conditions, necessary activities, or emergencies.
- C. It shall be the responsibility of the Vice President to determine that the provisions of overtime pay are administered in the best interest of the University's services. Recognizing that the Vice Presidents are responsible for the manner in which overtime work is authorized, it is especially important for all options to be explored before authorizing overtime.

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- D. The President 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 President.
 - 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 as approved in advance by the Vice President.
 - 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.

7.403 Emergency Situations Defined

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 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 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 President determines that the responsibilities prescribed for the University cannot be accomplished unless overtime work is authorized.
- D. Employees who work during typhoon emergency periods in accordance with 4 G.C.A. §6226, until the emergency is over as declared by the Governor or until the Governor declares that government employees are returned to a regular work status during such emergency period.

7.404 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 hours of compensatory time under the FLSA, as amended, shall be paid cash wages of time and one-half 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 40 hours a week may not be waived by an agreement between management and the employee except provided in Rule 7.405.

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- E. No person shall be required to work overtime unless funds for overtime pay are available.
- F. In accordance with 4 G.C.A. §6226, employees, who work during typhoon 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 unclassified service, except for the Presidents and the Vice-Presidents whose regularly scheduled 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 positions and therefore are not eligible for administrative leave.
 2. Employees not occupying permanent positions in the classified service, where required to report to, and did work during such 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 President and the Vice-Presidents 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 President and the Vice-Presidents, 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.

7.405 Compensatory Time Off In Lieu of Overtime Pay

- A. In the absence of any funds for overtime compensation there will be a mutual agreement to work between the employee and management, before the work is performed. A record of this agreement must be kept with University's Payroll Office.
- B. The number of hours of overtime work shall be converted to compensatory time credit at the rate of 1 and 1/2 hours for each hour of overtime work, or portion of the hour consistent with Rule 7.401.
- C. Any additional overtime work performed by employees, who have already accumulated the maximum 240 hours of compensatory time off, or 160 hours of actual overtime work, compensatory time off credits will be compensated not later than the pay period immediately

following the period during which the overtime was worked.

- D. When sickness lasting one (1) or more days occurs during a scheduled compensatory time off, and the employee substantiates such to the satisfaction of the Unit Head, 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.
- E. 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 unit.
- F. An employee on compensatory time off shall be deemed to be on official leave with pay status.
- G. The Vice President may require an employee to use any accumulated compensatory time off credits upon mutual agreement with the employee as to the use of these credits.

7.406 Conversion of Compensatory Time Off to Cash

- A. The Vice President 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.

7.500 NON-OVERTIME WORKWEEKS

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

7.600 UNAUTHORIZED WORK

All hours exceeding the 40-hour workweek worked by an employee must have the appropriate Vice President's authorization before overtime pay is given. 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 Vice President has reasons to know of such practice. The University is not obligated to compensate any employee for work which was not authorized by the Vice President in advance.

7.700 HOLIDAY PAY

- A. Employees will be compensated at their regular rate of pay and generally need not report to work on any official holiday of the University.

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- B. When an employee is absent from duty at the close of the workday immediately preceding a holiday, and at the beginning of the workday 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.
 - C. 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 these rules.

7.800 NIGHT DIFFERENTIAL PAY

Work performed between the hours of 6:00 p.m. to 6:00 a.m. shall be compensated in accordance with Title 4 GCA, Chapter 6, Section 6217.

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

7.900 DUAL EMPLOYMENT

Pursuant to Title 4 GCA, Chapter 6, Section 6504.1, no classified employee of the University may be employed on a full-time, part-time, or contractual basis 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, and instructors for the Guam Community College and University of Guam and instructors who may be employed during the summer, or at any other time not in conflict with their primary employment if they are employed in the government of Guam.
- B. Persons employed by the Youth Congress.
- 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, part-time judges or part-time referees.
- F. Persons employed on a part-time or contractual basis who are individuals and family counselors or chemical dependency specialists.

7.910 OUTSIDE EMPLOYMENT

Employees may not be permitted to work at outside private employment in conflict with their

service to the University, nor such as would bring the University 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 University and only with the consent in writing of the President. Consent may not be unreasonably withheld. The President may review the adequacy of such request and the approval shall be renewed on an annual basis pursuant to Title 4, Guam Code Annotated, Chapter 4, Section 4105(d)(4). In the case of an employee placed on furlough, the Furlough Policy shall govern.

7.920 RECORD KEEPING

Records of hours worked and wages paid are required to be kept for each employee subject to this policy. The President 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. (Title 22 Guam Code Annotated, Chapter 3, Article 1, Section 3110)

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

7.930 OFFICIAL PERSONNEL RECORD

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

Employee records and its contents become the property of the University once surrendered to the University's Human Resources Office.

The address on file at the Human Resources Office shall be considered the employee's official address for purposes of the University's communications with the employee.

CHAPTER 8

LEAVES 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 University as monitored by the University's Payroll Office.

8.000 GENERAL PROVISIONS FOR LEAVE OF ABSENCE

8.001 Leave of Absence Defined

A leave of absence is an approved absence from duty, by the Vice President and is monitored by the University's Payroll Office, for a prescribed period of time, with or without pay.

8.002 Revocation of Leave

Approved leave may be revoked by the Vice President or any delegated representatives 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.

8.003 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 students and the public.

8.004 Form of Leave Application

Application for leave of absence shall be made in the form prescribed by the Chief Human Resources Officer.

8.005 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.

8.100 ANNUAL LEAVE

8.101 Policy

It shall be the policy of the University 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 Unit Head when the services of the employee are required after good faith consideration of the employee's request and operational requirements.

8.102 Requests for Annual Leave

Requests for annual leave will be submitted to the appropriate supervisor by the employee, at least four (4) weeks in advance, for leave in excess of forty (40) consecutive hours and twenty-four (2) weeks in advance for leaves less than forty (40) hours, in order to avoid unnecessary disruption of work. Reasonable consideration will be afforded for situations that arise suddenly.

8.103 Minimum Charge for Annual Leave

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

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

8.104 Accrual of Annual Leave

- A. Classified employees occupying permanent positions shall accrue annual leave in accordance with the following schedule, (Title 4 GCA, Chapter 4, Article 1, Section 4109):
 - 1. One-half day (four (4) 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 (6) hours) for each full bi-weekly pay period in the case of employees with five (5) years of service but less than fifteen (15) years of service.
 - 3. One (1) day (eight (8) hours) for each full bi-weekly pay period in the case of employees with fifteen (15) years or more of 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.

8.105 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.

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2. Period of service with the Armed Forces of the United States subsequent to August 1, 1950.
- 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.

8.106 Carry Over and Accumulation of Annual Leave

Annual leave accrued and unused in a leave year may be accumulated and carried over to the next leave year except that total accumulation by such carry over shall not exceed 320 hours. Annual leave in excess of 320 hours shall be automatically credited to accumulated sick leave, provided that not more than 100 hours shall be credited to sick leave at the end of each fiscal year. All other excess annual leave accrued unused in a fiscal year shall be automatically forfeited at the end of such year. However, employees should be given an opportunity to exhaust excess leave. The determination of accumulation of annual leave, and crediting of excess hours sick leave, shall be done at the end of each fiscal year (Title 4 GCA Chapter 4, Section 4109(c)(2))

8.107 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.
- B. Supervisors share the responsibility with employees for avoiding forfeiture of annual leave. Supervisors will develop by the end of the second quarter of each fiscal year, a schedule of annual leave for employees under their supervision. Employees will be expected to submit reasonable estimates for use of their leave for the current leave year.

8.108 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) (Appendix F).

8.109 Annual Leave Requests to Participate in an Athletic Contingent Recognized by the Guam National Olympic Committee

Pursuant to Title 4 GCA Chapter 4, Section 4109(f), an employee, who is a participating athletic, coach or administration 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 Unit Head 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.

8.110 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 (Appendix G).

8.111 Advance Lump Sum Payment for Annual Leave

When an employee takes authorized annual leave they will receive their pay through the regular ACH transfer. If an employee desires to receive a lump sum payment in advance of their annual leave, they may do so by submitting a request to their supervisor two weeks in advance of the leave start date. Title 4 GCA, Chapter 4, Section 4111.

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 University 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.

8.112 Lump Sum Payment for Annual Leave upon Separation or Transfer

- A. Pursuant to Title 4 GCA, Chapter 4, Section 4111, when an employee is separated from the University's service, he shall be given a lump sum payment for any accrued and unused annual leave 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 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. Pursuant to Title 4 GCA, Chapter 4, Section 4109, any employee who has been authorized to accumulate annual leave beyond 320 hours shall not be allowed lump sum compensation or retirement credit for annual leave in excess of 320 hours.

8.200 SICK LEAVE

8.201 Purpose and Eligibility

- A. Sick leave shall be allowed to an employee when the employee:

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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
 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 pursuant to Title 4 GCA, Chapter 4, Section 4108(c)(2).

“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.

Immediate family member means the employee’s spouse, common law, parents, parents-in-law, grandparents, brothers, sisters, children, grandchildren, any step or adoptive parents, adopted children or grandchildren of both the employee and the spouse, a guardian or person in loco parentis

- 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. No employee shall be allowed to undertake gainful employment while on sick leave status.
- C. Responsibility for compliance of this section shall remain with the President and University’s Payroll Office subject to such audit as ordered by the Director, Department of Administration.

8.202 Notification of Sickness

Notification of absence on account of sickness shall be given to the immediate supervisor on the first day of absence, 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. This can be subsequently withdrawn by the supervisor if the impracticality of notice is confirmed.

8.203 Application for Sick Leave

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

8.204 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.

8.205 Accrual of Sick Leave

Employees occupying permanent positions shall accrue sick leave at the rate of one-half day (four (4) hours) for each bi-weekly pay period in which the employees are on pay status for the entire ten (10) days. If the employee is not on pay status i.e. regular time, annual leave, sick leave, etc. for the entire ten (10) day period, no accrual of sick leave shall be granted.

8.206 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>
00 - 14	00
15 - 30	30
31 - 60	60

8.207 Accumulation and Carry Over of Sick Leave

Unused sick leave may be accumulated and carried over to succeeding leave years without limitation. (Title 4 GCA, Chapter 4, Section 4108(b))

8.208 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 autonomous agency, authority or entity within the government of Guam. Sick leave accrued and unused at the time of separation from the government shall remain credited to the employee if such employee returns to government service. An employee, approved for disability retirement, shall exhaust his accrued sick leave prior to effecting his retirement. (Title 4 GCA, Chapter 4, Section 4108(g))

8.209 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 Vice President. 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 Vice President.
- B. If an employee is separated from service without having earned all of his 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. (Title 4 GCA, Chapter 4, Section 4108(5))
- 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.

8.210 Physician's Certification of Incapacitation

- A. An employee who is absent because of illness, injury, or quarantine in excess of three

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 pursuant to Title 4 GCA, Chapter 4, Section 4108(d). The Supervisor 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. (Title 4 GCA, Chapter 4, Section 4108(e))
- C. If the medical certification furnished by the employee is not acceptable, the appropriate Vice President may require the employee to submit a medical examination. Based on the medical certification, the Vice President:
 - 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 appropriate Vice President, 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 8.700.

8.211 Lump Sum Payment for Sick Leave Prohibited

No employee who separates from the University for any reason may receive a cash payment for sick leave accrued at the time he leaves such service, except that upon the death of the employee, a lump sum payment of unused sick leave shall be made in accordance with Title 4 GCA, Chapter 4, Section 4108(h) and except for lump sum payments to participants in the Defined Contribution Retirement System upon retirement.

8.300 ON-THE-JOB INJURY

8.301 Policy

It is the policy of the University that all employees are provided with safe working conditions. This policy is intended as an employee benefit separate and apart from Worker's Compensation Law. Unless otherwise provided by statute or the Board of Regents, this policy shall control in the event of conflict with other rules or policies. (Title 22 GCA Chapter 9)

8.302 Definitions

- A. Classified employee: A probationary or permanent status employee occupying a classified position.
- B. Day: A calendar day unless otherwise specified.
- C. Death: Death resulting from an on-the-job injury.

