



# **FSM PUBLIC SERVICE SYSTEM REGULATIONS**

**For**

**TITLE 52**

**CODE OF THE FEDERATED STATES OF MICRONESIA**

**SECOND EDITION**

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**FSM OFFICE OF PERSONNEL  
P.O. BOX PS-35  
PALIKIR, POHNPEI, FM 96941  
TEL: (691) 320-2618/ 2642**

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## **PART 1 PURPOSE AND SCOPE**

### **1.1 Purpose.**

These Regulations implement the provisions of FSM Code Title 52, as amended, which establishes a Public Service System in the National Government of the Federated States of Micronesia. The Public Service System shall be a career service, based on merit principles, and free from coercion, discrimination, reprisal, or political influence. It shall be designed to attract, select, and retain the best individuals available, with incentives for competent and loyal employees, and a means to eliminate unnecessary and inefficient employees. The Public Service shall, at all times, provide efficient and impartial service to the Public, the employees, and to management.

### **1.2 Coverage.**

These Regulations shall apply to all employees of and positions in the Government of the Federated States of Micronesia now existing or hereafter established and to all TITLE 52 – PUBLIC EMPLOYMENT T52-8 personnel services performed for that Government except the following, unless this chapter or provisions thereof are specifically made applicable to them:

- (1) Members of the Congress of the Federated States of Micronesia;
- (2) the President and Vice President of the Federated States of Micronesia;
- (3) Justices and other Judges of the National Courts;
- (4) the legislative counsel, deputy legislative counsel, director of administration and budget, budget officer, assistant budget officer, administrator and the clerk of the Congress;
- (5) the Public Auditor;
- (6) the Director of the National Courts;
- (7) the special assistants and secretaries to the President and Vice President and the secretaries to the Speaker and Vice-Speaker of the Congress of the Federated States of Micronesia;
- (8) persons appointed by the President to fill the following positions:
  - (a) Secretary of the Department of Foreign Affairs,
  - (b) Secretary of the Department of Finance and Administration,
  - (c) Secretary of the Department of Economic Affairs,
  - (d) Secretary of the Department of Transportation, Communication and Infrastructure,
  - (e) Secretary of the Department of Health, Education and Social Affairs,
  - (f) Secretary of the Department of Justice, and
  - (g) the Chief Public Defender, and

- (h) their deputies, if any;
- (9) persons appointed to any other positions by the President with the advice and consent of the Congress;
- (10) the Representative in Washington and all ambassadors;
- (11) persons or organizations retained by contract when the Personnel Officer has certified that the service to be performed is special or unique and nonpermanent and is essential to the public interest, and that, because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would not be practical to obtain personnel to perform such services through normal public service recruitment procedures;
- (12) persons presently under contract of employment not included in subsection (11) of this section, during the life of such contract. No contract of employment shall be entered into, renewed, or amended after the effective date of this chapter, except in accordance with the provisions of this chapter;
- (13) temporary positions, required in the public interest, for which the need does not exceed six months;
- (14) positions requiring part-time or intermittent work which does not exceed 60 hours in any calendar month;
- (15) positions filled by inmates, patients, and students of institutions of the Federated States of Micronesia;
- (16) members of any board, public corporation, commission, or similar body, in their capacity as such;
- (17) officers, faculty, and employees of the Board of Regents and the College of Micronesia;
- (18) positions specifically exempted by any other law of the Federated States of Micronesia;
- (19) all personnel of the National Weather Service, provided that the National Weather Service shall be administered by the Office of the President.

### **1.3 Application.**

All matters concerning the classification and compensation of positions and the employment, conduct, assignment, training, performance, and separation of employees in the Public Service System shall be governed by applicable regulations and shall be applied equitably to all.

#### **1.4 Limitations.**

- (1) Preference in Employment and Training: Preference in employment and training shall be given to citizens of the Federated States of Micronesia. Citizens of other countries or jurisdictions shall be employed only when qualified FSM citizens are not available and when such employment is clearly in the interest of the FSM National Government.
- (2) No person may be an employee of the National Government after the 65<sup>th</sup> anniversary of his birth, except for those employees who are made exempt from the National Public Service System by section 117 of this title.

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(Source: PL. 19-69)

#### **1.5 Existing Employment Contracts.**

The provisions of these regulations shall not impair, change, increase, or decrease the obligations of any existing employment contract to which the national government of the Federated States of Micronesia is or becomes a party.

### **PART 2 ORGANIZATIONS AND ADMINISTRATION**

#### **2.1. The Personnel Officer.**

The provisions of Public Law No. 1-47, as amended, and these regulations shall govern the administration of the Public Service System. Subject to these regulations and laws, the Personnel Officer shall:

- (1) Direct and supervise all of the administrative and technical activities of the Personnel Office;
- (2) Administer the system of personnel administration for the National Government of the Federated States of Micronesia;
- (3) Act for the President in the exercise of his appointing authority, to include the determination of qualifications required for all positions whether employees or potential appropriate compensation for all positions in the Government;
- (4) Advise the officials of the government on all matters concerning personnel management and administration, employee training, and staff housing;
- (5) Formulate and recommend to the President and, as appropriate to other officials policies and regulations to carry out the provisions of FSMC Title 52 as amended.
- (6) Cooperate fully with and attend, or arrange for a qualified representative to attend all meetings of the ad hoc committees organized under Sub-Part 18.8 of these Regulations, and give the committees any technical advice it requires;

- (7) Develop and maintain adequate position classification and pay plans;
- (8). Administer recruitment, and examination programs and determine when employees meet specific qualification requirements;
- (9). Provide advice and assistance to management on matters concerned with administration of employee discipline, as well as the processing of grievance and appeal actions;
- (10). Develop training programs for improvement of employee skills;
- (11). Establish and maintain records of personnel employed in the National Public Service System,
- (12). Administer a staff housing program for the FSM National Government; and
- (13). Perform any other activities deemed necessary to assure promotion of a merit based National Public Service System.

<b>PART 3      EXAMINATIONS</b>
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In accordance with the needs of the government, the Personnel Officer shall administer recruitment programs designed to attract and retain fully-qualified applicants for the Public Service System. Competitive selection procedures shall be used whenever practical.

**3.1      Authorized Positions.**

No person shall be appointed to any position not exempted from the Public Service System until that position has been properly established, classified, and authorized for recruitment.

**3.2      Accountability of Position.**

A list of all authorized positions shall be maintained by the Personnel Officer showing the Classification and current status of each position. Changes in the authorized quota of positions for each Department, Office or agency shall not be made without the approval of the responsible management officials, Personnel and Budget Officer.

**3.3      Examination Announcements.**

As vacancies occur or are anticipated, examinations for recruitment shall be announced and posted in the Office of Personnel and shall be given the widest publicity possible for the vacancy.

- (1) Radio, newspapers, internet, and other media shall be used whenever practical.
- (2) Department, Office, and agency heads shall bring announcements to the attention of all personnel under their jurisdiction by providing copies to the various units of their offices.

- (3) The Personnel Officer shall determine the coverage of examination announcements depending on the availability of skills in the area where the vacancy is located.
- (4) With the exception of promotional examinations, all examinations shall be open to the public. Admission to all examinations shall be conditioned by such standards of health, physical condition, age, education, training, experience, and character as are deemed necessary by the Personnel Officer.

