# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN MARIANA ISLANDS

VOLUME 19 NUMBER 08



AUGUST 15, 1997

# COMMONWEALTH

# REGISTER

#### COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997

#### TABLE OF CONTENTS

### **PROPOSED AMENDMENTS::**

Procurement and Employment New & Amended Regulations. Public School System/Board of Education15423
Telecommunications         Regulations         (CUC).           Commonwealth         Utilities         Corporation
Amendments to Part V of the Personnel Service System. Civil Service Commission
Proposed Repeal and Adoption of New Rules and Regulations governing the CNMI Group Health Insurance Program. Northern Marianas Retirement Fund/CNMI Government Insurance15573

•••

#### **ADOPTION:**

. .

Adopted Revisions of the Water Quality Standard Regulations. Department of Public Works/Div. of Environment Quality	
Adoption of the Customs Services Regulations No. 4300. Department of Finance/Division of Customs	
Adopted Amendment of the Pesticide Regulations. Department of Public Works/Div. of Environmental Quality	

#### CNMI BOARD OF EDUCATION FOR THE PUBLIC SCHOOL SYSTEM NOTICE OF PROPOSED NEW AND AMENDED REGULATIONS

The Commonwealth of the Northern Mariana Islands Board of Education, hereby notifies the general public of its intention to propose new and to amend already existing regulations and regulations previously called policies for the governance of the Commonwealth of the Northern Mariana Islands Public School System. The proposed regulations and regulations previously called policies are promulgated pursuant to the authority provided by Article XV of the CNMI Constitution, Public Law 6-10 and the Administrative Procedures Act.

The proposed new and amended regulations and regulations previously called policies involve the following subject areas:

#### **REGULATIONS PREVIOUSLY CALLED POLICIES**

\$411 Field Trips
\$601 Age of Entrance
\$603 FERPA
\$604.6 Tardiness
\$611 Student Sexual Harassment
\$612 Searches
\$1002.3.j Commuting Costs
\$1010 Child Abuse Reporting

#### PROCUREMENT REGULATIONS

**§5-** 101 Protests **§5-** 102 Appeals **§5-201** Appeals

#### EMPLOYMENT OF CERTIFIED PERSONNEL REGULATIONS

§ 1405 Reductions in Force
§ 2101 Certification Required
92102 Effect on Employment Contract
\$ 2103 Definitions
\$ 2201 Substitute Teachers and Librarians

#### EMPLOYMENT OF NON-CERTIFIED PERSONNEL REGULATIONS

§ 1505 Reductions in Force §6317 Extended Work Day Credit Page 2 Proposed Regs July 28, 1997

The text of the proposed new and amended regulations and regulations previously called policies are published following this notice. Anyone interested in commenting on the regulations and regulations previously called Policies may do so by submitting those comments in writing to the Chairman of the Board of education at: P.O. Box **1370CK**, Saipan, MP 96950 within thirty days of the date of publication of this issue of the Commonwealth Register.

July 28, 1997 Don A. Farrell

Chairman, Board of Education

Filed With:

Mr. Herman T. Guererro Office of the Governor

Filed With: <u>Remedies M. Hallman</u> Ms. Soledad B. Sasamoto 8/11/97 Registrar of Corporations

Pursuant to 1 CMC § 2153 as amended by PL 10-50 the regulations and regulations previously called policies attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

Dated this 4 day of 1997.

Robert B. Dunlap II CNMI Attorney General (Acting)

By: Assistant Attorney

#### KUETPON EDUKASION CNMI PARA J SISTEMAN ESKUELAN PUPBLIKU NUTISIAN I MANUEBO NA PRINOPONIYAN JNAMENDAN REGULASION SIHA

I Kuetpon Edukasion i Commonwealth i Sangkattan siha na Islas Mariana, ginen este ha hutitisia i pupbliku hinerat nu i intension-na para u proponi nuebo yan para u nmenda i esta maneksisite siha na regulasion yan i regulasion siha ni estaba manma a'agang planon aksion para i ma gubetnan i Sisteman Eskuelan Pupbliku gi Commonwealth i San gkattan siha na Islas Mariana. I manma propoponi siha na regulasion yan regulasion siha ni estaba manma a'agang planon nksion manma cha'gue sigon gi aturidat ni ma pribeni ni Attikulu XV gi Konstitusion i CNMI. Lai Pupbliku Numiru 6-10 and i Administrative Procedures Act.

I manma propoponi na nuebo yan inamendan regulasion yan regulasion siha ni estaba manma a'agang planon aksion ma emhrabrasa i sigiente siha na arean suheto:

#### I REGULASION SIHA NI MANGGINEN MANMA AGANG PLANON AKSION

- \$601 Idat Hinalom
- \$603 FERPA
- \$604.6 Inatrasao siha
- \$61.1 Inestanen Estudiante put Seks
- \$612 Inilao siha
- \$1002.3.j Gaston Regulat siha na Hinanao/Tinulaika siha
- \$1010 Rinipotten Inabusan Patgon

REGULASION PROKURAMENTE SIHA

- \$5-101 Prinotesta siha
- \$5-102 Inapela siha
- \$5-201 Inapela siha

REGULASION PUT MA EMPLEHAN I MANMA SETTEFIKA SIHA NA PETSONAT

- \$1405 Rinibaha gi Emplehao siha
- \$2101 Tahguen Ma'estra/tro yan Laibrerian siha
- \$2101 Tahguen Ma'estra/tro yan Laibrerian:siha

REGULASION PUT MA EMPLEHAN I TI MANMA SETTIFIKA SIHA NA PETSONAT

- \$1505 Riaihaha gi Emplehao siha
- \$6317 Kreditu put Ma Ekstende na cho'cho' gi Dia

I ma emprintan i priniponen nuebo yan inamendan regulasion yan regulasion siha ni mangginen manma agang planon aksioa manma ha tattetiyi i ma pupblikan este na nutisia. Hayi interesao mama'komento put i regulasion yan regulasion siha ni mangginea manma agang planon aksion sina mana'halom ayu siha na kommenio gi tinige' guato gi Chairman i Kuetpon Edukasion gi P.O. Bo 1370 CK, Saipan, Mp 96950, gi halom trenta dias despues di i fechan i ma pupblikan este na asunto gi Rehistran Commongwealth.

Chairman, Board of Education

Ma Satmiti as: Mr. Herman T. Guerrero Ofisinan i Gubetno Ma Satmiti as Ms. Soledad B. Sasamoto Rehistradoran Kotporasion siha

Sigon gi 1 CMC § 2153 komu inamenda ni Lai Pupbliku Numiru 10-50, i regulasion yan regulasions siha ni mangginen manma agang planon aksion guini mangginen manma ina yan aprueba nu i Ofinsinan Agubado.

Ma fecha gi este i mina' 11 na dia gi August \_\_\_\_, 1997 Robert B. Dunlap II

CNMI Attorney General (Acting)

ELLIOTT A. SATTLER

Ginen \_

Assistant Attorney General

### <u>CNML BOARD OF EDUCATION</u> MELLOL <u>PUBLIC SCHOOL SYSTEM</u> ARONG REEL FFEERETAAL ALLEGH FFE ME LLIIWELIL ALLEGH

Mellól <u>Commonwealth</u> Metawal Wóól Falúw Kka Marianas <u>Board of Education</u>, ekke arongaar toulap reel igha ebwe fféér allégh ffé me ebwe lliiwelil allégh kka fasil me allégh kkewe elo mwo bwe aweeweel lemelemil 1161 <u>Commonwealth Metawal Wóól Falúw</u> <u>Kka Marianas mellól Public School System</u>. Reel fféérétáál allégh kkaal me allégh kkewe elo mwo bwe aweewe ebwe akkatééló sángi mereel bwángil ila elo 1161 Article XV mellól <u>CNMI</u> Allégh Lapalap, Alléghúl Toulap 6-10 me Administrative Procedures Act.

Reel fféérétáal allégh ffé kkaal me allégh kka ebwe lliiwel me allégh kkewe elo mwo bwe aweewe etoolong tálil kkaal:

Allegh Kkewe Elo Mwo Bwe Aweewe

- § 411 Field Trips
- § 601 <u>Age of Entrance<sup>k(0</sup></u>
- § 603 FERPA
- § 604.6 <u>Tardiness</u><sup>0</sup>
- § 611 <u>Student Sexual Harassment</u>
- \$612 <u>Searches</u>
- § 1002.3.j. Commuting Costs
- \$ 1010 Child Abuse Reporting

Alléghul Procurement

§ 5-101 Protest.

§T-102 Appeals

§ 5-201 Appeals

Alleghul Angaang Reel Certified Personnel

§ 1405 Reductions in Force
§ 2101 Substitute Teachers me Librarians
§ 2201 Substitute Teachers me Librarians

Alleghul Angaang Reel Non-Certified Personnel

§ 1505 Reduction of Force<sup>KO</sup>

§ 6317 Extended Work Day Credit

Peigh 2 Fleerul Allegh Wuund July) 25th, 1997

Reel kkapasal ffeeretaal allegh ffe kkaal me lliiwelil allegh me allegh kkewe elo mwo bwe aweewe alongal a <u>pobliika</u> reel igha ebwe toowow arong yeel. Inamwo iyo e tipeli ebwe isisilong yaal mangemang ngare tiip bwelle keel allegh kkaal me allegh kkeweko elo mwo bwe aweewe, ebwe féeru schagh reel igha ebwe isiisilong yaal mangemang ngare tiip ngali <u>Chairman Board of Education</u> reel: <u>PO Box: 1370 CK Saipan, MP 96950</u> llol eliigh(30) ral igha ebwe toolong arong yeel llol <u>Commonwealth Register.</u>

Wind utv

Chairman. Board of Education

Isaliyal Mf Herman T Guererro Bwulasiyool Gobenno

An Ms. Soledad B. Sasamoto 8/11/97 Registrar of Corporation

Sangi mereel 1 <u>CMC § 2133</u> igha a llifwel mereel <u>PL</u> 10-50 reel allegh kkaal me allegh kkewe elo mwo bwe aweewe ra takkal amweri me appelughuló mereel Bwulasiyool <u>Attorney General</u>

Ralye \_11\_ Iloi maramai August 1997

Robert B. Dunlap II CNMI Attorney General(Acting)

ELLIOTT A. SATTLER

Assistance Attorney Genera.1

#### ADDITION TO PSS POLICY -!! ! FIELD TRIPS:

41 1.6 No PSS student shall be allowed on a field trip without a specific, written parental permission slip. For each field trip the parent or guardian must be provided at the least a written explanation of what location the field trip will occur, the anticipated length of the field trip, who will be chaperoning the field trip, the anticipated method of transportation, the anticipated financial requirements that the parent or guardian will be required to shoulder, the anticipated instructional content and goals of the field trip. In addition, for out of the CNMT field trips, the fact that the student must show proof of valid medical insurance and provide parental consent to medical treatment before they will be allowed to attend the field trip.

41 1.7 All parental consent slips shall clearly state the date(s) that the consent covers and "blanket permission forms" (open-ended as to dates, place to be visited, or instructional content and goals of field the trip(s)) shall not be permitted.

4-11.8 Vehicular transportation to the field trip site, or the airport for off-island field trips, shall be provided by either the individual child's parent or guardian or by Public School System vehicles designed to transport students. In no instance may students be transported to or from a field trip site in the bed of a pick-up truck or in a PSS employee's personal vehicle.

#### POLICY 601 AGE OF ENTRANCE

- 601.1 A child shall be admitted to the first grade of elementary school at the beginning of the school year if the child's sixth birthday occurs on or before <u>August 3 1</u> of the school year for which entrance application is made.
- 60 1.2 A child <u>may be</u> admitted to Kindergarten at the beginning of the school year if the child's fifth birthday occurs on or before <u>August 3 1 of the school year</u> for which application is made. Under no circumstances will a child who's sixth birthday occur after August 3 1 but before the completion of the school year applied for be denied admission to school.
- 60 1.3 <u>An child who meets the other eligibility requirements may be admitted to</u> Head Start as the beginning of a school year if the child's <u>third. fourth or</u> <u>fifth</u> birthday occurs on or before <u>August 31st</u> of the school year for which entrance application is made.
- 601.4 In the event of extraordinary circumstances surrounding the admission or denial of a child's admission to a school or program the Commissioner may make exceptions to this policy if it is in the best interests of the child and the PSS. It is expected that children who have completed kindergarten in a private school but are underage to attend first grade in the PSS will generally be provided such an exception by the Commissioner.

### POLICY 603 (PROPOSED NEW POLICY)

Policy 603 FERPA Noti fication

"Pursuant to Federal Law the attached FERPA notification must be provided to the families of all PSS students at the beginning of each school year. Principals are responsible for ensuring that the families of the children at their school receive the attached document and that proof of' the family's receipt is retained in the student's file."

#### To All PSS Parents

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age(eligible students) certain rights with respect to the students education records.

They are:

(1) The right to inspect and review the student's education records within 45 days of the day the District receives a request for access. Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The principal will make arrangement for access and notify the parents or eligible students of the time and place where the records may be inspected.

(2) The tight to request the amendment of the student's education records that the parents or cligible students believes are inaccurate or misleading. Parents or cligible students may ask the public school system to amend a record that they believe is inaccurate or misleading. They should write the school principal, clearly identify the pat-t of the record they want changed, and xpecif'y why il. is inaccurate or misleading.

If the district decides not 10 amend the record as requested by the parent or cligible student, the District will notify the parent or cligible student of the decision and advise them of' their right to a hearing regarding the request for amendment. Additional in formation regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to it hearing.

(3) The right to consent to disclosures of personally identifiable information contained n the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel j; a person serving on the School Board; a person or company with whom the District has contracted lo perform a special task (such as an attorney, auditor, medical consultant, or Iherapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest i l' the official needs to review an education record in order 10 fulfill his or her professional responsibility.

Upon request, the District discloses education records without consent to officials of another school district in which a student seeks or intends to ctiroll.

(4) The right  $\circ$  file a complaint with the U.S. Department of Education concerning alleged failures by the District 10 comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202-4605

#### Proposed New Policy

604.6 Tardiness The term "tardy" will be defined as being late to school, class, or an activity, with or without permission of parents/guardians or school personnel. The school Principal, in consultation with staff, will establish a specific school definition of what constitutes "being late to school, class, or an activity." All teachers will inform their respective classes of the building's definition of "being late to school, class, or an activity." The teacher will counsel with those students who are developing a pattern of being tardy. The teacher will refer to a school administrator specifically designated by the school Principal to handle such problems, those students who, in the teacher's judgment, are not making progress toward correcting the problem.

(a) First Referral- Upon the first referral by a teacher during a semester, the administrator will attempt to determine the nature of the problem, inform the student of the tardy policy and place the student on school probation.

(b) Second Referral- Upon the second referral by any teacher during a semester, the administrator will select the appropriate action from one or more of the following options: in-school suspension, school service, parental consultation, or a student/parent conference to explain disciplinary alternatives.

(c) Third Referral- Upon the third referral by any teacher during a semester, the administrator will select the appropriate action from one or more of the following options: short-term suspension, in-school suspension, alternative learning program, or withdrawal from class.

# Proposed BOE Policy 611 Student Sexual Harassment

#### 6 11.1 Sexual Harassment Prohibited

The Public School System prohibits sexual harassment of or by any student. This policy applies to conduct during and relating to school and school sponsored activities. Sexual harassment is inappropriate and offensive. All students have a right to be educated in an environment free from sexual harassment.

#### 611.2 Definition

(A) Sexual harassment means unwelcome sexual advances,requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(i) submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status or progress,

(ii) submission to or rejection of such conduct is used as the basis for academic decisions affecting the student,

(iii) such conduct has the purpose or effect of having a negative impact on the student's academic or work performance, or of creating an intimidating, hostile or offensive educational or work environment for students or PSS employees, or

(iv) submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits, services, honors, programs, or activities available at or through the school. (B) Sexual harassment can occur: student to student, staff to student, student to staff, male to female, female to male, male to male, and female to female.

(C) Sexual harassment can include, but is not limited to, jokes, comments, touching, and pressure for dates or sexual activity.

#### 611.3 Discipline and Consequences

(A) Any student who engages in the sexual harassment of anyone in the school setting will be subject to disciplinary action up to and including expulsion.

(B) Any employee who permits or engages in sexual harassment of students will be subject to disciplinary action up to and including termination of employment.

#### 611.4 Reporting: Procedure/Investigation

(A) Any student who believes that he or she is a victim of sexual harassment at the PSS should report the matter immediately to any teacher, counselor, or administrator.

(B) Any PSS employee who receives a verbal or written report from a student regarding sexual harassment of a student by another student or an adult in the educational setting shall forward that report within 24 hours to the principal and to the Equal Employment Opportunity Officer. The employee shall help the student, as necessary, to put the complaint in writing. Failure to properly report a student's complaint of sexual harassment shall subject the employee to appropriate discipline.

(C) The Equal Employment Opportunity Officer shall coordinate an appropriate investigation of the complaint. The investigation shall be completed promptly and with an effort to protect the privacy of those involved.

(D) The results of the investigation shall be communicated as expeditiously as possible to the parties involved. Findings of wrongdoing by a student or employee shall trigger appropriate discipline. Indeterminate results or findings of exoneration will be recorded as such and maintained in the Equal Employment Opportunity Office.

#### 611.5 Retaliation Prohibited

PSS prohibits retaliatory behavior against. any complainant or participant in the complaint process.

#### 6 11.6 Enforcement

Each principal shall be responsible for maintaining an educational environment free of sexual harassment. Principals shall take appropriate action to ensure that students are aware of and knowledgeable about these policies, and that disciplinary action is taken whenever warran ted.

# SEARCHES OF STUDENTS, LOCKERS AND AUTOMOBILES

\*\*\*\*\*\*

# 612 Searches of Students, Lockers, and Automobiles, Generally

School principals, vice principals, security officers and other school officials may properly conduct or authorize a search of a student where the purpose of the search is to maintain the safety and discipline of the student body or to promote the continued orderly functioning of the educational process. School officials shall only search for evidence of violations of law or PSS policy or regulation. School officials shall provide notification on a regular basis to students and parents of the school's disciplinary policies and procedures, as well as any changes therein.

# 612.1 Reasonable Suspicion: Justifying the Search at its Inception

Searches of students shall only be conducted when a school official has reasonable suspicion predicated on one or more of the following: (a) Reliable reports or information from credible sources made known to school officials. If the source is anonymous, the information must show that the information has a relationship with the school or students so as to give it credibility.

(b) Suspicious or evasive behavior suggesting violation of a school policy or law, or concealment of contraband, weapons, or stolen property.

(c) Observation of a student engaging in prohibited conduct or being in a restricted area.

The more of these factors that are found, the greater the inference of reasonable suspicion. The school official may also take into account the student's history in the development of reasonable suspicion.

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15437

# 612.2 Reasonable Scope: Justifying the Procedure

The scope of the search conducted must be reasonably related to the objective sought and the evidence searched for. The search shall be no more intrusive than necessary to serve the school's legitimate objectives. (The school's legitimate objectives are specified in section 1.) In the determining if the search is related to the objectives sought, the school official should consider:

(a) The nature and severity of the violation to determine the permissible amount of intrusion into the student's privacy right's.

(b) The area to be searched so that it will be no more extensive than required to serve the school's legitimate objectives.

(c) The time and place where the search is conducted so that it will be as close as possible to the time and place of the suspected violation.

(d) The duration of the search so that -it will be no longer than necessary to serve the school's legitimate objectives.

Whenever reasonably possible the search should be conducted by a school official who is the same sex as the student to be searched.

# 612.3 Locker, Automobile, and Desk Searches

Searches of lockers, desks, storage spaces, and other property owned jointly by the school district and the student may be conducted whenever reasonable suspicion exists to believe that contraband, weapons or prohibited items are concealed therein. Notice of the joint ownership of lockers and desks shall be given to the student body at the beginning of each school year or more often as required. (See Exhibits "A" and "B" for an example of such a notice)

# **612.4** Searches of Students and Their Personal Belongings

### 612.4.a Strip Searches

No mass strip search shall be conducted by school officials. If school officials reasonably believe that evidence of illegal or criminal conduct would be uncovered by such a search, they should notify the COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15438 police immediately. A strip search of an individual student by a school official of the same sex shall only be conducted in the event of an emergency. Strip searches by school officials of the opposite sex of the student are prohibited.

# 612.4.b Metal Detectors

Metal detectors shall only be used where there is a demonstrated need to protect students and school officials from having dangerous weapons brought onto the premises. Notice of the search shall be given to the student body before the search is conducted. (See Exhibit "C" for an example of such a notice)

# 612.5 Canine Searches

Canine searches shall never be conducted on a student's person and if undertaken, shall be restricted to lockers and parking lots.

# 612.6 Surveillance

Surveillance shall only be conducted in hallways, school buses, and other areas open to public view where the students are permitted.

# 612.7 Random Sweeps

Random searches of student-s or personal property shall never be undertaken without first consulting a school attorney, and the l police department, except in cases of emergency where exigent circumstance require immediate action to avoid danger to persons or property.

# 612.8 Consent Searches

Whenever possible the student's voluntary info-rmed consent shall be sought before a search is conducted. However, searches normally should not be based solely on consent.

# 612.9 Police Involvement

Police involvement shal I be sought whenever school officials uncover evidence of a violation of Commonwealth or Federal law or when COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15439 school officials deem such involvement necessary or helpful in maintaining school discipline or safety.

## 612.10 Reports

After a search has been conducted, school officials shall prepare a written report, specifically detailing the objectives of the search, the scope of the search, and the circumstances and information giving rise to reasonable suspicion for the search. Copies of the report shall be immediately filed with the Commissioner of Education and PSS Legal Counsel.

ATTENTION: STUDENTS

# NOTICE OF SEARCH

STUDENTS SHOULD BE AWARE THAT THEIR LOCKERS WILL BE JOINTLY ACCESSIBLE TO THE STUDENTS AND SCHOOL OFFICIALS AND MAY BE SUBJECT TO SEARCH AT THE DISCRETION OF SCHOOL OFFICIALS. THIS IS IN ACCORDANCE WITH SECTION 612.3 OF THE PUBLIC SCHOOL SYSTEM POLICIES

(Exhibit "A")

#### ATTENTION: STUDENTS

### NOTICE OF SEARCH

# STUDENTS SHOULD BE AWARE THAT AUTOMOBILES PARKED ON THE SCHOOL PREMISES OR IN THE SCHOOL PARKING LOT ARE SUBJECT TO SEARCH WHEN OFFICIALS HAVE REASON TO BELIEVE WEAPONS, DRUGS, OR OBJECTS PROHIBITED BY SCHOOL POLICY OR COMMONWEALTH OR FEDERAL LAW ARE CONTAINED THEREIN. THIS IS IN ACCORDANCE WITH SECTION 612.3 OF THE PUBLIC SC'HOOL SYSTEM POLICIES

# (EXHIBIT "B") ATTENTION STUDENTS

#### NOTICE OF SEARCH

# STUDENTS ENTERING THIS CAMPUS MAY BEASKEDTO SUBMIT TO A METAL DETECTOR SEARCH PROCEDURE TO ENSURETHATWEAPONS AND OTHER DANGEROUS OBJECTS ARE NOT BROUGHT ON TO CAMPUS. THIS IS IN ACCORDANCE WITH SECTION 612.4.b OF THE PUBLIC SCHOOL SYSTEM POLICIES.

(Exhibit "C")

PROPOSED AMENDMENT TO PSS POLICY (As Mandated by OPA Report No. AR-97-03)

#### POLICY §1002.3(j) (New Subsection)

(j) Commuting costs to and **from** outside of the CNMI to work in the CNMI may not be paid for PSS employees by the PSS unless the payment is justified in writing by the employee and the PSS as being the most reasonable and efficient use of PSS funding and the Board of Education approves of the expenditure.

# Proposed BOE Policy 1010 Mandatory Reporting of Child Abuse and Neglect

Any teacher or other school official who knows or has reasonable cause to suspect that a child is abused or neglected shall report the situation within 24 hours to both the Division of Youth Services and to the Department of Public Safety.

Child abuse and neglect (defined further in 6 CMC 53 12) shall include any sexual or attempted sexual molestation as well as physical maltreatment or a failure to provide a child with adequate supervision or care by a parent or person responsible for the child's welfare such that the child's physical or mental health and well-being are harmed or threatened.

The report shall include all information available and necessary for an investigation and shall be as detailed as possible. It shall include at a minimum the date, time and circumstances which gave rise to the belief that abuse or neglect occurred or will occur.

A school may establish internal procedures for coordinating abuse and neglect reports, however such procedures may not delay transmission of the reports.

July 21, 1997

#### PSSPR 5-101(1)(a)

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Commissioner of Education. The protest shall be in writing. shall state fully the factual and legal grounds for the nrotest and must be received by the Office of the Commissioner of Education within ten (10) days of the bidder. offeror. or contractor's receipt of the notification of the **PSS's** intent to award the contract. If the protest is filed prior to receiving the notification of intent go award the contract the protest shall be in writing. shall state fully the factual and le al grounds for the protest and must be received by the Office of the Commissioner of Education within ten (10) days of the bidder. offeror. or contractor knows or should have known of the facts giving rise thereto. A nrotest may not be amended after the ten clay limitation period has passed except when the amendment would independently meet the time limits as a separate grounds for the protest.

#### PSSPR 5-102(3)

Time for filing an Appeal. An appeal from the Commissioner of Education's decision must be received by the Office of the Public Auditor not later than ten (10) days from the date that the protester or their agent received notice of the Commissioner's decision of the protest pursuant to 5101(l)(c) above. Any appeal received later than ten days after receiving notice of the Commissioner's decision shall not be considered by the Public Auditor. The Public Auditor shall only consider issues raised to the Commissioner in the original notest and shall not allow amendments to the anneal after the ten day time for filing an anneal has passed.

#### PSSPR 5-201

(1) Any dispute between the Public School System, <u>the Board of Education</u>, or an employee or agent of either entity, and a contractor <u>relating</u> to the -performance, <u>interpretation of</u>. or compensation for a contract <u>procured</u> according to PSS Procurement Regulations. must be filed in writing within thirty (30) calendar days after the contractor knew or reasonably should have known of the facts <u>giving</u> rise thereto.

(2) When a claim brought pursuant to 5-201(1) cannot be satisfied or settled by mutual agreement between the narties and a decision on the disnute is necessary, the Commissioner of Education shall review the facts nertinent to the disnute and prepare a written decision that shall include:

(a) a general description of the disnute,

(b) reference to nertinent contract terms;

(c) a statement of the decision as to the factual areas of disagreement and the Commissioner's conclusion and supporting rationale and pertinent legal analysis.

(3) Appeals. The contractor may appeal any decision rendered by the <u>Commissioner of Education pursuant to PSSPR 5-201(2) within ten (10) days of receiving</u> notification of the Commissioner's decision. The anneal will be to the CNMI Board of <u>Education and must be in writing and state fully the factual and legal basis for the anneal.</u> The Board of Education may require an informal hearing on the disnute if it wishes or it may decide the disnute solely based upon the documentation submitted to it by the narties. The Board may modify, reverse. or remand the Commissioner's decision if it finds that

such a **finding** is not **supported** by the facts or law or if the decision constituted an abuse of discretion. Otherwise, the Commissioner of Education's decision will be **upheld**.

(4) Duty to continue Performance. A contractor that has a dispute pending before the Commissioner of Education or an appeal before the Board of Education must continue to perform according to the terms and conditions of the contract and failure to continue to serforms hal be deemed to be a material breach of the contract unless the contractor obtain a written waiver of his duty to perform from the Commissioner of Education. Certified Regulations §14()5. Reductions in Force.

(a) <u>Financial Exigency</u>. Termination of an employee before the end of the specified term of their contract may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, I.e., an imminent financial crisis which threatens the survival of the PSS as a whole or a particular PSS program or school as a whole and which cannot be alleviated by less drastic means.

(i) As a first step, the Commissioner of Education shall assemble a committee (RIF Committee) with an odd number of members comprised of at least one certified teacher, one school principal, one PTA president, one central office employee, and one Board of Education member which determine whether a condition of financial exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued. PSS's Legal Counsel shall advise the committee.

(ii) Judgments determining where within the overall PSS or PSS program termination of appointments may occur involve considerations of educational policy, as well as of employee status, and should therefore be the primary responsibility of the RIF Committee. The RIF Committee should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

(iii) The responsibility for identifying individuals whose contracts are to be terminated should be committed to a person or group designated or approved by the RIF Committee. The allocation of this responsibility may vary according to the size and character of the program in question, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a employee member given notice of proposed termination of appointment will be governed by the following procedure.
(b) <u>Due Process</u>. If the administration issues notice to a particular employee of an intention to terminate their employment contract because of financial exigency, the employee will have the right to a full pre-discipline hearing in front of an impartial hearing officer pursuant to Sections 4501 through 45()5 of these regulations. The hearing need not conform in all respects with a proceeding conducted pursuant to Sections 4501 through 4505, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(i) The existence and extent of the condition of financial exigency. The burden will rest on the administration to prove the existence and extent of the condition. The findings of the RIF Committee in a previous proceeding involving the same or a similar issue may be introduced.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of the RIF Committee on these matters will be considered presumptively valid.

(iii) Whether the criteria are being properly applied in the individual case.
(c) <u>New Appointments Prohibited</u>. If the PSS, because of financial exigency, terminates contracts, it will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result.
(d) <u>Lateral Placements Preferred</u>. Before terminating an appointment because of financial exigency, the PSS, with RIF Committee participation, will make every effort to place the employee concerned in another suitable position within the institution.

(e) <u>Sixty Days Severance Pay.</u> In all cases of termination of employment contract because of financial exigency, the employee concerned will be paid for sixty days beyond the final day of work or until the final date of their contract, whichever is less.

(f) <u>Reinstatement Offers</u>. In all cases of termination of a contract because of financial exigency, the place of the employment concerned will not be filled with a replacement within a period of three years, unless the released employee has been offered reinstatement and a reasonable time in which to accept or decline it.

#### PROPOSED AMENDMENT TO PSS REGULATIONS FOR THE EMPLOYMENT OF CERTIFIED PERSONNEL SUBSTITUTE TEACHER & SUBSTITUTE LIBRARIAN CERTIFICATION

§ 2101. c. (new subsection) Substitute Teachers and Substitute Librarians: In accordance with 3 CMC § 1181. no person shall serve as a substitute teacher or a substitute librarian in any school in the Commonwealth without first possessing either a valid temporary, basic, or intermediate librarian certificate granted by the Board of Education.

**§** 2102. <u>Effect on Employment Contract</u> As it is illegal for any person to serve as a teacher, librarian, <u>or a substitute teacher or substitute librarian</u> without a certificate, the failure of any teacher, librarian, <u>substitute teacher</u>. or <u>substitute librarian to</u> qualify to hold a certificate or to continue to hold a certificate during that person's contract term shall immediately render the contract of employment void.

<u>\$ 2103.</u> i.(new subsection) "Substitute Teacher" shall mean a person who assumes the duties of an absent teacher or teachers. on a temuorzy pasis.

j. (new subsection) "Substitute Librarian" shall mean a -person who assumes the duties of an absent librarian or librarians. on a temporary basis.

<u>§ 2201 (a)(2). (new subsection) This shall not apply to substitute teachers or substitute librarians. Instead. substitute teachers and substitute librarians must possess at a minimum a high school diploma</u>

<u>§2201(a)(3).</u> (new subsection) Hiring preference shall be provided to Substitute Teachers or Substitute Librarians in the following: order (I) Bachelor's Degree or higher in Education, (ii) Bachelor's Degree or higher, (iii) Associate Degree, (iv) High School Diploma. Non Certified Regulations §15()5. Reductions in Force.

(a) <u>Financial Exigency</u>. Termination of an employee before the end of the specified term of their contract may occur under extraordinary circumstances because of a demonstrably bona fide financial exigency, i.e., an imminent financial crisis which threatens the survival of the PSS as a whole or a particular PSS program or school as a whole and which cannot be alleviated by less drastic means.

(i) As a first step, the Commissioner of Education shall assemble a committee (RIF Committee) with an odd number of members comprised of at least one certified teacher, one school principal, one PTA president, one central office employee, and one Board of Education member which determine whether a condition of financial exigency exists or is imminent, and that all feasible alternatives to termination of appointments have been pursued. PSS's Legal Counsel shall advise the committee.

(ii) Judgments determining where within the overall PSS or PSS program termination of appointments may occur involve considerations of educational policy, as well as of employee status, and should therefore be the primary responsibility of the RIF Committee. The RIF Committee should also exercise primary responsibility in determining the criteria for identifying the individuals whose appointments are to be terminated. These criteria may appropriately include considerations of length of service.

(iii) The responsibility for identifying individuals whose contracts are to be terminated should be committed to a person or group designated or approved by the RIF Committee. The allocation of this responsibility may vary according to the size and character of the program in question, the extent of the terminations to be made, or other considerations of fairness in judgment. The case of a employee member given notice of proposed termination of appointment will be governed by the following procedure.
(b) <u>Due Process</u>. If the administration issues notice to a particular employee of an intention to terminate their employment contract because, of financial exigency, the employee will have the right to a full pre-discipline hearing in front of an impartial hearing officer pursuant to Sections 3501 through 3505 of these regulations. The hearing need not conform in all respects with a proceeding conducted pursuant to Sections 3501 through 350.5, but the essentials of an on-the-record adjudicative hearing will be observed. The issues in this hearing may include:

(i) The existence and extent of the condition of financial exigency, The burden will rest on the administration to prove the existence and extent of the condition. The findings of the RIF Committee in a previous proceeding involving the same or a similar issue may be introduced.

(ii) The validity of the educational judgments and the criteria for identification for termination; but the recommendations of the RIF Committee on these matters will be considered presumptively valid.

(iii) Whether the criteria are being properly applied in the individual case.
(c) <u>New Appointments Prohibited</u>. If the PSS, because of financial exigency, terminates contracts, it will not at the same time make new appointments except in extraordinary circumstances where a serious distortion in the academic program would otherwise result.
(d) <u>Lateral Placements Preferred</u>. Before terminating an appointment because of financial exigency, the PSS, with RIF Committee participation, will make every effort to place the employee concerned in another suitable position within the institution.

(e) <u>Sixty Days Severance Pay</u>. In all cases of termination of employment contract because of financial exigency, the employee concerned will be paid for sixty days beyond the final day of work or until the final date of their contract, whichever is less.

(f) <u>Reinstatement Offers</u>. In all cases of termination of a contract because of financial exigency, the place of the employment concerned will not be filled with a replacement within a period of three years, unless the released employee has been offered reinstatement and a reasonable time in which to accept or decline ir.

#### Extended Day Credits

§6317. Extended Day Credit. If a Non-Certified, FLSA exempt Employee works over forty hours in a week, records of those excess hours are to be maintained and added to the employee's Extended Day Credits. The employee accrues extended day credits on a one to one basis. For instance, if an employee works fifty hours in a week, ten hours will be recorded for their extended day credits. The maximum number of extended day credits that may be accrued by any employee is 120 hours. Any amounts accrued over 120 hours are lost. Extended day credits may be taken by the employee in lieu of their taking annual leave or sick leave. The Employee's direct supervisor must approve the use of any such credits and may deny the use of such credits with or without cause. Extended day credits have no cash value at any time, including upon an employee's separation from employment with the PSS. Employees have no right to use these credits and the Commissioner may discontinue this program at any time without reason, warning or compensation to the employee. The PSS has no legal responsibility to create the extended day credit program, but instead believes that it is an appropriate way to allow our extremely hardworking FLSA esempt, Non-Certified employees to take an occasional, much needed rest.

#### NOTICE AND CERTIFICATION OF ADOPTION OF REGULATIONS REGARDING THE CNMI PUBLIC SCHOOL SYSTEM

I, Don A. Farrell, the Chairman of the CNMI Board of Education, which is promulgating the following Regulations; §4211 *Reallocation/Reclassification of Position to Higher Pay,* §4213(H) *Within Grade Increase,* and §9108 *Personnel File Confidentiality,* and Regulations previously called Policies; §811, *Betel Nut Prohibited,* \$1010 *Retention of Records/Audit,* published in the Commonwealth Register Vol. 18, No. 11 on November 15th, 1996 at pages 14490 to 1449, and Vol. 17, No. 11 on November 15, 1995 at pages 13796 to 13798 and by signature below hereby certify that as published such Regulations and regulations previously called Policies are a true, complete and correct copy of the Regulations previously proposed by the CNMI Board of Education which, after the expiration of appropriate time for public comment, have been adopted without modification or amendment. I further request and direct that this Notice and Certification of Adoption be immediately published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of July, 1997 at Saipan, Commonwealth of the Northern Mariana Islands.

on A. Farréll

Chairman, CNMI Board of Education

# ARONGORONG REEL APPELÚGHÚLÚGHÚL ADOPTION REEL ALLÉGH KKA LLÓLP<u>UBLIC SCHOOL SYSTEM</u>

Ngaang, Don A Farrell, <u>Chairman-nil Board of Education</u>, ikke arongaawow Allégh k kaal <u>\$4211Reallocation/Reclassification of Position to Higher Pay</u>, <u>\$(H)</u> Within Grade Increase, me <u>\$ 9108</u> Personnel File Confidentially, me Allégh kkewe elo mwo bwe Aweewe: <u>\$ \$11</u>, Betel Nut prohibited. <u>\$1010</u> Retention of Record/Audit, <u>pobliika</u> [161 <u>Commonwealth Register Vol. 18</u>, No 11] [16] maramal Aremwoy(<u>November</u>) 15 1995 reel peigh 13796 ngali 13798 me sangi-<u>signature</u> ye elo faal mereel milleel e appelûghûlô meet-a kkewe <u>a pobliika bwelle</u> reel Allégh kkaal me Allégh kkewe elo mwo Aweewe, e ellet, scheéschéél me e welewel <u>kopiyaal</u> Allégh kkewe efféérétá mereel <u>CNMI Board of</u> <u>Education</u> me, mwiril tittilóól ótol isisilongol yaar toulap mángmang ngare tiip, a takkal adopted nge ese bwal yoor lliiwel. I bwal tittingór me afatta bwe Arongorong yeel me Appelûghûl <u>Adoption</u> ebwe ghutchúl <u>póbliikaalong</u> [16] <u>CNMI Register</u>.

