CHAPTER 4
PERSONNEL POLICY AND THE CIVIL SERVICE COMMISSION

2024 NOTE: Pursuant to 5 GCA § 1510, I Maga'hågan/Maga'låhen Guåhan means the "Governor of Guam" and I Maga'håga/Maga'låhi means the "Governor." Pursuant to 5 GCA § 1510, I Sigundo Maga'hågan/Maga'låhen Guåhan means the "Lieutenant Governor of Guam" and I Sigundo Maga'håga/Maga'låhi means the "Lieutenant Governor." Pursuant to 2 GCA § 1101, I Liheslaturan Guåhan means the "Guam Legislature" and I Liheslatura means the "Legislature."

NOTE: Unless otherwise noted, all sections within this chapter were added pursuant to P.L. 16-023 (Aug. 11, 1981), which repealed Chapter 1, Title 5 of the Government Code (Personnel Law), and added Chapter 4, Title 4 of the GCA, effective October 1, 1981.

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§ 4101. Personnel Policy.

(a) [No text]

(1) Employment in the service of the government of Guam shall be based upon merit, and selection and promotion of employees shall be free of personal or political consideration.

(A) No person shall be discriminated against in an application for employment or promotion or dismissed from employment on account of honorably discharged veteran and military status, sexual orientation, race, color, age, religion, sex (including gender identity or expression), national origin, or physical or mental impairment.

(B) No person shall be discriminated against in an application for employment or promotion or dismissed from employment because of the country where the college or university from which he received any degree or training is located.

(C) All personnel actions, including appointments and promotions, shall be based, insofar as practicable, on competitive practical tests and evaluations.

(D) Continuity of employment shall be dependent upon good behavior, satisfactory performance and availability of funds.

(2) For the purpose of this Section, the terms sexual orientation, gender identity or expression, and veteran and military status are defined in § 5202 of Article 2, Chapter 5, 22 GCA.

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(b) [No text]

(1) The Government shall initiate an Affirmative Action Program to assure that physically and mentally handicapped persons shall have an opportunity to obtain government employment.

(2) The affirmative action program shall include job training programs for the handicapped and a continuing review of job and work requirements by the personnel agencies and the Director of Administration to assure no artificial impediments or discriminatory physical or mental requirements be established to thwart job applications submitted by handicapped persons.

(c) [No text]

(1) All new employment in the service of the government of Guam shall have, as a reasonable measure of job performance, the minimum requirement of a high school diploma or a successful completion of a General Education Development (GED) test or any equivalent of a general education high school program, apprenticeship program or successful completion of certification program, from a recognized, accredited or certified vocational technical institution, in a specialized field required for the job.

(A) For entry-level positions, a formal nationally recognized foundational skills assessment shall be required for consideration for employment.

(B) For government of Guam positions in which basic employment requirements are set forth by the U.S. Federal Government, a formal nationally recognized foundational skills assessment is preferred.

(C) Positions in which a formal nationally recognized foundational skills assessment is preferred include, but are not limited to, all entry level positions, law enforcement positions, positions that deal with public safety, and other new employment positions identified and deemed necessary by the Director.

(D) The Director shall implement rules and regulations that are aligned with local and federal employment laws.

(2) This Subsection shall not be applicable to the Summer Youth Employment, and any person with a disability which prevents him or her from complying with this Section consistent with the Americans with Disabilities Act, or its successor laws.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981). Subsection (c) added by P.L. 26-087:2 (effective May 18, 2002) and amended by P.L. 27-061:1 (Dec. 22, 2003). Subsection (b) amended by P.L. 28-068:IV:33 (Sept. 30, 2005) (eff. Jan. 1, 2006). Subsection (a) amended by P.L. 28-112:2 (Apr. 14, 2006), and P.L. 29-019:VI:67 (Sept. 29, 2007). Subsection (c) amended by P.L. 29-100:2 (July 22, 2008), P.L. 29-113:VI:36 (Sept. 30, 2008) and P.L. 31-254:2 (Dec. 11, 2012). Subsection (a) amended by P.L. 33-064:4 (Aug. 25, 2015)..

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

2016 NOTE: Subsection designations were added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

2015 NOTE: P.L. 33-064:5 and 6 (Aug. 25, 2015) sets forth a religious exemption, codified at 1 GCA § 715, to the amendment to subsection (a) pursuant to P.L. 33-064:4 (Aug. 25, 2015).

2013 NOTE: Pursuant to P.L. 31-254:3 (Dec. 11, 2012), the Department of Administration was required to implement amendments to Subsection (c) by December 11, 2013.

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§ 4101.1. Responsibilities of the Director of Administration Regarding Personnel Policy of the Government.

The Director of Administration shall perform the following functions:

(a) Maintain and from time to time modify a general personnel policy for all government of Guam line agencies through the adoption of rules and regulations pursuant to the Administrative Adjudication Law;

(b) Investigate conditions of government employment as she/he deems necessary, and report her/his findings thereon to I Maga'hågan/Maga'låhen Guåhan and I Liheslaturan Guåhan annually;

(c) Administer the Equal Employment Opportunity Program for the Executive Branch of the government of Guam;

(d) Maintain, post and keep current on the Department's website a list of all classified and unclassified positions in the executive branch, including autonomous agencies and public corporations, showing the job description and pay range assigned to each position;

(e) Make an annual report on July 1 on the status of the unified pay schedule required by § 6302 of this Title to I Maga'håga/Maga'låhi and the Speaker of I Liheslatura and post the report on the Department's website;

(f) Establish and maintain, in coordination with the Attorney General, a panel of hearing officers;

(g) Take cognizance of compliance with the provisions of 4 GCA § 4101;

(h) Coordinate the fielding of necessary computer software and the training of personnel to allow the agencies, departments and public corporations listed in § 4105(a) of this Title to assess and update the unified pay schedule required by § 6302(a) of this Title;

(i) Delegate, at the Director's discretion, such authority under such terms as are appropriate, to the agencies, departments and public corporations listed in § 4105(a) of this Title to assess and update the unified pay schedule required by § 6302(a) of this Title; and

(j) Establish and appoint members from among the human relations professionals in the government of Guam to a Human Relations Officer Coordinating Council to advise the Director concerning the implementation and administration of the provisions of this Title.

SOURCE: Added by P.L. 28-068:IV:46 (Sept. 30, 2005), effective January 1, 2006. Amended by P.L. 28-112:3 (April 14, 2006).

§ 4101.2. Authorization for the Director of the Department of Administration to Amend Specific Personnel Rules.

(a) Notwithstanding any other provision of law, or rule or regulation, the "Swift Appointment Modernization Act of 2021" shall only apply to those Category 1 Peace Officer positions recognized in 27 GARR § 3103(a)(1), (2), (3), (4), (5), and (6).

(b) Notwithstanding any other provision of law, or rule or regulation, and pursuant to the authorization granted in this Section, the Director of the Department of Administration (DOA) shall:

(1) develop and implement a policy or amend the DOA Personnel Rules and Regulations within sixty (60) days from the enactment of the "Swift Appointment Modernization Act of 2021," which shall authorize qualified law enforcement agencies and departments to request, in writing, a Certification List that consists of up to three (3) times the number of applicants as there are available funded vacancies for their respective agencies and departments; and

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(2) develop and implement a policy or amend Personnel Rules within sixty (60) days which shall authorize law enforcement agencies and departments to request, in writing, to continue interviews from the point of the last interviewed applicant prior to making the final selections. This request shall include the purpose for continuing interviews after a final selection was made, including, but not limited to, an agency's inability to fill a position because a candidate declined the job offer. Requests for additional names for an interview shall be made within sixty (60) days from the last final selections made for a cycle of hiring which were submitted to DOA for further processing.

SOURCE: Added by P.L. 36-005:3 (Mar. 5, 2021).

2021 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4102. Classified and Unclassified Services.

All offices and employment in the Government of Guam, except for employment as academic personnel of the Guam Community College (GCC) and the University of Guam (UOG), as the term academic personnel is defined in enabling laws of GCC and UOG, shall be divided into classified and unclassified services as follows:

(a) The unclassified service shall include the positions of:

(1) elective officials;

(2) judges;

(3) Superior Court marshal, chief clerk, chief probation officer and court administrator of the Superior Court;

(4) heads of agencies and instrumentalities and not more than one (1) secretary for each such officer;

(5) The first assistant, by whatever title denominated, to the heads of agencies and instrumentalities stated in paragraph (4) of this Subsection;

(6) persons employed on a temporary basis;

(7) members of boards and commission;

(8) executive director of the Mayors' Council;

(9) all offices and employment in the Executive Branch whose appointment are required to be confirmed by I Liheslaturan Guåhan;

(10) all offices and employment made, by law, to be at the pleasure of any board, commission or officer;

(11) all legislative employees;

(12) members of the Guam Gaming Commission;

(13) physicians and health care administrators employed at the Guam Memorial Hospital Authority;

(14) With the exception of civilian non-uniformed positions, all positions in the Department of Military Affairs, including the Executive Secretary and Executive Services Coordinator.

(15) employees of the office of I Maga'håga/Maga'låhi and I Sigundo Maga'håga/Maga'låhi including off-island offices and Government House, as authorized in the applicable appropriation law.

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(16) Property Management Officer at the Department of Corrections.

(17) persons employed on a seasonal basis.

(18) not more than one (1) Special Assistant each to the Attorney General of Guam and the Public Auditor.

(19) University of Guam student employees.

(20) Employees of the Office of the Elected Attorney General.

(A) Classified employees at the time of passage of this Act shall remain classified for the duration of their employment at the Office of the Attorney General and shall only be removed pursuant to the provisions contained in 4 GCA § 4201 and 4 GCA § 4406.

(b) The classified service shall include all other positions in the government of Guam.

(c) Notwithstanding any law or rule to the contrary, employment as academic personnel of the Guam Community College and the University of Guam shall be governed by rules adopted by the Board of Trustees and the Board of Regents, respectively, in order to provide academic freedom and autonomy to the institutions, as intended by P.L. 14-077 as to GCC, and P.L. 19-040 as to UOG.

(d) Notwithstanding any other provision of law there shall be no other personnel classifications in the government of Guam, other than the classified and unclassified services as set forth in this Section. The Director of Administration shall not create any unclassified positions. The Civil Service Commission shall hear no appeal regarding the creation of a new position.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981). Subsection (a) amended by P.L. 16-041:1 (Sept. 28, 1981), amended by P.L. 16-111:23 (Oct. 7, 1982), P.L. 16-120:14 (Dec. 17, 1982), and P.L. 17-005:1 (Apr. 21, 1983); subsection (a)(5) amended by P.L. 18-015:48 (Sept. 28, 1985). Subsection (b) amended by P.L. 17-005:2 (Apr. 21, 1983); Subsection (a)(16) added by P.L. 20-132:9 (Jan. 24, 1990); subsection (a)(15) repealed and reenacted by P.L. 21-017:3 (May 8, 1991). Entire section was amended by P.L. 23-026:1 (June 6, 1995). Subsection (c) added by P.L. 23-026:2 (June 6, 1995). Subsection (a)(14) amended by P.L. 23-045:IV:21 (Oct. 18, 1995). Subsection (a)(5) amended by P.L. 24-023:2 (May 14, 1997). Subsection (a)(17) added by P.L. 26-074:4 (Mar. 7, 2002). Subsection (d) added by P.L. 26-121:5 (Aug. 14, 2002); amended by P.L. 28-068:IV:34 (Sept. 30, 2005), effective Jan. 1, 2006. Subsection (a)(18) added by P.L. 32-222:1 (Dec. 29, 2014). Subsection (a)(19) added by P.L. 35-114:4 (Dec. 11, 2020). Subsection (a)(20) added by P.L. 38-060:XII:39 (Sept. 29, 2025).

2026 NOTE: Subsection designations in (a)(20) modified by the Compiler pursuant to the authority granted by 1 GCA § 1606.

2025 NOTE: Reference to "Commissioner's Council" in subsection (a)(8) replaced with "Mayors' Council" pursuant to P.L. 20-033:1 (Sept. 6, 1989).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Lieutenant Governor" replaced with I Sigundo Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

§ 4103. Additional Positions.

(a) Except as hereafter authorized by law, the number of employees in the executive and judicial branches shall not be increased beyond the numbers provided for in the annual General Appropriation Act.

(1) On the first day other than a holiday of each February, May, August and November, I Maga'håga/Maga'låhi and the Chief Justice shall each submit to I Liheslatura a verified report stating as of the last day of December, March, June and September, respectively, the number of persons actually employed.

(2) The report shall show whether the persons employed are full-time or part-time and permanent or temporary.

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(b) In applying the limitation of Paragraph (a), part-time employees may be counted as a fraction which is determined by dividing forty (40) hours into the average number of hours of such employees' regularly scheduled work week.

(c) In applying the limitation of Paragraph (a), persons employed in special employment programs established for students and disadvantaged youth shall not be included, but the executive and judicial branches shall be limited to employing in such programs the number of persons authorized by the appropriation made for them.

(d) Notwithstanding Paragraph (a), the number of employees in the executive branch may be increased beyond the number authorized for a period of no longer than ninety (90) days in the event Guam is declared to be in a condition of disaster or emergency by I Maga'håga/Maga'låhi or by the president of the United States.

(e) [No text]

(1) No person may be temporarily employed in a non-professional capacity for more than one hundred twenty (120) days in any calendar year except pursuant to an exception provided for by Paragraph (d).

(2) No person may be temporarily employed in a professional capacity for more than one hundred twenty (120) days except upon a contract in writing, and a determination in writing by the appointing authority that such employment is critical to either the public health, safety or welfare of the community.

(3) For purposes of this Paragraph a person is employed as a professional if the person's job description in the Dictionary of Occupational Titles, published by the U.S. Department of Labor, has as its first digit zero (0) or one (1).

(4) Any person whose job description does not have as its first digit zero (0) or one (1) shall be deemed to be a non-professional employee.

(f) [No text]

(1) No person may be employed in the executive or judicial branches other than for services actually rendered in connection with and for the purposes of the appropriation from which that person is paid.

(2) Any person employed in violation of this Paragraph shall be removed from the employ of the Government.

(g) [No text]

(1) A person may be employed in the classified service contingent upon the availability of a grant, federal program or federal funds.

(2) An appointment in the classified service may be commensurate with the duration of a grant, federal grant, federal program or federal funds including renewals and extensions thereof.

(h) [No text]

(1) A person may be employed in a professional level position in the classified service for a specific project or program.

(2) An appointment in the classified service may be commensurate with the duration of a specific project or program.

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SOURCE: Added by P.L. 16-111:24 (Oct. 7, 1982). Subsection (e) amended by P.L. 22-144:6 (Dec. 27, 1994). Subsection (e) amended by P.L. 24-327:15 (Dec. 30, 1998). Subsections (g) and (h) added by P.L. 28-187:2-3 (Jan. 29, 2007).

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by P.L. 108-378:1(b) (Oct. 30, 2004), references to "Presiding Judge" have been changed to "Chief Justice." *See* 48 U.S.C. § 1424-1(b)(2).

§ 4104. Preferences.

(a) [No text]

(1) No preference shall be given in the government service, except that residents of Guam

(A) who are physically or mentally impaired, but are physically and mentally able to perform efficiently and safely the duties of the job being applied for as certified by the Director of Public Health and Social Services, or

(B) who are veterans of the Armed Forces of the United States, or

(C) who are former members of the Guam Police Combat Patrol, as certified by the Chief of Police, or

(D) graduates of the Peace Officer Standards and Training Commission Academy operated pursuant to 17 GCA § 32201, as enacted by P.L. 24-331, with respect to employment in those positions identified in 17 GCA § 32301(b), as enacted by P.L. 24-331,

shall receive a preferential credit of five (5) points, which shall be added to their competitive examination score, and

(2) such veterans or former members who are disabled as a result of their service in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing score.

(3) In addition, if two (2) applicants for government service are equally qualified for the position to be filled, and one (1) is a beneficiary of a preference pursuant to this Subsection, while the other is not, the former shall be given the first offer of position.

(b) The points added to an applicant's passing score shall be added upon if the applicant receives a minimum passing score or higher upon initial employment only.

(c) Proof of Eligibility for Veterans Preference Credit.

(1) Persons claiming veterans status must submit their DD Form 214, Armed Forces of the United States Report of Transfer or Discharge, DD Form 2 (Military Identification Card), Certificate of Service, Department of Veterans Affairs (DVA) Veterans Identification Card, or other official verification from the Department of Defense (DOD).

(2) A person must have completed at least one hundred eighty (180) cumulative days of service in the Armed Forces of the United States, and must have received other than a dishonorable discharge from such service to be eligible for veterans preference.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4103. Subsection (a) amended by P.L. 25-033:2 (June 4, 1999) relative to preferences for Police Academy graduates. Subsection (b) amended by P.L. 31-177:6 (Feb. 3, 2012), amended by P.L. 35-003:2 (Mar. 11, 2019). Subsection (c) added by P.L. 32-187:1 (Oct. 13, 2014).

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2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 4104.1. Preferences for Scholarship Recipients.

Notwithstanding any provision of law to the contrary, departments and agencies of the government of Guam shall provide for preferential hiring of applicants to jobs within the government of Guam to residents of Guam who have completed their post-secondary education assisted by the award of educational scholarships or loans from the government of Guam. Such preference shall be available only in selection for initial employment.

SOURCE: Added as uncodified law by P.L. 15-127:3 (May 21, 1980). Codified by the Compiler in 1995.

§ 4105. Departmental Rules.

(a) Rules subject to criteria established by this Chapter governing the selection, promotion, performance, evaluation, demotion, suspension and other disciplinary action of classified employees shall be adopted by the Board of Directors of the Antonio B. Won Pat International Airport Authority, Guam; the Board of Directors of the Guam Economic Development Authority; the Board of Directors of the Guam Housing Corporation; the Board of Commissioners of the Guam Housing and Urban Renewal Authority; the Guam Judicial Council; the Board of Directors of the Jose D. Leon Guerrero Commercial Port; the Guam Education Board; the Board of Regents of the University of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau; and the Consolidated Commission on Utilities on behalf of the Guam Waterworks Authority and the Guam Power Authority, and the Board of Trustees of the Public Defender Service Corporation, and the Office of the Attorney General with respect to personnel matters within their respective branches, agencies, public corporations or departments, and by the Director of Administration as to all other Executive Branch employment.

(b) Such rules shall, to the extent practicable, provide standard conditions for entry into and the other matters concerning the government service. The personnel rules adopted for the Guam Economic Development Authority, the Guam Housing Corporation, the Guam Housing and Urban Renewal Authority, the University of Guam, the Guam Community College, the Antonio B. Won Pat International Airport Authority, Guam, the Jose D. Leon Guerrero Commercial Port, the Department of Education, the Guam Memorial Hospital Authority, the Office of the Attorney General, by the Director of Administration and by the Consolidated Commission on Utilities shall require that all their classified employee appeals, except academic personnel of the Guam Community College and the University of Guam in conformance with Title 4 GCA § 4403(h), be heard by the Civil Service Commission (Commission).

(c) [No text]

(1) The personnel rules adopted for the Judicial Branch by the Judicial Council shall require that the Council hear all classified employee appeals.

(2) Personnel rules governing any other Executive Branch entities shall require that their classified employee appeals be heard by the Commission.

(3) Rules concerning the Executive Branch shall take effect upon their approval by the Director of Administration, by Executive Order of I Maga'hågan/Maga'låhen Guåhan and filing with the Legislative Secretary.

(4) Rules concerning the Judicial Council shall take effect upon adoption by the Judicial Council of Guam and filing with the Legislative Secretary.

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(d) Such rules shall include the following provisions:

(1) that the minimum rate of each pay range shall be the normal rate for initial employment in the positions and classes assigned thereto; provided, however, that the directors or other department heads may, in accordance with § 6205 of this Title, authorize initial employment in a position at a higher step in the position's pay range if such action is warranted by recruitment difficulties or by the new employee's special or unusual qualifications, including experience;

(2) that no spouse of any director, chief administrator or department head within the government of Guam may be employed within the department, agency or instrumentality so headed by such director, chief administrator, department head or other officer;

(3) that overtime for those employees entitled hereto shall be calculated at one and one-half (1½) times their regular wage;

(4) that employees may work at outside employment not in conflict with their government service, nor such as would bring the government of Guam or its employees into disrepute, but that any employee may undertake such employment only if such is not in conflict with that person's duly scheduled hours and only with the consent of that person's department or agency head, which consent may not be unreasonably withheld; and

(5) that no person shall be required to work overtime, unless the employee has received certification by the Director that funds for overtime pay as provided in Subsection (3), above, are available.

(e) Adoption of such rules is subject to the Administrative Adjudication Law.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4104, entitled "Departmental Personnel Rules." Amended by P.L. 16-041:2 (Sept. 28, 1981), P.L. 17-005:3 (Apr. 21, 1983), P.L. 17-025:14 (Oct. 6, 1983), P.L. 17-032:3 (Nov. 22, 1983), P.L. 20-003:XII:7 (Apr. 8, 1989), P.L. 23-026:3 (June 6, 1995). Repealed and reenacted by P.L. 26-088:4 (May 17, 2002). Amended by P.L. 28-068:IV:35 (Sept. 30, 2005), P.L. 28-112:4 (Apr. 14, 2006), P.L. 28-113:5 (Apr. 14, 2006). Subsection (a) amended by P.L. 36-107:XII:33 (Sept. 12, 2022). Subsections (a), (b) amended by P.L. 38-060:XII:34 (Sept. 29, 2025).

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2022 NOTE: Reference corrected to "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(b). References corrected to "Guam Economic Development Authority" pursuant to 12 GCA § 50101 (b). Reference corrected to "Guam Education Board" pursuant to 17 GCA § 3102.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4106. Personnel Rules.

(a) The personnel rules provided for in § 4105 of this Chapter shall provide procedures for their employment of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of qualified lists for employment purposes.

(1) They shall provide for a probationary period of not less than three (3) nor more than twelve (12) months for all original appointments, during which time the employee may be dismissed at any time without right of appeal and without right of being given reasons or charges in writing.

