



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

4  
5           2. The following Chapters of GWA's Personnel Rules and Regulations are not  
6 affected by these amendments: Chapters 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, Merit  
7 Career Plan, and Appendices A, B, C, D, E, F, G, H, and I.

8  
9           b. Amended Sections and Chapters:

10  
11           1. The Following Sections of GPA's Personnel Rules and Regulations are  
12 amended as set forth herein: Sections 4,7,11,15, and 18.

13  
14           2. The Following Chapters of GWA's Personnel Rules and Regulations are  
15 amended as set forth herein: Glossary and Chapters 4, 5, 6,10, and 11.

16  
17           **SECTION 3. Section 1 of the Proposed Rules is hereby re-numbered as**  
18 **Section 2 and amended to read:**

19  
20           **Section 2. Definition of Terms.** A new Subsection 7.03 is hereby  
21 added to GPA's Personnel Rules and Regulations and Paragraph 29A is hereby added to  
22 the Glossary of GWA's Personnel Rules to read:

23  
24  
25           **Certified, Technical, and Professional Employee:**

26  
27           a. Definition. The term: "Certified, Technical, or Professional  
28 Employee shall mean personnel employed by the Authority who are professional  
29 engineers, attorneys, and other licensed professionals, or who are highly skilled employees

1 with certificates such as plant operator and other similar engineering and technical  
2 personnel.

3  
4 b. Identification of Certified, Technical, and Professional  
5 Positions. No later than thirty (30) days after the effective date of this rule, the General  
6 Manager shall identify and list, by title, position description, and pay range, all the Certified,  
7 Technical, and Professional Positions that currently exist in the Authority. Said list shall  
8 include, but is not limited to, the positions identified in the Attachment A and B of P.L. 28-  
9 113. The General Manager shall submit said list to the Consolidated Commission on  
10 Utilities (CCU) and the CCU shall approve, disapprove, or amend said list at any regularly  
11 scheduled CCU meeting. The General Manager shall publish the CCU approved list on the  
12 Authority's website and a copy of the list shall be maintained at the Authority's Personnel  
13 Office and be available for public inspection.

14  
15 c. Amendment of Certified, Technical, and Professional  
16 Positions. The General Manager may petition the CCU to amend, to include but not limited  
17 to deleting, adding, or modifying such positions, the approved list of the Authority's  
18 Certified, Technical, and Professional Positions.

19  
20 1. The Petition shall include:

- 21 (A). The Justification for the Amendment.  
22 (B). The essential details of the Amendment.  
23 (C). An analysis of the similarities or differences  
24 between the existing position and the Amendment.  
25 (D). The Job Title, Pay Range, and Position  
26 Description affected by the Amendment.

27  
28 2. The General Manager shall post the petition on the  
29 Authority's Website for ten (10) days (Saturdays, Sundays, and government of Guam  
30 holidays excepted). After the posting, the General Manager shall forward the petition,

1 along with evidence that prompt notice of the posting was provided each newspaper of  
2 general circulation and broadcasting station which airs a regular local news program within  
3 Guam, to the CCU. The CCU shall approve, disapprove, or amend the petition at any  
4 regularly scheduled CCU meeting.

5  
6 **SECTION 4. Section 3 of the Proposed Rules is hereby re-numbered as**  
7 **Section 2 and amended to read:**

8  
9 **Section 2. Selection and Appointment of Certified, Technical, or**  
10 **Professional Employees.**

11  
12 **a. Section 4.A to GPA’s Personnel Rules and Regulations and**  
13 **Chapter 4.A GWA’s Personnel Rules and Regulations are hereby added to read:**

14  
15 **4.A. Employment of Certified, Technical, and Professional Employees:**

16 **4.A.1.0 RECRUITMENT**

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

18  
19  
20 4.A.1.1.1 When there is a need to establish a list of eligibles, the General Manager  
21 shall publish and disseminate announcements of recruitment and examination on either  
22 an “Open” or “In-House” competitive basis. The General Manager shall use “Open  
23 Announcements whenever new personnel are required to augment the Authority’s  
24 existing staff. The General Manager shall use In-House Competitive Announcements  
25 whenever the Authority can provide promotional opportunities for its existing employees  
26 without the need to acquire additional employees.

- 27  
28 a) “In-House” competitive announcements shall be published to allow all  
29 interested permanent classified employees of the Authority to compete for  
30 vacancies. Applicants who are not permanent classified employees of the  
31 Authority will not be allowed to submit applications under this type of  
32 announcement.
- 33  
34 b) “Open” competitive announcements shall be published to allow all interested  
35 and qualified persons or employees to compete for Authority vacancies.

1 4.A.1.1.2. Each recruitment and announcement for an initial appointment or a  
2 promotion shall contain the title of the class, the applicable range of pay, the  
3 character of the duties and responsibilities and examples thereof, the closing date  
4 and place for filing applications, the minimum qualifications for entry into the  
5 position, the required supporting documentation such as but not limited to a high  
6 school diploma, official college transcripts, police and court clearances, and other  
7 information deemed necessary. Appointments from other than the eligibility list, as  
8 for example by transfer, demotion, or reemployment, shall be bound by minimum  
9 qualifications requirements set forth in such announcement.

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

13  
14 **4.A.1.2 Application Form:**

15  
16 The General Manager shall prescribe a form to be used by applicants for positions  
17 which shall require information covering experience, training, and other pertinent  
18 data indicated as being necessary in the announcements. Applications shall be  
19 signed and the truth of all statements therein certified to by such signature.  
20 Applications for competitive announcements shall be accepted only during the  
21 period specified. It is the applicant's full responsibility to inform the Human  
22 Resources Division of their current mailing address and contact phone numbers.  
23 The Human Resources Division will not be held liable for missed or non-receipt of  
24 notice of examination due to incorrect or non-renewal of contact information.

25  
26 **4.A.1.3 Submittal of Supporting Documents:**

27  
28 All supporting documents to an employment application must be received on or  
29 before the closing date of an announcement, or at the time of submittal of an  
30 application for announcements on a continuous basis to receive full consideration for  
31 eligibility to compete in the recruitment processes including but not limited to, high  
32 school diplomas, official college transcripts, police and court clearances and DD  
33 form 214. Applicants may still submit pending documents within ten (10) working  
34 days of the stamped date of the notice of rating. Changes in rating generally will not  
35 affect a certification already issued, or invalidate an appointment already made from  
36 the eligibility list. No documents will be accepted for further consideration past the  
37 ten (10) day period listed above.

38  
39 **4.A.1.4 Rejection of Applicants:**

40  
41 The General Manager shall not be required to accept applications or, after  
42 acceptance and evaluation, establish an applicant as eligible on an eligibility list, or  
43 allow an applicant admission to the recruitment process when any of the following  
44 conditions exists:  
45

- 1 a) Conviction of a crime in which the crime is directly related to the work to be
- 2 performed for the position applied.
- 3 b) Refusal or failure to furnish documents required to verify any statements made in
- 4 the application.
- 5 c) Intentional false statements or deception, or fraud in the application process.
- 6 d) Failure to attest to the accuracy of information presented on the application form.
- 7 e) Failure to submit an application within the announcement period except in those
- 8 instances where the applicant can certify in writing extenuating circumstances to
- 9 the satisfaction of the General Manager.
- 10 f) Physical or mental unfitness to perform the duties of the class of position to
- 11 which he/she seeks appointment.
- 12 g) Evidence that the applicant has been removed from a position, either within the
- 13 Authority or government of Guam agencies or otherwise for reasons which would
- 14 render him/her unsatisfactory for the position in the (Authority) service for the
- 15 class for which he/she is applying.
- 16

#### 17 **4.A.1.5 Notification of Rejection of Applicants:**

18  
19 4.A.1.5.1 A rejected applicant shall be notified promptly of such action and the  
20 reasons for rejection in writing.

21  
22 4.A.1.5.2 Any person who has been disqualified based on non-submittal of  
23 supporting documents may appeal such action within ten (10) calendar days of the  
24 date of the written notice to the General Manager.

25  
26 4.A.1.5.3 The General Manager may schedule a selection interview prior to the  
27 expiration of the ten (10) day appeal period for rejected applications that are pending  
28 supporting documents due to organizational needs. The ten (10) day appeal period  
29 will not delay the employment process. Certification lists for interview may be  
30 established prior to the expiration of the appeal period.

31  
32  
33 4.A.1.5.4 Should the Authority determine, through the appeal, that an applicant's  
34 qualification for the position applied for due to non-submittal of supporting  
35 documents, the applicant may then be considered in the next certification period.

#### 36 37 **4.A.1.6 Rating Process:**

38  
39 4.A.1.6.1 Competitive announcements shall be held for original appointments and  
40 promotions and shall be job-related in nature and designed to reveal the capacity  
41 and fitness of the applicant to satisfactorily perform the characteristic duties of the  
42 class or position for which the announcement is published.