### **3.4 Content of Examination Announcements.**

Announcements shall contain, at least, the following information:

- (1) Class title of position.
- (2) Salary and pay level.
- (3) Brief description of duties and responsibilities.
- (4) If the examination is to fill one or more specific vacancies, geographical and organizational location of the position(s).
- (5) Minimum qualifications required for admission.
- (6) Opening and closing dates and place to pick up and file applications.
- (7) Any other information which the Office of Personnel considers to be useful to candidates for the position.

### **3.5 Period of Announcement.**

Announcement of competitive examinations shall be posted for at least thirty (30) calendar days. The Personnel Officer or his designee may at his discretion extend the period for another 15 days for receipt of applications, providing such extensions are announced in the same manner as the original announcement. If no qualified applicant responds to the announcement, the Personnel Officer or his/her designee shall automatically recommence the announcement period, unless the requesting Department or Office request the Personnel Officer to cancel the vacancy announcement or modify the qualification sought.

### **3.6 Continuous Examination.**

When there is difficulty in attracting sufficient numbers of qualified applicants for vacancies in the Public Service, the Personnel Officer may announce a continuous examination. Notice of closing of a continuous examination shall be posted at least fifteen (15) calendar days before the final closing date of such examination.

### **3.7 Promotional Examinations.**

Promotional Examinations are restricted to regular employees in the Public Service that have served in the NPSS for at least 12 months. Announcements to fill vacancies by promotion shall be distributed in the same manner as other examination announcements. However, the Personnel Officer may restrict eligibility for participation in an examination to a particular Department, Office or Agency if the position to be filled is of a nature peculiar to that Department Office or Agency and that the concerned Department Office or Agency has a Succession Plan already in place.

### **3.8 Open-Competitive Examinations.**

Examinations shall be open- competitive whenever the Personnel Officer determines that they are in the best interest of the Public Service. Announcements of open-competitive examinations shall be posted, and applications may be filed for a period of at least fifteen (15) calendar days before holding the examination.

### **3.9 Non-Competitive Examinations.**

Non-Competitive examinations shall be administered for positions requiring special qualifications and training which could not practically be evaluated through competition, or when there are fewer qualified applicants than vacancies.

### **3.10 Content of Examinations.**

Examinations shall be practical and reasonable and shall provide for ascertaining the qualifications of applicants and their relative capacity and fitness for the proper performance of duties in the class of position for which they are applying. Any accepted method of examining may be used, including due- diligence, verification and evaluation of the education, training, aptitude, and character of applicants, and any other accepted examining device deemed appropriate by the Personnel Officer.

### **3.11 Security of Examinations.**

Examinations shall be administered and maintained under conditions affording maximum security at all times. All precautions shall be taken to safeguard the confidential nature of examination questions and related documents. Information concerning the nature and content of tests shall not be divulged to any person before the examination. Unauthorized disclosure of examination material shall be considered as fraud. The identity of examination candidates shall be kept confidential, through appropriate means, during the entire examination process until the completion the scoring process. The substitution in an examination of a different person for an accepted applicant is considered, for both parties, as fraud. Cheating by a candidate or assisting another candidate to cheat shall be considered fraud. Fraud in connection with any application or examination shall

cause removal and permanent disqualification from appointment in the Public Service, after due notice and hearing by the Personnel Officer.

### **3.12. Admission to Examinations.**

Applications for examination shall be made on forms prescribed by the Personnel Officer. Completion of applications and submission of supplemental information shall be done in accordance with the examination announcement and established procedures. Applications shall be signed and such signature shall certify to the truth of all statements contained therein. A false answer or statement shall be grounds for denying admission to the Examination, removal from the resulting eligibility list, or dismissal from the Public Service if, the person has been employed before the false answer or statement is discovered. The Personnel Officer shall designate persons authorized to accept applications. Applications for specific positions shall be accepted only during the period specified on the examination announcement. Applications submitted by mail shall be postmarked no later than the announced closing date. Late applications will not be accepted unless approved by the Personnel Officer because of unusual circumstances. Such determinations shall be made a matter of record and other subsequent applications in similar circumstances shall be treated in the same way.

### **3.13. Disqualification of Applicants.**

The Personnel Officer may refuse to examine an applicant for any of the following reasons:

- (1) Failure to meet the minimum qualification requirements for admission to the examination.
- (2) Unsatisfactory physical or mental health conditions;
- (3) Habitual or excessive use of drugs, narcotics, or intoxicating beverages;
- (4) False statements, or attempt to practice deception or fraud in an application;
- (5) Failure to file for examination within the date specified by the examination announcement;
- (6) Criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct detrimental to the performance of the duties of the position for which he\_ has applied.

Applicants who do not meet the minimum qualifications or who are disqualified for any of the reasons noted above shall be notified as soon as possible. If an applicant is disqualified after placement on an eligibility list, his name shall be removed from the eligible list, and if appointed from that eligible list, he shall be terminated.

### **3.14 Notification of Acceptance for Examination.**

Each applicant who has been accepted shall be given sufficient advance notice of the date, time and place of examination; inclusion of the requisite information on the examination announcement meets this notification requirement. No applicant shall be entitled to take an examination at a date, time, or place, other than that stated in the notification unless specifically authorized by the Personnel Officer. The Personnel Officer shall not be responsible if a notice is lost due to a change of address. Where mail service is not adequate to meet these notification requirements, oral notification may be given in person, by telephone, or by radio if the foregoing time and content provisions are met, and if such oral notification is properly documented.

### **3.15 Conduct of Examinations.**

The Personnel Officer shall appoint a representative to administer the examinations at the time and place designated in the notification of acceptance for examination or the examination announcement, or shall himself administer them.

### **3.16 Cancellation of Examinations.**

Examinations may be cancelled at any time by the Personnel Officer if there is no longer need for eligible covered by the examination or if the examination no longer meets the expressed requirements of the Government.

### **3.17 Rating of Examinations.**

Appropriate statistical techniques and procedures shall be used in scoring and rating examinations and in determining the relative ranking of candidates on competitive examinations. The final rating required to pass an examination shall be set by the Personnel Officer, who may also set minimum ratings for each part of the examination. The final earned ratings of each candidate shall be determined by combining the earned ratings of each part of the examination in accordance with the weights established for each such part.

### **3.18 Reviews of Examination Results.**

Any applicant may request a review of his rating within ten (10) calendar days following the notification of examination results. Such request for review shall be addressed to the Personnel Officer, who shall comply with the request and make whatever changes, if any the facts warrant.

### **3.19 Changes in Rating.**

Changes in rating may be made as a result of correction of errors in the scoring or rating process or as a result of a request for review where in the facts warrant a change. Correction of errors shall be applied equally to all participants. An amended notice of rating shall be reported to all applicants affected by the change. If a correction results in a non-passing rating for an employee

already appointed from that eligible list, that employee shall be terminated from the position to which he was appointed.

### **3.20 Certification from Eligible Lists.**

Appointments and promotions in the Public Service System shall be made from eligible lists resulting from examinations, except as otherwise provided by these regulations.

### **3.21. Interview of Certified Applicants.**

- (1) The management official concerned may interview the certified applicants before selecting one of them for the vacant position. The objective of the interview is to exchange information with a job applicant; that is, to give a general overview of the Government and specific details about the position being discussed, and to obtain relevant facts about the applicant's experience and overall qualifications.
- (2) The interviewer should ask questions intended to provide a better understanding of the applicant's qualifications and personal traits. Acceptance subject areas include, but are not necessarily limited to:
  - (a) Work Experience;
  - (b) Attendance Punctuality;
  - (c) Motivation;
  - (d) Education and Training; and
  - (e) Leisure Activities and Interests.
- (3) The interview itself should:
  - (a) Take into account the applicant's right to privacy and be held where the individual can talk freely;
  - (b) Be held in a comfortable environment;
  - (c) Be tailored to suit the job requirements; and
  - (d) Be conducted fairly to give each job applicant an equal opportunity.
- (4) The interviewer should treat each job applicant as a guest, and extend common courtesies and considerations during the interview.

