## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS



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### **COMMONWEALTH REGISTER**

VOLUME 34 NUMBER 04

**APRIL 29, 2012** 

## **COMMONWEALTH REGISTER**

VOLUME 34 NUMBER 04

April 29, 2012

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## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial Governor

Eloy S. Inos Lieutenant Governor

#### **EXECUTIVE ORDER No. 2012-03**

#### DECLARATION OF HEALTH EMERGENCY

WHEREAS, the Commonwealth Healthcare Corporation ("CHC") provides the bulk of necessary healthcare in the Commonwealth, as well as providing all emergency medical services; and

WHEREAS, the disruption of the provision of medical services by the CHC poses a direct threat to the health and safety of the people of the Northern Mariana Islands; and

WHEREAS, the CHC is currently in arrears to payments to vendors providing vital services and equipment and is in arrears in regards to salary payments to necessary employees; and

WHEREAS, CHC, due to financial constraints, will have to shut down major functions of the Hospital, thus presenting an imminent threat to the public's health and welfare; and

WHEREAS, the CHC requires an infusion of funds to continue to provide medical services necessary for the health, welfare and safety of the people of the Northern Mariana Islands; and

WHEREAS, the Marianas Public Land Trust ("MPLT") and the CHC have agreed to a loan to provide needed funds to the CHC so that it may continue to provide medical services critical to the people of the CNMI; and

WHEREAS, in order to finance the repayment of the above loan, and for the CHC to ensure its future financial security, it is necessary for an emergency declaration to be made that will allow the CHC to contract with a provider of medical billing services without the CHC going through the standard procurement regulations: and

WHEREAS, Article III §10 of the Constitution of the Commonwealth and section 5101 et seq. of Title Three of the Commonwealth Code provide that the Governor has the authority and duty to take the necessary steps to respond to impending disasters;

NOW THEREFORE, A State of Emergency for the Commonwealth of the Northern Mariana Islands is declared due to the imminent threat of the disruption of critical medical services in the

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Commonwealth and the danger that such a condition poses to the public because of the great increase in otherwise preventable deaths that would result.

In order to meet this imminent threat, the Constitutional authority provided under Article III §10 is invoked, including, but not limited to, the authority to:

- 1. Suspend all statutory or regulatory provisions as required; and
- 2. The reprogramming of funds necessary to meet this emergency.

To ensure that the suspension of regulatory provisions does not lead to financial abuse, this emergency declaration incorporates the March 19, 2012 Memorandum of Understanding (MOU) between CHC and the Department of Finance, Office Management and Budget, and Office of the Attorney General. In addition, any financial reports submitted by the CHC pursuant to the MOU must be submitted with a certification of the person submitting them stating that the reports are a full and accurate under penalty of perjury.

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# Commonwealth of the Northern Mariana Islands Office of the Attorney General

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COMMONWEALTH REGISTER

To

:

Robert A. Guerrero, Executive Director of the Commonwealth

**Election Commission** 

From:

Attorney General

Subject:

Validity of a signature of a person who is not of Northern Marianas

descent on a popular initiative petition proposing to amend Article

XII of the Commonwealth Constitution

#### Attorney General's Legal Opinion No. 2012-02

Robert A Guerrero, the Executive Director of the Commonwealth Election Commission, has inquired as to whether a person who is not of Northern Marianas descent can validly sign a popular initiative petition proposing to amend Article XII of the Commonwealth Constitution.

#### **QUESTION PRESENTED**

Can a person who is not of Northern Marianas descent validly sign—that is, will the Attorney General count his or her signature when determining whether the minimum signature requirements have been met—a popular initiative petition proposing to amend Article XII of the Commonwealth Constitution?

#### SHORT ANSWER

Yes, a person who is not of Northern Marianas descent may validly sign a popular initiative petition proposing to amend Article XII of the Commonwealth Constitution; the Attorney General will count his or her signature provided that he or she is qualified and registered to vote in the Commonwealth.

#### ANALYSIS

I. Minimum Signature Requirements for a Popular Initiative Petition Proposing an Amendment to the Constitution

In setting forth the minimum signature requirements for popular initiative petitions, the Constitution distinguishes among petitions that propose a general law, petitions that propose a local law, and petitions that propose a constitutional amendment. Compare NMI Const. art. IX, § 1(a) with art. XVIII, § 4. The Constitution does not, however, distinguish between the minimum signature requirements for a petition proposing an amendment to Article XII and the minimum signature requirements for a petition proposing any other constitutional amendment. Accordingly, a petition proposing to amend Article XII must satisfy the minimum signature requirements that that govern all petitions proposing constitutional amendments as set forth in Article XVIII of the Commonwealth Constitution.

Section 4 of Article XVIII, provides that a popular initiative petition to propose a constitutional amendment "shall be signed by at least fifty percent of the persons qualified to vote in the Commonwealth and at least twenty-five percent of the persons qualified to vote in each senatorial district." NMI Const. art. XVIII, § 4(a). A person is qualified to vote if, on the date of the election, he or she "is eighteen years of age or older, is domiciled in the Commonwealth, is a resident of the Commonwealth and has resided in the Commonwealth for a period of time provided by law,2 is not serving a sentence for a felony, has not been found by a court to be of unsound mind, and is either a citizen or national of the United States." NMI Const. art. VII, § 1 (footnote added). A person need not be of Northern Marianas descent to be qualified to vote, and thus, a person need not be of Northern Marianas descent to validly sign a petition proposing to amend Article XII.