43  
44 4.A.1.6.2 Any accepted personnel examining technique may be used, including a  
45 verification and evaluation of education, training and experience; tests of knowledge,

1 skill, ability, intelligence or aptitude; medical examinations, appraisals of personal  
2 suitability; and any other matter that the General Manager deems appropriate.  
3

4 **4.A.1.7 Notification to Report for Interview/Examination:**  
5

6 Upon evaluation and acceptance of the application, the General Manager shall  
7 cause each applicant to be notified by mail, telephone or other acceptable means of  
8 communication of the date, time and place of interview or examination. No person  
9 shall be admitted into the interview or to take any examination without such  
10 authorization or other satisfactory evidence of conditional acceptance of his/her  
11 application.  
12

13 **4.A.1.8 Rating of Employment Applications:**  
14

15 All applications for employment are evaluated based on the information provided by  
16 the applicant. Work experience is measured against the minimum experience and  
17 training as well as the knowledge, abilities and skills listed on the job announcement  
18 and the job specification.  
19

20 **4.A.1.9 Notification of Rating Results:**  
21

22 All competitors shall be notified in person or by mail of their final earned ratings. The  
23 records or ratings, as well as examination papers (if a written examination is  
24 required), shall be held as official records for the life of the resulting eligibility list.  
25

26 **4.A.1.10 Inspection of Written Examination Papers:**  
27

28 The General Manager shall, upon request of a candidate, authorize such  
29 candidate to inspect his/her own written examination papers (when  
30 applicable) within 20 days of the date of examination in the presence of a  
31 Personnel Specialist. The privilege of inspection shall not be deemed to  
32 include authorization to copy examination instructions, questions, results or  
33 notations.  
34

35 **4.A.1.11 Duration of Final Earned Ratings:**  
36

37 Final Earned Ratings are valid only for the life of the eligibility list. Ratings  
38 received through performance tests shall not be carried over to a new list  
39 after a period of one year.  
40

41 **4.A.2.0 PREFERENCE**  
42

43 **4.A.2.1 Preference Credit for Individuals with Disabilities:**  
44

1 Applicants who have physical or mental disabilities, but are physically or mentally  
2 able to perform efficiently and safely the duties of the position applied for, as  
3 certified by the Director of Public Health and Social Services, shall receive a  
4 preferential credit of five points which shall be added to their passing examination  
5 score for initial appointment to a position (does not apply to subsequent applications  
6 for employment with the Authority after separation).  
7

#### 8 **4.A.2.2 Preference Credit for Veterans of the United States Armed Forces or** 9 **Former Members of the Guam Police Combat Patrol:**

10  
11 Veterans of the Armed Forces of the United States, or former members of the  
12 Guam Police Combat Patrol, as certified by the Chief of Police, shall receive a  
13 preferential credit of five points which shall be added to their passing examination  
14 score upon initial employment only. Such veterans, or former members who are  
15 disabled as a result of their service in the Armed Forces or Combat Patrol, shall  
16 receive a preferential credit of 10 points which shall be added to their passing  
17 examination score upon initial employment only (does not apply to subsequent  
18 applications for employment in the Authority after separation).  
19

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

21  
22 Persons claiming veteran's status must submit their DD Form 214, Armed Forces of  
23 the United States Report of Transfer of Discharge. A person must have completed  
24 at least 180 consecutive days of service in the Armed Forces of the United States  
25 and must have received other than a dishonorable discharge from such service to  
26 be eligible for veteran's preference.  
27

### 28 **4.A.3.0 EMPLOYMENT LISTS**

#### 29 30 **4.A.3.1 Certification of Eligibles:**

31  
32 *Rule of Eight:* Eligibles shall consist of eight or such fewer eligibles as may be  
33 available for the class. Eligibles shall be certified by the General Manager in the  
34 order that they appear on the eligibility list as follows:  
35

- 36 a) First Ranked Eligible
- 37 b) Second Ranked Eligible
- 38 c) Third Ranked Eligible
- 39 d) Fourth Ranked Eligible
- 40 e) Fifth Ranked Eligible
- 41 f) Sixth Ranked Eligible
- 42 g) Seventh Ranked Eligible
- 43 h) Eighth Ranked Eligible  
44



1 In case of a tie on the eighth ranked eligible, the eligibles will be certified until the  
2 earned ratings are changed in numerical places. For example, the eighth, ninth ranked  
3 eligible has earned a score of 71.00 and the tenth eligible rating is a 70.00, the eighth  
4 and ninth eligibles will be certified along with the first seven eligibles.  
5

#### 6 **4.A.3.2 Certification of Eligibles For More Than One Vacancy:** 7

8 4.A.3.2.1 For more than one vacancy, the General Manager may certify an  
9 additional eligible for each additional vacancy.  
10

11 4.A.3.2.2 When the last eligible to be referred is one of two or more eligibles who  
12 have identical examination scores, such two or more eligibles shall also be certified.  
13

14 4.A.3.2.3 If the department head does not wish to select any of the candidates  
15 certified, he/she must individually justify to the General Manager his/her reasons for  
16 non-selection, before a new certification is authorized.  
17

18 **4.A.3.3 Establishment of Eligibility Lists:** Names of candidates shall be placed on  
19 eligibility lists in rank order of qualifying scores after appropriate examination. This list  
20 shall be designated as an "Eligibility List" for that class and area of consideration. After  
21 the General Manager has approved the eligibility list, it shall then be considered  
22 "established".  
23

#### 24 **4.A.3.4 Duration of Eligibility Lists:** 25

26 The life of an eligibility list, other than a reemployment list, shall be for a period of  
27 not more than one year unless extended by the General Manager, which such  
28 extension shall not exceed three months. When an eligibility list is reduced to an  
29 insufficient number of eligibles (less than eight), a new eligible list may be  
30 established through appropriate examination. The names of eligibles on the former  
31 list shall be combined with those on the new list according to the final score.  
32

#### 33 **4.A.3.5 Types of Lists:** 34

35  
36 4.A.3.5.1 *In-House List:* The In-House List shall consist of names of employees of  
37 the Authority who have passed their initial probationary period and meet the  
38 minimum requirements of the position applied and were certified as eligibles. The  
39 In-House List shall be used whenever an In-House Competitive announcement is  
40 used to announce the position as set forth in Section 1.1.1b) above.  
41

42 4.A.3.5.2 *Open List:* The open list shall consist of names from the general public who  
43 are not employed by the Authority as well as current employees of the Authority.  
44 The names of such persons shall be placed on the list in order of their final earned

1 ratings starting from the highest. Open Lists shall be used whenever an Open  
2 Competitive announcement is used as set forth in Section 1.1.1a) above.  
3  
4

5 **4.A.3.6 Removal of Names from Eligibility List:** The name of any person on an  
6 eligibility list may be removed if:  
7

- 8 a) The person is appointed to a permanent position for the class;
- 9 b) The eligible fails to respond within 15 days to a written inquiry relative to  
10 availability for employment;
- 11 c) The eligible rejects an offer of permanent employment;
- 12 d) The eligible fails to report for selection interview after two (2) notifications of  
13 selection interview without written notice; or fails to report to duty within the  
14 time prescribed; Failure to report for selection interview will not delay the  
15 selection process.
- 16 e) Withdrawal by the eligible;
- 17 f) Physical or mental unfitness to perform the duties of the position as shown by  
18 medical examination;
- 19 g) Findings of deception or fraud in the employment process;
- 20 h) Conviction of a crime which is related to the position applied for.

21  
22 **4.A.3.7 Selection of Employees:** Appointments to classified positions of the Authority  
23 shall be selected from among a certified list of eligibles. A certification list may not be  
24 required in the appointment of unclassified positions.  
25

26 **4.A.3.8 Supplemental Certification:**  
27

28 The General Manager may certify supplemental eligibles to provide a full  
29 certification under the following conditions.  
30

31 4.A.3.8.1 The supplemental certification may be used only upon the failure to appear  
32 for a selection interview, refusal of appointment by eligibles or the rejection of  
33 eligibles by the General Manager for cause.  
34

35 4.A.3.8.2 The additional eligibles to be certified shall be of such number that will  
36 provide the Authority with a full certification of up to eight (8) eligibles.  
37

38 **4.A.3.9 Selection Interview Consideration:**  
39

40 When an applicant is interviewed for a position within the Authority and is  
41 subsequently not selected for an appointment, the applicant is still in consideration  
42 for selection at a later time to the exact same position within the same division  
43 he/she previously interviewed for without conducting another interview. This  
44 selection interview consideration shall remain in effect for the life of the eligibility list.  
45

1       **4.A.3.10 Selective Certification:**  
2

3               Upon request of the department head and approval of the General Manager,  
4               selective certification may be made when specific identifiable qualifications  
5               and skills are essential to successfully perform the duties and responsibilities  
6               of the position. These factors shall pertain to knowledge, skills and abilities  
7               pertinent to certain program operations when these qualifications and skills  
8               cannot be readily acquired after appointment. Selective certification  
9               requirements must be established in the job announcement and the position  
10              description.

11  
12       **4.A.3.11 Selection Interviews:**  
13

14              The General Manager, at his/her discretion, may schedule a selection  
15              interview immediately after the establishment of an eligibility list for the  
16              position. Applicants who are pending submission of supporting documents at  
17              the time the selection interview is scheduled will not be considered for  
18              certification purposes.  
19

20       **4.A.3.12 Types of Appointments:**  
21

22              4.A.3.12.1 Probational Appointment: An appointment to a permanent classified  
23              position in which the employee will commence serving a probational period on an  
24              initial recruitment for duration of six (6) months.  
25

26              4.A.3.12.2 Permanent Appointment: An appointment granted to a classified  
27              employee in a permanent position, subject to satisfactory completion of a  
28              probationary period on an initial recruitment.  
29

30              4.A.3.12.3 Reemployment Appointment: A former classified employee of the  
31              Authority who separated in good standing may be appointed to the same class and  
32              salary level held at the time of separation.  
33

34              4.A.3.12.4 Unclassified Appointment: Where no specific term of appointment or  
35              employment is specified in law as to that particular and specific position, shall be at  
36              the pleasure of the General Manager or the Consolidated Commission on Utilities  
37              (CCU) without competition.  
38

39       **4.A.3.13 Reemployment:** A permanent classified employee who separated from the  
40       Authority through resignation or retirement while in good standing may be eligible for  
41       reemployment, without competition to:  
42

43              4.A.3.13.1 The same or comparable position in the Authority within four years from the  
44              date of separation. A reemployed employee may be hired at not less than the salary

1 earned at the former position. Reemployment appointments are not subject to the  
2 certification procedures as described in these rules.