### **3.22 Job interview-Related Travel Expense.**

- (1) Applicants for FSM positions are prohibited from receiving any travel expenses for purpose of engaging in job interviews. However, this prohibition may be waived, if the interview is for a job or appointment to extend indefinitely or for four years or more.

- (2) Travel and other expenses may be incurred by FSM offices and departments for job interviews only upon approval by the appropriate branch head and department Secretary or Office Director. Request for such travel authorization shall be supported by documentation of local hiring efforts and appropriate exchange of information between offices or departments which may have resulted from prior travel for interviews. Whenever possible interviews shall be conducted during travel for interviews.
- (3) The FSM Consuls General and Ambassadors are encouraged to conduct or monitor all necessary interviews involving applicants in their location.
- (4) When interviews cannot be conducted within the parameters set out in paragraphs (2). or (3) of this policy and a local contact person is used, expenses incurred by Non-FSM Government employee contacts assisting in the conduct of job interviews shall not exceed \$1,500 for each examination announcement and shall be charged to the department requesting the personnel action.

### **3.23 Medical Examinations**

Medical examinations may be required of applicants and employees of the Public Service to ensure that the person meets the physical requirements of the class of positions for which he has applied or to which he is assigned, and that he is free from any present or potential medical condition which might jeopardize his safety or that of other employees. Medical examinations shall be administered by authorized medical personnel and shall be recorded on forms provided by the Personnel Officer. In the Federated States of Micronesia, the Personnel Officer shall arrange for such examinations to be administered at official health facilities without charge to the person examined. The Applicants or employees who are required to undergo medical examinations outside FSM will be reimbursed for costs they incur.

<b>PART 4 ELIGIBLE LISTS</b>
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#### **4.1 Establishment of Eligible Lists.**

Employees in the Public Service shall be selected from employment lists, hereafter referred to as eligible lists, established and maintained by the Personnel Officer, Except for reemployment lists, candidates shall be placed on eligible lists in the order of qualifying grades on the examination. The list shall be designated as an “eligible list” for that class of position and shall be considered “established” upon approval of the Personnel Officer.

#### **4.2 Duration of Eligible Lists.**

The life of an eligible list, other than the reemployment list, shall be for a period of one (1) year, unless extended by the Personnel Officer. No person shall be retained on an eligible list beyond the period of extension of the original list. When an eligible list is reduced to an insufficient number of eligible, a new list may be established through appropriate examination. Remaining eligible shall be combined with those on the new list for the remainder of the term of the original list. An open

competitive eligible list and a promotional eligible list shall not be combined. A competitive examination eligible list and a noncompetitive examination eligible list shall be combined only as a noncompetitive eligible list. If an eligible candidate successfully participates in a subsequent competitive examination and the resulting eligible list is combined with of a previous competitive examination eligible list bearing his name, that eligible candidate shall elect to have his name retained on a combined list, at of the subsequent list, but not at both positions.

#### **4.3 Order of Use of Eligible Lists.**

The following order shall be followed in the use of eligible lists;

- (1). Reemployment List.
- (2). Promotional List.
- (3). Open-Competitive List.

#### **4.4 Reemployment List.**

Any person who has held a permanent position in the Public Service from which he has been demoted or terminated through reduction-in-force, or whose position has been reclassified to a lower class shall be permitted to have his name placed on a reemployment list, providing he so requests in writing to the Personnel Officer. The application form for registration on a reemployment list will be provided to the employee when he is notified of the personnel action which gives rise to this right. The name of such person shall be placed on the reemployment list for the same class of position as he last held under a permanent appointment or for a related class.

Names shall be arranged on the reemployment list in the chronological order of their separation. Names shall be removed from the reemployment list at the expiration of three (3) years from the date of separation, or sooner if the individual is reemployed in a position at a pay level at least as high as that he formerly held in the Public Service.

#### **4.5 Promotional List.**

Only persons in the Public Service who have completed their probationary period and have passed the requisite promotional examination may be placed on a promotional list. The Personnel Officer may confine a promotional list to employees of one Department or agency if their work is of a nature peculiar to that Department or agency. A promotional list shall be certified by the Personnel Officer only after it has been determined that a qualified candidate is not available through the reemployment list.

#### **4.6 Open-Competitive List.**

Personnel Officer shall prepare an eligible list after each open- competitive examination. Such list shall show the names of all persons with passing grades, in the order of their final their names

shall be placed according to their scores on the most heavily portion of the examination. If all portions are identical, the receipt time of their applications will determine priority. An open-competitive list shall be certified by the Personnel Officer only after it has been determined that a qualified candidate is not available through the reemployment list or through promotional examination.

#### **4.7 Procedure When Eligibles are Required.**

Whenever eligible are required, the Personnel Officer shall:

- (1) Prepare the examination announcement.
- (2) Administer the examination.
- (3) Establish an eligible list, as determined by the examination.

#### **4.8 Removal of Names from Eligible Lists.**

The Personnel Officer shall remove the name of any person who has been disqualified under sub-part 3.13 of these regulations. The name of any person shall also be removed if:

- (1) The person is appointed from that list to a permanent position in the Public Service.
- (2). The eligible candidate fails to respond within fifteen (15) calendar days from the date of dispatch of an inquiry about his availability for employment, provided that his/her name may be restored if the Personnel Officer considers such action to be justified.
- (3) The employee ceases to be employed in the Public Service, if his name was on a promotional list.
- (4) The eligible so requests.
- (5) There is evidence that the person is physically or mentally prescribed by the selecting official.
- (6) The eligible fails to report for duty within the time prescribed by the selecting official.
- (7). The eligible is found to be no longer qualified to perform the requirements of the class of position.

#### **4.9 Departmental Promotional Requests.**

Management official wishing to fill, by promotion, a vacant permanent position in his Department or Office may ask the Personnel Officer in writing to provide the names of employees eligible for such promotion. The Personnel Officer will identify all permanent in lower-paid classes in the

same series as the vacant position or in a closely related field-paid class. He will then ascertain which of those employees meets the qualification standards of the class to which the vacant position is allocated, and will provide the management official with a list of all such employees, showing for each employee his citizenship, his length of service, and such other information as the management official may request. The management official shall select from that list the employee who is to be promoted, except that a non-citizen employee may not be so promoted if the list includes one or more qualified employees who are citizens of the Federated States of Micronesia.

<b>PART 5      CERTIFICATION AND APPOINTMENT</b>
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**5.1      Certification of Eligible.**

For the purpose of filling vacancies in the Public Service, Department and agency heads shall request in writing a list of eligibles from the Personnel Officer unless they elect to fill a position by transfer or demotion. Requests for eligibles shall be made on forms prescribed by the Personnel Officer and shall clearly identify the position to be filled, including its position number. The Personnel Officer shall respond to such request by certifying from the appropriate eligible list the five (5) highest available eligibles, or such lesser number as are available.

No person shall report to work or nor receive a salary unless he has been previously certified on an appropriate eligible list by the Personnel Officer or his authorized representative, and selected by a Department or agency head.

**5.2      Selective Certification.**

Where the Personnel Officer determines that a position has a special requirement which is not a general qualification requirement for that class of position, he may certify from the appropriate class eligible list of those eligible who meet that specific requirement.