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- 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 qualification or equivalent pay grade as the employee's regular position.
 - G. Management Official: Official with supervisory or management responsibilities. Need to improve this.
 - 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 approved by a supervisor.
 - 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 the government of Guam Executive, Judicial or Legislative departments, agencies, or instrumentalities, inclusive of semi-autonomous and autonomous agencies, and any other government of Guam entities and public corporations.
 - 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 appropriate Vice President under the provisions of Rule 8.300.
 - Q. WCC: Worker's Compensation Commission
 - R. Civil Service Commission hereinafter referred to as "Commission": The Commission shall hear appeals from the adverse actions taken to suspend, demote or dismiss an employee from the classified service if such right of appeal to the Commission is established in the personnel rules governing the employee. (Title 4, Chapter 4, Section 4403(b))

8.303 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 sixty (60) 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 sixty (60) day period or portions thereof, as certified to by the employee's physician, the appropriate Vice President 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 Vice President 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 sixty (60) day work-injury period, or, that portion of the work-injury period that the employee would have been entitled to had employee survived.
- B. If an employee is able to perform at least the essential functions of his position or undertake temporary assignments as provided in Rule 8.303.A.1, 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 Vice President or delegated representative 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 satisfactory rating.
- D. The employee on work-injury leave will continue to accrue annual and sick leave as provided in Title 4 GCA, Chapter 4, 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.

8.304 Responsibilities

- A. An employee's responsibilities include:
 - 1. Immediately reporting the injury to his supervisor. If the supervisor is not available, the employee shall report the injury to the University's safety personnel or any available management official within the University.

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2. Pursuing a workers' compensation claim in an expedient and timely fashion prior to the expiration of the approved work-injury leave 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 8.300.
 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 department, the Guam Occupational Safety and Health administration, and to the University's Human Resources Office for placement in the employee's medical record.
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 appropriate Vice President and other parties specified in Rule 8.304.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 supervisory official, or the Vice President.
4. Completion of all work-injury reports and immediate submission to the appropriate Vice President who shall submit such reports to the Chief Human Resources Officer within five (5) working days following the date of notification of injury.
5. Notifying the appropriate Vice President 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 8.603.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.

8.305 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 months after the date of injury may, if eligible, retire from the University as stipulated in Rule 9.104.
- B. If the classified employee is ineligible or declines to retire, the Vice President 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 University for which the employee qualifies, at the discretion of the Vice President. 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 Chief Human Resources Officer determines that a downgrade is not proper, the Vice President 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 Vice President 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 8.306. 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.

8.306 Appeal

A classified employee who is terminated in accordance with Rule 8.305 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.

8.400 EXCUSED ABSENCES/ADMINISTRATIVE LEAVE

8.401 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.

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

- A. Employees shall initiate a written request via his supervisor for an excused absence citing the purpose of the meeting/conference, dates involved, and costs, if any, to the Unit Head.
- B. The Unit Head will evaluate relative costs, availability of funds, potential for the employee's development, ability of the employee to grasp, retain, and implement material covered, and desirability of the University'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 University's Payroll Office.

8.403 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 workday. 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 allowances for travel, must be paid to the University. An employee may elect to request annual leave for the purpose of jury duty service, in which case the employee may keep the compensation earned for such jury duty. (Title 4 GCA, Chapter 6, Section 6505)

8.404 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 workday. 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.
- 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.

8.405 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.

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- 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.

8.406 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.

8.407 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 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 15 days at the beginning of the fiscal year. (Title 4 GCA, Chapter 4, Section 4119)
- B. The employee shall submit a copy of his military orders or other documents which place the employee on military training, to the appropriate Vice President.
- C. A copy of the official orders shall be filed in the employee's personnel record.
- D. Any absence in excess of fifteen (15) workdays may, upon request by the employee and approval of the Vice President, be covered by accrued annual leave credits or accrued compensatory leave credits. If not requested by the employee or approved by Vice President as annual or compensatory time off leave, such absences in excess of fifteen (15) workdays shall be considered as leave without pay. Employees shall not seek leave requests beyond what is required for their military training.
- E. Military Reservists and National Guard members who are government of Guam employees may participate in the leave-sharing program that is available to employees who share their leave for other reasons. The leave sharing is restricted to ninety (90) days in accordance with Title 4 GCA Section 4109.2(b).

8.408 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 workdays in a calendar year. Thereafter, the employee may utilize other forms of leave as provided in these rules.

8.409 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 President shall determine whether affected facilities or portions thereof, which are located in the in the area covered by the Executive order or proclamation, are to be closed. If the President determines that such facilities or portions thereof must be closed:
 - 1. Employees determined by the President 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 or until such employees are recalled to regular work status by the President, any of the Vice-Presidents, or the President's designee.
 - 2. Employees, required to remain on duty to provide essential services, shall not be entitled to accrue administrative leave while they are working during the period the facility is closed and the other employees are on excused leave.
 - 3. The President may recall to a regular or other work status, any employee occupying a non-permanent position in the classified or unclassified services whether essential or non-essential, for the period the facility is Closed.
- 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.

8.410 Disaster Service Volunteer Leave

- A. An employee of the University of Guam, who is a certified disaster service volunteer, may be granted leave from work with pay for up to an aggregate of fifteen (15) days, consecutively or non-consecutively, in any twelve (12)-month period to participate in specialized disaster relief services without loss of seniority or any already accumulated vacation time, sick time or earned overtime due to such leave. (Title 4, Chapter 16)
- B. An employee of the University of Guam shall be compensated by the 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 duty pay or any other form of pay or compensation in addition to the employee's regular pay.
- C. The University of Guam shall not be liable for workers compensation claims arising from accident or injury while an employee is on assignment as a certified disaster service volunteer

for the American Red Cross, or a registered non-governmental organization.

8.411 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 workdays in a calendar year. Such employee shall be placed on administrative leave.

8.412 Absence Pending Formal Investigation

An employee, who is under formal investigation by the University or other competent jurisdiction 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) workdays when the employee's absence from the work location is essential to the investigation.

8.413 Bereavement Leave

- A. An employee, upon request, shall be granted two days of excused absence with pay, and without charge to leave upon the death of any member of the employee's immediate family.
- B. Each employee requesting bereavement leave due to a death in the immediate family, shall submit a request to the appointing authority stating the name of the deceased and the relationship to the deceased.

8.414 Parental Leave

- A. Paternal leave shall be granted to an eligible employee (full-time classified or full-time unclassified) occupying a permanent position upon the birth or adoption of his child or child(ren). (Title 4 GCA Section 4107.1)
- B. Parental leave shall not exceed twenty (20) days of paid leave and must encompass the date of childbirth or adoption of a child(ren) five (5) years old or younger.
- C. Additional leave taken for such purpose may be charged against accumulated sick leave, or may be unpaid leave. Total leave, whether paternity, sick or unpaid leave, shall not exceed one hundred thirty (130) days without approval of employee's immediate supervisor.
- D. Eligible employees who take parental leave and additional leave surrounding the birth or adoption of their child(ren), while on a probationary status, will have their probationary status increased by the number of work days they miss during the leave period.

8.415 Pregnancy Related Medical Leave

- A. General Provisions of Leave Related to Pregnancy
 - 1. Pursuant to Title 4 GCA Section 4107, the female employee has the responsibility to provide the supervisor no less than ninety (90) days notification of intent to use pregnancy related medical leave and additional leave surrounding birth of a child(ren). If less than ninety (90) days is available, then notice shall be given as soon as is reasonably practical.

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2. The immediate supervisor is responsible for providing gainful employment and making use of the employee's 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 period of incapacitation based on certification by the employee's physician.
 4. 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 appropriate Vice President.
 5. Except for workforce reduction situations, an employee taking paid leave shall be restored to the same or equivalent position held prior to the leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment upon presentation of her personal physician's certification of fitness for duty or furnish other administratively acceptable evidence of fitness for duty. There shall be no loss of employment benefits accrued prior to leave, except for paid administrative leave expended.
 6. Eligible female employees (full-time classified or full-time unclassified) who take pregnancy related medical leave and additional leave surrounding the birth of a child(ren), while on a probationary status, will have their probationary status increased by the number of work days they miss during the leave period.
 7. The marital status of the pregnant employee shall not adversely affect her right to continued employment or use of leave.
 8. An employee who gives birth to multiple children at the same time is granted the same amount of pregnancy related medical leave as an employee who gives birth to a single child.

B. Granting of Pregnancy Related Medical Leave

1. Pregnancy related medical leave shall be granted to an eligible female employee as a result of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. Pregnancy related medical leave shall consist of paid administrative leave not to exceed ten (10) working days, encompassing the date of childbirth.
2. The employer shall approve up to one hundred thirty (130) total work days of leave, comprised of parental leave, sick leave, annual paid leave, compensatory leave, and leave without pay, in that order.

8.416 Participation in a Medical Examination Requested by the University

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.

8.417 Educational Leave Without Pay

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- A. In the event, the Unit head is desirous of establishing a program where employees are allowed to take educational leave with pay must have the program approved by the President in accordance with rules adopted by the University.
 - 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 University.
 - C. The granting of educational leave without pay shall be in accordance with the University's Employee Development Program.
 - D. Only employees who have completed their original probationary period are eligible to participate in this program.

8.418 Leave for Child School-Related Purposes

- A. An employee, who is a parent shall not exceed eight (8) hours in any calendar month of the year to meet with a teacher or other school official concerning the employee's child to find, enroll, or re-enroll the employee's child in a school or with a licensed child care provider, or to participate in activities of the school or licensed child care provider of his or her child pursuant to Title 22 GCA Chapter 3 Section 3703.
- B. The eight (8) hours may be utilized at the arrangement of the employee with the employee's supervisor, and may be split into smaller separate segments. Such leave hours are not accumulative.
- C. An employee requesting such leave shall provide documentation, whatever written verification of parental participation the school or licensed child care provider deems appropriate and reasonable, from the school or licensed child care provider as proof that he or she engaged in the child-related activities on a specific date and at a particular time.

8.500 HOLIDAYS

8.501 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 appropriate Vice President.
- 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 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.

8.502 Legal Holidays

Pursuant to Title 1 GCA Section 1000, Guam holidays are:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Liberation Day	July 21
Labor Day	1 st Monday In September
All Souls Day	November 2
Veteran's Day	November 11
Thanksgiving	4 th Thursday of November
Our Lady of Camarin Day	December 8
Christmas	December 25

Whenever a holiday listed above falls on a Saturday or Sunday, the Government of Guam shall follow the Federal government's practice for that holiday.

In addition to the holidays specified above, the Governor of Guam may declare by Executive Order additional non-permanent holidays for special purposes. No holiday declared by Executive Order shall be continued beyond the year in which the Executive Order is issued.

8.600 LEAVE WITHOUT PAY

8.601 Leave of Absence Without Pay

- 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 year by the appropriate Vice President. For extenuating circumstances, the Vice President 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.

8.602 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.

8.603 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 training 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 Vice

President. 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.

8.604 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 University or the serious needs of the employee is sufficient to offset the costs and administrative inconveniences to the University which results from the retention of an employee in a leave without pay status. Among these costs are:
 - 1. Encumbrance of a position;
 - 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 a 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 health.
 - 3. Retention of a desirable employee.
 - 4. Furtherance of a program of interest to the University.
 - 5. Other reason as judged beneficial or in the best interests of the University by the Vice President.

8.605 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 employee, and completion of which would contribute to the University'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-law.

8.606 Military Leave Without Pay - Special Provision

- A. Any classified employee of the University, except an employee who is employed in a temporary position, who is drafted, who volunteers for active military service, or who is ordered to active duty (not active duty military training as outlined in Rule 8.407) consistent with of Title 4 GCA Section 6218, shall be granted limited leave without pay, beginning the date of induction and, not to exceed a period of four years of military service. Active military service includes active duty with the U.S. Army, U.S. Air Force, U.S. Navy, U.S. Marine Corps, U.S. Coast Guard, National Guard of Guam or other services as provided by Guam law. Such leave of absence shall be verified by official orders or appropriate military certification, which shall be filed in the employee's personnel record.
- B. During such leave of absence, the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with these rules.
- C. All unused leave benefits shall be retained by the employee, whom shall have the same credited to the employee's record upon return to his assigned position consistent with of Title 4 GCA Section 6218.
- D. Upon termination under honorable conditions of such active duty, the employee shall be entitled to reinstatement in his previous position provided the employee shall notify his immediate supervisor, the President for reinstatement within ninety (90) days after discharge pursuant to Title 4 GCA, Chapter 6, Section 6218(d).
- E. If the employee volunteers for an additional tour of military duty, the employee shall forfeit the right to return to the position.

8.700 UNAUTHORIZED LEAVE OF ABSENCE FROM DUTY

Employees are required to be at work at 8 am unless otherwise arranged with their supervisor. An employee who is absent from work without contacting their supervisor or making prior arrangements with their supervisor is on unauthorized leave of absence from duty. An employee who is absent from duty without proper authorization shall be subject to disciplinary action and placed on unauthorized leave of absence without pay or for payroll purposes. Repeated unauthorized absences may be grounds for disciplinary action up to an including termination.