3  
4 4.A.3.13.2 If the same or comparable position is not available, the former employee may  
5 be reemployed to a lower level position in the class series.  
6

7 **b. Recruitment Above-Step for Employees In Certified,**  
8 **Technical, and Professional Positions**

9 A new Subsection 15.11A and 6.001C is hereby added to GPA's and GWA's Personnel  
10 Rules and Regulations to read:

11  
12 **RECRUITMENT ABOVE-STEP FOR EMPLOYEES IN CERTIFIED, TECHNICAL, AND**  
13 **PROFESSIONAL POSITIONS**

14  
15 **1.0PURPOSE:**

16  
17 This guide is intended to be used for salary placement above Step 1 of a respective pay  
18 grade for certified, technical and professional positions within the Guam Power Authority  
19 and the Guam Waterworks Authority. This is a management tool and may be used at  
20 the discretion of the General Manager.  
21

22 **2.0ABOVE STEP QUALIFICATIONS:**

23  
24 2.1. The General Manager may petition the Consolidated Commission on Utilities (CCU)  
25 for recruitment at a higher step not to exceed Step 10, because of documented  
26 recruitment difficulty or exceptional qualifications. The petition shall be posted on  
27 the agency's website for ten (10) days (Saturdays, Sundays and government of  
28 Guam holidays excepted). This petition shall be made before an applicant is hired.  
29 Every petition shall be scrutinized and amply justified before being approved.  
30 Increment schedule consisting of Steps 11 through 20 shall not be used for  
31 recruitment above step.  
32

33 2.2. The appropriate step placement of a respective pay grade for above step  
34 qualifications shall be determined by education, work experience, and other  
35 credentials or evidence administratively acceptable by the General Manager.  
36

37 2.3. Exceptional qualifications can be determined by the quality of major  
38 accomplishments, expertise, professional growth and leadership, and by an  
39 individual's personal enhancement initiatives. These qualifications can be  
40 demonstrated through the following:  
41

- 42 a. Performance evaluations
- 43 b. Professional accomplishments
- 44 c. Professional awards/recognition

- d. Training Certificates/Certifications
- e. Academic achievements
- f. Other testimonial

2.4. Recruitment difficulty exists when recruitment efforts fail to produce the minimum applicants needed to establish a list of eligibles (as defined by personnel rules and regulations).

2.5. Recruitment announcements shall be made for at least a period totaling one month and at least twice in a local news media of general circulation and/or other viable means of electronic communication to include, but not limited to, internet postings. Such media announcements shall be two weeks apart. All recruitment announcements shall be made for no more than one month preceding the submission of the request to the General Manager.

2.6. Internet postings for job announcements on a continuous basis may be considered on a cumulative basis totaling a period of one month. Internet postings constitute off-island recruitment.

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

1. Minimum education and experience requirements established in the job standard must first be met and are not included in the computation for an above step.
2. Pending certifications, licensure, diplomas, potential performance, economic conditions, etc. are not qualifying items for additional step placement.
3. Job related College level degrees beyond a Bachelors degree will receive four (4) points.
4. Job related Bachelors degree beyond a High School educational requirement will receive three (3) points.
5. Job related Associate's degree beyond a High School educational requirement will receive two (2) points.
6. Should the applicant possess multiple degrees, he/she will receive the points designated for the highest degree level held.
7. Should there be multiple degrees at the same level, only one degree related to the job will be credited.
8. Job related Certificate of Completion of an Apprenticeship Program recognized by the U.S. Department of Labor will receive two (2) points.
9. Qualifying directly related work experience:

<b>Total years beyond the minimum requirement</b>	<b>Points for direct work experience beyond the minimum requirement</b>
---	---

2 – 5 years	1
6 – 9 years	2
10-12 years	3
13-15 years	4
More than 15 years	5

1  
2 **\*When total years of experience include months: round down at five (5) months;**  
3 **round up at six (6) months.**

- 4  
5 10. Nationally recognized licensures, certifications and/or other job related  
6 certificates as determined by organizational needs and accepted by the  
7 General Manager may receive up to three (3) additional points.  
8 11. The Selection Interview plays a vital part in determining a candidate's  
9 suitability for the job. The General Manager may, pursuant to the procedures  
10 set forth in sub-sections 4.0 and 5.0 of this Section/Chapter authorize  
11 additional step placement based on the interview panel's recommendation up  
12 to 4 points for candidates who performed exceptionally well during the  
13 selection interview.  
14

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

15  
16 Each point factor has a direct correlation to the step placement of each position's assigned  
17 pay grade in accordance with the pay schedule in effect.  
18

19 **4.0 DISCRETIONARY APPROVAL:**

20  
21 The General Manager at his discretion may grant additional step placement beyond the  
22 formulated criteria based upon organizational needs and demands, insufficient labor  
23 pool, documented superior past performance or other contributory factors acceptable by  
24 the General Manager. Additional step placement under this section must be justified in  
25 writing. The General Manager may designate the respective hiring division manager to  
26 justify additional step placement.  
27

28 **5.0 REQUEST TO RECRUIT ABOVE THE MINIMUM STEP shall include the following**  
29 **information:**

30  
31  
32 5.1. The request for recruitment above step shall come through the General Manager for  
33 submission to the CCU for approval.

- 1 5.2. Identifying information about the candidate and the position to be filled.  
2 5.3. Demonstration of qualifications above the required minimum set by the job  
3 standard/announcement.  
4 5.4. Justification for salary being requested. Justifications must include information of  
5 the applicant's current salary. The applicant must inform the Authority in writing a  
6 salary minimally acceptable for the job.  
7 5.5. The candidate is advised before being hired that Step 1 will be the normal pay rate  
8 of employment pending the General Manager's approval of additional step  
9 placement.

10  
11 **6.0 MISCELLANEOUS PROVISIONS:**

- 12  
13 6.1. The effective date of the additional step placement rate is the General Manager's  
14 date of approval of such rate.  
15 6.2. No additional step placement will be considered after ten (10) working days of the  
16 incumbent's date of hire, except for just cause as determined by the General  
17 Manager.  
18 6.3. All documentation for consideration of step placement must be submitted to the  
19 Human Resources Division within ten (10) working days of the incumbent's date of  
20 hire.  
21 6.4. In accordance with Chapters 8 and 14 of Title 12 of the Guam Code Annotated, the  
22 Consolidated Commission on Utilities (CCU) determines the compensation of the  
23 General Manager, Chief Financial Officer, Assistant General Manager, Comptroller,  
24 Attorney, Treasurer and Secretary positions.

25  
26  
27 **SECTION 5. Section 4 of the Proposed Rules is hereby re-numbered as**  
28 **Section 3 and amended to read as follows:**

29  
30 **Section 3. Compensation.**

31  
32 A Section 15.17 of GPA's Personnel Rules and Regulations and a Chapter  
33 5.200 is hereby added to GWA's Personnel Rules and Regulations to read:

34  
35 **COMPENSATION OF CERTIFIED, TECHNICAL, AND PROFESSIONAL EMPLOYEES**

36  
37 **1.0 AUTHORITY.** Pursuant to 12 G.C.A. §8104(13) [**12 G.C.A. §14104(m) for GWA**],  
38 the Authority is authorized to adopt rules and regulations governing the compensation of  
39 the Authority's Certified, Technical, and Professional Employees. This Compensation  
40 Policy and the following rules and procedures shall only apply to the Certified, Technical,  
41 and Professional Employees of the Authority. Compensation for all other personnel shall  
42 remain consistent with compensation plans and pay scales as determined by law.

43  
44 **2.0 COMPENSATION POLICY**

1 a. Certified, Technical, and Professional Employee compensation shall be based on  
2 internal equity and external competitiveness.

3  
4 b. To the extent practical, compensation will be targeted at the U.S. National  
5 Average levels compared to the appropriate labor markets and account taken of the  
6 relevant economic factors.

7  
8 c. Internal equity should be reviewed annually and external competitiveness at least  
9 every three (3) years.

10  
11 d. Compensation structures and administrative policies should also recognize and  
12 reward individual employees commensurate with performance.

13  
14 e. All aspects of compensation (base salaries, benefits, pay differentials, and other  
15 factors) will be considered as a total reward and incentive package for employees and shall  
16 be consistent and uniformly administered through the Authority.

17  
18 f. A program of ongoing communications and training shall be a critical component  
19 of compensation administration.

20  
21 **3.0 ADMINISTRATION.** The Consolidated Commission on Utilities (CCU) shall approve  
22 a unified pay scale for the Authority's Certified, Technical, and Professional Employees that  
23 has been developed by the General Manager using the following process:

24  
25 a. Position Classification, Compensation, and Benefits Study. The General  
26 Manager shall complete a Position Classification, Compensation, and Benefits Study for  
27 every Certified, Technical, and Professional position in the Authority. The study shall  
28 include the following:

29  
30 1. A Job Analysis and Job Evaluation. This analysis and evaluation must use  
31 a systematic process of assessing the relative size and importance of Certified, Technical,  
32 and Professional positions in the Authority. The Job evaluation must provide a structured  
33 approach to assessing the relative worth of each Certified, Technical, and Professional  
34 Position. It must use measurement factors universally applicable across all sectors of  
35 industry, commerce, and government.

36  
37 2. Compensation Structuring. This shall incorporate the compensation  
38 policy set forth in paragraph 1 above. The compensation structure shall be in the form of a  
39 unified pay scale for Certified.

40  
41 3. Pay Incentive Development.

42  
43 4. Implementation Plan.

44



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

4  
5           1. The Petition shall include:

6                   (a) The unified pay scale.

7  
8                   (b) The Position, Classification, and Benefits Study justifying the  
9 unified pay scale.

10                   (c) The Implementation Plan

11  
12           2. The petition shall be posted on the Authority's website for ten (10) days  
13 (Saturdays, Sundays, and government of Guam holidays excepted) and a notice of posting  
14 shall be sent to each newspaper of general circulation and broadcasting station which airs  
15 a regular local news program on Guam. After the posting, the General Manager shall  
16 forward the petition, along with evidence of his or her compliance with notice of posting  
17 requirements, to the CCU.