I akkapalló faal mwuttaal ruturut bwe alongal milikkaal nge e ellet me e welewel me e appelúghúló 11ól rál ye 28th 11ól maramal Wuun(July), 1997 mewóól Seipél, <u>Commonwealth Metawal Wóól Falúw Kka Marianas.</u>

Don A. Farrell Chair man, CNMI Board of Education

#### NUTISIA YAN SETTEFIKASION PUT I MA ADAPTAN I MA AMENDAN I REGULASION SIHA PUT I SISTEMEN ESKUELAN PUPBLIKU

GUAHU, si Don A'. Farrell, i Chairman i Kuetpon Edukasion CNMI, ni lomalaknos i sigente siha na Regulasion; §4211 Reallocation/Reclassification of Position to Higher Pay, § 4213(H) Within Grade Increase, yan § 9108 Personnel File Confidentiality: yan Regulasion siha ni mangginen manma agang Planon Aksion; § 811, Betel Nut Prohibited, 51010 Retention of Records/Audit, ma pupblika esta halom gi Rehistran Commonwealth Baluma 18, Numiru 11 gi Nubembre 15th, 1996 gi pahina 14490 esta 1449 yan Baluma 17, Numiru 11 gi Nubembre 15, 1995 gi pahina 13796 esta 13798 lokkue i fitmaku ni gaigi sampapa ginen este ha settefika i esta manma pupblika. tat. komo i Regulasion yan Regulasion siha ni mangginen manma agang Planon Aksion yan man magahet, komplidu yan dinanche i kopian i Regulasion siha ni esta manma proponi nu i CNMI Roard of Education Jokkue gi uttimon i dia put. bandan munaha'lom kumentun pupbliku, esta ma adapta lao taya aksion pat tinilaika. Hu rekuesta yan dirihi na este na Nutisia yan Settefikasion Adaption u fanma pupblika ensigidas gi halom i Rehistran Commonwealth

Hu diklara gi papa' penan chatmanhula' tat i mansangan magahet yan dinanche yan na este na deklarasion ma cho'gue Juliu 28, 1997 gi Saipan, Commonwealth i Sangkattan si ha na Islas Marian as.

Chairman CNMI Board of Education

#### NOTICE AND CERTIFICATION OF ADOPTION OF AMENDED REGULATIONS REGARDING PUBLIC SCHOOL SYSTEM

I, Don A. Farrell, the Chairman of the CNMI Board of Education, which is promulgating the Regulations and the Regulations previously called Policies regarding Employment of Certified Personnel, Employment of Non-Certified Personnel, and PTA Fundraising, published in the Commonwealth Register Vol. 19, No. 4 on April 15th, 1997 at pages 15234 to 15312, and Vol.18, No. 11 on November 15, 1996 at page 14491 by signature below hereby certify that as published such Regulations and Regulations previously called Policies are a true, complete and correct copy of the Regulations Regarding Employment of Certified Personnel, Employment of Non-Certified Personnel, and **PTA** Fundraising Policy previously proposed by the Public School System which, after the expiration of appropriate time for public comment, have been adopted with extensive modification or amendment. By signature below, I hereby certify that the Amended Regulations Regarding Employment of Certified Personnel, Employment of Non-Certified Personnel, and PTA Fundraising Policy attached hereto and published herewith, are a true, correct and complete copy of the Amended Regulations Regarding Employment of Certified Personnel, Employment of Non-Certified Personnel, and PTA Fundraising Policy adopted by the CNMI Board of Education. I further request and direct that this Notice and Certification of Adoption be immediately published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of July, 1997 at Saipan, Commonwealth of the Northern Mariana Islands.

Don A. Farrell

Chairman, CNMI Board of Education

# ARONGORONG ME APPELÚGHÚLÚGHÚL <u>ADOPTION</u> REEL LLIIWELIL ALLÉGH MELLÓL <u>PUBLIC SCHOOL SYSTEM</u>

Ngaang, Don A. Farrell, Chairman-nil CNMI Board of Education, Ikke arongaawow Allegh kkaal me Allegh kkewe elo mwo bwe Aweeweel 1161 Angaang reel Certified Personnel, Angaang reel Non-Certified Personnel. me PTA Fundraising a pobliikaalong 16 Commonwealth Register Vol. 19. No. 4 16 maramal Elúwel(August) 15th, 1997 reel peigh 15234 ngali 15312 me Vol. lb. No. 11 llol maramal Aremwoy(November) 15th. 1996 reel peigh [449], reel signature ve elo faal sángi milleel e appelugh ló meeta kkewe e póblijka bwelle reel Allégh kkaal me Allégh kkewe elo mwo bwe Aweewe alongal e ellet me scheescheel me e welewel\_kopivaal Allegh kkaal rel mille Angaang reel Certified Personnel Angaang reel Non-Certified Personnel, me Alleghul PTA Fundraising ighiwe efféerétá mellól Public School System me, mwiril tittilóól ótol isiisilongol mangemang ngare tip mereer toulap, a takkal adopted reel lapalapal lliiwel Reel signature ve an faal. I appelughul bwe Lliiwel kkaal reel Alleghul Angaang reel Certified Personnel, Angaang reel Non-Certified Personnel, me PTA Fundraisina (NMI affatal bwe Arongorong yeel m Board of Educational tittimigori m e e Appelüghülüghül Adoption ebwe ghutchül pobliikaalong 1161 CNMI Commonwealth Fegistrar

I akkapalio faal mwuttaal ruturut bwe alongal milikkaal nge e ellet me welewel bwal reel akkapal yeel e appelughúló liól rál ye 28th maramal Wuun(<u>Juiy</u>). 1997 mewóól Seipel <u>Commonwealth Metawal Wóól Falúw Kka Marianas.</u>

Farrell

Chairman, Board of Education

#### NUTISIA YAN SETTEFIKASION PUT I MA ADAPTAN I MA AMENDAN IREGULASION SIHA PUT I SISTEMENESKUELAN PUPBLIKU

GUAHU, si Don A, Farrell, i Chairman i Kuetpon Edukasion CNMI ni lumaiaknos i regulasion yan regulasion sihn ni mangginen manma agang planon aksion put Ma Emplehan i Manma Settefika siha na Petsonat, Ma Emplehan i ti Manma Settifika siha na Petsonat, yan Manrikohen Fondo PTA ni manma pupblika gi halom i Rehistran Commonwealth Baluma 19. NUmiru 14 gi Abrit 15, 1996 gi pahina 15234 asta i pahina numiru 15312, pan baluma 18, numiru 11 gi Nubembre 15, 1996 gi pahina 14491 entre i finitma ku gi sampapa ginen este ha settefika na komu ma pupblika ayu siha na Regulation yan Regulation siha ni mangginen manma agang Planon Aksian manmagahet, complidu yen dinanche na kopian i Reguiasion siha Put Ma Emplehan i Manma Settifika siha na Petsonat, Ma Emplehan i ti Manma Settifika siha na Petsonat, yan Planon Aksion Put Manrikohen Fondon PTA ni gine ma proponi ni Sisteman Eskuelan Pupbliku ni, despues di uttimon i propio na tiempo para komenton pupbliku, manma adapta yan unos kuanto siha na tinilaika osino amendasion siha. Entre i Finitma-ku gi sampapa', hu settefika ginen este na i Inamenda na Regulasion put Ma Emplehan i Manma Settefiku siha na Petsonat, Ma Emplehan i ti Manma Sttifiku siha na Petsonat, yan Planon Aksion Manrikohen Fondon PTA ni manchechetton yan este yan ma pupbliku yan este manmagahet, dinanche yan complidu na kopian i Inamenda na Regulasion siha put Ma Emplehan i Manma Settefiku siha na Petsonat, Ma Emplehan i ti Manma Sttifiku siha na Petsonat, yan Planon Aksion Manrikohen Fondon PTA ni manma adapta ni Kuetpon Educasion i CNMI. Hu rikuesta put mas yan dirihi na este na Nutisia yan Settefikasion Adaption u fanma pupblika ensigidas gi halom i Rehistran Commonwealth.

Hu diklara gi papa' penan chatmanhula' that i mansangan magahet yan dinanche yan na este na deklarasion ma cho'gue gi Juliu 28, 1997 gi Saipan, Commonwealth i Sangkattan siha na Islas Mariana.

Don A. Farrell

hairman, CNMI Board of Education

#### ADOPT WITH AMENDMENTS

#### POLICIES

703.6 PTA Fundraising(published 1 1/96 CR) 703.7 PTA Fundraising

#### CERTIFIED PERSONNEL REGULATIONS (published 4/97 CR)

- 1103 The Interview
- 1104 Background Investigation
- 1202 The Decision
- 1302 The Contract Form
- 1402 Term of Employment
- 1403 Dates of Instruction
- 1404 Assignment Flexibility
- 1504 Notification of Non-Renewal
- 2203 Intermediate Certificate
- 2302 Application for Basic Certificate
- 3103 Medical Esam at Start of Contract
- 35 10 Discrimination
- 6102 Discrimination and Harassment Prohibited
- 7301 Purposes of Leave
- 7302 Annual Leave
- 7303 Sick Leave
- 7309 Maternity/Paternity Leave
- 73 15 Advance Annual Leave
- 73 16 Advance Sick Leave
- Exhibit A Application for Certified Employment
- Exhibit B Intent to Offer Certified Employment Letter
- Exhibit C Employment Con tract for Cert ified Personnel

NON-CERTIFIED PERSONNEL REGULATIONS (published 4/97 CR)

- 1202 Initiation of Recruitment Process
- 1205 Announcement of Vacancy
- 1206 Announcement Period, Extention
- 1212 Provisional Appointments
- 1213 Acting Appointments
- 1402 The Contract Form
- 1604 Notification of Non-Renewal
- 2103 Medical Examination at Start of Contract
- 2509 Discrimination
- 5102 Discrimination and Harassment Prohibited
- 6301 Purposes of Leave
- 6302 Annual Leave
- 6303 Sick Leave
- 6309 Maternity/Paternity Leave
- 6315 Advance Annual Leave
- 63 16 Advance Sick Leave
- Exhibit A Application for Non-Certified Employment
- Exhibit C Employment Contract for Non-Certified Personnel

703.6 **PTA** FUNDRAISING. While the PSS recognizes that school and local jurisdiction PTA organizations are entities <u>usually ncon-profit</u> corporations) which are incependent from the PSS and the Board of education, it also recognizes that these **PTA's oftentimes** use the PSS's various school names or good will in the community in order to raise funds, While the PSS recognizes the independence of these organizations it also believes that they must live up to the standards of being the quasi-public entities that they are. The PSS therefore has an interest in ensuring that money raised and activities nlanned by the **PTAs** are done in a manner which will not reflect poorly upon the PSS's good name in the CNMI community.

703.7 Therefore. the Commissioner of Education. in consultation with various PSS Staff and PTA members. is reauired to issue financial. open records. ethical and any other necessary reauirements which the various PTAs must follow in order to be allowed to use the PSS's or any of our schools' names for fundraising or other activities. It is anticipated that appropriate accounting: and financial recordkeeping practices will be stringently enforced by the PSS's Internal Auditor. Appropriate legal action may be taken against PTAs which do not follow the Commissioner's guidelines.

## THE FOLLOWING ARE AMENDMENTS TO THE COMMONWEALTH OF THE NORTHERN MARTANA ISLANDS PUBLIC SCHOOL SYSTEM REGULATIONS FOR THE EMPLOYMENT OF <u>CERTIFIED</u> PERSONNEL.

The following amendments only apply to the sections and subsections specifically listed. If a section or subsection is not specifically included it is not changed. For instance, \$1103(c) below is the only subsection changed under \$1103. \$1103(a) and (b) remain unchanged.

#### CHAPTER 1: THE HIRING PROCESS

§1103, <u>The Interview</u>.

c. The PSS Recruiter shall obtain from the applicant, at the minimum, a resume and a completed application form at the interview. The application form that shall be used is Exhibit "A"" at the end of these regulations.

§1104. Background Investigation.

c. Criminal Record Clearance: The Human Resources Officer shall require new employees to provide the results of an inquiry on behalf of the Board of Education through the Department of Public Safety and/or the Clerk of Court of their local jurisdiction. This inquiry shall be made only after receiving a signed waiver on the application form. The Human Resources Officer shall also search the records of the National Association of State Directors of Teacher Education and Certification Clearing House for the past record of the applicant.

A more complete national criminal records search by the Federal Bureau of Investigation, or a similar federal law enforcement agency, using the applicant's fingerprints will later be commenced only upon extending an offer of employment and the employee's arrival in the CNMI, and the results, due to the time involved, shall be used in determining the employee's eligibility for certification.

§1202. The Decision.

c. In the event that the Human Resources Officer determines that an offer of employment should be made, an Intent to Offer Employment Letter, filled out completely, shall be provided to the applicant, and a copy provided to the recruiter. The form of this letter is shown as Exhibit "B" at the end of these regulations.

§1302. The Contract Form.

a.(1) In the case of an off-island initial hire, the Off-Island Hire Terms and Conditions, Exhibit "D" found at the end of these regulations, shall be incorporated into the Employment Contract, physically attached to it, and completely filled out (with the exception of the names of the dependents of the applicant who will reside with the applicant in the CNMI).

The exact off-island benefits and conditions for each employee are to be determined by reviewing the employee's initial contract with the PSS. The off-island benefits and conditions as set forth in the original cannot be changed by subsequent contracts unless the employee expressly agrees in writing to waive them.

(i) for purposes of these regulations "initial contract" means the first contract entered into between the employee and the PSS. If an employee resigns from employment with the PSS and subsequently returns to work for the PSS, initial contract shall be defined as the first contract entered into upon the employee's return to work.

b. The job application, resume, and a job description shall be attached to the initial contract of all employees. These documents do not need to be attached to contracts for renewal of employment.

§1402. <u>Term of Employment</u>. Employment contracts shall be for a two year term; however, in special circumstances the Commissioner may approve a contract for a lesser term. CNMI retirees who have received retirement benefits may not be employed for a period in excess of (60) sixty calendar days in any fiscal year.

91403. Dates of Instruction.

a. Employment contracts shall require instructional services for three hundred and eighty (380) days. The 380 days shall be split into two (2) one hundred ninety (190) day periods. The starting and ending dates of these periods shall not be set forth in the contract, but the teacher or librarian shall be given at least thirty (30) day advance notice of the start of any period in which (s)he is required to teach or serve as a librarian. All possible effort will be made by the PSS to give notice as early as practicable. Substitute teachers shall be assigned work on a daily basis. Teachers or Librarianas who are hired for a period of less than two years shall have the number of days they must teach or serve as a librarian reduced proportionally.

\$1404. <u>Assignment Flexibility</u>. The Commissioner, after consulting with the Principal, has the discretion to move teachers or librarians in and out of multi and single-track systems, transfer teachers from one track to another, transfer teachers to other schools in emergency situations, change the subject matter to be taught and change the grade of students taught as the Commissioner deems to be in the best interests of the Public School System and its students and staff.

a. Certified contracts shall specify the school at which the teacher or librarian will be teaching during the term of their contract. A teacher or librarian may not be required by the PSS to teach at a school not included in Section I .a of their personnel contract except in emergency situations.

b. Certified contracts for elementary school teachers shall state whether the teacher will be required to teach either;

i. Early Childhood through third grade, OI

ii. Fourth through sixth grade.

c. Certified contracts for Junior High School, Middle School, or High School teachers shall state the subject matter(s) that they will be required to teach. This section shall not be construed to limit the PSS from requiring a teacher to teach multiple subjects.

d. A teacher or librarian may not be required to teach a grade/subject matter more than thirty-three percent (33%) of the time if it is not included in section 1 .e of their personnel contract. For example, a teacher on a one-hundred and eighty day, six period per day, instructional calendar may not be required to teach more than sixty days per year or, in the alternative, two periods per day of a grade/subject matter not listed in section I .e of their personnel contract.

e. Schools, grades or subject matter(s) to listed in section 1.e of the contract may be changed during the term of a contract only by mutual agreement between the PSS and the teacher.

f. Subsections a. through e. of this section do not apply to CNMI retirees, substitute teachers, or substitute librarians.

§1504. <u>Notification of Non-Renewal</u>. 'The PSS will notify employee in writing at least ninety (90) calendar days in advance if i t intends to not renew that employee's personnel contract.

## **CHAPTER 2: CERTIFICATION OF TEACHERS AND LIBRARIANS**

§2203. Intermediate Certificate.

a. Track I : Applicant has a prior college level education or related services degree: (1) NMI History (HI 255), and (2) Cultural Seminar.

92302. Application for Basic Certificate.

a. All teachers or librarians must tile an application for a teacher or librarian certificate immediately after beginning employment with any school in the CNMI. The form to be used for the application must be filled out completely and the form may not be altered in any manner. The form to be used is Exhibit "E" Found at the end of these regulations. The employee shall sign the form in the Commonwealth under penalty of perjury. The form shall be filed within 14 days of the commencement of the contract period at the office of the Board of Education.

b.(1) the results of a medical examination as provided for in § 3 103 hereof.

## CHAPTER 3: STANDARDS OF CONDUCT FOR EMPLOYEES

§3 103. <u>Medical Exam at Start of Contract</u>. Upon the execution of an employment contract, the employee shall be required to undergo a physical examination at a health care provider acceptable to the Human Resources Officer prior to the commencement of the contract term. The results of the examination shall be provided to the Human Resources Officer prior to the commencement of the contract term and to the Board of Education pursuant to § 2302 hereof.

§3510. <u>Discrimination</u>. Employees shall not participate in, or permit others to engage in, any act of discrimination against students or coworkers as a consequence of that person's sex, sexual orientation, race, color, religion, national origin, age, disability, or in retaliation for the exercise of any of these listed rights. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, employees are required to treat all persons equally.

## CHAPTER 6: EQUAL EMPLOYMENT OPPORTUNITY

§6102. <u>Discrimination and I larassment Prohibited</u> No employee may discriminate or harass another person on account of that person's sex, sexual orientation, race, color, religion, national origin, age, disability, or in retaliation for the exercise of any rights protected by this chapter.

## CHAPTER 7: EMPLOYMENT BENEFITS

97301 Purposes of Leave.

The purpose of providing leave to PSS employees is to allow them personal time to take care of non-PSS related business, to relax, and to recuperate from illness or injury. The importance of an employee being allowed time to take care of personal business, to relax, and to recuperate from illness or injury is recognized by the PSS. Employee's whose personal lives are in balance are better able to handle the requirements of their job at the PSS. annual leave of up to a maximum of one-hall f of the total earnable leave credits for one year from the date the application is made. Subsequent earnings shall serve to replace the amount of advance leave granted and taken. An employee shall not be granted advance annual leave unless they have already exhausted all of their annual leave.

97316 <u>Advance Sick Leave</u>. The Commissioner of Education may, for good reason, grant an employee advance Sick leave of up to a maximum of one-half of the total eamable leave credits for one year from the date the application is made. Subsequent earning shall serve to replace the amount of advance leave granted and taken. An employee shall not be granted advance sick leave unless they have already exhausted all of their sick and annual leave.

## 97302 Annual Leave.

d. Employees generally may use their annual leave when and how they wish, so long as they request to use it a reasonable amount of time in advance of the intended use date. However, supervisors may deny an employee's request to use annual leave if there is a rational basis reasonably related to a legitimate concern or interest of the PSS or its students or staff for doing so.

## 97303 Sick Leave.

a. Certified employees who have been contracted with by the PSS for a period of three months or more are eligible for sick leave with pay. Sick leave shall accrue for Certified employees at the rate of one and one-half hours per pay period. Sick leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten week days of the pay period; otherwise there shall be no accrual for that pay period. Sick leave accumulated over two-hundred hours shall be lost or may be donated to the sick-leave bank. Sick leave shall have no cash value at any time and unused portions shall carry over from year to year.

b. The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if (s)he and/or his/her immediate family are under a doctor ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment. Written verification of employee claims such as doctor's notes may be required by the employee's direct supervisor in their discretion prior to approving payment for the use of sick leave. It is the employee's responsibility to provide such verification, not the supervisor's,

c. Whenever possible, sick leave shall be requested for in advance of when it is needed and medical appointments shall be scheduled on an employee's own time. Except in emergency situations sick leave shall always be requested by the employee before 5:00 A.M. of the day it is to be used.

d. The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of their sick and annual leave already. The Commissioner is hereby vested with the power to create the policies needed to regulate the universal sick leave pool.

e. Sick leave records shall be retained for a period of' three years after the employee separates from the PSS. If the employee becomes reemployed during that three year time period the sick leave balance shall be recredited to the employee. If the employee does not again begin employment with the PSS with in three years of separation the sick leave shall be lost.

§7309 <u>Maternity/Paternity</u> Leave. Maternity/Paternity leave may be granted by the Commissioner of Education to an employee who is the father or mother of a newborn child or is the father or mother of a newly adopted child. A maximum of 80 hours of paid maternity/paternity leave may be granted to an employee in any calendar year. Maternity/paternity leave may only be used within one month after the birth or adoption of a child. Please also see \$73 1 I, Family and Medical Leave.

\$73 15 <u>Advance AnnualLeave</u> The Commissioner of Education may, for good reason, g-ant an employee who has been employed by the **PSS** for over three years, advance

## PUBLIC SCHOOL SYSTEM P.O. BOX 1370, SAIPAN, MP 96950

## POLICY OF NONDISCRIMINATION

Public School System ("PSS") is an equal opportunity employer dedicated to a policy of nondiscrimination in employment upon any basis, including a person's sex, sexual orientation, race, color, religion, national origin, age, disability, or retaliation for the exercise of any these rights. In reading and answering the following inquiries, please keep in mind that none of the questions are intended to imply any limitations, illegal preferences, or discrimination based upon any information that is not job-related.

This application will be given complete consideration, but its receipt does not imply that you will be employed. Please fill it out completely and do not alter it. You must also submit a resume with this application.

#### **APPLICATION FOR CERTIFIED EMPLOYMENT**

## PERSONAL DATA

Name	Social Security	/ No	
Current Address:			
Street Address/Box Number	City	State	Zip
Permanent Address:			
Permanent Address:(Leave blank if the same as ye	our current addr	ess)	
Daytime Phone at Which You Can Be Reached: (	)		
Evening Phone at Which You Can Be Reached: (	I		
Are you a CNMI Government retiree?		Yes	_No
POSITION(S) APPLIED FOR:			
Type of Work Desired:Full Time Par	t TimeT	emporary (check	one)
Sal at-y Desired: \$per	_ (monthly/yea	r/hour)	
ONWEALTH REGISTER VOLUME 19 NUMBER	08 AUGUST	15, 1997	PAGE 15

## GENERAL INFORMATION

1. Have you ever applied for a job with PSS in the past? If yes, please give the date of application and the position for which you applied. State your name at the time, if different from your present name.	Yes	No
2. Have you ever been employed by PSS in the past? If yes, please give dates of employment, and position(s) held. State your name while employed, if different from your present name.	Yes	No
3. If hired, will you able to work during the usual hours and days required for the position(s) for which you are applying?	Yes	N o
<ul><li>4. Do you have any commitments to another employer that might affect your employment with PSS?</li><li>If yes, explain on a separate sheet of paper and attach il.</li></ul>	Yes	No
<ul> <li>5. If hired, can you furnish proof that you at-e 18 years of age or older?</li> <li>If no, explain on a separate sheet of paper and attach it.</li> </ul>	Yes	N o
6. If hired, can you furnish proof that you at-c eligible to work in the Commonwealth of the Northern Mariana Islands as a resident worker (U.S. citizen, national, spouse of a U.S. citizen or national, or Compact of Free Assn. citizen)"?	Yes	N o
7. Do you have a teaching certificate?	Yes	N o
8. Have you ever had <i>any</i> adverse action or <i>any</i> disciplinary action with regard to your teaching certificate or employment in any teaching capacity taken or proposed against you?	Yes	N o
9. Do you have any language abilities (such as reading or speaking a language other than English) that might help you perform the job(s) for which you are applying?	Yes	N o

<ul> <li>10. Have you ever been convicted, pled guilty, or pled</li> <li>"no contest" to any felony or misdemeanor??</li> <li>Note: a "yes" answer does not automatically disqualify</li> <li>you front employment since the nature of the offense, the</li> <li>date it was committed, and the type of job for which you</li> <li>are applying will be considered.</li> <li>'If yes, explain on a separate sheet of paper and attach it.</li> </ul>	Y	<u>e</u>	<u>s</u> No
11. Have you been charged with a crime that has not yet resulted in a plea of guilty or no contest by you, a trial, or a dropping of the charge:	Va	7	No
Note: a "yes" answer will not automatically disqualify you from employment. If yes, explain on a separate sheet of paper and attach it.	10	, <u> </u>	N o
12. Have you received a copy of the Regulations for the Public School System Employment of Certified Personnel?	Yes	6	N o

## 13. EMPLOYMENT HISTORY

(List Most Recent First)	MAY WE CONTACT YOUR PRESENT EMPLOYER? NO
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From T o
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different from Present Name

COMMOINWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15465

Company Name	Job Title & Duties			
Address	Dates of Employment From <b>TO</b>			
City, State, Zip	Reason for Leaving			
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name			
Company Name	Job Title & Duties			
Address	Dates of Employment From TO			
City, State, Zip	Reason for Leaving			
Supervisor (and phone number, if known)	Your Name When Employed, If Different Prom Present Name			
Company Name	Job Title & Duties			
Address	Dates of Employment From <b>To</b>			
City, State, Zip	Reason for Leaving			
Supervisor (and phone number, if known)	number, if known) Your Name When Employed, 11' Different From Present Name			
Please Account for Any Time you Were Not I imployed (You need not list any unemployment periods of one m	IA fter L leaving School in the Past Ten Years. onth or less.)			
Time Period(s) Reason(s) for Unemployment				
IF YOU WERE UNABLE TO LIST ALL PAST JOBS OR PERIODS OF UNEMPLOYMENT ON THIS FORM, PLEASE ATTACH ADDITIONAL INFORMATION ON A BLANK SHEET OF PAPER.				

## 14. EDUCATIONALDATA

SCHOOLS ATTENDED	NAME OF SCHOOL AND LOCATION (HIGHEST GRADE COMPLETED)	DID YOU GRADUATE? YES N O	DEGREE/ DIPLOMA/ CERTIFICATE	GRADE POINT AVERAGE	MAJOR COURSES OF STUDY
HIGH SCHOOL(S)			DO NOT ANSWER		DO NOT ANSWER
TECHNICAL, BUSINESS OR MILITARY TRAINING					
COLLEGE OR UNIVERSITY					
GRADUATE SCHOOL					
ADDITIONAL J()]3-R[:] EXPERIENCES:	,ATED SEMINARS, SHOR F	COURSES, WOR	KSHOPS, OR OT	ER EDUCATI	ÔNAL

### 15. MILITARY EXPERIENCE

A. Have you served in the U.S. military? \_\_\_\_Yes \_\_\_N o
B. If so, list the branch and highest rank obtained: \_\_\_\_\_\_
C. Dates: From \_\_\_\_\_\_to \_\_\_\_\_
D. Discharge: \_\_\_\_Honorable \_\_\_\_\_Other (explain)
\_\_\_\_\_\_

# 16. REFERENCES: LIST THREE INDIVIDUALS WHO ARE NOT FORMER EMPLOYEES OR RELATIVES

NAME	ADDRESS	PHONE NUMBER OCCUPATION
	n i dendra na marrier con e transme	

17. Please add any additional information (except that which identifies your race, sex, age, religion, national origin, disability or other non-related personal information) that you think may be relevant to a decision to hire you.

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15467

## IMPORTANT

Please Read Each Paragraph Carefully Before Your Interview. You Will Be Asked To Sign Each One To Show Your Consent During the Interview.

#### **Representation That Application Is Filled Out Truthfully:**

By my signature placed below, I promise that the information provided in this employment application and accompanying resume is true and complete, and I understand that any false information or significant omissions may disqualify me from further consideration for employment, and may be justification for my dismissal from employment if discovered at a later date.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Consent to Investigate Criminal Records/Agreement to Notify PSS of Crime Info.:

I authorize the CNMI Public School System's investigation of all statements contained in this application and accompanying resume | understand that this investigation will include obtaining a police clearance from the CNMI Department of Public Safety, if applicable, and a record of arrests and dispositions from the Federal Bureau of Investigation. I also agree to notify the PSS within fifteen days if I should be charged or convicted of any crime, while my job application is pending or, if hired, during my period of employment.

Signature: Date:

Consent to Review License/Credential Records & NASDTEC Records:

I authorize the CNMI Public School System's investigation of all statements contained in this application and accompanying resume by reviewing the records of any state licensing authority under which I currently am, or formerly was, licensed and any record of employment history available from the National Association of State Directors of Teacher Education and Certification Clearing 1-louse.

Signature: \_\_\_\_\_ Date:

#### **Consent to Review** Employment Records:

I authorize the CNMI Public School System (PSS) to contact my present employer (unless otherwise noted in this application form), past employers, past and present co-workers, listed references and review any records of my past or present employment (unless this form indicates that the present employer is not to be contacted) that PSS finds relevant in determining my suitability for the employment position applied for.

I also authorize any person, school, current employer (except as previously noted), past employers, and organizations named in this application form and accompanying resume to provide PSS with relevant information and opinions that may be useful to PSS in making a hiring decision, and I release such persons and organizations from any legal liability in making such statements.

Date: Signature:

**Consent to Physical Examination and Review of Medical Records:** 

I give permission for a complete physical examination by the CNMI Public School System (PSS), including a drug screening exam and r-rays, and I consent to the release to PSS of any and all medical information, as may be deemed necessary by PSS in judging my capability to do the work for which 1 am applying.

Date: Signature:

#### Consent to Drug Testing:

I give permission for the CNMI Public School System (PSS) and its authorized representatives to collect blood, urine, saliva, or hair samples from me and to conduct any necessary tests to determine the presence or use of drugs or controlled substances. Furthermore, I give my consent for the release of the results of such test and related medical opinion to PSS or its authorized representatives. I understand that if I refuse to consent, I may be refused employment, or if already employed, subject to disciplinary action, including discharge from employment.

Signature: Date: THIS IS AN APPLICATION -- NOT A CONTRACT. I UNDERSTAND THAT THIS APPLICATION DOES NOT, BY ITSELF, CREATE A CONTRACT OF EMPLOYMENT. IUNDERSTAND AND AGREE THAT, IF HIRED, MY EMPLOYMENT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE EMPLOYMENT CONTRACT FOR CERTIFIED I'ERSONNEL AND THE RULES AND REGULATIONS OF THE PUBLIC SCHOOL SYSTEM.

Date: Signature: Agreement that C.N.M.I. Law ant! Courts Govern the Application Process:

I agree that the laws of the Commonwealth of the Northern Mariana Islands shall govern all aspects of my applying for a job with the PSS anti that any legal or equitable action I may bring regarding my applying for a job and/or any matters related to this process shall be brought in the Commonwealth of the Northern Mariana Islands Courts of Law only.

Date: Signature:

## A MEDICAL EXAMINATION IS REQUIRED FOR THIS JOB.

IF YOU ARE HIRED, A MEDICAL EXAMINATION WILL BE REQUIRED BEFORE YOU START WORK. IF THE EXAMINATION DISCLOSES MEDICAL CONDITIONS THAT PREVENT YOU FROM SUCCESSFULLY PERFORMING THE ESSENTIAL FUNCTIONS OF THE JOB, PSS WILL ATTEMPT TO MAKE ACCOMMODATIONS TO ALLOW YOU TO WORK. IF NO REASONABLE ACCOMMODATIONS CAN BE FOUND, OR THEY CAUSE AN UNDUE HARDSHIP ON PSS, THE TENTATIVE OFFER OFEMPLOYMENT WILL BE WITHDRAWN.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

## **CERTIFICATION OF PSS RECRUITER**

I hereby certify that I have interviewed \_\_\_\_\_\_ in person or via telephone (circle one) on this date and that(s)he has voluntarily executed the following waivers and notices:

- 1. Representation That Application Is Filled Out Truthfully.
- 2. Consent to Investigate Criminal Records/Agreement to Notify PSS of Crime Info..
- 3. Consent to Review License/Credential Records & NASDTEC Records.
- 4. Consent to Review Employment Records.
- 5. Consent to Physical Examination and Review of Medical Records.
- 6. Consent to Drug Testing.
- 7. This Is An Application -- Not A Contract.
- 8. Agreement that C.N.M.I. Law and Courts Govern
- 9. A Medical Examination Is Required For This Job.

	Executed on this	_day of	, 199 , at _		_(city),
			(state, territory	or commonwealth).	
Dated:			<u> </u>		

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15470

#### FOR YOUR INFORMATION

#### Read the rules and regulations for employment:

Many of the questions you may have about employment by the Public School System will be answered in its employment regulations. These regulations, which you have received, explain the hiring process in chronological order from recruitment and interviewing, the employment decision, the employment contract, and the contract period to renewal. Teachers and librarians will have to be certified in the CNMI for their contracts to be valid. That process is described in the regulations. The regulations also set the standards of conduct for employees, discipline of employees and employee grievances. Please take the time to read them before coming to your interview. They will tell you a lot about our attitude towards the job for which you are applying.

#### What if your interview goes well:

In the event that the PSS Recruiter determines that he or she will recommend you for employment, then you will be asked to provide a certified copy of your teaching certificate, if applicable, to the PSS Recruiter along with a local criminal records clearance. In some cases you may also be asked to arrange to have your post-secondary institution(s) send an official copy of your transcript of courses, grades, and degrees awarded to the Human Resources Officer at the CNMI Public School System, P.O. Box 1370, Saipan, MP 96950.

The Recruiter will verify your work experience and contact your present or former supervisors and co-workers to determine your suitability for employment. The Human Resources Officer on Saipan shall seek a police clearance if a local CNMI resident applicant and shall obtain a National Association of State Directors of Teacher Education and Certification clearance for all applicants.

#### Your first notice -- the Intent to Offer Employment Letter:

If the decision is made to offer you employment, you will be notified by receiving an Intent to Offer Employment Letter. This letter is not a contract of employment or an offer of employment; it is notice that PSS intends to make you an offer of employment in the near future. This offer may not be made despite these intentions for various reasons, such as budgetary restraints.

#### When am I employed exactly?

If your application process continues to proceed favorably you will next receive an executed contract of employment. You are to sign it, keep a copy and return the original. At this point, you have been hired. However, the contract is conditioned upon a medical examination that discloses no conditions that will prevent you from performing the essential functions of the job or that will pose a significant risk of substantial harm to your health or safety or that of other people in the workplace that cannot be reasonably accommodated or that will cause an undue hardship on PSS. Before you commence your contract, you must undergo and submit satisfactory documentation of the results of the physical examination.

#### FOR YOUR INFORMATION

#### Read the rules and regulations for employment:

Many of the questions you may have about employment by the Public School System will be answered in its employment regulations. These regulations, which you have received, explain the hiring process in chronological order from recruitment and interviewing, the employment decision, the employment contract, and the contract period to renewal. Teachers and librarians will have to be certified in the CNMI for their contracts to be valid. That process is described in the regulations. The regulations also set the standards of conduct -for employees, discipline of employees and employee grievances. Please take the time to read them before coming to your interview. They will tell you a lot about our attitude towards the job for which you are applying.

#### What if your interview goes well:

In the event that the PSS Recruiter determines that he or she will recommend you for employment, then you will be asked to provide a certified copy of your teaching certificate, if applicable, to the PSS Recruiter along with a local criminal records clearance. In some cases you may also be asked to arrange to have your post-secondary institution(s) send an official copy of your transcript of courses, grades, and degrees awarded to the Human Resources Officer at the CNMI Public School System, P.O. Box 1370, Saipan, MP 96950.

The Recruiter will verify your work experience and contact your present or former supervisors and co-workers to determine your suitability for employment. The Human Resources Officer on Saipan shall seek a police clearance if a local CNMI resident applicant and shall obtain a National Association of State Directors of Teacher Education and Certification clearance for all applicants.

#### Your first notice -- the Intent to Offer Employment Letter:

If the decision is made to offer you employment, you will be notified by receiving an Intent to Offer Employment Letter. This letter is not a contract of employment or an offer of employment; it is notice that PSS intends to make you an offer of employment in the near future. This offer may not be made despite these in tentions for various reasons, such as budgetary restraints.