8.800 FAMILY AND MEDICAL LEAVE ACT

Leave of absence, for a maximum of 12 weeks during any 12 month period under the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) (Federal Regulations - 29 C.F.R. Part 825) and as amended by Section 585 of the National Defense Authorization Act for FY 2008 (Public Law 110-181, Enacted January 28, 2008), shall be approved for an employee for reasons stipulated in Section 8.801.

8.801 Purpose

- A. The birth of a child of the employee and the care of such a child.
- B. The placement of a child with the employee for adoption or foster care.
- C. The care of a spouse, son, daughter, or parent with a serious health condition.

D. A serious health condition of the employee.

8.802 Eligibility

An employee must have worked for the government of Guam for at least 12 months and for at least 1,250 hours during the year preceding the start of the leave. Temporary employees working part-time, after completion of 1,250 hours, are counted as completing the workweek even if they do not work a 40-hour workweek.

8.803 Medical Certification

A medical certification may be required by the Unit Head to show dates of anticipated absence due to medical reasons or for childbirth.

8.804 Leave Status

- A. Leave for the purpose of childbirth or placement of a child for adoption or foster care shall not be taken intermittently or on a reduced leave schedule.
- B. Leave for caring for spouse, son, daughter or parent or for the employee's serious health condition may be taken intermittently or on a reduced leave schedule.
- C. When leave is taken intermittently or on a reduced leave schedule, the employee's absence under the FMLA shall not exceed the equivalence of a full-time work schedule of 12 weeks (40 hours per week x 12 weeks = 480 hours).
- D. An employee may elect to substitute the following paid leave for any, or all of the periods of leave taken under the FMLA. However, the Vice President may not require an employee to substitute paid time off for any, or all of the period of leave taken.
 - 1. Accrued annual or sick leave, or compensatory time off (CTO) requested and approved consistent with rules governing the granted and use of annual or sick leave.
 - 2. Advanced sick leave approved under the same terms and conditions that apply to any other employee who requests advanced sick leave.
 - 3. Leave made available to an employee under the Leave Sharing Program.

8.805 Return to Employment

Upon completion of an employee's leave, an employee must be returned to the same position and pay, benefits and working conditions at the conclusion of the leave as applicable.

8.806 Procedures for Applying for FMLA

The University shall establish operating procedures for employees in requesting for FMLA leave.

8.900 LEAVE SHARING PROCEDURES

From time to time, classified employees in the civil service of the government of Guam have

occasion to need leave for personal reasons, but may have already exhausted the leave that they have earned and accrued. At times like these, particularly when the employee needs time off to take care of sick family members or in the case of the military reserves and National Guard members, being called to active duty in excess of fifteen (15) working days, the employee might be forced to take leave without pay. Through the generosity of the other employees, the affected employees could be relieved of the stress of this situation. (Title 4 GCA, Chapter 4, Section 4109.2)

- A. Whenever a government of Guam employee desires to transfer a number of hours of earned sick leave or annual leave to another employee in any department or agency of the government, a formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave.
- B. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family.
- C. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the President. The President shall direct the Payroll Division to transfer the approved number of hours to the recipient.
- D. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick or annual, that the employee needs and the unit head shall then approve the leave request.
- E. Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis.
- F. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred.
- G. Participation in the leave sharing program shall not exceeding ninety (90) working days, shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness.
- H. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period.
- I. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.
- J. If the hourly rate of pay of the donor is less than the hourly rate of pay of the recipient, the leave will be paid at the hourly rate of the donor. If the hourly rate of pay of the donor is greater than the hourly rate of pay of the recipient, the leave shall be paid at the rate of pay of the recipient.

CHAPTER 9 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 safe and healthful environment for employees and for the public when using the University's facilities, by establishing/maintaining and properly supervising an active safety and health program tailored to meet the needs of the organizations.

9.000 MEDICAL STANDARDS

9.001 Establishment of Medical Standards

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

The President is authorized to establish medical standards in order to:

- A. Ensure that persons seeking employment with the University 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 appropriate Vice President 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.
- D. The medical exam will be paid by the employee.

9.002 Kinds of Employment Medical Examinations

The Vice President is authorized to require three types of medical examinations:

A. Pre-entry

Pre-entry physical examinations to include TB testing is required of all persons prior to initial appointment to the position.

B. Periodic

Periodic physical examinations to include TB testing is required of all employees holding positions in classes that the Vice President certify and approve, 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 Vice President will determine the intervals, at which periodic physical examinations shall be taken consistent with the University's operational requirements. The University 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 (Title 10 GCA Chapter 87).

C. Independent Medical Examination

The Vice President may 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 government service or assigned to duties and responsibilities that are within his physical or psychological ability to perform. The University shall pay the costs for the special medical examinations.

9.003 Administration of Employment Medical Examinations

Medical examinations shall be administered by a licensed physician or other licensed professional on forms prescribed by the University. The examination form will request a medical determination of the individual's fitness for employment in the class of position. For special medical examinations, forms will 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.

9.004 Temporary Medical Exemptions

The Vice President 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 Vice President may temporarily waive the medical examination, provided that the medical examination is completed at the earliest possible date and no later than 30 days after the appointment.

9.100 PLACEMENT OF EMPLOYEES WHO BECOME MEDICALLY NON-QUALIFIED

9.101 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 University to assure, to the extent possible, the continued employment of employees who become disabled as a result of an injury, accident or illness that is not a result of misconduct or who are found to be medically non-qualified for their present position, but who are medically qualified for other types of positions within the University.
- C. The employee shall be examined 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 within their department/unit and may also receive consideration for vacancies in other departments/units within the University. In such an instance, the Vice President may effect a direct transfer to the new position.
- E. In the placement of an employee with a disability, all units shall consider the following:
 - 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 retraining; and
 - 3. The mutual interest of both the University and the employee.
- F. If demotion is involved, whether or not initiated by the employee, he shall be compensated in accordance with Rule 6.005.

9.102 Placement of Employees with Disabilities

After medical, physical, or psychological re-evaluation of 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 Vice President 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). Please refer to the University's Institutional Compliance Officer for further information:

- A. Transfer the employee to an equivalent position elsewhere in the University 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 within the University.

9.103 Reasonable Accommodation

Every effort shall be made by the Vice President to provide reasonable accommodations to assure continued employment.

9.104 Termination of Employment

If the employee can not be reasonably accommodated per section 9.103, the Vice President shall terminate the employment of the employee:

- A. If no suitable placement can be made or if the employee refuses placement in a suitable position.

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- B. If the employee refuses or is ineligible for retirement.
 - C. If the Vice President 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. (In such cases, the injury must permit a prognosis with reasonable medical certainty.)

The Vice President should engage in the interactive process with the employee to determine that he cannot perform the essential functions of his job or of other open positions for which he qualifies, with or without reasonable accommodation.

Such termination shall be consistent with the Adverse Action Procedures.

9.200 SAFETY STANDARDS

The minimum safety standards will be those as established in the Occupational Safety and Health Code (Title 10 GCA Chapter 87) and administered by the Division of Occupational Safety and Health of Department of Labor in conjunction with the University's Safety Office.

CHAPTER 10

EMPLOYEE PERFORMANCE

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 University.

10.000 EMPLOYEE PERFORMANCE EVALUATION

10.001 Performance Evaluation

The Chief Human Resources Officer shall establish and maintain a performance evaluation system for the fair and objective appraisal of work performance of employees of the University. The performance evaluation system may be used to (Title 4 GCA Chapter 4 and Chapter 6):

- A. Improve individual performance.
- B. Strengthen supervisor/employee relationships.
- C. Recognize employee accomplishments and good work.
- D. Identify job standards.
- E. Identify training needs.
- F. Grant or deny pay increments.
- G. Determine order of layoffs.
- H. Determine whether a probationary employee shall be given a permanent appointment.
- I. Determine eligibility for promotion.
- J. Determine whether disciplinary action is required.

10.002 Performance Evaluation Training

The Chief Human Resources Officer shall be responsible for providing periodic training for all levels of management concerning the performance evaluation system, including the development of performance standards, performance interview techniques and performance ratings.

10.003 Performance Evaluation Records

- A. The performance evaluation report will be transmitted to the Chief Human Resources Officer 30 days prior to the anniversary date. Upon receipt of the performance evaluation report and recommendations the Chief Human Resources Officer shall effect the appropriate personnel action in accordance with the recommendation of the immediate supervisor and the Vice-President. No action will be taken by the Chief Human Resources Officer until receipt of the performance evaluation report.

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

10.004 The Chief Human Resources Officer's Responsibilities for Performance Evaluation

The Chief Human Resources Officer shall be responsible for the effective implementation and administration of the performance evaluation system within the University. He shall approve all performance ratings made within the University and shall ensure that supervisory personnel receive adequate training in the performance evaluation system. He shall ensure that performance evaluations and reports are completed and submitted on a timely basis.

10.005 Supervisor's Responsibility for Performance Evaluations

- A. The performance standards shall be developed and the performance rating shall be completed by the immediate supervisor responsible for the employee's work with input from the employee. The rater should be the individual who oversees, reviews and checks the daily work performance of the employee being rated, or is the immediate supervisor who is most closely acquainted with the employee's daily work performance. The immediate supervisor shall also be responsible for the timely preparation and submission of performance reports for all employees under his supervision. Pursuant to Rule 10.003 and 10.007, failure to submit timely performance appraisal reports constitutes grounds for disciplinary action. The Vice-President may impose disciplinary action against supervisors in violation of this rule when it is found that there was no reasonable cause for delay. The employee's supervisor must have supervised the employee for at least ninety (90) days to render a fair evaluation. When a supervisor retires, resigns or transfers, he will render an evaluation for the assigned employees before leaving the University.
- 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.

10.006 Performance Evaluation Form

Performance evaluations shall be accomplished on a form approved by the President consistent with the performance evaluation system in effect. The performance evaluation forms shall be filed in the employee's personnel record. (Appendix H)

10.007 Performance Evaluation Period

In accordance with the system and procedures prescribed by the Chief Human Resources Officer, supervisors shall evaluate the work performance for employees:

- A. In accordance with Title 4 GCA, Chapter 6, Section 6202, every 12 months of service for permanent employees in Pay Grade Steps 1 through 6; every 18 months of service for permanent employees in Pay Steps 7 through 9; and every 24 months of service for permanent employees in Pay Steps 10 through 20 to coincide with the employee's employment anniversary date or increment due date. Immediate supervisors may opt to conduct intermittent performance assessments of subordinates.

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- B. Immediate Supervisors may conduct mid-term performance evaluations for all of their staff.
 - C. 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 Evaluation shall be submitted and received by the Chief Human Resources Officer no later than ten (10) workdays prior to the probationary period due date.

10.008 Salary Increments - Permanent Employees

Every classified employee shall be entitled to a one-step salary increment for satisfactory performance, except as otherwise provided by statute Pursuant to Title 4 GCA, Chapter 6, Section 6202.

10.009 Performance Evaluation for Probationary Employees

- A. An overall performance rating of at least **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**, or if the rating of the employee is unclear, the probationary period shall be extended for a minimum period of 30 days during which the employee has the opportunity to improve work performance, provided the total probationary period does not exceed 12 months.
- 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 University employment upon approval of the Vice-President. No appeal of this termination shall be allowed.
- D. When an employee serving an original probationary period is selected for another position without completing the original probationary period, the employee must serve a new original probationary period in the new position and receive a rating pursuant to A above and Rule 4.602 in order to obtain permanent appointment.

10.010 Merit Bonus

Outstanding performance by a classified employee in Grades A through V shall be rewarded by a lump sum bonus based on an amount equivalent to 3.5% of the employee's base salary. The merit bonus shall be automatic upon a superior rating evaluation conducted for increment purposes (Title 4 GCA Section 6203). The Merit bonus is in addition to the increment and is limited to the fiscal year in which outstanding performance is rendered (Title 4 GCA Section 6101).

10.100 APPEAL PROCEDURE FOR REDETERMINATION OF PERFORMANCE RATING

10.101 Purpose

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

10.102 Coverage

Employees covered by these procedures are those employees who have satisfactorily completed their original probationary period and have attained permanent status within the University. Such employee who feels he was unjustly rated may request for a re-determination of the performance rating. Original probationary period performance ratings are not appealable under this procedure.

10.103 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 proceedings.

10.104 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.

10.105 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.

10.106 Informal Appeal Procedure – Unit Head

- A. After the rating conference has been held and the employee has been informed of his overall annual rating, the employee who believes he was unjustly rated shall bring the matter to the attention of his Unit Head within five (5) workdays of the conference date. The employee may present his informal appeal either orally or in writing to the Unit Head.
- B. A review of the rating shall be afforded the employee by the rater and or higher level supervisor. Settlement of aggrieved matters shall be encouraged at the lowest administrative level and in the shortest possible time. The employee shall be notified of the decision not later than five workdays after presentation of his informal appeal to the Unit Head.
- C. If the employee's concerns are not resolved, or that a decision is not issued within five (5) workdays, the employee may file a formal appeal to the Vice-President.