18  
19           3. The CCU may approve, disapprove, or amend the unified pay scale at  
20 any regularly scheduled meeting.

21  
22           **SECTION 6. Section 5 is hereby deleted.**

23  
24           **SECTION 7. Section 6 is hereby re-numbered as Section 4 and amended to**  
25 **read as follows:**

26  
27                   **Section 4. Performance Appraisal For Employees in Certified,**  
28 **Technical, and Professional Positions**

29                   A new Subsection 11.00A and Chapter 10.000C is hereby added to GPA's  
30 and GWA's Personnel Rules and Regulations, respectively, to read:

31  
32           **PERFORMANCE APPRAISAL FOR CERTIFIED, TECHNICAL, AND PROFESSIONAL**  
33 **EMPLOYEES**

34  
35           **1.0 PURPOSE:**

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

39  
40           **2.0 OBJECTIVE:**

1 The objectives of this policy are to:  
2

- 3 a. establish a process whereby the work performance of each employee can be
  - 4 informally evaluated on an ongoing basis;
  - 5 b. establish standards for quality and quantity of work;
  - 6 c. provide a formal review of each employee's work performance on a six (6)
  - 7 month, twelve (12) months, eighteen (18) months, or twenty-four (24) months
  - 8 basis;
  - 9 d. improve individual performance;
  - 10 e. identify specific requirements for training and development of employees;
  - 11 f. strengthen supervisor/employee relationships;
  - 12 g. grant or deny salary increments;
  - 13 h. recognize employee accomplishments;
  - 14 i. determine order of layoffs;
  - 15 j. grant or deny permanent appointment to a probationary employee;
  - 16 k. determine eligibility for promotions or transfers;
  - 17 l. determine whether disciplinary action is warranted.
- 18  
19  
20

### 21 **3.0 SUPERVISOR RESPONSIBILITIES:**

22

23 The individual doing the performance review shall be the supervisor immediately  
24 responsible for the employee's work. The evaluator shall be the person who directly  
25 oversees, reviews and checks the daily work performance of the employee being rated  
26 or is the supervisor who is closely acquainted with the employee's work. Supervisors  
27 may submit a performance appraisal for an employee during any single rating period  
28 provided the employee has worked for ninety (90) calendar days during that period.  
29

### 30 **4.0 PERIOD COVERED:**

31

32 4.1. Supervisors shall evaluate and submit the employee's work performance for the  
33 following periods:

- 34 a. six (6) months for probationary employees;
  - 35 b. every twelve (12) months of service for employee's in pay steps 1 through 7;
  - 36 c. every eighteen (18) months of service for employee's in pay steps 7 through 10;
  - 37 and
  - 38 d. every twenty-four (24) months of service for employee's in pay steps 10 through
  - 39 20.
- 40  
41

42 4.2. Submittal of performance appraisal reports must be prepared and submitted for  
43 processing no sooner than thirty (30) days prior to the above periods.  
44

### 45 **5.0 SALARY INCREMENT:**

1  
2 A salary increment shall be subject to satisfactory performance, which shall be a  
3 minimum of a one-step increase.  
4

## 5 **6.0 PROBATIONARY PERFORMANCE APPRAISAL:**

6  
7 6.1. Certified, Technical, or Professional Employees in the classified service shall serve  
8 a probationary period of six (6) months. An extension of up to six (6) additional  
9 months may be granted. The division manager must justify in writing to the General  
10 Manager stating specific reasons for the request for extension based on the duties  
11 and responsibilities associated with the employee's current position description and  
12 job standard. No extension beyond the additional six (6) months may be granted.  
13

14 6.2. Employees in the unclassified service where no specific term of appointment or  
15 employment is specified shall be at the pleasure of the General Manager or the  
16 Consolidated Commission on Utilities (CCU).  
17

18 6.3. An employee so dismissed has no recourse to file a grievance or appeal his/her  
19 termination unless the termination is a result of discrimination.  
20

## 21 **7.0 APPROVAL OF PERFORMANCE APPRAISAL:**

22  
23  
24 A division manager shall make, on a 6 month, 12 month, 18 month, or 24 month basis,  
25 as appropriate, a written recommendation to the General Manager regarding the  
26 performance appraisal of every employee. The General Manager shall make a final  
27 performance appraisal accepting or rejecting said recommendation and make the  
28 corresponding salary adjustments.  
29

## 30 **8.0 APPEALS:**

31  
32  
33 8.1 Purpose: This procedure outlines the responsibilities and procedures to be  
34 followed by management and employees in handling performance rating  
35 appeals.  
36

37 8.2 Coverage: Certified, Technical, and Professional Employees covered in this  
38 procedure are those employees who have satisfactorily completed their original  
39 and new probationary period and have attained permanent status in the  
40 Authority. Such Certified, Technical, and Professional Employees who believe  
41 they are unjustly rated may request for re-determination of their performance  
42 ratings. Original probationary period performance ratings are not appealable  
43 under this procedure.  
44

1 8.3 Representation: An employee has the right to present an appeal with or without  
2 representation. He or she also has the right to be accompanied, represented,  
3 and advised by a representative of his choice at any step of the appeal  
4 proceeding.

5  
6 8.4 Freedom from Reprisal or Interference: An employee and his representative  
7 shall be free to appeal a performance rating without restraint, interference,  
8 coercion, discrimination, or reprisal.

9  
10 8.5 Management's Responsibility for Timely Action: Management shall expedite  
11 the processing of an appeal and shall abide by the allotted time. Failure to  
12 render a decision within the allotted time at any step constitutes denial, and the  
13 employee may then proceed to the next step of the appeal procedure.

14  
15 8.6 Informal Appeal Procedure – General Manager

16  
17 8.6.1 The Certified, Technical, or Professional Employee who believes that  
18 he or she was unjustly rated shall bring the matter to the attention of  
19 his immediate supervisor not later than five (5) work days after he was  
20 notified of his or her performance evaluation rating by his or her  
21 supervisor. The employee may present his or her informal appeal  
22 either orally or in writing to the General Manager or his or her  
23 representative.

24  
25 8.6.2 A review of the rating shall be afforded the employee by the rate and/or  
26 higher-level supervisor. Settlement of aggrieved matters is  
27 encouraged at the lowest possible administrative level and in the  
28 shortest possible time. The employee shall be notified of the decision  
29 not later than five (5) workdays after presentation of his informal  
30 appeal to his or her General Manager, or the General Manager's  
31 designated representative.

32  
33 8.6.3 If the employee's concerns are not resolved, or that a decision is not  
34 issued within five (5) work days, the employee may file a formal appeal  
35 to a Performance Rating Board of Review appointed by the  
36 Consolidated Commission on Utilities (CCU)

37  
38 8.7 Formal Appeal Procedure – Performance Rating Board of Review:

39  
40 8.7.1 When the decision of the General Manager fails to satisfy the  
41 employee, the employee may file a formal appeal to the CCU. The  
42 appeal shall be in writing to the Chairman of the CCU and filed within  
43 five (5) workdays after the appellant receives the General Manager's  
44 decision.

45

1  
2 8.7.2 A Performance Rating Review Board of Review shall be appointed by  
3 the CCU and shall consist of three members, who are Certified,  
4 Technical, or Professional Employees in the classified service, of  
5 which one shall be the same position level as the appellant, one shall  
6 be at the managerial level, and a designated Staff Attorney who shall  
7 serve as the hearing officer. Board members shall not be from the  
8 same section, department, or division where the appellant is employed.  
9

10 8.7.3 The Board shall conduct its first hearing within five workdays of its  
11 appointment. The Board shall complete the investigation and conduct  
12 the final hearing not later than ten (10) workdays from the date the  
13 Board convened. The Board shall give notice of hearings and shall  
14 provide all pertinent documents related to the appeal to the appellant,  
15 his representative, the rater, and all other parties concerned. The  
16 conduct of the hearing shall be consistent with the opportunity to  
17 present all information necessary to decide the merits of the appeal.  
18 Both oral and written information which the Board considers pertinent  
19 may be given, as well as any other information the Board requests  
20 concerning the appeal.  
21

22 8.7.4 The Hearing Officer shall preside and rule on all questions and conduct  
23 of the hearing during the proceedings. Board members shall consider  
24 the case and vote objectively. They shall give consideration to the  
25 merits of the case and secure all necessary information. They shall  
26 encourage a harmonious relationship between employees and  
27 supervisors during the proceedings of the Board. All members of the  
28 Board shall be present at all times during hearings and shall participate  
29 in decisions. Hearings shall be recorded and summarized in writing.  
30

31 8.7.5 When all pertinent information in an appeal has been presented to the  
32 Board, the Board shall render a decision by majority vote. The Board  
33 may either amend the performance rating, or sustain the rating without  
34 change. When an amendment is made by the Board, to the  
35 performance rating, that amended rating shall not be lower than the  
36 original rating. The Board shall make its decision within five (5)  
37 workdays of the final hearing. The Board's decision shall be in writing  
38 with the hearing officer's signature. The decision shall contain a brief  
39 summary of the facts on which the Board based its decision. The  
40 written decision shall be sent immediately to the appellant and signed  
41 copies forwarded to the General Manager.  
42

43 8.7.6 When the General Manager receives a Board decision amending the  
44 employee's rating, the General Manager shall immediately substitute  
45 the original rating for the amended rating. The General Manager must

1 reconsider administrative actions based on the original rating for the  
2 amended rating. The General Manager must reconsider administrative  
3 actions based on the original rating and re-determine and adjust those  
4 administrative actions to conform to the amended rating.  
5

6  
7 **SECTION 8. Section 7 of the Proposed Rules is hereby re-numbered as**  
8 **Section 5 and amended to read:**  
9