(2) Specific procedures and policies shall be included, governing the following:

(A) The announcement of vacancies and acceptance of applications for employment;

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(B) Preparation and conduct of examinations;

(C) Establishment and use of employment lists containing names of persons eligible for employment;

(D) Establishment of promotional policies;

(E) Certification of employment of persons from employment lists to fill vacancies and the making of temporary and emergency appointments;

(F) Evaluation of the work of employees, including those serving a probationary period;

(G) Transfer, promotion and reinstatement of employees in the competitive service;

(H) Separation from the service of employees by resignation, layoff, suspension, dismissal, termination or completion of a grant, federal grant, source of federal funds, specific program or project and for incapacity to perform required duties, provided that the rules shall provide a system for the employee to seek reconsideration of suspension, dismissal and removal for incapacity to perform by answering any charges within ten (10) days in having a conference with the administrative head;

(I) Establishment of hours of work, attendance and leave regulations and working conditions;

(J) Development of employee morale, welfare and training;

(K) Rules governing the outside employment of employees;

(L) Maintenance and use of necessary records and forms;

(M) A uniform system of handing all grievances, except where a different grievance system has been negotiated between a recognized employee organization and the appropriate management officials;

(N) Appeal of an adverse action not inconsistent with § 4406 and § 4407 of the Chapter;

(O) In the case of academic employees of the University of Guam or the Guam Community College, and their successor agencies, a system of tenure appropriate to the academic nature of the respective institutions; and

(P) Such other matters as may be necessary to properly carry out the intent and purposes of this Chapter.

(b) Notwithstanding any provisions of law to the contrary, all contracts for the hiring of non-resident, off-island employees shall conform to the provisions of § 6504 of this Title.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4105. Amended by P.L. 23-026:4 (June 6, 1995). Item (8) amended by P.L. 28-187:4 (Jan. 29, 2007).

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 4107. Pregnancy Related Medical Leave.

(a) [No text]

(1) Pregnancy related medical leave shall be granted to an eligible female employee as a result of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(2) Pregnancy related medical leave shall consist of paid administrative leave not to exceed ten (10) working days, encompassing the date of childbirth.

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(b) Definition. As used in this Section, "eligible female employee" is defined as a full-time classified or full-time unclassified female employee.

(c) Use of Additional Leave Subsequent to Pregnancy Related Medical Leave. Subsequent to the use of paid administrative pregnancy related medical leave, an eligible female employee is permitted to take additional leave that, in combination with pregnancy related medical leave, does not exceed a total of one hundred thirty (130) workdays of total leave surrounding childbirth.

(1) After pregnancy related medical leave is exhausted, employees shall then use parental leave, sick leave, annual paid leave, compensatory leave, and leave without pay, in that order.

(2) If employees have exhausted all of the previously stated forms of leave, they may then use any donated sick leave obtained through the leave sharing program.

(d) Approval of Pregnancy Related Medical Leave and Additional Leave Surrounding Childbirth.

(1) The employer shall approve up to one hundred thirty (130) total workdays of leave, comprised from the various leave sources as listed and pursuant to the order provided in Subsection (c).

(2) Leave surrounding childbirth that is requested in excess of one hundred thirty (130) working days may be approved on a case-by-case basis at the discretion of the employee's appointing authority.

(e) Eligible Female Employees on a Probationary Status. Eligible female employees who take pregnancy related medical leave and additional leave surrounding the birth of a child(ren), while on a probationary status, will have their probationary status increased by the number of workdays they miss during the leave period.

(f) Notice of Foreseeable Leave.

(1) The employee has the responsibility to provide the supervisor no less than ninety (90) days notification of intent to use pregnancy related medical leave and additional leave surrounding birth of a child(ren).

(2) If less than ninety (90) days is available, then notice shall be given as soon as is reasonably practical.

(g) [No text]

(1) An employee who gives birth to multiple children at the same time is granted the same amount of pregnancy related medical leave as an employee who gives birth to a single child.

(2) Pregnancy related medical leave is not cumulative; and parental leave cannot be sold or donated to other employees.

(h) Employment and Benefits Protection.

(1) Except for workforce reduction situations, an employee taking paid leave shall be restored to the same or equivalent position held prior to the leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) There shall be no loss of employment benefits accrued prior to leave, except for paid administrative leave expended.

(i) Notification to Eligible Employees. Written notice by the hiring agency setting forth employee rights and responsibilities under the statute is required at the time of hire.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4106. Repealed and reenacted by P.L. 21-067:1 (Nov. 26, 1991). Amended by P.L. 26-108:3 (June 18, 2002). Amended and renamed by P.L. 33-141:2 (Mar. 4, 2016), effective 60 days after enactment.

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2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations altered/added pursuant to authority granted by 1 GCA § 1606.

§ 4107.1. Parental Leave.

(a) Parental leave shall be granted to an eligible employee occupying a permanent position upon the birth of his or her child(ren) or the adoption of a child(ren) five (5) years old or younger.

(1) Such parental leave shall consist of paid administrative leave not to exceed twenty (20) working days, encompassing the date of childbirth or adoption of a child(ren) five (5) years old or younger.

(2) [No text]

(A) In the event that an employee is also eligible for pregnancy related medical leave, that form of paid administrative leave will be used immediately prior to parental leave.

(B) In that situation, the result may be that parental leave begins as late as ten (10) working days after the birth of the child, and does not encompass the birth date.

(b) Definition. As used in this Section, "eligible employee" is defined as a full-time classified or full-time unclassified employee.

(c) Use of Additional Leave Subsequent to Paid Administrative Parental Leave. Subsequent to the use of parental leave, an eligible employee is permitted to take additional leave that, in combination with paid administrative leave, does not exceed a total of one hundred thirty (130) working days of total leave surrounding the birth or adoption of his or her child(ren).

(1) After parental leave is exhausted, employees shall then use sick leave, annual paid leave, compensatory leave, and leave without pay, in that order.

(2) If employees have exhausted all of the previously stated forms of leave, they may then use any donated sick leave obtained through the leave sharing program.

(d) Approval of Parental Leave and Additional Leave Surrounding the Birth or Adoption of a Child.

(1) The employer shall approve up to one hundred thirty (130) total working days of leave, comprised from the various leave sources as listed and pursuant to the order provided in Subsection (c).

(2) Leave surrounding childbirth or adoption requested in excess of one hundred thirty (130) working days may be approved on a case-by-case basis at the discretion of the employee's appointing authority.

(e) Eligible Employees on a Probationary Status. Eligible employees who take parental leave and additional leave surrounding the birth or adoption of their child(ren), while on a probationary status, will have their probationary status increased by the number of workdays they miss during the leave period.

(f) Notice of Foreseeable Leave.

(1) The employee has the responsibility to provide the supervisor no less than ninety (90) days notification of intent to use paid parental leave and additional leave surrounding the birth or adoption of their child(ren).

(2) If less than ninety (90) days is available, then notice shall be given as soon as is reasonably practical.

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(g) [No text]

(1) An employee who becomes a parent to multiple children at the same time is granted the same amount of parental leave as an employee who becomes a parent to a single child.

(2) Parental leave is not cumulative; and parental leave cannot be sold or donated to other employees.

(h) Employment and Benefits Protection.

(1) Except for workforce reduction situations, an employee taking parental leave shall be restored to the same or equivalent position held prior to the leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) There shall be no loss of employment benefits accrued prior to leave, except paid parental leave expended.

(i) Notification to Eligible Employees. Written notice by the hiring agency setting forth employee rights and responsibilities under the statute is required at the time of hire.

SOURCE: Added by P.L. 21-067:2 (Nov. 26, 1991) as § 4117.1. Codified as § 4107.1 by the Compiler pursuant to the authority granted by 1 GCA § 1606. Amended by P.L. 26-108:2 (June 18, 2002). Amended and renamed P.L. 33-141:2 (Mar. 4, 2016), effective 60 days after enactment.

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations altered/added pursuant to authority granted by 1 GCA § 1606.

§ 4108. Sick Leave.

(a) Defined. Employees occupying permanent positions shall accrue sick leave at the rate of one-half day (4 hours) for each biweekly pay period in which they are in pay status for the entire ten (10) days; otherwise, there shall be no accrual for such period. For the purposes of this Section, all full-time employees of the Department of Education, University of Guam and the Guam Community College shall be deemed to be employed on the same two thousand eighty (2,080) hour year divided into twenty-six (26) biweekly pay periods as other permanent positions within the Government, even though such employees may be paid in accordance with a different payroll system. Therefore, they shall accrue thirteen (13) days sick leave per duty year.

(b) Accumulation. Unused sick leave may be accumulated and carried over to succeeding leave years without limitation.

(c) When Allowed. Sick leave with pay is allowed whenever:

(1) The employee is compelled to be absent from duty on account of physical or mental illness; injury; mental health examination, counseling or treatment; pregnancy; childbirth; medical, dental or optical examination or treatment; or because of quarantine due to her/his own or another's illness.

(2) The employee is compelled to be absent from duty to provide health care for a member of the employee's immediate family as a result of serious illness or injury.

(A) "Serious illness" or "injury" means an urgent condition that is certified by the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support.

(B) "Immediate family member" means the employee's spouse, common law, parents, parents-in-law, grandparents, brothers, sisters, children, grandchildren, brothers' and sisters'

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children, any step or adoptive parents, adopted children or grandchildren of both the employee and the spouse, a guardian or person in loco parentis.

(d) Certification. If an employee is absent because of illness, injury, medical condition or quarantine in excess of three (3) consecutive days, he may be required to furnish a certification as to the incapacity from a regularly licensed physician or other evidence administratively acceptable. The department head may require certification for such other period as is appropriate.

(e) Administration. If the certification required by Subsection (d) is not furnished, all absence which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.

(f) Special Provisions. The generality of Subsections (a) through (f) is subject to the following special provisions:

(1) Additional sick leave with pay may be allowed an employee on the recommendation of the Director of Administration, or the appropriate branch, department, agency or authority head and approval of the department, agency or authority board or commission, where such exists, or I Maga'håga/Maga'låhi for employees of the Executive Branch, the Rules Committee of I Liheslatura for employees within the Legislative Branch, and the Judicial Council for employees of the Judiciary;

(2) Falsification of an illness or medical condition report shall be considered sufficient cause for disciplinary action, including dismissal from the government service for repeated offenses;

(3) Sick leave with pay shall be allowed during leaves of absence or vacation, provided, however, that any sick leave taken while on vacation must be supported by a certificate issued by a licensed physician. No employee shall be allowed to undertake gainful employment while on sick leave status;

(4) The minimum charge for sick leave shall be one hour and additional charges in multiples thereof;

(5) Sick leave with pay, up to a maximum of thirteen (13) days, may be granted in advance of earning such leave under the conditions described in Subsections (a), (b), (d), (f)(3) and (f)(4) of this Section. If an employee is separated from the service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due her/him at the time of separation an amount equal to her/his salary for the period of unearned sick leave allowed and taken;

(6) Responsibility for administration of this Section shall remain with the appointing authorities, subject to such audit as may be ordered by the Director of Administration.

(g) Vesting. Sick leave accrued for service with the government of Guam or any of its instrumentalities, branches, authorities or any entity, corporation or agency, shall vest in the employee upon accrual and shall remain vested in such employees while he is employed by the Government notwithstanding the fact that from time to time, he may be transferred from one branch to another or to an autonomous agency, authority or other entity within the government of Guam. Sick leave accrued and unused at the time of separation from the government shall remain credited to the employee if such employee returns to government service.

(h) Lump Sum Payment Prohibited.

(1) No person who leaves the government service for any reason may receive a cash payment for sick leave accrued at the time that person leaves such service, except for payments upon death as provided in Chapter 7 of this Title, and except for lump sum payments to participants in the Defined Contribution Retirement System upon retirement.

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(2) Lump sum payments described herein shall be calculated by multiplying:

(A) the employee's hourly rate based on the average of the three (3) highest salaries received by an employee during that person's years of credited service, by

(B) one half (½) of the employee's unused accumulated sick leave hours.

(i) Payment of the lump sum for unused sick leave shall be the responsibility of the employee's agency of employment.

(j) The provisions of this Section shall apply to all employees including those in the Judicial, Legislative and Executive Branches including those in autonomous entities.

(k) Notwithstanding any other law, the provisions of Subsection (a) of this Section shall not apply to members of I Liheslaturan Guåhan, who shall be ineligible for the prospective accrual of sick leave after the effective date of this subsection.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4107. Subsections (h) and (i) added by P.L. 17-057:1 (June 20, 1984). Subsection (g) amended by P.L. 17-081:36 (Dec. 18, 1984), P.L. 18-010:22 (Aug. 8, 1985). Subsection (j) added by P.L. 23-113:1 (July 26, 1996), effective at the commencement of the 24th Guam Legislature pursuant to P.L. 23-113:2. Subsection (c) amended by P.L. 24-094:2 (Oct. 14, 1997). Subsection (h) amended by P.L. 26-086:3 (May 17, 2002). Subsection (f)(6) amended by P.L. 28-068:IV:36 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47. Subsection (c)(2) amended by P.L. 32-228:2 (Dec. 30, 2014). Subsection (c)(2)(B) amended by P.L. 37-118:1 (July 22, 2024).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Legislature/Guam Legislature" replaced with I Liheslatura/Liheslaturan Guåhan pursuant to 2 GCA § 1101.

2016 NOTE: Subsection designations were added/altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4108.1 Accrual of Sick Leave for Retirees Re-employed with the Government of Guam.

Retirees that are authorized to continue receiving their annuity payments while being reemployed in the government of Guam shall accrue sick leave benefits in the same manner as active employees of the Government of Guam. All laws, rules and regulations, with the exception of lumpsum payouts of sick leave, regarding the accrual, use and disposition of sick leave shall apply to retired employees who are rehired in the Government of Guam.

SOURCE: Added by 38-017:1 (June 17, 2025).

§ 4109. Annual Leave.

(a) [No text]

(1) Annual leave shall be granted to employees occupying permanent positions, except personnel of the Department of Education, the Guam Community College or the University of Guam, who are employed on a school year basis, and Judges and Justices of the Unified Judiciary of Guam who are not members of the defined benefits retirement plan of the government of Guam, in accordance with the following schedule:

(A) One-half day (4 hours) for each full bi-weekly pay period in the case of employees with less than five (5) years of service.

(B) Three-fourths day (6 hours) for each full bi-weekly pay period in the case of employees with five (5) years of service, but less than fifteen (15) years of service.

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(C) One (1) day (8 hours) for each full bi-weekly pay period in the case of employees with fifteen (15) years or more of service.

(2) For purposes of this Subsection (a), all elected officials, except members of the Guam Education Board, I Maga'håga/Maga'låhi and I Sigundo Maga'håga/Maga'låhi, Members of I Liheslaturan Guåhan, and the Consolidated Commission on Utilities, shall be deemed employees occupying permanent positions.

(b) [No text]

(1) The term years of service shall be deemed to include service with the Naval Government of Guam or with other Federal instrumentalities or agencies within Guam prior to August 1, 1950, and to include honorable service with the Armed Forces of the United States, provided no more than three (3) years of service shall be credited to any individual for purposes of this Section. Years of service shall include one (1) year for each year served as a school employee.

(2) The provisions of this Subsection shall not apply to those employees of the government of Guam hired prior to the date of enactment of this Act, except that any current employee of the government who has been in the employ of the government for less than three (3) years on the date of enactment and is a former member of the Armed Forces of the United States and is receiving a retirement annuity or pension as result of such military service shall be deemed to have three (3) years of service with the government at the date of enactment of this Subsection for the purposes of accruing annual leave.

(c) [No text]

(1) Employees entitled to annual leave hereunder may accumulate up to three hundred twenty (320) hours. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to such employee's accumulated sick leave, provided, that no more than one hundred (100) hours shall be credited to sick leave at the end of each fiscal year. The determination of accumulation of annual leave, and crediting of excess hours sick leave hours shall be done at the end of each fiscal year.

(2) Notwithstanding the provision of this Section, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of February 28, 2003, may carry over their excess and shall use the excess amount of leave, prior to retirement or termination from service. At the time of retirement or termination of service, that portion permitted to be credited to sick leave shall be so credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave in excess of three hundred twenty (320) hours.

(3) Notwithstanding any provision of law, all employees of the Government of Guam, including line agencies, autonomous agencies, and instrumentalities, except where federal law or specific statutory provisions governing leave benefits require otherwise, who accumulated annual leave in excess of the statutory carryover limit prior to October 1, 2025, shall, on or before September 30, 2027, choose one (1) of the following options:

(A) utilize all annual leave accumulated in excess of the statutory carryover limit on or before September 30, 2027; or

(B) transfer all or a portion of the employee's annual leave accumulated in excess of the statutory carryover limit to the employee's accumulated sick leave.

The transfer authorized by Subparagraph (B) of this Section shall be a one-time transfer and shall apply only to excess annual leave lawfully accrued prior to October 1, 2025, and reflected in the employee's

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official leave record. Annual leave earned on or after October 1, 2025, shall not be eligible for transfer under this Paragraph.

The Department of Administration and each autonomous agency, public corporation, branch, department, agency, instrumentality, or entity of the Government of Guam responsible for maintaining employee leave records shall establish procedures for employees within sixty (60) days of enactment of this Act to make the decision required by this Paragraph and shall complete all authorized transfers no later than September 30, 2027.

Any excess annual leave subject that is not utilized or transferred in accordance with§ 4109(5)(a) or§ 4109(5)(b) of this Chapter on or before September 30, 2027, shall be forfeited, consistent with the Opinion of the Attorney General and the Department of Administration guidance circulated on March 5, 2026.

(d) Any employee who transfers from one branch of the government of Guam to another, or from one department, agency, instrumentality or corporation of the government of Guam to another department, agency, instrumentality or corporation at her/his option may accept the cash value of her/his earned leave at the time of transfer or transfer her/his accumulated leave to her/his new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and re-employment.

(e) Any employee of the government of Guam who shall transfer from one government of Guam department or agency to the Guam Housing and Urban Renewal (GHURA) shall be credited with all prior creditable service to the government of Guam in computing annual leave. This subsection shall be applicable to all former employees of GHURA who shall make specific application for such credit within six (6) months after the date of enactment hereof.

(f) [No text]

(1) Any employee of the government of Guam who is a participating athlete or coach or administrator in an athletic contingent, recognized by the Guam National Olympic Committee (GNOC), representing Guam by invitation in any regional, national or international tournament, game or other sporting event sanctioned by the GNOC, shall be granted leave by his or her respective department director or appointing authority for the time it takes to complete both competition and any necessary travel, not to exceed fifteen (15) working days;

(A) provided, that his or her accumulated annual leave or compensatory time off (CTO) is charged with the number of hours he or she is absent from duty, and

(B) further provided, that the employee requests such leave in writing thirty (30) calendar days prior to the first day of leave.

(2) If said employee has exhausted his or her annual leave, or chooses not to use such, he or she shall be granted leave without pay.

(3) Under no circumstances shall any employee of the government of Guam be granted said leave for competition more than three (3) times in one (1) calendar year under this Subsection.

(g) Any employee of the government of Guam who has been qualified as a donor for medical purposes and has received notice that the employee has been determined to be a match shall be granted leave with pay by his or her respective department director or appointing authority for the time it takes to complete the medical procedure involved, not to exceed ten (10) working days.

SOURCE: Added by P.L. 16-023:1 as § 4108 (Aug. 11, 1981). P.L. 21-015:6 (Apr. 23, 1991) added as GC § 4006.2, codified by the Compiler as Subsection (f) of this Section. Subsection (b) amended by P.L. 24-155:2 (Apr. 9, 1998).

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Subsection (g) added by P.L. 24-179:2 (Apr. 17, 1998). Subsection (c), (d) amended by P.L. 25-164:IV:17, 18 (Sept. 26, 2000). Subsection (a) amended by P.L. 27-005:IV:3 (Feb. 28, 2003), P.L. 27-158:1 (Dec. 30, 2004); P.L. 28-001:1 (Feb. 9, 2005), P.L. 28-068:IV:112 (Sept. 30, 2005), P.L. 28-137:2 (July 11, 2006), effective Oct. 1, 2006 per P.L. 28-137:6, P.L. 29-019:VI:60 (Sept. 29, 2007) and P.L. 30-117:2 (Apr. 1, 2010). Subsection (c) amended by P.L. 27-005:IV:4 (Feb. 28, 2003), and P.L. 27-106:VI:19 (Sept. 30, 2004). Subsection (d) repealed by P.L. 27-005:IV:2 (Feb. 28, 2003). Subsection (h) added by P.L. 29-113:VI:58 (Sept. 30, 2008). Subsection (a) amended by P.L. 31-285:3 (Jan. 18, 2013). Subsection (c) amended by P.L. 38-136:XII:77 (Aug. 28, 2026)

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Lieutenant Governor" replaced with I Sigundo Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

2016 NOTE: Before its repeal by P.L. 27-005:IV:2 (Feb. 28, 2003), Subsection (d) stated:

> Nothing in this Section shall be construed to preclude provision, by appropriate personnel rules and regulations, for annual leave for employees occupying permanent positions excepted from the application of this Section, and such other matters as are essential or incidental to the administration of the leave system not otherwise prescribed herein, including but not limited to accumulation and carry-over of leave to succeeding fiscal years.

In light of the repeal of Subsection (d) by P.L. 27-005:IV:2, the Compiler has redesignated the remaining subsections to adhere to the Compiler's codification and alpha-numeric schemes pursuant to the authority granted by 1 GCA § 1606.

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4109.1. Accrued Leave.

Registered nurses employed by the Guam Memorial Hospital, the Department of Public Health and Social Services, or the Guam Behavioral Health and Wellness Center, who have accrued an excess of five hundred eighty (580) hours of annual leave shall be granted a lump sum payment at their regular hourly wage for each hour of excess annual leave exceeding five hundred eighty (580) hours; provided, that said lump sum payment shall be made only if such a nurse cannot be granted such excess leave within sixty (60) days of its accrual.

SOURCE: Added as uncodified law by P.L. 20-218:9 (Aug. 30, 1990). Codified by the Compiler.

2013 NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the "Department of Mental Health and Substance Abuse (DMHSA)" to the "Guam Behavioral Health and Wellness Center," all references to "DMHSA" were altered to the "Guam Behavioral Health and Wellness Center."

§ 4109.2. Leave Sharing Program.