## When am I employed exactly?

If your application process continues to proceed favorably you will next receive an executed contract of employment. You are to sign it, keep a copy and return the original. At this point, you have been hired. However, the contract is conditioned upon a medical examination that discloses no conditions that will prevent you from performing the essential functions of the job or that will pose a significant risk of substantial harm to your-health or safety or that of other people in the workplace that cannot be reasonably accommodated or that will cause an undue hardship on PSS. Before you commence your contract, you must undergo and submit satisfactory documentation of the results of the physical examination.

## What about licensing?

Within 14 days of starting your contract, you must submit to the Board of Education a completed application for a teacher or librarian basic certificate. The results of your physical examination, a statement from a state or national education agency that you have a license and that it has not been suspended or revoked, two passport-size color photographs and completed fingerprint cards must be submitted al ong with a completed application form. These cards will be provided to the Federal Bureau of Identification (FBI) to do a more thorough criminal records check to be considered in determining whether to issue you a certificate as a teacher or librarian. A decision by the Certification Committee will rendered within *60* days of the filing of a completed application along with all necessary documentation. During the interim, the Human Resources Officer will grant you a *temporary* certificate so that you may work. The basic certificate will be valid for a period of time equaling the term of your initial contract with the PSS, unless earlier revoked or suspended.

### What benefits are given to persons who have to move to accept employment?

Persons with a point of hire that is different than the island assigned for work are referred to as "off-island hires." These persons will be provided a contract addendum entitled "Off-Island Hire Terms and Conditions" to execute at the same time as the contract. You may ask to see the addendum during your interview. As the benefits frequently change, the addendum in use during your interview will provide the most accurate information.

One-way transportation to the C.N.M.I. is provided to off-island hires. Airfare from the point of hire to the island assigned for work and three clays of hotel accommodations and meal allowances are provided for employees anti up to three of their dependants who do not already have a place to stay on island Housing allowances are no longer provided to Certified employees. There are a number of conditions attached to these benefits which are explained in the contract addendum.

#### *How do I find out more about the CNMI?*

A commercial Internet service provider maintains a home page for the CNMI on the World Wide Web at *http://www.saipan.com*. You can also write to the Human Resources Officer for the Public School System at P.O. Box 1370. Saipan, MP 96950.

#### \*\*\*\*\*\*

You may tear off these last two pages and keep them for your information. No handwritten or oral changes to the matters herein are authorized. The information provided is for your convenience. The Public School System expressly reserves the right to change the regulations, procedures and contract at any time.

## Intent to Offer Certified Employment Letter (Date)

Applicant's Name Street Address City, State, Zip Code

#### Re: Intent to Offer Certified Employment

Dear (Applicant):

Congratulations. This letter is to inform you that the CNMI Public School System intends to make an offer of employment to you. This letter is not, however, the offer of employment. The actual offer of employment will be made when you receive a contract of employment with only your signature block left blank. You can accept that offer by signing the contract without making any alterations to it.

The purpose of this letter is 10 notifyyou that your contract is being prepared and routed through the Public School System. Before you make any major decisions, you should know that there is always a possibility that your contract may not be approved due to budget restraints or other unforeseen problems. It is best to wait until you have a signed contract in hand.

If you have any questions, please do not hesitate to contact me via telephone at (670)664-3700 or via facsimile at (670)664-3707.

Very truly yours,

PSS Human Resources Officer

#### EMPLOYMENT CONTRACT FOR CERTIFIED PERSONNEL

THIS CONTRACT FOR SERVICES is made and entered into upon the execution of the last of all the required signatures to this contract, by and between the **PUBLTC SCHOOL** 

SYSTEM OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,

P.O. Box 1370, Saipan, MP 96950, a non-profit corporation responsible as the state education agency for pre-school, elementary and secondary education at 1 CMC § 2251, hereinafter referred to as "PSS," and \_\_\_\_\_\_

Address: \_\_\_\_\_\_, hereinafter referred to as "Employee."

terms and Conditions of Employment

1. EMPLOYMENT: PSS hereby employs the Employee to fulfill the duties of the following job classification: \_\_\_\_\_\_ The requirements of this position are described in the attached Job Description, which has been read and is understood by both parties.

a. Location: These services are to be performed primarily on the island of \_\_\_\_\_\_, at \_\_\_\_\_\_ school.

b. Compensation Level: The Employee shall receive an annual salary of \$\_\_\_\_\_\_\_and shall be initially classified at Grade \_\_\_\_\_\_\_

c. Term: Employment shall commence on the \_\_\_\_ day of \_\_\_\_\_, 199\_and shall continue to the \_\_\_\_\_, 199\_

d. Retiree Limitation: The Employee \_\_\_\_\_ is \_\_\_\_ is not a CNMI Government retiree who has received retirement benefits from the government. If the Employee is such a retiree, then the maximum number of calendar days of employment per fiscal year must be indicated here for this Contract to be valid:

e. Grades/Subject matter(s) generally to be taught:

2. OBLIGATIONS: Employee hereby agrees to be responsible for and perform all the acts and duties pertaining to the Employee's employment as a teacher or librarian during the assigned teaching period including but not limited to, the Following

a. To teach on a full-time basis, in a faithful and efficient manner, those grades and subjects as are assigned from time to time by PSS through its Commissioner and its subordinates.

b. To conform to all lawfulrules, regulations, and policies of the Board of Education.

c. To make such reports as may be required by the Commissioner of Education or other members of the administrative staff.

d. To initially qualify, and remain qualified throughout the contract term, for certification as a teacher or librarian, as applicable.

e. To perform such other and further duties as required by the Commissioner of Education and his/her subordinates as may be assigned from time to time consistent herewith.

3. EMPLOYEE'S RESUME AND APPLICATION: Employee hereby represents that all the statements made in the Job Application and the Employee's Resume are truthful and accurate. PSS has relied on these statements in making the decision to offer employment and in certifying the Employee. Any material omissions or misstatements will be a ground for termination and for revoking the Employee's certification. If this is an initial contract as defined by §1302(a)(1)(i) of the Certified Regulations, the Job Application, Job Description, and Employee Resume are hereby attached and incor porated by this reference into this Contract. In the event that this Contract is for renewal, the Job Application and Employee Resume attached to the Employee's first Employment Contract for Certi lied Personnel are herein incorporated by reference as though attached hereto unless the Employee chooses to submit and attach either a new Job Application or a new Employee Resume, or both.

4. WORK SCHEDULE: The Employce shall work three hundred eighty (380) days, as defined by §1403 of the Certified Regulations, during a two-year contract term as assigned by PSS. For contracts of less than a two year period, the required number of work days shall be pro-rated at the same ratio of work days to off-track days. It is expected that these days of work

shall be performed on weekdays. For other days to qualify, permission must be received in writing in advance from the Commissioner. PSS may, in its sole discretion, assign the Employee to a multi-track school year, a single-track school year, a conventional school year, or to two school years in immediate succession, of any of the three types, during the contract term.

5. COMPENSATION: As compensation for the services to be provided hereunder, Employee shall be paid the total sum stated in §1(b) per annum for two years, which total sum shall be payable in 52 equal bi-weekly installments. If the contract is for less than two years the employee shall be paid a prorated portion thereof as determined by the number of days to be worked multiplied by 1/190th of the annual salary listed in § I(b). In the event that the Employee is discharged for sufficient and just cause in accordance with the PSS regulations, or shall have their Teacher's or Librarian's Certificate suspended or revoked, the Employee shall not be entitled to any compensation from and after such dismissal or certificate suspension.

a. Within-Grade Increase: PSS may, in its sole discretion, grant an approximately 5% within-grade increase, in salary during the second year of this contract if the Employee receives a satisfactory job evaluation for services performed during the first year.

b. Overtime: The Employee shall not be eligible for overtime pay or compensatory time. Work done by PSS certified personnel is professional in nature and is paid for on a salary basis.

6. RESTRICTION ON HIRING OF CNMI GOVERNMENT RETIREES AND SUBSTITUTE TEACHERS AND LIBRARIANS: Pursuant to I CMC § 8392(c), any person who has retired and received retirement benefits from the Government of the Northern Mariana Islands who is hired by PSS cannot be employed for more than sisty (60) calendar days in any fiscal year without forfeiting any retirement benefits. The Employee understands that this Contract does not change that law.

a. The following Contract modifications apply to CNMI Government Retirees, Substitute Teachers, and Substitute Librarians: (1) Section I (a) &(e): Employee agrees to work at any location and to teach and grade(s) and/or subject matter(s) assigned by the PSS and agrees that these assignments may be changed on a day-to-day basis depending upon the needs of the PSS.

(2) Section l(b): Compensation shall be paid on a daily basis for each calendar day, or portion of a calendar day in which the Employee is assigned to work. The compensation for one day's work shall be 1/1 90th of the annual salary listed in § 1 (b).

(3) Section 4: The number of days to be worked shall be determined by theHuman Resources Officer up to a maximum number of days per fiscal year as written in § l(d).Work is assigned on a daily basis

(4) Section 5: Compensation shall be paid bi-weekly for any week in which work has been assigned and performed. No within grade increases shall be awarded because of the limited nature of this Contract. The Employee shall not be eligible to receive overtime pay or compensatory time leave.

(5) Section 9: No insurance benefi Is are granted under this Contract, nor are any existing rights to insurance coverage or benefi Is affected hereby.

(6) Section 10: No right to receive any leave is granted under this Contract.

(7) Section 11: There shall be no liquidated damages awarded to PSS in the event of a resignation.

7. WORK ASSIGNMENT: Employee may be assigned by PSS to teach at any school, to teach any grade, or to teach any subject matter as listed in § I (a)&(e) of this contract, subject to the requirements set forth in § 1404 of the Certified Regulations.

8. RENEWAL,: There are no tenured employment positions offered by PSS. This contract is only for the term stated in §1(c) and no right IO renewal is granted, expressly or impliedly, by PSS to the Employee regardless of whether job performance during the contract term is satisfactory. An offer for continued employment is completely within the discretion of PSS. If the Employee wishes to be considered for an additional contract period, then notice should be given to PSS six (6) months in advance of the termination date for consideration.

**9. INSURANCE BENEFITS:** The Commonwealth government, not the PSS, makes available health insurance and life insurance coverage for its employees. These are group policies in which the Employee, at his or her discretion, may wish to participate. Participation is on a shared basis where the employer pays a portion of the insurance premium and the employee pays the remainder. The Commonwealth government permits PSS employees to participate in these group plans. If the Employee chooses to participate, then PSS will contribute to premiums on the same basis as the Commonwealth government contributes for its employees.

**10. LEAVE:** An employee who has been employed by PSS for six years or less shall accrue annual leave at the rate of two (2) hours per pay period. An employee who has been employed by PSS for more than six years shall accrue annual leave at the rate of three (3) hours per pay period. The use of annual leave is subject to the conditions set forth by regulation or executive order. One hour of unused annual leave will be paid for at the rate of 1/2,080th of Employee's annual salary upon the accumulation of 360 hours of annual leave or upon Employee's separation from PSS.

11. **RESIGNATION:** The Employee may resign during the term of this contract only if accepted or agreed to by PSS. It is the practice o!' PSS not to accept any resignation unless or until a satisfactory replacement assumes the Employee's duties.

a. If the Employee abandons or leaves employment during the contract term within the first two years of employment with PSS without the concurrence of PSS, the Employee shall pay Ten percent (10%) of the Employee's annual salary, as set forth in section 1 (b) of this contract, as liquidated damages together with any attorneys' fees or costs incurred by PSS to collect the same. This amount may be withheld from any payments due to the Employee from PSS, including, but not limited to, paychecks or lump sum annual leave payments. The parties stipulate and agree that the amount so fixed is a reasonable forecast of just compensation for the harm caused by such breach and the harm caused by the breach is one that is incapable or very difficult of accurate estimation. This liquidated damages provision shall not be construed to grant the Employee the right to resign. The PSS shall concur with an employee's request to abandon

or leave employment with the PSS **if**; the reason the employee is leaving employment with the PSS is because of the death of their spouse, child, sibling, or parent or because the employee or their spouse, child, sibling, or parent is domiciled with them and suffers from a "serious health condition" as defined by \$73 11 of the Certified Regulations, which cannot be adequately treated in the Commonwealth. By concurring, the PSS agrees not to seek compensation for the ten percent liquidated damages or expatriation expenses owed pursuant to the Off-Island Hire Terms and Conditions.

12. OTHER LAWS AND RULES: This Contract is not intended to set forth all of the various duties and obligations of the parties hereto, but rather is made subject to the PSS rules and regulations, as amended from time to time. The Employee has been presented with a copy of the **PSS's** certified rules and regulations concerning standards of conduct for teachers.

13. SEVERABILITY: The clauses, sentences and parts of this Contract are severable to the extent found to be unlawful or ineffective, by a court of competent jurisdiction, but the illegality or ineffectiveness of any such clause, sentence or part shall not affect any other clause, sentence or part of this Contract. Rather, the remaining provisions hereof shall remain in full force and effect.

14. ENTIRE AGREEMENT: This Contract, together with any exhibits or documents identified or referred to herein, such as the job description and the off-island hire terms and conditions, if applicable, contains the entire agreement of the parties with respect to the matters covered herein as of the date of execution hereof, and no other agreement, statement, or promise made by any party, or to any agent of any party, prior to the date of this Contract shall be binding or valid.

**15. MODIFICATION:** This Contract is not subject to modification except in writing, duly signed by the parties to be charged thereunder.

**16. GOVERNING LAW:** The laws of the Commonwealth of the Northern Mariana Islands and the Regulations for the Public School System Employment of Certified Personnel shall govern the validity, construction, and effect of this Contract. Any action brought for the enforcement of this Contract shall be brought in the courts of the Commonwealth of the Northern Mariana Islands only.

**17. GRIEVANCE PRIOR TO LAWSUIT:** The Employee hereby agrees that prior to filing any legal or equitable claim in court, he or she will first file a grievance with PSS and prosecute it to a conclusion pursuant to Chapter 5 of the Certified Regulations. Furthermore, the Employee agrees to act in good faith in pursuing the grievance remedy. If upon conclusion of the grievance proceedings, the Employee is not satisfied with the determination, then an action at law or equity may be filed in court to remedy the grievance. The Employee understands that this is a limitation on its right to sue and that a lawsuit cannot be filed until complying with this section of the Contract. These requirements do not preclude Employee from filing a complaint with a government agency charged with enforcing provisions of law (such as the EEOC), prior to completing the prosecution of a grievance through the **PSS's** grievance process.

18. OFF-ISLAND HIRE: If the Employee's point of hire was outside of the island which is the place of work assignment in § l(a) and this is the first contract the employee is entering into with the PSS, then the Off-Island Hire Terms and Conditions of Employment, which must be attached hereto, apply to this Contract. Off-island terms and conditions carry over from contract to contract, regardless of whether they are attached to renewal contracts. Employee is not entitled to receive any housing benefits.

**19. FORMATION OF CONTRACT:** This contract form is not valid unless signed by all the parties indicated by the signature blanks. All PSS signatures must be executed lit st. At that time, the Contract form constitutes an offer of employment to the Employee. When the Employee signs the Contract without alteration, a contract of employment is established. Any alteration or modification of this Contract form by the Employee will constitute a rejection of the Contract, regardless of whether or not it is signed by the Employee.

**20. MEDICAL EXAMINATION:** If this contract is not for renewal of employment with the PSS this offer of employment is tentative. A medical examination will be required before the Employee starts work. If the examination discloses medical conditions that prevent

the Employee from successfully performing the essential functions of the job, PSS will attempt to make accommodations to allow the Employee to work. If the examination discloses a medical condition that poses a significant risk of substantial harm to the health or safety of the employee or other people in the workplace, PSS will attempt to make accommodations to allow the Employee to work. In either case, if no reasonable accommodations can be found, or if they cause an undue hardship on PSS, the parties agree that this contract will be void.

IN WITNESS WHEREOF, the parties hereto have executed this Employment Contract on the dates noted by their respective signatures,

#### FIUMAN RESOURCES OFFICER

I hereby certify that this person is qualified for a temporary certificate, that I have received verification of education and teaching experience and a criminal conviction clearance, or their substitute as provided for in the regulations, and that I have correctly classified the Employee and correctly determined the appropriate salary level. This Employee \_\_\_\_\_ is or \_\_\_\_\_ is not an Off-Island Hire entitled to benefits under § 18.

Date:

PSS Human Resources Officer

#### FISCAL AND BUDGET OFFICER

I hereby certify that this position is within the FTE requirement of PSS under the appropriation act of P.L. No. \_\_\_\_\_ and that there are sufficient funds available in Account No. \_\_\_\_\_ for a total annual obligation of \$\_\_\_\_\_ required for this contract.

Date:

PSS Fiscal and Budget Officer

#### LEGAL COUNSEL

I hereby certify that this is the proper contract form for this employment position, that the Commissioner has the legal capacity to execute contracts to employ PSS personnel, that this form has been filled out completely, and that the job description, application, and resume are attached if required.

Date:

PSS Legal Counsel

## **CONTRACTING PARTIES**

FOR PSS:

Date:

COMMISSIONER OF EDUCATION

FOR THE EMPLOYEE:

Date:

EMPLOYEE

The following amendments only apply to the sections and subsections listed. If a section or subsection is not specifically included it is not changed. For instance, §1206(a) below is the only subsection changed under §1206. § 1206(b) remains unchanged.

## **<u>NON-CERTIF'I'ED</u>** REGULATION AMENDMENTS CHAPTER 1: THE HIRING PROCESS

§1202. <u>Initiation of Recrui tment Process</u>. Upon determination that there is a position vacancy and that it will not be filled by a provisional appointment, the Human Resources Officer shall prepare a vacancy announcement in consultation with the supervisor or manager.

§1205. Announcement of Vacancy.

a. Once the signatures of the Fiscal Officer and the Commissioner have been obtained, the Human Resources Officer shall post the vacancy announcement for a period of at least fifteen days. Generally, the vacancy announcement shall be posted on a vacancy announcement board at PSS, on the CNM1 Personnel Office board where vacancy announcements are normally posted, at a similar board at the Northern Marianas College and at the principal's office at each of the public schools.

§1206. Announcement period. Extension.

a. Persons who seek to be interviewed for the job vacancy shall file an application on the PSS form attached to these regulations as Exhibit "A". In handing out application forms, a copy of these regulations shall be attached to the form for the applicant to keep. The Human Resources Officer or its designee may assist applicants in filing their forms.

§1212. <u>Provisional Appointments.</u> A provisional appointment shall be limited to ninety calendar days, and is used to fill what is otherwise a permanent appointment while waiting for the hiring process to create an appropriate eligibility list. The provisions of Sections 1202 through 1210 of these regulations need not be with complied with before a position can be filled on a provisional basis. The Commissioner may authorize extention of a provisional appointment beyond ninety days for a maximum of I SO days when the examination fails to make available an adequate number of qualified candidates. Any person given a provisional appointment must meet the minimum qualifications for the class of position to which they are to be appointed.

\$1213. <u>Acting Appointments</u>. An acting appointment is the designation, in writing, by the Commissioner, that an employee will act for a period of **up** to thirty days in the place of a supervisor while that supervisor is absent. When the supervisor's absence exceeds the initial thirty day period, a new designation shall be made for up to an additional thirty days. This process is to be repeated until the supervisory position is filled permanently, Whenever an acting assignment exceeds ninety consecutive calendar days, the employee shall be temporarily promoted, and compensated accordingly, if (s)he meets the minimum qualification requirements of the position.

§1 402. The Contract Form.

a.(1) In the case of an o-ff-island initial hire, the Off-Island Hire Terms and Conditions, Exhibit "D" found at the end of these regulations, shall be incorporated into the Employment Contract, physically attached to it, and completely filled out (with the exception of the names of the dependents of the applicant who will reside with the applicant in the CNMI).

The exact off-island benefits and conditions for each employee are to be determined by reviewing the employee's initial contract with the PSS. The off-island benefits and conditions as set forth in the original cannot be changed by subsequent contracts unless the employee expressly agrees in writing to waive them.

(i) for purposes of these regulations "initial contract" means the first contract entered into between the employee and the PSS. If an employee resigns from employment with the PSS and subsequently returns to work for the PSS, initial contract shall be defined as the first contract entered into upon the employee's return to work.

b. The job application, resume, and a job description shall be attached to the contract of all employees. These documents do not need to be attached to contracts for renewal.

§1604. <u>Notification of Non-Renewal.</u> The PSS will notify employee in writing at least ninety (90) calendar days in advance if it intends to not renew employee's contract with the PSS.

## CHAPTER 2: STANDARDS OF CONDUCT FOR EMPLOYEES

92103. <u>Medical Examination at Star-t of Contract</u>. Upon the execution of an employment contract, the employee shall be required to undergo a physical examination at a health care provider acceptable to the Human Resources Officer prior to the commencement of the contract term. The results of the examination shall be provided to the Human Resources Officer prior to the commencement of the contract term.

§2509. <u>Discrimination</u>. Employees shall not participate in, or permit others to engage in, any act of discrimination against students or- coworkers as a consequence of that person's sex, sexual orientation, race, color, religion, national origin, age, disability, or in retaliation for the exercise of any of these listed rights. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, employees are required to treat all persons equally.

#### CHAPTER 5: EQUAL, EMPLOYMENT OPPORTUNITY

§5102. <u>Discrimination and Harassment Prohibited</u>. No employee may discriminate or harass another person on account of that person's sex, sexual orientation, race, color, religion, national origin, age, disability, or in retaliation for the exercise of any rights protected by this chapter.

#### **CHAPTER 6: EMPLOYMENT** BENEFITS

## §6301 Purposes of Leave.

The purpose of providing leave to PSS employees is to allow them personal time to take care of non-PSS related business, to relax, and to recuperate from illness or injury. The importance of an employee being allowed time to take care of personal business, to relax, and to recuperate from illness or injury is recognized by the PSS. Employee's whose personal lives are in balance are better able to handle the requirements of their job at the PSS.

## §63 02 Annual Leave.

d. Employees generally may use their annual leave when and how they wish, so long as they request to use it a reasonable amount of time in advance of the intended use date. However, supervisors may deny an employee's request to use annual leave if there is a rational basis reasonably related to a legitimate concern or interest of the PSS or its students or staff for doing so.

## §6303 Sick Leave.

a. Non-Certified employees who have been contracted with by the PSS for a period of time of three months or more are eligible for sick leave with pay. Sick leave shall accrue for Non-Certified employees at the rate of four hours per pay period. Sick leave shall accrue in each pay period only so long as the employee works or is in paid leave status for all ten week days of the pay period; otherwise there shall be no accrual for that pay period. Sick leave shall have no cash value at any time and unused portions shall carry over from year to year.

b. The use of sick leave shall allow the employee to be paid at their usual rate while ill, injured, receiving a medical, dental, or optometry examination, or if (s)he and/or his/her immediate family are under a doctor ordered quarantine. Sick leave will be allowed if the employee is able to provide satisfactory verification of the illness, injury, quarantine, or medical appointment. Doctor's notes may be required by the employee's direct supervisor in their discretion prior to approving payment for the use of sick leave. It is the employee's responsibility to provide such verification, not the supervisor's,

c. Whenever possible, sick leave shall be requested for in advance of when it is needed and medical appointments shall be scheduled on an employee's own time.

d. The Commissioner of Education is granted the authority to create a universal sick leave pool to which employees may donate their sick leave if a colleague is in need of long-term sick leave and has used all of their sick and annual leave already. The Commissioner is hereby vested with the power to create the policies needed to regulate the universal sick leave pool.

e. Sick leave records shall be retained for a period of three years after the employee separates from the PSS. If the employee becomes reemployed during that three year time period the sick leave balance shall be recredited to the employee. If the employee does not again begin employment with the PSS with in three years of separation the sick leave shall be lost.

§6309 <u>Maternity/Paternity Leave</u>. Maternity/Paternity leave may be granted by the Commissioner of Education to an employee who is the father or mother of a newborn child or is the father or mother of a newly adopted child. A maximum of SO hours of paid maternity/paternity leave may be granted to an employee in any calendar year. Maternity/paternity leave may only be used within one month of the birth or adoption of a child. Please also see \$63.1.1, Family and Medical Leave.

§63 IS <u>Advance Annual Leave</u>. The Commissioner of Education may, for good reason, grant an employee who has been employed by the PSS for over three years, advance annual leave of up to a maximum of one-half of the total earnable leave credits for one year from the date the application is made. Subsequent earnings shall serve to replace the amount of

advance leave granted and taken, An employee shall not be granted advance annual leave unless they have already exhausted all of their annual leave.

§63 16 <u>Advance Sick Leave.</u> The Commissioner of Education may, for good reason, grant an employee advance Sick leave of up to a maximum of one-half of the total earnable leave credits for one year from the date the application is made. Subsequent earnings shall serve to replace the amount of advance leave granted and taken. An employee shall not be granted advance sick leave unless they have already exhausted all of their sick and annual leave.

## PUBLIC SCHOOL SYSTEM P.O. BOX 1370, SAIPAN, MP 96950

## **POLICY OF NONDISCRIMINATION**

Public School System ("PSS") is an equal opportunity employer dedicated to a policy of nondiscrimination in employment upon any basis, including sex, sexual orientation, race, color, religion, national origin, age, disability, Or retaliation for the exercise of any of these rights. In reading and answering the following inquiries, please keep in mind that none of the questions are intended to imply any limitations, illegal preferences, or discrimination based upon any information that is not job-related.

This application will be given complete consideration, but its receipt does not imply that you will be employed. Please fill it out completely.

#### **APPLICATION FOR NON-CERTIFIED EMPLOYMENT**

#### PERSONALDATA

).

Name	Soc	ial Security N	0.	
Current Address:				
Street Address	s/Box Number	City	State	Zip
Permanent Address:				
	f the same as your c		)	
Daytime Phone at Which You Can B	e Reached: ()			
Evening Phone at Which You Ca	n Be Rea <u>ched: (</u> )			
Are you a CNMI Government retiree	??		Yes	No
POSITION(S) APPLTED FOR :	- 			
Type of Work Desired: Full 7	Time Part Tim	eTem	porary (check	one)
Salary Desired: \$	per (m	onthly/year/ho	ur)	

## GENERAL INFORMATION

}

)

)

1. Have you ever applied for a job with PSS in the past?YesNo If yes, please give the date of application and the position for which you applied. State your name at the time, if different from your present name.
2. Have you ever been employed by PSS in the past?Y <u>e s</u> N o If yes, please give dates of employment, and position(s) held. State your name while employed, if different from your present name.
3. If hired, will you able to work during the usual hours and days required for the position(s) for which you are applying?Y <u>e s N o</u> If not, explain on a separate sheet of paper and attach it.
4. Do you have any commitments to another employer that might affect your employment with PSS?Y e s N oIf yes, explain on a separate sheet of paper and attach it.
<ul> <li>5. If hired, can you furnish proof that you are 1 8 years of age or older? Yes</li></ul>
<ul> <li>6. If hired, can you furnish proof that you are eligible to work in the Commonwealth of the Northern Mariana Islands as a resident worker (U.S. citizen, national, spouse of a U.S. citizen or national, or Compact of Free Assn. citizen)?</li> <li>Y e s N o If not, please indicate your citizenship:</li> </ul>
7. Have you ever had <i>any</i> adverse action or <i>any</i> disciplinary action with regard to your employment ever taken or proposed against you?Y $e s N o$ If yes, explain on a separate sheet of paper and attach it.
8. Do you have any language abilities (such as reading or speaking a language other than English) that might help you perform the job(s) for which you are applying? Y <u>e s N o</u> If yes, explain on a separate sheet of paper and attach it.
9. Have you received a copy of the 'Regulations for the Public School System Employment of Non-Certi fied Personnel? Y <u>e</u> s No

10. Have you ever been convicted, pled guilty, or pled Y <u>e s No</u>	
"no contest" to any felony or misdemeanor?	
<i>Note: a "yes" answer does not automatically disqualify</i>	
you from employment since the nature of the offense, the	
date it was committed, and the type of job for which you	
are applying will be considered.	
If yes, explain on a separate sheet of paper and attach it.	
11. Have you been charged with a crime that has not yet resulted in a plea of guilty or no contest by you, a trial, or a dropping of the	

charge? \_\_\_\_\_Y <u>e</u>\_\_\_\_Y <u>e</u>\_\_\_\_No Note: a "yes" answer will not automatically disqualify you from

employment.

± )

If yes, explain on a separate sheet of paper and attach it.

## 12. EMPLOYMENT HISTORY

(List Most Recent First)	MAY WE CONTACT YOUR PRESENT EMPLOYER? YESNO
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment Prom To
City, State, Zip	Reason for L .caving
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reasonfor 1 .eaving
Supervisor (and phone number, ii' know)	Your Name When Employed, If Different From Present Name
Company Name	Job Title & Duties
Address	Dates of Employment From To
City, State, Zip	Reason for Leaving
Supervisor (and phone number, i I' known j	Your Name When Employed, If Different From Present Name

CompanyName	Job Title & Duties			
Address	Dates of Employment From To			
City, State, Zip	Reason for Leaving			
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name			
CompanyName	Job Title & Duties			
Address	Dates of Employment From To			
City, State, Zip	Reason for Leaving			
Supervisor (and phone number, if known)	Your Name When Employed, If Different From Present Name			
Please Account for Any Time You Were Not Employed After Leaving School in the Past-Ten-Years. (You need not list any unemployment periods of one month or less.)				
Time_Period(s) for Une	amployment.			

IF YOU WERE UNABLE TO LIST ALL PAST JOBS OR PERIODS OF UNEMPLOYMENT ON THIS FORM, PLEASE ATTACH ADDITIONAL INFORMATION ON A BLANK SHEET OF PAPER.

#### 13. EDUCATIONALDATA

1

)

1)

SCHOOLS ATTENDED	NAME OF SCHOOL AND LOCATION (HIGHEST GRADE COMPLETED)	DID YOU GRADUATE? YES NO	DEGREE/ DIPLOMA/ CERTIFICATE	GRADE POINT AVERAGE	MAJOR COURSES OF STUDY
HIGH SCHOOL(S)			DO NOI ANSWER		DO NOT ANSWER
TECHNICAL, BUSINESS OR MILITARY TRAINING					
COLLEGE OR UNIVERSITY					
GRADUATE SCHOOL					
ADDITIONAL JOB-REI EXPERIENCES:	LATED SEMINARS, SHOR	L COURSES, WO	EKSHOPS, OR U	THER EDUCA	DNAL

4. MILITARY EXPER	IENCE					
A. Have you serv	ed in the U.S. military?			Yes	No	
B. If so, list the b	ranch and highest rank ob	btained:				
C. Dates: From		to				
D. Discharge:	Honorable	Other	(explain on a se	eparate s	sheet of p	paper)

# 15. REFERENCES: LIST THREE INDIVIDUALS WHO ARE NOT FORMER EMPLOYEES OR RELATIVES

NAME	ADDRESS	PHONE NUMBER	OCCUPATION

16. Please add any additional information (except that which identifies your race, sex, age, religion, national origin, disability or other non-i-elated personal information) that you think may be relevant to a decision to hire you.

)

)

#### IMPORTANT

Please Read Each Paragraph Carefully Before You Turn In This Form. You Will Be Asked To Sign Each One To Show Your Consent At The Time You Turn In 'This Application.

#### **Representation That Application Is Filled Out Truthfully:**

Ì

)

١

By my signature placed below, 1 promise that the information provided in this employment application and accompanying resume is true and complete, and I understand that any false information or significant omissions may disqualify me from further consideration for employment, and may be justification for my dismissal from employment if discovered at a later date.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Consent to Investigate Criminal Records/Agreement to Notify PSS of Crime Info.:

I authorize the CNMT Public School System's investigation of all statements contained in this application and accompanying resume. I understand that this investigation may include obtaining a police clearance from the CNMI Department of Public Safety and a record of arrests and dispositions from the Federal Bureau of Investigation. I also agree to notify the PSS within fifteen days if I should be charged or convicted of any crime, while my job application is pending or, if hired, during my period of employment

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Consent to Review License/Credential Records & NASDTEC Records:

I authorize the CNMI Public School System's investigation of all statements contained in this application and accompanying resume by reviewing the records of any state licensing authority under which I currently am, or formerly was, licensed and any record of employment history available from the National Association of State Directors of Teacher Education and Certification Clearing House, if applicable.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Consent to Physical Examination and Review of Medical Records:

I give permission for a complete physical examination by the CNMI Public School System (PSS), including a drug, screening exam and x-rays, and I consent to the release to PSS of any and all medical information, as may be deemed necessary by PSS in judging my capability to do the work for which I am applying.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

### **Consent to Review Employment Records:**

I authorize the CNMI Public School System (PSS) to contact my present employer (unless otherwise noted in this application form), past employers, past and present co-workers, listed references and review any records of my past or present employment (unless this form indicates that the present employer is not to be contacted) that PSS finds relevant in determining my suitability for the employment position applied for.

I also authorize any person, school, current employer (except as previously noted), past employers, and organizations named in this application form and accompanying resume to provide PSS with relevant information and opinions that may be useful to PSS in making a hiring decision, and I release such persons and organizations from any legal liability in making such statements.

Signature: Date:

#### **Consent to Drug Testing:**

)

I give permission for the CNMI Public School System (PSS) and its authorized representatives to collect blood, urine, saliva, or hair samples from me and to conduct any necessary tests to determine the presence or use of drugs or controlled substances. Furthermore, I give my consent for the release of the results of such test and related medical opinion to PSS or its authorized representatives. I understand that if ] refuse to consent, I may be refused employment, or if already employed, subject to disciplinary action, including discharge from employment.

Date: Signature:

#### Agreement that C.N.M.I. Law and Courts Govern the Application Process:

I agree that the laws of the Commonwealth of the Northern Mariana Islands shall govern all aspects of my applying for a job with the PSS and that any legal or equitable action I may bring regarding my applying for a job and/or any matters related to this process shall be brought in the Commonwealth of the Northern Mariana Islands Courts of Law only.

Date: Signature:

THIS IS AN APPLICATION -- NOT A CONTRACT.

I UNDERSTAND THAT THIS APPLICATION DOES NOT, BY ITSELF, CREATE A CONTRACT OF EMPLOYMENT. I UNDERSTAND AND AGREE THAT, IF HIRED, **MY EMPLOYMENT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE** EMPLOYMENT CONTRACT FOR NON-CERTIFIED PERSONNEL AND THE RULES AND REGULATIONS OF THE PUBLICSCHOOL SYSTEM.

COMMONWEALTH REGISTER VOLUME -19 NUMBER 08 AUGUST 15, 1997 PAGE 15494

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

A MEDTCAL EXAMINATION IS REQUIRED FOR THIS JOB.

**IF YOU** ARE **HIRED**, A **MEDICAL EXAMINATION WILL** BE **REQUIRED BEFORE** YOU START WORK. IF THE EXAMINATION DISCLOSES MEDICAL CONDITIONS THAT PREVENT YOU FROM SUCCESSFULLY PERFORMING THE ESSENTIAL FUNCTIONS OF THE JOB, PSS WILL ATTEMPT TO MAKE ACCOMMODATIONS TO ALLOW YOU TO WORK. IF NO REASONABLE ACCOMMODATIONS CAN BE FOUND, OR THEY CAUSE AN UN DUE HA RDSHIP ON PSS, THE TENTATIVE OFFER OF EMPLOYMENT WILL BE WITH I DRAWN.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

# CERTIFICATION OF HUMAN RESOURCES OFFICIAL OR PSS INTERVIEWER

I hereby certify that \_\_\_\_\_ has voluntarily executed the following waivers and notices.

- 1. Representation That Application Is Filled Out Truthfully.
- 2. Consent to Investigate Criminal Records.
- 3. Consent to Review License/Credential Records & NASDTEC Records.
- 4. Consent to Physical Examination and Review of Medical Records.
- 5. Consent to Review Employment Records.
- 6. Consent to Drug Testing.
- 7. Agreement that C.N.M.I. Law and Courts Govern.
- 8. This Is An Application -- Not .A Contract.
- 9. A Medical Examination Is Required For This Job.

Executed on this <u>d</u> a y <u>of</u> , 199\_, at \_\_\_\_(city),

(state, territory or commonwealth),

Dated:

PSS Interviewer or HRO Official (Print and Sign Name)

(end of 8 pages of application form)

#### FOR YOUR INFORMATION (NON-CERTIFIED)

#### **Read the rules and regulations for employment:**

Many of the questions you may have about employment by the Public School System will be answered in its employment regulations. These regulations, which you have received, explain the hiring process in chronological order from recruitment and interviewing, the employment decision, the employment contract, and the contract period to renewal. The regulations also set the standards of conduct for employees, discipline of employees and employee grievances. Please take the time to read them before submitting your application. They will tell you a lot about our attitude towards the job for which you are applying.

#### Will you be interviewed?

)

: )

Applicants are screened to determine whether they meet the eligibility requirements for the vacancy announced. This results in the formation of an eligibility list. Applicants are placed on the list by order of experience and education. At the minimum, the top five applicants are interviewed, but the PSS Interviewer has the option of including other persons from the eligibility list, If you are selected, you will be notified of the time and place of the interview.

#### What if your interview goes well:

The PSS Interviewer will conduct a background investigation by contacting listed supervisors and co-workers and by contacting your local Department of Public Safety. In some cases, you may be asked to fill out two fingerprint cards so that the FBI may check to determine if you have a criminal record. **You** may be asked, depending on the vacancy, to arrange to have your post-secondary institution(s) send an official copy of your transcript of courses, grades, and degrees awarded to the Human Resources Officer at the CNMT Public School System, P.O. Box 1370, Saipan, MP 96950.