10.107 Formal Appeal Procedure – President/Performance 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 (Board) via the Vice-President. The appeal shall be in writing to the President and filed within five (5) workdays after the employee receives the Unit Head's decision.
- B. The Board shall be appointed by the Vice-President and consist of three members, who are permanent government employees of agencies other than the University 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. The Vice-President shall appoint the Board

within 5 (5) workdays of receipt of the written appeal.

- C. The Board shall conduct its first hearing within 5 workdays of its appointment. The Board shall complete the investigation and conduct the final hearing not later than 10 workdays from the date the Board convened. The Board shall give notice of hearings and shall provide all pertinent documents related to the appeal to the employee, his representative, the rater, and all other parties concerned.

The conduct of the hearings will be consistent with the opportunity to present all information necessary to decide the merits of the appeal. Both oral and written information, which the Board considers pertinent, may be 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 will give consideration to the merits of the case and secure all necessary information. They will encourage a harmonious relationship between the employees and supervisors during proceedings before the Board. All members of the Board will be present at all times during hearings and will 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 Unit Head, the Chief Human Resources Officer and the Vice-President.

- F. When the Vice President receives a Board decision amending the employee's rating, the Vice-President shall immediately substitute the original rating for the amended rating. The Vice-President must reconsider administrative actions based on the original rating and re-determine and adjust those administrative actions to conform to the amended rating. (Reference to Board composition-AG opinion Reference DOA 95-1399)

CHAPTER 11

ADVERSE ACTION PROCEDURES

STATEMENT OF POLICY

This Chapter sets forth the guidelines and procedures by which a Vice-President 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 Vice-President referenced in the Chapter on “Resignation, Termination and Clearance”; or
- B. Action taken by the Vice-President in the termination of services of an original probationary employee.

11.200 EMPLOYEE DISCIPLINE

11.201 General Provisions

A. Responsibility for Discipline

The Vice-President derives authority and responsibility for employee discipline under the provisions of Title 4 GCA Section 4105. The Vice-President 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.

B. Delegation of Authority

The Vice-President may delegate responsibility for administration of day-to-day discipline to his line-management to include such progressive discipline, as oral admonitions/counseling (Appendix I), letters of warning (Appendix J), letters of reprimands (Appendix K), and recommendation of adverse actions.

C. Vested Authority

The President and Vice-President's are the only officials 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:

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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 President shall require each immediate supervisor and Unit Head to receive orientation and training on the University'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 University'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 notice and statement of the charges pursuant to Title 4 GCA Section 4406, no later than ninety (90) days after management knew, or should have known the facts or events which form the alleged basis for the adverse action.
- B. An employee covered by the Adverse Action Procedures may be suspended for not more than 30 workdays as the result of a single adverse action, nor may an employee be suspended for more than a total of sixty (60) workdays in a calendar year, as the result of multiple adverse actions taken by the University.
- 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 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 of adverse action.

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

11.303 Authorized Causes for Adverse Action

The Vice-President may remove an employee for such misconduct(s), which affect(s) the efficiency of the service. The authorized causes for adverse action include, but are not limited to:

- A. Fraud in securing appointment.
- B. Refusal or failure to perform prescribed duties and responsibilities.
- C. Violation of the University'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 University documents.
- E. Insubordination, including but not limited to, resisting management's legitimate directives through actions and/or verbal exchange, or failure or refusal to follow supervisor's legitimate 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 a controlled substance.
- G. Unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the University's premises including while operating University's equipment.
- H. Unauthorized absence.
- I. Criminal convictions for felonies or misdemeanors that are nexus to the position while employed, including conviction of a moving traffic violation while operating University'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.
- O. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- P. Acts prohibited by Title 4 GCA, Chapter 9, Section 9102 relating to strikes against the government.

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- Q. Threatening, coercing, harassing or acts of discrimination to employees, supervisor, customers or individuals, to include sexual harassment.
 - R. Refusal to take physical examination to include TB test.
 - S. Unsatisfactory performance.
 - T. Other misconduct not specifically listed.

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. A copy of such action shall be filed with the University's Human Resources Office and Civil Service Commission. The Vice-President 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 10 days after receipt of the notice. The answer may be made orally, in writing, or both. The Vice-President shall be available during the notice period to meet with the employee at the designated date and time requested by the employee. The Vice-President may designate a committee to hear the employee's answer. The employee may be represented by a person of his

choice. The Vice-President 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 Vice-President may proceed with the adverse action upon expiration of the notice period. The employee is not prohibited from meeting the Vice-President 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 a critical situation an employee may be immediately suspended during the notice period under the following conditions:
 - 1. The employee poses a threat to co-workers or the supervisor.
 - 2. The continued presence of the employee may interfere with the efficient operation of the University or where cash or assets of the University are at risk.
 - 3. Suspension is necessary to eliminate the possibility of deliberate damage to equipment, property, or important documents.
 - 4. The employee's absence without authorized leave prevents the issuance of notice of proposed adverse action and the University'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 suspension. A copy of the notice of immediate suspension shall be filed with the Civil Service Commission not later than the working day next following the effective date of the suspension.
- C. If the Civil Service Commission sustains the University'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) workdays.

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 department/unit head may authorize the employee an administrative leave of absence with pay for up to twenty (20) workdays. The administrative leave may be terminated by the Vice-President 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 Vice-President.

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- B. The Vice-President shall determine whether to take adverse action against an employee so imprisoned or take such action as he deems necessary pursuant to laws and the University's Personnel Rules and Regulations. Nothing in this Section shall preclude the Vice-President 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 University'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 Vice-President shall not issue a final decision during the notice period. The decision shall be made by the Vice-President, shall be delivered to the employee at or before the time the action will be made effective, except as provided in the Civil Service 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 of twenty (20) days within which an appeal may be submitted as provided in Section CSC-100(C) Civil Service Commission's Hearing Procedures for Adverse Action Appeals. (Appendix L)
- B. In the event the Vice-President cannot locate the employee, the Notice of Proposed Adverse Action and/or Notice of Final Adverse Action shall be sent, certified mail, to the employee's last known address.
- C. Prior to the final notice of adverse action, the Vice-President may conduct an inquiry or investigation into the charges and proposed action, including calling a meeting with the employee.
- D. Copies of the final notice of adverse action shall be filed by the department/unit with the Civil Service Commission not later than the next workday following the effective date of the action. A copy of the final notice shall be retained by the University's Human Resources Office.

11.312 Appeal to the Civil Service Commission

The Hearing Procedures for Adverse Action Appeals adopted by the Civil Service 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 Vice-President 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 Vice-President.

- 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 (including the degree to which the position is a position of trust), a penalty outside the general range maybe imposed.
- D. Suspension penalties on this schedule apply to workdays 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.
- F. A reprimand or letter of warning 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)/warning(s) may be withdrawn by the supervisor at his or her discretion if there are no further problems after one year from date of issuance.

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

A reprimand is not an adverse action under these rules; a managerial official need not apply the Adverse Action Procedure. The penalty of reprimand is included in the schedule to institute a progressive disciplinary action against an employee or group of employees.

NATURE OF OFFENSE		1ST OFFENSE		2ND 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 property or the property of others.	Reprimand*	Dismissal	Suspension	Dismissal

CONDUCT		1ST OFFENSE		2ND OFFENSE	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM

A.	Criminal, dishonest, infamous or notoriously disgraceful conduct adversely affecting the employee/employer relationship (on duty or off duty).	Reprimand*	Dismissal	Suspension	Dismissal
B.	Disobedience or disrespectful actions 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
CONDUCT CON'T		1ST OFFENSE		2ND 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*	Suspension	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 premises.	Reprimand*	Dismissal	Suspension	Dismissal
J.	Willful damage to government property or the property of others.	Reprimand*	Dismissal	Suspension	Dismissal
K.	Engaging in prohibited Political Activity (Appendix R) acts covered in Title 4 GCA Section 9102.	Suspension	Dismissal	Dismissal	Dismissal
L.	Acts of retaliation against a Whistleblower or an employee who has filed a grievance through the EEO process.	Suspension	Dismissal	Dismissal	Dismissal
M.	Violating the University's Sexual Harrassment Policy	Suspension	Dismissal	Dismissal	Dismissal
(Penalty shall be imposed pursuant to Title 4GCA Section 9103.)					

DISCRIMINATION	1ST OFFENSE		2ND OFFENSE	
	MINIMUM	MAXIMUM	MINIMUM	MAXIMUM

A.	Discriminating against an employee or applicant because of race, color, creed, religion, age, sex, political affiliation, marital status, national origin, disability, sexual orientation or other prohibited discriminatory practices.	Reprimand*	Dismissal	Suspension	Dismissal
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INTOXICANTS		1ST OFFENSE		2ND OFFENSE	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
A.	Reporting for duty or being on duty under the influence of intoxicants, unauthorized possession of or attempting to bring intoxicants on government 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 property or on duty.	Reprimand*	Dismissal	Suspension	Dismissal
C.	Unauthorized sale or transfer of narcotic or dangerous drug on government property or during duty hours.	Reprimand*	Dismissal	Suspension	Dismissal
PERFORMANCE		1ST OFFENSE		2ND OFFENSE	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
A.	Careless workmanship resulting in spoilage or waste of materials 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*	Dismissal	Suspension	Dismissal
F.	Unauthorized use or possession of, loss of or damage to government property or the property of others.	Reprimand*	Suspension	Suspension	Dismissal

SAFETY		1ST OFFENSE		2ND OFFENSE	
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM
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
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, reckless driving on or off government premises, or improper operation of government motor vehicles.	Reprimand*	Dismissal	Suspension	Dismissal

CHAPTER 12

GRIEVANCE PROCEDURES

STATEMENT OF POLICY

It shall be the policy of the University to promote favorable relations between management and its employees by resolving complaints expeditiously; preventing similar complaints; assuring fair and equitable treatment of all employees; and promote harmonious working relationships among all levels of employees (Title 4 GCA, Chapter 10, Article 5).

The President 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 in this Chapter 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 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 these grievance procedures:

- 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 of adverse personnel actions;
- G. Allegations or complaints of discrimination; and
- H. Appeals of performance evaluations.

12.302 Grievance Procedures for Employee Organizations

These 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, creed, religion, age, sex, political affiliation, marital status, national origin, disability or sexual orientation in connection with a matter which is subject to the University'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 University, 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.

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 University's Human Resources Office;
- 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.

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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 immediate supervisor and the Vice-President 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's Responsibility

An employee's grievance may or may not be objectively justified. When the grievance is well founded, appropriate administrator 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, empathy, understanding, fairness, competence, and authority that convinces the employee the complaint has been taken seriously and 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 bona fide 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 work requirements and deadlines and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships.
- B. Each employee of the University has the right to present matters to his supervisor, and each supervisor has the obligation to consider such matters, and act promptly upon them, seeking advice and assistance from 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 maybe 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.

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 University 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; and
2. The grievance is not satisfactorily resolved at the informal level; or
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 Chief Human Resources Officer;
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 supervisor who is the next in the supervisory chain above the employee's 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 – VICE-PRESIDENT

12.701 Presentation of the Grievance - Step 3

An employee is entitled to present a grievance under Step 3 if:

- A. He has completed Step 2 of the procedures; and
- B. The grievance is not satisfactorily resolved at Step 2 level; or
- C. Specify the remedy requested by the employee; and
- D. Be submitted to the Vice-President within five (5) calendar days after receipt of the answer in Step 2 or after the answer was due.

12.702 University Grievance Committee

A. Appointment of Committee

Within three (3) calendar days of receipt of the written grievance from the employee, the Vice-President 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 five (5) members who are permanent government employees of agencies other than the University; two (2) members from the employee's peer group and three (3) 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.

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 record. 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 Vice-President within two (2) calendar days following completion of its investigation.

H. Vice-President's Written Decision

The Vice-President 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 Vice-President failed to render a decision within five calendar days of the submission of the written report from the University Grievance Committee at Step 3 level; or
4. There has been a violation of the Guam Code or University 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, University Grievance Committee and the Vice-President has been unjust, inequitable or not in accord with the facts; or
7. The Vice-President fails to act on the University Grievance Committee's recommendations.