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

(b) [No text]

(1) Voluntary Transfer of Sick Leave or Annual Leave. If a government of Guam employee desires to transfer a number of hours of earned sick leave or annual leave to another employee in any department or agency of the government, the recipient must first exhaust all her/his accrued annual and sick leave and compensatory time for the purposes of a medical emergency or for personal reasons. Leave transferred from donors whose hourly rates of pay or salaries are lower than the recipient shall

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be paid at the hourly rate or salary of the donor. Leave transferred from donors whose hourly rates of pay or salaries are higher than the recipient, shall be paid at the hourly rate or salary of the recipient.

(2) A formal written request shall be made by the donor employee to that person's payroll supervisor, stating the name of the recipient, the number of hours of leave to be transferred and the type of leave. No transfer may be made by any employee to that person's supervisor, or to any person above that employee in the supervisory chain, or to a member of the supervisor's or such supervisory person's immediate family. If the donor has sufficient hours of leave accrued to cover the donation, the payroll supervisor shall notify the Payroll Division to transfer the approved number of hours to the recipient. Upon receipt of the notice of transfer, the receiving employee may then submit a leave request for the number of hours of leave, sick or annual, that the employee needs and the department head shall then approve the leave request.

(3) Leave may not be transferred to another employee if as a recipient that employee intends to use it for credit towards retirement or accumulated leave. This transfer of leave shall be strictly on a voluntary basis. Leave transferred shall be used as leave by the person to whom it is transferred, and if it is not used in its entirety, it may be re-transferred to the person who originally earned it. In no event shall transferred leave be converted to cash or retirement credit by the person to whom it is transferred.

(4) Participation in the leave sharing program shall not exceed ninety (90) working days, shall require a certification from the attending medical doctor that the recipient of the leave needs additional time for medical treatment or recovery from a medical illness and is physically unable to return to work due to the medical illness. An additional ninety (90) working days may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the first ninety (90) day period. A final period of thirty (30) working days may be granted upon an additional certification from the attending medical doctor that additional time is needed for recovery.

(5) An employee certified by his or her attending medical doctor as having a catastrophic or chronic illness, including, but not limited to, a heart attack, stroke, and/or cancer, and who requires additional time beyond the two hundred ten (210) working days authorized pursuant to Subsection (b)(4) of this Section for medical treatment or recovery may be authorized additional leave upon approval by his or her respective department director or appointing authority. Authorization of additional leave for an employee certified as having a catastrophic or chronic illness may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the final thirty (30) day period provided in Subsection (b)(4) of this Section confirming the employee is physically unable to return to work.

(c) Employees of the government of Guam shall not transfer their unused annual leave or sick leave to another employee in exchange for any money, favors, or items of value. Employees who transfer or receive annual or sick leave in violation of this provision shall be guilty of official misconduct pursuant to Title 9 GCA § 49.90.

(d) This provision shall apply to all government employees in the classified, appointed, elected, and unclassified positions, and all branches of the government of Guam, including line departments and agencies, autonomous agencies, public corporations, and all other government instrumentalities.

SOURCE: Added by P.L. 22-010:1 (May 7, 1993); amended by P.L. 22-140:5 (Sept. 29, 1994); P.L. 26-134:2 (Sept. 17, 2002); P.L. 27-029:V:16 (Sept. 19, 2003); and P.L. 28-068:IV:105 (Sept. 30, 2005). Subsection (b) amended by P.L. 29-019:VI:96 (Sept. 29, 2007). Subsection (5) added by P.L. 35-011:1 (May 7, 2019).

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

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2016 NOTE: Subsection designations were altered/added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4109.3. Implementation.

The Director of Administration shall maintain and from time to time amend the leave-sharing program for the Executive Branch pursuant to Section I of this Act to be implemented in the same manner as other personnel rules and regulations enacted pursuant to § 4105 of Title 4, Guam Code Annotated.

SOURCE: Added by P.L. 22-010:2 (May 7, 1993). Amended by P.L. 28-068:IV:37 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

§ 4109.4. Voluntary Leave.

Voluntary leave for up to five (5) consecutive working days shall be granted to government of Guam employees without pay upon written request from the employee and subsequent approval from their supervisor.

SOURCE: Added by P.L. 25-072:IV:27 (Sept. 30, 1999).

NOTE: Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 4109.5. Teachers Eligible to Participate.

Teachers employed by the Department of Education who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be eligible to participate in the leave sharing program established by 4 GCA, § 4109.2 and implemented by 4 GCA, § 4109.3. Such additional leave acquired through leave sharing may be used solely for leave required for military training or active duty.

SOURCE: Added by P.L. 27-158:2 (Dec. 30, 2004).

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 4110. Sabbatical Leave.

(a) All consultants, teachers, vice-principals, assistant principals and principals of the Department of Education and academic employees of the Guam Community College, all of whom are permanent residents of Guam, may be given a sabbatical leave of absence upon completion of seven (7) consecutive years of satisfactory teaching service.

(b) To be eligible for such sabbatical leave, an employee must have obtained a baccalaureate degree or its equivalent or otherwise be deemed sufficiently skilled and experienced to deserve such a leave.

(c) The Guam Education Policy Board, or the Guam Community College Board of Trustees, as the case may be, shall determine eligibility for such leave and shall schedule the same in such a way as to not unduly interfere with or disrupt the operations of the Department of Education, or the Guam Community College, respectively.

(d) As a condition for the granting of sabbatical leave, the employee must, during the period of such leave, be engaged in endeavors related to her/his field of employment, and agree to return to her/his employment following such leave for a period of not less than two (2) years.

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(e) "Sabbatical leave" for the purposes of this Section, means twelve (12) calendar months of fully paid leave, and any accumulated regular annual leave must be included within and taken at the same time as the sabbatical leave.

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4109. Amended by P.L. 30-125:1 (Apr. 1, 2010).

2016 NOTE: Subsection designations were added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4110.1. Teacher Personal Leave.

[Repealed.]

SOURCE: Added as uncodified law by P.L. 23-128:IV:30 (Dec. 12, 1996) and codified by the Compiler. Amended by P.L. 24-014:19 (Mar. 21, 1997), P.L. 24-057:9 (June 30, 1997); P.L. 24-059:IV:29 (Sept. 12, 1997). Repealed by P.L. 31-279:2 (Dec. 31, 2012).

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4110.2. University of Guam - Sabbatical Leave.

Academic employees of the University of Guam, all of whom are permanent residents of Guam, may be given a sabbatical leave of absence upon completion of seven (7) consecutive years of satisfactory teaching service.

(a) To be eligible for such sabbatical leave, an employee must have obtained a graduate degree and tenure.

(b) Any accumulated regular annual leave must be included within and taken at the same time as the sabbatical leave.

(c) The University of Guam Board of Regents shall determine eligibility for such leave and shall schedule the same in such a way as to not unduly interfere with or disrupt the operations of the University of Guam.

SOURCE: Added by P.L.30-125:2 (Apr. 1, 2010).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4111. Lump Sum Payment for Annual Leave.

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

SOURCE: Added by P.L. 16-023:1 (Aug. 11, 1981) as § 4110.

§ 4112. Vacation Employment for Students.

Notwithstanding any other provision of this Title, the administrative heads of executive departments, agencies or instrumentalities of the Government, and of the Judicial and Legislative Branches of the Government, may employ during the vacation period between school years, at a rate not exceeding the minimum wage specified by any applicable Federal or Guam law, students of the various public and private schools in Guam who are at least sixteen (16) years of age, provided, that such employment may not exceed eight (8) hours in one day and five (5) days in one week and that such employment may not be of a hazardous nature or in any way injurious to or endangering the student. Students employed under the authority of this Section shall not be eligible for retirement, sick or annual leave benefits, and, except as

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may be specifically provided therein, the personnel rules shall not apply to such employment, provided, however, that such employment shall be considered as employment for purposes of the Worker's Compensation Act.

SOURCE: § 4111 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

§ 4113. Employment on Loan Basis.

I Maga'håga/Maga'låhi may request the services, on a loan basis, of employees of the United States, or the government of any state, territory or possession of the United States, or political subdivision thereof, and agree to comply with conditions imposed pursuant to law with respect to such employee's continued membership in employee's retirement system of the lending government and any requirements of the lending government as to salary and transportation expenses.

SOURCE: § 4112 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 4114. Inter-Branch Employee Transfers.

Any employee in the classified service may be appointed or transferred to a position in a different branch, department, agency, instrumentality, authority or corporation requiring equivalent qualification for the one held or to a higher position.

(a) Qualification and standards as established by the Director of Administration in cooperation with any branch, department, agency or instrumentality authorized by law to administer the personnel laws and determine its own personnel rules shall be honored and accepted.

(b) Any employee affected by this Section shall not have affected adversely her/his governmental service, retirement credits, sick or annual leave, and other fringe benefits normally granted to an employee of the Government.

SOURCE: § 4113 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Amended by P.L. 28-068:IV:38 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4115. Right of Petition.

The right of persons employed by the Government, either individually or collectively, to petition I Liheslatura, or any committee or member thereof, or I Maga'håga/Maga'låhi, shall not be denied or interfered with.

SOURCE: § 4114 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 4116. Transfer of Employees.

No employee of a department, agency or instrumentality of the government of Guam may be involuntarily transferred to a position which is unrelated with respect to job duties and responsibilities to the position occupied by the employee before such transfer.

SOURCE: Added by P.L. 17-081:9 (Dec. 18, 1984).

NOTE: This section was inadvertently omitted by the Compiler from the print publication of the GCA 2005 Edition.

§ 4117. Temporary Assignments.

(a) No employee shall be temporarily assigned or detailed to a position nor shall the employee assume the duties and responsibilities of a position other than the one to which he has been appointed for a period

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in excess of ninety (90) days unless the appointing authority obtains an exemption upon written application to the Director of Administration, which exemption shall not extend beyond an additional ninety (90) days.

(b) [No text]

(1) No exemption shall be granted to the ninety (90) day detail limitation except upon express approval by the Director of Administration and except that the Department of Education is provided an extended time period in the temporary assignment of school principals and assistant school principals as follows: Department employees temporarily assigned to the position of school principal or assistant school principal shall not assume the duties and responsibilities of a position other than the one to which he or she has been appointed for a period in excess of three hundred sixty (360) days, provided that there are no qualified applicants for those positions and unless the appointing authority obtains an exemption upon written application to the Director of Administration, which exemption shall not extend beyond an additional three hundred sixty (360) days.

(2) No exemption shall be granted to the Department on the three hundred sixty (360) days limitation except upon approval by the Director of Administration, provided, however, that no further temporary assignment to the same position shall be allowed beyond a total of seven hundred twenty (720) days, unless extraordinary extenuating circumstances as found by the Director of Administration, justify further temporary assignment to such position.

(c) In any such temporary assignments, the assignee shall suffer no loss of pay while so assigned.

(d) The Speaker of I Liheslaturan Guåhan shall be given a notice of all temporary assignments within forty-eight (48) hours of such temporary assignment.

SOURCE: Added by P.L. 17-081:10 (Dec. 18, 1984). Amended by P.L. 27-106:VI:27. Amended by P.L. 28-068:IV:39 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47.

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2016 NOTE: Subsection designations added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4118. Acting Capacity.

No employee of a department, agency or instrumentality of the government of Guam shall be appointed by a cognizant authority to serve temporarily in an acting capacity as head of a department, agency or instrumentality for a period in excess of one year.

(a) Any employee so appointed has the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the one-year period is exhausted.

(b) The time limitation of this Section may not be circumvented by an interruption in the appointment to an acting capacity or to the position the employee held immediately before the appointment for a period of less than thirty (30) days.

SOURCE: Added by P.L. 17-081:11 (Dec. 18, 1984).

2018 NOTE: Subsection designation added pursuant to authority granted by 1 GCA § 1606.

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§ 4119. Military Leaves of Absence: National Guard or Reserves.

(a) All employees of the government of Guam who are members of the reserve components of the Department of Defense or Transportation, including, but not limited to, the United States Army, the United States Navy, the United States Marine Corps, the United States Air Force, the Army National Guard, the Air National Guard and the United States Coast Guard, shall be entitled to leaves of absence from their respective duties with the government of Guam without losses of time or efficiency ratings on all days during which they are engaged in active military duty ordered or authorized under the laws of United States.

(b) Such employees shall be entitled to military leave with pay while performing such duty not to exceed fifteen (15) working days per government of Guam fiscal year, and, to the extent not used in a fiscal year, accumulates in the succeeding year until it totals fifteen (15) days at the beginning of a fiscal year. Thereafter, the officers and employees shall elect annual leave, compensatory-time accrued, or leave without pay.

(c) The provisions of this Section shall be retroactive to October 01, 2012.

SOURCE: Added by P.L. 22-054:2 (Dec. 2, 1993). Amended by P.L. 23-041:3 (Sept. 29, 1995), P.L. 24-258:2 (Aug. 14, 1998), P.L. 31-279:3 (Dec. 31, 2012).

2016 NOTE: Subsection designations added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4119.1. Military Family Leave Act.

The provisions of the Military Family Leave Act of Guam (MFLAG) contained in Article 1A of [Chapter 4], Title 4, Guam Code Annotated, shall apply to all qualified employees of the government of Guam as defined in this Chapter.

SOURCE: Added by P.L. 29-149:2 (Jan. 30, 2009).

§ 4120. Extended Hours.

(a) Extended Hours. Except for those agencies which observe public service necessity service hours as defined in Items 2 and 3 of Subsection (g) of this Section, all line agencies, departments, autonomous entities and instrumentalities and public corporations of the government of Guam, including the Superior Court of Guam not excluded by paragraphs (e) and (f) of this Section shall commence their regular work day at 7:00 a.m. and conclude at 6:00 p.m. Mondays through Fridays, excluding holidays. Extending the work week to Saturdays and Sundays shall be permitted at the discretion of the director of each agency.

(b) Scheduling options. Directors of each agency shall develop a schedule of working hours for all employees within such agency which shall include but not be limited to staggered hours, flexible working hours and, at the director's discretion, Saturday working hours. The director shall consider specific employee requests relative to work schedules whenever possible. The total number of hours worked per week for each employee shall not be changed by such new schedules of working hours.

(c) Open to public. Except as otherwise provided in this Section, directors shall ensure that all services normally provided to the public are available during all working hours.

(d) Overtime not allowed. Overtime is not authorized to achieve the implementation or execution of the provisions of this Section.

(e) Optional exclusions. A director shall have the option to exclude her/his agency or a division of such agency from the provisions of this Section if such agency or division meets one (1) or more of the following conditions:

(1) It has less than ten (10) employees;

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(2) It has no direct contact with the public;

(3) Its director determines that implementation of such work schedules would cause hardships and decrease the ability of such agency's or division's employees to perform their duties.

(f) Other exclusions. Agencies or divisions of agencies which currently provide services to the public on a twenty-four (24) hour-per-day basis, on an on-call basis, or during work schedules differing from the standard workweek of 8 a.m. to 5 p.m. Monday through Friday excluding holidays, are excluded from the provisions of this Section.

(g) Definitions. For the purposes of this Section:

(1) "director" means the executive head of an agency; "division" means any section, program or administrative unit of an agency; and "agency" means an agency or department of the executive branch of the government, or an autonomous instrumentality of the government of Guam, or a public corporation, or the Superior Court of Guam;

(2) "public service necessity agencies" means agencies or components of agencies which operate between the hours of 7:00 a.m. - 8:00 p.m., Monday through Friday, and which provide access to public service necessity activities during these operating hours. Public service necessity agencies include, but are not limited to, traffic court, components of the Superior Court dealing with court clearances, and components of the Treasurer of Guam, Division of Motor Vehicles, Department of Revenue and Taxation, Guam Power Authority, Guam Waterworks Authority, Department of Public Works and community healthcare centers that provide counter or window services. Directors may employ staggered hours, flexible working hours, or split shifts to adequately provide public access to public service necessity activities;

(3) "public service necessity activities" means activities mostly engaged in by the public at times outside extended government office hours involving counter or window services, which are services provided at spaces designated for customer service assistance to the public, and which generally involve details of payment, forms and applications, certificates, and access to general information, e.g. utility payments, vehicle registrations, license requirements, and filing tax returns.

SOURCE: Added as § 4119 by P.L. 22-091:2 (Mar. 7, 1994), renumbered by the Compiler. Subsections (a) and (g) amended by P.L. 28-150:V:53-54 (Sept. 30, 1996), with amendments effective March 1, 2007.

§ 4121. Employment Identification Cards Issued to Minors.

All employment identification cards issued to persons under the age of eighteen (18) years of age, who are employed in any branch of the government of Guam, including I Liheslaturan Guåhan, Judiciary and Executive Branch, including all public corporations, autonomous agencies, the University of Guam and the Guam Community College shall prominently display the month and year in which such person will turn eighteen (18) years of age.

SOURCE: Added by P.L. 24-169:4 (April 15, 1998).

2024 NOTE: Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

§ 4122. Development of Personnel Rules and Regulations for Peace Officers of the Executive Branch.

(a) The Director of Administration and the Peace Officer Standards and Training Commission (POST) shall jointly develop personnel rules and regulations for each agency of the Executive Branch that employs peace officer positions for such peace officers in such agency consistent with the provisions of Title 4 Guam Code Annotated. Such personnel rules and regulations shall apply only to peace officers, and shall be so construed to reflect the moral and ethical standards and conduct expected of peace officers both on and off

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duty. Each agency employing peace officers shall implement such personnel rules and regulations for its peace officer positions.

(b) "Peace officers" for purposes of this Section are those defined in § 51101(b) of Title 17 of the Guam Code Annotated.

SOURCE: Added by P.L. 25-054:2 (June 30, 1999) as § 4121, renumbered by the Compiler pursuant to the authority granted by 1 GCA § 1606. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006.

2019 NOTE: Reference to 17 GCA § 32301 in subsection (b) altered to § 51101 to reflect renumbering of the provision.

2016 NOTE: Subsection designations added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

NOTE: Effective January 1, 2006, references to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-068:IV:45 (Sept. 30, 2005).

§ 4123. Development of Personnel Rules and Regulations for Peace Officers of the Judicial Branch.

(a) The Judicial Council and the Peace Officer Standards and Training Commission (POST) shall jointly develop personnel rules and regulations for all peace officer positions within the Superior Court of Guam, consistent with the provisions of Title 4 of the Guam Code Annotated.

(b) The Chief Justice and the POST shall jointly develop personnel rules and regulations for all peace officer positions within the Supreme Court of Guam consistent with the provisions of Title 4 of the Guam Code Annotated. Such personnel rules and regulations shall apply only to peace officers, and shall be so construed to reflect the moral and ethical standards and conduct expected of peace officer both on and off duty.

(c) The Judicial Branch shall implement such personnel rules and regulations for its peace officer positions.

(d) "Peace officers" for purposes of this Section are those defined in § 51101(b) of Title 17 of the Guam Code Annotated.

SOURCE: Added by P.L. 25:054:3 (June 30, 1999) as § 4122, renumbered by the Compiler pursuant to the authority granted by 1 GCA § 1606.

2018 NOTE: Internal reference in subsection (d) was altered to reflect the new section as moved by P.L. 31-099:16 (Sept. 30, 2011).

2016 NOTE: Subsection designations added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4124. Prior Precedents Need Not Apply.

Prior decisions and precedents regarding the application of personnel rules and regulations by the Director of Administration and the Judicial Council for the Executive and Judicial Branches, respectively, need not be applied to cases deliberated under the provisions of §§ 4122 and 4123 of this Chapter.

SOURCE: Added by P.L. 25-054:4 (June 30, 1999) as § 4123, recodified to this section by the Compiler pursuant to the authority granted by 1 GCA § 1606. Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006.

2024 NOTE: Past publications erroneously included § 4124; this reference has been omitted.

NOTE: Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-068:IV:45 (Sept. 30, 2005).

§ 4125. Volunteers in the Executive Branch.

(a) Generally. I Maga'håga/Maga'låhi (acting for the Executive Branch, except for the officers listed herein), the Attorney General and the Public Auditor, respectively, may use volunteers when each within

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their own authority determines that a specific need exists for volunteers within the government. Such need may include, but is not limited to, any of such conditions as natural or other declared disasters, lack of funds for a given agency or entity, or for the general benefit of the public, or to benefit educational programs in Guam.

(b) Limitations and Regulations.

(1) Existing Volunteers Programs. This Section does not displace nor change the requirements for volunteers in programs already existing in law. Where such existing programs are authorized, this Section shall not be used in their place.

(2) Qualifications. No volunteer shall be used for work for which that person is not qualified.

(3) Compensation Liability. Volunteers shall not be compensated for their work, but volunteers under this Section shall be governed by the applicable Workers' Compensation laws, especially 22 GCA § 9104(f). Volunteers under this Section shall be subject to and protected by 7 GCA Chapter 16, Volunteer Liability Protection, and all other laws governing volunteers in general.

(4) Working Conditions. Working conditions and hours worked and the work expected of them as volunteers shall be arranged between the volunteers, or the organization which has arranged for their services, and the head of the Department, Agency or other entity with who they are volunteering. Any required clothing or protective gear or equipment to be used shall be provided by the government.

(5) Employees Protected. The use of volunteers shall not displace full time or part time employees of the government of Guam, nor shall the use of volunteers be given as a reason to reduce the hours worked or salary of any part-time or-full time employee of the government. The use of volunteers shall not be a reason to prevent hiring any new employees; provided that funds are actually available for such hiring.

(6) Prohibition on commercial ventures. Subsection (a) above shall be inapplicable to commercial ventures, e.g. lobbyists and consultants.

SOURCE: Added by P.L. 27-029:V:25 (Sept. 19, 2003).

§ 4126. Volunteers in the Legislative and Judicial Branches.

The Legislative and Judicial branches of the government of Guam may use volunteers when each within their own authority determines that a specific need exists for volunteers within the government. All provisions of 4 GCA § 4125(b) shall also apply to this Section.

SOURCE: Added by P.L. 27-029:V:26 (Sept. 19, 2003).

CROSS-REFERENCES: *See* 5 GCA § 7118 for further restrictions on volunteers in all three branches.

§ 4127. Blood Donors' Leave.

(a) Any employee of the Government of Guam shall be granted administrative leave for the purpose of donating blood. The amount of administrative leave shall be as follows:

(1) Two (2) hours of administrative leave for the donation of whole blood;

(2) Three (3) hours of administrative leave for the donation of platelets;

(3) Two (2) hours of administrative leave for blood donor screening; and

(4) Additional leave may be granted in the event that the clinic receiving the donation of blood determines that more time is necessary for the donor to recover.