**5.3      Types of Positions and Appointments.**

All positions in the Public Service shall be identified in the records of the Personnel Officer as either permanent] or limited-terms, or of such other status as is authorized by law.

**5.4      Permanent Regular Positions.**

A position which is established to meet continuing needs of the Government, and which is authorized to last longer than on (1) year, shall be identified as a permanent regular position.

**5.5      Limited-Term Positions.**

A position that is authorized to last up to six 6 to 12 months shall be identified as a limited-term position.

## **5.6 Other Positions.**

Positions which are exempt from Public Law No. 1-47, as amended, and therefore not in the Public Service, shall be clearly identified according to the appropriate Sub-Part of the law, for record purposes.

## **5.7 Permanent Regular Appointments.**

An employee who has been appointed, promoted, or transferred to a permanent position and who has satisfactorily completed his probation period therein shall hold a permanent appointment in the Public Service and is entitled to the full benefits of these regulations. Permanent appointment may be part-time employment with a regularly scheduled tour of duty, provided that work time exceeds sixty hours per calendar month.

## **5.8 Limited-Term Appointments.**

A person who is appointed to a limited-term position shall hold a limited-term appointment and shall be entitled to Workmen's Compensation, Social Security, and annual leave if the appointment is for more than ninety (90) days, and sick leave, holiday pay, and over time. Limited-term appointments shall fall under one of the following groups:

- (1) Full-time Appointment: An appointment requiring eight hours work per day, with a regularly scheduled tour of duty.
- (2). Part-time Appointment: An Appointment requiring less than eight hours work per day with a regularly scheduled tour of duty
- (3) Intermittent: Employment on an "as needed" basis as determined by the needs of the Government.

All persons receiving limited-term appointments shall be required to meet the qualification requirements of the class of position to which appointment is sought.

## **5.9 Provisional Appointments.**

When there is no appropriate eligible list, a management official may request in writing the filling of a position by provisional appointment. Such appointment shall be limited to a period of ninety (90) days, pending the establishment of an eligible list. However, the Personnel Officer may extend a provisional appointment for an additional ninety (90) days if an examination fails to make available a qualified eligible.

All persons receiving provisional appointments shall be required to meet the qualification requirements of the class of position to which appointments are sought.

### **5.10 Emergency Appointments.**

The Personnel Officer may authorize an emergency appointment, as follows:

- (1) When a serious emergency exists;
- (2) To prevent the stoppage of essential public business; or
- (3). When it is not practicable to ascertain whether there is an eligible list.

The period of authorization shall not exceed ten (10) working days; but such an emergency appointment may be extended by the Personnel Officer if the management official concerned so requests in writing, when the cause is determined to be good and sufficient, and the extension does not exceed twenty (20) additional working days.

All persons receiving emergency appointments shall be required to meet the qualification requirements of the class of position to which appointments are sought.

### **5.11 Probation Period after New Appointment.**

An appointee, not a permanent regular employee of the Public Service, appointed to a permanent regular position from an eligible list resulting from an open examination, shall serve a probation period of not less than six months from the beginning of his initial employment in the Public Service before his probationary appointment may be converted to a permanent regular appointment. On request by the management official concerned, the Personnel Officer may extend the duration of a new employee's probation period to a total length not exceeding one year.

### **5.12 Probation Period after Promotion or Transfer.**

- (1) Voluntary Promotion. A permanent regular employee of the Public Service who is voluntarily promoted to a different permanent regular position in the Public Service shall serve a probation period of six months which may be extended for a period not exceeding one year from his entry on duty in his new position before he shall be permanent regular employee therein. During such period he shall be entitled to all the rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service. A permanent regular employee so promoted or transferred who does not satisfactorily complete his probation period shall be reinstated in his former position or in another position of the same class, without prejudice.
- (2) Involuntary Promotion Based on Adverse Action. A permanent regular employee of the Public Service who is involuntarily promoted under an adverse action pursuant to part 18 of these regulations to a different permanent regular position in the public service shall serve a probationary period of six months which may extend for a period not exceeding one year from his entry on duty in his new position before he shall be permanent] a regular employee therein. During such period he shall be entitle to the

rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service.

- (3) Involuntary promotion not Based on Adverse Action. A permanent regular employee of the public service who is involuntarily promoted other than for reasons related to an adverse action pursuant to part 18 of these regulations to a different [permanent] regular position in the Public Service shall serve a probation period of six months which may be extended for a period not exceeding one year from his entry on duty in his new position before he shall be permanent] a regular employee therein. During such period he shall be entitled to all the rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service. A permanent regular employee so promoted who does not satisfactorily complete his probation period may choose to be reinstated in his former position or in another position of the same class, without prejudice. The permanent regular employee shall seek reinstatement within one year of the promotion. The Personnel Officer or his designee shall notify the permanent regular employee in writing of his right to reinstatement. A permanent regular employee on notice of his right to reinstatement who chooses not to exercise that right within one year of the promotion forfeits his right to reinstatement in his former position.

### **5.13 Probation period After Transfer.**

- (1) Voluntary Transfer. A permanent regular employee of the Public Service who is voluntarily transfer to a different permanent regular position in the public service shall serve a probationary period of six months which may extend for a period not exceeding one year from his entry on duty in his new position before he shall be permanent therein. During such period he shall be entitled to the rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service.
- (2) Involuntary Transfer Based on Adverse action. A permanent regular employee of the Public Service who is involuntarily promoted under an adverse action pursuant to part 18 of these regulations to a different permanent regular position in the public service shall serve a probationary period of six months which may extend for a period not exceeding one year from his entry on duty in his new position before he shall be permanent a regular employee therein. During such period he shall be entitle to the rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service.
- (3). Involuntary Transfer Not Based on Adverse Action. A permanent regular employee of the public service who is involuntarily transferred other than for reasons related to an adverse action pursuant to part 18 of these regulations to a different permanent regular position in

the Public Service shall serve a probation period of six months which may be extended for a period not exceeding one year from his entry on duty in his new position before he shall be permanent a regular employee therein. During such period he shall be entitled to all the rights and benefits of a permanent regular employee except that of appealing from a removal from the new position, as distinguished from dismissal from the Public Service. A permanent regular employee so transferred who does not satisfactorily complete his probation period may choose to be reinstated in his former position or in another position of the same class, without prejudice. The permanent regular employee shall seek reinstatement within one year of the transfer. The Personnel Officer or his designee shall notify the permanent regular employee in writing of his right to reinstatement. A permanent regular employee on notice of his right to reinstatement who chooses not to exercise that right within one year of the promotion forfeits his right to reinstatement in his former position.

#### **5.14 New Employee Orientation Policy.**

It is the policy of the National Government to conduct orientation for all new employees. For the purpose of this policy, orientation means a discussion for all new Government employees conducted by the Personnel Officer to acquaint the employee with the overall government organizational structure, employee's benefits, leave policies, time and attendance requirements, the payroll system, types of insurance, housing matters, and the content of the Public Service System Regulations.

- (1) The length and degree of orientation shall depend on the employee's needs and circumstances, such as FSM citizen or expatriate, special contract, clerical level or supervisory/management level, etc.
- (2) The department or office in which the new employee works is generally responsible for the introduction of the employee to job responsibilities, department policies, department objectives, basic laws concerning departmental operations and other relevant information concerning the specific job including introducing the new employee to the National and State Government employees when and if appropriate.
- (3). All new National Government employees shall be issued official National Government Employee identification cards showing the employee's name and Government Department. The Personnel Officer shall procure the identification cards.