B. The grievance presented in Step 4 must:

1. Be in writing on a form prescribed by the President;
2. Contain sufficient details to identify and clarify the basis of the grievance;

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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 orderly, uniformed and fair procedures for non-disciplinary separation of employees from the University'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 Vice-President via the appropriate Unit Head. The employee should notify the Unit Head in writing at least ten (10) workdays before the date of separation. When a resignation letter is directed to the Vice-President, 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 Vice-President.

Upon receipt by the Vice-President, of any resignation letter, the Vice-President, 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 Vice-President, at his discretion, makes the resignation effective immediately or at some time sooner than the resignation letter. Acceptance of such resignation by the Vice-President is not required for the resignation to become effective.

13.003 Withdrawal of Resignation

With the consent of the Vice-President, 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, a pending 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 4 GCA and Rules 4.406 and 4.502.

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 section 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 Vice-President, 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 will be conducted with each employee separating from the services of the University. The interview will be held prior to the employee's effective date of separation. The interview will 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 Chief Human Resources Officer and made part of the separating employee's personnel record. A representative of the University's Human Resources Office shall conduct the interview using the Exit Interview Form in Appendix M. Nothing in this section shall prevent the Unit Head or Vice-President from conducting their own exit interview.

13.201 Clearance

Each separating employee must be cleared of all obligations within the University and other applicable Government of Guam agencies 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 University.

CHAPTER 14

MERIT CAREER PLAN

STATEMENT OF POLICY

This procedure outlines the responsibilities of the Chief Human Resources Officer when permanent classified University employees apply and are being considered for career opportunities.

14.000 COVERAGE OF THE MERIT CAREER PLAN

This plan applies only to permanent classified employees.

14.100 ANNOUNCEMENT AND EXAMINATION UNDER THE MERIT CAREER PLAN

- A. No person shall be promoted under the Merit Career Plan unless a vacancy exists. The same examination will be used for all persons responding to a particular Merit Career Job Announcement, provided a vacant position exists.
- B. All employees must submit an employment application and be processed consistent with the merit principles of recruiting, selecting applicants and advancing employees on the basis of skills, knowledge, and abilities, and be placed on the eligibility list as “eligible” for the position.

14.200 REFERRAL OF CERTIFICATION LIST

A list of all qualified eligibles shall be furnished to the Vice-President.

14.300 SELECTION INTERVIEW

The Chief Human Resources Officer shall establish procedures for interviewing certified eligibles.

14.4 00 EVALUATION OF CANDIDATES DURING THE SELECTION INTERVIEW PROCESS

- A. Evaluation of candidates shall be based on job-related criteria, which measures the skills, knowledge, 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.

14.500 SELECTION DOCUMENTATION REQUIREMENTS

- A. The basis for selection must be job-related. The results of the selection process must be on file with the University’s Human Resources Office. Evaluation results are confidential and form a part of the selection process for the candidates being considered for the position. The Chief Human Resources Officer reserves the right to post audit selection documentation

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- records.
- B. The Chief Human Resources Officer 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 Vice-President to review the adequacy of the consideration they received provided that such a request is received in writing by the Vice-President, within five (5) working days after the non-selected received the notice about the selection.

A competitor may not contest the minimum qualifications established for the position. The following information shall be made available to competitors under a Merit Career Job Announcement upon request, and the Chief Human Resources Officer 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.

14.600 HANDLING EMPLOYEE COMPLAINTS

- A. The Chief Human Resources Officer 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:
 - 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 Vice-President.

14.700 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 promotion potential to the position to which he is being promoted. The promotion 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 supervisory position because these levels of position inherently have specific administrative authority that can only be delegated by Unit Heads or executive 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 promotion potential to a position having no higher promotion potential.
 2. A detail appointment.
 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 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.

14.800 ADMINISTRATION REQUIREMENTS

- A. The Chief Human Resources Officer 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 the President, 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 Chief Human Resources Officer 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 Chief Human Resources Officer will assure that each current and future Unit Head is provided a copy of the Merit Career Plan and any subsequent changes to the Plan.

CHAPTER 15
DRUG FREE WORKPLACE PROGRAM POLICY

TABLE OF CONTENTS

SECTIONS	PAGE
I. POLICY	
Scope and Purpose	1
Substance Abuse Awareness	1
Amendment to this Policy	1
Objectives	1
Policy	2
Awareness Program	2
Marijuana Use and Possession on Campus	2
Drug Testing	3
Employee Assistance Program	4
Safe Harbor Provisions	4
II. POLICY IMPLEMENTATION	
Purpose	4
Definitions	4
Employee Duties and Responsibilities	8
Supervisor Responsibilities	8
Violations	9
Employee Rights	9
Awareness Training	10
Orientation and Notification Procedures	10
Drug Testing	12
Reasonable Suspicion Testing	12
Accident or Unsafe Practice Testing	12
Follow-up Testing	12
Drug Test Results	13
Confirmed "Positive" Results	13
Tampering with Drug Screen Testing Process	14
Drug Retesting	14
Collection Sites and Laboratories Procedures	14
Reporting and Maintaining Results and Records	14
Confidentiality and the Maintenance and Security of Records	16
Appeals and Adverse Action Procedures	16
Referral for Education, Rehabilitation or Treatment	16
III. FORMS	18

SECTION I: POLICY
SCOPE AND PURPOSE

In compliance with the Drug-Free Workplace Act of 1988, University of Guam (UOG) has a commitment to provide a safe, quality-oriented and productive work environment consistent with the standards of the community in which we operate. Drug and Alcohol abuse possess a threat to the health and safety of UOG students and employees and to the security of the University's equipment and facilities. UOG also promotes maximum efficiency and effectiveness which can be adversely affected by drug and alcohol abuse. For these reasons, UOG is committed to the elimination of drug and alcohol use and abuse in the workplace.

Scope

This policy sets forth the response UOG will have to instances of identified drug and alcohol use in the workplace.

This policy applies to all employees of UOG. UOG Human Resources Office (UOG HRO) will be responsible for the implementation and management of this policy. The commitment to a Drug Free environment extends to students, and contractors of the University, and all campus activities. Students will be provided a summary of this policy highlighting portions of the policy applicable to them at the beginning of each Academic Year. Contractors will be provided a summary of the policy at the beginning of each contract.

Substance Abuse Awareness

Illegal drug use and alcohol misuse have many serious adverse health and safety consequences. Information about those consequences and sources of help for drug or alcohol problems is available from the UOG HRO, which has been trained to make referrals and to assist employees with drug or alcohol problems.

Amendment to this Policy

The President of the University is empowered to make minor changes and adjustments to the policy. Substantial modifications must be approved by the Board of Regents (BOR).

OBJECTIVES

- A. To ensure a drug-free and alcohol-free work environment.
- B. To help provide efficient and economical services to UOG's employees, students, and the public.
- C. To help provide a safe and healthy work environment for UOG employees and the public.
- D. To provide a work environment free of adverse effects on job performance caused by drug or alcohol related problems.
- E. To help provide reasonable assistance to an employee seeking rehabilitation for a drug and/or alcohol related problem.
- F. To conform with the federal Drug-Free Workplace Act of 1988 and any applicable local law and/or mandate.

POLICY

- A. It is the policy of UOG to maintain a work force free of illegal drugs, substance and alcohol abuse.
- B. Reporting to work, or performing work for UOG, while impaired by or under the influence of illegal drugs or alcohol is prohibited.
- C. The illegal use, possession, dispensation, distribution, manufacture, and/or sale of a controlled substance by an employee at the work site, during work hours or while the employee is on duty, official UOG business or stand-by duty, is prohibited.
- D. Employees are required to notify the Appropriate Administrator within seventy-two (72) hours of any criminal drug statute conviction where such conviction was due to an occurrence at the work site, during work hours or while on duty, official business or stand-by duty.
- E. An employee who is convicted of violating any criminal drug statute is subject to Adverse Action procedures. A conviction means a finding of guilty (including a plea of *nolo contendere*) or the imposition of a sentence by a judge or jury or both in a court of law.
- F. The policy includes Safe Harbor provisions. Any employee with a drug or alcohol abuse problem is encouraged to apply immediately for the Safe Harbor provisions of this policy. Safe Harbor will not be available to any employee who is caught in an impaired status.
- G. Each UOG employee will be provided a copy of this UOG Drug Free Workplace Policy on an annual basis. Employees will be informed that they must abide by the terms of the policy as a condition of employment and of the consequences of any violation of such policy. Notification of this policy is part of new employee orientation/onboarding.
- H. New employees must read and sign the Drug Free Workplace Affirmation Form during the onboarding process and it will be made a part of their permanent Employee Health file and Personnel file.

AWARENESS PROGRAM

UOG will provide, as resources are available, instructional information to educate employees about the dangers of drug and alcohol abuse.

MARIJUANA USE AND POSSESSION ON CAMPUS

The use and possession of marijuana is prohibited on campus. The potential health and behavioral impacts of marijuana do not fit with UOG's mission as an academic institution and a safe, fast-paced, high-functioning work environment. Possessing, using, and/or selling marijuana continues to be prohibited on campus and during university activities - on any off campus UOG properties or work locations; such as on boats and research stations. Federal agencies continue to enforce federal law against those who facilitate the illegal use of marijuana, despite Guam law. UOG, as a land grant university, is obligated to enforce federal interests in these matters.

Public Law 35-5 dated April 4, 2019, legalizes certain activities related to marijuana, yet under the law, UOG – as a school and an employer – retains the ability to prohibit the possession and use of marijuana. In addition, marijuana remains illegal under the federal Controlled Substances Act, which prohibits marijuana possession and use. This federal law applies to recreational and medical uses of marijuana. It is not a defense that the person holds a medical marijuana card.

Students and employees who violate this policy are subject to university discipline. The use of marijuana in the workplace is also restricted by federal laws such as the federal Drug-Free Workplace Act and the federal Drug-Free Schools and Communities Act. These federal laws require UOG to prohibit the use of marijuana on campus. Campus Security, along with Enrollment Management and Student Success, enforces the campus-wide prohibition of marijuana.

UOG strives to maintain a safe workplace. Employees who are under the influence of marijuana, just like with alcohol, create serious safety risks when operating machinery or working with potentially hazardous materials or substances in the workplace.

While performing their job duties:

- UOG employees are prohibited from consulting or providing assistance with the cultivation, sale, distribution, or use of marijuana
- Any employee who provides such assistance shall be acting outside the scope of his or her employment and assumes personal liability for such action
- UOG is not required to accommodate medical or recreational use of marijuana by anyone covered by this policy.
- Illegal drug use is a bar to the acquisition or renewal of a federal security clearance

DRUG TESTING

- A. UOG will perform Drug Testing for all current employees.
- B. UOG's drug testing program includes the following types of drug testing:
 1. Reasonable suspicion testing
 2. Accident or unsafe practice testing
 3. Follow up testing following completion of Safe Harbor procedures
 4. Voluntary testing
- C. Follow-up testing shall be determined by the Appropriate Administrator based on the needs of UOG, availability of resources, and consistency with the duty to achieve a drug-free workplace but will be no less frequently twice (2x) annually for the first two (2) years following completion of the Safe Harbor procedures.

The Chief Human Resources Officer (CHRO), or his/her designee, will coordinate the dates, times and place of testing.

EMPLOYEE ASSISTANCE PROGRAM

UOG will make reasonable efforts to provide employee assistance programs (EAP), and refer employees (subject to the limitation of availability of local resources), for education, counseling, or rehabilitation.

SAFE HARBOR PROVISIONS

UOG's Drug Free Workplace policy includes an opportunity for an existing employee to self declare a problem with abuse of drugs or alcohol in order to avoid the consequences for violation of this policy. Such employee will be allowed to receive treatment at a local treatment facility appropriate for the type of problem disclosed. If a drug or alcohol problem is determined apart from these Safe Harbor Provisions, there will not be any further treatment opportunities afforded to the employee.

A. Employee's Job Responsibilities

1. Some education, rehabilitation, and treatment programs may require the employee to be on full-time leave; others will not. A UOG Unit Head may detail an employee to another position or group of duties and responsibilities, if the supervisor has justifiable reasons that the employee is unable to perform his/her normal duties safely while receiving treatment in accordance with existing UOG personnel rules and regulations. If the employee is not on leave status for education, rehabilitation, or treatment, the employee will be expected to perform assigned work responsibilities during his/her normal work schedule.
2. The employee is expected to perform satisfactorily if on work status while undergoing an education, rehabilitation, or treatment program. The supervisor must continue to document work performance and behavior of the employee. If the employee's job performance is unsatisfactory, the employee may be disciplined for poor work performance. If the employee continues to exhibit behavior which may indicate continued drug or alcohol use during the education, rehabilitation or treatment period, the supervisor must provide documentation for reasonable suspicion.