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(b) The approving authority may require from the donor up to five (5) days' notice of the date of the blood donation. Nothing herein shall limit the ability of the approving authority and the donor from coordinating schedules of donation dates and times to accommodate the operations of the agency.

(c) The clinics shall provide certification of the dates and times of the employee's donation.

SOURCE: Added by P.L. 30-107:1 (Mar. 11, 2010).

§ 4128. Sign Language and Foreign Language Interpreters.

(a) Any qualified foreign language or sign language interpreter employed by an agency, instrumentality or branch of the government of Guam may be granted administrative leave for the purpose of volunteering as a sign language or foreign language interpreter for official government meetings, functions or public hearings.

(b) The approving authority may require up to five (5) days' notice from the volunteer prior to the date of the event. The employee shall furnish written certification from the agency sponsoring the official government meeting, function or public hearing of the number of hours the employee's services were utilized.

SOURCE: Added by P.L. 31-004:1 (Mar. 8, 2011).

§ 4129. Early Childhood Intervention Leave Act of 2016.

(a) Any employee of the government of Guam who is a parent of a child with a developmental delay or disability, and who is not otherwise prohibited from such contact with his or her child by order of a court, shall be granted administrative leave for the purposes of meeting, supporting, and participating in his or her child's early childhood intervention learning activities at home, in the community, or in a controlled setting under the guidance of the Guam Early Childhood Intervention System, a Division of Special Education of the Department of Education. The amount of administrative leave shall be as follows:

(1) two (2) hours per pay period of administrative leave for the purposes of meeting, supporting, and participating in his or her child's early childhood intervention learning activities at home, in the community, or in a controlled setting under the guidance of the Guam Early Childhood Intervention System, a Division of Special Education of the Department of Education;

(2) in the event that a representative from the Department of Education, Special Education Division, determines that more time is required based on the needs of the child and their activities, additional administrative leave hours may be granted, but is dependent upon the approval of the employee's supervisor for the good of the department, agency, or instrumentality of the government of Guam.

(b) A meeting with a representative of the Guam Early Childhood Intervention System, a Division of Special Education of the Department of Education, to support and participate in his or her child's early childhood intervention learning activities at home, in the community, or in a controlled setting shall be considered as attendance at an official meeting/conference under Rule No. 8.402 of the Personnel Rules and Regulations of the Department of Administration for the purposes of eligibility for administrative leave.

(c) The employee's supervisor may require up to a five (5) day notice from the employee prior to the date of the meeting or activity for which administrative leave is being requested. If a five (5) day notice is not available, documentation may be required from the Department of Education Special Education Division as to the urgency of the meeting or activity.

(d) For the purposes of meeting, supporting, and participating in his or her child's early childhood intervention learning activities at home, in the community, or in a controlled setting under the guidance of

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the Guam Early Childhood Intervention System, the employee shall provide certification of the dates and times of the activities to their respective supervisor upon returning to work or as required by the supervisor.

(e) This provision shall apply to an employee who is the parent or legal guardian of a non-school aged child with a developmental delay or disability, and who is enrolled in the Guam Early Childhood Intervention System, a Division of Special Education of the Department of Education, and who is not otherwise prohibited from such contact with his or her child by order of a court.

SOURCE: Added by P.L. 33-230:3 (Jan. 9, 2017).

2017 NOTE: Pursuant to P.L. 33-230:4 (Jan. 9, 2017):

Notification of the "Early Childhood Intervention Leave Act of 2016." Upon the enactment of this Act, the Department of Administration shall provide notification of the "Early Childhood Intervention Leave Act of 2016" to all employees of all autonomous and non-autonomous, departments, agencies, and instrumentalities of the government of Guam.

§ 4130. Employee Leave for Organ, Tissue, or Bone Marrow Donation.

The head or director of a department or agency shall grant administrative leave of absence, not to exceed twenty (20) days, Saturdays, Sundays and government of Guam holidays excepted, to an employee for the purpose of donating an organ, tissue, or bone marrow.

(a) The head or director of a department or agency shall require verification by a physician regarding the purpose of the administrative leave requested, and information from the physician regarding the length of the administrative leave requested.

(b) Any paid leave of absence granted under this Section shall not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

(c) For purposes of this Section, department or agency includes the Guam Department of Education, the University of Guam, the Guam Community College, all autonomous agencies and public corporations, including the Guam Visitors Bureau as defined in Chapter 9 of Title 12, Guam Code Annotated, and the judicial and legislative branches of the government of Guam.

(d) Administrative leave granted under this Section shall be extended in the event that the attending physician determines, in writing, that the employee requires additional time to recuperate from the procedure.

SOURCE: Added by P.L. 34-023:1 (July 13, 2017).

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4131. Public Safety and Law Enforcement Officers' Line of Duty Death Benefit.

(a) Notwithstanding any other provision of law, rule, or regulation, if the death of a public safety or law enforcement officer in the line of duty qualifies for death benefits pursuant to the U.S. Department of Justice, Bureau of Justice Assistance's Public Safety Officers' Benefits Program or its successor program, the public safety or law enforcement officer's survivor shall be entitled to a one (1)-time death benefit of One Hundred Thousand Dollars ($100,000) from the government of Guam payable through the Public Safety and Law Enforcement Officers' Line of Duty Death Benefit Fund.

(b) The one (1)-time death benefit provided in this Section shall not reduce any other benefit that a public safety or law enforcement officer may be entitled to pursuant to Guam law or regulation.

(c) A death benefit issued pursuant to this Section shall not be subject to reduction or offsets for debts owed by a public safety or law enforcement officer to the government of Guam.

SOURCE: Added by P.L. 38-002:2 (Apr. 12, 2025).

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§ 4131.1. Public Safety and Law Enforcement Officers' Line of Duty Death Benefit Fund.

(a) There is hereby created, separate and apart from other funds of the government of Guam, a reserve fund known as the Public Safety and Law Enforcement Officers' Line of Duty Death Benefit Fund (Fund). The Fund shall not be commingled with the General Fund or any other fund of the government of Guam. The Fund shall be administered by the Department of Administration and maintained in a separate bank account.

(b) The Director of Administration shall as the need arises request for additional appropriations to the Fund to ensure adequate funding to pay for benefits pursuant to § 4131 of this Article.

(c) The Antonio B. Won Pat International Airport Authority, Guam and the Jose D. Leon Guerrero Commercial Port shall reimburse the Fund for death benefits issued for public safety and law enforcement officers from these agencies pursuant to § 4131 of this Article.

(d) The Fund shall not be subject to I Maga'håga/Maga'låhi's transfer authority, and funds herein shall remain available until fully expended.

SOURCE: Added by P.L. 38-002:3 (Apr. 12, 2025).

2025 NOTE: Reference to "A.B. Won Pat International Authority" modified pursuant to 12 GCA §1102(a).

§4132. Leave Benefits for Retired Teachers on Contract.

(a) Notwithstanding any other provision of law, retired teachers who are rehired on contract by the Department of Education to fill teaching vacancies shall be entitled to accrue:

(1) Personal leave at the rate of twenty-four (24) hours per school year: and

(2) Sick leave at the rate of four (4) hours per pay period

(b) Limitations. The following limitations shall apply to leave benefits under this Section:

(1) Leave rates shall remain fixed and shall not increase based on years of service;

(2) Unused leave may only be carried over for one fiscal year, after which any excess leave shall be forfeited;

(3) No payment shall be made for any unused leave upon separation from service;

(4) Leave taken under this Section shall not count toward service credit for retirement purposes;

(5) Leave accrued under this Section shall not be eligible for the leave sharing program under §4109.2 of this Chapter.

(6) The Superintendent of the Guam Department of Education shall establish procedures to implement this Section within ninety (90) days of enactment.

SOURCE: Added by P.L. 38-041:2 (Aug. 18, 2025).

ARTICLE 1A
MILITARY FAMILY LEAVE ACT OF GUAM

SOURCE: Added by P.L. 29-149:1 (Jan. 20, 2009).

§ 4A101. Title.
§ 4A102. Purpose.
§ 4A103. Definitions.

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§ 4A104. Leave Required.
§ 4A105. Provisions.

§ 4A101. Title.

Article 1A of Title 4, Guam Code Annotated, is hereby created to make its title the Military Family Leave Act of Guam (MFLAG) and throughout the Chapter the acronym MFLAG will be referred to as this Act.

§ 4A102. Purpose.

In order to serve the families of those troops currently serving in military conflicts in Iraq, Afghanistan, and throughout the world, serving in the Global War on Terrorism, and to assure that these families are able to spend time together during the qualified service member's leave to and from deployment, to include pre-deployment, post-deployment, during deployment, any return for Rest and Relaxation (R&R) leave during deployment or reintegration from deployment, and to handle their personal affairs by their spouse or designated next of kin or attorney-in-fact, it is necessary that this Act take effect immediately.

§ 4A103. Definitions.

The following definitions shall be used in interpreting this Article.

(a) "Qualified Employee" means a person who satisfies all of the following:

(1) Is the spouse, authorized representative, designated next of kin, or attorney-in-fact of a qualified member.

(2) Performs service for hire for an employer for an average of twenty (20) or more hours per week, but does not include an independent contractor.

(3) Provides the qualified employer with notice, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of his or her intention to take the leave provided for in § 4A104 of this Article as requested.

(4) Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave provided for in subdivision (e) is requested.

(b) "Qualified Employer" means any government of Guam instrumentality, Military related unit on Guam, municipal village instrumentality, public authority, or any other governmental entity on Guam subdivision, that employs fifteen (15) or more employees.

(c) "Period of military-conflict" means either of the following:

(1) A period of war declared by the United States Congress;

(2) A period of deployment for which a member of a reserve component is ordered to active duty pursuant to either of the following:

(A) Sections 12301 and 12302 of Title 10 of the United States Code, or

(B) Title 32 of the United States Code.

(d) "Qualified Service Member" means a person who is any of the following:

(1) A service member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States; or

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(2) A service member of the National Guard who has been deployed during a period of military conflict; or

(3) A service member of the Reserves who has been deployed during a period of military conflict.

(e) "Qualified leave period" means the period during which the qualified service member is on leave from deployment during a period of military conflict, to include pre-deployment, post deployment, return for rest and relaxation (R&R), reintegration, or after deployment.

NOTE: Pursuant to 1 GCA § 1606, subsection designations in subsection (c) were altered to adhere to the Compiler's alpha-numeric scheme.

§ 4A104. Leave Required.

Notwithstanding any other provision of law, a qualified employer may allow a qualified employee to take up to fifteen (15) days of unpaid leave during a qualified leave period.

§ 4A105. Provisions.

(a) A qualified employer shall not retaliate against a qualified employee for requesting or taking the leave provided for in this Section.

(b) The leave provided for in this Section shall not affect or prevent a qualified employer from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.

(c) This Section shall not affect a qualified employee's rights with respect to any other employee benefit provided for in other laws.

ARTICLE 1B
DERIVED VETERANS BENEFITS FOR SPOUSE, SURVIVING SPOUSE, OR LEGAL GUARDIAN

SOURCE: Entire article added by P.L. 31-240:3 (Dec. 6, 2012).

§ 4B101. Eligibility.
§ 4B102. Applying for Benefits.
§ 4B103. Eligibility Period: Spouse.
§ 4B104. Eligibility Period: Surviving Spouse.
§ 4B105. Eligibility Period: Legal Guardian.
§ 4B106. [Untitled Section].

§ 4B101. Eligibility.

(a) Benefits under 16 GCA, Chapter 3, § 3102.1 (Waiver of Driver's License Fee provided to all Veterans), and 16 GCA, Chapter 7, § 7160 (e) and § 7161 (f), and 10 GCA, Chapter 51, § 51506 (d) (Waiver of Annual Vehicle License and Registration Fees provided to Veterans with one hundred percent (100%) Disability or individually Unemployable), and 4 GCA, Chapter 4, § 4104 (Preferences provided to Veterans with one hundred percent (100%) Disability or Individually Unemployable) are hereby extended as "derived benefits" to the spouse, legal guardian, or surviving spouse as defined in § 67101 of Chapter 67, Title 10, Guam Code Annotated.

(b) For purposes of this Article, the ten (10) point preference provided under Title 4, GCA, Chapter 4, § 4104 shall be applicable as a "derived benefit".

2016 NOTE: Subsection designations added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

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§ 4B102. Applying for Benefits.

(a) The Guam Office of Veterans Affairs (OVA) shall be responsible for certifying eligibility of spouses, surviving spouses or legal guardians applying for the derived benefits; and

(b) the Department of Revenue and Taxation, the Department of Administration, and the Human Resource Divisions of autonomous agencies shall extend applicable benefits to spouses, surviving spouses or legal guardians who have been certified by the Guam Veterans Affairs Office as being eligible. The OVA shall be authorized to recruit and hire one (1) full-time Administrative Clerk position to perform the duties associated with certification and related OVA duties, provided funds are available.

§ 4B103. Eligibility Period: Spouse.

Benefits extended to a spouse eligible under this Article, shall continue for as long as that individual is legally married to the Veteran who is eligible for the benefits. If the marriage is terminated by divorce, eligibility for the benefits shall end on the date of the adjudicated Final Decree.

§ 4B104. Eligibility Period: Surviving Spouse.

Benefits extended to a Surviving Spouse eligible under this Article, shall continue for a period of ten (10) years from the date of death of service member.

§ 4B105. Eligibility Period: Legal Guardian.

Benefits extended to a Legal Guardian eligible under this Article, shall continue for the periods as follows:

(a) until minor children for which the guardian is legally responsible for, reach the age of eighteen (18) or until the age of twenty-three (23), if enrolled as a full-time student in an accredited degree or certification program; or

(b) the service member for whom the legal guardian is responsible for becomes deceased.

§ 4B106. [Untitled Section].

The extension of "derived benefits" shall be applicable to the eligible spouses, surviving spouses, and legal guardians, as defined in § 67101 of Chapter 67, Title 10, Guam Code Annotated, of Veterans who served in the U.S. Armed Forces during World War II, the Korean Conflict, Vietnam War and conflicts associated with the War on Terror.

2015 NOTE: This provision did not have a title when added by P.L. 31-240:3 (Dec. 6, 2012).

ARTICLE 2
REMOVAL, PROHIBITIONS, PENALTIES

§ 4201. Removal Generally.
§ 4202. Termination of Employment.
§ 4202.1. Duty to Report Criminal Charges or Conviction.
§ 4202.2. Failure to Report Criminal Charges or Conviction.
§ 4203. Prohibition: Habitual Intoxicant.
§ 4203.1. Prohibition: Convicted Felons.
§ 4203.2. Accountability of Elected Public Officials, Appointed Government Officials, and Those in Managerial and Supervisory Positions.
§ 4203.3. Prohibition: Sex Offenders Prohibited from Employment in Agencies and Facilities of the Government of Guam.

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§ 4204. Prohibition: Several Members of Family.
§ 4205. Miscellaneous Prohibitions.
§ 4206. Penalties.
§ 4207. Reduction in Force. [Repealed]
§ 4207.1. Maintenance of Effort.
§ 4208. Exclusion.
§ 4209. Reporting Government Fraud; Protection from Adverse Actions. [Repealed]

§ 4201. Removal Generally.

(a) No person in the classified service shall be removed except for such cause as will promote the efficiency of the service and for the reasons given in writing. The person whose removal is sought shall have notice of the same and of any charges preferred against her/him, and be furnished with a copy thereof, except as provided in § 4106 of this Chapter, and also be allowed a reasonable time for personally answering the same in writing with affidavits in support thereof; provided, however, that this Section shall not apply to persons whose employment is purely temporary, seasonal, intermittent, part-time or only for a specific project.

(b) Nothing in this Section shall permit an employee to have redetermined by the Commission any matter which, having been finally judicially determined is grounds, in law or personnel rule, for removal from the government service.

SOURCE: § 4130 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2016 NOTE: Subsection designations were added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4202. Termination of Employment.

(a) Termination of employment. As used in this Section: "termination of employment" means the ending of an employee's status as an employee with the Government when the act is initiated by the Government.

(b) Notwithstanding any other provision of law, rule or regulation to the contrary, any employee, including a casual employee, who is within the classified service, shall be given written notice of at least sixty (60) days prior to termination of employment for any reason. In situations where for the convenience of the Government it is necessary to terminate an employment without the giving of sixty (60) days' notice, the employee shall be retained in pay status until the notice period shall have run.

(c) Subsection (b) of this Section shall not apply to a person whose employment is terminated for cause, provided, however, that this exclusion shall not impair an employee's right to challenge such termination under applicable personnel rules; nor shall Subsection (b) apply to an employee whose employment is terminated because of the conclusion of a grant, federal grant, source of federal funds, specific program or project.

(d) In instances where an employee has been continued in pay status but been relieved of duties, the employee shall not be given a lump sum payment for the period of notice to which entitled but shall, instead, be paid on a biweekly basis and such payment shall continue only so long as the employee certifies under oath that he has not obtained new employment. The obtaining of new employment during the notice period shall constitute a waiver by the employee to any further claim for the pay to which he would otherwise be entitled.

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(e) No person occupying positions in the unclassified service as defined in § 4102 of this Title and whose services are terminated shall be paid severance pay or meritorious pay or both. This Section shall apply to all government instrumentalities in the government of Guam, including autonomous agencies.

SOURCE: § 4131 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981); Subsection (e) added by P.L. 17-019:1 (Aug. 18, 1983) as § 4131 (e) and renumbered by Compiler. Subsection (c) amended by P.L. 28-187:5 (Jan. 29, 2007).

§ 4202.1. Duty to Report Criminal Charges or Conviction.

An employee in the classified service who is charged by indictment, information or magistrate's complaint with any crime in any court or who is convicted of a crime in any court except Traffic Court shall provide the head of the department or agency employing the employee with written notice of the charges or the conviction within seventy-two (72) hours thereof.

SOURCE: Added by P.L. 28-122:1 (June 13, 2006), effective July 13, 2006, pursuant to P.L. 28-122:3.

§ 4202.2. Failure to Report Criminal Charges or Conviction.

(a) Failure to provide the notice required by Title 4 GCA § 4202.1 is grounds for a separate Adverse Action.

(b) The ninety (90) day limitation imposed by Title 4 GCA § 4406 commences when the employee gives notice of the charges or conviction of a crime to the head of the department or agency as required by Title 4 GCA § 4202.1.

SOURCE: Added by P.L. 28-122:2 (June 13, 2006), effective July 13, 2006, pursuant to P.L. 28-122:3. Subsection (b) amended pursuant to P.L. 34-145:1 (Dec. 13, 2018).

2019 NOTE: P.L. 34-145:1 (Dec. 13, 2018) amended 4 GCA § 4406, establishing a 90 Day Rule. In light of the amendment, the reference in subsection (b) was altered from sixty (60) days to ninety (90) days, pursuant to the authority granted to the Compiler by 1 GCA § 1606.

§ 4203. Prohibition: Habitual Intoxicant.

No person habitually using intoxicating beverages in excess, or narcotic or other mind-altering drugs which are being used unlawfully, shall be appointed to or retained in any office, appointment or employment in the Government.

SOURCE: § 4132 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

§ 4203.1. Prohibition: Convicted Felons.

No person shall be employed as a peace officer as defined in 8 GCA § 5.55(c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) who has been previously convicted of a felony in any civilian or military court, a crime involving moral turpitude, a crime of domestic or family violence, regardless of whether he was pardoned or commuted by I Maga'hågan/Maga'låhen Guåhan regarding such a conviction.

SOURCE: Added by P.L. 19-044:6 (Dec. 30, 1988). Amended by P.L. 29-012:6 (Sept. 7, 2007).

§ 4203.2 Accountability of Elected Public Officials, Appointed Government Officials, and Those in Managerial and Supervisory Positions.

After the effective date of this Act, no person thereafter convicted of any family violence felony as described in Title 9 of the Guam Code Annotated, or of any statutory equivalent crime in another jurisdiction, shall be qualified to run for or hold elective public office on Guam, or be appointed to or hold a judicial office, or be appointed to or hold a position as director, deputy director, or managerial or supervisory position of any government entity, to include board members and mayors.

SOURCE: Added as uncodified law by P.L. 24-239:5 (Aug. 14, 1998); codified by the Compiler.

2025 NOTE: Reference to "commissioners" replaced with "mayors" pursuant to P.L. 20-033:1 (Sept. 6, 1989).

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§ 4203.3. Prohibition: Sex Offenders Prohibited from Employment in Agencies and Facilities of the Government of Guam.

No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry shall work in any agency or instrumentality of the government of Guam.

SOURCE: Added by P.L. 28-024:1 (Apr. 21, 2005). Amended by P.L. 28-098:1 (Feb. 7, 2006).

NOTE: Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 4204. Prohibition: Several Members of Family.

Whenever there are already two (2) or more members of an immediate family in the public service under the same department of any branch of the Government, no other members of such family shall be eligible to appointment to any such department; provided, however, that such prohibition shall not apply to employees in the medical, paramedical or teaching professions. As used in this Section, "immediate family" means a collective body of persons living together in one home under one head.

SOURCE: § 4133 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2026 NOTE: Former title "Same" replaced by the Compiler with "Prohibition" for clarity.

§ 4205. Miscellaneous Prohibitions.

(a) Preferences, conditions and prohibitions concerning employment in the Government shall conform with the provisions of the Organic Act of Guam. No person shall be discriminated against in connection with any of the processes provided for by this Chapter or in the rules adopted thereunder because of race, color, political opinions or religious opinions or affiliations.

(b) Any person who uses or attempts to use political influence or promises any advantage in connection with the selection or promotion of any employee in the classified services, solicits contributions for political purposes or solicits during office hours or at any time makes demands upon employees in the classified services for such contribution shall be guilty of a petty misdemeanor.

(c) Any person who willfully makes a false or misleading statement in order to secure employment, advancement or other benefits under this Chapter or under the rules adopted thereunder shall be guilty of a petty misdemeanor and, in addition, shall forfeit the position, employment, benefit or advancement sought through the false or misleading statement or statements.

(d) No person who advocates, or who aids or belongs to any party, organization or association which advocates the overthrow by force or violence of the government of Guam or of the United States shall be qualified to hold a Government position.