## **PART 6 POSITION CLASSIFICATION**

### **6.1 General.**

All positions subject to the provisions of the National Public Service System Act shall be classified in accordance with the approved position classification plan.

## 6.2 **Definitions:**

- (1) Position Classification means the process by which positions in an organization are identified according to their duties and responsibilities, like positions are segregated into groups called classes, and a systematic record is made of the classes found and of the particular positions in each class.
- (2) Class means more position or a group of positions sufficiently similar in respect to their duties, responsibilities, and authority so that the same title may be used with clarity to designate each position allocated to the class, the same standard qualifications may be required of all incumbents, the same tests of fitness may be used to choose qualified employees, and the same schedule of compensation may be applied with equity under the same or substantially the same employment conditions; and sufficiently dissimilar from any position or any other group of positions to warrant exclusion from those groups of positions.

The class title assigned to a position in accordance with the Position Classification Plan shall be the official title and will be used for all personnel, budgetary, and financial purposes. In addition, the official title should be used for all position organization charts.

- (3) Position means a specific employment, whether occupied or vacant, consisting of a group of current duties and responsibilities assigned by competent authority and requiring the full or part-time employment of one person.
- (4) Position Classification Plan means the arrangement in a logical and systematic order of classes which reflect all of the kinds and levels of work utilized in the Public Service.
- (5) Management Official means a person having power to make appointments or changes in status of employees in the Public Service.
- (6) Allocation means the assignment of a position to its appropriate class on the basis of analysis of the duties and responsibilities of the position.
- (7) Reallocation means the reassignment of a specific position or group of positions from one class to another on the basis of analysis and identification of new or different tasks.
- (8) Class Specification means an official position classification plan document describing the general characteristics of the class, including the official class title, the duties and responsibilities of the class, examples of work or typical duties performed, and a statement of the qualifications required to perform the work of the class.
- (9) Occupational Group means a major subdivisions of a position classification plan, generally embracing several series of classes of positions in associated or related work specialties, professions, or related activities (e.g. Clerical and Machine Operation;

Administrative, Management, and Applied; Agriculture and allied; etc., each may make up an occupational group).

- (10) Series of Classes means classes closely related in occupational specialty but differing in level of difficulty and responsibility and qualifications required. (e.g., the three classes of Architect I, Architect II, and Architect III make up a series).
- (11) Position Description means a formal, official written statement by management documenting the assignment or rearrangement of the duties and responsibilities of a position.

### **6.3 Responsibilities of the Personnel Officer:**

- (1) The Classification of all positions, according to their duties and responsibilities;
- (2) Grouping positions into classes on the basis of their similarities in duties, responsibilities, and other significant factors;
- (3) Assigning a title to each class which shall apply to all positions in the class; and the characteristics of each class and the standards for employment in any position in the class shall be prescribed by the Personnel Officer after consulting the management officials concerned;
- (4) Changing a position from one class to another when substantial changes have occurred in its duties and responsibilities;
- (5) Determination of the status of occupants of positions which have been changed from one class to another class;
- (6) Delegation of responsibility, to the degree which he deems appropriate, to other qualified personnel in the Office of Personnel to identify positions at certain levels with established classes of positions which have been approved and allocated within the Classification Plan;
- (7) Periodic inspection of actions taken by those persons to whom responsibility was delegated, to ensure the propriety of such actions and to direct corrective action, where appropriate; and
- (8) Orientation of supervisors and management officials, at all levels, in their responsibility and role in the Position Classification Plan processes

### **6.4 Management Officials and Supervisors are Responsible for all of the followings:**

- (1) Planning, organizing, developing and assigning duties and responsibilities to positions, whether occupied or vacant.
- (2) Consideration in making assignments of the mission of the organization

and structuring of positions for accomplishment of requirements in the most effective and economical manner possible;

- (3) Ensuring that assigned duties and responsibilities do not duplicate or overlap those of other positions;
- (4) Ensuring that the current duties and responsibilities assigned to positions are accurately described in Position Descriptions in sufficient detail for position classification and all related purposes;
- (5) Ensuring the development, preparation, maintenance, and submission of factual and up-to-date functions statements and organizational position charts which clearly depict assigned organizational and supervisory responsibility, organizational segment identification, employee names with official class titles and pay levels for the positions to which assigned, titles and pay levels of vacant positions which are funded and approved, and other similar essential details; and;
- (6) Assisting their employees, to the extent necessary, to accomplish the foregoing, and obtaining from authoritative sources, as necessary, answers to specific questions raised by their employees.

#### **6.5 Effective Date.**

The effective date for an initial allocation or classification of a position shall be the first pay period following approval of such action by the Personnel Officer. Exceptions to this rule may be made by the Personnel Officer only for such reasons as will expedite public business and not result in an inequitable situation.

### **PART 7. COMPENSATION**

#### **7.1 General.**

All positions subject to the provisions of Chapter 1 of title 52 of the Code of the Federated States of Micronesia, shall be compensated in accordance with as may be amended by that law and the provisions of this Part.

#### **7.2 Compensation Plan.**

The classes in the Position Classification Plan, when assigned to appropriate pay levels of the Base Salary Schedule as established in accordance with Chapter 2 of title 52 of the Code of the Federated States of Micronesia, as amended, shall constitute the basic compensation Plan.

The Personnel Officer shall assign all classes in the Position Classification Plan to appropriate pay levels in the Base Salary Schedule in accordance with the following;

- (1). Kind and level of work;
- (2). Degree of difficulty and responsibility;
- (3). Kind, quality, and level of qualification requirements;
- (4) Relationship to other classes in its occupational group, and relationship of its occupational group to other occupational groups; and
- (5). Long-range. Recruitment market experience.

### **7.3 Definitions.**

In addition to those definitions covered in Chapter 1 and 2 of title 52 of the Code of the Federated States of Micronesia the following definitions shall apply to this Part and the following Part:

- (1) Salary Range. The group of salary rates which span from minimum to maximum in each Pay Level of the Base Salary Schedule.
- (2) Step. A single increment or rate in a salary range.
- (3) Service Anniversary Date. The date on which an employee may lawfully be granted a within grade salary increase, based on performance beginning of the first pay period after the date on which he completes either one service year after his initial appointment to the class or after his last within-grade increase, if the present increase is to step 2 3, or 4 of the respective salary level, or two service years after such date, if the present increase is to step 5, 6, or 7.
- (4) Service Year. A period of 52 weeks of satisfactory service rendered by an employee. Periods of leaves without pay and of unauthorized absence shall not be included.

### **7.4 Initial Appointments.**

All initial appointments shall be made at the first step of the appropriate pay level; unless the Personnel Officer determines that a higher rate is necessary to recruit and is appropriate to the qualifications of the applicant, in which case, appointment may be allowed at succeeding steps but not beyond the fourth (4th) step. Anyone appointed at a step other than the minimum step is eligible under these regulations for step increase in the same manner as other employees.

### **7.5 Promotions.**

An employee who is promoted from a position in one class to an existing position in a higher class shall be compensated at the lowest step in the new pay level which is next above his present

salary. The effective date of the promotion shall be the new service anniversary date for the promoted employee.

#### **7.6 Detail.**

A detail is the temporary assignment of an employee to a different position for a specified period, with the intention that the employee will return to his regular position and duties at the end of the detail. Technically, a position is not filled by a detail, as the employee continues to be the incumbent of the position from which detailed. Normally, whenever it is anticipated that the need for a detail will exceed ninety (90) days, it is appropriate to effect a temporary promotion if the employee is qualified at the higher grade. Individuals who do not meet the qualification standards of the position at the higher grade cannot be temporarily promoted and, therefore, must voluntarily agree to any period of detail in excess of ninety (90) days. An employee may also be detailed to a set of duties, which must be specifically described in a task list, when the Government's need for necessary or emergency services cannot be obtained by other desirable or practical means.