#### II. Certification of the Petition by the Attorney General

When a petition is submitted to the Attorney General for certification, the Attorney General will count the signature of a person if he or she meets the following criteria: (1) he or she is eligible to vote under the Constitution and applicable Commonwealth laws, and (2) he or she is properly registered to vote with the Commonwealth Election Commission on the date that he or she signs the petition. NMIAC § 5-50-115. Whether a person is of Northern Marianas descent is not part of the criteria. Thus, the Attorney General will not consider whether a person is of Northern Marianas descent when determining whether to count a signature on a petition proposing to amend Article XII.

#### CONCLUSION

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The Constitution does, however, distinguish between the ratification of an amendment to Article XII and the ratification of other constitutional amendments. See NMI Const. art. XVIII, § 5(c). Under section 5(c) of Article XVIII, only persons of Northern Marianas descent may vote on a proposed amendment to Article XII. Id.

The proposal of an amendment to Article XII and the ratification of an amendment to Article XII are distinct phases of the amendment process. Permitting persons who are not of Northern Marianas descent to sign a petition to amend Article XII in the proposal stage would not interfere with the limitation of voters to persons of Northern Marianas descent in the ratification stage. Thus, the limitation of voters in the ratification stage does not function to similarly limit those who can sign a petition in the proposal stage.

The criteria for determining domicile and residence are set forth in 1 CMC §§ 6203 and 6204, respectively.

For purposes of certifying a popular initiative petition proposing an amendment to Article XII, the Attorney General will count the signature of a person who is not of Northern Marianas descent, provided that the person is qualified to vote in the Commonwealth and is properly registered to vote in the Commonwealth at the time he or she signs the petition.

Edward T. Buckingham

Attorney General

4-26-12 Date



### Commonwealth of the Northern Mariana Islands **Scholarship Advisory Board**

Caller Box 10007, Saipan, MP 96950 Tel: (670) 664-4750; Fax: (670) 664-4759 cnmi.sab@gmail.com

#### PUBLIC NOTICE AND CERTIFICATION OF ADOPTION OF THE EDUCATIONAL ASSISTANCE PROGRAM RULES AND REGULATIONS of the Scholarship Advisory Board

#### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS

Volume 34, Number 02, p. 32315 to 32329 of February 29, 2012

ACTION TO ADOPT PROPOSED REGULATIONS: The Scholarship Advisory Board HEREBY ADOPTS AS PERMANENT REGULATIONS those that were published as proposed regulations in the Commonwealth Register at the above referenced pages, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a). The Board announced that it intended them as permanent, and now does so.

PRIOR PUBLICATION: The prior publication was as stated above. The Board adopted the regulations as final at its regular Board meeting of April 12, 2012.

#### MODIFICATIONS FROM PROPOSED REGULATIONS: Modifications are as follow:

- (1). All new applicants beginning Fall 2012 will only receive financial assistance if they are either enrolled at the Northern Marianas College or if they are enrolled at another accredited institution and have already obtained an associate's degree. However, this requirement will be waived if: (1) the applicant resides in the CNMI at the time of application; and (2) the applicant's qualification for the residency requirement is based on residence on an island other than Saipan; and (3) the island on which the applicant resides does not have an NMC satellite campus which offers associate's degree programs. Any applicant from any island may request a waiver from this requirement, which the Board may grant on a case-by-case basis upon a showing of good cause and in accordance with its written policies and guidelines.
- (2). Eligibility for funding for the Northern Marianas College's Early Admission Program was removed.
- (3). For continuing scholarship recipients, the CGPA increase from 2.25 to 2.75 for Satisfactory Academic Progress will not be implemented until the fall semester of 2013. The change is immediate for new applicants.

AUTHORITY: Pursuant to Executive Order 94-3 § 211 (b), incorporated by reference in 1 CMC § 2051, the SAB is authorized to "recommend objective standards for the award of scholarships." The Educational Assistance Program (EAP), formerly known as the Commonwealth Educational Opportunity Assistance, was transferred from the oversight of the

Northern Marianas College to SAB through Executive Order 94-3 § 211 (a), incorporated by reference in 1 CMC § 2051.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted regulations are effective ten (10) days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is ten days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104(a)(2), the Board has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Board, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

ATTORNEY GENERAL APPROVAL: The proposed Amendments were approved for promulgation by the Attorney General at page 32329 of Volume 34 of the Commonwealth Register, as required by 1 CMC § 2153(e).

I declare under penalty of perjury that the foregoing statements are true and correct and that this declaration was executed at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

Kodep Ogumoro-Uludong

Scholarship Advisory Board Chair

4/12/12

Filed and Recorded by:

Esther M. San Nicolas

Commonwealth Register

04.26.12

**APRIL 29, 2012 PAGE 032408**  Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG's approval), the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations).

Dated the 25 nt day of Abric, 2012.

Attorney General

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