(e) No officer or employee of the Government shall conduct or engage in any business or trade outside the government service without the prior approval of her/his department head as provided in § 4105 of this Chapter. In addition to the limitations contained in § 4105(d) of this Chapter:

(1) No approval shall be granted if such business or trade may be prejudicial to the best interests of the people or if there may be a conflict of interest between the officer's or employee's government position and the outside trade or business;

(2) Every officer or employee who has a direct or indirect interest in any firm, partnership, business or corporation which contracts with the Government, at the time of submission of bids or commencement of negotiations as the case may be, shall file a statement under oath with the Director

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of Administration for Executive Branch employees, and the Court Administrator for Judiciary employees describing such interest. Any such statement shall also be given to the department head of such employee and shall also be a public record for all purposes.

As used in this Section, "interest" includes ownership of not less than five percent (5%) of the firm, corporation or partnership or the employee having a position with the said firm, corporation or partnership equivalent to that of officer, manager or other decision-making position.

(f) Failure by an officer or employee to comply with any of the provisions of Subsection (e) of this Section shall be grounds for dismissal from government service and the Director of Administration or Court Administrator, as the case may be, shall order the compensation stopped of any officer or employee found to be in violation.

(g) Any contract entered into involving a violation of Subsection (e) of this Section may be declared null and void at the discretion of the Government.

(h) No contract may be entered into whereby any officer or employee shall have any administrative, supervisory or directory power over the execution thereof if such officer or employee has any direct or indirect interest in the contractor or in the contract. All contracts entered into in violation of this Subsection are void.

SOURCE: Added as 4 GCA § 4134 by P.L. 16-023:1 (Aug. 11, 1981). Codified to this section by the Compiler pursuant to authority granted by 1 GCA § 1606. Subsections (e)(2) and (f) amended by P.L. 17-005:4 and 5 respectively (Apr. 21, 1983).

§ 4206. Penalties.

In addition to appropriate administrative actions, any violation of the provisions of this Chapter is a petty misdemeanor.

SOURCE: § 4135 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

§ 4207. Reduction in Force.

[Repealed.]

SOURCE: P.L. 17-004:8 (April 7, 1983), codified by the Compiler; amended by P.L. 17-005:13 (April 21, 1983). Amended by P.L. 28-068:IV:42 (Sept. 30, 2005), effective January 1, 2006. Amended by P.L.31-181:1 (Feb. 3, 2012), effective (60) days from date of enactment. Repealed by P.L. 34-087:7 (Mar. 16, 2018).

NOTE: Effective January 1, 2006, reference to the "Civil Service Commission" amended to "Director of Administration" pursuant to P.L. 28-068:IV:45 (Sept. 30, 2005).

§ 4207.1. Maintenance of Effort.

Notwithstanding any other provision of law, any reduction in force shall safeguard the health, safety, and education of the island and shall ensure maintenance of effort levels and sustainability of federally funded programs at no less than current levels. I Maga'håga/Maga'låhi or Directors shall certify to the Speaker of I Liheslaturan Guåhan compliance with this Section.

SOURCE: Added by P.L. 27-034:4 (Oct. 31, 2003).

§ 4208. Exclusion.

The provisions of § 4207 shall not apply to provisional appointments.

SOURCE: P.L. 17-004:9 (April 7, 1983), codified by the Compiler.

§ 4209. Reporting Government Fraud; Protection from Adverse Actions.

[Repealed.]

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SOURCE: Added by P.L. 23-055:1 (Dec. 5, 2005). Repealed by P.L. 24-069:1 (Sept. 30, 1997).

ARTICLE 3
GROUP BENEFITS

§ 4301. Group Insurance.
§ 4301.1. Definitions.
§ 4302. Group Insurance: Health Insurance or Provisions of Health Care.
§ 4302.1. Guam Health Insurance Review Committee.
§ 4302.2. Creation of the Government of Guam Self-Funded Employee Health Benefits Trust Fund Accounts, Herein Referred to as "Trust Fund Accounts."
§ 4302.3. Creation of Section 2718 Fund.
§ 4302.4. Payment of Subscriber Rebates.
§ 4303. Group Life Insurance.
§ 4304. Group Automobile Insurance.
§ 4305. Group Home Mortgage Insurance.
§ 4306. False Arrest Insurance.
§ 4307. Payroll Deductions Authorized.
§ 4308. Interest, Late Payment of Deduction Amount.

§ 4301. Group Insurance.

(a) I Maga'håga/Maga'låhi is authorized to enter contracts and reject proposals, with the written concurrence of the Speaker of I Liheslaturan Guåhan or the Chief Justice of the Supreme Court of Guam whose consents may be withheld in their sole discretion, with insurance companies, authorized to do business in Guam, for group insurance, including, but not limited to, hospitalization, medical care, life, and accident, for all employees or separate groups of employees, and foster children, of the government of Guam. If the Legislative or Judicial Branches of government elect to enter into separate contracts for their employees as authorized in § 4301(c), I Maga'håga/Maga'låhi shall obtain the written concurrence of the Branch electing to remain with the Executive Branch on or before March 1 of each year. Notwithstanding any authority granted in each entity's enabling legislation to procure separate health insurance coverage, all entities in the Executive Branch, including autonomous and semi-autonomous agencies, public corporations and authorities, shall participate in the Government of Guam Group Health Insurance Program. The government shall not be construed as an agent of any insurance company in negotiating or administering this group insurance program. Health benefits provided under this authority may be self-funded and administered by a third party if it is determined to be cost-effective. DOA shall hire an independent auditing firm to verify the participating contract refunds/no refunds reported by the carriers. Such verification shall include validating claims reported by insurance carriers.

(b) All participation by employees in such contracts of insurance shall be on a voluntary basis. All retired employees and survivors of a retired employee who are enrolled in Medicare (Parts A and B), and who participate by electing either Class I or Class II coverage, shall enroll in the Retiree Supplemental Plan. Effective in the next contract following the enactment of this subparagraph, the government's contribution for health and dental insurance shall be uniform within each class (including separate classes and rates for retired employees and their survivors) for all competing plans, and shall not be less than fifty percent (50%) of the lowest premium for a single employee, except that the government shall increase the contributions it makes on behalf of a retired employee or survivor of a retired employee so that the retired employee or the survivor of a retired employee contributes no more than an active employee who is otherwise in the same class. Notwithstanding any other provision of this Section to the contrary, the government of Guam shall

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cover the full cost of insurance coverage for foster children, and such coverage shall require no co-payments nor deductibles for the foster children insured pursuant to this Section.

(c) Contracts of insurance procured under the foregoing may provide for participation by employees of the Legislative Branch, and the Judicial Branch through the Chief Justice of the Supreme Court of Guam, at the sole election and discretion of those respective Branches, or such Branches may enter separate contracts for their employees, subject to the limitations set forth in this Section. The Legislative Branch, and the Judicial Branch through the Chief Justice of the Supreme Court of Guam, shall have the right to bring suit in the Superior Court of Guam in order to protect its and its employees' interests as provided under this Article for both equitable and legal relief. The government Claims Act shall not apply to such suits. The right to bring suit shall be retroactively effective for actions arising from Fiscal Year 1997 forward. The government shall not prohibit the sale of insurance products on its premises during working hours, including during the Open Enrollment periods.

(d) As used in this Section, employees includes officers and retired employees and survivors of retired employees who are receiving annuity benefits.

(e) [Repealed.]

(f) Any insurance company or health maintenance organization offering group health coverage under this Section may at its sole option, offer two (2) plans with different premiums and/or benefits, only one of which plans may offer a rebate, with all members of both plans being in the same risk pool. The plan offering the rebate or refund shall base the same on the claims made by the plan members under the plan.

(g) [No text]

(1) The negotiating team, as defined in § 4302(c), shall develop an incentive program for all subscribers and dependents of the government of Guam Group Health Plan that:

(A) promotes wellness;

(B) promotes primary care and preventive care; and

(C) manages and coordinates care for persons with chronic health conditions or acute illness.

(2) The incentive program shall:

(A) meet the requirements set forth in the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) for bona fide wellness programs;

(B) provide financial incentives to covered employees or individuals for participating in the program; and

(C) provide to covered employees or individuals for whom it is unreasonably difficult to satisfy the program's applicable standards reasonable alternative methods for achieving program participation.

(3) Carriers that propose to charge additional premiums for the Preventive Healthcare, Wellness and Fitness programs shall specify how the premium charged to the government of Guam will vary based on the anticipated efficacy of the program in reducing expected utilization or medical claim costs. The methodology must take into consideration:

(A) the anticipated average percentage of employees or individuals eligible to participate in the program;

(B) the anticipated efficacy of the financial incentives in producing high levels of program participation;

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(C) the expected success rate for program participants;

(D) the level of program participation achieved in prior coverage periods; and

(E) the realized savings achieved in prior coverage periods.

SOURCE: GC § 4019, as amended by P.L. 10-192:1 (Aug. 18, 1970). Renumbered as 4 GCA § 4150 by P.L. 16-023:14 (Aug. 11, 1981). Codified as 4 GCA § 4301 by the Compiler. Subsection (b) amended P.L. 17-070:19 (Sept. 21, 1984), and repealed and reenacted by P.L. 20-211:1 (Aug. 22, 1990). Subsection (e) added by P.L. 21-033:4 (May 17, 1991). Subsection (f) added by P.L. 22-014:2 (May 7, 1993). Subsections (a) and (c) amended by P.L. 24-143:19 and :20 (March 5, 1998), respectively. Subsection (g) added by P.L. 24-143:21 (March 5, 1998), repealed by P.L. 30-093:2 (Feb. 9, 2010) effective on Jan. 1, 2011. Subsection (a) amended by P.L. 30-170:2 (July 16, 2010). Subsection (g) added by P.L. 30-170:3 (July 16, 2010) (temporarily codified as subsection (h) from July 16, 2010 to January 1, 2011). Subsections (a) and (b) amended by P.L. 32-189:3 and:4 (Oct. 13, 2014), respectively. Subsections (a) and (c) amended by P.L. 34-083:1 and :2 (Feb. 19, 2018), respectively. Subsections (a) and (b) amended by P.L. 34-095:1 and 2 (May 14, 2018). Subsection (e) repealed by P.L. 34-109:3 (June 5, 2018). Subsection (a) amended by P.L.35-092:1 (June 26, 2020).

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2020 NOTE: The amendments pursuant to P.L. 35-092 (June 26, 2020) shall not apply to solicitations, negotiations, or contracts for government of Guam group health insurance for Fiscal Year 2021.

2018 NOTE: The coverage of mammograms in subsection (e) was repealed by P.L. 34-109:3, but was addressed in P.L. 34-109:2 which added a new 22 GCA § 181003 entitled "Breast Cancer Screening Benefit in Every Health Insurance Policy."

Past publications of the GCA included an annotation discussing the effective date of the amendments pursuant to P.L. 30-170 (July 16, 2010). This annotation is no longer relevant, and will be omitted from future publications of the GCA.

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by P.L. 108-378:1(b) (Oct. 30, 2004), references to "Presiding Judge of the Superior Court of Guam" have been changed to "Chief Justice of the Supreme Court of Guam." *See* 48 U.S.C. § 1424-1(b)(2).

2012 NOTE: Pursuant to 1 GCA § 1606, subsection designations were altered from Roman numerals to Arabic numerals to adhere to the Compiler's alpha-numeric scheme.

§ 4301.1. Definitions.

(a) "Health Insurance Providers" are all companies or other legal entities providing or applying to provide health insurance or the provision of healthcare to government employees and retirees, and foster children.

(b) "HIPAA" is the federal law called Health Insurance Portability and Accountability Act of 1996 (HIPPA) allowing provisions for allowing individuals under certain conditions to enroll for health coverage without excessive exclusions for pre-existing medical conditions and other provisions.

(c) "Special Enrollment Periods" is a time period allowing individuals to seek Health Insurance Benefits under the provisions of the HIPAA.

(d) "Health benefits" is a defined set of benefit coverage consisting of, but not limited to, medical or dental care which is provided directly, through insurance or reimbursement, or otherwise, and including items and services paid for considered care that is self funded or offered by a health insurance provider.

(e) "Exclusive proposal" means a proposal based upon the assumption that the government will contract with only one (1) health insurance provider that is selected by the negotiating team from up to three (3) different health insurance providers that all negotiate best and final offers with the negotiating team.

(f) "Non-exclusive proposal" means a proposal based upon the assumption that the government will contract with three (3) health insurance providers that negotiate best and final offers with the negotiating team. If only two (2) health insurance providers submit qualified proposals then non-exclusive proposal

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shall mean a proposal based upon the assumption that the government will contract with two (2) health insurance providers that negotiate best and final offers with the negotiating team.

(g) "Qualified proposal" means a proposal from a health care provider that submits both an exclusive and a non-exclusive proposal and meets the minimum requirements specified in the RFP in response to any request for proposals for the Government of Guam Health Insurance Program.

(h) "Foster children" shall include only those foster children under the legal custody of the Child Protective Services Division of the Department of Public Health and Social Services.

SOURCE: Added by P.L. 24-143:23 (March 5, 1998). Subsection (d) added by P.L. 30-187:3 (Aug. 28, 2010). Subsections (e), (f) and (g) added by P.L. 31-225:1 (June 15, 2012). Subsection (a) amended by P.L. 32-189:5 (Oct. 13, 2014). Subsection (h) added by P.L. 32-189:6 (Oct. 13, 2014).

NOTE: The amendment to subsection (a) and addition of subsection (h) by P.L. 32-189 (Oct. 13, 2014) becomes effective with the health insurance enrollment period for Fiscal Year 2015 pursuant to P.L. 32-189:9.

§ 4302. Group Insurance: Health Insurance or Provision of Health Care.

(a) All companies or other legal entities providing or applying to provide health insurance or the provision of health care to government of Guam employees and foster children shall make their audited financial statements available to the Director of Administration annually. Such records shall be public records.

(b) The Director of Administration shall, no later than March 1, 1986, promulgate rules and regulations setting forth the other information she/he requires from the companies or legal entities and the method by which such information shall be reported.

(1) This information shall be equitably required of each company and shall be submitted no less than ten (10) days before any negotiations or active consideration of proposals commences.

(2) Materials submitted in fulfillment of this requirement shall not be considered public records, except for the detailed claims utilization and cost information required by § 4302(g), which shall be provided to current and prospective health insurance carriers as part of the invitation to bid for coverage to government of Guam employees and retirees, and foster children.

(c) [No text]

(1) The Government of Guam Health Insurance Negotiating Team shall consist of

(A) the Director of Administration, who shall be the Chairperson;

(B) the Administrator of the Department of Integrated Services for Individuals with Disabilities (DISID), or his or her designee;

(C) the Director of the Bureau of Budget and Management Research, or his or her designee;

(D) an employee representative from the Judicial Branch to be appointed by the Chief Justice of the Supreme Court of Guam. Should the Judicial Branch decide to enter into a health insurance contract separate from the Executive Branch as authorized in 4 GCA § 4301(c), an employee representative from the Executive Branch shall be appointed by I Maga'hågan/Maga'låhen Guåhan to replace the employee representative from the Judicial Branch on the Government of Guam Health Insurance Negotiating Team for the applicable fiscal year;

(E) an employee representative of the Legislative Branch to be appointed by the Speaker of I Liheslaturan Guåhan. Should the Legislative Branch decide to enter into a health insurance contract separate from the Executive Branch as authorized in 4 GCA § 4301(c), an employee representative from the Executive Branch shall be appointed by I Maga'hågan/Maga'låhen

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Guåhan to replace the employee representative of the Legislative Branch on the Government of Guam Health Insurance Negotiating Team for the applicable fiscal year;

(F) the Superintendent of the Department of Education, or his or her designee;

(G) the Director of the Government of Guam Retirement Fund, or his or her designee;

(H) a retiree who is a member of the Government of Guam Retirement Fund to be appointed by the Board of Trustees of the Government of Guam Retirement Fund;

(I) one (1) member of the general public, appointed by I Maga'hågan/Maga'låhen Guåhan, who is not an employee of the government of Guam, not an employee of a health insurance company, hospital, or medical provider, or not an appointee by I Maga'håga/Maga'låhi to any government agency, board or commission, and who shall affirm by affidavit that he or she agrees to comply with all provisions in Chapter 15 of Title 4 of the Guam Code Annotated, also known as the Standard of Conduct for Elected Officers, Appointed Officers, and Public Employees of the government of Guam;

(J) the Chairperson of the Committee on Health or the successor committee of I Liheslaturan Guåhan, or his or her designee, who shall sit as an *ex-officio* non-voting member; and

(K) the Chairperson of the Committee on Appropriations, or the successor committee of I Liheslaturan Guåhan, or his or her designee, who shall sit as an *ex-officio* non-voting member.

(2) The Negotiating Team shall examine the financial information of the prepaid health insurance companies, health care providers or other legal entities for the purpose of developing the most economical and beneficial health plan for the government of Guam employees and retirees, and foster children.

(3) The Negotiating Team may obtain technical support from other financial and health-related agencies.

(4) The Negotiating Team shall develop its rules of procedure in accordance with the Administrative Adjudication Law.

(5) The Negotiating Team shall develop minimum qualification for proposals to be submitted for health insurance coverage.

(6) The Negotiating Team shall also develop a ranking system to rank the proposals.

(7) The Negotiating Team, with the approval of I Maga'håga/Maga'låhi, is authorized to contract an actuary competent to develop proposed health insurance rates or other recognized expert to train and/or advise the Negotiating Team.

(8) Notwithstanding any other provision of law, each fiscal year, the Negotiating Team shall solicit both exclusive and non-exclusive proposals from each Health Insurance Provider and enter into negotiations with the top three (3) ranked Health Insurance Providers submitting qualified proposals for health insurance coverage for qualified active employees and qualified retirees, and foster children, of the government of Guam.

(A) The Director of the Department of Administration shall plan, and implement prior to discussions for the 2011-2012 Fiscal Year, an expanded competitive Request for Proposal process.

(B) The Director shall announce in publications of general circulation in Guam, in top publications nationally and in leading publications internationally, a Request for Proposal from

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Health Care Insurance Providers for health insurance coverage for qualified active employees and qualified retirees, and foster children, of the government of Guam.

(C) Health Care Insurance Providers that respond and express interest in providing coverage to qualified active employees and retirees, and foster children, shall, if selected, maintain a bona-fide office and operations base in Guam and possess a business privilege license to do business in Guam.

(9) The Negotiating Team upon selection and review of the best available proposal by participating healthcare respondent(s)/provider(s), which reflect the most economical and beneficial healthcare insurance proposal plans for government of Guam employees and retirees, and foster children, shall forward the three (3) highest ranking qualified proposals to I Maga'hågan/Maga'låhen Guåhan for consideration and selection of the most economical and beneficial health insurance plan, and transmit to I Liheslaturan Guåhan for its review no later than July 31, and prior to the annual legislative sessions wherein the upcoming fiscal year budget for the government of Guam is before I Liheslaturan Guåhan for consideration. Notwithstanding any other provision of law, rule, or regulation, of the remaining qualifying plans, the employee or retiree may choose one (1) of the remaining qualified plans, and any difference in premiums shall be paid by the employee or retiree at their own cost. Notwithstanding any other provision of law, rule, or regulation, the most economical and beneficial healthcare insurance proposal plan for government of Guam employees and retirees, and foster children, shall be defined as the lowest cost option.

(10) Within one hundred eighty (180) days of this Act, the Director of the Department of Administration shall issue a Request for Proposal from qualified individuals or firms to conduct a feasibility study for a non-profit public healthcare insurance option for Guam.

(11) The RFP shall call for a plan that provides for a level playing field with current and future private insurers, and the non-profit public healthcare insurance option which pays for care from individual premiums and co-payments not of the General Fund of the government of Guam.

(12) Beginning with the negotiations for Fiscal Year 2020, the Negotiating team shall consider only those companies or other legal entities providing or applying to provide health insurance or the provision of health care to the Government of Guam whose in-network coverage includes all public and private hospitals operating in Guam.

(d) No health insurance company or health care provider contracted to provide health care to government of Guam employees and foster children may deny coverage to the employee or dependents, or foster children, on the basis of a congenital anomaly. Congenital anomalies shall be covered, subject to contract negotiations.

(e) Effective October 1, 1986, the contract period for health insurance or provision of health care shall coincide with the fiscal year of the government of Guam. To that end, the contract period preceding the one for FY 1987 may be for less than twelve (12) months.

(f) All companies, or other legal entities providing or applying to provide health insurance or the provision of health care, shall have contracts for services with all government of Guam entities that are providing health care services to any and all of their subscribers. This requirement shall be met prior to, and as a condition to, the start of negotiations for the government of Guam Fiscal Year 1999. Any dispute or controversy between contracting parties shall be submitted to arbitration according to the generally accepted local practice.

(g) [No text]

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(1) All health insurance companies or health care providers contracted to provide health care to government of Guam employees and retirees, to include foster children, beginning on the first fiscal year following the inclusion of foster children under the government of Guam health insurance contract for employees and retirees pursuant to § 4301 of this Article, shall provide to the Negotiating Team, defined in § 4302(c), and the Office of Finance and Budget, fifteen (15) months of detailed claims utilization and cost information from period October 1 to September 30 of the previous fiscal year, and October 1 to December 31 of the current fiscal year, no later than March 1 for the final updated data for the previous fiscal year in an electronic database file format, such as Microsoft Access or Microsoft Excel.

(2) The detailed claims utilization and cost information must total in aggregate all the experience data used to calculate government of Guam insurance rates for the fiscal year following the current fiscal year. Claims incurred but not received calculations shall be reported separately and must be derived from detailed claims utilization and cost information submitted and reviewed and approved by a credentialed actuary from a recognized organization, such as the American Academy of Actuaries or Society of Actuaries.

(3) The detailed claims utilization and cost information required under this Subsection shall include only deidentified health information as permitted under the Health Insurance Portability and Accountability Act of 1996, and shall not include any protected health information, as defined in the Health Insurance Portability and Accountability Act of 1996.