10 **SECTION 5. Disciplinary Action For Employees in Certified,**  
11 **Technical, and Professional Positions.**  
12

13 A new Subsection 18.00A and Chapter 11.200C is hereby  
14 added to GPA's and GWA's Personnel Rules and Regulations,  
15 respectively, to read:  
16

17 **DISCIPLINARY ACTION FOR CERTIFIED, TECHNICAL, AND PROFESSIONAL**  
18 **EMPLOYEES**  
19

20 **1.0 STATEMENT OF POLICY:** This Section/Chapter sets forth the guidelines and  
21 procedures by which the General Manager may suspend, demote, or dismiss a permanent  
22 Certified, Technical, or Professional employee. Further, this Section/Chapter sets forth the  
23 Appeal Procedures that shall only apply to the Authority's Certified, Technical, and  
24 Professional Employees in the Classified Service. Finally, the procedures and rules  
25 governing the Consolidated Commission on Utilities (CCU) hearing and deciding the  
26 Adverse Action Appeals of the Authority's Certified, Technical, and Professional Employees  
27 in the Classified Service shall only be applicable if the CCU and the Civil Service  
28 Commission of the Government of Guam (CSC) have not mutually consented to hear all  
29 the Adverse Action Appeals of the Authority's Certified, Technical, and Professional  
30 Employees in the Classified Service pursuant to 4 G.C.A. §4403(h).  
31

32  
33 **2.0 COVERAGE:** This Section/Chapter shall apply to all permanent classified employees  
34 in who hold certified, technical and professional positions.  
35

36 **3.0 SCOPE:** For the purpose of this chapter, the term "dismissal" shall not be interpreted  
37 to include:  
38

39 3.1 Actions taken by the General Manager referenced in the Section/Chapter on  
40 RESIGNATION AND TERMINATION; or  
41

42 3.2 Action taken by the General Manager in the termination of services of an original  
43 probationary employee  
44

45 **4.0 EMPLOYEE DISCIPLINE:**

1  
2 4.1 Responsibility for Discipline. The General Manager derives its authority and  
3 responsibility for employee discipline under the provisions of 4 G.C.A. §4105.  
4  
5

## 6 5.0 JOB PROTECTION PROCEDURES IN EMPLOYEE DISCIPLINE ACTIONS 7

8 5.1 All levels of supervision and management share the responsibility for strict  
9 adherence to employee's job protection rights and considerations including:  
10

11 5.1.1 The right to reply to the notice of a proposed adverse action that may result in  
12 a suspension, demotion, or dismissal.  
13

14 5.1.2 The right to reply to the notice of a proposed adverse action and careful  
15 consideration of any reply.  
16

17 5.1.3 The right to appeal to the Consolidated Commission on Utilities (CCU) as  
18 provided in the CCU Procedural Rules relative to Appeals of Adverse Actions  
19

## 20 6.0 ADVERSE ACTION PROCEDURES 21

22 6.1 An employee must be given the final notice and statement of the charges,  
23 pursuant to 4 G.C.A. §4406, no later than sixty (60) days after management  
24 knew, or should have known the facts or events which form the alleged basis  
25 for the adverse action.  
26

27 6.2 An employee covered by the adverse Action Procedures may be suspended  
28 for not more than thirty (30) work days as the result of a single adverse action,  
29 nor may an employee be suspended for more than a total of sixty (60) work  
30 days in a calendar year, as a result of multiple adverse actions taken by any  
31 one department or agency. Employees on a twenty-four (24) hour on and  
32 twenty-four (24) hour off employment basis, shall not be suspended for more  
33 than ten (10) work days, or an equivalent of two-hundred-forty (240) work  
34 hours as a result of a single adverse action, nor may suspension be more than  
35 a total of twenty (20) work days (480 work hours) in a calendar year as a result  
36 of multiple adverse actions.  
37

38 6.3 Copies of the adverse action rules and appeal procedures should be made  
39 available upon request by the employee.  
40

## 41 7.0 DEFINITIONS 42

43 7.1 Suspension- The temporary removal of an employee from his position with loss  
44 of pay as a disciplinary measure.  
45

1 7.2 Demotion – The involuntary reduction in status of an employee for disciplinary  
2 reasons from a position which he occupies in a specific class, to a position in  
3 another class, where the maximum rate of pay is less than the maximum rate of  
4 pay for the class which he had held, or a reduction to a lower salary step in the  
5 same class.

6  
7 7.3 Dismissal – The termination of an employee for any authorized cause of  
8 adverse action.

9  
10 7.4 Days – Refers to calendar days unless otherwise specified.

## 11 **8.0 AUTHORIZED CAUSES FOR ADVERSE ACTION**

12 The General Manager or his or her designee may remove an employee for such  
13 misconduct which affects the efficiency of the service. The authorized causes for adverse  
14 actions include, but are not limited to the following:  
15  
16

17  
18 8.8 Fraud in securing appointment.

19  
20 8.9 Refusal or failure to perform prescribed duties and responsibilities.

21  
22 8.10 Insubordination.

23  
24 8.11 Intoxication while on duty or the unauthorized possession, use or sale of  
25 alcohol on duty or while on or in authority property.

26  
27 8.12 The unlawful use, possession, or sale of illicit drugs.

28  
29 8.13 Unauthorized absence.

30  
31 8.14 Conviction of a crime.

32  
33 8.15 Discourteous treatment to the public or other employees.

34  
35 8.16 Political activity prohibited by law.

36  
37 8.17 Misuse or theft of government property.

38  
39 8.18 Refusal to take and subscribe to any oath or affirmation which is required by  
40 law in connection with employment.

41  
42 8.19 Acts prohibited by 4 G.C.A. §9102 relating to strikes against the government.

43  
44 8.20 Acts of prohibited discrimination to include sexual harassment.  
45



- 1           8.21 Failure to comply with the Drug-Free Workplace Program or Policy.
- 2
- 3           8.22 Any violation of the Authority's Code of Conduct as set forth in the Authority's
- 4                 Personnel Rules and Regulations.
- 5
- 6           8.23 Failure to report being charged with, or being convicted of a crime.
- 7
- 8           8.24 Other misconduct not specifically listed.
- 9

## 10 **9.0 EMPLOYEES COVERED**

11  
12 All Certified, Technical, or Professional Employees in the classified service are covered by  
13 these rules, except the following:

- 14           9.1 Contract employees whose contracts are not renewed upon expiration.
- 15
- 16           9.2 Probationary employees serving original appointment.
- 17
- 18           9.3 Employees on limited-term, temporary, seasonal, intermittent, part-time,
- 19                 provisional, or only for a specific project.
- 20
- 21           9.4 Unclassified or Exempt Employees.
- 22

## 23 **10.0 ADVERSE ACTIONS COVERED**

24           10.1 These rules apply to the following adverse actions:

- 25                 10.1.1 Suspension
- 26
- 27                 10.1.2 Demotion (disciplinary action)
- 28
- 29                 10.1.3 Dismissal
- 30
- 31
- 32

33           10.2 The use of any combination of the adverse actions listed for the same offense  
34 is prohibited.

## 35 **11.0 NOTICE OF PROPOSED ADVERSE ACTION**

36  
37  
38  
39 An employee against whom adverse action is sought is entitled to immediate written notice  
40 stating any and all reasons, specifically and in detail, for the proposed action. The written  
41 notice must make it clear that it concerns only proposed action and not a matter already  
42 decided. The notice may also order the employee to report to the General Manager at a  
43 specific date, time, and place to receive the General Manager's final decision concerning  
44 the proposed action.

1 **12.0 EMPLOYEE'S ANSWER**

2  
3 An employee is entitled to seek reconsideration of the proposed adverse action by  
4 answering any charges within ten (10) days after receipt of the notice; the answer may be  
5 made orally, in writing, or both. The General Manager shall be available to meet with the  
6 employee at the designated date and time. The General Manager may designate a  
7 committee to hear the employee's answer. The employee may be represented by a person  
8 of his or her choice. The General Manager must consider the employee's answers to the  
9 charges in the proposed adverse action notice. If the employee fails to answer during the  
10 notice period, the employee's inaction shall be construed as answer, and the General  
11 Manager may proceed with the adverse action upon expiration of the notice period.

12  
13 **13.0 SUSPENSION DURING NOTICE PERIOD**

14  
15 13.1 An employee against whom adverse action is proposed, must be retained in  
16 active duty status during the notice period; however, in an emergency  
17 situation, an employee may be immediately suspended during the notice  
18 period, under the following conditions:

19  
20 13.1.1 The continued presence of the employee may interfere with the  
21 efficient operation of the Authority, or the health or safety of the  
22 employee or others.

23  
24 13.1.2 Suspension is necessary to eliminate the possibility of deliberate  
25 damage to equipment, property, or important documents.

26  
27 13.1.3 The employee's absence without authorized leave prevents the  
28 issuance of notice of proposed adverse action and the Authority's  
29 attempt to contact the employee was unsuccessful.

30  
31 13.2 Suspension under this section is a separate adverse action and is appealable  
32 to the CCU within twenty (20) days of the effective date of the immediate  
33 suspension.

34  
35 13.3 If the CCU sustains the Authority's action in suspending the employee during  
36 the notice period, the number of days of suspension under this section shall be  
37 considered part of the final disciplinary penalty and in no case, shall the final  
38 days of the suspension be more than thirty (30) work days.

39  
40 **14.0 LEAVE PENDING INVESTIGATION**

41 In cases requiring investigation of allegations against an employee involving  
42 misappropriation of Authority funds or property, mistreatment of persons on or in Authority  
43 property, or acts which constitute a crime, the General Manager may authorize the  
44 employee an administrative leave of absence with pay for up to twenty (20) work days. The

1 administrative leave may be terminated by the General Manager by giving the employee  
2 twenty-four (24) hours written notice.