## Your first notice -- the Intent to Offer Employment Letter:

If the decision is made to offer you employment, you will be notified by receiving an Intent to Offer Employment Letter. This letter is not a contract of employment or an offer of employment; it is notice that PSS intends to make you an offer of employment in the near future. This offer may not be made despite these intentions for various reasons, such as budgetary restraints.

#### When am I employed exactly?

If your application process continues to proceed favorably you will next receive an executed contract of employment. You are to sign it, keep a copy and return the original. At this COMMONWEALTH REGISTER VOLUME 19 NUMBER -08 AUGUST 15, 1997 PAGE 15496

point, you have been hired. However, the contract is conditioned upon a medical examination that discloses no conditions that will prevent you from performing the essential functions of the job or that will pose a significant risk of substantial harm to your health or safety or that of other people in the workplace that cannot be reasonably accommodated or that will cause an undue hardship on PSS. Before you commence your contract, you must undergo the physical examination at the Commonwealth Division of Public Health.

#### What benefits are given to persons who have to move to accept employment?

Persons with a point of hire that is different than the island assigned for work are referred to as "off-island hires." These persons will be provided a contract addendum entitled "Off-Island Hire Terms and Conditions" to execute at the same time as the contract. You may ask to see the addendum during your interview. As the benefits frequently change, the addendum in use during your interview will provide the most accurate information.

In general, two benefits are provided: one-way transportation and housing. Airfare from the point of hire to the island assigned for work and three days of hotel accommodations and meal allowances are provided for employees and up to three of their dependants who do not already have a place to stay on island A housing stipend may be provided for hard to fill positions which ranges from \$400 per month to \$600 per month depending upon the number of an employee's dependents. There are a number of conditions attached to these benefits which are explained in the contract addendum.

#### How do I find out more about the CNMI?

A commercial Internet service provider maintains a home page for the CNMT on the World Wide Web at *http://www.saipan.com*.

#### What if I still have questions?

)

)

The Human Resources Office welcomes questions about the hiring process or employment terms and conditions. If you are on-island, you can visit them or call them at (670)664-3700 or fax them at (670)664-3707. If you are off-island, you can call or fax or write to the Human Resources Officer for the Public School System at P.O. Box 1370, Saipan, MP 96950.

\*\*\*\*\*

You may tear off these last two pages and keep them for your information. No handwritten or oral changes to the matters herein are authorized. The information provided is for your convenience. The Public School System expressly reserves the right to change the regulations, procedures and contract at any time.

#### EMPLOYMENT CONTRACT FOR NON-CERTIFIED PERSONNEL

)

THIS CONTRACT FOR SERVICES is made and entered into upon the execution of the last of all the required signatures to this contract, by and between the **PUBLIC** SCHOOL SYSTEM OF THE **COMMONWEALTH OF THE NORTHERN** MARTANA IS'LANDS, P.O. Box 1370, Saipan, MP 96950, a non-profit corporation responsible as the state education agency for pre-school, elementary and secondary education at 1 CMC § 225 1, hereinafter referred to as "PSS," and \_\_\_\_\_\_\_, Address:

\_\_\_\_\_, hereinafter referred to as "Employee."

Terms and Conditions of Employment

1. EMPLOYMENT: PSS hereby employs the Employee to fulfill the duties of the following job classification: \_\_\_\_\_\_. The requirements of this position are described in the attached Vacancy 'Announcement, which has been read and is understood by both parties.

a. Location: These services are to be performed primarily on the island of

b. Compensation Level: The Employee shall receive an annual salary of and shall be initially classified at Grade \_\_\_\_\_, L e v e l

c. Term: Employment shall commence on the \_\_\_ day of \_\_\_\_\_, 199\_and shall continue to the \_\_\_ day of \_\_\_\_\_, 19\_9

d. Retiree Limitation: The Employee \_ is \_\_is \_\_is \_\_is \_\_is not a CNMI Government retiree who has received retirement benefits from the government. If the Employee is such a retiree, then the maximum number of calendar days of employment per fiscal year must be indicated here for this Contract to be valid: \_\_\_\_\_\_

2. OBLIGATIONS: Employee hereby agrees to be responsible for and perform all the acts and duties pertaining to the Employee's employment and to conform to all rules and regulations of the Board of Education.

**3.** EMPLOYEE'S APPLICATION: Employee hereby represents that all the statements made in the Job Application and any other employee submissions are truthful and accurate. PSS has relied on these statements in making the decision to offer employment. Any material omissions or misstatements will be a ground for termination. If this is an initial contract as defined by \$1402(a)(l)(i) of the non-Certified Regulations the Job Application is hereby attached and incorporated by this reference into [his contract. In the event that this Contract is for renewal, the Job Application attached to the Employee's first Employment Contract for Non-Certified Personnel is herein incorporated by reference as though attached hereto unless the Employee chooses to submit and attach a new Job Application.

4. WORK SCHEDULE: The Employee shall work 40 hours per week, 52 weeks per year on weekdays, excepting holidays and vacations, and, on occasion, when asked to work overtime. Professional, administrative, or executive employees who are paid a salary are expected to work beyond a regular schedule when necessary to complete the tasks assigned. PSS may, in its sole discretion, assign the Employee to a multi-track school year, a conventional school year, or to two school years in immediate succession, of either or both types, during the contract term.

)

· )

**5.** COMPENSATION: As compensation for the services to be provided hereunder, Employee shall be paid the total sum stated in § l(b) per annum, which total sum shall be payable in 26 equal bi-weekly installments per annum. If this contract is for less than two years the employee shall be paid a prorated portion of that amount. In the event that the Employee is suspended and/or discharged for sufficient and just cause in accordance with the PSS regulations, the Employee shall not be entitled to any compensation from and after such dismissal or during the period of such suspension.

a. Within-Grade Increase: PSS may, in its sole discretion, grant an approximately five percent (5%) within-grade increase in salary during the second year of this contract if the Employee receives a satisfactory job evaluation for services performed during the first year.

b. Overtime: Non-certified employees, except those who act in a professional, executive, or administrative capacity, are included within the coverage of the Fair Labor Standards Act for purposes of overtime compensation. This contract notes whether you are a covered employee or exempt from the FLSA on the last page. An employee covered by the FLSA must sign a Compensatory Time Off Agreement **along** with this contract which permits the PSS, in its discretion and within limits, to provide its employees with one and one half hours of time off for every hour worked overtime rather than pay for overtime.

6. RESTRTCTION ON HIRING OF CNMIGOVERNMENT RETIREES: Pursuant to 1 CMC § 8392(c), any person who has retired and received retirement benefits from the Government of the Northern Mariana Islands who is hired by PSS cannot be employed for more than sixty (60) calendar days in any fiscal year without forfeiting any retirement benefits. The Employee understands that this Contract does not change that law.

a. The following Contract modi fications apply to CNMI Government Retirees:

\_)

)

(I) Section 1(b): Compensation shall be paid on a daily basis for each calendar day, or portion of a calendar day in which the Employee is assigned to work. The compensation for one day's work shall be 1/260 of the annual salary listed in § I(b).

(2) Section 4: The number of days to be worked shall be determined by theHuman Resources Officer up to a maximum number of days per fiscal year as written in § l(d).Work shall be assigned on a daily basis.

(3) Section 5: Compensation shall be paid hi-weekly for any week in which work has been assigned and performed. No wit hingradeiincreases shall be awarded because of the limited nature of this Contract. The Employee shall hot be eligible to receive overtime pay or compensatory time leave.

(4) Section 9: No insurance benefits arc granted under this Contract, nor are any existing rights to insurance coverage or benefits affected hereby.

(5) Section IO: No right 10 receive leave is granted under this Contract.

(6) Section 11: There shall be no liquidated damages awarded to PSS in the event of a resignation.

**7. WORK ASSIGNMENT**: Employee may be assigned by PSS to work at any school, any office or any facility on the island assigned in § 1(a).

8. RENEWAL: There are no tenured employment positions offered by PSS. This contract is only for the term stated in § 1(c) and no right to renewal is granted, expressly or impliedly, by PSS to the Employee regardless of whether job performance during the contract term is satisfactory. An offer for continued employment is completely within the discretion of PSS. If the Employee wishes to be considered for an additional contract period, then notice should be given to PSS six (6) months in advance of the termination date for consideration.

9. INSURANCE BENEFITS: The Commonwealth government, not the PSS, makes available health insurance and life insurance coverage for its employees. These are group policies in which the Employee, at its discretion, may wish to participate. Participation is on a shared basis where the employer pays a portion of the insurance premium and the employee pays the remainder. The Commonwealth government permits PSS employees to participate in these group plans. If the Employee chooses to participate, then PSS will contribute to premiums on the same basis as the Commonwealth government contributes for its employees.

#### 10. ANNUAL LEAVE AND SICK LEAVE:

)

a. Non-certified employees with less than three years of creditable PSS service shall accrue annual leave at the rate of four (4) hours per pay period. Non-certified employees with less than six, but more than three, years of creditable PSS service shall accrue annual leave at the rate of six (6) hours per pay period. Non-certified employees with six or more years of creditable PSS service shall accrue annual leave at the rate of eight hours per pay period. The maximum accumulation of annual leave for non-certified employees shall be three hundred sixty (360) hours. Annual leave accrued in excess of 360 hours shall be converted to sick leave. The use of annual leave is subject to the conditions set forth in the PSS Regulations.

b. Non-certified employees shall accrue sick leave at the rate of four (4) hours per pay period. The use of sick leave is subject to the conditions set forth in the PSS Regulations.

11. RESIGNATION: The Employee may resign during the term of this contract only if accepted or agreed to by PSS. It is the practice of PSS not to accept any resignation unless or until a satisfactory replacement assumes the Employee's duties.

a. If the Employee abandons or leaves employment during the contract term within the first two years of employment with PSS without the concurrence of PSS, the Employee shall pay Ten percent (10%) of the Employee's annual salary, as set forth by section 1(b) of this contract, as liquidated damages together with any attorneys' fees or costs incurred by PSS to collect the same. This amount may be withheld from any payments due to the Employee from PSS, including, but not limited to, paycheck, lump sum annual leave payments, or housing stipends. The parties stipulate and agree that the amount so fixed is a reasonable forecast of just compensation for the harm caused by such breach and the harm caused by the breach is one that is incapable or very difficult of accurate estimation. This liquidated damages provision shall not be construed to grant the Employee the right to resign. The PSS shall concur with an employee's request to abandon or leave employment with the PSS if the reason the employee is leaving employment with the PSS is because of the death of a spouse, child, sibling, or parent or because the employee or a spouse, child, sibling, or parent is domiciled with them and suffers from a "serious health condition" as defined by §6311 of the Non-Certified Regulations which cannot be properly treated in the Commonwealth. By concurring, the PSS agrees not to seek compensation for the ten percent liquidated damages or expatriation expenses owed pursuant to the Off-Island Hire Terms and Conditions.

12. OTHER LAWS AND RULES: This Contract is not intended to set forth all of the various duties and obligations of the parties hereto, but rather is made subject to the PSS rules and regulations, as amended from time to time. The Employee has been presented with a copy of the PSS's non-certified rules and regulations.

13. SEVERABILITY: The clauses, sentences and parts of this Contract are severable to the extent found to be unlawful or ineffective, by a court of competent jurisdiction, but the illegality or ineffectiveness of any such clause, sentence or part shall not affect any other clause, sentence or part of this Contract. Rather, the remaining provisions hereof shall remain in full force and effect.

14. ENTIRE AGREEMENT: This Conrtact, together with any exhibits or documents identified or referred to herein, such as the job description and the off-island hire terms and conditions if applicable, contains the entire agreement of the parties with respect to the matters covered herein as of the date of execution hereof, and no other agreement, statement, or promise made by any party, or to any agent of any party, prior to the date of this Contract shall be binding or valid.

**15. MODIFICATION**: This Contract is not subject to modification except in writing, duly signed by the parties to be charged thereunder.

16. GOVERNING LAW: The laws of the Commonwealth of the Northern Mariana Islands shall govern the validity, construction, and effect of this Contract. Any action brought for the enforcement of this Contract shall be brought in the courts of the Commonwealth of the Northern Mariana Islands only.

17. GRIEVANCE PRIOR TO LAWSUIT: The Employee hereby agrees that prior to filing any legal or equitable claim in court, he or she will first file a grievance with PSS and prosecute it to a conclusion pursuant to Chapter 4 of the non-Certified Regulations. Furthermore, the Employee agrees to act in good faith in pursuing the grievance remedy. If upon conclusion of the grievance proceedings, the Employee is not satisfied with the determination, then an action at law or equity may be filed in court to remedy the grievance. The Employee understands that this is a limitation on its right to sue and that a lawsuit cannot be filed until complying with this section of the Contract. These requirements do not preclude Employee from filing a complaint with a government agency charged with enforcing provisions of law (such

as the EEOC), prior to completing the prosecution of a grievance through the PSS's grievance process.

18. OFF-ISLAND HIRE: If the Employee's point of hire was outside of the island which is the place of work assignment in § 1(a), and this is the first contract the employee is entering into with the PSS, then the Off-Island Hire Terms and Conditions of Employment, which must be attached hereto, apply to this Contract. Off-island terms and conditions carry over from contract to contract, regardless of whether they are attached to renewal contracts.

19. FORMATION OF CONTRACT: This contract form is not valid unless signed by all the parties indicated by the signature blanks. All PSS signatures must be executed first. At that time, the Contract form constitutes an offer of employment to the Employee. When the Employee signs the Contract without alteration, a contract of employment is established. Any alteration or modification of this Contract form by the Employee will constitute a rejection of the Contract, regardless of whether or not it is signed by the Employee.

20. MEDICAL EXAMINATION: This offer of employment is tentative. A medical examination will be required before the Employee starts work. If the examination discloses medical conditions that prevent the Employee from successfully performing the essential functions of the job, PSS will attempt to make accommodations to allow the Employee to work. If the examination discloses a medical condition that poses a significant risk of substantial harm to the health or safety of the employee or other people in the workplace, PSS will attempt to make accommodations to allow the Employee to work. In either case, if no reasonable accommodations can be found, or if they cause an undue hardship on PSS, the parties agree that this contract will be void.

IN WITNESS WHEREOF, the parties hereto have executed this Employment Contract on the dates noted by their respective signatures.

### HUMAN RESOURCES OFFICER

I hereby certify that this person is eligible for the vacancy, that I have correctly classified the Employee and correctly determined the appropriate salary level, that I have obtained a local criminal conviction clearance for this person, and that the claimed education and work experience necessary for this position has been verified.

- 1. I have sent fingerprint cards for this person to the FBI. \_\_\_\_\_ Yes \_\_\_\_\_ No
  - a. If so, I have received a response from the FBI. \_\_\_\_\_ Yes \_\_\_\_\_ No
- This Employee is an Off-Island Hire entitled to benefits
   under § 18.

Date: \_\_\_\_\_

PSS Human Resources Officer

## FISCAL AND BUDGET OFFICER

I hereby certify that this position is within the FTE requirement of PSS under the appropriation act of P.L. No. \_\_\_\_\_ and that there are sufficient funds available in Account No. \_\_\_\_\_ for a total annual obligation of \$\_\_\_\_\_ required for this contract.

Date:

PSS Fiscal and Budget Officer

#### LEGAL COUNSEL

I hereby certify that this is the proper contract form for this employment position, that the Commissioner has the legal capacity to execute contracts to employ PSS personnel, that this form has been filled out completely, and that the job vacancy announcement and application are attached if required.

## Fair Labor Standards Act

I certify that this position is:

Non-exempt Exempt

In order for this contract to be valid, the employee must sign a Compensatory Time Off Agreement form, which has been attached and is hereby incorporated into this contract.

\_\_\_\_\_ Yes \_\_\_\_\_No

Date: \_\_\_\_\_

PSS Legal Counsel

#### **CONTRACTING PARTIES**

#### FOR PSS:

Date: \_\_\_\_\_

COMMISSIONER

#### FOR THE EMPLOYEE:

Date:

EMPLOYEE

Print Name:







# PUBLIC NOTICE

# PROPOSED COMMONWEALTH UTILITIES CORPORATION (CUC) **TELECOMMUNICATIONS REGULATIONS**

Governor Froilan C. Tenorio and Lt. Governor Jesus C. Borja, through the Commonwealth Utilities Corporation (CUC) Board of Directors, pursuant to the authority of the Commonwealth Utilities Act, hereby gives notice to the public of its proposed promulgation of the attached CUC Telecommunications Regulations, adopted by the CUC Board of Directors on July 22, 1997, regarding the regulation of local telecommunications services by CUC in the Commonwealth of the Northern Mariana Islands.

All interested persons are requested to submit data, views or arguments, in writing, concerning the proposed CUC Telecommunications Regulations. Written comments mest be submitted to the Executive Director of CUC, Mr. Timothy P. Villagomez, at mailing address P. O. Box 1220, Saipan, MP, 96950, or at the CUC Main Office in Lower Base, Saipan, bot later than the close of business, thirty (30) calendar days following the date of the publication of this Notice.

29<sup>1</sup>/<sub>\_\_\_\_</sub>day of July, 1997: Dated this

Chairma

Received by:

HÉŘMAN T. GUERRÉRO

Office of the Governor

Filed by:

SOLEDAD B. SASAMOTO **Registrar of Corporations** 

ΤIN CON Executive Director

Date: 8-14

Date: 8/14/97

Fursuant to 1 CMC 2153 as amended by PL 19-50 the rules and reculations attached hereto approved P.O. Box 1220, Saipan, MI 96950 Tel: 322-6020 • Fax: 322-4323 and PAGE 15507 VOLUME 19 NUMBER 08 AUGUST 15, 1997

COMMONWEALTH REGISTER

by the UNMI Attorney General's Office.

Jagay

å







# NUTISIAN PUPBLIKU

# I MA PROPOPONE NA REGULASION PUT TELECOMMUNICATIONS PARA I COMMONWEALTH UTILITIES CORPORATION (CUC)

I Gubetno as Froilan C. Tenorio yan i Segundo-ña as Jesus C. Borja, entre i Commonwealth Utilities Corporation (CUC) Board of Directors, sigon gi aturidat ginen Commonwealth Utilities Act, ginen este ha nutitisia i pupbliku put i ha' propoponi para u fa'tinas i chechetton na Regulasion put Telecommunication ni esta ma adaptas ni Board of Directors CUC gi Huliu 22, 1997, put regulasion setbisiun local telecommunication ginen i CUC para i Commonwealth of the Northern Mariana Islands.

Hayi interesao siha na petsona manma sosohyu para u fanman ñatmiti rekomendasion, atgumento gi tinige' put i mapropoponi na Regulasion Telecommunication para CUC. Todu i manma tuge' siha na komentu u fanma satmiti guatu gi Direktot CUC, as Siñot Timothy P. Villagomez, gi i sigiente na mailing adres i P. O. Box 1220, Saipan, MP, 96950, pat guatu gi Main Office giya Lower Base, Saipan, gi halom trenta (30) dias despues di mapupblika este na Nutisia.

Ma fecha gi minana dia Huliu, 1997:
BENJAMIN A. BABIJAN Chairman

Rinisibi as:

HERMAN T. GUERRERO

Ofisinan Gubetno

Fecha: 8-14-97

Ma file as:

SOLEDAD B. SASAMOTO Rehistradoran Kotporasion

8/14/97 Fecha:





# ARONGORONGOL TOULAP

# POMWOLIL ALLEGHUL <u>TELECOMMUNICATION</u> MERREEL <u>COMMONWEALTH UTILITIES CORPORATION</u>

Gobenno Froilan C. Tenorio me aruuschayil Gobenno Jesus C. Borja, sángi <u>Commonwealth</u> <u>Utilities Corporation (CUC) Board of Directors</u>, sángi aileewal me bwángil reel <u>Commonwealth Utilities Act</u>, bwelle reel milleel e isiisiwow arongorongol toulap reel pomwol akkatoowowul mille Alléghúl <u>CUC Telecommunication</u>, a <u>adopted</u> sángiir <u>CUC</u> <u>Board of Directors</u> Ilól maramal Ullyo (July) 22, 1997, bwelle reel alléghúl <u>local</u> <u>telecommunication services</u> sangi <u>CUC</u> mellól <u>Commonwealth</u> Metawal Wóól Falúw Kka <u>Marianas</u>.

Alongeer aramas kka re tipeli re tingóreer rebwe isiisilong me ischilong meeta yaar aiyegh ngare mángemáng bwelle reel mille pomwol Alléghúl <u>Telecommunication</u>. Alongal ischilongol aiyegh ngare mángemáng nge ebwe mwet ngali <u>Executive Director of CUC</u>, Mr. Timothy P. Villagomez, reel <u>mailing address P. O. Box</u> 1220, <u>Saipan, MP</u>, 96950 ngare eew, ngali Bwulasiyool <u>CUC</u> iye elo <u>Lower Base, Saipan</u>, nge essóbw luuló ótol angaang, eliigh (30) ral mwiril la a toowow arongorong yeeł.

Ral ye <u>29</u><sup>th</sup> maramal Ullyo (July), 1997:

LAN Chai/man

Bwughiyal:

HERMAN T. GUERRERO

Bwulasiyool Gobenno

Rál: 8-14-97

TIM **Executive Director** 

Isáliyal:

SOLEDAD B. SASAMOTO Registrar of Corporation

# **CUC TELECOMMUNICATIONS REGULATIONS**

# Article I - GENERAL PROVISIONS

## Part A - General

## Section 1-101: Authority

These regulations are promulgated under the authority of 4 CMC 8121 and 8123 and in accordance with 1 CMC 9104 et. seq.

## Section 1-102: Interpretation

These regulations shall be liberally construed and applied to promote their underlying purposes and policies and to secure the just and timely determination of all issues presented to the CUC Board.

## Section 1-103: Severability

In the event that any of these rules are found by a court of competent jurisdiction to be illegal or void, the remainder shall be deemed unaffected and shall continue in full force and effect.

## **Article II - Telecommunications Services**

## **Part A - Definitions**

## Section 2-101: Definitions

As used in this Article, unless the context otherwise requires, the following meanings apply:

- a) "CUC" shall mean the Commonwealth Utilities Corporation.
- b) *"Existing Operator"* means any carrier who has been offering telecommunication services within the Commonwealth for at least six (6) months prior to the effective date of these regulations.
- c) *"Telecommunications carrier"* shall mean any person, private corporation, or public corporation, which provides telecommunications service.
- d) *"Telecommunications services"* shall mean the transmission of signs, signals, writing, images, sounds, data or any other information of any type through the use of wires, radio, fiber optics, electromagnetic means or other similar

Adopted by the CUC Board of Directors on July 22, 1997 COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15510 methods, including all their incidental services, for the purpose of providing two or more persons who are not in each other's presence with the faculty of communicating between themselves. The term shall include, but without being limited to, wired and unwired telephone services, such as cellular, mobile radio, personal communications services, paging and other mobile telecommunications services, provided that nothing in this clause shall be interpreted as including transmission by radio, television or communal television antenna.

## Part B - Certification

### Section 2-201: Application for Certificate of Authority

- A) Any telecommunications carrier seeking to offer, initiate, or provide telecommunications service within the Commonwealth must apply in writing to the CUC Board for a certificate of authority. The application must:
  - 1) Include information on the:
    - a) Type of telecommunications service to be offered;
    - b) Geographical scope of the carrier's proposed operation;
    - c) Type of equipment to be employed in the service;
    - d) Rates or charges proposed to be imposed and the regulations that will govern the proposed service;
    - e) Applicant's financial ability to render the proposed service, including a copy of the most recent audited financial statement and if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement; and
  - 2) Comply with all applicable CUC Board orders and rules.
- B) Any certificate of authority issued by the CUC Board shall:
  - 1) Specify the telecommunications service to be provided;
  - 2) Delineate the geographic area in which the service is to be provided; and
  - 3) Define the terms and conditions of the certificate of authority the CUC Board may reasonably prescribe.

#### Page 2

CUC Telecommunications Regulations

# Adopted by the CUC Board of Directors on July 22, 1997

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15511

- C) Unless otherwise ordered by the CUC Board, no certificate of authority issued by the CUC Board to any telecommunications carrier may be construed as granting a monopoly or exclusive privilege, franchise, or charter for the provision of telecommunications service.
- D) Unless otherwise ordered by the CUC Board, the issuance of a certificate of authority to any telecommunications carrier does not preclude the CUC Board from issuing any additional certificates of authority to any other person seeking to offer, initiate, or provide the same or similar telecommunications service in the same geographic area.
- E) Except as otherwise provided by federal or Commonwealth law, and in order to protect the public interest and preserve the goals of universal service, the CUC Board may establish reasonable terms and conditions for the entry of telecommunications carriers into the Commonwealth.
- F) Certification of a telecommunications carrier shall require the purchase of an insurance policy, the face value of which must be at least equal to the replacement value of its plant and facilities in the Commonwealth. The purpose of this requirement is to ensure prompt restoration of service in the event of any catastrophe affecting the telecommunications carrier's plant and facilities.
- G) The CUC Board shall reject any application that fails to meet any of these requirements or is otherwise incomplete.

## Section 2-202: Issuance or Denial of Certification

.

.

. .

- a) The CUC Board shall issue a certificate of authority to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:
  - 1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the Commonwealth;
  - 2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules and orders prescribed or adopted by the CUC Board; and
  - 3) The proposed telecommunications service is, or will be, in the public interest.

- b) No hearing is required for the granting or denial of an application for a certificate of authority; provided that the CUC Board may hold a hearing before it grants or denies an application, if it deems a hearing to be appropriate.
- c) Any decision on a certification application made by the CUC Board shall be final and may be reviewed by a Court having jurisdiction over causes arising in the Commonwealth.

## Section 2-203: Suspension or Revocation of Certification

To preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers, upon the petition of any telecommunications carrier, any customer, or any other person, or the CUC Board's own motion, the CUC Board may, after notice and hearing, suspend or revoke, in whole or in part, a certificate of authority if the holder:

- a) Fails to pay fees or make contributions required by the CUC Board;
- b) Fails to provide adequate telecommunications service;
- c) Fails to maintain access to emergency services; or
- d) Violates any applicable:

н на селото на селот На селото на

- 1) Federal laws or regulations; or
- 2) Commonwealth laws of CUC Board orders, rules, terms, and conditions imposed on the holder.

## Section 2-204: Assessment of Charges

The CUC Board may establish and assess fair and reasonable charges, fees, and rents concerning the certification of telecommunications carriers.

## Part C - Accounts and Records

## Section 2-301: Uniform System of Accounts

Any telecommunications carrier operating in the Commonwealth shall keep and maintain a uniform system of accounts in the form prescribed by the Federal Communications Commission, unless it shall direct a modification or supplemental thereof.

## Section 2-302: Place of Keeping Accounts and Records

Any telecommunications carrier operating in the Commonwealth shall maintain an office in the Commonwealth where it shall keep all books, accounts, papers, data, and records pertaining to its corporate operations in the Commonwealth, and these shall not be removed from the Commonwealth except on such conditions as may be prescribed by the CUC Board.

## Section 2-303: Record of Disbursements

Any telecommunications carrier operating in the Commonwealth shall maintain its records as to disclose full particulars concerning any disbursement, including the name of the payee and the purpose of the payments. The records shall likewise disclose the name of the person intended to be paid and the purpose of such disbursement, regardless of whether payment is made by check, cash, cashier's check, bank draft, postal money order, property or other means, and whether paid directly to the ultimate recipient, or indirectly through an affiliated company, officer, employee, attorney, or other intermediary. There shall be excepted from the foregoing requirement any disbursement from petty cash not exceeding ten (10) dollars, provided the records show sufficient detail to permit proper auditing of accounts.

## Section 2-304: Payments or Transfers to Parent or Affiliated Companies

Any telecommunications carrier operating in the Commonwealth shall keep its accounts and records in such manner that it can currently report to the CUC Board all disbursements or payments of any kind, including dividend payments, made to any parent or affiliated company or corporation or to any of their directors, officers, employees, and whether or not in the nature of a reimbursement.

## Section 2-305: Related Businesses

If any telecommunications carrier operating in the Commonwealth engages directly or indirectly in any other business than that of a public utility under the Commonwealth Utilities Corporation Act, 4 CMC Section 8111 <u>et seq.</u>, it shall keep and render separately to the CUC Board in like manner and form the accounts of all such other businesses, and the provisions of these regulations shall apply with like force and effect to the books, accounts, papers, and records of such other businesses.

## Part D - Reports

## Section 2-401: Annual Report

(

Any telecommunications carrier operating in the Commonwealth shall file with the CUC Board on or before April 1st of each year a report of its financial, technical, and operational condition and its ownership during the previous calendar year and of its financial conditions as December 31st of the year covered by the report. This report shall be prepared in the form and content of the annual report requirements of the Federal Communications Commission and such other information which the CUC Board may reasonably request in writing from such carrier.

## Section 2-402: Additional Reports

Any telecommunications carrier operating in the Commonwealth shall furnish such other reports and information as may be required by the CUC Board from time to time for the due performance of its functions.

## Section 2-403: Verification

Reports filed by telecommunications carrier with the CUC Board shall be verified by the oath or affirmation of the chief officer of the company.

## Section 2-404: Availability to the Public

All facts and information in the possession of the CUC Board shall be public, and all reports, records, files, books, accounts, data, paper, and memoranda of every nature whatsoever in its possession shall be open to inspection by the public, at all reasonable times, except in those cases where the CUC Board shall otherwise determine it to be necessary in the interest of the public, and to the extent allowable by law, any facts or information in the CUC Board's possession shall be withheld from the public.

## Section 2-405: Outage Reports

ł

Any telecommunications carriers operating in the Commonwealth shall notify the CUC Board of service outages in accordance with the requirements of 47 C.F.R. § 63.100. The CUC Board may request such additional information on behalf of the Commonwealth

Government as it finds necessary to investigate the outage.

# Section 2-406: Accident Reports

All fatal injuries and all injuries which require hospitalization and which occur in the course of the operations of a telecommunications carrier, or which are attributable to equipment and/or facilities owned and operated by the carrier, shall be reported to the CUC Board within one week of their occurrence.

# Section 2-407: Log of Service Complaints

Every telecommunications carrier shall keep a log of all complaints received regarding quality of service, rates, services, equipment malfunctions, billing procedure, employee relations with customers and similar matters as may be prescribed by the CUC Board. The records shall be maintained for a period of two years.

- a) The record or log shall contain the following information for each complaint received:
  - 1) Date, time and nature of the complaint;

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15515

- 2) Name, address, telephone number of complainant;
- 3) Investigation of complaint; and
- 4) Manner and time of resolution of complaint.
- b) Consistent with the subscriber privacy provisions contained in 47 U.S.C. § 551 that are in effect on the effective date of this article, every telecommunications carrier shall make the logs or records, or both, of such complaints available to the CUC Board.

#### Part E - Inspection by The CUC Board

#### Section 2-501: Inspection of Records

Any telecommunications carrier operating in the Commonwealth shall at all reasonable times provide access to members of the CUC Board and to its duly authorized inspectors, examiners, and other agents, to examine all books, contracts, records, documents, data, and papers of the carrier.

#### Section 2-502: Inspection of Plant and Equipment

Any telecommunications carrier operating in the Commonwealth shall at all times provide access to members of the CUC Board and to its duly authorized inspectors, examiners, and other agents, to inspect and test the property, equipment, buildings, plants, offices,

apparatus, machines, devices, and lines of the carrier. In making such examinations or tests, the CUC Board or the duly authorized representatives of the CUC Board may set up and use on the premises of the company any apparatus or appliances and occupy reasonable space therefor.

#### Part F - Rates and Services

#### Section 2-601: Publication and Filing of Tariffs

Any telecommunications carrier operating in the Commonwealth shall file with the CUC Board a tariff of all its rates, tolls, and charges which are in force, or for any service in connection therewith or performed by it, and these shall be the lawful rates, tolls, and charges which may be charged or collected until a change has been ordered by the CUC Board or as provided below.

#### Section 2-602: Changes and Amendments to Tariffs

Any telecommunications carrier operating in the Commonwealth may file new tariffs or amendments of existing tariffs by filing them with the CUC Board sixty (60) days prior to their proposed effective date; provided that upon special applications disclosing an adequate reason therefore, the CUC Board may prescribe a lesser amount of time in which rate reductions may be made effective. In the absence of an order of the CUC Board directing otherwise, the proposed rates shall become effective upon the indicated effective date.

### Section 2-603: Investigation and Inquiry

The CUC Board may investigate and initiate a formal inquiry regarding an interexchange carrier tariff. Such an investigation or inquiry shall not suspend the effectiveness of the tariff, unless the CUC Board orders otherwise. This process shall be used for complaints brought before the CUC Board by any party. The CUC Board retains the authority to review the tariffs and initiate a complaint on its own motion.

### Section 2-604: Posting

l

· · · ·

Copies of all new tariffs, as well as of existing tariffs, shall be plainly printed and clearly exhibited in every company office within the Commonwealth of the Northern Mariana Islands.

## Part G - Standards of Service

## Section 2-701: Maintenance of Plant and Equipment

Any telecommunications carrier operating in the Commonwealth must maintain the plant and equipment it uses to provide services in proper condition. A program of periodic inspections, in addition to regular trouble and maintenance work, shall be put into operation, which will insure proper maintenance for all such plant and equipment.

## Section 2-702: Number of Subscribers

The number of subscribers on any one circuit shall not be greater than that consistent with adequate service.

## Section 2-703: Interruptions of Service

Reasonable efforts shall be made to eliminate interruptions and acute irregularities in service, and to correct them promptly when they occur. Records shall be kept of all complaints, interruptions, or acute irregularities in the service, showing the date and time at which the same occurred or is reported, the nature of the trouble, the date and time cleared, final disposition of the problem, and the employee making final disposition.

## Section 2-704: Central Office Records

Any telecommunications carrier operating in the Commonwealth shall maintain at its principal office in the Commonwealth adequate records or maps showing the location, type and use of local exchange lines, cables and conduits. Such records should be kept

Page 8 CUC Telecommunications Regulations Adopted by the CUC Board of Directors on July 22, 1997 COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15517 with considerable detail, such as maps showing local circuits, location of subscribers, cable terminals, service areas, and similar subjects.

#### Section 2-705: Safety and Interference

Any telecommunications carrier operating in the Commonwealth shall construct, operate and maintain its lines along any public or private way and the equipment used in connection therewith in an adequate and safe manner and so as to not unreasonably interfere with the service furnished by other public utilities. If a complaint is filed with the CUC Board by any interested party to the effect that public safety or adequate service requires changes in construction, location or method of operation, the CUC Board shall give notice to the parties in the interest of the filing of such complaint, shall investigate the same, and shall order a hearing thereon. After such hearing, the CUC Board shall order any alteration in construction or location or change of methods of operation required for public safety or to avoid service interference, and by whom the same shall be made.

The CUC Board shall fix the proportion of the cost and expenses of such changes, which shall be paid by the parties in interest, and fix reasonable terms and conditions in connection therewith.

#### Part H - Complaints

#### Section 2-801: Informal Complaints

(

Any interested person may make a complaint to the CUC Board with respect to any telecommunications matter within the jurisdiction of the CUC Board under this Article, such as the rates or services offered by a telecommunications carrier. The CUC Board shall endeavor to resolve the complaint to the satisfaction of the complainant through informal

discussion with the telecommunications carrier. If this endeavor fails, the complaint must be reduced to writing and referred by the CUC Board to the agenda of its next meeting. If the CUC Board is unable to resolve the matter to the satisfaction of the complainant, it shall be docketed as a formal complaint.

#### Section 2-802: Formal Complaints

Any interested person or party may make a formal complaint to the CUC Board with respect to any matter within the jurisdiction of the CUC Board under this Article, such as the rates or services offered by a telecommunications carrier. Such formal complaint must be in writing, must be filed in triplicate, must be sufficiently specific to identify the rate, practice, service or procedure complained of, and must specify in what way it is considered unlawful. The CUC Board shall immediately transmit one copy thereof to the public utility involved with the direction that, within ten (10) days, the complaint must either be satisfied or a reply filed thereto. If not satisfied, the complaint shall thereupon be assigned for a formal hearing. The CUC Board may likewise, on its own motion, institute

an investigation of matters subject to its jurisdiction by sending to the telecommunications carrier a statement of the matters to be considered and determined, and assigning the matter for a formal hearing.

#### Section 2-803: Administrative Proceedings

Unless otherwise provided by law, any and all telecommunications related matters, including complaints, filed with the CUC Board shall be heard and resolved in accordance with the requirements of the Commonwealth of the Northern Mariana Islands Administrative Procedure Act, 1 CMC § 9101 *et seq.*, as from time to time amended.

#### Part I - Liability

#### Section 2-901: Requirement of Liability Insurance

Any telecommunications operating in the Commonwealth shall carry adequate insurance which shall indemnify CUC and the Commonwealth from any claims for injury or damage to persons or property, caused by the construction, installation, operation, or maintenance of any structure, equipment, wires, plant, facilities, cable, or vehicles by the telecommunications carrier or its agents.

#### Section 2-902: Indemnification of the Commonwealth

l

Any telecommunications carrier operating in the Commonwealth shall indemnify and hold the CUC and the Commonwealth harmless at all times from any and all claims for injury and damage to person or property, both real and personal, caused by the installation, operation, or maintenance of any structure, equipment, wires, plant, facilities, cable, or vehicles.