The supervisor will require the employee to submit to subsequent drug testing for a period of not less than two years to confirm the employee is maintaining a drug free status and that employee, student and public safety is maintained.

SECTION II: POLICY IMPLEMENTATION PURPOSE

To implement the UOG Drug Free Workplace Policy, hereafter referred to as "DFW Policy."

DEFINITIONS

- A. Academic Personnel - Academic personnel are Faculty and Administrators.

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- B. Adverse Action - the process through which UOG takes disciplinary action against an employee. An Adverse Action process can result in a letter of warning, a suspension, or for the most serious offenses, a termination.
 - C. Alcohol - the intoxicating agent in beverage alcohol or Ethyl alcohol or other molecular weight alcohol including Methyl or Isopropyl.
 - D. Alcohol Use - the consumption of any beverage, mixture or preparation, including any medication containing alcohol.
 - E. Aliquot - a portion of a specimen used for testing.
 - F. Applicant - an individual offered employment or being promoted, demoted or transferred to any position within UOG.
 - G. Appropriate Administrator – means the President for all Faculty and Administrators, the Vice President Administration and Finance for all non-Academic Administration and Finance personnel, and the Senior Vice President Academic and Student Affairs for all non-academic personnel in the Academic and Student Services. These positions are empowered to appoint and exercise discipline and/or discharge of employees pursuant to 4 GCA §4406 including those rights provided in §10112 of 4 GCA and Chapter 8 of 12 GCA and 17 GCA §§16112.
 - H. Canceled or Invalid Test - a Drug Test that has been declared invalid by a Medical Review Officer (MRO). A canceled test is neither positive nor negative. In addition, a specimen that has been rejected for testing by the laboratory is treated the same as a canceled test.
 - I. Chain-of-Custody - the procedure and subsequent documentation by which laboratories handle specimens from collection to testing.
 - J. Collection site - the place (as designated) where specimens are collected for drug testing analysis.
 - K. Collection site personnel - the trained laboratory personnel responsible for managing the collection process including Chain-of-Custody documentation and initial testing of the urine specimen provided by the individuals.
 - L. Controlled Substance - a material that is classed as a Drug, Narcotic, or immediate Precursor which is specified or referenced in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812).
 - M. Confirmation (Confirmatory) test - a second analytical procedure to identify the presence of a specific drug or metabolite. A confirmation test is independent of the drug test and uses different chemical technique and procedure in order to ensure reliability and accuracy. Gas Chromatography/ Mass Spectrometry (GC / MS), GC/ Fourier transform infrared spectroscopy (GC/ FTIR) and MS/ MS are approved for Cocaine, Marijuana (THC), Opiates, amphetamines, and Phencyclidines.

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- N. Confirmed Positive Drug Test - the presence of a specific drug or metabolite at or above the analytical sensitivity or cut off level by two (2) tests on the same specimen by two (2) different test methods; and which was not determined, after evaluation by the Medical Review Officer, to have been caused by an alternate medical explanation.
- O. Critical Incident - a circumstance which occurs while on duty for UOG, on UOG property, or using UOG property that includes:
1. An accident involving UOG vehicle causing substantial damage to property or person; or
 2. Behavior or activity which could cause damage to property or person; or
 3. Mental or physical impairment to raise doubt that job duties can be safely or effectively performed; or
 4. Possession, sale or use of an illegal drug or drug paraphernalia, open container of alcohol (in a moving vehicle), or driving under the influence of alcohol; and
 5. Reasonable suspicion that an employee's action or behavior was caused by illegal drugs and/or alcohol.
- P. Drug - any substance other than food that can affect the way your mind and body works.
- Q. Drug Metabolite - the specific substance produced when the human body metabolizes a given drug or substance as it passes through the body and is excreted in the urine.
- R. Drug Test - the laboratory analysis of a urine specimen collected and analyzed in accordance with National Committee For Clinical Laboratory Standards (NCCLS), Health Care Financial Administration (HCFA), & Department of Health and Human Services (DHHS) regulations.
- S. Employee - an individual working in a classified, unclassified, Academic, Externally Funded or contractual capacity at or for UOG.
- T. Employee Assistance Program (EAP) - that UOG EAP offers information, short term counseling, and referral services to assist employees in dealing with drug or alcohol dependency and related problems. This program is separate and apart from Safe Harbor provisions.
- U. EAP Coordinator - The CHRO of UOG or his or her designee.
- V. Illegal Drugs - any controlled substance, drug, narcotic or immediate precursor which is specified or referenced in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) which may subject an individual to criminal penalties; or a legal drug which has not been legally obtained or is being used by an individual for whom it was not prescribed, or is not being used in a manner, combination or quantity for which it was manufactured, prescribed, or intended.

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- W. Impairment in or Reduction in Job Performance - the quality or quantity of an employee's performance on the job is less than should be expected or accepted, or less than usual, standard, or average as judged against the past job performance of the individual employee.
- X. Legal Drug - any "over-the-counter drug" or "prescription drug" which has been legally obtained and is being used in the manner, combination and quantity which it was manufactured, prescribed or intended.
- Y. Limit of Detection (LOD) - the lowest concentration of a drug which a test is capable of detecting. If a drug is present below the LOD, the drug will not be detected.
- Z. Medical Review Officer - a licensed physician (Medical Doctor or Doctor of Osteopathy), assigned by UOG and responsible for receiving laboratory results generated by the Drug Testing Program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any relevant Bio-medical information.
- AA. Need to Know - confidential information may be shared with others only if it is necessary for implementing this policy, is in the employee's chain of command, or the employee has authorized a release of information.
- BB. Negative Drug Test - a drug test that indicates that a substance is absent or at a level below the "cut off" or Limit of Detection (LOD) for the immunoassay screening procedure. A verified negative test that has been reviewed by a Medical Review Officer and determined to have no evidence of prohibited drug use.
- CC. On Duty - the span of time the employee is scheduled to work including such time while the employee is on paid stand-by duty.
- DD. Participate in an Education, Rehabilitation or Treatment Program - to engage in, cooperate in, make satisfactory progress in, and complete an education, rehabilitation or treatment program.
- EE. Plan Administrator - the Chief Human Resources Officer (CHRO) of UOG.
- FF. Prescription Drug - means any drug prescribed for the individual by a licensed medical practitioner.
- GG. Property - includes all UOG owned or leased property, worksites, parking lots, vehicles, including property assigned to or used by employees, such as desks, lockers, storage bins, etc.
- HH. Reasonable Suspicion or Cause - cause or suspicion based on objective facts and reasonable inference drawn from those facts that an employee's action has been caused by drugs and/or alcohol. The Observed Behavior Checklist will be used to determine Reasonable Suspicion or Cause.

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- II. Safe Harbor provisions - separate and apart from the EAP, Safe Harbor provisions exist for an employee to be shielded from the employment consequences of illegal drug use if they apply for the provisions prior to an incident leading to discovery of illegal drug use.
 - JJ. Supervisor/Management - an employee having authority to direct, assign, and to recommend the following: promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees. The exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

EMPLOYEE DUTIES AND RESPONSIBILITIES

- A. Observe public trust and confidence through personal support and compliance with the intent and provisions of this policy.
- B. Notify an appropriate supervisor before reporting to duty, before using UOG equipment, or before or immediately upon entering UOG property:
 - 1. When taking any medication or drug, either prescription or non-prescription, which might impair the effectiveness or safety of job performance.
 - 2. When having taken alcohol, which might impair the effectiveness or safety of job performance.
- C. Consider volunteering for and completing an education, rehabilitation or treatment program if the employee believes there is an addiction to drugs or alcohol which might impair the effectiveness or safety of job performance.
- D. Consider participating in an education, rehabilitation, or treatment program when recommended by the Health Nurse Supervisor, College/Unit Administrator, CHRO, EAP Coordinator, or Appropriate Administrator.
- E. Encourage other employees, who use a drug or alcohol which might impair the effectiveness or safety of job performance, to apply for the Safe Harbor provisions of this policy.
- F. The employee must acknowledge that he/she has received and read the DFW Policy and understands its purpose, objectives, and employee responsibilities.

SUPERVISOR RESPONSIBILITIES

- A. Attend UOG-sponsored training on drug and alcohol awareness and prevention.
- B. Ensure that each of his/her subordinate employees has received a copy of the DFW Policy.
- C. If a "critical incident" occurs, have the discretion to do any or all of the following:
 - 1. Summon law enforcement;

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2. Summon university security;
 3. Summon medical assistance.
- D. Immediately notify the Appropriate Administrator or supervisor of all "critical" incidents. Follow-up with a written report to include signatures of all witnesses.
 - E. If "reasonable suspicion" exists that an employee's work performance is affected by a drug or alcohol problem, recommend to the College/Unit Administrator or CHRO that the employee undergo a reasonable suspicion drug test.
 - F. Cooperate in rehabilitation efforts of the employee in accordance with UOG policy.
 - G. Maintain strict confidentiality; disclose information on a need-to-know basis only.

VIOLATIONS

- A. Any employee charged with violating a criminal drug statute must inform the President of such conviction (including pleas of guilty and *nolo contendere*) within seventy-two (72) hours of the conviction occurring.
 1. Failure to so inform the President subjects the employee to disciplinary action, up to and including termination for the first offense.
 2. Conviction of a criminal drug statute will lead to Adverse Action proceedings which will likely result in termination of employment.
- B. Involvement in illegal activity pertaining to the illegal use, sale, purchase, offer, or possession of a controlled substance will be reported to the Guam Police Department (GPD) or other cognizant law enforcement agency.
- C. An employee confirmed to be under the influence of an illegal drug or alcohol while on duty or while on UOG property, or while using UOG equipment will be subject to Adverse Action proceedings, which will likely result in termination of employment.
- D. An employee suspected of violating the DFW Policy may be directed by their Supervisor to complete a drug or alcohol analysis testing process, if warranted by the completion of the Observed Behavior Checklist. In no event shall the employee be required to pay for drug or alcohol analysis testing.
- E. Any employee violating the DFW Policy is subject to disciplinary action, which will likely result in termination of employment.
- F. Once an incident occurs that leads to a positive drug test, Safe Harbor provisions are no longer available.

EMPLOYEE RIGHTS

- A. Legal Rights: Employees have legal rights that must be honored and respected at all times.

B. Confidentiality Rights: Confidentiality is an essential element of an EAP.

1. Summary of EAP Activity

- a. All participation shall be held in confidence unless the employee agrees, through specific written release, that any other party be notified.
- b. The employee's compliance with recommendations or advice from the EAP Coordinator is voluntary.
- c. The employee's job security and/or promotional opportunities will not be jeopardized by participation.
- d. In no event shall this program be used to shield the employee from, or replace, normal procedures for unsatisfactory job performance.

2. Safe Harbor Election:

- a. An employee may make a voluntary election to take advantage of the Safe Harbor provisions of this policy. The Safe Harbor provisions allow the employee to be entered into a drug and alcohol rehabilitation program. By entering into the Safe Harbor provisions, the employee waives the right to refuse follow up testing provisions.
- b. Notwithstanding any other provision of the DFW Policy, medical information about any employee shall be treated in accordance with prevailing laws and practices protecting the confidentiality of such information.
- c. If, for protection of public health or public safety, confidential information is required by law or by judicial proceedings, the legal process for obtaining and / or disclosing such information shall be used.
- d. Reports to the Appropriate Administrator resulting from Safe Harbor treatment shall be strictly limited to statements of compliance or non-compliance.
- e. Follow up testing will be required for at least two years following completion of the Safe Harbor provisions on a quarterly basis unless and until the Appropriate Administrator agrees to less frequent testing. In no circumstances will testing be less frequent than twice (2x) per year.
- f. A positive test following completion of the Safe Harbor treatment will result in Adverse Action proceedings and termination of employment.

C. Appeal of Test Results: If an employee or applicant has reason to believe that the technical standards were not adhered to in deriving an employee's or applicant's confirmed "positive" result, the result may be appealed in writing to the Appropriate Administrator within fourteen (14) calendar days of receiving written notice of result.

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- D. Appeals of Adverse Actions are governed by the Civil Service Commission policy and other applicable personnel rules, regulations, and statute.

AWARENESS TRAINING

- A. HRO shall develop and implement an on-going Drug and Alcohol Awareness Training Program for all supervisors to be provided on an annual basis.
- B. The CHRO shall provide access to and explain the DFW Policy at all new employee orientations.
- C. Employees have the right to know the dangers of drug abuse, the UOG DFW Policy, and what help is available to assist with drug and alcohol problems. HRO shall institute an education program for all employees on the dangers of drug and alcohol abuse in the workplace.