#### **7.7 "Acting" Assignment<sup>1</sup> .**

An "Acting" assignment is the designation, in writing, of an employee to act for a period of time in place of a vacancy exists in a position in the Government of the Federated States of Micronesia

- (1). Acting Capacity for Supervisor and Other positions: When the supervisor or an employee's absence exceeds the initial thirty (30) day period, a new designation shall be made for an additional thirty (30) days, either to the same person or another person. This thirty (30) day renewal of the "acting" assignment is repeated until the supervisor returns to his position. The return to his former salary (grade and step) at the end of the temporary assignment will be done in the same manner as provided under Sub-Part 7.8.
  - (a) Whenever the acting assignment exceeds ninety (90) days, an employee designated to serves in an "acting" shall be entitled to that position's compensation. The entitlement shall be retroactive to the day actingship began; PROVIDED HOWEVER, that no additional compensation shall be given for anytime served prior to January 1, 2001.
  - (b). An employee shall meet the qualification requirements of the position or able to perform the duties of the job as determined by Management Official in consultation with the Personnel Officer.
- (2). Acting Capacity for Positions vacant pending appointment.
  - a) Whenever a vacancy exists in a position pending appointment, including a position exempt from the Public Service System, the administrative duties and ministerial functions of that position may be performed by a qualified regular employee designated to serve in that position in "acting" capacity.

- (a) Whenever the acting assignment exceeds ninety (90) days, an employee designated to serves in an "acting" shall be entitled to that position's compensation. The entitlement shall be retroactive to the day actingship began; PROVIDED HOWEVER, that no additional compensation shall be given for anytime served prior to January 1, 2001.

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<sup>1</sup> Source: PL 22-100

### **7.8 Temporary Promotion.**

A temporary promotion is utilized when it is anticipated that an employee will temporarily occupy a position for a period in excess of three (3) months. An employee can be temporarily promoted only if he meets the qualifications standards of the new position or able to perform the job as determined by the Management Official in consultation with the Personnel Officer. The employee temporarily promoted shall be compensated at the step in the new pay level which is next above his current pay. The employee must be informed in advance and must agree in writing that at the expiration of the temporary promotion, he will be returned to the former salary (grade and step) that he would be receiving had he remained in the former position. No temporary promotion shall exceed a period of one (1) year.

### **7.9 Demotion.**

An employee demoted, through no fault of his own, to a position in a lower pay level, shall be compensated at a rate which does not exceed his current pay rate. If existing rate exceeds the maximum step of the lower pay level, the employee shall be compensated at such maximum step. An employee demoted as a disciplinary measure shall have his compensation reduced to the corresponding step of the lower pay level or, if the Personnel Officer so directs, shall be compensated at a lower step.

If an employee is promoted and subsequently, during his new probation period is for non-disciplinary reasons demoted to his former position his salary after demotion shall be at the level and step to which he would have been entitled had the promotion never occurred.

### **7.10 Transfer.**

An Employee who is transferred to a different position at the same pay level shall receive no change in compensation. A two (2) week notice period must be given the losing supervisor or department before effecting a transfer.

### **7.11 Effect on Service Anniversary Date.**

An employee's service anniversary date will not be affected by a detail, "acting" assignment, temporary promotion, demotion (other than for disciplinary reasons), or transfer action. A service

anniversary date will be changed, however, with the approval of the Personnel Officer or his designee, to the effective date of a demotion for disciplinary reasons.

All actions taken to document the provisions of Sub-Parts 7.4, 7.5, 7.7, 7.8, 7.9, and 7.10 should be reported on the appropriate Action form or Requested for Personnel Action Form as appropriate, and maintained as permanent records in the Official Personnel Folder.

**PART 8 COMPENSATION ADJUSTMENT FOLLOWING PERSONNEL ACTIONS**

**8.1 Reallocation of Position.**

- (1). An employee whose position is reallocated to a class assigned a higher pay level shall be compensated at the lowest step in the higher pay level which at least equals the amount of one (1) step increase in the lower pay level.
- (2). An employee whose position is reallocated to a class assigned a lower pay level shall be compensated at that rate in such lower pay level which does not exceed his existing rate. His service anniversary date shall remain unchanged. If the employee's existing rate is higher than the maximum step of the lower pay level, he shall be compensated at such maximum step of the lower pay level. He shall receive any benefits resulting from subsequent changes in salary rates.
- (3). Service Anniversary Date Following Reallocation. The service anniversary date of an employee retained in a reallocated position shall not change.

**8.2 Effective date of Reallocation.**

When reclassification of a position is requested by the Secretary or Director of a department, office, or agency of the national government, the effective date of the reclassification shall be the date designated by the Secretary or Director.<sup>1</sup> Otherwise, a reallocation or reclassification action shall be effective on the first pay period immediately following the approval of the Personnel Officer. Exceptions to this rule may be made by the Personnel Officer only for such reasons as will expedite public business and not result in an inequitable situation.

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Source: PL. No. 22-58

**8.3 Reassignment of a Class to a Different Pay Level.**

Employees occupying positions in a class which is reassigned to a different pay level shall be compensated in the same manner as provided in Sub-Parts 8.1.(1). and 8.1.(2). There shall be no change in their service anniversary dates.

**8.4 Performance Increases.**

When an employee's performance, as measured through an objective evaluation has met accepted standards of productivity during a specified period, he may be granted a one-step increase in his base salary. For an increase to step 2, 3, or 4, the required period is one service year; for an

increase to step 5, 6, or 7, the required period is two service years. No employee may have a base salary above step 7 of his pay level unless he was already receiving the higher salary when he became subject to P.L. No. 1-47 (Title 52 of the FSM Code), as amended.

An employee assigned to part-time or intermittent work who works an equivalent of not less than 60 hours per calendar month will be eligible for a performance increase only when the cumulative total of hours worked since his initial appointment or since his last performance increase equals 2,080 hours and the employee's service has been evaluated as meeting required standards.

- (1). **Performance Procedures.** An employee granted a performance increase following completion of not less than the required period of satisfactory service, as defined above, will be advanced to the next higher step in the salary range for his pay level.

Such a performance increase shall be effective on the first day of the first pay period following receipt by the Office of Personnel of the appropriate request for personnel action prepared by the management official which supervises the employee, or on the first day of the first pay period following the employee's completion of the required period of satisfactory service, whichever ever comes later.

- (2). **Responsibilities.** Personnel Officer is responsible for administering and interpreting this Regulation, reminding management officials of the service anniversary dates of their subordinates, and processing performance increase personnel actions. Management officials are responsible for verifying the information received from the Personnel Officer about the service anniversary dates of their employees and about the service anniversary dates of their employees and for initiating performance increase Personnel Action Forms as appropriate. The effective date of such a Personnel Action shall not be earlier than the employee's service anniversary date. Performance increases shall not be automatic but shall be granted with consideration for the quality of each employee's service, as shown by performance ratings and other evidence, and for the availability of budgetary funds.

All supervisors and the Personnel Officer have the continuing responsibility of ensuring that every employee understands the standards and procedures which affect his eligibility for a performance increase.

The payroll unit in the Department of Finance is responsible for recording leave and attendance dates and on the basis of such data for providing the Personnel Officer with information by which it can ascertain the service anniversary date of each employee.