#### **CIVIL SERVICE COMMISSION**

## NOTICE OF PROPOSED AMENDMENTS TO THE PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

Under the authority of 1 CMC §8117, the Civil Service Commission hereby notifies the general public that it proposes to amend its Personnel Service System Rules and Regulations by adding a new Sub-Part V.C. The Commission also proposes to amend other portions of the Personnel Service System Rules and Regulations to avoid inconsistency with the new Sub-Part V.C.

**SUBJECT:** The proposed amendments will establish an Alcohol and Drug Free Workplace for civil service employees. The amendment prohibits the use of alcohol and illegal drugs while at work or using government property, describes conditions under which a civil service employee will be required to submit to drug or alcohol testing, the procedures for testing for drugs or alcohol, and the consequences of violation of the regulations.

**PUBLIC COMMENTS:** This is the second time these regulations are being published for comment. Based on the comments received previously, the Commission made significant changes in the structure of the proposed amendments and some change in the substance of the proposed regulations. The public is encouraged to comment further. Comments must be submitted in writing and sent, delivered or faxed to the Chairman, Civil Service Commission at:

P.O. Box 5150 House #1211, Capitol Hill Saipan, MP 96950 Fax: (670) 322-3327

Comments will be accepted through at least September 15, 1997. The comment period may be extended with or without notice. All comments received prior to final adoption will be considered by the Commission.

Date: 08/07/97

ł

EUGÉNE A. SÁNTOS Chairman, Civil Service Commission

Date: 08/14/97

Received by: Herman T. Guerrero

Office of the Governor

Filed by:

Soledad B. Sasamoto Pursuant to 1 CMC 2153 as amended by PL 10-50 the rules apd organations at tashed here to have been reviewed and approved as the form and legal sufficiency by the CNMI Attorney General's United States

NUMBER 08

Dated thi

COMMONWEALTH REGISTER VOLUME 19

Date:

ABSUST 15 1000 PAGE 15520 Assistant Attorney General Elliott A. Sattler

#### **KUMISION SETBISION SIBIT**

## NUTISIA PUT MAPROPOPONI NA AMENDASION GI AREKLAMENTO YAN **REGULASION SISTEMAN SETBISIUN PETSONAT**

Sigun gi aturidat 1 CMC §8117, i Kumision Setbisiun Petsonat Sibit ginen este ha nutitisia i pupbliku henerat na ha proponi umamenda ayo' na Areklamento yan Regulasion Sisteman Setbision Petsonat put ma omenta i nuebo dibision gi Patte V.C. I Kumision lokkue' ha' propoponi para u amenda i pumalu siha na patte gi bandan Areklamento yan Regulasion Sisteman Setbision Petsonat potno u guaha dinuda sigun gi i nuebo na Dibision gi Patte V.C.

SUHETU: I manama propoponi siha na amendasion para u establesi ayu i Atkahot yan Drug Free gi sagan cho'cho emplehao setbision sibit. I amendasion a pribi i ma'usan atkahot yan i ti man ilegat siha na klasen amot gi durante cho'cho pat gi propedat gobietnameto, u ma deskribi este siha na kondision sigun gi ginagao' i setbision emplehao sibit ni ha' fuetsas para u ma prueba para i emplehao yanggen ma tes put bandan amot pat atkahot, i kinalamte put apruebasion amot pat atkahot, yan komu resuttan kontradiksion kontra este siha na regulasion.

KOMENTON PUPBLIKU: Estague' i mina' dos biahe ni manmapupblika este siha na regulasion para u guahah ina' halom siha na komento ginen i pupbliku. Sigun gi i komento siha ni esta hagas manma risibi put i eskrituran i manma propoponi siha na regulasion yan i tinulaikaka siha gi regulasion. Manma sososhyu i pupbliku para u fan na halom komentu gi tinige ya u ma satmiti guatu osino fax guatu gi Chairman i Kumision Setbision Sibit gi sigiente na adres:

> P.O. Box 5150 House #1211, Capitol Hill Saipan, MP 96950 Fax: (670) 322-3327

I komento u fanma aksepta asta Septembre 15, 1997. I tetminun muna'halom komento sina ha ma ekstende ginen osino sin nutisia. Todu i komento u marisibi sigun gi uttimu na ma adapta-na yan u fanma konsidera ni kumision.

Fecha: 08/07/97

(

Fecha: <u>08/14/9</u>7 Fecha: <u>8/14/9</u>7

EUGENE A. SANTOS Chairman, Kusision Setbisiun Sibit

Rinisibi as:

Herman T. Guerrero Ofisinan Gubetno

Ma file as:

Soledad B. Sasamoto Rehistradoran Kotporasion

COMMONWEALTH REGISTER VOLUME 19

NUMBER 08 AUGUST 15, 1997 PAGE 15521

#### CIVIL SERVICE COMMISSION

## **ARONGORONGOL POMWOL IGHA EBWELLIIWEL ALLEGHUL MWOGHUTUL** LLOL PERSONNEL SERVICE

Sángi llól bwángil 1 CMC §8117, Komisionul Civil Service mereel milleel ekke arongaar toulap reel pomwol igha ebwe lliiwel Alleghul Mwóghutúl llól Personnel Service reel igha ebwe aschuulong mille e ffe iye Sub-Part V.C. Komision ebwal pomwoli ebwe lliiwel akkaaw peighil Aleghul Mwoghutul Personnel Service bwelle essóbw fitighogho ngáli mille e fé iye Sub-Part <u>V.C.</u>

AUTOL: Tapalal: Reel pomwol lliiwel ebwe feeruuta mille Aschi me Safey Nngow mellol leliyal angaang ngaliir schokka rekke angaang. Lliiwel kkaal nge ebwe ayuuwlo yaayaal aschi me safey nngów igha rekke angaang me ngare llól bwuley kka a ititiwow bwe yaal gubenno, ayoora mille ebwe pileey me rebwe akkuléer bwe rebwe bwughi sóssotol reel safey nngów me ngåre aschi bwe ebwe bwå ngåre rekke vaává, me meeta toowowul ngare rese attabweev allegh yeel.

TIIP ME MANGEMANII TOWLAP: lyeel aruwoowal ebwe atotoowow Allégh kkaal bwe ebwe yoor tiip me mangemangiir towlap kka ebwe atotoolong. Reel mangermang me tip kkewe a takkal toolong nge Kumision a bwal ffeer lliiwel melol owtol allegh yeel bwe ebwe ghi ghatcheld. Rekke tingor ngaliir towlap bwe rebwe ishiitiw meeta tipeer me mangemangiir reel owtol allegh kkaal nge raa afana ngali ngalre fax liilo reel Chairman, Civil Service Commission reel address ye faal:

> P.O. Box 5150 House #1211, Capitol Hill Saipan, MP 96950 Fax: (670) 322-3327

Mangemang me tiip kka nge ebwe atotoolong mmwal Maan (September) 15, 1997. Rállil igha ebwe atotoolong mangmang me tiip kkaal nge emmwel schagh bwe ebwe sówbosobwlo inaamwo igha rese arongaawow. Alongal mangemang me tiip nge ebwe atotoolong mmwal igha school Komision rebwe.adaptáaliilo

Ral: 0807/97

ł

Ral: 08714/97 Ral: 8/14/97

EUGENE A. SANTOS

Chairman, Civil Service Commission

Bwughiiyal: Herman T. Guerrero

**Bwulasiyool** Gobenno

File-liiyal:

Soledad B. Sasamoto **Registrar of Corporations** 

# CIVIL SERVICE COMMISSION

# PROPOSED AMENDMENTS TO PART V OF THE PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

# SECTION I. BACKGROUND

These regulations are proposed by the Civil Service Commission for the purpose of establishing an alcohol and drug free workplace for government employees. The Commission's authority to promulgate these regulations is found at 1 CMC §8117(a).

It is proposed that a new Part V, Sub-Part C, be inserted into the Personnel Service System Rules and Regulations. See, Section II, below. Related amendments being proposed for other sections of the Personnel Service System Rules and Regulations are found in Section III, below.

# SECTION II. ALCOHOL AND DRUG FREE WORKPLACE

## PART V, SUB-PART C ALCOHOL AND DRUG FREE WORKPLACE

### V.C1 <u>POLICY</u>

ĺ

As an employer, the government recognizes it has a responsibility to its employees and the public it serves to take reasonable steps to assure safety in the workplace and in the community. Furthermore, the government is concerned about the adverse effect alcohol and drug abuse have on safe and productive job performance. It also recognizes that any employee, whose ability to perform safely and productively is affected by the use of alcohol and other drugs, jeopardizes the integrity of the workplace and the achievement of the government's mission. The government realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. The government, therefore, encourages employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance. Pages 15524 through 15533 in volume 19, number 8 of the Commonwealth Register do not exist.

/s/ Stacey D. Conner Staff Attorney, Administrative Code January 11, 2006

# V.C2 DEFINITIONS

I.

For the purposes of this sub-part, the following definitions apply:

- A. <u>Accident</u>. An event which causes (1) a fatality, (2) an injury to a person requiring professional medical treatment beyond simple at-scene first aid, or (3) an economic loss, including property damage, greater than \$2,500.00.
- B. <u>Assessment</u>. A determination of the severity of an individual's alcohol or drug use problem and an analysis of the possible courses of treatment, made by an expert in the field of substance abuse.
- C. <u>Breath Alcohol Concentration (B.A.C.)</u>. The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Testing Device (E.B.T.).
- D. <u>Breath Alcohol Technician (B.A.T.)</u>. An individual authorized to collect breath specimens under Part V.C7(B) and who operates an E.B.T.
- E. <u>Consulting Physician</u>. A licensed physician retained or employed by the government to advise on drug testing.
- F. <u>Drug</u>. A substance (1) recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary, or any supplement to any of them; or (2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or (3) other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or (4) intended for use as a component of any article specified in clause (1), (2), or (3) above. Devices or their components, parts, or accessories are not considered drugs under this definition.
- G. <u>Evidential Breath Testing Device (E.B.T.)</u>. A device which is (1) approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and (2) is on the NHTSA's Conforming Products List of E.B.T.s; and (3) conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.
- H. <u>Illegal Drug</u>. A drug that (1) is not obtained legally; or (2) is knowingly used for other than the prescribed purpose or in other than the prescribed manner; or (3) is a "designer drug" or drug substance not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.
- I. Invalid Test. A breath or urine test that has been declared invalid by a Medical

Review Officer (M.R.O.), including a specimen that is rejected for testing by a laboratory for any reason. An invalid test shall not be considered either a positive or a negative test result.

- J. <u>Medical File</u>. The file containing an employee's medical examination form, mental health referrals, alcohol and drug test results and other health related documents, maintained by the Office of Personnel Management separate from an employee's Official Personnel Folder, in accordance with the PSSRR, Part XI.B3(C).
- K. <u>Medical Review Officer (M.R.O.)</u>. A licensed physician, appointed by the government, with specialized training in substance abuse disorders and in the use and evaluation of drug test results. The M.R.O. shall be the only person authorized to receive laboratory drug test results and shall be the primary contact for technical inquiries to the drug testing laboratory.
- L. <u>Reasonable Suspicion</u>. A perception based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an individual or on specific facts, circumstances, physical evidence, physical signs and symptoms, or on a pattern of performance or behavior that would cause a trained supervisor to reasonably conclude that the individual may be under the influence of alcohol or illegal drugs while on duty.

ĺ

- M. <u>Safety-Sensitive</u>. A word describing activities which directly affect the safety of one or more persons, including the operation of motor vehicles or heavy machinery or the carrying of firearms. Each department, entity, or organization head, in conjunction with the Director of Personnel Management, shall identify all positions to be considered safety-sensitive positions due to the amount of time the employee spends performing safety-sensitive functions.
- N. <u>Statement of Fitness for Duty</u>. A written statement from a Substance Abuse Professional (S.A.P.), certifying that the named employee is not dependent on alcohol or any drug to the extent such dependence will affect safe and productive work.
- O. <u>Substance Abuse Professional (S.A.P.)</u>. A physician, psychologist, psychiatrist, or social worker with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders; or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors.
- P. <u>Under the Influence</u>. A condition where a person's behavior, attention, or ability to perform work in the usual careful fashion has been adversely affected by the use of alcohol or drugs; intoxicated.
- Q. <u>Vehicle</u>. A device in, upon or by which any person or property is or may be

propelled or moved on a highway, on a waterway, or through the air.

# V.C3 PROHIBITED CONDUCT

- A. <u>Sale, Purchase, Possession with Intent to Deliver, or Transfer of Illegal Drugs</u>. No employee shall (1) sell, purchase, or transfer; (2) attempt to sell, purchase, or transfer; or (3) possess with the intent to deliver, any illegal drug while on government property, in any government vehicle or on any government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.
- B. <u>Possession of Illegal Drugs</u>. No employee shall possess any illegal drug on government property, in any government vehicle, or while on government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.
- C. <u>Possession of Open Containers of Alcohol</u>. No employee shall possess an open container of alcohol in any vehicle while on duty or in any government vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.
- D. <u>Under the Influence of Alcohol or Illegal Drugs</u>. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this subsection, alcohol includes any alcohol found in any prescription or non-prescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if:
  - (1) The employee has a B.A.C. of 0.02 or more;
  - (2) The employee has a detectable amount of any illegal drug in his or her urine;
  - (3) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform safety-sensitive functions;
  - (4) The employee uses alcohol or any illegal drug within four (4) hours prior to reporting to work and expects to perform a safety-sensitive duty.
- E. <u>Refusal to be Tested</u>. No employee required to be tested for drugs or alcohol under any provision of this sub-part shall refuse to be tested. The following conduct shall be considered a refusal to be tested:
  - (1) Refusing in writing to submit to testing after receiving clear and specific

written notice of the requirement to be tested;

- (2) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;
- (3) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);
- Engaging in conduct that clearly obstructs the specimen collection process;
- (5) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain necessary medical care or assistance in responding to the accident. If the employee leaves the scene, the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;
- (6) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;

ĺ

- (7) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; and
- (8) Failing to report to the specimen collection site timely after being informed of the requirement to be tested.
- F. <u>Giving False Information</u>. No employee shall give false information about a urine specimen or attempt to contaminate or alter the specimen.
- G. <u>Refusal to Comply with Treatment Recommendations</u>. No employee shall fail to comply with recommendations for treatment or after-care made by an M.R.O. or S.A.P. as a consequence of a prior positive drug or alcohol test result.
- H. <u>Failure to Notify Government of Conviction</u>. No employee shall fail to notify the Director of Personnel Management of any criminal drug statute conviction, within five (5) days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commonwealth business, or while on or using Commonwealth property.
- I. <u>Supervisor's Duties</u>. No manager or appointing authority shall knowingly disregard an employee's right to confidentiality in matters relating to alcohol or

drug testing or otherwise neglect his or her responsibilities under this sub-part.

# V.C4 PENALTIES AND CONSEQUENCES

- A. <u>Disciplinary Action</u>. An employee committing any act prohibited by Part V.C3 shall be subject to an appropriate form of discipline, depending on the circumstances.
  - (1) Generally. Where an employee commits any act prohibited by V.C3, without valid reason, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the employee is employed in a safety-sensitive position, as designated by the Director of Personnel Management, the employee shall be subject to a minimum of fifteen days suspension without pay. In either case, if the prohibited act possibly relates to the use or possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.
  - (2) First offense, under the influence. An employee found to be under the influence of alcohol or illegal drugs in violation of Part V.C3(D), for a first offense, shall not be subject to removal solely for being under the influence of alcohol or illegal drugs. However, if the person is also involved in an accident, depending on the circumstances, the appointing authority may decide to initiate an adverse action for removal, even on a first offense.
  - (3) Serious offenses. The following acts, even for a first offense, will result in an immediate adverse action for removal in accordance with PSSRR, Part III.D2(J) and (M):
    - The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase or transfer illegal drugs in violation of V.C3(A);
    - (b) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of V.C3(D);
    - © An unexcused refusal to be tested, in violation of V.C3(E);
    - (d) Giving false information, contaminating or attempting to contaminate a urine sample, in violation of V.C3(F);
    - (e) Failing to notify the proper authority of conviction for a drug offense in violation of V.C3(H);
    - (f) Testing positive for alcohol or illegal drugs within five years of a

prior positive test; and

- (g) Breaching any term of a Return to Duty Contract executed under the provisions of Part V.C5(B).
- B. <u>Information Concerning Treatment Options</u>. Those employees not removed from government service after committing any act prohibited by Part V.C3 shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator shall give the names, addresses, and telephone numbers of local S.A.P.s and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.
- C. <u>Report to Department of Public Safety</u>. An employee committing any act prohibited by V.C3.A or V.C3.B shall be reported, by the appointing authority, to the Department of Public Safety for the purpose of possible criminal prosecution.
- D. <u>Duty/Pay Status Pending Adverse Action</u>. Unless the employee was involved in an accident resulting in a fatality, an employee subject to an adverse action for committing any act prohibited by Part V.C3, except for V.C3(g), shall be allowed to remain on the job pending resolution of any proposed adverse action but shall not be allowed to perform a safety-sensitive function, even if that means assigning to the employee duties the employee would not otherwise be performing. An employee subject to an adverse action for committing any act prohibited by Part V.C3 who was involved in a fatal accident shall be placed on leave without pay pending resolution of the adverse action for removal.

# V.C5 RETURN TO WORK PROCEDURES

í

- A. <u>Prerequisites to Returning to Duty</u>. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:
  - (1) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;
  - (2) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine, marijuana, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and
  - (3) Agreed to execute a Return to Duty Contract.

- B. <u>Return to Duty Contract</u>. The Return to Duty Contract shall include the following provisions:
  - (1) Aftercare. An agreement to comply with aftercare and follow-up treatment recommendations for one to five (1-5) years, as determined appropriate by the employee's S.A.P.;
  - (2) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one (1) to five (5) years, as determined appropriate by the employee's S.A.P., but there shall be no fewer than six (6) tests in the first year after the employee returns to work;
  - (3) *Compliance with rules.* An agreement to comply with government rules, policies, and procedures relating to employment;
  - (4) *Term.* An agreement that the terms of the contract are effective for five years after the employee's return to duty; and
  - (5) *Breach of contract.* An agreement that violation of the Return to Duty Contract is grounds for termination.

# V.C6 <u>TESTING OCCASIONS</u>

- A. <u>Pre-Employment Testing</u>. At the time of application, persons applying for any position within the Civil Service will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with Part V.C8, below. Applicants who were previously employed by the government must also provide a written release of drug testing history for the two (2) years immediately preceding the application date.
  - (1) No new Civil Service candidate may be assigned to work in any position until he or she presents the results of a urine test, taken after the offer for employment has been made, that shows negative for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine.
  - (2) If the candidate's test result is positive for the presence of a tested drug, without a legitimate explanation, or if the candidate presents a drug testing history showing a positive drug test within two (2) years prior to the application date, he or she will not be employed in the position then offered. The candidate may apply for the next available position. However, the new application will not be considered until the candidate

submits a Statement of Fitness for Duty and agrees to execute an agreement similar to a Return to Duty Contract described in Part V.C5(B).

- B. <u>Reasonable Suspicion Testing</u>. Where there is a reasonable suspicion that an employee is under the influence of alcohol or drugs while at work or about to begin work, he or she shall submit to a breath or urine test for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, and phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the government shall pay for the testing.
  - (1) *Properly trained supervisor.* Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.
  - (2) Objective inquiry. The properly trained supervisor will observe the employee suspected of being under the influence of alcohol or illegal drugs. A decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Prior to making the decision to require testing, the supervisor will question the employee in a private area to ascertain whether there are any reasons other than alcohol or drug use for any behavior observed.
  - (3) *Verification.* No employee shall be required to submit to a drug or alcohol test based on reasonable suspicion unless the need for the test is verified by a second properly trained government employee. The required verification shall be done in person.
  - (4) Transportation assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.
  - (5) *Duty pending test results.* Until the results of the drug and alcohol test are complete and verified, no employee tested based upon reasonable suspicion shall be allowed to perform or continue to perform a safety-sensitive duty.
  - (6) *Report.* The supervisor ordering reasonable suspicion testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for a disciplinary action. Only at

that time will the report be filed in the employee's Official Personnel Folder.

- C. <u>Post-Accident Testing</u>. As soon as practical after an accident any employee whose action or inaction may have contributed to the accident must submit to breath and urine tests for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the government shall pay for the testing.
  - (1) *Supervisor training.* Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions.
  - (2) Objective inquiry. A supervisor's decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Specifically, the properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.
  - (3) *Transportation assistance.* The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.
  - (4) Duty pending test results. Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.
  - (5) *Report.* The supervisor ordering post-accident testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for a disciplinary action. Only at that time will the report be filed in the employee's Official Personnel Folder.
- D. <u>Random Testing</u>. During each calendar year randomly selected employees performing safety-sensitive functions will be required to submit to breath tests for alcohol and urine tests for cocaine, marijuana, opiates, amphetamines, and phencyclidine. The testing will be done during on-duty time. Except as otherwise provided, the government shall pay for the testing.

- (1) *Method of selection.* Employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee Social Security numbers, payroll identification numbers, or other comparable identifying numbers.
- (2) Number to be tested. No more than twenty-five percent (25%) of all employees performing safety-sensitive functions in each department or agency each year shall be required to submit to breath alcohol testing and no more than fifty percent (50%) shall be required to submit to urine testing. The actual percentage will be determined at the beginning of each fiscal year for each department or agency by the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator, in consultation with the appointing authority and the MRO after reviewing the department's or agency's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

# V.C7 COLLECTING AND TESTING BREATH SPECIMENS

ł

- A. <u>Collection Site</u>. Breath specimens shall be collected only at a site approved by the Director of Personnel Management or at the scene of an accident if proper equipment and personnel can be made immediately available.
- B. <u>Collection Protocol</u>. Breath specimens shall be collected only by a B.A.T. trained in the collection of breath specimens at a course approved by the United States Department of Transportation in accordance with standard collection protocols as specified in 49 CFR, Part 40© "Procedures for Transportation Workplace Drug Testing Programs - Alcohol Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.
- C. <u>Confirming Test</u>. Breath specimens shall first be subjected to a screening test for alcohol. If that test indicates a probable breath alcohol concentration of 0.02 or greater, a second test, confirming the first and providing quantitative data of alcohol concentration, shall be performed. No alcohol test shall be considered positive unless both the screening test and the confirming test show a B.A.C. of 0.02 or greater.
- D. <u>Results</u>. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the employee's appointing authority, and to the Director of Personnel Management.
- E. <u>Confidentiality</u>. Other than as specified above, no person involved in the testing process shall release the results of breath tests to any other individual without a written release from the tested employee.

- F. <u>Invalid Test</u>. If the Director of Personnel Management determines the test is invalid, using the factors found at 49 CFR, Part 40.79, the test result shall be reported as negative.
- G. <u>Statistical Reporting</u>. The B.A.T. shall compile statistical data, that is not namespecific, related to testing results. The B.A.T. shall release the statistical data to the Director of Personnel Management upon request.

#### V.C8 COLLECTING AND TESTING URINE SPECIMENS

- A. <u>Collection Site</u>. Urine specimens shall be collected only at a site approved by an appropriate government agency, and identified by the Director of Personnel Management.
- B. <u>Collection Protocol</u>. Urine specimens shall be collected by persons trained in the collection process developed by the Substance Abuse and Mental Health Service Administration, United States Department of Health and Human Services, in accordance with standard collection protocols as specified in 49 CFR, Part 40(B), "Procedures for Transportation Workplace Drug Testing Programs Drug Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.
- C. <u>Splitting Sample</u>.

(

- (1) After collecting a sample of the employee's urine, the sample will be split into two specimens. Both specimens will be shipped to the laboratory selected for performing tests for the government.
- (2) One specimen, called the primary specimen, shall be tested for the government. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon request of the employee.
- D. <u>Confirming Test</u>. Primary urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of a prohibited drug, will a second test be conducted on the same urine specimen to identify the presence of a specific drug or metabolite, using a gas chromatography/mass spectrometry (GC/MS) test. No drug test shall be considered positive unless both the screening test and the confirming test show the presence of one or more of the drugs tested for.
- E. <u>Results</u>. The laboratory conducting the urine test shall give the results only to the M.R.O. The M.R.O. shall discuss the test result with the tested individual.

- F. <u>Invalid test</u>. If the M.R.O. decides that the test is invalid, the candidate shall immediately submit another urine specimen for testing.
- G. <u>Employee Test</u>. If the government's test shows positive for the presence of a specific drug or drugs, the employee may request that the M.R.O. have the secondary specimen tested at another laboratory certified by the United States Department of Health and Human Services, for the presence of the drug or drugs found in the primary specimen.
  - (1) The employee must make the request in writing, within 72 hours of receiving notice of the result of the government's test.
  - (2) The results of the second test shall be given to the M.R.O. who shall discuss the result with the employee.
  - (3) The employee shall pay for the cost of the second test.
- H. <u>Alternative Explanations for Positive Test Results</u>.
  - (1) Upon receiving a report of a positive test result, the M.R.O. shall determine if there is any alternative medical explanation for the result, including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individual's medical history and records. If the M.R.O. determines it to be necessary he or she may request pertinent analytical records from the laboratory or require a re-analysis of the specimen.
  - (2) The M.R.O. shall report the urine test result as negative and shall take no further action if he or she determines:
    - (a) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or
    - (b) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the positive drug test result is scientifically insufficient for further action.
- I. <u>Illegal Use of Opium</u>. If the GC/MS does not confirm the presence of 6monoacetylmorphine, the M.R.O. shall determine whether there is clinical evidence, in addition to the urine test result, of illegal use of any opium, opiate or opium derivative.
- J. <u>Report to Government</u>. The M.R.O. shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the employee's appointing authority, and to the Director of Personnel Management.

- K. <u>M.R.O. and Confidentiality</u>. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.
- L. <u>Statistical Reporting</u>. The M.R.O. shall compile statistical data, that is not namespecific, related to testing and rehabilitation. The M.R.O. shall release the statistical data to the Director of Personnel Management upon request.

## V.C9 EMPLOYEE AWARENESS AND REHABILITATION

- A. <u>Employee Awareness Training</u>. All employees shall receive information concerning the effects and consequences of drug and alcohol use on personal health, safety, and the work environment; the manifestations and behavioral clues indicative of drug and alcohol use; and the resources available to the employee in evaluating and resolving problems associated with the use of illegal and legal drugs and alcohol.
- B. <u>Employees Seeking Voluntary Assistance</u>. Government employees shall be allowed to voluntarily seek assistance for alcohol or drug use at any time prior to being required to be tested under the reasonable suspicion, post-accident or random testing procedures.
  - (1) Referrals. Employees may request referral to an S.A.P. for treatment, may refer themselves, or may be referred by a supervisor as part of a performance counseling. Such referrals shall only be made a part of the employee's medical file and shall not be a part of the employee's Official Personnel Folder. Referrals shall be kept confidential.
  - (2) Voluntary referrals. Employees who voluntarily seek assistance in dealing with drug and alcohol problems or accept referrals, before job performance is compromised, shall be provided the same leave benefits for recommended treatment as provided for any other health problem.
  - (3) Accountability for job performance. Regardless of participation in or requests for referrals, employees shall be held accountable for acceptable job performance. In no case where job performance has been compromised will disciplinary action be waived for employees asking for assistance and referral. However, such requests may be considered a mitigating factor in determining the appropriate form of discipline.
- C. <u>Job Security Maintained</u>. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.
- D. <u>Required Documentation</u>. Although voluntary referrals or referrals made prior to

testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employee's Official Personnel Folder.

### V.C10 DISSEMINATING INFORMATION ON REGULATIONS

- A. <u>Distribution to Employees</u>. All current employees shall receive a copy of these Regulations at least thirty (30) days before the implementation date. New employees hired after the effective date of this policy will be given a copy of this policy at the time of hire. Each employee shall sign a form prescribed by the Director of Personnel Management which acknowledges the receipt of the policy and the employee's understanding that he or she is bound by this policy. This acknowledgment shall be kept in the employee's Official Personnel Folder.
- B <u>Posting</u>. These regulations will be posted in all government workplaces for at least sixty (60) days following their implementation.

# V.C11 RECORD RETENTION AND REPORTING REQUIREMENTS

- A. <u>Administrative Records</u>. Records relating to the administration of this policy, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the Director of Personnel Management and the M.R.O. for five years.
- B. <u>Records Relating to Collection Process</u>. Records relating to the breath and urine collection process shall be kept by the Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.
- C. <u>Refusals, Referrals, and Test Results</u>. The Director of Personnel Management shall keep a copy of all records of refusals to be tested, breath and urine test results, and referrals to an S.A.P. in the employee's medical file, not the employee's Official Personnel Folder, at least until such time as disciplinary action is taken. The M.R.O. shall keep a copy of all urine test results and the B.A.T. shall keep a copy of all breath test results in a manner to assure confidentiality. No test results shall be available for use in a criminal prosecution of the employee without the employee's consent.
  - (1) Positive test result records, records of refusals to be tested and referrals to an S.A.P. shall be kept for five (5) years.
  - (2) Negative test result records shall be kept for a period of one (1) year.
- D. <u>Report to Federal Contract Agency</u>. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. §701(a)(1)(E), the Director of Personnel Management

shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.

# SECTION III. AMENDMENTS TO RELATED REGULATIONS<sup>1</sup>

# III.B4 PRE-EMPLOYMENT CONDITION STANDARDS

All persons appointed to positions in the Personnel Service System must be examined by medical personnel (see Part III.B5) and certified as physically capable of performing the duties of the position. They must be free from communicable diseases and any present or potential medical condition which would be detrimental to **the** successful performance of duty or **to** the health of other employees, or reflect discredit upon the Personnel Service System. However, if a claim is made by a candidate or appointee that the condition constitutes a disability under the federal Americans with Disabilities Act (ADA), the provisions of that <del>a</del>Act shall be followed, as applicable. **Persons offered safety sensitive positions within the Civil Service, as defined at Part V.C2(M), must also submit to a urine test for the presence of drugs. See Part V.C6(A).** 

# III.B5 ADMINISTRATION OF PHYSICAL AND MEDICAL EXAMINATIONS

Physical and medical examinations shall be administered by medical personnel authorized by the Commonwealth Government to conduct such examinations for employment purposes, and shall be recorded on forms prescribed by the Personnel Officer Director of Personnel Management. Urine tests for candidates for safety sensitive positions shall be conducted in accordance with Part V.C8.

Part III.D2(M): Procedure for tTaking Adverse Actions.

(5) If at all practicable, the employee must be kept on active duty in the regular position during the notice period. In an emergency, however, the employee may be suspended during the advance notice period and placed on Leave Without Pay (LWOP) or, with the employee's consent, carried on annual leave. An employee whose adverse action is based on conduct prohibited by Part V.C3 shall not be allowed to perform any safety-sensitive functions. If there are no safety sensitive functions an employee can perform, an emergency exists and the employee must be placed on leave without pay. If an employee's adverse action is based on conduct prohibited by Part V.C3 and the employee was involved in an injury-causing accident, the

<sup>&</sup>lt;sup>1</sup> Items in bold are inserted. Items crossed out are deleted.

employee shall be placed on LWOP pending resolution of the proposed adverse action. See, Part V.C4(D).

Part V, Sub-Part B

# EMPLOYEE CONDUCT AND PERFORMANCE EMOTIONAL AND MENTAL HEALTH

### V.B1 GENERAL

This sub-part deals with employee conduct and performance when outside influences, **other than substance abuse**, adversely affect <del>an</del> employees's effectiveness. The influences include, but are not limited to, the following:

Politics	Family problems
Employee-Supervisor conflict	Drug dependence
Employee-Employee conflict	Legal concerns
Perceived personal crisis	Alcoholism
Retirement crisis	Divorce
Death in the Family	Financial problems

Early recognition of deteriorating performance or conduct is a vital first step in the government's program to help the troubled employees retain or resume his/her their place as a productive members of the work force. Early recognition is also an integral part of supervision. Because the immediate supervisor must assume such a key role in helping the troubled employees, this sub-part is prepared to help the supervisor:

- A. Recognize early signs indicative of personal problems;
- B. Deal in an appropriate manner with the employees whose work is suffering because of personal problems; and
- C. Make the employees aware of sources of help within the organization and the community.

# This sub-part does not deal with substance abuse. See Part V, Sub-Part C, for the government's policy on creating an Alcohol and Drug Free Workplace.

#### V.B2. POLICY ON EMOTIONAL AND MENTAL HEALTH

As an employer, the government is concerned with any person or social situation which interferes with the individual employee's mental and physical well-being, or interferes with the efficient and safe performance of assigned duties, reduces dependability, or reflects discredit on the Personnel Service.

It is the government's policy to offer assistance through confidential counseling and

referral guidance when indicated. This assistance includes but is not limited to such areas as alcoholism, emotional problems, family and marital problems, indebtedness, interpersonal conflicts (employee-supervisor, employee-employee) and crisis situations, where it is determined by the employee or management that these problems adversely affect employee health and performance. Assistance available to employees voluntarily seeking help for substance abuse problems is described in Part V.C9. Sick leave, annual leave or leave without pay may be granted for approved programs of treatment, counseling or rehabilitation. The confidential nature of records in these cases will be maintained in the same manner as medical records.

# V:B3 POLICY ON ALCOHOLISM AND PROBLEM DRINKING

As employer, the government is not concerned with the private decision of an employee to use or not to use alcoholic beverages. Management is concerned with an employee's use of alcoholic beverages when it interferes with the efficient and safe performance of assigned duties, reduces dependability, or reflects a discredit on the Personnel Service.

The government has an interest in any health problem that reduces employee productivity. It recognizes that alcoholism and problem drinking are treatable illnesses and should be given the same careful consideration as other health problems. The goal is improved job performance and <u>not</u> discipline. Accordingly, it is the government's policy to offer assistance toward treatment and rehabilitation. Sick leave, annual leave or leave without pay may be granted for approved programs of treatment and rehabilitation.

# V-B4 V.B3 ACTION BY SUPERVISORS AND MANAGERS

- A. Supervisors and managers must be alert to indications of deteriorating performance on the part of employees under their supervision. Some of the indications which may occur are:
  - (1) A marked change in behavior. This may show up as emotional outburst, chronic irritability, excessive fatigue, or rule violations;
  - (2) Frequent short-term absences, notable the afternoon of pay day or the following Monday;
  - (3) Repeated accidents;
  - (4) Frequent complaints related to health;
  - (5) Chronic inability to get along with fellow employees; or
  - (6) Excessive problem drinking.

Β. Upon identification of presumed problems, the supervisor should approach the employee to determine the cause of performance change. Should an approach be rebuffed, which is likely, the supervisor should continue observation of the employee's performance, recording occurrences which tend to support the supervisor's feeling that the employee is troubled. If the conduct continues for a lengthy period, the supervisor must counsel with the employee and, if the employee is unresponsive, refer the matter to the Personnel Officer Director of Personnel Management.

#### <del>∀.B5</del> **V.B4** ACTION BY PERSONNEL OFFICER DIRECTOR OF PERSONNEL MANAGEMENT

Upon referral of a case to the Personnel Officer Director of Personnel Management by a supervisor, the Personnel Officer Director of Personnel Management should contact the Department of Public Health and Environmental Services for assistance. Once arrangements for assistance, on reasonable call, have been made, the Personnel Officer Director of Personnel Management should seek out the employee and counsel the employee to seek medical appropriate help. If the employee is agreeable, the Personnel Officer Director of Personnel Management should notify the supervisor concerned so that arrangements can be made for the employee to seek help. If the employee is not agreeable, the Personnel Officer Director of Personnel Management should advise the employee that if his/her the unsatisfactory performance continues, disciplinary action may result.

#### **V.B6** ACTION RELATED TO ALCOHOLISM OR DRUG ABUSE

When an employee's unsatisfactory performance appears to the supervisor clearly to be related to excessive use of alcohol or drug abuse, the supervisor, with advice and assistance from the Personnel Officer, should advise the employee that his/her removal from employment will be sought. The Personnel Officer and the supervisor, jointly, shall prepare a letter of proposed adverse action against the employee according to the instructions in Part III.D. As a part of the said letter, the following paragraph should be included:

"If, however, you agree to seek medical help to aid and improve your condition of health, which appears responsible for your unsatisfactory work performance, your removal will be held in abeyance, provided you, with the help of your doctor, establish a program of diagnostic rehabilitation which is satisfactory to us. The program of rehabilitation must continue successfully for a minimum of two years. Should you fail to carry out the program you have agreed to and revert to your former unsatisfactory performance, we will consider that to be a determination on your part that you do not wish to be retained as an employee in the Personnel Service. I shall then proceed with your removal, in order to promote and maintain the efficiency of the service."

# V.B7ACTIONS RELATED TO OTHER CAUSESV.B5FURTHER ACTIONS

Should an employee's conduct and performance continue to deteriorate and the supervisor is convinced beyond a reasonable doubt that the cause is other than alcohol abuse or drug dependence, the supervisor should consult with the Personnel Officer Director of Personnel Management. The Personnel Officer Director of Personnel Management should then seek the assistance from an appropriate practitioner at the Department of Public Health and Environmental Services.

Once the availability of professional help has been arranged, the Personnel Officer **Director of Personnel Management** should meet with the employee and candidly discuss the problem and offer to assist the employee in seeking professional help from the Department of Public Health and Environmental Services.

The course of action to be taken after referral to professional attention depends on the professional recommendation given.