ORIENTATION AND NOTIFICATION PROCEDURES

- A. Responsibilities: Conveying complete information about the UOG DFW Policy to applicants and employees is essential.
 - 1. Applicants and employees must be given a copy of this policy.
 - 2. HRO is responsible for informational material and for training associated with this policy and any drug awareness. It is the responsibility of the CHRO to coordinate with Deans/Directors to orient and familiarize all employees on UOG's DFW Policy and Procedures.
 - 3. HRO shall advise applicants and employees of the following:
 - a. Methods of drug testing which may be used;
 - b. Substances which may be identified;
 - c. Reasonable effort to maintain the confidentiality of results and any medical information which may be provided;
- B. Current Employees: The Deans and Directors must complete the following steps when a supervisor has identified and documented reasonable suspicion of substance abuse.
 - 1. Complete the Observed Behavior Checklist which form the basis for the reasonable suspicion circumstances.
 - 2. Contact the CHRO or designee promptly about the circumstances who will in turn consult with UOG's Legal Counsel, if necessary.
 - 3. Discuss the reasonable suspicion with the employee but make no accusations of drug abuse or addiction.
 - 4. Inform the employee that as a condition of continued employment, supervisors have the duty and obligation to submit recommendation to require an employee to take a drug test.

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5. Obtain testing time and location from HRO.
 - a. After consultation with HRO, give the employee verbal or written notification of the time and location.
 - b. Inform the employee that he/she will be escorted by UOG Security or other personnel to the collection site.
 6. An employee who is requested to submit to a drug test shall be given time off with pay for the duration of the drug testing.
 7. If the employee poses a continued threat to safety or may cause undue disruption of work activity, the Dean or Director should consult the CHRO as soon as possible. The most reasonable action taken in this situation is to relieve the employee of his duties until UOG receives the drug screen test result.
 8. If the employee refuses or fails to participate in the drug screen process, the CHRO shall notify the employee of the consequences and that the University regards the failure to submit to testing as an admission of guilt. Adverse Action proceedings will be initiated immediately, which will likely result in termination of employment.
 - a. Contact the CHRO immediately.
 - b. Document any such non-participation thoroughly including the name of the employee, the nature of the refusal or failure, and the reasonable suspicion, circumstances, the date of the incident, names of witnesses, and the employee's position. Forward the documentation to the CHRO.
 9. Disposition of "Reasonable Suspicion" drug test:
 - a. If the employee's drug screen is negative, the employee will be notified and restored to active status.
 - b. If an employee's drug screen is confirmed positive, Adverse Action proceedings will be initiated, which will likely result in termination of employment.

DRUG TESTING

A. Reasonable Suspicion Testing:

1. If an employee is suspected of using illegal drugs, the supervisor will complete the Observed Behavior Checklist to determine if the relevant criteria are met.
2. When the unit head concurs with the reasonable suspicion, the supervisor will:
 - a. Promptly prepare and submit a written report detailing the circumstances which warrant the testing. This report should include the dates and times of reported drug related incidents, reliable sources of information, rationale leading to the test, and the action(s) taken.
 - b. Obtain a time and location for testing from HRO and direct the employee to the location.
 - c. Campus Security or other personnel will escort the employee to the testing site.

The Observed Behavior Checklist may be obtained from HRO for assistance in determining reasonable suspicion testing.

B. Accident or Unsafe Practice Testing

1. An appropriate supervisor in the University in the chain-of-command may declare an employee a threat to public safety, health, or welfare. The employee declared a threat is subject to a drug test, will be removed from the work site, and is subject to disciplinary action.
2. Employees involved in on-the-job accidents or who engage in unsafe on-duty jobrelated activities that pose a danger to others or the overall operation of UOG, may be subject to testing. Based on the circumstances of the accident or unsafe act, the supervisor may initiate testing.
3. When an on-the-job accident occurs, regardless of severity or occurrence, where there is evidence to indicate that the accident or occurrence was in whole or in part the result of the employee's action or inaction and/or the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or under the influence of drugs.

C. Follow up Testing to counseling or rehabilitation. All employees referred through administrative channels who undergo a counseling or rehabilitation program for illegal drugs will be subject to unannounced testing following completion of such a program for a minimum period of two years.

DRUG TEST RESULTS

- A. Drug test results shall be reported in as timely a manner as reasonable.
- B. Drug test results shall be revealed only to the unit head or other persons authorized by the President of the University of Guam as having an established need-to-know for the information.
- C. An employee who receives a confirmed "positive" drug screen result or the equivalent will be subjected to Adverse Action procedures which will likely result in termination.
 1. An employee must use annual or sick leave to participate in an approved education or treatment program pursuant to this policy. Leave requests must be substantiated with proof of participation in an education, rehabilitation, or treatment program.
 2. The employee must also provide to the CHRO proof of participation in the education, rehabilitation or treatment program.
 3. Supervisors or other appropriate officials at UOG in the chain-of-command may declare an employee a threat to safety or health at the work site while undergoing treatment or rehabilitation. In this situation, the Dean or Director may recommend, with the approval of the Appropriate Administrator, to transfer the employee to perform tasks where safety and health are not compromised. The Appropriate Administrator may immediately suspend an employee pursuant to the adverse action procedures.

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4. Failure by the employee to successfully complete the recommended education, rehabilitation or treatment program will result in the employee being subjected to the disciplinary process which will likely result in termination.
 5. Employees must provide or release clinical verification to the CHRO of a successful completion of an education, rehabilitation or treatment program.
 - a. For the purpose of UOG's drug testing program, successful completion of a recommended education, rehabilitation or treatment program means the employee achieved and maintained a drug-free state.
 - b. The Unit Head retains the right to require an employee to submit to subsequent drug tests. As necessary, these tests may be administered during the authorized education, rehabilitation or treatment program and for a minimum period of not less than two (2) years after the completion of the program.
- D. Confirmed "Positive" drug screen result: An employee who receives a "positive" drug screen result is subject to adverse action procedures under the following conditions:
1. An employee serving in a probationary period may be dismissed by written notice from the Appropriate Administrator.
 2. A full-time employee or part-time employee will be subject to adverse action procedures and will likely be terminated.
 3. This policy shall not preclude the Deans or Directors from proposing disciplinary or adverse action for other mitigating circumstances that occur in addition to a confirmed "positive."

TAMPERING WITH DRUG SCREEN TESTING PROCESS

A. Any current employee who intentionally tampers with a sample provided for drug testing, violates chain-of-custody or identification procedures, or falsifies a test result shall be subject to the adverse action procedures of dismissal.

DRUG RETESTING

Only the President, after consultation with the Medical Review Officer, has the discretion to authorize retest on the same or new specimen, if the President determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed "positive" result or has other appropriate cause to warrant a retest.

COLLECTION SITES AND LABORATORIES PROCEDURES

- A. Collection of urine specimens, for the purpose of detecting illegal use of drugs or specified controlled or toxic substances, will comply with HCFA (DHHS), NCCLS and SAMHSA guidelines and meet federal evidentiary requirements.
- B. A drug test may screen for any substance listed in Chapter 67, of Title 9 GCA (Uniformed Controlled Dangerous Substance Act) or any controlled substances listed in schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) as amended.

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1. Samples from employees will be screened in all cases to identify the following classes of substances:
 - a. Marijuana/Cannabinoids (THC);
 - b. Cocaine Metabolites;
 - c. Opiates;
 - d. Phencyclidine (PCP);
 - e. Amphetamines / Methamphetamine; and
 - f. Barbiturates
 2. The supervisor may also require an employee to undergo a Breath Alcohol Testing (BAT) or other appropriate test.

- C. Locations of the drug testing and specimen collection sites shall be determined by the CHRO or his designee.

UOG and certified referral laboratories' test methods shall follow the standards found in 49 CFR part 40.

- D. The requirements for specimen collection shall meet federal guidelines and evidentiary requirements and is used for:
 1. Employee Testing
 2. Patient Testing that would potentially become legal evidence

REPORTING AND MAINTAINING RESULTS AND RECORDS

- A. Reporting Requirements: The importance of confidentiality and accuracy in record keeping throughout the drug testing process cannot be overemphasized. HRO will prepare and maintain records for the drug screen program.
 1. Departments: Request applicants and employees to read, sign and date the Affirmation of Policy Form (APF). HRO will assist in this matter. Employees are to complete this form when they receive orientation about the program during the onboarding process. Give the employee a copy of the signed statement and keep the original.
 - a. Initiate the Consent and Acknowledgment Form (CAF). Ask each employee being requested to take a drug screen to read and sign the CAF. Give a copy to the applicant or employee and forward original copy to HRO. Instruct the applicant or employee to show the signed copy to the collection site personnel.
 - b. Test results will be reported to the President and CHRO and other necessary persons in the chain of command. Only these individuals are to receive results of drug testing. It is the responsibility of these authorities to maintain the confidentiality and security of the information.
 - i. Results for employees will be reported as "positive" or "negative."

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- c. Ask an employee who is required to undergo an assessment and recommended education or treatment program to sign the Release of Information Form (RIF) releasing limited necessary information about the employee's participation. Give a copy of the signed release waiver to the employee and forward original copy of the release to HRO which will transmit to the Behavioral Health and Wellness Center or other qualified treatment center.
 - d. If an employee refuses to take a drug screen, refuses to sign the consent or release forms or fails to report for a drug screen or treatment program, document the refusal. Include the name of the employee, the position or the one for which a conditional offer had been made, the nature of the refusal, names of witnesses and the refusal date. HRO shall retain a copy of the documentation along with a copy of the letter to the supervisor for disciplinary action which will likely be termination.

B. Employee Health

- 1. The CHRO maintains records for each employee requested to take a drug screen. Make every reasonable effort to maintain the confidentiality of these records whether they are stored electronically or on paper.
 - a. Retain records forwarded from each of the Units including the Affirmation of Policy Form (APF) and the Consent and Acknowledgment Forms (CAF); the Release of Information (RIF) and Access to Records Forms (ARF).
 - b. Retain records forwarded from the laboratory including the results and the monthly statistical summaries. Retain information forwarded from the Medical Review Officer; including the Confirmed Positive Results (CPR) and the monthly statistical summaries.
 - c. Maintain all records regarding any and all drug testing matters in a separate file, distinct and apart from employee personnel files.
 - d. Access to drug testing records is considered restricted and will be controlled. These shall be in a locked cabinet with limited access.

- C. Employees may request access to their records regarding the drug testing process. The request must be in writing to the Appropriate Administrator. Applicants and employees must sign an Access to Records Form (ARF) releasing complete information from the laboratory and Medical Officer to the CHRO and UOG or its officers, and relieving the CHRO, UOG or its officers, laboratory and Medical Review Officer (MRO) from any liability relating to the confidentiality of the individuals' records.

CONFIDENTIALITY AND THE MAINTENANCE AND SECURITY OF RECORDS

- A. DFW records and test results are confidential. Every individual involved in the DFW process is responsible for maintaining strict security and confidentiality. Access to these records is restricted to HRO staff, the supervisory chain of command, Legal Counsel, the President, the Appropriate Administrator, Medical Review Officer, Director of Lab Services, and Board of Regents. No

further access to these records can be authorized without the express consent of the employee or applicant.

- B. Need to Know - confidential information may be shared with others only if it is necessary for implementing this policy, is part of the other individual's normal duties, is in the employee's chain of command, or the employee has authorized the release of information.
- C. The nature of an employee's problem and information provided during education/treatment is private information. This information will not be disclosed to anyone outside the treatment or rehabilitation setting without the employee's consent.
- D. DFW records and test results are not subject to the Guam Freedom of Information Act (Title 5 GCA), also known as Guam Sunshine Law.

APPEALS AND ADVERSE ACTION PROCEDURES

- A. Results of a Confirmed Positive Drug Test will lead to an Adverse Action procedure which will likely result in termination of employment.
- B. Adverse Actions and appeals are governed by appropriate UOG Personnel Rules and Regulations and CSC Adverse Action Procedures as appropriate.

REFERRAL FOR EDUCATION, REHABILITATION OR TREATMENT

- A. Goal: UOG will utilize the Guam Behavioral Health and Wellness Center (GBHWC) or other appropriate entity for its referral system for education, rehabilitation or treatment. UOG's plan for addressing the issue of drugs in the workplace includes provisions for counseling and education or treatment. The goal is for the employee to become and remain drug-free. It is UOG's primary objective to retain employee's state of physical and mental capacity as a productive and safe member of the workforce.
- B. The EAP Coordinator will need a statement or verification from the Treatment Center clinician as to:
 - 1. Whether or not the employee is actively participating in the recommended education or treatment program;
 - 2. If the program was successfully completed by the employee. This information is necessary to document whether or not the employee meets the rehabilitation requirements.
- C. All information of DFW programs shall be treated with maximum confidentiality.
- D. The supervisor shall approve an employee's referral for drug education or treatment program.
- E. The Treatment Center will determine the type of rehabilitation program the employee needs. Rehabilitation programs may vary depending on the nature and severity of the employee's substance use or abuse problem.