### 4 **15.0 EMPLOYMENT STATUS DURING IMPRISONMENT**

6 15.1 An employee who is incarcerated pending disposition of a case by the court,  
7 and who does not have accrued annual leave, may be granted leave without  
8 pay at the discretion of the General Manager, if the employee requests to be  
9 placed on leave without pay status. If the employee does not request to be  
10 placed on annual leave or leave without pay, such employee shall be absent  
11 without leave.

13 15.2 When, the employee is released from incarceration or imprisonment, the  
14 General Manager shall determine whether the employee will return for duty, or  
15 whether to take adverse action against an employee so imprisoned. Nothing  
16 in this Section shall preclude the General Manager from taking adverse action  
17 against an employee during imprisonment.

### 19 **16.0 FINAL NOTICE OF ADVERSE ACTION**

21 16.1 An employee is entitled to written notice of the Authority's decision within ten  
22 (10) days after receipt of the employee's answer to the charge(s). The  
23 decision shall be made by the General Manager and shall be delivered to the  
24 employee at, or before the time the action will be made effective. The notice  
25 shall be in writing; be dated; state the specific facts found upon which such  
26 action is based; inform the employee of his right to appeal to the CCU, or the  
27 CSC if mutual consent is given, pursuant to 4 G.C.A. §4403(h) (As amended  
28 by P.L. 28-113:4), by the CCU and the CSC for the CSC to hear an  
29 employee's adverse action appeal; and, inform the employee of the time limit  
30 of twenty (20) days within which an appeal may be submitted as provided by  
31 the CCU Hearing Procedures for Adverse Action Appeals or the CSC Hearing  
32 Procedures for Adverse Actions Appeals if the appeal shall be heard by the  
33 CSC.

35 16.2 In the event the General Manager cannot locate the employee, the Notice of  
36 Proposed Adverse Action or the Notice of Final Adverse Action shall be sent  
37 certified mail, to the employee's last known address.

### 39 **17.0 SERVICE OF THE PROPOSED AND FINAL NOTICES OF ADVERSE ACTION**

41 The Proposed and Final Notices of Adverse Action shall be personally served upon the  
42 employee. In the event the General Manager cannot locate the employee, after reasonable  
43 efforts have been made to locate the employee, service of the Proposed or Final Notices  
44 may be made by leaving the Notice at the employee's dwelling or usual place of abode with

1 some person of suitable age and discretion residing therein, or by mailing the Notice to the  
2 employee at the last known address. Service by mail is complete upon mailing.

### 3 4 **18.0 OFFENSES AND RANGE OF PENALTIES FOR OFFENSES**

5  
6 The offenses and the range of penalties for offenses, and their guidelines, for Certified,  
7 Technical, and Professional employees in the classified service shall be the same as the  
8 offenses and the range of penalties for offenses and their guidelines for all employees in  
9 classified service as set forth in the Authority's Personnel Rules and Regulations.

### 10 11 **19.0 REPRIMANDS**

12  
13 19.1 In as much as a reprimand is not an adverse action under these rules, a  
14 management official need not apply the Adverse Action Procedures.

15  
16 19.2 Reprimands shall not remain in an employee's personnel file for more than  
17 one year.

### 18 19 **20.0 REPORTING OF CRIMINAL CHARGE OR CONVICTION**

20  
21 Employees shall advise the General Manager, in accordance with P.L. 28-122, of any of  
22 any criminal charge made against the employee or any crimes the employee is convicted of  
23 in a prompt manner.

### 24 25 **21.0 RECORDS OF ADVERSE ACTIONS**

26  
27 The Final Notice of Adverse Action issued shall be made a part of the affected employee's  
28 official personnel records.

29  
30 **22.0 CCU RULES OF PROCEDURES FOR ADVERSE ACTION APPEALS:** These  
31 procedures and rules governing the CCU hearing and deciding the Adverse Action Appeals  
32 of the Authority's Certified, Technical, and Professional Employees in the Classified Service  
33 shall only be applicable if the CCU and the CSC have not mutually consented to hear all  
34 the Adverse Action Appeals of the Authority's Certified, Technical, and Professional  
35 Employees in the Classified Service pursuant to 4 G.C.A. §4403(h).

### 36 37 **RULE 1 JURISDICTION**

38  
39 The CCU is empowered to create these Rules pursuant to 12 G.C.A. §8104(13) for the  
40 Guam Power Authority (GPA) and pursuant to 12 G.C.A. §14104(m) for the Guam  
41 Waterworks Authority (GWA).

### 42 43 **RULE 2 PURPOSE**

1 The purpose of these Rules is to create a fair process with which to adjudicate Adverse  
2 Action Appeals (hereafter referred to as an "action").  
3

4 **RULE 2.1 UNREPRESENTED PARTY**

5  
6 The CCU shall adjust the application of these Rules for any party who is not represented by  
7 a lawyer or a lay representative when it is clear there is a genuine misunderstanding of a  
8 rule(s) which, if applied, would operate unfairly.  
9

10 **RULE 3 CITATION**

11  
12 These Rules may be cited as CCU Rules of Procedure for Adverse Actions Appeals, and  
13 then the term "Rule" and number.  
14

15 **RULE 4 CITATION TO LAWS AS RULES**

16  
17 Many of these Rules paraphrase existing laws. For example, Rule 5.2 states that an  
18 appeal from an adverse action must be taken within twenty (20) days from the  
19 effective date of the action. 4 G.C.A. §4406 establishes the twenty (20) day period by  
20 law.  
21

22 **RULE 4.1**

23  
24 The reason certain laws are paraphrased as Rules is that Employees against whom  
25 adverse actions are taken are generally given a copy of these Rules by Management or  
26 have these Rules available. The CCU believes it important to inform Employees of laws  
27 critical to their appeal by including some of these laws in these Rules. When a Rule is  
28 related to a law, a citation to the law shall be included.  
29

30 **RULE 5 RIGHT TO APPEAL**

31  
32 A person may appeal an adverse action to the CCU, if the person meets all of the following  
33 criteria:  
34

- 35 A. Is a permanent, Certified, Technical, and Professional Employee in the  
36 classified service, and
- 37
- 38 B. Has successfully completed his or her probationary period, and
- 39
- 40 C. Is subjected to an Adverse Action, and
- 41

42 See: 4 G.C.A. §4403(b)  
43

44 **RULE 5.1 ADVERSE ACTION**

45

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

3 See: 4 G.C.A. §4403(b)

4  
5 **RULE 5.2 TIME FOR FILING APPEAL**

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

15  
16 **5.2.1 FILING PAST THE TWENTY (20) DAY PERIOD**

17  
18 The CCU may excuse the filing of a Notice of Appeal beyond the twenty (20) day period if  
19 the Employee proves a compelling reason for his failure to timely file.

20  
21 **5.2.2 COMPUTATION OF TIME**

22  
23 Whenever these Rules or orders of the CCU provide for a time period of ten (10) or less  
24 days, weekends and government of Guam holidays are not to be included in the  
25 computation. Whenever these Rules provide for a time period over ten (10) days,  
26 weekends and government of Guam holidays are to be included in the computation. The  
27 first day of a time period commences with the day after a party receives a document or  
28 order which contains a time period.

29  
30 **RULE 5.3 CONTENTS OF APPEAL**

31  
32 The Notice of Appeal shall be in the following format:

33  
34 **GUAM**  
35 **CONSOLIDATED COMMISSION ON UTILITIES**  
36  
37  
38 **(Name of Employee)** \_\_\_\_\_ **ADVERSE ACTION #** \_\_\_\_\_  
39 **EMPLOYEE**  
40 **vs.**  
41  
42 **(Name of Department/Agency)** \_\_\_\_\_ **NOTICE OF APPEAL**  
43 **MANAGEMENT**  
44

1 [INSERT TEXT OF APPEAL]

2  
3 **RULE 5.3.1 CONTENTS**

4  
5 The Notice of Appeal shall be a brief, plain statement, either typed or hand written, stating  
6 why the Employee believes the adverse action should not have been taken against him.  
7 The parties to an adverse action appeal are to be identified as the **EMPLOYEE** and as  
8 **MANAGEMENT**. The Employee and Management to an action are collectively referred to  
9 as the "parties".

10  
11 **RULE 5.3.1 CONTENTS**

12  
13 A Notice of Appeal shall be a brief, plain statement, either typed or hand written, stating  
14 why the Employee believes the adverse action should not have been taken against him or  
15 her. The parties to an adverse action are to be identified as the **EMPLOYEE** and as  
16 **MANAGEMENT**. The Employee and Management to an action are collectively referred to  
17 as the "parties."

18  
19 **RULE 5.3.2 AMENDMENT OF NOTICE OF APPEAL**

20  
21 A Notice of Appeal may be amended by the Employee without permission of the CCU, if it  
22 is amended within fifteen (15) days after the date it was originally filed. An Amendment  
23 after fifteen (15) days shall be made by motion.

24  
25 **RULE 5.4 RIGHTS OF EMPLOYEE WHO FILES AND APPEAL**

26  
27 The Employee shall:

- 28  
29 a. Have a reasonable time to prepare his case if on duty; and  
30  
31 b. Have the right to be represented by an attorney, another person who is not  
32 an attorney, or represent himself; and  
33  
34 c. Not suffer from Management any restraint, coercion, discrimination or  
35 reprisal for filing an appeal of an adverse action, either during the appeal process or after it  
36 has been adjudicated.

37  
38 **RULE 6 SERVICE OF DOCUMENTS**

39  
40 All documents filed with the CCU, except for the Final Notice of Adverse Action and the  
41 Notice of Appeal, shall be served by the parties on each other or to the other's  
42 representative or lawyer. Service means giving a copy of a document to a party, a party's  
43 representative or lawyer.