# ₩-C V.D RESPONSIBILITIES OF EMPLOYEES AND MANAGEMENT

V:C14Use of Toxicants[Delete entire section]V:C15V.C14Specific Types of ConductV:C16V.C15Community and Professional Activities

# XI.B3 RECORDS REQUIRED

- C. Medical Examination Records. Medical examination forms and drug and alcohol test result forms for each employee shall be maintained in a file separate from the OPF. This is essential to protect the privacy of the individual. The records shall be maintained in a locked, fire resistant file with access allowed only to personnel authorized by the Personnel Officer Director of Personnel Management. Access must be restricted only to persons who have a "need to know" as determined and approved by the Personnel Officer Director of Personnel Management. Whenever access to a medical record is allowed, the Personnel Officer Director of Personnel Management shall record:
  - 1. date of access;
  - 2. name of persons allowed such access; and
  - 3. reason therefore.

This memorandum shall be kept in the folder of the individual medical record.

• Part XI.B4 is amended to read:

# XI.B4 DISPOSITION OF RECORDS

Upon the separation of an employee for whatever reason, the employee's Official Personnel Folder shall be closed and removed to storage. Prior to sending the file to storage, all temporary material filed on the left side of the folder shall be removed and either given to the employee or destroyed. Medical examination records and investigation file material shall be placed in the OPF so that the record is accurate and complete. Records of alcohol and drug test results shall be retained in the employee's medical file until the time period for retention, established at Part V.C11(C) has passed. At that time, the records shall be destroyed.



Commonwealth of the Northern Mariana Islands

Division of Environmental Quality P.O. Box 1304, Saipan, MP 96950



Tels.:(670) 234-6114/6984 Fax: (670) 234-1003

# PUBLIC NOTICE ADOPTED REVISIONS TO WATER QUALITY STANDARDS PROMULGATED UNDER THE AUTHORITY OF 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 by the DEPARTMENT OF PUBLIC WORKS

The Secretary of the Department of Public Works, of the Commonwealth of the Northern Mariana Islands (CNMI), in accordance with 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605, adopted amendments to the existing CNMI Water Quality Standards. This review of the Water Quality Standards and some of the changes conform with the requirements imposed on the Commonwealth in the Federal Clean Water Act. These changes in the CNMI Water Quality Standards were published in the Commonwealth Register on January 15, 1997. The following tables of aquatic water quality criteria were inadvertently ommitted in the publication of those final regulations. The purpose of this publication is to provide notice that these tables are to be included in the newly adopted CNMI Water Quality Standards.

Copies of the adopted amendments to the regulations are also available for viewing at the office of the Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, Saipan, MP 96950.

Date: 2125/97

Edward M. Deleon Guerento, Secretary Department of Public Works

Date:

John I. Castro, Jr. Director Division of Environmental Quality

Pursuant to 1 CMC § 2153 as amended by P.L. 10-50, the Rules and Regulations attached hereto have been received and approved for form and legal sufficiency by the Attorney General's Office.

Dated this 1997. day of

Robert B. Dunlap In Attorney General (Acting)

By:

Elliott A. Sattler Assistant Attorney General

Received by:

Date: AUG 1 1 1997

ĺ

(

Herman J. Fuerris

Herman T. Guerrero ' Office of the Governor

Recorded by:

8/11/97 Date: \_

Remedia Hellman JU.

For: Soledad B. Sasamoto Registrar of Corporations



# Commonwealth of the Northern Mariana Islands Office of the Secretary of Public Works

Saipan, Mariana Islands 96950

Tel: (671) 322-9482/9570 Fax: (671) 322-3547

#### CERTIFICATION

I, Edward Deleon M. Guerrero, Secretary of the Department of Public Works, which is promulgating the Water Quality Standards hereinabove set forth, by signature below I hereby certify that such amended and adopted Regulations on January 15, 1997 are a true, complete, and correct copy of the Regulations regarding Water Quality Standards formally adopted by the Department of Public Works which after the expiration of appropriate time for public comment, have been amended by including therein as set forth below:

Aquatic Life Water Quality Criteria (TABLE A) Human Health Water Quality Criteria (TABLE B)

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on the \_\_\_\_\_ day of July, 1997 at Saipan, Commonwealth of the Northern Mariana Islands.

Edward Deleon M Guerrero, Secretary Department of Public Works

# TABLE AAquatic Life Water Quality Criteria (1)Priority Pollutants

.

	FRESH	WATERS	MARINE	WATERS
POLLUTANT	ACUTE	CHRONIC	ACUTE	CHRONIC
Pentachlorophenol	20 <sup>(3)</sup>	13 <sup>(3)</sup>	13	7.9
Aldrin	3.0	-	1.3	-
Dieldrin	2.5	0.0019	0.71	0.0019
Chlordane	2.4	0.0043	.09	0.004
4,4' - DDT	1.1	0.001	0.13	0.001
alpha-Endosulfan	0.22	0.056	0.034	0.0087
beta-Endosulfan	0.22	0.056	0.034	0.0087
Endrin	0.18	0.0023	0.037	0.0023
Heptachlor	0.52	0.0038	0.053	0.0036
Heptachlor expoxide	0.52	0.0038	0.053	0.0036
gamma-BHC (lindane) (Hexachlorocyclohexane-gamma)	2	0.08	0.16	-
PCBs	-	0.014	-	0.03
Toxaphene	0.73	0.0002	0.21	0.0002
Arsenic	360	190	69	36
Cadmium	3.9 <sup>(2)</sup>	1.1 <sup>(2)</sup>	43	9.3
Chromium (III)	1700 <sup>(2)</sup>	210 <sup>(2)</sup>	-	-
Chromium (VI)	16	11	1100	50
Copper	18 <sup>(2)</sup>	12 <sup>(2)</sup>	2.9	2.9
Cyanide (total)	22	5.2	1.0	1.0
Lead	82 <sup>(2)</sup>	3.2 <sup>(2)</sup>	140	5.6
Mercury	2.4	0.012	2.1	0.025
Nickel	1400 <sup>(2)</sup>	160 <sup>(2)</sup>	75	8.3
Selenium	20	5	300	71
Silver	4.1 <sup>(2)</sup>		2.3	-
Zinc	120 <sup>(2)</sup>	110 <sup>(2)</sup>	95	86
Tribetyltin	0.44	0.06	0.36	0.01
(1) THESE CRITERIA APPLY TO ALL SURFACE WATERS. THE VALUES GIVEN IN THIS TABLE REFER TO THE TOTAL RECOVERABLE (DISSOLVED PLUS SUSPENDED) AMOUNT OF EACH SUBSTANCE. ALL CRITERIA ARE LISTED AS MIROGRAMS PER LITER (UG/L).				
(2) HARDNESS DEPENDENT CRITERIA, VALUE GIVEN IS AN EXAMPLE ONLY AND IS BASED ON A				
CACO, HARDNESS OF 100 MG/L. CRITER				SING THE
APPROPRIATE EQUATIONS IN THE EPA CRITERIA DOCUEMNTS. FOR PURPOSES OF CALCULATING FRESHWATER AQUATIC LIFE CRITERIA FOR METALS FROM THE EQUATIONS THE				
MINIMUM HARDNESS ALLOWED FOR USE IN THE THOSE EQUATIONS SHALL NOT BE LESS THAN				
25 mg/l, AS CALCIUM CARBONATE, EVE		L AMBIENT HAR	DNESS IS LE	SS THAN 25
mg/I AS CALCIUM CARBONATE. THE MAXIMUM HARD				
NESS VALUE FOR USE IN THOSE EQUATIONS SHALL NOT EXCEED 400 mg/l AS CALCIUM CARBONATE, EVEN IF THE ACTUAL AMBIENT IS GREATER THAN 400 mg/l AS CALCIUM				
CARBONATE, EVEN IF THE ACTUAL AM	DIDINI IS GIUDAI	ER HEAR 400 III	5/1 AD UALUIU	111
(3) PH DEPENDENT CRITERIA. VALUE G	IVEN IS AN EXA	MPLE ONLY AN	D IS BASED O	N A PH OF 7.8.
CRITERIA FOR EACH CASE MUST BE CA				
DOCUMENT.		<del></del>		

# TABLE B Human Health Water Quality Criteria (1) Priority Pollutants

	HUMAN HEALTH VALUE	
POLLUTANT	Fresh Waters (3)	Marine Waters (3)
Acrolein	320	780
Acrylonitrile <sup>(4)</sup>	0.058	0.65
Benzene <sup>(4)</sup>	1.2	71
Benzidine <sup>(4)</sup>	0.00012	0.00053
Carbon tetrachloride <sup>(4)</sup> (Tetrachloromethane)	0.25	4.4
Chlorobenzene (Monochlorobenzene)	20	21000
Hexachlorobenzene (4)	0.00072	0.00074
1,2 - Dichloroethane <sup>(4)</sup>	0.38	99
1,1,1-Trichloroethane	200	
Hexachloroethane (4)	1.9	8.74
1,1,2-Trichloroethane (4)	0.60	41.8
1,1,2,2-Tetrachloroethane <sup>(4)</sup>	0.17	10.7
Bis (2-chloroethyl) ether (4)	0.03	1.36
2,4,6-Trichlorophenol <sup>(4)</sup>	2.1	6.5
Chloroform (HM) <sup>(4)</sup>	5.7	470
(Trichloromethane)		
1,2-Dichlorobenzene	600	17000
1,3-Dichlorobenzene	400	2600
1,4-Dichlorobenzene	75	2600
3,3'-Dichlorobenzidine (4)	0.04	0.077
1,1-Dichloroethylene (4)	0.057	3.2
2,4-Dichlorophenol	93	790
1,3-Dichloropropylene	10	1700
(1,3-Dichloropropene)		
(cis and trans somers)		
2,4-Dinitrotoluene (4)	0.11	9.1
1,2-Diphenylhydrazine <sup>(4)</sup>	0.042	0.56
Ethylbenzene	700	29000

.

(

•

.

# TABLE B

# Human Health Water Quality Criteria (1) Priority Pollutants

	HUMAN HEALTH VALUE	
POLLUTANT	Fresh Waters (2)	Marine Waters (3)
Fluoranthene	300	370
Bis (2-chloroisopropyl)ether	1400	170000
Methylene chloride (HM) <sup>(4)</sup>	4.7	1600
(Dichloromethane)		
Methyl chloride (HM) <sup>(4)</sup>	0.19	15.7
(Chloromethane)		
Methyl bromide (HM) (4)	48	4000
(Bromomethane)		
Bromoform (HM) <sup>(4)</sup>	4.3	360
(Tribromomethane)		
Dichlorobromomethane (HM) <sup>(4)</sup>	0.56	46
Chlorodlbromomethane (HM) <sup>(4)</sup>	0.41	34
Hexachlorobutadiene (4)	0.45	50
Hexachlorocyclopentadiene	1.0	17000
Isophorone	36	2600
Nitrobenzene	17	1900
2,4-Dinitrophenol	70	14300
4,6-Dinitro-o-cresol	13.4	765
(4,6-Dinitro-2-methylphenol)		
N-Nitrosodimethylamine (4)	.00069	8.1
N-Nitrosodiphenylamine (4)	4.9	16.1
Pentachlorophenol	0.28	8.2
Phenol	21000	4600000
Bis (2-ethylhexyl)phthalate (4)	1.8	5.9
Di-n-butyl phthlate	2700	12000
Diethyl phthalate	23000	120000
Dimethyl phthlate	313000	290000
Benzo(a) anthracene (PAH) (4)	0.0044	0.049
(1,2-Benzanthracene)		
Benzo(a)pytene (PAH) <sup>(4)</sup>	0.0044	0.049
(3,4-Benzopyrene)		
Benzo(b) fluoranthene (PAH) <sup>(4)</sup>	0.0044	0.049
(3,4-Benzofluoranthene)		
Benzo(k) fluoranthene (PAH) (4)	0.0044	0.049
(11,1,2-Benzofluoranthene)		
Chrysene (PAH) (4)	0.0044	0.049
Anthracene (PAH) (4)	9600	110000

# TABLE B

.

(

# Human Health Water Quality Criteria (1) Priority Pollutants

	HUMAN HEALTH VALUE	
POLLUTANT	Fresh Waters (2)	Marine Waters (3)
Fluorene (PAH) <sup>(4)</sup>	1300	14000
Dibenzo (ah), anthracene (PAH)	0.0044	0.049
(1,2,5,6-Dibenzoathracene)		
Indeno (1,2,3-cd)pyrene (PAH) Pyrene (PAH <sup>(4)</sup>	0.0044	0.049
Pyrene (PAH ···	960	11000
Tetrachloroethylene <sup>(4)</sup>	0.8	8.85
Toluene	1000	200000
Trichloroethylene (4)	2.7	80.7
Vinyl chloride <sup>(4)</sup> (Chloroethylene)	2.0	525
Aldrin <sup>(4)</sup>	0.00013	0.00014
Dieldrin <sup>(4)</sup>	0.00014	0.00014
Chlordane <sup>(4)</sup>	0.00057	0.00059
4,4'-DDT <sup>(4)</sup>	0.00059	0.00059
4,4'-DDE <sup>(4)</sup>	0.00059	0.00059
4,4'DDD <sup>(4)</sup>	0.00083	0.00084
apha-Endosulfan	110	240
beta-Endosulfan	110	240
Endosulfan sulfate	110	240
Endrin	0.76	0.81
	0.76	0.81
Endrin aldehyde Heptachlor <sup>(4)</sup>	.00021	.00021
Heptachlor epoxide <sup>(4)</sup>	0.00028	0.00029
alpha-BHC <sup>(4)</sup>	.0039	.013
(Hexachlorocyolohexane-alpha)	.0039	.013
beta-BHC <sup>(4)</sup>	.014	.046
	.014	.040
(Hexachlorocyclohexane-beta) gamma-BHC (Lindane <sup>(4)</sup>	0.019	0.063
(Hexachlorocyclohaxane-gamma)	0.019	0.005
PCBs	0.000044	0.000045
Toxaphene <sup>(4)</sup>	0.00071	0.00073
	6	4300
Antimony Arsenic <sup>(4)</sup>	9.2	73
Asbestos	30000 fibers/l	-
Beryllium <sup>(4)</sup>	0.0076	0.131
Cadmium	5	-
Chromium (III)	50	3433000
Chromium (VI)	50	
Cyanide (total)	200	220000
Lead	50	
Mercury	0.144	0.146
Nickel	3.4	100

# TABLE B

# Human Health Water Quality Criteria (1) Priority Pollutants

	HUMAN HEALTH VALUE	
POLLUTANT	FRESH	MARINE
Selenium	10	-
Silver	50	-
Thallium	1.7	6.3
Dioxin (,3,7,8-TCDD) <sup>(4)</sup>	0.00000013	0.00000014
1,2 dichloropropane	0.52	39
1,2 Transdichloroethylene	100	140000
2,4 dimethylphenol	540	2300
acenaphthene	1200	2700
N-nitrosodi-n-propylamine	0.005	1.4
1,2,4 trichlorobenzene	100	940
<ul> <li>(DISSOLVED PLUS SUSPENDED) AMOUNT OF EACH SUBSTANCE.</li> <li>EXCEPT FOR ASBESTOS, ALL CRITERIA ARE LISTED AS MICROGRAMS PER LITER (UG/L)).</li> </ul>		
(2) THE FRESH WATER VALUES APPLY TO ALL SURFACE FRESH WATERS AND ARE BASED ON TWO ROUTES OF EXPOSURE - INGESTION OF CONTAMINATED AQUATIC ORGANISMS AND DRINKING WATER.		
(3) THE MARINE WATER VALUES APPLY TO ALL SURFACE MARINE WATERS AND ARE BASED ON ONE ROUTE OF EXPOSURE - INGESTION OF CONTAMINATED AQUATIC ORGANISMS ONLY.		
(4) SUBSTANCE CLASSIFIED AS A CARCINOGEN WITH THE VALUE BASED ON AN INCREMENTAL RISK OF ONE ADDITIONAL INSTANCE OF CANCER IN ONE MILLION PERSONS.		

.



Office of the Secretary Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 F

FAX: (670) 664-1115

# **NOTICE OF ADOPTION**

# DEPARTMENT OF FINANCE AMENDED CUSTOMS SERVICE REGULATIONS NO. 4300

The Secretary of Finance, hereby adopts as amended regulations for the Division of Customs Service, the proposed amended Customs Service Regulations No. 4300, which were published in the June 15, 1997, Commonwealth Register. The amended Customs Service Regulations are promulgated by virtue of the authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §2553, 1 CMC §2557, 4 CMC §1104, 4 CMC §1402(d) and 4 CMC §1818, and the Commonwealth Administrative Procedure Act, 1 CMC §9101 et seq.

Amended Customs Service Regulations No. 4300 makes a provision to exempt CNMI based airlines and shipping lines in regard to Repair and In-flight Supplies. One comment in favor of this amendment was received. No changes were made to the amended Customs Service Regulations No. 4300. Copies of this amended Customs Service Regulations No. 4300 may be obtained from the Office of the Secretary of Finance, Capitol Hill, P.O. Box 5234, CHRB, Saipan, MP 96950.

Amended Customs Regulations No. 4300 become effective on August 25, 1997.

Issued by:

1

ANTONIO R. CABRERA SECRETARY OF FINANCE

Received by:

HERMAN T. GUERRERO OFFICE OF THE GOVERNOR

Filed and Recorded by:

 SOLEDAD B. SASAMOTO REGISTRAR OF CORPORATIONS 5August 97 Date

8-11-9z

Date

PURSUANT TO 1 CMC §2153 AS AMENDED BY PL 10-50 THE RULES AND REGULATIONS ATTACHED HERETO HAVE BEEN REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE CNMI ATTORNEY GENERAL'S OFFICE.

DAY OF \_

	ATTORNEY ROBEET B.	GENERAL [1 DUNLAP, I	ACTING]
BY:	•	TTORNEY	
	ELLIOTT A	A. SATTLER	



Office of the Secretary Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL. (670) 664-1100 FAX: (670) 664-1115

# **CERTIFICATION OF ADOPTION**

### DEPARTMENT OF FINANCE

#### AMENDED CUSTOMS SERVICE REGULATIONS

NO. 4300

I, Antonio R. Cabrera, Secretary of the Department of Finance who is publishing the "Notice of Adoption of Amended Customs Service Regulations No. 4300", by signature below hereby certifies that the Amended Customs Service Regulations No. 4300 is a true, correct, and complete copy of the regulations adopted by the Department of Finance. I further request and direct that this certification and the "Notice of Adoption of Amended Customs Service Regulations No. 4300" be published in the Commonwealth Register.

ANTONIO R. CABRERA Secretary of Finance

Pursuant to 1 CMC §2153 as amended by PL 10-50 the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.  $\Lambda$ 

DATED THIS 11th DAY OF August, 19 97.

ATTORNEY GENERAL [ACTING] ROBERT B. DUNLAP II

BY: ELLIOTT A. SATTLER

ASSISTANT ATTORNEY GENERAL Elliott A. Sattler



Commonwealth of the Northern Mariana Islands

Division of Environmental Quality P.O. Box 1304, Saipan, MP 96950



Tels.:(670) 234-6114/6984 Fax: (670) 234-1003

# PUBLIC NOTICE ADOPTED AMENDMENT AND REVISIONS TO PESTICIDE REGULATIONS PROMULGATED UNDER THE AUTHORITY OF 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 by the DEPARTMENT OF PUBLIC WORKS

The Secretary of the Department of Public Works, of the Commonwealth of the Northern Mariana Islands (CNMI), in accordance with 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 has adopted amendments and revisions to the existing Pesticide Regulations. The Division of Environmental Quality has revised the regulations and is restricting the use of thirty (30) specific pesticides. In addition, the Division of Environmental Quality has banned (5) herbicides in the CNMI that are known to leach to ground water.

Copies of the adopted amendments to the regulations are also available for viewing at the office of the Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, Saipan, MP 96950.

Date:

1110

Edward M. Deleon Guererro, Secretary Department of Public Works

Date

John I. Castro, Director

Division of Environmental Quality

Filed by: 8/11 Date:

Remedio Su. Hellman

Registrar of Corporations

Received at Governor's Office:

Donna J. Cruz

and approved as to form and legal antitudency of the generative devices in the contraction of the contraction of the second of t

Dated this

-	Robert B. Dunlap V Attended General (Acting)
By:	Assistant Attorney Cleneral Elliott L. Sattler



Commonwealth of the Northern Mariana Islands

Division of Environmental Quality P.O. Box 1304, Saipan, MP 96950



Tels.:(670) 234-6114/6984 Fax: (670) 234-1003

#### NUTISIAN PUPBLIKU

# INADAPTAN AMENDASION YAN RIBISION GI REGULASION PESTICIDE NI MACHO'GUE SIGUN GI ATURIDAT I 2 CMC § § 3101 asta 3134 yan 1 CMC § § 2601 asta 2605 ginen i DIPATTAMENTON PUBLIC WORKS

I Sekretarion Dipattamenton Public Works gi halom i Commonwealth i Sangkattan Siha na Islas Marianas (CNMI), sigun gi 2 CMC § § 3101 asta 3134 yan 1 CMC § § 2601 asta 2605 esta ha adapta i amendasion yan ribision siha para i prisenti na Regulasion Pesticide. I Dibision Environmental Quality ha ribisa i regulasion ya ha pruhibi sinku (5) na klasen herbicides gi halom CNMI ni matungo' komu hana bababa i hanom gi papa tano'.

Kapian i ma adapta na amendasion para i regulasion guaha para hayi malago ' gi Ofisinan Environmental Quality, ni gaige gi mina ' tres bibendas gi Morgen Buiding giya San Jose, Saipan, MP 96950.

Fecha:

Fecha

Ma file as: Fecha: \_\_\_\_\_8/11/97

Edward M. Deleon Guerrero, Sekretario Dipattamenton Public Works.

John LCastro, Direktot Dibision I Environmental Quality

Soledad B. Sasamoto
 Rehistradoran Kotporasion

Marisibi gi Ofisinan Guebetno:

Fecha: 8-11-97

# NUTISIAN PUPBLIKU INADAPTAN AMENDASION YAN RIBISION GI REGULASION PESTICIDE NI MACHO'GUE SIGUN GI ATURIDAT I 2 CMC §§3101 asta 3134 yan 1 CMC §§ 2601 asta 2605 ginen i **DIPATTAMENTON PUBLIC WORKS**

I Sekretarion Dipattamenton Public Works gi halom i Commonwealth i Sangkattan Siha na Islas Marianas (CNMI, sigun gi 2 CMC §§3101 asta 3134 yan 1 CMC §§ 2601 asta 2605 esta ha adapta i amendasion yan ribision siha para i prisenti na Regulasion Pesticide. I Dibision Environmental Quality ha ribisa i regulasion ya ha pruhibi i ma usan trenta (30)na klasen pesticide. Lokkue' i Dibision Environmental Quality ha prohibi singku (5) na klasen herbicides gi halom CNMI ni matungo' komu hana bababa i hanom gi papa tano'.

Kopian i ma adapta na amendasion para i regulasion guaha para hayi malago' gi Ofisinan Dibision Environmental Quality, ni gaige gi mina' tres bibendas gi Morgen Building giya San Jose, Saipan, MP 96950.

Fecha: 2/7/

Fecha: \_

Ma file as: 8||||97

Edward M. Deleon Guerrero, Sekretario Dipattamenton Public Works

John I Castro, Direktot **Dibision I Environmental Quality** 

Kymedis M. Hellman

for: Soledad B. Sasamoto Rehistradoran Kotporasion

Marisibi gi Ofisinan Gubetno:

Fecha: 8-11-97

. Hellen V. Juerrer Donna J. Cruz



Commonwealth of the Northern Mariana Islands

Division of Environmental Quality P.O. Box 1304, Saipan, MP 96950



Tels.:(670) 234-6114/6984 Fax: (670) 234-1003

# ARONGORONGOL TOULAP

# REEL ADOPTAAL LLIIWEL ME FFÉÉR SEFÁÁL ALLÉGHÚL PESTICIDE E AKKATÉÉLÓ SÁNGI BWÁNGI ME AILEEWAL 2 CMC § § 3134 me 1 CMC § § 2601 ngáli 2605 MEREEL BWULASIYOOL PUBLIC WORKS

<u>Sekereteril</u> Bwulasiyool Public Works, melló Commonwealth Metawal Wóól Falúw kka Marianas (CNMI), sángi bwángil 2 CMC § § 3101 ngali 2134 me 1 CMC § § 2601 ngali 2605 a adoptaal Iliwel kkaal me fféér sefáál meeta kka ayoor reel Alléghúl Pesticide. <u>Dibisiyoonul</u> Environmental Quality a takkal amweri sefááli allégh kkaal me e akkayúúló yáyáál eliigh (30) tappal pesticide. Iwe bwal, <u>Dibisiyoonul</u> Environmental Quality a ayúúló limwow (5) herbicides mellól CNMI ikka e bwááló bwe e anngawaaló schalúl faal ppwel.

<u>Kopiyaal</u> reel igha a adopted lliwel ngali allégh kkaal eyoor reel ubwe amweri mereel Bwulasiyool Environmental Quality, iye e lo ailuuwal táál (3rd Floor) mellól Morgen Building iye e lo San Jose, Seipél, MP. 96950.

Rál.

Isáliyal: Rál. <u>81197</u>

nguu M. Deleon Guerrero, Sekereteril Êdward

Bwulasiyool Public Works.

John l/ ¢astro, <u>Direktoodul</u> <u>Dibisiyoonul</u> Environmental Quality

elluan

Registrar of Corporations

Bwighiyal mereel Bwulasiyool Gobenno:

Rál. 8-11-97

Donna J. Cruz

# ARONGORONGOL TOULAP

# Reel <u>Adoptaal</u> Lliiwel Me Fféér Sefáál Alléghúl Pesticide E Akkatééló Sángi Bwángil Me Aileewal 2 CMC § § 3134 me 1 CMC § § 2601 ngáli 2605 mereel Bwulasiyool Public Works

<u>Sekereteril</u> Bwulasiyool Public Works, mellól Commonwealth Metawal Wóól Falúw Kka Marianas(CNMI), sángi bwángil 2 CMC § § 3101 ngali 2134 me 1 <u>CMC</u> § § 2601 ngali 2605 a adopted Iliiwel kkaal me fféér sefáál meeta kka ayoor reel Alléghúl Pesticide. <u>Dibisiyoonul</u> Environmental Quality a takkal amweri sefááli allégh kkaal me e akkayúúló yáyáál eliigh(30) tappal pesticide. Iwe bwal, <u>Dibisiyoonul</u> Environmental Quality a ayúúló limwow(5) herbicides mellól CNMI ikka e bwááló bwe e anngawaaló schalúl faal ppwel.

<u>Kopiyaal</u> reel igha a adopted lliiwel ngali allégh kkaal eyoor reel ubwe amweri mereel Bwulasiyool Environmental Quality, iye e lo ailuuwal táál(3rd Floor) mellól Morgen Building iy<u>e e l</u>o San Jose, Seipél, MP. 96950.

Rái. <u>7/7/</u>87

Edward M. Deleon Guerrero, <u>Sekereteril</u> Bwulasiyool Public Works

John I. Castro, <u>Direktoodul</u> Dibisiyoonul Environmental Quality

Isáliyal: 8/11/97 Rál

fr: Soledad B. Sasamoto Registrar of Corporations

#### Bwughiyal mereel Bwulasiyool Gobenno:

esman V. Auersen Rál 8-11-57 Donna J. Cruz

#### PART 10 RESTRICTING AND BANNING OF PESTICIDES

(

10.1 Restricting of Pesticides. DEQ may restrict any use, sale, distribution, and import of any pesticide to application by a certified applicator or a person acting under the supervision of a certified applicator when misuse by non-certified applicators has produced or is deemed likely to produce substantial adverse effects on human health or the environment. Any pesticide listed below or any pesticide identified by the EPA as 'restricted use pesticide' shall be labeled as CNMI Restricted Use Pesticide.

#### Table 10.1 CNMI RESTRICTED USE PESTICIDES

COMMON NAME	PESTICIDE TYPE	FORMULATIONS
Alachlor	Herbicide	All formulations
Aldicarb	Nematicide, Insecticide	Granular formulation
Atrazine	Herbicide	All manufacturing and end use formulation
Azinphosmethyl	Insecticide	All liquids with a concentration greater than 13.5% and all other formulations on a case by case basis
Bendiocarb	Insecticide	Granular/wettable powder
Carbofuran	Nematicide Insectide	All formulations except pellets and tablets
Chlorophacinone	Rodenticide	Inside buildings
Chloropicrin	Fumigant, Fungicide, Rodenticide	All formulations greater than 2 % and and all formulation for rodent
Cypermethrin	Insecticide	All formulations
Diazinon	Insecticide	All formulations
Dichloropropene	Fumigant	All formulations
Dicrotophos	Insecticide	All liquid formulations 8% and greater

Termicide	Liquid
Insecticide	9.4% liquid
Insecticide	emulsifiable concentrate (EC)
Insecticide	EC's 40% greater (aquatic) All granular and fertilizer formulation
Nematicide	EC's 35% and greater
Insecticide	EC (30%)
Insecticide	All formulations
Insecticide	65% Liquid formulation
Insecticide	All formulations
Insecticide	All formulations for various use
Insecticide Fumigant	All formulations
Insecticide	As sole active ingredient in 1% to 2.5% baits (except % fly bait), all concentrated solution formulations and 90% wettable powder formulation
Fumigant	All formulations
Insecticide	EC's 2% dust
Insecticide Nematicide	Liquid formul- ation, granular
Insecticide	All formulations
Herbicide	All formulations and concentrate
Insecticide	All formulations
Insecticide	All formulation
Herbicide	All 50% Wettable Powders
	Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide Insecticide

(

( )

Rotenone	Fish control	2.5 & 5.0 EC, 5.0% & 20% WP
Sodium Cyanide	Rodenticide	All capsules & bait formulations
Sodium methyl dithio-carbamate	Fumigant	32.7% anhydrous
Sulfuryl fluoride	Fumigant	All formulation

10.2 <u>Banning of Pesticides.</u> DEQ may prohibit the importation, sale, distribution, and use of any pesticide or prohibit a specific use or uses of any pesticides when such use or uses has produced or is deemed likely to produce substantial adverse effects on human health or the environment. For the purposes of these regulations, any EPA pesticide use suspension, cancellation, or unregistration, and the herbicides listed below, are banned in the CNMI.

**Banned Herbicides in the CNMI** 

10.2.1 Atrazine10.2.2 Simazine10.2.3 Cyanizine10.2.4 Metolachlor10.2.5 Alachlor



# Commonwealth of the Northern Mariana Islands Office of the Secretary of Public Works

Saipan, Mariana Islands 96950

Tel: (670) 322-9482/9570 Fax: (670) 322-3547

#### CERTIFICATION

I, Edward Deleon M. Guerrero, Secretary of the Department of Public Works, which is promulgating the Pesticide Regulations hereinabove set forth, by signature below I hereby certify that such amended and adopted Regulations are a true, complete, and correct copy of the Regulations regarding Pesticide Regulations formally adopted by the Department of Public Works. I declare under penalty of perjury that the foegoing is true and correct and this declaration was executed on the <u>7</u> day of July, 1997 at Saipan, Commonwealth of the Northern Mariana Islands.

UNIO .

Edward Deleon M. Guerrero, Secretary Department of Public Works



# PUBLIC NOTICE OF PROPOSED REPEAL OF, AND PROMULGATION OF NEW RULES AND REGULATIONS GOVERNING THE CNMI GROUP HEALTH INSURANCE PROGRAM

The Board of Trustees of the NM Retirement Fund hereby gives notice to the general public that it proposes to repeal Parts I, II, III, IV, V, VI, VIII and IX of the Rules and Regulations governing the Group Health Insurance program as published in the Commonwealth Register, Vol. 19, No. 2, on February 15, 1997, and as adopted by the Notice of Certification and Adoption appearing in the Commonwealth Register, Vol. 19, No. 5, on May 15, 1997; and to promulgate new Rules and Regulations to govern the Group Health Insurance Program.

The Board is soliciting comments and recommendations regarding these proposed rules and regulations, which must be received by the Fund within 30 days of the first publication of this notice. Copies of these proposed rules and regulations may be obtained at any of the NMI Retirement Fund Offices on Saipan, Rota, and Tinian.

day of August, 1997. **DATED** this

Vicente C. Camacho Chairman, Board of Trustees, NMIRF

Filed by:

Kemedio hr. Hallman

A. Soledad B. Sasamoto Registrar of Corporation

Received at the Governor's Office:

Herman T. Guerrero Executive Assistant to the Governor

Edward H. Manglona Administrator, NMI Retirement Fund

8-15-97 Date:

Date:\_ 8-15-97

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15573

"INVESTING FOR YOUR FUTURE FINANCIAL SECURITY"



#### NOTISIAN PUBLIKO

### POT I MAPROPOPONE PARA UMA DIROGA I BIHU, YAN UMA ADAPTA I NUEBO NA AREGLAMENTON YAN REGULASION NUI PARA UGOBETNA I PROGRAMAM GROUP HEALTH INSURANCE

I Board of Trustees i NMI Retirement Fund man nana'e nutisia para i henerat publiko na ha propopone para u diroga i Patte I, II, III, IV, V, VI, VIII and IX gi Areklamento yan Regulasion nui gumubebetna i prugraman Group Health Insurance nui ma publika gi Rehistran i Commonwealth, Volume 19, Numero 2, gi Febrero dia 15, 1997, yan anai ma adapta lokue sigun gi Notisian Settifikasion nui annok gi Rehistran i Commonwealth, Volume 19, Numero 5, gi Mayo dia 15, 1997; yan lokue i Board ha propoponi para u adapta nuebo na areklamento yan regulasion para ugubetna i programan i Group Health Insurance.

I Board ha deseha rumisibi rekomendasion yan komentos ginen i publiko pot esti i mapropoponi na areklamento. Todo rekomendasion debi di uma resibi nui Retirement Fund gi halom trenta (30) dias desdi ki finenena na mapublika esti na notisia. Kopian esti i ma propone na areklamento yan regulasion sina ma chuli gi ofisinan i Retirement Fund giya Saipan, Rota yan Tinian.

MAFECHA,gi dia 15 de Agosto, 1997.

Vicente C. Camacho Chairman, Board of Trustees, NMIRF

Filed by:

ton:

Kemedis M. Hellman

Soledad B. Sasamoto Registrar of Corporation

Received at the Governor's Office:

Herman T. Guerrero Executive Assistant to the Governor

Date

an Tinian. 15 de Agosto, 1997. 45

Date:

Edward H. Manglona Administrator, NMI Retirement Fund

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15574

"INVESTING FOR YOUR FUTURE FINANCIAL SECURITY"



P.O. Box 1247, Saipan, MP 96950 Telephone: (670) 234-7228 / Fax: (670) 234-9624 e-mail: nmi.retirement@saipan.com

Northern Mariana Islands

### CNMI Group Health Insurance Rules and Regulations

Statutory Authority:

F

Section 5, Public Law 10-19

Goals and Objectives:

The NMI Retirement Fund is required by P.L. 10-19 to establish and administer the CNMI Group Health and Life Insurance Trust Fund. The goals and objectives of these rules is to provide a guidelines in managing a bona fide benefit plan that complies with local and federal laws.

<u>Summary of Rule</u>:

For Further Information:

the administration of health insurance program, to establish claims procedure, to provide clear and precise description of benefits applicable to all participants.

These proposed rules will provide guidelines necessary for

Contact Edward H. Manglona, Administrator, NMI Retirement Fund, Telephone 234-7228 or Fax 234-9624.

Submitted by:

Edward H. Manglona Administrator, NMI Retirement Fund

Date

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15574-A "INVESTING FOR YOUR FUTURE FINANCIAL SECURITY"



## CERTIFICATION

I, Edward H. Manglona, Administrator of the NMI Retirement Fund, who is promulgating these Proposed Rules and Regulations governing the Group Health Insurance Program, by signature below certifies that the Proposed Rules and Regulations is a true, correct, and complete copy of the Rules and Regulations of the Group Health Insurance Program administered by the NMI Retirement Fund. I further request and direct that this certification and the Proposed Rules and Regulations be published in the Commonwealth Register.

I declare under penalties of perjury that the foregoing is true and correct and that this declaration was executed on the  $\frac{\sqrt{3}}{4}$  day of August, 1997 at Saipan, Commonwealth of the Northern Mariana Islands.

Edward H. Manglona Administrator

Pursuant to 1 CMC 2153 as amended by P.L. 10-50, the rules and regulations attached hereto have been reviewed and approved by the CNMI Attorney General's Office.

1997. DATED this \_ day of

Robert B. Dunlap, II Attorney General (Acting)

By:

Assistant Attorney General

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15575 "INVESTING FOR YOUR FUTURE FINANCIAL SECURITY"

# **ARTICLE 1 - INTRODUCTION**

The Government of the Commonwealth of the Northern Mariana Islands provides its eligible Employees, Retirees and their eligible family members with an optional group health insurance Plan. The purpose of the Plan is to provide financial assistance to Enrollees to help them pay for necessary health care. Public Law 10-19 transferred the administrative functions of the Plan, existing inventory and staff to the NMI Retirement Fund effective June 21, 1996. This Plan Document sets forth the terms and conditions of the Government's Program beginning on the effective date of these regulations.

The Program is underwritten exclusively by the CNMI Government and is administered by the Board of Trustees of the NMI Retirement Fund and the NMI Retirement Fund's Administrator. The Program's Covered Benefits, eligibility and enrollment requirements, and administrative procedures are governed by this Plan Document.