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1. Program Requirements. GBHWC is the only recognized drug assessment, rehabilitation and treatment facility on the island.
 2. The treatment, education or rehabilitation plan is determined by a recognized treatment facility on island. This includes the type and length of treatment; whether it is an inpatient or outpatient or both; and whether aftercare treatment or follow-up is required.
- F. Procedures. When the CHRO gives notice of a confirmed positive drug screen, follow these steps:
1. The Unit Head schedules a private meeting with the employee to provide verbal and written notification of the drug screen result and its consequences. The CHRO or his designee shall be present in this meeting.
 - a. Direct the employee to contact the EAP Coordinator for referral to the approved treatment center.
 - b. Have the employee complete and sign a Release of Information Form (RIF).
 2. The EAP Coordinator will give the initial consultation to the employee and notice of referral to the treatment facility. Referral to a treatment facility is for a complete drug assessment, education, rehabilitation, and treatment program. It is the responsibility of the employee to schedule an appointment as soon as possible with the treatment facility.

G. Leave

1. An employee may be granted leave to participate in an appropriate and approved education, rehabilitation or treatment program. All leave requests shall be pursuant to the applicable Personnel Rules and Regulations. The employee must provide proof of participation in the program to receive approval of leave request.
2. The employee may be granted sick and annual leave or leave without pay. Whenever possible, the employee shall request that his/her education, rehabilitation or treatment sessions do not conflict with the employee's work schedule. Leave will be granted in such a manner so as to minimize disruption to the workplace and will be coordinated and verified with the designated treatment facility.
3. If an employee does not report to work at the conclusion of the approved leave period, UOG will initiate disciplinary action in accordance with the appropriate adverse action procedures.

Section III: FORMS

Official forms to be used throughout the entire testing process are described below.

- A. Use of social security account number (SSAN) on a form is voluntary. This information will help ensure proper identification of records.

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- B. **Mandatory Forms.** Employees for whom it has been determined that a drug test is needed are required to sign the Drug Testing Consent and Acknowledgement Form and the Medical Information Form. Both forms are required prior to conducting a drug test.
1. Refusal to sign either or both forms is considered a refusal to submit to a drug test.
 2. Refusal by employee is equivalent to receiving a confirmed "positive" result and is grounds for disciplinary or adverse action.
- C. **Affirmation of Policy Form (APF).** APF's are to be read, signed and dated by employees during program orientation and prior to any drug screens being conducted. The APF is used as a permanent record of prior knowledge by the employees of the drug testing policy. The APF contains a general statement of policy. The form also includes an employee's name, social security number and ID number, signature and the date.
- D. **Consent and Acknowledgment Form (CAF).** CAF's are to be read, signed and dated by each applicant or employee asked to take a drug screen. If an employee is requested to submit to drug testing more than once, a new consent form must be signed each time. The CAF is a signed statement of consent to collect and analyze a urine specimen taken for the purpose of a drug screen. It is also used to acknowledge that the results of the screen will be made available to the Unit Head to whom the employee reports. The CAF includes a space for the applicant's or employee's name, the social security number, ID Number, and the employing unit. The CAF also includes a space where the applicant and a witness sign and date the form.
- E. **Medical Information Form (MIF).** The MIF is used by the applicant or employee to list all prescription and non-prescription drugs, if any, taken within 48 hours of the test. The accuracy of test results depends on information provided on the MIF. Collection site personnel will explain this form to each applicant or employee. Collection site personnel will also note any personal behavior, circumstances or findings on this form.
- F. **Chain-of-Custody Form (CCF).** UOG will utilize the Chain-of-Custody Form (CCF) of the contracted laboratory. Prior to implementation of the contracted laboratory's CCF, UOG will issue an advisory to employees officially notifying employees of such form. The CCF is used to note each action taken and each person involved, from the beginning of the drug testing process through the reporting of test results, for each urine sample. The CCF begins with the collection of the sample and continues with sealing of the sample until it is sent to the laboratory. The laboratory then receives, stores, and goes through each step of the testing process. Each succeeding action in the testing process will require the person completing a specific process to sign and date the CCF.
- G. **Access to Records Form (ARF).** The purpose of the ARF is to allow an employee access to records concerning his/her drug screen and to release UOG from any liability regarding the confidentiality of these records. The employee requesting access to the records must read, sign and date this form. This form requires the signature of a witness.
- H. **Verification of Treatment Form (VTF).** The VTF form is used by the treatment facility to report the status of an employee at the end of participation. This form is needed to verify the employee's successful completion in order to return to work. An authorized representative of the facility, the employee, and a witness must sign the VTF.

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- I. Agreement to Participate in Education, Rehabilitation, or Treatment Program. This form is to be read, signed, and dated by an employee. It is an agreement to participate in an education, rehabilitation or training program. Refusal to sign the agreement or failure to honor the agreement shall result in an adverse action. This agreement shall be filed in the Employee Health Record.
 - J. Form Supplies. HRO will provide Units with copies of the forms they will require.

**University of Guam
Drug Free Workplace Policy
Acknowledgement Form**

THIS IS A DRUG-FREE WORKPLACE

The University of Guam (UOG) operates and maintains a "drug-free" workplace in compliance with the Drug-Free Workplace Act. UOG has strict rules prohibiting drug and alcohol use by our employees and the campus community.

Our drug-free workplace policy was established because any amount of drugs in your body can put you under its influence to some degree, even if the impairment is not readily apparent to ordinary people. Drug abuse can lead to property damage, serious injury and even death, and it can lead to deterioration of your personal health and work performance.

We respect the fact that you're responsible for making your own life-style choices, but we will not accept even small risks that drug abuse might cause to employees or students.

Compliance with this policy is not just an essential job qualification, it is a condition of employment with UOG.

We absolutely prohibit possession, distribution, manufacture, sale, or use of any controlled substance, drug, or other mind-altering chemical or organism, narcotic or related paraphernalia everywhere on our property and to every work area.

Reporting for work when you are in any way affected by the use of any drug or narcotic, except those lawfully prescribed by a physician, will result in disciplinary action, up to and including dismissal. We will use testing procedures to enforce this policy.

There are a number of educational and drug awareness programs available to you at no cost. Your supervisor will be pleased to help you to learn about the hazards of drug abuse and about the availability of professional counseling and rehabilitation programs available to you from the treatment facility and through our health insurance benefit plan.

Any inconvenience this policy may cause *is* regrettable but the alternatives to operating "drug-free" are simply unacceptable.

Signature of Employee

Witnessed by HRO Staff

Date

Date

University of Guam (UOG)
MEDICAL INFORMATION FORM (MTF)

OBSERVED BEHAVIOR/REASONABLE SUSPICION/CAUSE DETERMINATION
CHECKLIST (CONFIDENTIAL)

Directions: Supervisor or Manager, please document your observation/note of the employee’s behavior and indications on this form. You must personally observe the probable indicators of substance and/or alcohol use and note your observations below. This checklist is to be completed whenever an incident or work-related accident has occurred and there is reasonable suspicion/cause that an employee is under the influence of alcohol and/or prohibited drug substance.

Employee Name: _____ Date: _____ Time: _____
 Name of Observer: _____
 Location of Observation: _____

Observation Checklist of objective signs of impairment or addiction in the workplace *Some of these signs (in red or shown with an asterisk (*)) require immediate preventive intervention to ensure the health and safety of the individual and the workplace. According to the risks related to the assigned duties or work situation, the presence of one or more of these signs may require the employee’s immediate withdrawal from work.*

Part 1. Objective signs of impairment at work
(possibly related to the use of alcohol or other drugs).

<input type="checkbox"/> PHYSICAL ASPECTS	<input type="checkbox"/> COGNITIVE ASPECTS	<input type="checkbox"/> BEHAVIOR
Dilated pupils (e.g., hallucinogens or stimulants)	Difficulty understanding instructions	Slow movements
Flushed or pale skin (e.g., amphetamines)	Apathy or lack of motivation	Fast or jerky movements
<u>Dry, pasty mouth (e.g., cannabis)</u>	Carelessness or hypervigilance	Speaking in exaggerated way (loud voice, gesticulating)
Tics	Impaired judgment	Slow speech
Red eyes (e.g. cannabis)	Difficulty concentrating, distracted	Slow, sluggish, nonchalant
Excessive sweating (e.g., stimulants)	Confused speech or thought	Frequent noisy laughter

	*Nose bleed (e.g., cocaine)			Unusually passive and quiet
	*Convulsions (e.g., cocaine)			*Rambling speech
	*Extreme fatigue,			*Unsteady gait
	sleepiness (e.g., cannabis or tranquilizers)			
	*Tremors (e.g., hallucinogens)			*Unable to remain standing/must lie down
	*Nausea/vomiting (e.g., cocaine)			*Injures themselves or others
	*Drowsiness (e.g., antianxiety drugs/sedatives)			*Lack of coordination
	*Very slow or very fast breathing			*Slow reaction time
				*Overexcited, agitated, constantly moving
				*Compulsive need to carry out a task
				*Loss of control of behavior

Part 2. Objective signs in the workplace of possible addiction to alcohol or other drugs

These signs indicate possible dependence, but may also be associated with other problems. For further details, see also Parts 1 and 3.

<input type="checkbox"/> HEALTH (PHYSICAL AND MENTAL)	<input type="checkbox"/> ATTENDANCE	<input type="checkbox"/> WORK RELATIONSHIPS
Frequently complains about physical ailments (headache, stomach ache, etc.)	Frequent unauthorized or unjustified absences	Irritability with colleagues, supervisor
Often sad, depressed	Frequent absences during work hours (often in the washroom, on the sidelines)	Inappropriate verbal or emotional reactions

	<u>Suicidal thoughts</u>		Extended breaks		Isolation from colleagues/avoidance of supervisors
	Deterioration of appearance or personal hygiene		Late arrivals and early departures		Lies or bizarre explanations to excuse behavior
	Great anxiety				Discovery of errors or
			Notable absences, particularly after paydays or days off		situations hidden by colleagues or supervisor
	Trembling	<input type="checkbox"/>	SAFETY	<input type="checkbox"/>	PERFORMANCE
	Several illness-related absences		Frequent carelessness causing or almost causing accidents		Productivity/job performance suddenly or gradually increases or decreases
	Nervousness, irritability		Frequent accidents		Quality of work fluctuates
	Loss of short-term memory		Sloppy work		Carelessness
	Diarrhea and vomiting		Charged with impaired driving		Errors of judgment
	Abdominal or muscle cramps				Decreased attention and alertness
	Weight loss				Impaired memory (e.g./cannabis)
	Insomnia				Hides mistakes
	Inappropriate euphoria				Easily tired
					Difficulty meeting deadlines

Part 3. Observable signs directly related to substance use

	Observer witnesses use before entering or in the workplace
	Smell of alcohol
	Smell of cannabis (burnt hay)
	Worker reports using or addicted to one of more psychoactive substances
	One or more colleagues report recent use or use in the workplace

	Alcohol or other drugs seen: <input type="checkbox"/> On their person <input type="checkbox"/> In their locker <input type="checkbox"/> In their office <input type="checkbox"/> On the machinery they drive or operate
	Objects related to the consumption of drugs or alcohol seen: <input type="checkbox"/> On their person <input type="checkbox"/> In their locker <input type="checkbox"/> In their office <input type="checkbox"/> On the machinery they drive or operate
	Report of activities related to the sale or purchase of the substance in the workplace
	Comments by colleagues indicating consumption endangering the workplace
	Other observation directly related to psychotropic substances
Comments and summary of objective observations:	
Part 1. Impairment	
Part 2. Possibility of addiction	
Part 3. Signs directly related to substance use or addiction	
Recommendations and actions:	
<input type="checkbox"/> Relieve employee from duties and removed from worksite <input type="checkbox"/> Implement safe transportation plan, if necessary (make sure employee gets home safely) <input type="checkbox"/> Inform employee of process for returning to work <input type="checkbox"/> Refer employee to EAP <input type="checkbox"/> Send employee to be drug tested per Drug-Free Workplace Policy Procedure	

Employee signature _____ Date: _____
(signature & title)

Supervisor making observation: _____ Date: _____
(signature & title)

This document must be prepared and signed within 24 hours of the observed behaviors. The original must be returned to Human Resources and a copy must be given to the employee.

For HR Use ONLY:

This form received and reviewed by:

Date: _____