44  
45 **RULE 6.1 HOW SERVICE IS PERFORMED**

1  
2 Service may be made by the parties and CCU or its designee as follows:  
3

- 4 a. Personal delivery, with a copy of the document acknowledged in  
5 writing to have been received; or  
6
- 7 b. By facsimile to a representative's or attorney's place of business with a  
8 confirmed receipt; or  
9
- 10 c. Regular mail with supporting affidavit as to the date of mailing; or  
11 certified mail with a signed return receipt; or  
12
- 13 d. By any method of service established by the Superior Court of Guam's  
14 Rules of Civil Procedure.  
15

16 **RULE 7 CONFERENCES**

17  
18 **RULE 7.1 STATUS CALL CONFERENCE**

19  
20 Upon receipt of a Notice of Appeal, the CCU or its designee shall immediately set the  
21 matter for a Status Call Conference. The Status Call Conference shall be conducted by  
22 Administrative Counsel designated by the CCU. The Administrative Counsel shall not be  
23 the Staff Attorney representing Management. At the Status Call Conference, the parties or  
24 their representatives shall be prepared to discuss:  
25

- 26 a. The legal issues of the action;  
27
- 28 b. Pre-hearing motions;  
29
- 30 c. Witnesses and documentary evidence;  
31
- 32 d. The possibility of settlement; and  
33
- 34 e. The date of the hearing on the merits.  
35

36 **RULE 7.2 PRE-HEARING CONFERENCE**

37  
38 Two (2) weeks before the hearing on the merits, the parties shall meet with the  
39 Administrative Counsel at a pre-hearing conference to finalize witness lists and exhibits,  
40 and to discuss stipulations or other matters that may expedite the hearing on the merits.  
41

42 **RULE 8 DISCOVERY**

43  
44 The Administrative Counsel shall control the nature and scope of discovery between the  
45 parties, including, but not limited to, the following:



- 1
- 2 a. Issuing orders compelling discovery;
- 3
- 4 b. Issuing orders limiting the scope and nature of discovery;
- 5 c. Issuing orders establishing dates for completion of discovery; and
- 6
- 7 d. Issuing protective orders regarding discovery.
- 8

9 **RULE 8.1**

10

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

15

16 **RULE 9 PRE-HEARING MOTIONS**

17

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

22

23 **RULE 9.1 ARGUMENTS ON MOTIONS**

24

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

27

28 **RULE 9.1.1 ISSUES RAISED BY THE COMMISSION**

29

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

33

34 **RULE 9.2 MOTION FILING SCHEDULE SCHEDULE**

35

36 Unless otherwise predetermined by an order, the moving party must file and serve a motion  
37 thirty (30) days before the hearing on the merits. A motion may be supported by affidavits,  
38 but no live testimony shall be taken at a motion hearing unless a written request from a  
39 party is approved by the Administrative Counsel within five (5) days after the opposition  
40 brief is filed.

41

42 Unless otherwise predetermined by a discovery order, the opposition brief shall be filed ten  
43 (10) days before the hearing on the motion.

44

45 No reply briefs shall be filed unless with the written approval of the Administrative Counsel.

1  
2 **RULE 9.3 FAILURE TO TIMELY FILE**

3  
4 Motion documents that are not filed on time may be disregarded by the CCU or subject the  
5 transgressing party or his representative to sanctions.  
6

7 **RULE 9.4 MOTION TO POSTPONE HEARINGS**

8  
9 A motion to continue a date of hearing shall set forth the factual basis for the motion.  
10 Continuances based on illness, emergencies, or stipulation of the parties, may be granted  
11 without hearing by the Administrative Counsel, if said decision may be made seven (7)  
12 days before the hearing sought to be postponed.  
13

14 **RULE 9.4.1 CONTINUANCES OTHER THAN IN RULE 9.4**

15  
16 The Administrative Counsel is empowered to grant continuances of the date of the hearing,  
17 so long as the continuance is applied for more than seven (7) days before the date sought  
18 to be continued.  
19

20 **RULE 9.4.2 STAYS**

21  
22 The Administrative Counsel is empowered to grant “stays” of actions when a motion to stay  
23 proceeding is brought by an employee on the basis that the Employee has been or may be  
24 charged with a criminal offense which arises from the same factual transaction which is the  
25 basis of the adverse action.  
26

27 **RULE 9.5 MOTIONS TO DISMISS**

28  
29 Motions to dismiss an adverse action appeal may be made on the bases of lack of  
30 jurisdiction, untimely filing of the appeal, procedural defects in the proceeding or other  
31 significant reasons. The legal and factual bases of such motions must be sufficiently set  
32 forth in the motion and supporting affidavits. A motion to dismiss may also be made upon  
33 stipulation of the parties. A stipulated motion to dismiss, however, must be approved by  
34 the CCU. An Employee may dismiss his appeal with prejudice by filing a written motion to  
35 dismiss which must be signed by the Employee and his representative or attorney. The  
36 Parties may settle an action, but any settlement must be approved by the CCU before the  
37 action is dismissed with prejudice.  
38

39 **RULE 9.6 MOTION TO ALLOW HEARING IN THE ABSENCE OF THE**  
40 **EMPLOYEE**

41  
42 The CCU may dismiss an appeal if the Employee is not present for the hearing on the  
43 merits, unless the Employee has a reasonable excuse. A motion to permit an Employee to  
44 be absent from the hearing on the merits shall set forth the factual basis for the motion.  
45 The CCU may require affidavits in support of the motion.

1  
2 **RULE 10** **SUBMISSION OF DOCUMENTS FOR INTRODUCTION**  
3 **INTO EVIDENCE**

4  
5 **RULE 10.1** **TIME FOR SUBMISSION OF DOCUMENTS**  
6

7 No later than seven (7) days before a hearing on the merits or a motion hearing, each party  
8 shall submit to the CCU all documents it wishes the CCU to consider.  
9

10 **RULE 10.1.1**

11  
12 Management shall submit to the CCU the Notice of Proposed Adverse Action and the  
13 Notice of Final Adverse Action.  
14

15 **RULE 10.1.2**

16  
17 Employee shall submit to the CCU the Notice of Appeal of Adverse Action.  
18

19 **RULE 10.2** **DOCUMENTS TO BE BOUND**  
20

21 The documents shall be bound into a binder. Each document shall be indexed and tabbed.  
22 Press-guard or other inexpensive binders are sufficient.  
23

24 **RULE 10.2.1**

25  
26 Management shall identify its documents using consecutive letters of the alphabet.  
27

28 **RULE 10.2.2**

29  
30 Employee shall identify his documents using consecutive numbers.  
31

32 **RULE 10.2.3**

33  
34 Each party shall submit seven (7) copies of their binders to the CCU.  
35

36 **RULE 11** **HEARING ON THE MERITS --- BURDEN OF PROOF**  
37

38 The burden of proof on the merits is on Management to prove its allegations by a  
39 preponderance of the evidence. If, however, Management's allegations would constitute  
40 criminal charges, then Management bears the burden of proof to prove the allegations by  
41 substantial evidence. See: 4 G.C.A. §§4407(a) and 4407(c)  
42

43 **RULE 11.1** **PLACE AND TIME OF HEARING**  
44

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

1  
2 **RULE 11.2 CONDUCT OF HEARING**

3  
4 The hearing shall be open to the public.

5  
6 **RULE 11.2.1**

7  
8 The hearing will be conducted so as to bring out pertinent facts, including the production of  
9 certain records.

10  
11 **RULE 11.2.2 ADMISSIBILITY OF EVIDENCE**

12  
13 Decisions on the admissibility of testimony or other evidence are made by the CCU after  
14 consulting with the Administrative Counsel.

15  
16 **RULE 11.2.3 OATH**

17  
18 Testimony is under oath or affirmation.

19  
20 **RULE 11.2.4 RIGHT TO CALL WITNESSES**

21  
22 Each party shall have the right to call, examine, or cross-examine witnesses, and introduce  
23 exhibits. The CCU may subpoena to testify any person upon a majority vote. Any  
24 Commissioner may direct relevant questions to a witness after examination of the witness  
25 has been completed by both parties; except that questions may be asked during  
26 examination by a Party to clarify a response by a witness.

27  
28 **RULE 11.2.5 RULES OF EVIDENCE**

29  
30 The Rules of Evidence, Title 6 G.C.A., shall not apply. The only grounds for excluding any  
31 proffered evidence are that the evidence is irrelevant or unduly repetitious.

32  
33 **RULE 11.2.6 ORDER OF PRESENTATION**

34  
35 The order of presentation at the hearing shall be as follows:

- 36  
37 a. Opening statement of Management;  
38  
39 b. Opening statement of Employee;  
40  
41 c. Presentation by Management of evidence in support of the charges;  
42  
43 d. Presentation by the Employee of such evidence in defense or  
44 rebuttal;  
45

1 e. Closing statement of Management;

2  
3 f. Closing statement of Employee.  
4

5 **RULE 11.3 WITNESSES**

6  
7 Both parties are entitled to produce witnesses. Except as otherwise provided in Rule 9.6,  
8 the Employee shall be in attendance without subpoena.  
9

10 **RULE 11.3.1**

11  
12 The CCU may call additional witnesses, as it may deem necessary, and require the  
13 production of documents.  
14

15 **RULE 11.3.2 SUBPOENAS**

16  
17 The Chairperson of the CCU, upon his or her own initiative, or upon the request of any  
18 member of the CCU, or upon the request of any party before the CCU, may summon in  
19 writing any person to attend a meeting of the CCU as a witness and, in a proper case, to  
20 bring with him or her any book, record, computer print-out, paper or thing which may be  
21 deemed material evidence in the case. Subpoenas shall be served by the party who  
22 requested the issuance of the subpoena as per Rule 6 and Rule 6.1.  
23

24 **RULE 11.3.2 SUBPOENA FEES**

25  
26 The fees for such attendance shall be the same as the fees of the witnesses before the  
27 Superior Court, except that if the witness is a public corporation or government employee  
28 no witness fee shall be given. Upon motion, the fee may be waived by the CCU. The  
29 subpoena shall issue in the name of the CCU, and shall be directed to the person and  
30 served in the same manner as subpoenas to appear and testify before the Superior Court  
31 of Guam.  
32

33 **RULE 11.3.3 DUTY STATUS**

34  
35 An Employee is considered to be on duty status during the time he or she is made available  
36 as a witness. Such employee is entitled to compensatory time-off if he or she serves  
37 during a time he or she is not normally scheduled to work. The CCU shall furnish the  
38 General Manager of the public corporation in which the witness is employed, a certification  
39 showing the time devoted to the hearing. "Employee" in this section does not include the  
40 parties to the appeal or their representatives.  
41

42 **RULE 11.3.4**

43  
44 The CCU shall ensure that all witnesses are treated with courtesy and respect while giving  
45 testimony at the hearing. Management shall assure witnesses freedom from restraint,

1 interference, coercion, discrimination, or reprisal in presenting testimony. See: 9 G.C.A.  
2 §5545.