These Rules and Regulations govern the Program and repeal Parts I, II, III, IV, V, VI, VIII and IX of the Rules and Regulations published in the Commonwealth Register, Volume 19, Number 2, on February 15, 1997, and adopted by the Notice and Certification of Adoption appearing in the Commonwealth Register, Volume 19, Number 5, on May 15, 1997. To the extent that they are not inconsistent with the provisions of Public Law 8-31, the Program, and these Rules and Regulations, shall apply to all Retirees who are covered by the provisions of Public Law 8-31.

The CNMI Legislature has the right to modify or terminate the Program at any time. The Board has the right to modify or amend the Program at any time, with or without notice. However, no such modification or amendment by the Board will adversely affect any claim for any benefit that was incurred before the effective date of such modification or termination.

Questions about enrollment, benefits or claims and all Application Forms, Enrollment Change Forms, Claims Forms and correspondence should be directed to the Administrator, CNMI Group Health Insurance Program, NMI Retirement Fund, 1<sup>st</sup> Floor, Nauru Building, P.O. Box 1247, Saipan, MP 96950, telephone/670-234-7228, fax 670-234-9624.

Vicente Č. Camacho, Chairman Board of Trustees NMI Retirement Fund

a

Edward H. Manglona Administrator NMI Retirement Fund

3

# **ARTICLE 2 - DEFINITIONS**

Where a word or phrase used in this Plan Document has a meaning specifically defined by this Article, it appears italicized and with its first letter or letters in capitalized form.

2.01. "Act" means Public Law 10-19, An Act to Transfer the Administration of the Government Health Insurance Programs to the Northern Mariana Islands Retirement Fund, which was enacted into law effective June 21, 1996, and all subsequent amendments.

2.02. "Administrator" means the Administrator of the NMI Retirement Fund or his or her designee.

2.03. "Allowable Expense" means any expense which the Administrator determines to be reasonable and appropriate for administering the Program and for providing Covered Benefits in accordance with this Plan Document.

2.04. "Annual Maximum" means the dollar limitation on the total amount that the Program will pay for all Covered Benefits provided to any Enrollee in any Plan Year.

2.05. "Application Form" means the form prescribed by the Administrator and required to be submitted to the Administrator by any person wishing to enroll himself or herself and/or his or her Dependents in the Program.

2.06. "Board" means the Board of Trustees of the NMI Retirement Fund.

2.07. "Child" means a Subscriber's unmarried

- a. natural child;
- b. legally adopted child or child placed for adoption;

c. stepchild living with the Subscriber in a normal parent/child relationship; or

d. child under his or her court-appointed legal guardianship;

so long as such child is also under the age of 19 and primarily supported by the Subscriber. If a court of competent jurisdiction has ordered that the Subscriber provide health insurance coverage for such child, the child need not be primarily supported by the Subscriber.

2.08. "Claim Form" means the form prescribed by the Administrator and required to be submitted to the Fund for payment of Covered Benefits.

- 2.09. "Coinsurance" means the percentage of the cost of Covered Benefits that must be paid by either the Enrollee or the Program.
- 2.10. "Contribution" means the share of the Premium required to be paid by the Government or the Subscriber.
- 2.11. "Copayment" means the specified minimum amount of money that an Enrollee must pay, pursuant to Articles 5 and 6, for any office visit or home visit or for any prescription filled or refilled.
- 2.12. "Covered Benefits" means the health care Services covered under the Program.
- 2.13. "Dependent" means a Subscriber's
  - a. Spouse;
  - b. Child;
  - c. child of age 19 or over who:
    - 1. is physically and/or mentally disabled and incapable
    - 2. has been continuously disabled and dependent on the
    - 3. otherwise meets the definition of Child; or
  - d. child under age 24 who:

1. is enrolled as a full-time student in a school, college or university; and

- 2. otherwise meets the definition of Child.
- 2.14. **"Doctor"** means a duly licensed doctor of medicine (M.D.), medical officer (M.O.) or doctor of osteopathy (D.O.). A doctor of dentistry (D.M.D. or D.D.S) is also considered a Doctor for purposes of the dental work and oral surgery covered by the Program. Types of practitioners not specifically mentioned in this paragraph are not considered Doctors for purposes of the Program.
- 2.15. "Emergency" means the sudden and unexpected onset of a severe medical condition that, if not treated immediately, would be, in the opinion of a Doctor, life-threatening or result in a permanent disability; for example, a heart attack, severe hemorrhaging, poisoning, loss of consciousness or respiration, and convulsions are considered Emergencies.

- 2.16. "Employee" means a person who is receiving salary or wages from the Government and who is (a) employed by the Government and regularly scheduled to work 20 or more hours per week, or (b) an elected or appointed Government official. However, as to any period, the term "Employee" will not include any individual who, during such period, is classified or treated by the Government as an independent contractor, a consultant, a leased employee, or an employee of an employment agency or any entity other than the Government, even if such individual is subsequently determined to have been a common law employee of the Government during such period. This definition also excludes any individual who serves on a Government board or commission, but is not otherwise a Government employee, and any individual employed by the Government in violation of applicable law. Nothing in this definition will be construed to affect Retirees who are authorized by law to draw their retirement benefits while working for the Government in a non-employee classification This definition is effective as of the Plan's original effective date.
- 2.17. "Enrollee" means any Employee, Retiree, Survivor, or Dependent whose enrollment in the Program has been approved by the Administrator and for whom all Premium payments are current, unless otherwise required by law or specifically approved by the Administrator if the failure to make Premium payments was no fault of the Subscriber.
- 2.18. "Enrollment Change Form" means the form prescribed by the Administrator and required to be submitted to the Administrator by any person wishing to change his or her benefit or enrollment option or to add or delete coverage of Dependents.
- 2.19. "Experimental," means any experimental, investigational or unproven Service which is considered by the HCFA Medicare Coverage Issues Manual to be not reasonable and necessary and, therefore, not approved for payment under U.S. Medicare.
- 2.20. "Fiscal Year" means any October 1 through the following September 30.
- 2.21. "Fund" means the NMI Retirement Fund.
- 2.22. "GHLI Trust Fund" means the CNMI Government Group Health and Life Insurance Trust Fund. The GHLI Trust Fund shall be segregated from other funds and held in trust and administered by the Administrator under the fiduciary supervision of the Board.

2.23. "Government" means the CNMI Government, its departments, agencies, instrumentalities, public corporations, municipal governments, and other CNMI Government entities and autonomous agencies.

2.24. "Hospital" means any inpatient acute care institution which:

- a. is not, other than incidentally, a nursing home, rest home, or Skilled Nursing Facility; and
- b. is primarily engaged in providing facilities for surgery and for medical diagnosis and treatment of injured or ill persons by or under the supervision of Doctors; and
- c. has registered nurses always on duty; and
- d. is certified or licensed as a hospital by the proper governmental authority.
- 2.25. "Lifetime Maximum" means the dollar limitation on the total amount that the Program will pay for all Covered Benefits provided to an Enrollee during the Enrollee's lifetime.
- 2.26. "Medically Necessary" means, with respect to each Service, that the Service meets all of the tests listed below. The fact that a Doctor prescribes, orders, recommends or approves a Service does not, of itself, make it Medically Necessary.
  - a. **Health-Related**. It is provided for the diagnosis or treatment of an injury or disease, including pregnancy, and birth and congenital defects.
  - b. Appropriate. It is (i) appropriate for the symptoms, (ii) consistent with the diagnosis, (iii) in accordance with generally accepted medical practice and professionally recognized standards in the geographic location where Services are provided, and (iv) expected to result in a meaningful and substantial improvement in the Enrollee's condition.
  - c. Adequate. It does not exceed the supply, level of Service or amount of service needed to provide safe and appropriate care.
  - d. Not for Convenience. It is not provided mainly for the convenience

or desire of the Enrollee, Enrollee's family, Enrollee's Provider, or other person or entity.

- e. Not Experimental. It is not Experimental.
- 2.27. "Mental or nervous disorders" include the following conditions: neurosis, psychoneurosis, psychopathy, psychosis, emotional disorders of every kind, irrespective of cause, and substance abuse.
- 2.28. "Open Season" means that period of time, designated by the Administrator, during which Employees may apply for enrollment in the Program for themselves and their Dependents and during which Subscribers may apply to change their benefit and enrollment options in the Program. Generally, an Open Season will be held in November each year.
- 2.29. "Plan" means the group health insurance plan which the Government is legally required to offer to its employees and Retirees and includes this Program and any and all Prior Programs.
- 2.30. "Plan Document" means this CNMI Group Health Insurance Program Plan Document as amended by the Board from time to time. The term "Plan Document" includes any currently effective rules and regulations amending or interpreting this Plan Document.
- 2.31. "Plan Year" means the calendar year, except that the first Plan Year will be the effective date of these regulations through December 31, 1997. For a new Enrollee, the Plan Year begins when such Enrollee's coverage begins and continues through the following December 31.
- 2.32. "Premium" means the total amount of Contributions required to be paid into the GHLI Trust Fund for participation in the Program.
- 2.33. "Prior Program" means any Government Employee group health insurance program in effect prior to the effective date of this Program.
- 2.34. "Program" means the CNMI Government Employee group health insurance program described in this Plan Document.
- 2.35. "Provider" means a Dector, Hospital, Skilled Nursing Facility, or any other duly licensed person, institution or other entity qualified to provide the relevant Covered Benefits under the Program.

- 2.36. "Reasonable and Customary Charge" means the charge allowed pursuant to the Commonwealth Health Center's (CHC's) fee schedules. However, if CHC does not provide the required Service, the Reasonable and Customary Charge will be the charge or portion of the charge made by the Provider for Covered Benefits that is determined by the Administrator to be appropriate when compared with charges ordinarily made for similar Services provided in the same or a similar geographic location, under similar conditions, to persons in similar circumstances. If the Provider's actual charge is less than the Reasonable and Customary Charge, the actual charge will be considered the Reasonable and Customary Charge. For prescription drugs not available at CHC, the wholesale price in Saipan plus 10% is considered the Reasonable and Customary Charge.
- 2.37. "Retiree" means a former Employee who is receiving annuity payments through the Fund as a result of service, age or disability. The term "Retiree" does not include a spouse or former spouse of a Retiree receiving an annuity as a result of a domestic relations court order.
- 2.38. "Services" means health care treatments, procedures, supplies, equipment, and products, and includes prescription drugs.
- 2.39. "Skilled Nursing Facility" means a licensed institution, other than a Hospital, which is not, other than incidentally, a custodial care Provider, and which, at a minimum, provides the following:
  - a. inpatient medical care and treatment to convalescing patients;
  - b. full-time supervision by at least one Doctor or registered nurse;
  - c. 24-hour nursing care by licensed professional nurses; and
  - d. complete medical records for each patient.
- 2.40. **"Special Enrollment"** means the rights conferred on any person by the Health Insurance Portability and Accountability Act of 1996.
- 2.41. "Spouse" means an Employee's or Retiree's current:
   a. legal husband or wife from whom the Employee or Retiree is not legally separated; or

b. common-law husband or wife, provided the marriage is recognized as valid and lawful in the jurisdiction where it was made.

- 2.42. "Subscriber" means any Employee, Retiree or Survivor who is enrolled in the Program and in whose name the enrollment is registered.
- 2.43. **"Survivor"** means the Spouse of a deceased Retiree who is receiving Survivor's annuity benefits under the laws governing the NMI Retirement Fund and who has not remarried.

# **ARTICLE 3 - ELIGIBILITY**

- 3.01. Employees Generally. All Employees are eligible to apply to enroll themselves and their Dependents in the Program.
- 3.02. Notice of Enrollment Rights. If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this Program, provided that you request enrollment within 30 days after your other coverage ends. In addition, if you have a new dependent as a result of marriage, birth, adoption or placement for adoption, you may be able to enroll yourself and your dependents, provided that you request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.
- 3.03. **Retiring Employees.** An Employee who was enrolled in the Program on the day immediately preceding his or her date of retirement is eligible to continue enrollment in this Program for himself or herself, as a Retiree, and to continue the enrollment of any Dependents who were enrolled as of the last day of the Employee's employment.
- 3.04. Retirees and Their Dependents in Prior Program. A Retiree and his or her Dependents are eligible to enroll in the Program if they:
  - a. were enrolled in a Prior Program on the effective date of this Program, and
  - b. had no break in coverage under the Prior Program between the effective date of this Program and the effective date of coverage under this Program.
- 3.05. Retirees Not Enrolled in Government Plan. A Retiree who is not enrolled in a CNMI Government group health insurance Plan is eligible to apply for enrollment in this Program.
- 3.06. Spouse Enrolled in this Program on Death of Retiree. A Spouse, upon becoming a Survivor, is eligible to continue enrollment in the Program for himself or herself and the deceased Subscriber's Dependents, provided such Survivor and Dependents were enrolled in the Program at the time of the Subscriber's death.
- 3.07. Survivors and Dependents in Prior Program. A Survivor who was enrolled in a Prior Program on the effective date of this Program,

together with any of the deceased Retiree's Dependents, who were also enrolled in the Prior Program on that date, are eligible to enroll in this Program, provided they had no break in coverage under the Prior Program between the effective date of this Program and the proposed effective date of coverage under this Program.

- 3.08. Survivors and Dependents Not Enrolled in Government Plan. A Survivor of a deceased Retiree together with any of the Dependents of a deceased Retiree not enrolled in a CNMI Government group health insurance Plan are eligible to enroll in this Program.
- 3.09. Newly Acquired Dependents. An Employee or Retiree may apply to enroll his or her newly acquired Dependents. A Survivor may apply to enroll a newborn Child provided the newborn is a natural Child of the deceased Subscriber.
- 3.10. Eligibility for Special Enrollment. An Employee or a Retiree and his or her Dependents may be eligible for Special Enrollment under the provisions of the Health Insurance Portability and Accountability Act of 1996 [HIPAA].
- 3.11. **Proof of Eligibility**. The Administrator may require such documentation as he or she deems necessary to verify the eligibility of any person. If satisfactory documentation is received by the deadline specified by the Administrator, the person will be considered eligible as of the date of application for enrollment or enrollment change, whichever is applicable. If satisfactory documentation is received after the specified deadline, the person will be eligible as of the date of receipt of the documentation.
- 3.12. No Guarantee of Enrollment. Being eligible for enrollment does not guarantee that the application for enrollment will be approved. Employment by or retirement from the Government does not guarantee enrollment or continued enrollment. The enrollment requirements detailed in Article 4 must be met.

12

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15585

۲,

# **ARTICLE 4 - ENROLLMENT**

4.01. Enrollment options available under the Program are as follows:

### Type of Enrollment

- a. Self Only, High Option
- b. Self and Family, High Option
- c. Self Only, Low Option
- d. Self and Family, Low Option
- 4.02. Forms. A person wishing to enroll himself or herself and/or his or her Dependents in the Program must file an Application Form with the Administrator. A Subscriber wishing to change his or her enrollment or that of his or her Dependents must file an Enrollment Change Form with the Administrator. Both forms are available from the Fund and any other office designated by the Administrator.
- 4.03. New Employee Enrollment Period and Effective Date of Coverage. A new Employee may apply, for himself or herself and his or her Dependents, to enroll in the Program within 30 days after his or her date of hire. Enrollment will be effective as of the first day of the pay period following approval of the application. However, no waiting period will be imposed if prohibited by law, such as the Uniformed Services Employment and Reemployment Rights Act of 1993 and the Family and Medical Leave Act of 1993.
- 4.04. Other Employee Enrollment Period and Effective Date of Coverage. Employees and their Dependents who are already enrolled in a Prior Program on the original effective date of this Plan are automatically enrolled in this Program. All other Employees who are not new Employees may only apply to enroll during an Open Season unless they are entitled to special enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee applies to enroll during an Open Season, such enrollment will be effective as of the date specified by the Administrator unless the Employee is entitled to special enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee is so entitled, than the Health Insurance Portability and Accountability Act of 1996's special enrollment rules will apply.
- 4.05. Special Enrollment Periods Following Loss of Other Coverage/ Employees and Their Dependents. An Employee who is eligible for Special Enrollment under the Health Insurance Portability and

Accountability Act is required to request enrollment, by filing a written application form with the Administrator, for himself or herself and/or his or her Dependents not later than 30 days after the exhaustion of COBRA coverage, termination of other coverage as a result of the loss of eligibility for the other coverage or following the termination of employer contributions toward that other coverage. Enrollment in this Program is effective not later than the first day of the first calendar month beginning after the date the completed request for enrollment is received.

- 4.06. Rules for Persons Retiring from Government Employment. Enrollment in the Program will be automatically continued for an Employee who retires from Government employment and who was an Enrollee in the Program on the day before his or her date of retirement. Enrollment will also be automatically continued for such Retiree's Dependents, who were Enrollees as of the day before the Retiree's date of retirement. Retirees may elect not to have their enrollment and/or their Dependent's enrollment automatically continued by signing a form prescribed by the Administrator acknowledging that he or she understands the consequences as specified in this Article.
- 4.07. Rules for Retirees and Their Dependents in Prior Program. A Retiree whose last day of Government employment was before the effective date of this Program, and who has been covered under a Prior Program continuously since the effective date of this Program, may enroll himself or herself in this Program and may also enroll his or her Dependents, provided such Dependents were enrolled in the Prior Program on the day before the proposed date of enrollment in this Program. Application may be made at any time by filing an approved application form with the Administrator. Enrollment will be effective on the day after the first annuity payment date following approval. However, if such Retiree later terminates his or her enrollment from this Program, he or she will never be allowed to re-enroll unless he or she otherwise becomes eligible.
- 4.08. Rules for Retirees Not Enrolled in Government Plan. A Retiree not enrolled in a CNMI Government group health insurance Plan may elect to enroll himself or herself and any of his or her Dependents, provided the Retiree applies for enrollment within 30 days following the original effective date of this Plan Document. Enrollment will be effective on the day after the first annuity payment date following approval.
- 4.09. Rules for Survivors and Dependents of Deceased Retirees. A Survivor may elect to enroll or to continue enrollment for himself or

herself and any of the former Subscriber's Dependents, provided the Survivor applies for enrollment within 30 days following (a) the date the Administrator approves the Survivor's application for survivor annuity benefits or (b) the original effective date of this Plan Document. Enrollment will be effective on the day after the first annuity payment date following approval. A Survivor may apply to enroll any newly acquired Dependent only if such Dependent is a Child of the Subscriber.

- 4.10. Rules That Apply When New Spouse Acquired. An Employee or Retiree enrolled in the Program who newly acquires a Spouse may apply to enroll such Spouse by filing an Enrollment Change Form within 30 days after the date of marriage. Enrollment of the Spouse will be effective as of the first day of the pay period following approval of the application. If such Spouse is not enrolled when first eligible, the Employee or Retiree may not apply to enroll the Spouse in the Program until an Open Season unless the Employee or Spouse is entitled to special enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee is so entitled, than the Health Insurance Portability and Accountability Act of 1996's special enrollment rules will apply.
- 4.11. Rules That Apply When New Child Acquired. An Employee or Retiree enrolled in the Program who newly acquires a Child may apply to enroll such Child by filing an Enrollment Change Form within 30 days after the Child is newly acquired. The Child's enrollment will be effective as of the date of birth or other acquisition, provided all past Contributions, from date of acquisition, are made at the time of application. If such Child is not enrolled when first eligible, the Employee or Retiree may not apply to enroll the Child in the Program until an Open Season unless the Employee or Child is entitled to special enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee or child is so entitled, than the Health Insurance Portability and Accountability Act of 1996's special enrollment rules will apply. This provision also applies to a newborn Child of a Survivor, provided the newborn is a natural child of the deceased Subscriber.
- 4.12. Special Enrollment Periods Due to Acquisition of Dependent/ Employees, Retirees and Their Dependents. An Employee, Retiree and/or their eligible Dependents who are eligible for Special Enrollment under the dependency rules of the Health Insurance Portability and Accountability Act of 1996 are required to request enrollment, by filing a written application form with the Administrator, not less than 30 days from the date of the marriage, birth, or adoption or placement for

adoption. Such Special Enrollment period does not begin earlier than the date the Plan makes Dependent coverage generally available.

- 4.13. **Dependent Child Over Age 19**. Enrollment for a Dependent Child over age 19, whose medical insurance under another group plan is being continued beyond the termination date of coverage under that plan by an extension of benefits provision, will be postponed until the date such extended coverage terminates.
- 4.14. Medicare Part A/Mandatory Enrollment. It is a condition of enrollment in the Program that if any Enrollee, including a Retiree, Spouse of a Retiree, or an Enrollee who has met Medicare's waiting period for end stage renal disease (ESRD), is eligible for Medicare Part A at no cost, such Enrollee must enroll in Medicare Part A.
- 4.15. Failure to Enroll. A non-retiring Employee whose last day of Government employment was on or after the effective date of this Program, and who was not an Enrollee in the Program on such last day of employment, will never be allowed to enroll in the Program unless he or she otherwise becomes eligible.
- 4.16. Voluntary Termination of Enrollment/ Retirees. If a Retiree continues enrollment in this Program pursuant to Article 3, Section 3.02 and later terminates the enrollment, or if a Retiree elects not to continue enrollment in this Program, such Retiree will never be allowed to reenroll unless he or she otherwise becomes eligible.
- 4.17. Voluntary Termination of Enrollment/Survivors. If a Survivor continues enrollment in the Program pursuant to Article 3, Section 3.04 and later terminates the enrollment, or if a Survivor elects not to continue enrollment in this Program, such Survivor will never be allowed to re-enroll unless he or she otherwise becomes eligible.
- 4.18. Election to Terminate/Form for Retirees and Survivors. Any Retiree or Survivor wishing to terminate his or her enrollment may do so by signing a form prescribed by the Administrator acknowledging that he or she understands the consequences as specified in this Article 4.
- 4.19. Identification Cards. The Administrator will provide each Enrollee with one identification card. If an Enrollee requires additional cards, a charge of \$10 per card will be made by the Administrator, who shall deposit the money into the GHLI Trust Fund. Enrollees must return all identification cards to the Administrator on termination of enrollment.

- 4.20. Retroactive Enrollments and Terminations. Retroactive enrollments and terminations are not allowed unless specifically provided for in the Plan.
- 4.21. Approval of Enrollment or Enrollment Change. Notwithstanding any other section of this Plan Document, no enrollment or enrollment change will become effective without the approval of the Administrator. If the Administrator has not acted on an Application Form or Enrollment Change Form within 30 days of its receipt, the application for enrollment or enrollment change shall be deemed denied.
- 4.22. No Guarantee of Enrollment. Employment by or retirement from the Government does not guarantee enrollment or continued enrollment.
- 4.23. Enrollment Denied. The Administrator may deny an application for enrollment because the applicant is ineligible, has exhausted his or her Lifetime Maximum under the Plan, has filed fraudulent claims or other documents with the Program or Prior Program or for any other reason the Administrator deems in the best interest of the Program.

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08

MBER 08 AUGUST 15, 1997

PAGE 15590

# **ARTICLE 5 - BENEFITS**

- 5.01. Basics. Only Reasonable and Customary Charges for Medically Necessary Covered Benefits may be reimbursed, subject to the limitations and maximums imposed by Article 7 of this Plan Document. A procedure or Service may meet the definition of Medically Necessary but not be a fully Covered Benefit because it is subject to the limitations or maximums imposed by Article 7 of this Plan Document. A procedure or Service may meet the definition of Medically Necessary in this Plan Document but not be a Covered Benefit because it is excluded from coverage by Article 8 of this Plan Document.
- 5.02 Chart. The chart on the next page is a brief summary of the major Covered Benefits. Enrollees should not rely only on this outline. Enrollees must review this entire Plan Document to fully understand the Covered Benefits including the limitations, maximums and exclusions that are detailed in Articles 6, 7 and 8 of this Plan Document.

(NOTE: Sample illustrations of how claims payments are calculated are provided in Article 11, Section 11.10.)

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15591

 $(\cdot, v)$ 

## A BRIEF SUMMARY OF COVERED BENEFITS

.

	HIGH OPTION PLAN	LOW OPTION PLAN
A. All Hospital, surgical, medical, laboratory, and other Services, except for those Services specified in 5.01.B through F below.	Program pays 80% of the first \$10,000 per Enrollee of Reasonable and Customary Charges incurred during a Plan Year plus 100% of Reasonable and Customary Charges thereafter.	Program pays 70% of the first \$10,000 per Enrollee of Reasonable and Customary Charges incurred during a Plan Year plus 100% of Reasonable and Customary Charges thereafter.
B. Office visits	Enrollee pays a \$7 per visit Copayment	Enrollee pays a \$10 per visit Copayment
C. Prescription drugs	Enrollee pays a \$3 per prescription Copayment	Enrollee pays a \$5 per prescription Copayment
D. Hospital room and board	Program pays a maximum of \$300 per day	Program pays a maximum of \$250 per day
E. Intensive Care Unit room and board	Program pays a maximum of \$900 per day	Program pays a maximum of \$750 per day
F. Skilled Nursing Facility room and board	Program pays a maximum of \$150 per day for 60 days	Program pays a maximum of \$125 per day for 30 days
G. Family out-of- pocket maximum [for Category A through F benefits]	Enrollee pays a maximum of \$5,000 of Reasonable and Customary Charges per family	Enrollee pays a maximum of \$10,000 of Reasonable and Customary Charges per family
H. Annual Maximum	Program pays a maximum of \$50,000 per Enrollee	Program pays a maximum of \$25,000 per Enrollee
I. Lifetime Maximum	Program pays a maximum of \$250,000 per Enrollee	Program pays a maximum of \$125,000 per Enrollee

19

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15592

1.

#### 5.03. Hospital Room and Board Benefits

- A. Allowable Charges. Subject to the definitions, limitations, maximums and exclusions of the Program, Reasonable and Customary Charges for the following Hospital room and board charges are Allowable Expenses;
  - 1. Room and board at the average semi-private rates, including meals, special diets and general nursing care.
  - 2. Charges made by the Hospital as a condition of occupancy, such as those for identification bracelets and medical records.
- B. **Private Room Benefits.** Regardless of the reason a private room is used, the difference between its cost and the cost of the Hospital's average semi-private accommodation is not an Allowable Expense. If the Hospital has private rooms only, the Program will pay the average semi-private room rate based on the charges of a comparable Hospital in the same or a similar geographic area up to the maximum Hospital room and board Allowable Expense.
- 5.04. Other Benefits. Subject to the definitions, limitations, maximums and exclusions of the Program, Reasonable and Customary Charges for the following Services, in or out of a Hospital, are Allowable Expenses:
  - 1. Hospital Services

(1, a)

a. Services (other than room and board) furnished by a Hospital for treatment in the Hospital or its outpatient department, such as drugs, medicines, laboratory work, and use of operating and recovery rooms, for which the Hospital charges on its own behalf.

### 2. Surgical and Medical Services

- a. Professional Services of Doctors such as surgery, consultations and home, office and Hospital visits;
- b. Professional Services of registered nurses, diagnostic x-rays and laboratory tests, electrocardiograms, basal metabolism readings, electroencephalograms, and other Medically Necessary tests that reveal need for treatment or are made because of definite symptoms of diseases or injury;
- c. Anesthetic, oxygen, intravenous injections and solutions, blood

(and blood derivatives) not donated or replaced, and administration of these;

- d. X-ray, radium and radioactive isotope therapy, including materials and the Services of a technician;
- e. Surgical dressings, splints, casts and other devices used for reduction of fractures and dislocations;
- f. Prosthetic devices, other than dental, which replace all or part of an internal body organ, including replacement of such devices;
- g. Rental or purchase, as decided by the Administrator, of the following standard durable medical equipment:
  - i. wheelchairs
  - ii. crutches/walkers
  - iii. suction machines
  - iv. hospital beds/commodes
  - v. oxygen and oxygen accessories
  - vi. respirators
- h. In Emergencies only, professional surface ambulance Service to the first Hospital where the Enrollee is treated, and from that Hospital to another if Medically Necessary Services are not available at the first Hospital; and
  - i. Tubal ligations.

\*\*\*\*\*

#### 3. Outpatient Services

- a. Services of licensed psychologists for treatment of mental, psychoneurotic or personality disorders in accordance with a referral and specific instructions as to treatment type and duration by a doctor of medicine (M.D.);
- b. Services of licensed physical therapists or licensed chiropractors for administration of physical therapy in accordance with a referral and specific instructions as to treatment type and duration by a doctor of medicine (M.D.). Any person employed by CHC, the Rota Health Center or the Tinian Health Center as a physical therapist will be considered a licensed physical therapist;

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08

08 AUGUST 15, 1997

PAGE 15594

- c. Braces such as leg, arm, back and neck braces, and artificial body parts, such as legs, arms and eyes, including replacements if required because of a change in the Enrollee's physical condition;
- d. Drugs and medicines which may be purchased only with a Doctor's prescription;
- e. Vasectomies; and
- f. Services of home health agencies licensed as such by the applicable jurisdiction or approved by the Administrator.

#### 4. Dental Work and Oral Surgery Services

- a. Dental work, including dental materials (such as fillings, crowns and false teeth) and oral surgery, for the following treatments:
  - i. prompt repair of accidental injury to sound, natural teeth;
  - ii. reduction of fractures of the jaw or facial bones;
  - iii. surgical correction of congenital anomalies;
  - iv. removal of stones from salivary ducts;

v. excision of impacted teeth that are not completely erupted, bony cysts of the jaw, torus palatinus, leukoplakia, or malignant oral tissue;

vi. freeing of oro-facial muscle attachments; and

vii. other surgery on tissues of the mouth, other than the gums, when not performed in connection with the extraction or repair of teeth.

b. In connection with all other dental work and oral surgery, the only Covered Benefits are for Hospital room and board as specified in Section 5.02.A.

### 5. Licensed Practical Nurses' Services

a. Licensed practical nurses are covered if:

PAGE 15595

i. the relevant Hospital uses licensed practical nurses; or

ii. the attending Doctor has prescribed nursing Service, including Services of licensed practical nurses.

b. The Administrator may determine that licensed practical nurses are covered in other cases, such as when the attending Doctor certifies in writing (i) that Services of a registered nurse were Medically Necessary but unobtainable, (ii) the names of the licensed practical nurses employed, and (iii) the time period for which the Services were prescribed.

#### 6. Maternity Services

- a. Prenatal care, and the ensuing childbirth or miscarriage, and any conditions relating thereto.
- b. Nursery charges for days on which the mother and newborn are both confined are considered Hospital room and board expenses of the mother and not expenses of the newborn. All other expenses of the newborn will be considered his or her own and will only be considered Covered Benefits if such newborn meets the definition of Child and is enrolled by the Subscriber pursuant to Article 4.
- c. A newborn child of a non-Spouse Dependent is not an Enrollee unless such child meets the definition of a Child and is enrolled by the Subscriber pursuant to Article 4.

#### 7. Preventive Care Services

a. One annual physical exam, except as excluded in Article 8, including one:

- i. blood pressure check
- ii. chest x-ray
- iii. cholesterol screening for adults over 25 years of age

iv. mammogram in accordance with the American Cancer Society's recommended schedule

- v. PAP smear
- vi. vision screening;
- vii. hearing screening;
- b. One family planning counseling session;
- c. Pre-natal care and one post partum visit per delivery;
- d. One series of smoking cessation counseling; and

e. Annual well-child care program through age three, including immunizations for DPT, typhoid, cholera, polio, small pox, mumps, measles, and rubella and screening for anemia, tuberculosis, and hearing and vision problems.

- 8. Skilled Nursing Facility Services. An Enrollee, confined in a Skilled Nursing Facility, shall be eligible for the same room and board and general nursing care benefits as if confined in a Hospital, if
  - a. the Enrollee was admitted upon the authorization of a Doctor;
  - b. the Enrollee is attended by a Doctor while confined; and

c. the Enrollee's confinement in the Skilled Nursing Facility is not primarily for comfort, convenience, rest cure or domicilliary care.

# **ARTICLE 6 - COPAYMENTS AND COINSURANCE**

- 6.01. The office visit Copayment must be paid by the Enrollee for each visit, including preventive care visits, made to or by a Doctor, physical therapist, chiropractor, psychologist, home health agency or other Provider while the Enrollee is not confined in a Hospital as an inpatient. The Copayment does not cover any ancillary costs that may be associated with such office visit, such as prescription drugs, diagnostic tests or x-rays.
- 6.02. The prescription drug Copayment must be paid by the Enrollee for each prescription filled or refilled. Such Copayment will cover a maximum of a one-month supply of the prescription drug. If more than one prescription drug is needed, a separate Copayment will apply to each prescription drug. If the prescription is for more than a one-month supply, an additional Copayment will apply to each additional month or part thereof.
- 6.03. Except as otherwise specifically provided in Article 7, Enrollees in the "High Option Plan" must pay a Coinsurance amount of 20% of Reasonable and Customary Charges for all Covered Benefits specified in Article 5, Section 5.01.A.
- 6.04. Except as otherwise specifically provided in Article 7, Enrollees in the "Low Option Plan" must pay a Coinsurance amount of 30% of Reasonable and Customary Charges for all Covered Benefits specified in Article 5, Section 5.01.A.
- 6.05. The Enrollee (and not the Program) is responsible for paying the Provider the amount of any copayments, coinsurance, charges which exceed Reasonable and Customary Charges, charges which exceed maximum amounts payable by the Program, and charges for non-Covered Benefits.
- 6.06. If an Enrollee is officially referred by the CHC Medical Referral Committee for Services outside the CNMI, the Enrollee must pay the Provider any Coinsurance or other amount due from the Enrollee under the Program. The Enrollee may then seek reimbursement from the CNMI Medical Referral Program.
- 6.07. Notwithstanding any other provision of this Plan Document, the Subscriber has ultimate responsibility for paying any amounts required by the Program for himself or herself and all of his or her enrolled Dependents.

# **ARTICLE 7 - LIMITATIONS AND MAXIMUMS**

### 7.01. Inpatient Limitations

- A. Hospital Room and Board. The "High Option Plan" limits to \$300 per day, and the "Low Option Plan" limits to \$250 per day, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in a Hospital, unless the Enrollee is confined in a Hospital intensive care unit.
- B. Intensive Care Room and Board. The "High Option Plan" limits to \$900 per day, and the "Low Option Plan" limits to \$750 per day, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in a Hospital intensive care unit.
- C. Skilled Nursery Facility Room and Board. The "High Option Plan" limits to \$150 per day for 60 days, and the "Low Option Plan" limits to \$125 per day for 30 days, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in a Skilled Nursing Facility.
- 7.02. Limitations of Mental Health Benefits. Both the "High Option Plan" and the "Low Option Plan" limit to \$500 per Enrollee per Plan Year the maximum amount the Program will pay for Doctors' Services and psychologists' Services in connection with inpatient or outpatient treatment of mental or nervous disorders.
- 7.03 Limitations of Non-Spouse Maternity Benefits. The maximum amount the Program will pay for all maternity Services rendered to a non-Spouse Dependent is limited to \$500 per non-Spouse Dependent per Plan Year.
- 7.04. **Physical Exam Limitation.** The maximum amount the Program will pay for physical exams is limited to \$150 per Enrollee per Plan Year.
- 7.05. Physical Therapy and Chiropractic Limitations. The maximum amount the Program will pay per physical therapy visit or chiropractic visit is \$25. The total maximum number of physical therapy and chiropractic visits (combined) for which the Program will make any payment is limited to 10 visits per Enrollee per Plan Year.
- 7.06. Surface Ambulance Limitation. The maximum amount the Program

will pay for any surface ambulance trip is \$50.

7.07. Home Health Limitation. The maximum number of home health visits covered per Enrollee per Plan Year is limited to 150 visits.

### 7.08. Coinsurance Maximums

- A. **High Option**. When an Enrollee in the "High Option Plan" has paid a total of \$2,000 towards his or her 20% Coinsurance responsibility, he or she will have met his or her Coinsurance maximum. Thereafter, the Program will pay 100% of Allowable Expenses for Covered Benefits specified in Article 5, Section 5.01.A, up to the Annual and Lifetime Maximums.
- B. Low Option. When an Enrollee in the "Low Option Plan" has paid a total of \$3,000 towards his or her 30% Coinsurance responsibility, he or she will have met his or her Coinsurance maximum. Thereafter, the Program will pay 100% of Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.01.A, up to the Annual and Lifetime Maximums.

### 7.09. Family Out-of-Pocket Maximums

- A. The family out-of-pocket maximum is the total aggregate maximum amount that a Subscriber must pay in Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.01.A, incurred during a Plan Year for all Enrollees in that Subscriber's family unit combined. Once a family's out-of-pocket maximum is reached, all Enrollees in such family will be considered to have reached their Coinsurance maximum, and the Program will pay 100% of Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.01.A, up to the Annual and Lifetime Maximums.
- B. For Enrollees in the "High Option Plan", the family out-of-pocket maximum is \$5,000.
- C. For Enrollees in the "Low Option Plan", the family out-of-pocket maximum is \$10,000.

### 7.10. Annual Maximums

A. Under the "High Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in

Article 5, Sections 5.01.A through F (combined), incurred during a Plan Year is \$50,000.

- B. Under the "Low Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.01.A through F (combined), incurred during a Plan Year is \$25,000.
- C. Once the Program has paid out the total amount of the Annual Maximum for an Enrollee, the Enrollee will not be entitled to coverage under the Program for the remainder of that Plan Year.