(4) Detailed demographic and claims utilization and cost information shall include the following information with a unique contract identifier that links all the following data to the same contract:

(A) type of contract based on all tiers used in program design (EE, EE + SPOUSE, FAMILY, etc.);

(B) patient demographics, date of birth, gender, relationship to subscriber;

(C) medical, dental and vision claims, line detail including diagnosis code (ICD9 or ICD10), procedure codes (CPT, HCPC, CDT), revenue codes, service dates, service provider (name, tax id, provider id, specialty code, city, state, zip code), plan payments, member payment responsibility (co-pay, co-insurance, deductible), claim paid date, type of bill and facility type;

(D) prescription drug claims, to include NDC codes, formulary tier identifier, pharmacy (name, provider id, city, zip code), plan payments, member payment responsibility (co-pay, co-insurance, deductible) claim paid date, injectable drug indicator, GPI number, ingredient cost, dispensing fee and rebates; and

(E) any other detailed demographic and claims utilization and cost information as requested by the Negotiation Team in the Invitation to Bid (ITB) for the fiscal year following the current fiscal year.

Failure to comply with the requirements of this Section will result in a 2.5% reduction of the quarterly premiums from the non-compliant health insurance carrier. The information shall be provided quarterly. The reduction shall be deducted from the premiums due to the carrier in the succeeding quarter, if the information is not received within forty-five (45) days of the end of the quarter. The Negotiating Team defined in § 4302(c) at their discretion, at any time during the following fiscal year health insurance negotiations, may disqualify proposals from health insurance carriers not in compliance with this Section for their in-force contract.

(h) No health insurance company or health care provider contracted to provide health care to government of Guam employees and foster children may deny coverage to the employee or dependents or

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foster children on the basis of chronic orthopedic deformities. Chronic orthopedic deformities, which may include orthopedic and external prosthetic devices, including, but not limited to, artificial joints and limbs, will be covered and may be subject to maximum limitations per annum.

(i) No health insurance company or health care provider contracted to provide health care to government of Guam employees and foster children may deny coverage to the employee or dependents or foster children on the basis of blood or blood derivatives. Blood and blood derivatives will be covered and may be subject to maximum limitations per annum.

SOURCE: GC § 4019.1 enacted by P.L. 14-154:13 (Dec. 19, 1978); renumbered as 4 GCA § 4151 by P.L. 16-023:14 (Aug. 11, 1981). Codified as 4 GCA § 4302 by Compiler; amended by P.L. 17-081:6 (Dec. 18, 1984). Subsections (d) added by P.L. 17-081:7 (Dec. 18, 1984), amended by P.L. 18-017:53 (Oct. 5, 1985), and repealed by P.L. 18-049:22 (Dec. 30, 1986). Subsection (e) added by P.L. 17-081:7 (Dec. 18, 1984), and repealed by P.L. 18-049:22 (Dec. 30, 1986). Subsection (f) added by P.L. 17-081:7 (Dec. 18, 1984), amended by P.L. 18-017:54 (Oct. 5, 1985), amended and modified designation as subsection (d) by P.L. 24-011:3 and :4 (Mar. 21, 1997), respectively. Subsection (g) added by P.L. 17-081:7 (Dec. 18, 1984), modified designation as subsection (e) by P.L. 24-011:4 (Mar. 21, 1997). Subsections (b) amended by P.L. 18-017:52 (Oct. 5, 1985), and P.L. 30-208:2 (Dec. 13, 2010). Subsection (f) added by P.L. 24-011:5 (Mar. 21, 1997). Subsection (c) repealed and reenacted by P.L. 24-143:22 (Feb. 27, 1998), amended by P.L. 29-080:2 (May 9, 2008), and P.L. 30-227:2 (Dec. 30, 2010). The first paragraph of subsection (c) amended by P.L. 31-024:2 (Apr. 18, 2011). Subsection (c) amended by P.L. 31-197:1 (Mar. 28, 2012). Subsections (h) added by P.L. 24-143:24 (Feb. 27, 1998), codified as subsection (g), repealed and reenacted by P.L. 30-093:3 (Feb. 9, 2010), effective, Oct. 1, 2010, pursuant to P.L. 30-093:4. Subsection (i) added by P.L. 24-143:24 (Feb. 27, 1998), codified as subsection (h). Subsection (j) added by P.L. 24-143:24 (Feb. 27, 1998), codified as subsection (i). Subsection (h) added by P.L. 24-190:2 (May 6, 1998), codified as subsection (j). Subsection (i) added by P.L. 24-190:3 (May 6, 1998), codified as subsection (k). Entire section amended by P.L. 32-189:7 (Oct. 13, 2014). Subsection (c)(9) amended by P.L. 34-083:2 (Feb. 19, 2018), amended by P.L.35-092:2 (June 26, 2020). Subsection (c)(12) added by P.L. 35-002:1 (March 7, 2019). Subsections (c)(1)(D) and (E) amended by P.L. 35-016:1 (May 7, 2019).

2026 NOTE: Former title "Same" replaced by the Compiler with "Group Insurance" for clarity.

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2014 NOTE: The Government of Guam Health Insurance Negotiating Team Rules of Procedure were adopted by P.L. 32-083 (Nov. 27, 2013), and are found in Title 2, Division 4, Chapter 13 of the Guam Administrative Rules and Regulations.

The amendment by P.L. 32-189:7 (Oct. 13, 2014) becomes effective with the health insurance enrollment period for Fiscal Year 2015 pursuant to P.L. 32-189:9.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the "Department of Education" to the "Guam Public School System." The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the "Department of Education."

§ 4302.1. Guam Health Insurance Review Committee.

(a) Legislative Findings and Intent.

(1) I Liheslaturan Guåhan finds that during these challenging economic times, it is important that we make the most of every opportunity to bring affordable health insurance that will benefit the Government of Guam (GovGuam) active employees and retirees. Significant changes have taken place in recent years in the healthcare marketplace that require GovGuam to reevaluate how it can continue to provide affordable and accessible health insurance as part of the overall employee compensation/benefit package.

(2) In the past five (5) years, health insurance premiums have been steadily increasing an average of ten percent (10%) every year. According to the Spring 2003 Health Care Trend Survey conducted by Aon Consulting, an average increase of sixteen percent (16%) in costs is expected in 2004. The Office of the Actuary, Centers for Medicare and Medicaid Services in Baltimore, Maryland, and Project HOPE conducted a survey that showed health care spending is expected to outpace economic

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growth over the next ten (10) years. As a result, the health care "share" of the gross domestic product is expected to climb to nearly twenty percent (20%) by 2013. This all adds up to more costs for everyone. GovGuam, as an employer, is facing soaring premiums. The active employees and retirees are going to pay a greater share of it. Insurance companies have tried to keep the premiums down by shaving off benefits in the form of higher deductibles, and co-payments and premiums continue to rise.

(3) I Liheslaturan Guåhan finds that a study is needed to make recommendations that will be used as an analysis tool for decision makers, help facilitate data analysis and benchmarking of GovGuam's health choices.

(4) It is therefore, the intent of I Liheslaturan Guåhan to establish a Government of Guam Health Insurance Review Committee dedicated to the study of improving the health of GovGuam active employees and retirees by increasing access to affordable, comprehensive and quality health care coverage.

(b) Establishment of the Government of Guam Health Insurance Review Committee. There is hereby established a Government of Guam Health Insurance Review Committee (Committee) which shall conduct a study regarding the costs of health care for Government of Guam active employees and retirees. The Committee shall issue, no later than six (6) months from its initial meeting, a written report to the Speaker of I Liheslaturan Guåhan and I Maga'hågan/Maga'låhen Guåhan which shall include, but not be limited to:

(1) A health insurance program that covers GovGuam retirees alone;

(2) A health insurance program that covers GovGuam active employees alone;

(3) A health insurance program that covers GovGuam retirees and active employees;

(4) A health insurance program that covers GovGuam retirees enrolled in Medicare with GovGuam paying the premium for:

(A) Medicare Plan A - Hospital Insurance Coverage;

(B) Medicare Plan B - Supplemental Medical Insurance;

(C) Medicare Plan A and B;

(5) How the relationship between health care providers and carriers is affecting access to and costs of health insurance coverage;

(6) General cost factors driving the rising health insurance premium rates for consumers of health insurance in all markets;

(7) How to access affordable prescription drugs and what are the general cost factors involved in prescription drug benefits, including, but not limited to, co-payments, deductible amounts, out-of-pocket expenses and the use of generic and name brand prescription drugs;

(8) Analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the people of Guam by assessing such things as availability and marketing of individual and group products, rate changes, coverage changes, benefit trends, market share changes and accessibility;

(9) How self-funded health insurance plans may create an alternative to meet health care needs;

(10) Strategies to decrease the number of uninsured population; and

(11) Any other options that the Committee feels will meet sufficient benefits and costs savings for both active employees and retirees.

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The Committee may invite government, private sector, community entities and individuals to submit reports, provide testimony, data and other information that may assist the Committee to comply with its duties and responsibilities. The Committee is encouraged to create sub-committees as needed.

(c) Composition of the Government of Guam Health Insurance Review Committee. The Committee shall be composed of eleven (11) members as follows:

(1) The Speaker of I Liheslaturan Guåhan or her/his designee;

(2) The Director of the Government of Guam Retirement Fund or her/his designee;

(3) The Director of the Department of Administration or her/his designee;

(4) The Chief Justice of the Supreme Court of Guam or her/his designee;

(5) The Director of the Department of Public Health and Social Services or her/his designee;

(6) The Director of the Bureau of Budget and Management Research or her/his designee;

(7) The Department of Revenue and Taxation Commissioner of Banking and Insurance or her/his designee;

(8) A Government of Guam active employee appointed by I Maga'håga/Maga'låhi;

(9) A Government of Guam retiree appointed of I Maga'håga/Maga'låhi;

(10) An expert in the field of the health insurance industry to be appointed by I Maga'håga/Maga'låhi; and

(11) The Administrator of the Guam Memorial Hospital or her/his designee.

The Chairperson of the Committee shall be the Director of the Department of Administration or his or her designee. The Vice Chairperson shall be elected by the Committee at its first meeting. All Committee meetings shall be open to the public as mandated by 5 GCA, Chapter 8, Section 8107.

(d) Term and Vacancy of the Government of Guam Health Insurance Review Committee. The Committee shall be formed and meet no later than forty-five (45) days after the enactment of this Act. The members of the Committee shall serve for the duration of its existence. Any vacancy shall be filled in the same manner as the original appointment or selection, but only for the balance of the term. The Committee members shall serve without compensation. The Committee shall be terminated upon the acceptance of its report by the Speaker of I Liheslaturan Guåhan and I Maga'hågan/Maga'låhen Guåhan.

(e) Support Services. All Government of Guam agencies and offices shall assist the Committee in the performance of its duties and provide the Committee with appropriate studies, data and other information as requested.

(f) Appropriation. The sum of not more than One Hundred Fifty Thousand Dollars ($150,000) is hereby appropriated from the General Fund to the Committee for the purpose of hiring an Actuary for this study.

(1) The Actuary must possess the qualification of a Fellow Casualty Actuarial Society (FCAS) in good standing with the American Academy of Actuaries and must have provided an actuarial study for any municipal, state or national government and demonstrate that this health plan(s) is currently in place.

(2) The Committee shall submit a detailed report of all monies expended to the Speaker of I Liheslaturan Guåhan and I Maga'håga/Maga'låhi. All unexpended monies shall revert back to the General Fund.

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SOURCE: Added by P.L. 27-125:1 (Dec. 2, 2004).

2024 NOTE: Subsection designations added in subsection (a) pursuant to 1 GCA § 1606.

2018 NOTE: Subsection designations added in subsection (f) pursuant to 1 GCA § 1606.

2012 NOTE: Pursuant to the authority granted by 1 GCA § 1606, subsection designations were altered or added to adhere to the Compiler's alpha-numeric scheme.

2011 NOTE: Reference to the "Insurance Commissioner" in subsection (c)(7) changed to the "Commissioner of Banking and Insurance" pursuant to P.L. 27-088:10 (May 6, 2004).

§ 4302.2. Creation of the Government of Guam Self-Funded Employee Health Benefits Trust Fund Accounts, Herein Referred to as "Trust Fund Accounts."

(a) The Trust Fund Accounts are hereby created and shall not be commingled with the General Fund or any other funds of the government of Guam;

(b) A separate bank account for all Trust Fund Accounts shall be established for each Self Funded Health Benefits Plan;

(c) All employer and employee premium payments shall be deposited in the respective Self Funded Health Benefits Plan Trust Fund Account. Any foster children covered by a Self Funded Health Benefits Plan shall be fully paid for by the government of Guam;

(d) Moneys in the Trust Fund Accounts shall be used by the Department of Administration to pay health benefit related claims and associated administrative costs for any Self Funded Health Benefits Plan negotiated by the team authorized in § 4302 (c) of Chapter 4, Article 3, Title 4, Guam Code Annotated;

(e) Income earned on the moneys in the Trust Fund Accounts shall be credited to the respective Self Funded Health Benefits Plan's Trust Fund Account;

(f) Moneys in the Trust Fund Accounts are continuously appropriated in accordance with this Section and are not subject to any transfer authority of I Maga'håga/Maga'låhi;

(g) The Trust Fund Accounts shall maintain a minimum reserve equal to twenty-five percent (25%) of prior fund year coverage claim payments including incurred but not reported (IBNR) claim liability for the same period;

(h) There shall be an annual audited report based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of IBNR claims and other future contingent liabilities. The report shall include at a minimum, but not limited to, the following:

(1) Opinion of Independent Certified Public Accountant;

(2) Balance Sheet;

(3) Statement of Revenues and Expenses;

(4) Statement of Changes in Fund Balances;

(5) Statement of Cash Flows, direct method;

(6) Notes to Financial Statements; and

(7) A premium equivalency charge developed from total fund year expenditures, including an estimate for IBNR claim cost.

SOURCE: Added by P.L. 30-187:4 (Aug. 28, 2010). Subsection (c) amended by P.L. 32-189:8 (Oct. 13, 2014).

NOTE: The amendment by P.L. 32-189:8 (Oct. 13, 2014) becomes effective with the health insurance enrollment period for Fiscal Year 2015 pursuant to P.L. 32-189:9.

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§ 4302.3. Creation of Section 2718 Fund.

(a) There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Section 2718 Fund (hereinafter Fund). The Fund shall be separate and apart from all other funds of the government of Guam, shall be kept in a separate bank account, and shall not be subject to any transfer authority of I Maga'hågan/Maga'låhen Guåhan, or any inter-fund transfers.

(b) All proceeds from rebates paid to and entitled to the government of Guam pursuant to Section 2718(b)(1)(A) of the Public Health Services Act, as amended by the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, shall be deposited in the Fund.

(c) All proceeds from reductions in quarterly premiums for non-compliance with the requirements of P.L. 30-093 relative to disclosure of detailed claims utilization and cost information, shall be deposited in the Fund.

(d) Notwithstanding the general provisions of § 22406, Title 5 GCA which require that unused and de-appropriated funds revert to the General Fund, or any other provision of Guam law to the contrary, all de-appropriated or unused funds appropriated from the Fund shall, in all circumstances, and whether in whole or in part, be returned to the Section 2718 Fund, and not the General Fund.

(e) Notwithstanding the provisions of Title 5 GCA, § 21103, § 21107 and § 21110 or any other provision of Guam law to the contrary, all interest earned on the Fund shall be returned to the Fund.

(f) The Director of Administration shall submit a report on a quarterly basis to the Speaker of I Liheslaturan Guåhan of the revenues and interest earned, collected, and expended from the Fund, and shall post such report on the Department's website.

(g) All proceeds as a result of an Experience Refund or a positive Actual Experience from the Experience Participation provisions in the Health Insurance Contract between the Health Insurance Provider and the government of Guam shall be deposited into the Fund. For the purposes of this Subsection (g), "Target Experience" means the amount calculated by multiplying (1) the total premiums earned by the Health Insurance Provider for the full twelve (12)-month Plan Year ending the last day of the fiscal year under the Participating Policies issued to the government of Guam with respect to such Plan Year, by (2) a percentage not lower than eighty-six percent (86%); "Actual Experience" means an amount calculated by subtracting from the Target Experience all claims incurred during such Plan Year under all the Participating Policies; and "Experience Refund" means a positive Actual Experience.

SOURCE: Added by P.L. 31-077:XII:23 (Sept. 20, 2011). Amended by P.L. 31-233:XII:18 (Sept. 7, 2012).

§ 4302.4. Payment of Subscriber Rebates.

The Insurance and Banking Commissioner of Guam, in a manner compliant with the Patient Protection and Affordable Care Act, shall pay or cause to be paid, rebates to all eligible subscribers of the Government of Guam Group Health Insurance Program as required by § 2718 (b)(1)(A) of the Public Health Services Act, as amended by U.S. Public Law 111-148, the Patient Protection and Affordable Care Act (PPACA).

SOURCE: Added by P.L. 31-077:XII:24 (Sept. 20, 2011).

§ 4303. Group Life Insurance.

(a) I Maga'håga/Maga'låhi is authorized to enter into contracts with one or more insurance companies authorized to do business in Guam for Group Life Insurance for all employees or separate groups of employees for the government of Guam.

(b) Participation by employee, as employees are defined in Subsection (d) of this Section, in such contracts of life insurance shall provide coverage for up to a face amount of Ten Thousand Dollars

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($10,000), and shall be non-contributory by the employees, the premium to be paid by the government of Guam.

(c) [No text]

(1) Contracts of life insurance procured under the foregoing Subsection (b) shall be limited to a face amount of up to Ten Thousand Dollars ($10,000.00), including charges for accidental death and dismemberment. Coverage under such non-contributory plan shall commence after an employee has served six (6) consecutive months service in the government of Guam upon initial employment or re-employment. Retirees, and survivors of retirees, shall be covered as of the day they become retirees, or survivors of retirees.

(2) Supplemental life insurance coverage may also be procured as an added benefit for all employees, pursuant to a plan design of benefits, as approved by I Maga'hågan/Maga'låhen Guåhan. For active employees, the face amount of such supplemental coverage for employees shall be at least Thirty Thousand Dollars ($30,000.00), the premium for which shall be paid entirely by the employee. For retired employees, the face amount of such supplemental coverage for retirees shall be at least Five Thousand Dollars ($5,000.00), with increments of the same thereafter, the premium for which shall be paid entirely by the retiree.

(3) The total premium for the face amount of such supplemental coverage shall be paid entirely by the employee. Such supplemental insurance shall be on a voluntary basis, and may include such features as: graduated benefits, accidental death and dismemberment, and waiver of premium. Dependent coverage may be included as part of the supplemental coverage. The Department of Administration of the government of Guam, or the government of Guam Retirement Fund, as appropriate, may provide payroll deductions for payment of the premiums for such supplemental coverage.

(d) Employees as used in this Section include officers, survivors of officers, survivors of employees, retired employees and survivors of retired employees who are receiving annuity benefits.

(e) Notwithstanding any other provision of law, the government of Guam shall self insure the government of Guam's group life insurance program then in effect as of April 30, 1986, for a period not to exceed sixty (60) days from April 30, 1986, or until a private insurance company becomes the insurer for the government of Guam's group life insurance program, whichever occurs first.

(1) There is hereby established a Group Life Insurance Fund from which claims shall be paid consistent with the terms and conditions in the government of Guam's group life insurance policy then in effect prior to April 30, 1986.

(2) Premiums deducted from eligible subscribers on the government's group life insurance policy then in effect prior to April 30, 1986, shall be remitted to the Group Life Insurance Fund.

(3) The government is authorized to fund the Group Life Insurance Fund effective May 1, 1986 with projected premium receipts covering the period of self-insurance.

(4) Effective January 1, 1997, the Group Life Insurance Fund is hereby abolished and dissolved and any and all remaining balances of the Group Life Insurance Fund are reverted to the General Fund. All revenue previously in this Fund, or which was earmarked to be placed in this Fund, shall continue to be collected and credited to the General Fund.

SOURCE: § 4152 GCA; originally added as GC § 4020; amended by P.L. 10-192:2 (Aug. 18, 1970); Subsection (d) further amended by P.L. 14-119:6 (Apr. 14, 1978); renumbered to § 4152 GCA by P.L. 16-023:14 (Aug. 11, 1981). Subsection (e) added by P.L. 18-033:20. Subsection (b) and (c) Repealed and reenacted by P.L. 20-224:9. Repealed by P.L. 23-128:IV:30. Reenacted in the present form by P.L. 24-014:18. Subsection (c) amended by P.L. 26-043:2.

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2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

2018 NOTE: Subsection designations added in subsection (c) pursuant to 1 GCA § 1606.

§ 4304. Group Automobile Insurance.

(a) I Maga'håga/Maga'låhi is authorized to enter into contracts with one or more insurance companies authorized to do business in Guam for group automobile insurance for all employees, or separate groups of employees of the government of Guam, for the insurance of their private vehicles.

(b) All participation by employees in such contracts of automobile insurance shall be on a voluntary basis. The government of Guam shall provide payroll deduction for the payment of such premiums.

(c) Employees as used in this Section includes officers and retired employees and survivors of retired employees who are receiving benefits.

SOURCE: § 4153 GCA, originally added as § 4020.1 GC by P.L. 12-213:1 (Jan. 29, 1975); renumbered to § 4153 GCA by P.L. 16-023:14 (Aug. 11, 1981).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 4305. Group Home Mortgage Insurance.

(a) I Maga'håga/Maga'låhi is authorized to enter into contracts with one or more insurance companies authorized to do business in Guam for home mortgage insurance for all employees or separate groups of employees of the government of Guam.

(b) All participation by employees in such contracts of home mortgage insurance shall be on a voluntary basis. The government of Guam shall also provide payroll deductions for the payment of premiums.

(c) Employees as used in this Section includes officers and retired employees and survivors of retired employees who are receiving annuity benefits.

SOURCE: § 4154 GCA, originally added as § 4020.2 GC by P.L. 12-213:2 (Jan. 29, 1975); renumbered to § 4154 GCA by P.L. 16-023:14 (Aug. 11, 1981).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

§ 4306. False Arrest Insurance.

(a) I Maga'håga/Maga'låhi or designee shall obtain, on behalf of the employees of the Government, false arrest insurance on a competitive basis for the employees for any false arrest, assault and battery, false imprisonment or malicious prosecution in the course of the employee's duties as a peace officer of Guam.

(b) The Chief of Police shall determine which employees of the Government require such protection and their participation therein shall be mandatory and all premiums for any such policies shall be paid in full by the Government.