3  
4 **RULE 11.4 RECORD OF HEARING**

5  
6 All hearings shall be audio tape recorded by the CCU. The CCU's recordings and the  
7 exhibits admitted during the hearing, together with all pleading and documents filed by the  
8 parties, shall constitute the official record of a hearing.

9  
10 **RULE 11.4.1**

11  
12 Filming, video taping or audio recording of a hearing or other proceeding before the CCU  
13 by any person is permitted by the CCU only upon written motion or request.

14  
15 **RULE 11.4.2**

16  
17 Copies of the audio tape recording of hearings will be made available to any person at cost.

18  
19 **RULE 11.5 LIMITATION IN THE SCOPE OF HEARINGS ON THE MERITS**

20  
21 The scope of the hearing on the merits shall be limited to:

- 22  
23 a. The issue in dispute; and  
24  
25 b. A review of compliance with procedural requirements for effecting an  
26 adverse action;

27  
28 **RULE 11.6 DELIBERATIONS**

29  
30 The deliberation of the CCU regarding the merits of actions and motions shall be made  
31 publicly.

32  
33 **RULE 11.6.1**

34  
35 In addition to the Commissioners, the Administrative Counsel and CCU Secretary, may be  
36 present during deliberations, as the CCU may see fit.

37  
38 **RULE 11.6.2**

39  
40 The Commissioners shall have available to them during their deliberation all items received  
41 into evidence in the action.

42  
43 **RULE 11.6.3**

44  
45 An audio tape recording of the deliberations shall be made and maintained by the CCU.

1 No minutes of the deliberation shall be made.

2  
3 **RULE 11.6.4**

4  
5 For good cause shown, a court of competent jurisdiction may require the CCU to produce  
6 the audio tape recording of its deliberations, otherwise the audio tape recording shall  
7 remain unavailable to the public.

8  
9 **RULE 11.6.5**

10  
11 After the CCU completes its deliberation, it shall convene in public whereupon each  
12 Commissioner shall state his conclusions regarding the merits and shall cast his vote.

13  
14 **RULE 11.7 DECISION**

15  
16 The CCU shall decide the appeal on the basis of the evidence presented. See 4 G.C.A.  
17 §4403(d) and 4406.

18  
19 **RULE 11.7.1**

20  
21 Except as provided in Rule 11.7.3 below, if Management proves the charges against the  
22 Employee, the CCU shall sustain the adverse action.

23  
24 **RULE 11.7.2**

25  
26 If Management fails to prove the charges, the CCU shall revoke the adverse action.

27  
28 **RULE 11.7.3 MODIFICATION OF ADVERSE ACTION**

29  
30 If Management proves the charges, but the CCU finds, that because of the Employee's  
31 past record or the gravity of the offense, or the facts and circumstances of the case, that  
32 the adverse action should be modified, it may modify the adverse action accordingly. The  
33 reasons for such modification shall be stated in the decision of the CCU. Any  
34 compensation or benefits due as a result of the modification shall be restored to the  
35 Employee. The CCU may not modify an adverse action to the Employee's detriment. In  
36 the event the CCU modifies the adverse action taken by Management, the CCU shall make  
37 a separate determination as to whether the Employee has prevailed for purposes of  
38 awarding attorney fees to the Employee. See 4 G.C.A. §4406.

39  
40 **RULE 11.7.4 PROCEDURAL DEFECT**

41  
42 If the CCU finds that the adverse action was procedurally defective because it violated  
43 personnel rules or law, it may void or revoke the adverse action as it considers fair and  
44 equitable under the facts and circumstances of the action.

45 See: 4 G.C.A. §§4403(d) and 4406

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**RULE 11.7.5            JUDGMENT**

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

**RULE 11.7.6 COMPLIANCE WITH JUDGMENT**

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

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

A party may move the CCU to reconsider or amend its judgment by filing a motion with the CCU within ten (10) days of entry of the judgment. The filing of a motion to reconsider or amend does not effect the time limit imposed by law to file a Petition for Judicial Review with the Superior Court of Guam. If a motion to amend or reconsider is not decided within thirty (30) days of the entry of a judgment, the motion is denied.

**RULE 11.7.8            JUDICIAL REVIEW**

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

**RULE 12            TERMINATION OF APPEAL**

- In addition to adjudication on the merits, the CCU may terminate an Employee's appeal:
- a.     At the Employee's request;
  - b.     When the Employee fails to furnish information necessary to adjudicate the appeal.



1  
2 **RULE 12.1 DEATH OF EMPLOYEE**  
3

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

11  
12 **RULE 13 RULES RELATIVE TO LAY REPRESENTATIVES**  
13

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

16 A Lay Representative shall enter his or her appearance in an action by filing with the CCU  
17 an entry of appearance which shall include the written approval of his client and shall also  
18 contain the address and telephone number of the Lay Representative. Said lay  
19 representatives shall comply with all Guam laws relevant to the unauthorized practice of  
20 law and the Lay Representative shall be disqualified if said laws are violated by the Lay  
21 Representative's representation of the Employee in the Adverse Action Appeal.

22  
23 **RULE 13.2 ENTRY OF APPEARANCE**  
24

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

- 28  
29 a. Disqualification from representing the Employee in the Adverse Action  
30 Appeal at issue.  
31  
32 b. Suspension from appearing before the CCU as a Lay Representative.  
33  
34 b. Disqualification from appearing before the CCU as a Lay  
35 Representative for an Employee in any Adverse Action Appeal.  
36

37 By agreeing to be a Lay Representative, the Lay Representative assumes an ethical and  
38 agency relationship with the Employee that he or she represents. Lay Representatives  
39 may not be compensated for their services.  
40

41 **RULE 13.3 WITHDRAWAL AS LAY REPRESENTATIVE**  
42

43 No Lay Representative may withdraw from representing an Employee except upon motion,  
44 cause shown, and an Order of the CCU.  
45

1 **RULE 13.4 LAY REPRESENTATIVE REQUIRED READING**

2  
3 Every Lay Representative shall agree in writing that he has read, and is familiar with, 4  
4 G.C.A., Chapter 4, these Rules, and the Personnel Rules applicable to the public  
5 corporation that took adverse action against the Employee.  
6

7 **RULE 14 HEARING COUNSEL**

8  
9 The CCU, by a majority vote, may designate its Administrative Counsel to act as Hearing  
10 Counsel. When so designated, the CCU shall assign the Hearing Counsel to conduct  
11 evidentiary hearings on specific issues. The issues shall be within the jurisdiction of the  
12 CCU.  
13

14 **RULE 14.1 HEARING PROCEDURE**

15  
16 Hearing Counsel shall use these Rules in conducting hearings. Hearing Counsel shall  
17 administer oaths to witnesses.  
18

19 **RULE 14.2 WRITTEN FINDINGS**

20  
21 Hearing Counsel shall make written proposed findings of fact and conclusions of law which  
22 shall be served on the Parties. The findings shall then be submitted to the CCU who may  
23 accept, reject or modify the findings or may conduct its own hearing on the issue(s).  
24

25 **RULE 14.3 PARTIES' INPUT**

26  
27 The Parties shall be informed of the date on which the CCU shall deliberate the adoption of  
28 the findings and may file written objections or other written comments regarding the  
29 findings for the CCU's consideration.  
30  
31

32 **SECTION 9. Section 8 of the proposed Rules is hereby deleted.**

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34 **SECTION 10. Subpoena Powers for the Consolidated Commission on**  
35 **Utilities.** A new §79107 is hereby added to Chapter 79, Title 12 of the Guam Code  
36 Annotated to read:  
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38 **§79107. Subpoena Powers.** The Chairperson of the Consolidated  
39 Commission on Utilities, upon his or her own initiative, upon the request of any member of  
40 the Commission, or upon the request of any party before the Commission, may summon in  
41 writing any person to attend before a meeting of the Commission as a witness and in a

1 proper case, to bring with him or her any book, record, or paper which may be deemed  
2 material as evidence in the case. The fees for such attendance shall be same as the fees  
3 of witnesses before the Superior Court, except that if the witness is a government  
4 employee no witness fees shall be given. The subpoena shall issue in the mane of the  
5 Consolidated Commission on Utilities, and shall be directed to the person and shall be  
6 served in the same manner as subpoenas to appear and testify before the court. If any  
7 person or persons summoned to testify shall refuse or neglect to obey said subpoena, upon  
8 petition, the court may compel the attendance of such person or persons before the  
9 Commission, or punish said person or persons for contempt in the same manner provided  
10 by law for securing the attendance of witnesses or their punishment for neglect or refusal to  
11 attend in the Superior Court.

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13 **SECTION 11. Severability.** If any provisions of this Act or its application to any  
14 person or circumstance is found to be invalid or contrary to law, such invalidity shall *not*  
15 affect other provisions or applications of this Act which can be given effect without the  
16 invalid provisions or applications, and to this end the provisions of this Act are severable.

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