#### 7.11. Lifetime Maximums

. .

- A. Under the "High Option Plan", the Lifetime Maximum that the Program will pay is \$250,000 per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.01.A through F (combined), incurred during the Enrollee's lifetime.
- B. Under the "Low Option Plan", the Lifetime Maximum that the Program will pay is \$125,000 per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.01.A through F (combined), incurred during the Enrollee's lifetime.
- C. If an Enrollee terminates the Program and later re-enrolls, his or her Lifetime Maximum will be that amount remaining as of the last day the Enrollee was enrolled in the Program, including all reductions for payments of Covered Benefits, specified in Article 5, Sections 5.01.A through F (combined), which were incurred prior to the date of termination and paid either before or after such date.
- D. Once the Program has paid out the total amount of the Lifetime Maximum for an Enrollee, the Enrollee will not under any circumstances be entitled to coverage or indemnification under the Program for the remainder of his or her life.

# **ARTICLE 8 - EXCLUSIONS**

8.01. The following charges and Services are not Covered Benefits under the Program. The fact that a Service is Medically Necessary or that a Doctor may prescribe, recommend or approve a Service does not, of itself, make the charge for such Service an Allowable Expense under the Program, even though the Service is not specifically listed as an exclusion.

#### A. Charges

- 1. The portion of any charge that exceeds the Reasonable and Customary Charge or the Allowable Expense for the Service provided.
- 2. The portion of any charge that exceeds the maximum amount payable by the Program.
- 3. The portion of any charge that exceeds the charge that would have been made if the Enrollee had no insurance or were not enrolled in the Program.

### B. Services

- 1. Any drugs, medicines, or supplies available without a Doctor's prescription, even if prescribed by a Doctor.
- 2. Any inpatient Service provided by an institution that is not a Hospital or Skilled Nursing Facility.
- 3. Any Service not recommended and approved by a Doctor who is practicing within the scope of his or her license.
- 4. Any Service for which the Enrollee has no legal obligation to pay.
- 5. Any Service for which the government of the jurisdiction in which the Service was provided prohibits payment.
- 6. Any Service rendered because of occupational disease or injury for which benefits are payable under Workers' Compensation or similar laws or voluntary workers' compensation programs, if proper claim were made.
- 7. Any Service rendered because of war, or an act of war, occurring after the effective date of the Enrollee's coverage in the Program.

- 8. Any Service rendered by an immediate relative or member of the Enrollee's household. (The term "immediate relative" refers to the Enrollee's Spouse, parent, Child or sibling whether by blood, marriage or adoption). This exclusion does not apply to the charges made by a Provider that employs such relative or household member.
- 9. Any Service rendered by a practitioner who is not a Doctor, except as otherwise specifically provided in the Plan Document.
- 10. Any Service if a material statement made is false and would otherwise have rendered the Service ineligible.
- 11. Any Service not provided by, or directly supervised by, a Hospital or Doctor duly licensed to provide that Service in the jurisdiction where the Service was provided.
- 12. Any Service which is not Medically Necessary, except as otherwise specifically provided in the Plan Document.
- 13. Any Service, including Hospital, surgical, medical, laboratory, and x-ray Services, rendered in connection with an excluded Service.
- 14. Any Service for which no charge was made.
- 15. Any Service received while the individual was not enrolled in the Program.
- 16. Any Service for which the Enrollee has coverage through a public health program, CHAMPUS or other government or military program.
- 17. Abortions (elective).
- 18. Acupuncture.
- 19. Air ambulance.
- 20. Air conditioners, humidifiers, dehumidifiers and purifiers.
- 21. Allergy testing and treatment.

- 22. Biofeedback and similar forms of self-care or self-help training.
- 23. Chiropractic care, except as otherwise specifically provided in the Plan Document.
- 24. Contact lenses, eyeglasses and refractive surgery, such as radial keratotomy, to correct visual problems.
- 25. Cosmetic surgery and all cosmetic Services.
- 26. Custodial, domiciliary and convalescent care.
- 27. Dental work or oral surgery, including endontic (root canal) and periodontic Services, except as otherwise specifically provided in the Plan Document.
- 28. Drugs and medicines for which a prescription from a Doctor is not required under U.S. federal law.
- 29. Exercise equipment and other non-medical products or procedures.
- 30. Experimental Services, including any clinical visits, in-patient stays, drugs, laboratory testing, x-rays, and other Services related to such Experimental Services.
- 31. Fertility/infertility Services, including fertilization by artificial means, such as artificial insemination, in-vitro fertilization and embryo transplants, and other Services intended to induce pregnancy.
- 32. Foot reflexology.
- 33. Gastric bypass, stapling or reversal.
- 34. Growth hormones.
- 35. Hearing aids.

2

- 36. Heat lamp treatments.
  - 37. Hospice care.

- 38. Liposuction.
- 39. Living expenses.
- 40. Massage treatments.
- 41. Mental health and substance abuse Services provided by anyone other than a psychiatrist (M.D.) or licensed psychologist. Hospital and other facility charges for these Services are also excluded.
- 42. Military service-connected disabilities for which the Enrollee is legally entitled to care from military medical facilities and for which military medical facilities are reasonably available to the Enrollee
- 43. Occupational therapy.
- 44. Organ transplants.
- 45. Orthopedic shoes, insoles and other similar external supportive devices for the feet.
- 46. Palliative treatments.
- 48. Personal comfort and convenience items, such as telephones, radios, televisions, and barber and beauty services.
- 49. Physical exams, when required for obtaining or continuing employment, insurance, schooling, government licensing, or sporting activities.
- 50. Physical therapy, except as otherwise specifically provided in the Plan Document.
- 51. Private duty nursing.
- 52. Rehabilitation therapy, except as otherwise specifically provided herein.
- 53. Rest cures.
  - 54. Rest homes, sanitariums and other institutions that are not

Hospitals or Skilled Nursing Facilities.

- 55. Reversal of voluntary sterilization.
- 56. Services for an injury or illness resulting from the Enrollee's attempted suicide.
- 57. Services for an injury or illness resulting from major natural disaster or from act of war (whether or not a state of war legally exists).
- 58. Services for an injury sustained because of the Enrollee's participation, either as a driver or passenger, in racing, pace making or speed testing of any motor vehicle (including boats), whether such activity is formal and organized or informal and spontaneous.
- 59. Services for an injury sustained because of the Enrollee's commission of a criminal act including driving under the influence of alcohol or other controlled substance.
- 60. Services for an intentionally self-induced illness or self-inflicted injury, while the Enrollee was sane or insane.
- 61. Sexual dysfunction Services.
- 62. Speech therapy
- 63. Telephone calls even if a Doctor charges for such calls.
- 64. Training for custodial care or self-care such as for personal hygiene.
- 65. Transportation, except as otherwise specifically provided herein.
- 66. Transsexual Services.

· 1.4

# **ARTICLE 9 - HEALTH CARE PROVIDERS**

- 9.01. Any Provider world-wide is eligible to provide Covered Benefits to Enrollees, provided such Provider has not been eliminated as a Provider by the Administrator pursuant to Article 11, Section 11.08.A.
- 9.02. The Program does not maintain an employment or other relationship with any Provider.
- 9.03. The Program is not responsible for the negligence, intentional misconduct or any other action or inaction of any Provider.

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15607

. J.

# **ARTICLE 10 - PREMIUMS**

- 10.01. Premiums consists of Contributions from the Government and the Subscriber.
- 10.02. The amount of the Subscriber Contributions will be based on the Premium rates and determined by the Board.
- 10.03. The amount of the Government Contributions will be based on the Premium rates and determined by the Board.
- 10.04. Retroactive changes to the Premium rates are not permitted.
- 10.05. All Employee Contributions shall be made through deductions from the Employee's paycheck, except that Employees on leave without pay shall pay 100% of the Premium to the GHLI Trust Fund and deliver it to the Fund at least monthly in advance.
- 10.06. All Retiree and Survivor Contributions shall be paid through deductions from their pension annuity payments. Government Contributions for Retirees and Survivors shall be made by the Fund.
- 10.07. Within five working days following the close of each pay period, each autonomous agency, public corporation and other Government entity that processes its own payroll shall remit to the Fund the total Premiums, including Contributions deducted from Employees' paychecks for all enrolled, active Employees under their supervision. Also within such five working days, the Department of Finance shall remit to the Fund the total Premiums, including Contributions deducted from Employees' paychecks for all other enrolled, active Employees. Payment shall be made to the GHLI Trust Fund and delivered to the Administrator. If such Premiums are not received by the Fund by the 10th working day following each pay period, interest will be charged on the amount due at a rate determined by the Board.
- 10.08. With each Premium remittance, each autonomous agency, each public corporation, any other Government entity that processes its own payroll, and the Department of Finance shall submit to the Administrator a list of all enrolled Employees for whom Premium is being paid. This list will be the definitive identification of all active Employees enrolled in the Program.

- 10.09. With each Premium remittance, the Administrator shall prepare a list of enrolled Retirees, Survivors and Employees on leave without pay, for whom Premiums were paid. This list will be the definitive identification of all those Retirees, Survivors and Employees on leave without pay enrolled in the Program.
- 10.10. The Administrator shall maintain a current list of all enrolled Dependents.
- 10.11. It is the responsibility of each applicable person or paying entity to make certain that Premiums are fully and timely paid.
- 10.12. The Administrator will issue a receipt of payment to each person or entity submitting Premiums to the GHLI Trust Fund.
- 10.13. The Administrator shall cause all Premiums received to be deposited into the GHLI Trust Fund.
- 10.14. The Board shall, at least annually, engage an experienced health insurance actuary or underwriter to review the financial status of the Program, to review this Plan Document, and to make such recommendations for changes as the Board deems necessary. Based on such recommendations, the Board may revise, as it deems necessary, (a) the Premium rates for the Program, (b) the Contributions required of Subscribers and the Government, and (c) this Plan Document.
- 10.15. The Chart on the next page the bi-weekly Contributions required from Subscribers and the Government beginning on the effective date of this Program, and the total Premium provided the effective date of this Plan Document is prior to January 1, 1998.

### **Contribution Rates**

(

(

Type of <u>Enrollment</u>		Bi-weekly <u>Cost</u>
Self Only High Option	Government Contribution Subscriber Contribution Total Premium	\$ 5.57 <u>\$21.86</u> \$27.43
Self and Family High Option	Government Contribution Subscriber Contribution Total Premium	\$14.60 <u>\$57.25</u> \$71.85
Self Only Low Option	Government Contribution Subscriber Contribution Total Premium	\$ 3.50 <u>\$13.75</u> \$17.25
Self and Family Low Option	Government Contribution Subscriber Contribution Total Premium	\$ 8.40 <u>\$33.10</u> \$41.50

## **ARTICLE 11 - CLAIMS**

#### 11.01. Filing of Claims (General Rules)

- A. All claims must be filed on Claim Forms except as otherwise provided in this Article 11.
- B. All claims must be accompanied by a Provider billing acceptable to the Administrator. Such billing must be itemized and must show at least the following:
  - 1. Name of Enrollee
  - 2. Name of Provider
  - 3. Dates Services were received
  - 4. Nature of illness or injury
  - 5. Services provided
  - 6. Prescriptions filled, if applicable

#### 11.02. Payment of Claims (General Rules)

- A. All claims eligible for reimbursement of Allowable Expenses, less any required Copayment or Coinsurance, will be paid by the Administrator from the GHLI Trust Fund to either the Provider or the Subscriber as specified in this Plan Document.
- B. Should any claim overpayment to a Provider be discovered, the Administrator will attempt to recover it. However, regardless of whether recovery is made, the amount of such overpayment will not be charged to the Enrollee's Annual Maximum or Lifetime Maximum.
- C. Should any claim underpayment be discovered, the Administrator shall pay the shortfall when possible, and charge the amount of such payment against the Enrollee's Angual Maximum and Lifetime Maximum.
- D. All claims and accompanying documentation will be retained by the Administrator.

#### 11.03. Filing of Claims by Providers

- A. Claims incurred at Government health facilities, including the Commonwealth Health Center, the Rota Health Center, and the Tinian Health Center, shall be filed directly with the Administrator by such facility on the Enrollee's behalf.
- B. Private sector Providers and Providers outside the CNMI may file claims directly with the Administrator on the Enrollee's behalf.
- C. Providers filing claims may file Claim Forms or their own insurance forms, provided such other forms are acceptable to the Administrator, or Providers may file claims electronically in accordance with the requirements of the Administrator.

### 11.04. Payment of Claims to Providers

- A. Claims filed by Government health facilities will be paid to such facilities. Claims filed by other Providers will be paid to the applicable Subscriber unless payment has been assigned to the Provider as specified in Section 11.04.B below.
- B. A Subscriber or the Subscriber's enrolled Spouse may assign payment of his or her benefits, or those of the Subscriber's enrolled Children, to a Provider by signing a written statement authorizing the Administrator to pay the Provider rather than the Subscriber.
- C. If a claim is paid to a Provider, the Administrator will notify the Subscriber in writing of such payment.
- 11.05. Filing of Claims by Enrollees. Claim Forms for reimbursement must be completed by the Subscriber or the Subscriber's enrolled Spouse and delivered to the Administrator.

#### 11.06. Payment of Claims to Subscribers

- A. Claims will be paid to the Subscriber for all claims filed by the Subscriber, or on his or her behalf, or for any of the Subscriber's Dependents, unless payment to the Provider has been assigned pursuant to Section 11.04.B above.
- B. In the case of a deceased Subscriber, payment of claims filed by the

Subscriber will be made to the Subscriber's estate, or otherwise on court order.

11.07. **Timely Filing.** Claims must be filed promptly. The Administrator will not accept claims filed more than one year following the date on which the Service was rendered.

#### 11.08. False Claims

( )

- A. The Administrator may discontinue covering the Services of any Provider who submits a false claim. The Administrator will make reasonable best efforts to notify all Enrollees of such change. Thereafter, claims for Services received through such former Provider will not be paid. The Administrator will maintain a list of all such ineligible Providers.
- B. The Administrator may terminate the enrollment of any Enrollee who submits a false claim.

### 11.09. Claims Auditing

. . .

- A. The Administrator will audit a reasonable sample of claims each month.
- B. Should errors in claim payments be discovered, they shall be corrected in accordance with Sections 11.02.B. and 11.02.C.
- C. Should errors in claim payments be discovered, the Administrator shall provide the applicable claims processor with the necessary remedial instructions.

### 11.10. Sample Illustrations of Claims Payments

A. Office Visit with Laboratory Test and Prescription

An Enrollee goes to the Doctor for a sore throat. The Doctor does a laboratory test and gives the Enrollee a prescription, which the Enrollee has filled at a pharmacy. The Doctor charges \$50 for the office visit and \$20 for the laboratory test and gives the Enrollee an itemized bill for \$70. The Enrollee pays the Doctor the office visit Copayment and signs a Claim Form assigning payment of the remaining amount to the Doctor. The Doctor completes the rest of the Claim Form and sends it to the Administrator. The Enrollee has the prescription filled at a pharmacy which charges \$15. The pharmacy does not accept assignment of payment. The Enrollee gets an itemized receipt for the drug and pays the pharmacy \$15. The Enrollee completes and files a Claim Form with the Administrator.

### 1. The "High Option Plan" will pay as follows:

( .

a.	Doctor visit charge Reasonable and Customary Charge Enrollee's additional responsibility	\$50 <u>( 40)</u> (assumed) \$10
	Reasonable and Customary Charge Office visit Copayment Total paid by "High Option Plan"	\$40 <u>(7)</u> \$33
	Total paid by Enrollee	\$17
b.	Laboratory test charge Reasonable and Customary Charge Enrollee's additional responsibility	\$20 <u>(20)</u> (assumed) \$ 0
	Reasonable and Customary Charge 20% Enrollee Coinsurance Total paid by "High Option Plan"	\$20 <u>(4)</u> \$16
	Total paid by Enrollee	\$4
c.	Prescription drug charge Average wholesale price plus 10% Enrollee's additional responsibility	\$15 <u>( 18)</u> (assumed) \$ 0
	Reasonable and Customary Charge Prescription drug Copayment Total paid by "High Option Plan"	\$15 <u>(3)</u> \$12
	Total paid by Enrollee	\$3

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15614

2. The "Low Option Plan" will pay as fol	llows:
--	--------

( )

ч. 1

a.	Doctor visit charge Reasonable and Customary Charge Enrollee's additional responsibility	\$50 <u>(_40)</u> (assumed) \$10
	Reasonable and Customary Charge Office visit Copayment Total paid by "Low Option Plan"	\$40 <u>(10)</u> \$30
	Total paid by Enrollee	\$20
b.	Laboratory test charge Reasonable and Customary Charge Enrollee's additional responsibility	\$20 <u>(_20)</u> (assumed) \$_0
	Reasonable and Customary Charge 30% Enrollee Coinsurance Total paid by "Low Option Plan"	\$20 <u>(6)</u> \$14
	Total paid by Enrollee	\$6
C.	Prescription drug charge Average wholesale price plus 10% Enrollee's additional responsibility	\$15 <u>( 18)</u> (assumed) \$ 0
	Reasonable and Customary Charge Prescription drug Copayment Total paid by "Low Option Plan"	\$15 <u>(5)</u> \$10
	Total paid by Enrollee	\$5

- B. Mental Health Visits . An Enrollee has 20 visits to a psychiatrist during a Plan Year. The psychiatrist charges \$65 per visit and accepts assignment of payment. The Enrollee pays the psychiatrist the office visit Copayment at the time of each visit. The psychiatrist files a Claim Form with the Administrator for each office visit.
  - 1. Up to the \$500 Plan Year maximum, the "High Option Plan" will pay as follows:
    - a. Office visit charge \$65 Reasonable and Customary Charge (50) (assumed)

Enrollee's additional responsibility	\$15
Reasonable and Customary Charge Office visit Copayment Total paid by "High Option Plan"	\$50 <u>(7)</u> \$43
Total paid by Enrollee	\$22

For all 20 visits combined, the total office visit charges will be \$1,300. If there were no \$500 Plan Year maximum, the Program would pay \$860 and the Enrollee would pay \$440. However because of the maximum, the Program will only pay \$500, and the Enrollee will have to pay the remaining \$800.

2. Up to the \$500 Plan Year maximum, the "Low Option Plan" will pay as follows:

a.	Office visit charge Reasonable and Customary Charge Enrollee's additional responsibility	\$65 <u>(50)</u> (assumed) \$15
	Reasonable and Customary Charge Office visit Copayment Total paid by "Low Option Plan"	\$50 <u>(10)</u> \$40
	Total paid by Enrollee	\$25

For all 20 visits combined, the total office visit charges will be \$1,300. If there were no \$500 Plan Year maximum, the Program would pay \$800 and the Enrollee would pay \$500. However because of the maximum, the Program will only pay \$500, and the Enrollee will have to pay the remaining \$800.

C. Inpatient Hospital Stay. An Enrollee is admitted to a Hospital for three days and has surgery. The Hospital charges \$400 per day for room and board and general nursing care, \$100 for inpatient drugs, and \$500 for use of operating room. The Hospital gives the Enrollee an itemized bill and electronically files a claim with the Administrator.

The surgeon does not accept assignment of payment and sends the Enrollee an itemized bill for \$1,000. The Enrollee pays the surgeon \$1,000 and files a Claim Form with the Administrator.

••	the high option that this pay as its		
a.	Hospital room and board charge Maximum Program payment Enrollee's additional responsibility Total paid by "High Option Plan" Total paid by Enrollee	\$1,200 (\$400/day) <u>(900)</u> (\$300/day) \$300 \$900 \$300	
b.	Hospital drug charge Average wholesale price plus 10% Reasonable and Customary Charge 20% Enrollee Coinsurance Total paid by "High Option Plan" Total paid by Enrollee	\$ 100 ( <u>100)</u> (assumed) \$ 100 ( <u>20)</u> \$ 80 \$ 20	
C.	Surgeon's charge Reasonable and Customary Charge Reasonable and Customary Charge 20% Enrollee Coinsurance Total paid by "High Option Plan" Total paid by Enrollee	\$1,000 ( <u>850)</u> (assumed) \$ 850 ( <u>170)</u> \$ 680 \$ 320	
2. The "Low Option Plan" will pay as follows:			
a.	Hospital room and board charge Maximum Program payment Enrollee's additional responsibility Total paid by "Low Option Plan" Total paid by Enrollee	\$1,200 (\$400/day) <u>(750)</u> (\$250/day) \$450 \$750 \$450	
b.	Hospital drug charge Average wholesale price plus 10% Reasonable and Customary Charge 30% Enrollee Coinsurance Total paid by "Low Option Plan" Total paid by Enrollee	\$ 100 ( <u>100)</u> (assumed) \$ 100 ( <u>30)</u> \$ 70 \$ 30	
C.	Surgeon's charge Reasonable and Customary Charge Reasonable and Customary Charge 30% Enrollee Coinsurance Total paid by "Low Option Plan" Total paid by Enrollee	\$1,000 ( <u>850)</u> (assumed) <u>\$850</u> ( <u>255)</u> \$595 \$405	

# 1. The "High Option Plan" will pay as follows:

(

44

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15617

## **ARTICLE 12 - DOUBLE COVERAGE**

- 12.01. When an Enrollee is covered by another group health insurance plan, including Medicare, the Coordination of Benefits Guidelines established by the National Association of Insurance Commissioners (NAIC) will be used to determine whether the Program will be the primary or secondary payor. These guidelines have included the following provisions:
  - A. The plan covering the Enrollee as an active employee will be the primary payor.
  - B. If a Child is covered under two plans, the plan of the parent whose birthday occurs first in the calendar year will be the primary payor.
  - C. If other guidelines fail to establish which plan is the primary payor, the plan covering the Enrollee for the longer time will be the primary payor.
- 12.02. If the Program is the primary payor, it will pay for Covered Benefits in accordance with this Plan Document. If the Program is the secondary payor, it will pay a reduced amount, so that, when added to the amount payable by the other plan, the total amount paid by both plans will not exceed the Provider's charges for Covered Benefits. In no event will the amount paid by the Program exceed the Allowable Expenses it would have paid had it been the primary payor. Also, in no event will the Program pay for non-Covered Benefits.
- 12.03. The double coverage provision applies whether or not a claim is filed under the other plan. As a condition of enrollment, a Subscriber authorizes the Administrator to obtain information as to benefits available from the other plan, and to recover overpayments, should they occur, from the other plan, on behalf of the Subscriber and any of his or her enrolled Dependents.

. .

## **ARTICLE 13 - SUBROGATION**

- 13.01. If an Enrollee is injured or infected through the act or omission of another person or entity and recovers damages from the other person or entity, the Enrollee shall reimburse the GHLI Fund for the cost of the benefits provided by the Program in treating such condition. The amount of such reimbursement must equal the amount of the recovery or the Program's cost for such benefits, whichever is less.
- 13.02. If there is no recovery of damages, the Program shall be subrogated to the Enrollee's rights against the wrongdoer to the extent of the cost of the benefits provided by the Program, including the right to sue in the Enrollee's name and to compromise the claim in order to indemnify the Program for amounts paid.
- 13.03. It is a condition of enrollment in the Program that each Enrollee agrees that he or she, his or her guardian, his or her Survivor, and his or her estate will execute and deliver an assignment of claim payment form, and any other necessary forms prescribed by the Administrator, to the Administrator upon request, and shall render all necessary assistance, other than pecuniary, to enable the Program to secure the rights provided by this Article.

COMMONWEALTH REGISTER VOLUME 19 NUMBER 08 AUGUST 15, 1997 PAGE 15619

 $(\frac{1}{2}, \frac{1}{2})$ 

## **ARTICLE 14 - CHANGING BENEFITS AND ENROLLMENT**

( i

14.01. The benefit options under the Program are the "High Option Plan" or the "Low Option Plan". The enrollment options under the Program are "self only" or "family". The following table summarizes some basic rules for changing benefit or enrollment options:

Events which permit enrollment or change in enrollment	Changes permitted by Subscriber or prospective Subscriber			Time during which an application form must be filed with the Administrator	
	From not enrolled to ENROLLED	From SELF only to Family	From FAMILY to SELF only	From one OPTION to another	
Open season	YES	YES	YES	YES	November of each year or as otherwise specified by the Administrator.
Acquisition of spouse or child	NO (unless special enrollment permitted)	YES	NO	NO	Within 30 days of acquisition (or according to HIPAA rules for special enrollment)
Loss of other coverage	NO (unless special enrollment permitted)	N/A	N/A	N/A	According to HIPAA rules for special enrollment
Divorce, legal separation, annulment, death of a Spouse or child, a Child's loss of Dependent status	NO	NO	YES	NO	Within 30 days of event
Change in status from Spouse to Survivor of former Retiree	YES	YES	YES	NO	Within 30 days of (a) the date the Administrator approves the Survivor's application for survivor annuity benefits or (b) the original effective date of this Plan Document.

The chart in 14.01 above is a summary of some basic rules for changing benefit or enrollment options. Subscribers should not rely only on this chart but must also review this entire Plan Document, including Article 3 on eligibility and Article 4 on enrollment to fully understand these rules.

- 14.02. In addition to the rules outlined in Section 14.01, the following rules also apply to changing benefit options:
  - A. If the Subscriber changes from one benefit option to another, such change is also applicable to all of the Subscriber's enrolled Dependents.
  - B. The new benefit option will apply only to Services received after the change is effective.
  - C. Plan Year limitations and maximums for each Enrollee under the new benefit option will be reduced by the amount paid by the Program for the Enrollee for that Plan Year under the former benefit option.
  - D. Any amount remaining under the Lifetime Maximum under the former benefit option will be transferred to the new benefit option.
  - E. The effective date of the change will be the first day of the Government's next pay period or, for Retirees and Survivors, the date of the next annuity installment payment, unless the change is made during an Open Season, in which case the change will be effective as of the date specified by the Administrator.
- 14.03 In addition to the rules outlined in Section 14.01, the following rules also apply to changing enrollment options:

Í

- A. A Subscriber may cancel his or her enrollment and that of any of his or her enrolled Dependents at any time.
- B. Enrollment changes made pursuant to a change in family status must be consistent with such change in status.
- 14.04. To change benefit or enrollment options, the Subscriber must file an Enrollment Change Form with the Administrator.
- 14.05. No change in benefit or enrollment options will be effective without the approval of the Administrator. If the Administrator has not acted upon an application for change in benefit or enrollment option within 30 days of its receipt, the application shall be deemed denied.

## **ARTICLE 15 - ADMINISTRATION**

- 15.01. The Board has ultimate and fiduciary responsibility for the administration and management of the Program and the GHLI Trust Fund. The Board will administer and manage the Program in accordance with this Plan Document and the Act. The Board may promulgate administrative or interpretive rules and/or regulations governing the Program, provided that such rules must be consistent with this Plan Document, the Act and other applicable law. Any such rules shall be applied as if they were part of the Plan Document.
- 15.02. The Administrator has the authority to make decisions, as necessary for the optimal functioning of the Program, within the authority granted him by the Act, this Plan Document and Board directives, .
- 15.03. The Administrator is responsible for the daily functions of the Program including, but not limited to, receiving and depositing Premiums, receiving and processing claims, communicating and explaining the Program to current and prospective Enrollees, responding to inquiries, and guarding against Enrollee and Provider fraud.
- 15.04. The Administrator will create and maintain all necessary Program records including Premiums received, enrollment, claims processed, claims paid, and amounts accumulated toward each Enrollee's Coinsurance maximum, family out-of-pocket maximum, Annual Maximum, Lifetime Maximum, and other maximums.
- 15.05. The Board, through the Administrator, has the authority to contract with private sector third party administrators to administer medical care outside the CNMI.
- 15.06. The Board, through the Administrator, has the authority to contract with private sector, third party insurers and/or administrators to insure and/or administer the Program.
- 15.07. Subject to the review and oversight of the Board, the Administrator shall have all discretionary powers necessary to administer the Program and control its operation in accordance with the terms of this Plan Document and applicable law, including but not limited to the power to (a) interpret the provisions of this Plan Document (b) to determine any question relating to the administration or operation of the Program subject to Article 19; and (3) make and enforce decisions regarding who is eligible for benefits and the amount of benefits payable in any particular case.

All decisions of the Administrator, any actions taken or omitted by the Administrator in respect of the Program and within the powers granted by the Act or under this Plan Document, and any interpretation of this Plan Document by the Administrator shall be conclusive and binding on all persons other than the Board, and shall be given the maximum possible deference allowed by law, subject to Article 19.

### 15.08 Annual Budget

- A. By September 30 each year, unless otherwise directed by the Board, the Administrator will prepare an annual budget for the operation of the Program to include the expected Premiums, claims, administrative costs, and other Allowable Expenses for approval by the Board. Such budget shall be for the next Fiscal Year.
- B. The annual operating budget shall be approved, or revised and approved, by the Board on or before the beginning of each Fiscal Year. The approved budget will be transmitted by the Board to the Office of Management and Budget and to the Office of the Governor for informational purposes only.
- C. In the event of a shortfall occurring during any Fiscal Year, the Administrator will prepare a revised budget to cover the shortfall. However, the total budget shall not exceed the estimated Premiums to be received during that Fiscal Year.

### 15.09 GHLI Trust Fund

- A. The GHLI Trust Fund was established in accordance with Section 5 of the Act for holding Premiums and any investment earnings thereon.
- B. Moneys in the GHLI Trust Fund are to be expended for the payment of claims, premiums to third party health insurance companies (if any), reasonable costs of administration, and other Allowable Expenses related to the Program.
- C. The Administrator shall maintain the GHLI Trust Fund at any recognized financial institution whose deposits are insured by an agency of the U.S. Federal Government. However, the full amount of money held in the GHLI Trust Fund need not be so insured.

- D. The Administrator, under the direction of the Board, shall have sole and exclusive expenditure authority over the GHLI Trust Fund.
- E. The Administrator shall establish an accounting system for the GHLI Trust Fund in accordance with Generally Accepted Governmental Accounting Standards and issue accounting reports to the Board as required but at least semiannually.
- F. The Administrator shall report to the CNMI Legislature and Governor on the financial status of the GHLI Trust Fund within 60 days after the end of each Fiscal Year.
- G. When the GHLI Trust Fund reaches \$3 million dollars in excess of the amount estimated to cover obligations for one full year, the Board may invest such excess funds in other appropriate investment programs consistent with the fiduciary standards and procedural rules for investment of the NMI Retirement Fund assets.

### **ARTICLE 16 - AMENDMENTS**

16.01. The CNMI Legislature has the power to abolish the Program or amend the law creating and governing the Program at any time. The Board has the authority to change or modify the Program or amend any and all provisions of the Program at any time by rule and/or regulation pursuant to Public Law 10-19, and the Administrative Procedure Act at 1 CMC 9101, *et. seq.* However, no action by the Board in making such change, modification or amendment shall adversely affect any claim for any Covered Benefit which was incurred before the effective date of such amendment.

(

16.02. Significant amendments by the Legislature or by the Board, through rule making or regulation, will be communicated by the Administrator in accordance with Article 17, Section 17.02.

## **ARTICLE 17 - COMMUNICATIONS**

17.01. Communications from Enrollees and any other interested persons regarding the Program should be addressed to the Administrator, CNMI Group Health Insurance Program, NMI Retirement Fund, 1st floor, Nauru Building, P.O. Box 1247, Saipan, MP 96950, Telephone 670-234-7228, fax 670-234-9674.

( )

- 17.02. Any significant amendments to the Act or this Plan Document and any other pertinent information regarding the Program shall be communicated to Enrollees in accordance with the Administrative Procedure Act. In addition, they shall be posted in the Fund/GHLI offices as well as directly provided to Enrollees through Employees' pay checks and Retirees' annuity checks. The Administrator will make reasonable best efforts to notify Survivors, employees on leave without pay and other interested parties.
- 17.03. Workshops explaining the Program will be conducted periodically, usually during "new employees orientations" which are usually held at least once every quarter. Similar workshops will also be held upon request by any Government department, agency or other entity.
- 17.04. Employee meetings will be held during Open Seasons during working hours through coordination between the Administrator and department and agency heads to explain the Program. All Employees may attend such meetings and ask any questions about the Program.

53

## **ARTICLE 18 - TERMINATION**

- 18.01. Enrollment in the Program will terminate:
  - A. for an Enrollee if he/she no longer meets the definition of "Enrollee";
  - B. for an Enrollee if such individual files a "false claim" pursuant to Article 11, Section 11.08.B.;
  - C. for an Enrollee if the Enrollee dies;
  - D. for all Enrollees if the Government terminates the Program;
  - E. for a Subscriber if the Subscriber terminates his or her enrollment;
  - F. for a Dependent if the Subscriber's enrollment terminates;
  - G. for a Dependent if the Subscriber terminates the enrollment of the Dependent;
  - H. for a Survivor and all Dependents of the former Subscriber if the Survivor remarries.
  - I. for an Employee 30 days after the Employee ceases to be employed by the Government, unless the former Employee qualifies as a Retiree.
- 18.02. Except as specified in Section 18.01.1 above, all terminations of enrollment will be effective as of the first day of the pay period or semimonthly annuity period following the event causing the termination.
- 18.03. If a Subscriber's enrollment terminates, coverage for all of such Subscriber's enrolled Dependents also terminates as of the Subscriber's date of termination except as specifically provided for Survivors in Article 4. A Subscriber whose enrollment has terminated will not be eligible to re-enroll until an Open Season is declared or unless the Subscriber otherwise becomes eligible. Notwithstanding the previous sentence, if the Subscriber's enrollment terminates because of non-payment or untimely payment of Subscriber Contributions while the Subscriber is on leave without pay pursuant to the Family and Medical Leave Act of 1993, or if the Subscriber qualifies under the Uniformed Services Employment and Reemployment Rights Act of 1993, the provisions of those acts will govern.

( )

- 18.04. If an enrolled Dependent no longer meets the definition of "Dependent", the Subscriber must ensure that the Administrator is notified within 30 days of the date the change occurred. If the Administrator is not so notified, payment of benefits for such Dependent will be denied retroactively to the date the change occurred, even though Premiums were paid, and Premiums will not be refunded. Also, any claim filed on behalf of such Dependent may be considered a "false claim" pursuant to Article 11, Section 11.08.B.
- 18.05. Except as specifically provided in Section 18.04 above, the Administrator will refund any pre-paid Subscriber Contributions within 60 days following termination of enrollment. Pre-paid Government Contributions will not be refunded.
- 18.06 The CNMI Legislature has the power to abolish the Program or amend the law creating and governing the Program at any time.

## **ARTICLE 19 - RECONSIDERATION AND APPEALS**

19.01. If a claim for benefits, application for enrollment, enrollment change or continued enrollment is denied in whole or in part or if adverse action is otherwise taken against the claimant, the claimant or the claimant's representative may submit a written request for reconsideration to the Administrator within 20 days after the notice of denial is issued or other adverse action is taken. The claimant or claimant's representative must state the reason he or she believes the denial was inappropriate and may submit any supporting data. An Enrollee has the right to be represented by an attorney of his or her choosing or by any person, including the Enrollee's Service Provider or a representative of the Enrollee's Service Provider.

(

1

- 19.02. The Administrator will discuss the request for reconsideration with the claimant or claimant's Representative at an informal conference either by telephone or in person at the option of the claimant or the claimant's representative. Such informal conference will be held within 30 days following the Administrator's receipt of the written request for reconsideration. The Administrator shall require the written consent of the claimant or his or her authorized representative before discussing privileged or confidential medical information to any non-privileged third party.
- 19.03. The Administrator's decision on reconsideration shall be in writing and sent to the claimant or claimant's representative, within 20 days of the informal conference. The Administrator shall state the specific reasons for his or her decision and refer to the provisions in the Act, the Plan Document or other rules or regulations on which the decision is based.
- 19.04. If the claimant is adversely affected by the Administrator's decision on reconsideration, the claimant or the claimant's representative may appeal to the Board within 20 days of the Administrator's decision on reconsideration, pursuant to the Administrative Procedures Act and other applicable law, rules and regulations. Such appeal must be in writing and sent to the Chairman, Board of Trustees, NMI Retirement Fund, P.O. Box 1247, Saipan, MP 96950. The Claimant shall also serve a copy of the appeal on the Administrator within the same time period.
- 19.05. Upon receipt of a notice of appeal, the Board may appoint a hearing officer to hold a hearing on the record or, in an appropriate case, the Board may itself conduct a hearing on the record. The hearing shall be

conducted according to the procedures set forth in the Administrative Procedures Act and the claimant shall have all rights guaranteed thereunder.

### **ARTICLE 20 - GOVERNING LAWS**

- 20.01. Notwithstanding any other provision of this Plan Document, the Program will be administered in accordance with applicable CNMI and U.S. federal government laws. Such laws include the Act, the Family and Medical Leave Act of 1993, the Uniformed Services Employment and Re-employment Rights Act of 1993, the Americans with Disabilities Act of 1990, the Mental Health Parity Act of 1996, the Health Insurance Portability and Accountability Act of 1996's and the Pregnancy Discrimination Act of 1979.
- 20.02. In case of conflict between this Plan Document and any CNMI or U.S. federal law, the law will govern.

### **ARTICLE 21. AMENDMENTS AND EFFECTIVE DATE**

21.01 These rules and regulations may be amended from time to time as the Board of Trustees deems appropriate.

21.02 These rules and regulations shall be effective 10 days following final publication in the Commonwealth Register pursuant to the Administrative Procedure Act at 1 CMC 9101, et. seq.