(c) As used in this Section, "peace officer" shall mean all persons designated as such by 8 GCA § 5.55 (Criminal Procedure).

SOURCE: § 4155 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to "Director of Public Safety" replaced with "Chief of Police" pursuant to P.L. 17-078:1 (Dec. 12, 1984), which repealed language in GC § 5102 that established the "Department of Public Safety," and reenacted language to establish the "Guam Police Department."

2022 NOTE: Reference to "Territory" replaced with "Guam" pursuant to 1 GCA § 420.

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§ 4307. Payroll Deductions Authorized.

(a) The Government, with the consent of the employee which consent may be withdrawn at any time, may provide payroll deductions for the making of any payments authorized by this Article and the making of mortgage payments by government employees on home or appliance loans obtained by said employees wherein the Small Business Administration of the United States is mortgagee.

(b) In addition, the Director of Administration or any appropriate authority may establish, by appropriate rule, subject to the Administrative Adjudication Act, any other payments which may be paid by employees, with their consent which may be withdrawn at any time thereafter, through payroll deductions.

(c) The provisions of this Section shall not apply to payroll deductions authorized by § 10116(e) of this Title.

SOURCE: § 4156 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2018 NOTE: Subsection designations have been added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4308. Interest, Late Payment of Deduction Amount.

If an employee has authorized a payroll deduction pursuant to § 4307 of this Title and the government fails to pay the payee the amount of the deduction on the day the paycheck is given the employee, then the government shall pay interest and penalty charges as provided in this Section. If the deduction is for savings, then the government shall pay the payee for credit to the employee's account the amount of interest that the employee lost because of the government's late payment. If the deduction is for a loan, then the government shall pay the payee for credit to the employee's account the additional interest and any penalty that for which the employee is liable because of the government's late payment.

SOURCE: Added by P.L. 18-040:33 (Nov. 6, 1986).

ARTICLE 4
CIVIL SERVICE COMMISSION

§ 4401. Civil Service Commission.
§ 4402. Quorum.
§ 4403. Duties of the Commission.
§ 4404. Subpoena Powers.
§ 4405. Commission Staff.
§ 4406. Adverse Action Procedures and Appeals.
§ 4406.1. Attorney Fees and Costs of Appeal.
§ 4406.2. Time Standards and Case Management.
§ 4407. Standards for Making Decisions on Appeal.
§ 4408. Enforcement of Orders.
§ 4409. Administrative Adjudication Law Applicable.
§ 4410. Authority to Slot On-Going Cases into Open Hearing Dates.
§ 4411. Civil Service Commission Revolving Fund.

§ 4401. Civil Service Commission.

(a) There is established, in and for the government of Guam, a Civil Service Commission composed of seven (7) members appointed by I Maga'håga/Maga'låhi with the consent of I Liheslatura. The members shall serve for a term of six (6) years and until their successors are appointed and qualified, provided that

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of the initial members appointed under this Chapter, appointments shall be made so that two members of the Commission, sitting or newly appointed shall serve for two (2) years, two members, sitting or newly appointed shall serve for a term of four (4) years and three members, sitting or newly appointed shall serve for a term of six (6) years.

(b) No member shall be an employee of the Government, a member of any board or commission, nor a member of the immediate family of an employee of the Government. As used in this Section, "immediate family" means a collective body of persons living together in one house under one head.

(c) The appointment of any person to the Commission shall become void if at any time during his term of office, he shall become an employee of the Government, accept appointment of any other board or commission.

(d) When a vacancy occurs, I Maga'håga/Maga'låhi shall appoint a new member within sixty (60) days of the commencement of the vacancy.

(e) I Maga'håga/Maga'låhi may remove members of the Civil Service Commission but only for conviction of a crime constituting a felony or a misdemeanor involving moral turpitude, willful misconduct in office, willful and persistent failure to perform the duties of office, or any conduct which is prejudicial to the administration of the merit system of the government of Guam. Nothing in this Section shall require the reappointment of any member. A person sought to be removed may challenge the decision by an action for declaratory judgment in the Superior Court.

(f) The members of the Civil Service Commission sitting at the date of enactment of this Chapter who meet the requirements and limitations placed upon membership by this Chapter shall remain in office until the expiration of their respective terms.

(g) Civil Service Commissioners, shall, without limitation, each receive Fifty Dollars ($50.00) for every meeting attended to adjudicate appeals, complaints, grievances or other disputes, or to perform rule-making functions as provided in statute, rule or regulation.

SOURCE: § 4170 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Subsections (b) and (c) amended by P.L. 19-004:19 (May 21, 1987) and :20 respectively. Subsection (g) added by P.L. 24-059:V:14 (Sept. 12, 1997).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 4402. Quorum.

The quorum of the Commission shall be four (4) members. The affirmative vote of four (4) members shall be required for any action of the Commission. The Commission may adopt rules to govern its procedures and the standards to be maintained by non attorney representatives; provided, that rules adopted by the Commission shall recognize that representative is not an attorney and cannot be bound by the same standards and ethics as an attorney; and, further, provided, that in cases where an employee represents oneself, the Commission shall render all possible assistance to the employee to insure a fair and impartial hearing.

SOURCE: § 4171 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Amended by P.L. 24-060:2 (Sept. 12, 1997). Repealed and reenacted by P.L. 26-088:2 (May 17, 2002).

§ 4403. Duties of the Commission.

The Commission has the following duties, powers and responsibilities:

(a) It shall investigate conditions of government employment as it deems necessary and report its findings and recommendations to I Maga'håga/Maga'låhi and I Liheslatura annually, and also post such reports on the Commission's website;

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(b) It shall hear appeals from the adverse actions taken to suspend, demote or dismiss an employee from the classified service if such right of appeal to the Commission is established in the personnel rules governing the employee; however, it may not hear any appeal of an action taken to suspend, demote or dismiss an employee of the government of Guam who has not been hired through the competitive hiring procedures of the personnel rules of the government of Guam, as such personnel rules required at the time of the hiring of the employee, nor any unclassified employee;

(c) To hear appeals of furloughs, lay-offs, grievance complaints, and Equal Employment Opportunity complaints of an employee from the classified service if such right of appeal to the Commission is established in the personnel rules governing the employee. The Commission shall adopt rules and procedures for furlough appeals, lay-off appeals, grievance complaint appeals, and Equal Employment Opportunity complaint appeals;

(d) The Commission may investigate and set aside and declare null and void any personnel action of an employee in the classified service if the Commission finds after conducting the necessary investigation that the personnel action was taken in violation of personnel laws or rules; provided, however, that this Section shall not be deemed to permit appeals by employees from adverse actions not covered in Subsection (b) above.

(1) The agency head shall cooperate and assist with the Commission's investigation.

(2) Prior to declaring any personnel action null and void, the Commission shall provide written notice of the alleged violation to the agency head.

(A) The agency head shall respond within ten (10) calendar days after receipt of the notice to the Commission's proposed action.

(B) All actions taken by the Commission pursuant to this Section shall be taken within one hundred eighty (180) calendar days after the personnel action or complaint is filed with the Commission.

(C) The Civil Service Commission shall submit a copy of its final decision to I Liheslatura by the next working day.

(3) The Commission shall adopt rules and regulations to effectuate this Section, including the requirement of a written complaint to initiate any investigation.

(4) The Commission's decision shall be final but subject to judicial review;

(e) It shall conduct reviews of notices of personnel actions of employees from the classified service.

(1) All notices of personnel actions regarding the classified service shall be filed with the Commission within twenty (20) calendar days after their effective date.

(2) Failure to submit the required notices of personnel actions within ten (10) calendar days after written request by the Commission will immediately result in a ten percent (10%) salary reduction of the agency head and his deputy until compliance is made.

(3) The Civil Service Commission shall submit a copy of its written request to the agency head and his deputy for compliance with this Section to I Liheslatura by the next working day;

(f) The jurisdiction of the Commission shall also apply to the adverse action appeals of certified, technical, and professional personnel of the Guam Power Authority and the Guam Waterworks Authority; the jurisdiction of the Commission shall apply to all classified personnel of the Guam Memorial Hospital Authority and the Guam Solid Waste Authority;

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(g) The provisions of this Section shall not apply to the Judiciary of Guam or I Liheslaturan Guåhan in compliance with the doctrine of Separation of Powers, unless such separate Branch opts to make them applicable by submitting to the jurisdiction of the Commission; and all reference to classified employees will be deemed to mean classified employees of the Executive Branch, including agencies and authorities;

(h) The jurisdiction of the Commission shall not extend to academic personnel of the Guam Community College and the University of Guam, except upon mutual consent by the governing board of the respective institution and the Commission; nor to any position or person, appeal or proceeding of whatever kind or description if the position is denominated "unclassified" in this Title, except to the extent explicitly permitted in this Section; and

(i) The jurisdiction of the Commission shall extend to investigating Public Employee Protection Act complaints (a.k.a. whistle-blower complaints) pursuant to Title 4, GCA, § 4501 *et seq*.

SOURCE: § 4172 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Subsection (g) repealed by P.L. 16-111:8 (Oct. 7, 1982). Subsection (g) added by P.L. 17-005:12 (April 21, 1983) originally designated as (h), designation modified by Compiler. Subsection (h) added by P.L. 23-026:5 (June 6, 1995)originally designated as (i), designation modified by Compiler. Repealed and reenacted by P.L. 26-121:2 (Aug. 14, 2002). Subsection (h) repealed and reenacted by P.L. 28-068:IV:12 (Sept. 30, 2005); amended by P.L. 28-113:4 (April 14, 2006). Subsections (a), (c), (d), (e) and (f) repealed by P.L. 28-068:IV:31 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47. Subsection (d) repealed and reenacted by P.L. 29-002:VI:27 (May 18, 2007). Repealed and reenacted by P.L. 30-112:2 (Mar. 12, 2010). Subsection (f) amended by P.L. 058:6 (Nov. 1, 2017).

2018 NOTE: Subsection designations added in subsections (d) and (e) pursuant to 1 GCA § 1606.

COMMENT: The purpose of the amendment by P.L. 23-026:5 was to make sure that academic personnel of GCC and UOG may not be brought under the Civil Service Commission without the consent of the institutions concerned. The repeal/reenactment was because the Legislature perceived that the Civil Service Commission had exceed its jurisdiction. *See* P.L. 26-121:1.

§ 4404. Subpoena Powers.

The Chairperson of the Civil Service Commission or the Executive Director, upon her/his own initiative, upon the request of any member of the Commission, or upon the request of any party before the Commission, may summon in writing any person to attend before a meeting of the Commission as a witness and in a proper case, to bring with her/him any book, record or paper which may be deemed material as evidence in the case.

(a) The fees for such attendance shall be the same as the fees of witnesses before the Superior Court, except that if the witness is a government employee no witness fees shall be given.

(b) The subpoena shall issue in the name of the Civil Service Commission, and shall be directed to the person and shall be served in the same manner as subpoenas to appear and testify before the court.

(c) If any person or persons summoned to testify shall refuse or neglect to obey said subpoena, upon petition, the court may

(1) compel the attendance of such person or persons before the Commission, or

(2) punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the Superior Court.

SOURCE: § 4173 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981).

2018 NOTE: Subsection designations added pursuant to 1 GCA § 1606.

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§ 4405. Commission Staff.

(a) The Executive Director of the Commission shall be appointed by the Civil Service Commission with the approval of I Maga'håga/Maga'låhi and with the advice and consent of I Liheslatura.

(b) The Executive Director may, with Commission approval, hire such professional, clerical, and other staff as may be deemed necessary to assist the Commission in performing its duties and functions;

(c) The Commission shall employ a full-time or part-time Administrative Law Judge (ALJ) to assist the Commission with the adjudicatory responsibilities, or the Commission may retain a private attorney or attorneys to serve as an ALJ on a case-by-case basis.

(1) The ALJ shall have the authority to handle the following matters:

(A) hearings related to technical and procedural motions,

(B) preliminary evidentiary motions, and

(C) any other matters deemed appropriate by the Commission, including full merit hearings.

(2) All decisions by the ALJ shall be forwarded to the Commission, which will have the authority to accept, modify, or reject the ALJ's decision in whole or in part.

(3) The Commission will review only those parts of the record before the ALJ which the Commission deems necessary to decide whether to accept, modify, or reject the ALJ's decision.

(4) The ALJ shall follow applicable rules and procedures approved by the Commission, and the Commission may direct the ALJ to act in the Commission's place and assume all authority and responsibilities prescribed by such rules and regulations, except as limited by this Act.

(5) An ALJ must be an active member of the Guam Bar Association in good standing and a licensed attorney for at least five (5) years.

SOURCE: § 4174 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981); amended by P.L. 16-104:2 (Aug. 3, 1982). Subsection (c) added by P.L. 24-008:2 (Mar. 20, 1997). Subsections (b) and (c) repealed and reenacted by P.L. 30-112:5 (Mar. 12, 2010). Subsection (c) amended by P.L. 33-055:2 (June 13, 2015).

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

2018 NOTE: Subsection designations added pursuant to 1 GCA § 1606.

§ 4406. Adverse Action Procedures and Appeals.

(a) Notice of Adverse Action. An employee in the classified service who is dismissed, demoted, or suspended shall be given immediate notice of the action, together with a specific statement of the charges upon which such action is based in the manner required by Article 2 of this Chapter. Copies thereof shall be filed with the Commission and, if applicable, with the government entity charged with hearing that person's appeal under the personnel rules governing that person's appointment not later than the working day next following the effective date of the action.

(b) Ninety (90) Day Rule.

(1) Management shall give the employee in the classified service notice and statement of the charges under this Section no later than:

(A) ninety (90) calendar days from the date in which management knew or should have known the facts or events which form the alleged basis for the adverse action; or

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(B) ninety (90) calendar days from the date of entry of a judgment of conviction in any court of competent jurisdiction that forms the alleged basis for the adverse action.

(2) As used in this Subsection, "management" means the appointing authority of a government department, agency, or instrumentality, or any deputy, division head, or other senior assistant of the appointing authority, however designated, having administrative power to implement management policy and the supervisory responsibility to directly advise the appointing authority regarding an adverse action or other personnel decision involving an employee of the department, agency, or instrumentality.

(3) In situations of emergencies, acts of nature, or disasters, the department, agency, or instrumentality may petition the Commission to suspend or extend the ninety (90) day time limitation provided in this Subsection. The Commission shall consider all such petitions expeditiously and may, in its discretion, suspend or reasonably extend the ninety (90) day time limitation after issuing written findings that support the suspension or extension.

(4) Any action brought by a government department, agency, or instrumentality in violation of this Subsection is barred and any decision based upon such action is void.

(c) Suspension and Reinstatement Pending Appeal. While an employee's appeal is pending before the Commission, the employee may be suspended by the department, instrumentality, or agency. The Commission or appropriate entity may order the employee reinstated to active duty during pendency of the appeal.

(d) Twenty (20) Day Rule. The employee, within twenty (20) days of effective date of the action, may appeal to the Commission or appropriate entity by filing that person's written answer to the charges against the employee, regardless of whether the employee has tendered any resignations, which shall have no effect upon the employee's appeal rights. In the event an employee resigns before the issuance of the final notice of adverse action, the employee's twenty (20) day appeal period to the Commission shall begin to run at the time the employee submits the resignation, which notice of Proposed Adverse Action shall be deemed a final notice of adverse action. Management may not fill the employee's position until:

(1) the twenty (20) day period has elapsed and no appeal has been filed; or

(2) the right to appeal has been exhausted upon judicial review.

(e) Adverse Action Hearing. The Commission or appropriate entity shall set an adverse action appeal for hearing as expeditiously as possible and in accordance with the Time Standards provided under this Article. The employee, or that person's representative, shall be given the opportunity to inspect any documents relevant to the action that would be admissible in evidence at the hearing, and to depose, interview, or direct written interrogatories to other employees having knowledge of the acts or omissions upon which the dismissal, demotion, or suspension is based. The Commission or appropriate entity may sustain, modify, or revoke the action taken. The decision of the Commission or appropriate entity shall be final but subject to judicial review.

(f) Judicial Review.

(1) The government department, agency, instrumentality, or the employee may petition the Superior Court for judicial review of an adverse action appeal only after:

(A) the appeal has been heard by the Commission and a final written or oral decision has been issued; or

(B) the Commission has failed to meet the Time Standards provided under this Article.

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(2) The party who petitions for judicial review is responsible for providing certified transcripts of hearings and shall bear associated costs.

(g) Reinstatement Pending Judicial Review. Where the Commission has modified or revoked an adverse action in favor of the employee from the classified service, the employee shall be reinstated immediately pursuant to the terms of the decision until such time as the decision is overturned by judicial review.

(h) Enforcement. Failure to adhere to a decision by the Commission to reinstate an employee shall result in reduction in salary by ten percent (10%) for the responsible agency head and his deputy from the date of the decision until the date of reinstatement in full compliance with the decision. The Commission may bring an action in the Superior Court to enforce the reinstatement of the employee and impose any appropriate penalties or remedies available at law or equity.

SOURCE: § 4175 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981); first paragraph amended by P.L. 16-041:3 (Sept. 28, 1981) and P.L. 17-081:12 (Dec. 14, 1984). Renumbered by the Compiler. Amended by P.L. 23-026:13 (June 6, 1995), P.L. 26-088:6 (Dec. 12, 2005), P.L. 30-112:3 (Mar. 12, 2010), and P.L. 34-145:1 (Dec. 13, 2018).

2018 NOTE: Subsection designations have been added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4406.1. Attorney Fees and Costs of Appeal.

If an employee in the classified service retains an attorney to represent him or her before the Civil Service Commission or other applicable administrative body to challenge an adverse action brought against the employee, and the employee prevails in whole or in part before the Civil Service Commission or other applicable administrative body by either receiving a favorable decision from the Commission or body or a withdrawal of the adverse action by the department, agency or instrumentality that brought the adverse action, the employee shall be awarded and paid costs, if any, and reasonable attorney's fees because of such attorney representation from funds of the department, agency or instrumentality in which the employee was employed. This Section shall apply to attorney fees and costs incurred in any appeal filed before the Civil Service Commission or other applicable administrative body on or after January 1, 1983.

SOURCE: Enacted by P.L. 17-081:13 (Dec. 14, 1984) and amended by P.L. 18-006:19 (June 20, 1985). Amended by P.L. 21-136:IV:28 (Sept. 29, 1992); however, P.L. 21-137:19 (Sept. 29, 1992) repealed the amendments.

2013 NOTE: In light of the passage of P.L. 21-137:19, the amendments of P.L. 21-136:28 never took effect.

§ 4406.2. Time Standards and Case Management.

In order to assist in case management and promote timeliness in the resolution of matters before the Commission, I Liheslatura establishes the following Time Standards, which the Commission shall attain in all cases filed with the Commission after the effective date of this Act:

(a) For appeals from actions resulting in the termination of an employee, a Hearing on the Merits shall commence no later than four (4) months from the initial filing of the appeal.

(b) For all other appeals from adverse actions, a Hearing on the Merits shall commence no later than six (6) months from the initial filing of the appeal.

(c) For grievances filed before the Commission, a Grievance Hearing shall be held no later than four (4) months from the initial filing of the grievance.

(d) All matters shall be adjudicated within twelve (12) months from the filing of a notice of appeal unless the Time Standards are waived by the employee.

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(e) Failure on the part of the Commission to adhere to the Time Standards described in Subsections (a), (b), and (c) shall in no way result in the dismissal of the employee's right to appeal an adverse action.

(f) The Time Standards described in Subsections (a), (b), and (c) may be waived by the employee.

(g) The Time Standards described in Subsections (a), (b), and (c) may be waived by the Commissioners upon finding substantial and compelling reasons to determine that a waiver of the Time Standards is the only option available, and only upon mutual consent of the parties.

(h) Following all oral decisions by Commissioners, the prevailing party shall present its proposed written decision for Commissioners to sign no later than ten (10) working days from the date of the hearing in which the oral decision was rendered.

(i) All written decisions following any and all hearings shall be signed and ordered within sixty (60) days of the date of the hearing.

SOURCE: Added by P.L. 33-055:3 (June 13, 2015). Amended by P.L. 34-145:2 (Dec. 13, 2018).

§ 4407. Standards for Making Decisions on Appeal.

(a) Upon the hearing of any adverse action appeal, the burden of proof shall be upon the government to show clearly and convincingly that the action of the Branch, department, agency or instrumentality was correct.

(b) Upon the hearing of a grievance, discrimination complaint or other appeal, the burden of proof shall be upon the employee to show that the action of the Government was improper.

(c) In cases involving charges which could be a crime if the person was charged in a criminal action, the Commission shall determine the matter based upon substantial evidence that the employee committed the acts charged.

SOURCE: § 4176 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Subsection (a) repealed and reenacted by P.L. 26-088:3 (May 17, 2002).

§ 4408. Enforcement of Orders.

The Civil Service Commission may seek enforcement of its decisions and orders in all decisions and orders in all matters permitted by this Title by application to the Superior Court for the appropriate remedy. In seeking enforcement of its decisions and orders, the application for enforcement shall be entitled, "The Civil Service Commission v. (department, agency, instrumentality or officer)." No enforcement shall be commenced against any department head or other employee or officer of the Government in his personal capacity.

SOURCE: § 4177 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Amended by P.L. 28-068:IV:40 (Sept. 30, 2005), effective January 1, 2006, pursuant to P.L. 28-068:IV:47. Repealed and reenacted by P.L. 30-112:4 (Mar. 12, 2010).

§ 4409. Administrative Adjudication Law Applicable.

The rules of the Commission are subject to the Administrative Adjudication Law.

SOURCE: § 4178 GCA, as reenacted by P.L. 16-023:1 (Aug. 11, 1981). Repealed and reenacted by P.L. 26-088:5 (May 17, 2002).

§ 4410. Authority to Slot On-Going Cases into Open Hearing Dates.

(a) The Commission shall have the authority to slot an on-going scheduled hearing into an open hearing date should a sooner hearing date become available provided that:

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(1) Both sides agree; and

(2) The original public notice for the initial hearing met the requirements of the Open Government Act.

(b) The public notice requirement of the Open Government Act shall be deemed met for purposes of on-going scheduled hearings relative to this Section if the original initial hearing satisfied such requirements.

SOURCE: Added by P.L. 30-112:6 (Mar. 12, 2010).

NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were added to adhere to the Compiler's alpha-numeric scheme.