If through oversight on the part of the Personnel Officer an employee is not given an entitled pay step increase pursuant to this Part, he shall receive appropriate retroactive compensation.

## 8.5 **Merit increase.**

Employees may be granted merit increases for sustained superior performance over a period of one (1) year or more. No employee may receive more than one merit increase in a twelve (12) months period. A merit increase does not interrupt the minimum twelve (12) months waiting period required to qualify for a within-grade increase.

(1) **Procedures.** To request a merit increase, the supervisor will prepare a memorandum which must include the following:

- (a) Statements descriptive of areas in which the employee has performed excellently, e.g., initiative, judgment, quality productivity, job knowledge, communications. For supervisory positions, such additional factors as development of others, leadership, and job planning must be described. Merit increase is contingent upon the merits of each area. Each employee must be compensated when two or more of the areas are performed exceedingly well.
- (b) Statements must clearly relate the foregoing with the most important and key duties and responsibilities within the employee's position. For example, productivity in terms of volume could be critical in some positions such as in clerical work but of little importance in teaching positions. Also, it must be recognized that positions often contain a variety of duties with some being less difficult or less responsible than others. For obvious reasons, a recommendation and request for a merit increase cannot be based on these lower aspects of a position.

An employee who has attained the top salary step of his pay level cannot be accorded a merit increase, and other means should be sought to recognize superior performance. The Incentive Awards Program is one means of accomplishing this.

An employee receiving a merit increase will also receive his next within- grade increase based on satisfactory period since his last within-grade increase.

(2) **Responsibilities.** The employee's supervisor is responsible for initiating and preparing the request for a merit increase. Required documentation consists of the memorandum of justification (cited above) and a Personnel Action Form (FSM Form 3020- REV. 6/89) as appropriate, signed by the employee's supervisor and his department head. The effective date of a merit increase shall be the beginning of the pay period following its approval.

All employees' supervisors should remain aware that the primary purpose of a merit increase is to recognize sustained superior performance only. It is not to be used as a means or device to compensate an employee where a supervisor has not been able to obtain a promotion for the employee, or where the supervisor is of the opinion that the pay level of the position is too low, or for any other reasons unrelated to excellence in the performance of duties.

The Personnel Officer is responsible for review of all requests for merit increases for completeness, accuracy, and compliance with established requirements. Inappropriate or improperly substantiated requests will be returned to the initiating organization, without action, for such corrective measures as may be deemed necessary. Properly documented requests for merit increase will be forwarded for final review and approval to the Personnel Officer.

For approved merit increase requests, the Personnel Officer will assure retention of all required documentation in official personnel files and effect timely distribution of documentation to appropriate organizations.

#### **8.6. Overtime Compensation and Control.**

Overtime compensation is granted when overtime work is performed by eligible employees, in accordance with the overtime provisions of Chapter 1 of title 52 of the Code of the Federated States of Micronesia. Any eligible employee who is directed to work in excess of forty (40) hours a week shall be paid overtime at the rate of one and one-half (1½) times his basic pay.

- (1) Purpose. To establish criteria for overtime compensation payments for all eligible employees directed to work in excess of the forty (40) hours of the regular and scheduled workweek.
- (2) Scope. This regulation applies to all employees who are in positions not exempted from the Public Service System by Chapter 1 of title 52 of the Code of the Federated States of Micronesia.
- (3) Definitions.
  - (a) Overtime. All work performed in excess of the regular forty (40) hour workweek;
  - (b) Regular Workweek. Consists within the period of time commencing after 12:00 p.m on Saturday and ending at 12:00 p.m. on the following Sunday, of any scheduled five (5) consecutive workdays consisting of eight (8) work hours each.  
  
For most employees, the regular workweek is scheduled to commence on Monday, at 8:00 a.m, and end on the following Friday, at 5:00 p.m, of each week.
  - (c) Overtime Payments. Additional pay, calculated at one and one-half (1½) times the employee's basic rate of pay for overtime hours worked.
  - (d) Basic or Base Pay. The hourly rate of compensation paid to an employee for the performance of assigned work excluding all other types of payments such as Per Diem, Transfer Allowance, and the like.

- (e) Assignment. An assignment is a discrete requirement that an employee work overtime. The maximum number of assignments per day on a day in the regularly scheduled workweek is 8. The maximum number of assignments per day on a day outside the regularly scheduled workweek is 12
- (4). General. Overtime work will be authorized and controlled in accordance with the following:
- (a) It will be scheduled and approved in advance, except in unanticipated emergencies.
  - (b) Overtime must be requested by the immediate supervisor and approved by his/her superior or the Department or agency head on a government approval form.
  - (c). Such overtime work is directed to a specific objective or goal which cannot be accomplished during the regular workday, nor postponed to the following day or days.
  - (d) Time lost due to absence without leave (AWOL) or leave without pay (LWOP) will not be included in the total hours worked calculating overtime compensation.
  - (e) Time lost due to absence with leave or leave with pay, such as approved sick leave or approved annual leave, will be included in the total hours worked when calculating overtime compensation.
- (5). Responsibilities.
- (a) The Personnel Officer is responsible for the administration and interpretation of this regulation.
  - (b) Management officials and supervisors are responsible for all required approval for overtime, control of overtime consistent with sound management practices, and keeping their employees fully informed of all details concerning overtime.
  - (c) Employees are responsible for reporting the number of hours overtime credited per assignment and the time of day actually work using a 24-hour timetable. The maximum possible number of overtime hours work that an employee can report on a workday within his regularly scheduled workweek is 16. The maximum possible number of overtime hours worked that an employee can report on a day outside his regularly schedule workweek is 24. Overtime work shall be reported on the employee's timesheet under the day on which an overtime assignment begins. Employees shall be credited for overtime in increments rounded up or down to the nearest hour or half-hour.

## **8.7. Holiday Pay.**

An employee who is required to work on a legal holiday shall be compensated at double his adjusted base salary for all such hours worked. An employee who is required to work for less than two hours on a holiday shall be credited with a minimum of two hours holiday work. When a legal holiday falls within the regularly scheduled workweek of an employee who is on leave without pay (LWOP) status, such employee will not be compensated with holiday pay.

- (1) Compensation. An employee who is required to work on a legal holiday shall be compensated at double his adjustment base salary for all such hours worked. An employee who is required to work for less than two hours on a holiday shall be credited with a minimum of two hours holiday work. When a legal holiday falls within the regular scheduled workweek of an employee who is on leave without pay (LWOP) status, such employee will not be compensated with holiday pay.
- (2) Definitions.
  - (a) “Adjusted Based Salary” means the total base salary plus marketplace differential and foreign service differential. If an employee is not entitled to either of these differentials, his adjusted base salary means his base salary.
  - (b) “Basic or Base Pay” means the hourly rate of compensation paid to an employee for the performance of assigned work excluding all other types of payments such as Differential for night work, Hazardous Work, Travel Per Diem, Transfer Allowance, and the like.
- (3) Responsibilities.
  - (a) The Payroll unit is responsible for ensuring that the employees are properly paid in accordance with the time and attendance reported.
  - (b) Employees’ supervisors are responsible for assuring complete and accurate reporting of employees required to work on a legal holiday.

## **8.8 Hazardous Work.**

All employees whose occupation involves unusual and extreme hazards to health and safety shall be paid a differential of twenty-five percent (25%) of their base salary rate; but no employee may receive pay differentials for both hazardous work and night work to compensate the same hours worked.