§ 4411. Civil Service Commission Revolving Fund.

(a) There is hereby created the Civil Service Commission Revolving Fund, which shall be accounted for separately from the General Fund. Monies in the revolving fund shall not lapse at the end of a fiscal year but shall roll-over until used by the Commission.

(b) All monies received either as payment for Commission publications, photocopying fees, training, presentations, or other activities authorized by the Board shall be deposited into the Revolving Fund. Expenditure authority over the revolving fund is vested in the chair of the Commission.

(c) Moneys in the Revolving Fund shall be used to pay for printing or photocopying supplies of the Commission, related costs for creating or compiling Commission publications in electronic media format, materials for training, training of Commission staff, and membership dues for professional organizations relevant to the Commission. Moneys in the revolving fund shall not be used to pay any personnel expenses.

SOURCE: Added by P.L. 30-112:7 (Mar. 12, 2010).

ARTICLE 5
PUBLIC EMPLOYEE PROTECTION

SOURCE: Entire Article 5 added by P.L. 24-069:1 (Sept. 30, 1997).

§ 4501. Legislative Findings.
§ 4502. Definitions.
§ 4503. Retaliation Prohibited.
§ 4504. Complaints by Classified Employees.
§ 4504.1. Complaints by Unclassified Employees.
§ 4505. Civil Action.
§ 4506. Notice to Public Auditor.
§ 4507. Reports to I Liheslatura and I Maga'håga/Maga'låhi.
§ 4508. Employee Email Accounts Protected.

§ 4501. Legislative Findings.

I Liheslaturan Guåhan finds that the people of Guam are entitled to information about the workings of the government in order to reduce the waste and mismanagement of public funds, to reduce abuses in government authority, and to prevent illegal and unethical practices. I Liheslaturan Guåhan further finds that employees of the government of Guam are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve these objectives, I Liheslaturan Guåhan finds that such employees should be encouraged to disclose

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information on actions of agencies that are not in the public interest and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

2024 NOTE: Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

§ 4502. Definitions.

As used in this Article, unless the context otherwise requires:

(a) "Agency" means any board, commission, department, division, section or other agency of the Executive, Legislative or Judicial Branch of the government of Guam.

(b) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(c) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of I Liheslaturan Guåhan, regarding any action, policy, regulation, practice or procedure, including, but not limited to, the waste of public funds, abuse of authority or mismanagement of any agency.

(d) "Employee" means any person employed in the classified, unclassified or contractual service of the government of Guam.

(e) "Personnel Board" means the Civil Service Commission, the Judicial Council or other government entity charged with hearing the appeal of a classified employee pursuant to § 4105 of this Chapter or under the personnel rules governing such employee.

(f) "Supervisor" means any board, commission, department head, division head or other person who supervises or is responsible for the work of one (1) or more employees.

SOURCE: Subsection (d) amended by P.L. 31-138:1 (Nov. 17, 2011).

2024 NOTE: Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

§ 4503. Retaliation Prohibited.

(a) Except as provided in Subsection (b) of this Section, no appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This Section shall not apply to:

(1) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;

(2) An employee who discloses information from public records which are closed to public inspection pursuant to Chapter 10 of Title 5, Guam Code Annotated;

(3) An employee who discloses information which is confidential under any other provision of law.

(b) It shall be the obligation of an employee who wishes to disclose information under the protection of this Article to make a good faith effort to provide to his supervisor or appointing authority or member of I Liheslaturan Guåhan the information to be disclosed prior to the time of its disclosure.

2024 NOTE: Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

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§ 4504. Complaints by Classified Employees.

(a) Any employee in the classified service may file a written complaint with the personnel board alleging a violation of § 4503 of this Article, if the employee demonstrates that reasonable communication to his supervisor, appointing authority or member of I Liheslaturan Guåhan has occurred in regard to the alleged violation.

(1) The personnel board shall cause an investigation to be made of the charges in the complaint.

(2) If the investigation establishes that there is a reasonable basis for the charges, the appointing authority or supervisor shall be given written notice thereof.

(3) Within ten (10) days after he receives such notice, the appointing authority or supervisor may petition the personnel board for a hearing on the matter, and the personnel board shall grant such hearing.

(b) If the personnel board after hearing determines that a violation of § 4503 of this Article has occurred, or if the investigation establishes a reasonable basis for the charges and no hearing is requested, the personnel board shall order the appropriate relief, including, but not limited to,

(1) reinstatement,

(2) back pay,

(3) restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the personnel board shall order that the employee filing the complaint be reimbursed for any costs incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency which employs such employee.

(4) The determination by the personnel board under this Subsection shall be final but subject to judicial review.

(c) It shall be a defense in any disciplinary proceeding against an employee under § 4406 of this Chapter that such proceeding was initiated in violation of § 4503 of this Article and the issue of such violation shall be determined by the personnel board as a part of the disciplinary proceeding.

(d) [No text]

(1) Whenever the personnel board determines that an appointing authority or supervisor has violated § 4503 of this Article it shall cause an entry to that effect to be made in the supervisor's personnel records.

(2) In addition, such appointing authority or supervisor shall be subject to a fine of no less than Five Hundred Dollars ($500.00) and no more than One Thousand Dollars ($1,000.00), to be determined by the personnel board. Government funds shall not be used to pay such fine.

2024 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101.

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4504.1. Complaints by Unclassified Employees.

(a) It shall be a misdemeanor to take any disciplinary action, as defined in § 4502(b) of this Chapter, against any unclassified employee who discloses to a superior, a local or federal law enforcement officer, the Attorney General's Office, or a member or committee of I Liheslaturan Guåhan of any form of waste, abuse of policy, abuse of public trust, fraud or criminal acts by any employee of the government of Guam.

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(1) If there are two (2) or more violations of this Section, the offense shall be a third degree felony.

(2) Any person who is complicit in or abets such disciplinary action commits a violation of Chapter 13 of Title 9, Guam Code Annotated.

(3) Any person who obstructs or hinders an investigation of any violation or potential violation of this Section commits a violation of Chapter 55 of Title 9, Guam Code Annotated.

(b) For purposes of this Section, the Civil Service Commission shall have the same authority authorized by § 4504 of this Chapter to investigate complaints of unclassified employees. If the Commission finds that any public employee, either directly or through a third party, caused any form of disciplinary action as defined by § 4502(b) of this Chapter to be taken against an unclassified employee for filing such complaint, the matter shall be directed to the Office of the Attorney General's Prosecution Division.

(c) Any unclassified employee who files a complaint known to be false or untrue commits a petty misdemeanor.

SOURCE: Added by P.L. 31-138:2 (Nov. 17, 2011).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4505. Civil Action.

Any employee not in the classified service, or any employee in the classified service who has filed a complaint under § 4504 (a) but no reasonable basis was found for the charges, may bring a civil action in the District Court alleging a violation of § 4503 of this Article. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

§ 4506. Notice to Public Auditor.

Whenever the personnel board finds that a violation of § 4503 of this Article involving the disclosure of information concerning waste of public funds or mismanagement of an agency has occurred, it shall transmit a copy of the investigation report to the public auditor, who shall proceed in accordance with § 1908 and § 1909 of Title 1, Guam Code Annotated. Any person found guilty of violating § 4503 of this Article shall be guilty of a misdemeanor.

§ 4507. Reports to I Liheslatura and I Maga'håga/Maga'låhi.

The personnel board shall report annually to I Liheslaturan Guåhan and I Maga'håga/Maga'låhi concerning the complaints filed, hearings held, and actions taken pursuant to this Article.

2024 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan pursuant to 2 GCA § 1101. Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 4508. Employee Email Accounts Protected.

Public access of electronic mail (email) messages sent to and from an employee's government of Guam email account shall be subject to the provisions of Chapter 10 of Title 5, Guam Code Annotated (Freedom of Information Act).

(a) Any email messages regarding information not authorized to be public by the Freedom of Information Act shall continue to be non-public information.

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(b) Searches of files, messages and files contained in an employee's government of Guam email account may be conducted by investigatory personnel if authorized by a warrant issued by a court of competent jurisdiction.

(c) If a warrantless search, without probable cause, is conducted of the messages and files in an employee's government of Guam email account, no information may be used against the employee in a civil or criminal proceeding.

(d) Any warrantless searches of an employee's government of Guam email accounts, and the purposes of such searches, shall be reported to the Office of the Attorney General prior to conducting the search.

SOURCE: Added by P.L. 31-138:3 (Nov. 17, 2011).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

ARTICLE 6
ENHANCED PLACEMENT FOR PUBLIC EMPLOYEES DISPLACED DUE TO OUTSOURCING

SOURCE: Added by P.L. 27-106:VI:34 (Sept. 30, 2004). Repealed and reenacted in its entirety by P.L. 29-097:1 (July 22, 2008).

§ 4601. Definitions.
§ 4602. Eligibility.
§ 4603. Enhanced Placement.
§ 4604. Retention of Seniority.
§ 4605. Period of Eligibility.
§ 4606. Establishment of List.
§ 4607. Agency Required to Notify Individuals Registered for Enhanced Placement Program.
§ 4608. Positions Reserved for Enhanced Placement Registrants.
§ 4609. Enhanced Placement Program Reappointment.
§ 4610. Reactivation of Registered Guam Telephone Authority Employees.

§ 4601. Definitions.

In this Article:

(a) "Agency" or "department" means each and every line department or agency of the Executive Branch; every instrumentality; any Board, Commission or comparable unit of government, any of whose members are elected, appointed by I Maga'hågan/Maga'låhen Guåhan, I Liheslatura or the Judiciary; public corporations; every educational institution excepting academic personnel of the University of Guam and the Guam Community College; the Judicial Branch; the Legislative Branch; Public Defender Corporation; and every public entity hereafter to be created by law.

(b) "Classified Employee" means an employee in the classified service of the government of Guam as provided within Title 4, Guam Code Annotated, § 4102.

(c) "Classified Position" means a vacant or occupied position of the classified service of the government of Guam.

(d) "Privatization" means a function of a government agency that converted from governmental to private control or ownership pursuant to Title 1 Guam Code Annotated, § 1800.

(e) "Separated" means termination or discharged as a result of privatization.

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SOURCE: Added by P.L. 27-106:VI:34 (Sept. 30, 2004). Repealed and reenacted by P.L. 29-097:1 (July 22, 2008).

§ 4602. Eligibility.

Any classified employee of a government of Guam agency or department which is undergoing a process of complete privatization, and who will be separated from government service as a result of such, shall be eligible for enhanced placement. Classified employees still under probation shall not be eligible for enhanced placement.

SOURCE: Added by P.L. 27-106:VI:34 (Sept. 30, 2004). Repealed and reenacted by P.L. 29-097:1 (July 22, 2008).

§ 4603. Enhanced Placement.

Classified employees eligible for enhanced placement shall be granted by a government of Guam agency or department the right of first refusal for an opened and vacant government of Guam classified position provided that such classified employee shall meet all qualifications for such position and further provided that such position is vacant and has been opened for recruitment for bona fide reasons with an actual intent to fill such position under the merit system.

(a) Enhanced placement is not available when a classified position has been opened government-wide or for the purpose of promotion.

(b) When more than one (1) person eligible for enhanced placement applies for a vacant and opened classified position subject to the provisions of this Article, the process of selection between such persons eligible for enhanced placement shall be competitive as would normally be the case under the provisions of the merit system.

(c) This right of first refusal shall supersede any previously passed Law which gives preferential hire treatment (e.g. Title 4, Guam Code Annotated, § 4104.1 Preferences for Scholarship Recipients.).

SOURCE: Added by P.L. 27-106:VI:34 (Sept. 30, 2004). Repealed and reenacted by P.L. 29-097:1 (July 22, 2008).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4604. Retention of Seniority.

Any employee hired pursuant to the provisions of enhanced placement as defined in this Article, shall receive the same pay grade and step received at the time of separation or pay that is closest to, but not more than as is normally associated with the employee's new position.

SOURCE: Added by P.L. 27-106:VI:34. Repealed and reenacted by P.L. 29-097:1 (July 22, 2008).

§ 4605. Period of Eligibility.

(a) A classified employee eligible to participate in enhanced placement, as detailed in this Article, shall acquire such eligibility upon the final approval of the relevant privatization directly affecting such employee by I Liheslaturan Guåhan or in the absence of a legislative approval process upon the date with such instruments as shall mandate the relevant privatization are enacted. Such eligibility shall remain in effect for a period of no more than two (2) years.

(b) Registrants that decline a job offer (either voluntary or involuntary) shall be permanently removed as an enhanced placement registrant.

(c) Funding for the placement of former employees under the Enhanced Placement Program shall come from the sale of the affected government of Guam function or entity or any previous sale.

SOURCE: Added by P.L. 27-106:VI:34 (Sept. 30, 2004). Repealed and reenacted by P.L. 29-097:1 (July 22, 2008).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

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§ 4606. Establishment of List.

All persons eligible for enhanced placement shall register with the Department of Administration.

(a) Persons eligible for enhanced placement shall register no later than one hundred twenty (120) days after the date upon which they have acquired eligibility for enhanced placement as detailed in § 4605 of this Article.

(b) The Department of Administration shall maintain, update and deliver at the beginning of each month, and on a monthly basis, such registry of eligible persons to all personnel divisions of all personnel divisions of all agencies that are independent of the Department of Administration's personnel services.

(c) The independent Agency Personnel offices, shall submit a list of Enhanced Placement Program Registrants employed as a result of the program at their agency by the last business day of each month.

(d) The Department of Administration in turn, shall reconcile all lists received and issue an updated registry to all independent agencies at the beginning of the following month.

(1) A person is not eligible for referral to an open and vacant classified position subject to the provisions of enhanced placement as described in this Article until such time as they have registered in accordance with the provisions of this Section.

(2) The Department of Administration shall develop policies and procedures consistent with this Article and disseminate them to the independent agency personnel offices.

SOURCE: Added by P.L. 29-097:1 (July 22, 2008).

2018 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 4607. Agency Required to Notify Individuals Registered for Enhanced Placement Program.

The Department of Administration personnel services (or applicable independent personnel agency office) must notify Enhanced Placement registrants of any open funded vacancy that they qualify for no later than five (5) working days via telephone. Should the Department of Administration personnel services (or applicable independent personnel agency office) fail to make telephone contact, notification shall be made by mail with verified returned receipt to a registered Enhanced Placement Program individual of the position.

SOURCE: Added by P.L. 29-097:1 (July 22, 2008).

§ 4608. Positions Reserved for Enhanced Placement Registrants.

(a) Any position to which a registered enhanced placement individual is qualified shall not be filled within the government of Guam, until a waiver is received in writing from the qualified enhanced placement registrants declining such position no later than five (5) working days upon verbal notification by telephone of the job offer or if notified by registered mail, five (5) working days from the postmarked date when such position is government-wide and/or for promotion or upon an emergency declaration by I Maga'hågan/Maga'låhen Guåhan.

(b) The qualified enhanced placement registrant's right shall be automatically waived and the offer shall be extended to the next individual on the Enhanced Placement Program list or if none, then the position shall be open for regular recruitment. A signed waiver must be submitted to the Department of Administration personnel services division (or applicable independent personnel agency office). In the event the qualified registrant fails to submit a signed waiver within five (5) working days from the date of the offer, the offer shall be considered an involuntary declination.

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SOURCE: Added by P.L. 29-097:1 (July 22, 2008).

2018 NOTE: Subsection designations have been added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 4609. Enhanced Placement Program Reappointment.

(a) During the active period of eligibility for enhanced placement, all registered individuals shall be afforded to fill a vacant classified position announced as "Open" through enhanced placement. A registered individual that applies for an "Open" vacant classified position shall have their application evaluated and if qualified shall be given preferential hire status at whatever hiring agency has a vacancy at that point in time. The Department of Administration personnel services (or applicable independent personnel agency office) must have a recruitment GG-1. If there is no GG-1 at the time of evaluation or the establishment of an eligibility list, Recruitment shall review the eligibility list before certification once a GG-1 is submitted.

(b) Former employees reappointed under this program may apply to those agencies outside the umbrella of the Department of Administration personnel services to include, the Antonio B. Won Pat International Airport Authority, Guam, the Guam Power Authority, the Guam Waterworks Authority, the Guam Visitors Bureau and the Jose D. Leon Guerrero Commercial Port, provided a funding source is identified.

SOURCE: Added by P.L. 29-097:1 (July 22, 2008).

2025 NOTE: Reference to "J. D. Leon Guerrero Commercial Port Authority" modified pursuant to 1 GCA § 835.

2022 NOTE: Reference corrected to "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102 (b).

§ 4610. Reactivation of Registered Guam Telephone Authority Employees.

Notwithstanding any other provision of this Article, former Guam Telephone Authority employees who had previously registered with the Department of Administration and have not been placed under the Enhanced Placement Program, whether or not they have been placed pursuant to competitive employment within any entity of the government after registering for and becoming eligible for the Enhanced Placement Program, shall be reactivated as Enhanced Placement registrants for a period of one (1) year effective the date of this Act and shall be eligible for placement at only autonomous departments and agencies and public corporations such as: Guam Community College, Guam Power Authority, Guam Waterworks Authority, Jose D. Leon Guerrero Commercial Port, the University of Guam and the Antonio B. Won Pat International Airport Authority, Guam. This opportunity shall not apply to those registrants who have declined enhanced placement either voluntarily or involuntarily. All former GTA employees who were placed in positions within any entity of the government of Guam as a result of the GTA Priority Placement Program or were placed pursuant to competitive employment within any entity of the government after registering for and becoming eligible for the Enhanced Placement Program, but were not given credit for years of service when placed in the priority placement positions shall have their current pay adjusted upwards, when necessary, to one that is closest but not more than the pay they were receiving in their former position with GTA.

SOURCE: Added by P.L. 29-097:1 (July 22, 2008). Amended by P.L. 29-113:VI:59 (Sept. 30, 2008).

2025 NOTE: Reference to "J. D. Leon Guerrero Commercial Port Authority" modified pursuant to 1 GCA § 835.

2024 NOTE: In light of the privatization of the Guam Telephone Authority and the repeal of Title 12 GCA Chapter 7 by P.L. 27-110:6 (Nov. 1, 2004), the Guam Telephone Authority is no longer an autonomous agency or an instrumentality of the Government of Guam.

2022 NOTE: Reference corrected to "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102 (b).

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ARTICLE 7
REPORTS OF SEXUAL HARASSMENT BY NON-CLASSIFIED EMPLOYEES

SOURCE: Entire Article 7 added by P.L. 31-149:1 (Nov. 21, 2011).

§ 4701. Legislative Findings and Intent.
§ 4702. Jurisdiction Over Sexual Harassment Complaints for All Employees.
§ 4703. Sexual Harassment Defined.
§ 4704. Reports of Sexual Harassment Complaints.
§ 4705. Audits of Reports of Sexual Harassment Complaints.
§ 4706. Whistle-Blower Protection.
§ 4707. Time Frame and Rights to File Complaints.
§ 4708. Personnel Rules and Regulations.

§ 4701. Legislative Findings and Intent.

(a) I Liheslaturan Guåhan finds that sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Title VII applies to employers with fifteen (15) or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

(b) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

(c) Sexual harassment can occur in a variety of circumstances, including, but not limited to, the following:

(1) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.

(2) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

(3) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

(4) Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

(5) The conduct may include the use of profanity, offensive language and expletives, derogatory comments or sexually offensive speech to berate, discipline or intimidate employees, or subordinates.

(6) The harasser's conduct must be unwelcome.

(d) I Liheslatura further finds that it is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

(e) When investigating allegations of sexual harassment, the federal Equal Employment Opportunity Commission (EEOC) looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

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(f) Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees, and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

(g) It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex, or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.

2024 NOTE: Subsection designations added and modified pursuant to authority granted by 1 GCA § 1606.

§ 4702. Jurisdiction Over Sexual Harassment Complaints for All Employees.

As specified in this Chapter, employees in the context of Equal Employment Opportunity complaints involving sexual harassment as defined by Title VII of the Civil Rights Act of 1964 and this Article shall include all classified and unclassified employees of the Executive Branch of the government of Guam.

§ 4703. Sexual Harassment Defined.

For purposes of this Article, "sexual harassment" shall include:

(a) sexual harassment as defined by the federal Equal Employment Opportunity Commission;

(b) unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

(1) submission to such conduct was made, either explicitly or implicitly, a term or condition of an individual's employment;

(2) submission to or rejection of such conduct by an individual was used as the basis for employment decisions affecting such individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment;

(c) conduct that includes the use denotatively or connotatively defined sexual language that includes, but is not limited to, profanity, offensive language and expletives, derogatory comments or sexually offensive speech which is used to berate, bully, discipline or intimidate employees.

§ 4704. Reports of Sexual Harassment Complaints.

Notwithstanding any other provision of law, rules or regulations unclassified, contractual, temporary and other non-classified employees may file complaints for sexual harassment in the same manner that classified employees may file such complaints. Unclassified, contractual, temporary and other non-classified employees are entitled to all rights, privileges and remedies that are afforded to classified employees to resolve sexual harassment complaints.

§ 4705. Audits of Reports of Sexual Harassment Complaints.

Complaints of sexual harassment filed pursuant to this Article shall be audited periodically in the same manner as complaints filed by classified employees.

§ 4706. Whistle-Blower Protection.

No person, including witnesses and counselors, and confidants of the victim; who reports any incident of sexual harassment, or suspected sexual harassment, to a supervisor, agency head, director, the Department of Administration, the Civil Service Commission, the Guam Attorney General, or a law

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enforcement agency of the government of Guam, or of the United States, shall suffer any loss of wages, title or position or employment as a result of such report.

§ 4707. Time Frame and Rights to File Complaints.

The time frame to file complaints of sexual harassment, or suspected sexual harassment, shall be the later of two (2) years following the incident, or those time frames established by the federal Equal Employment Opportunity Commission. The right to file complaints shall not be extinguished by the termination, transfer or resignation of an employee of a department where the incident occurred.

§ 4708. Personnel Rules and Regulations.

All personnel rules and regulations on sexual harassment that are applicable to the agency or branch for which the victim is employed shall apply to unclassified, contractual, temporary, and other non-classified employees. In the event that an agency or office is not covered by personnel rules and regulations, the sexual harassment provisions of the Department of Administration's Personnel Rules and Regulations shall apply.

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