- (1) Qualification Criteria. To qualify for payment of a Hazardous Work Differential, the following conditions of work must be met:
  - (a) The conditions of unusual and extreme hazards to the employee’s health and safety must be clearly evident and fully defined;

- (b) The hazard, on which a request for payment of such differential might be based, has not previously been recognized in the establishment of the pay level for the class which covers the positions(s) and work involved.
- (c) Exposure to the particular unusual and extreme hazard must constitute a reasonable amount of time so as to be clearly recognizable. For example, several repeated exposures to such a hazard may occur for a brief period of time, but collectively measured over a period of time (e.g., one day), may possibly prove a valid basis for recognition of the hazard. Conversely, clear and sustained exposure to an unusual and extreme hazard it more readily recognizable and measurable.

(2). Procedures.

The Personnel Officer is responsible for the review and approval of all requests for payment of hazardous work differential.

Department an Agency Heads must submit a written request to the Personnel Officer with a full and detailed explanation of the circumstances, in support of all requests for hazardous work differential. Each request must include a complete definition of the hazard, a list of the name, correct official position title, pay level, step, salary, organization, and the amount of time each employee will be (or was) exposed to the particular hazard for which payment is sought. For each request approved, concerned departments will prepare a request for personnel action form with all required data for each employee involved and cite or attach the authority for payment of the hazardous work differential. The Personnel Officer will review and approve each such request for the propriety of the action and the completeness and accuracy of all pertinent information. The Payroll office will be responsible for effecting the required payment, after verifying appropriate authorization occasional special projects which involve unusual and extreme hazards, such as the loading, unloading, and transporting of significant quantities of dangerous explosives, may require the services of a number of employees normally engaged in other work.

**8.8.A Hazard pay on Covid-19:** This is apply specifically to the Emergency COVID-19 hazardous pay funded by congressional appropriation.

Source: Amendment signed, (8/10/20)

**8.9 Night Work.**

Additional compensation in the form of a night work differential of fifteen percent (15%) of base salary rate is paid for all hours worked between 7:00 p.m. and 6:00 a.m., when such hours are included within a regularly scheduled hours of duty; but no employee may receive pay differentials for both night work and hazardous work to compensate the same hours worked.

- (1). Control Criteria. To be eligible to receive payment of a night work differential, the following criteria must be met;

- (a) Payment will be made only for actual hours worked between 7:00 p.m. and 6:00 a.m.
  - (b) Payment will be made only for those regularly scheduled work hours within the specified time period which constitute all or part of the employee's regular hours of duty.
- (2). Non-Payment of Night Work Differential. Payment of a night work differential will not be made for the following situations:
- (a) An employee whose regular hours of duty include scheduled hours during the period of 7:00 p.m. to 6:00 a.m., is absent and does not actually perform work for the hours involved;
  - (b) An employee is required to perform work during the hours of 7:00 p.m. to 6:00 a.m. which is not a part of his regularly scheduled hours of duty.
- (3). Responsibilities:

To place employees on scheduled hours of night work duty, a request for Personnel Action shall be initiated and approved by the immediate or next higher- level supervisor and approved by the head of the Department or Agency.

The supervisor is responsible for preparing and submitting complete work schedules covering each employee regularly scheduled for work hours falling between 7:00 p.m. and 6:00 a.m.

The Personnel Officer will review the propriety of, and act on each request for, placing the position involved on a regularly scheduled night work duty status.

The Payroll Office will be responsible for monitoring Time and Attendance Reports submitted by departments or agencies to ensure the propriety of payment of Night Work Differential. Supervisors shall prepare and submit replacement night work duty schedules for employees, as the need arises, and shall initiate a Request for Personnel Action to remove employees from night work status when such is no longer justified.

### **8.10 Transfer Allowance – Per Diem.**

When employees are recruited or transferred beyond normal commuting distance from their place of permanent residence, as determined by the Personnel Officer for work elsewhere, they shall be entitled to (1) per diem at established rates at the new location for a period not to exceed fifteen calendar days from the date of entrance in the new position; (2) approved expenses connected with travel of themselves and their immediate families; and (3) transportation of household effects to the new work location. This household effects allowance is covered under the procedure called: Transfer Allowance – Travel and Moving Expenses.

- (1) Purpose. Payment of Transfer Allowance per diem is in addition to travel per diem in effect during actual travel status up to the day of arrival at the new duty station. Commencing from the day of arrival at the new duty station, these funds are provided for the purpose of assisting the employee to effect the transfer without undue economic impact on personnel funds or savings.
- (2) Application of Transfer Allowance. The following schedule provides for uniform application and interpretation of the reference within Chapter 1 of title 52 of the Code of the Federated States of Micronesia, which reads “per diem not exceeding fifteen calendar days ...” for all eligible employees as prescribed within this regulation:

Schedule of Transfer Allowance – Per Diem

Employee Category	Family/Dependent & Status	No. of Calendar days Per diem to be paid at established rate
I	Employee w/out dependent, or w/ one dependent	3 days
II	Employee with 2 or 4 dependents	6 days
III	Employee with 5 or more Dependents	9 days

- (3) Controls and Procedures. Payment of the 3, 6, or 9 calendar days per diem, as appropriate, will be calculated from the date of the employee’s arrival at the new location or assignment. All per diem will be calculated at the established rates of the new location.

If an employee in category II or III, elects to travel without all of his dependents accompanying him at the time of transfer, he shall be paid in the appropriate employee category based on the actual number of dependents who did accompany him. If additional dependents perform subsequent travel and join the employee within one (1) year of the date of his arrival at the new location of assignment and if this move increased the total number of his dependents so as to justify his placement in a higher Employee Category and payment of an additional amount of transfer Allowance –Per Diem, adjustment of an additional payment will be made. To qualify for additional payment based on an increased number of dependents joining the employee at a date later than his reporting date, such additional dependents must have been dependents of the employee at the time of recruitment or transfer. Adjustment for an increased amount of transfer allowance occasioned by additional dependents joining the employee after one (1) year from the date of his arrival at his new location such additional dependents could not have joined the employee earlier because of reason of extreme hardship, health, completion of a school term, or similar reasons which provide clear evidence that earlier travel was prevented.

For purposes of this regulation, “dependents” are restricted to include only the following:

- (a) Spouse;
- (b) All dependent unmarried children, under age of 18, including step-children and legally adopted children.
- (c) All dependent unmarried children, without age restriction, who because of physical and mental incapacity are incapable of supporting themselves.

Travel Authorizations prepared by the Personnel Officer to effect the transfer of personnel, will indicate in Item #18, “Transfer Allowance Authorization”. Upon arrival at the duty station, the employee is required to submit a Travel Voucher which shall include a claim for Travel Allowance with a statement as follows:

Employee arrived at the duty station on: \_\_\_\_\_ \*

With the following dependents: \_\_\_\_\_ \*\*\*

Verified correct: \_\_\_\_\_ \*\*\*

\*Date of arrival

\*\*List dependents by name and birth date as indicated on the travel Authorization (TA) who actually arrived at the duty station with the employee

\*\*\*Signature of the management official to indicate verification information on the travel voucher.

The Travel Voucher will be submitted to the Personnel Officer for approval. The Department of Finance will compute the voucher for payment. All calculations for the Travel Allowance will be based on the established per diem rate in effect for the new location as of the date the employee arrived at his location of assignment.

When an employee is not accompanied at the time of travel to his working assignment by his dependents, he may later file for an increase amount under the conditions of the preceding second paragraph of this Sub-Part c, Controls and procedures. Travel Vouchers submitted for an increase amount will be identified as a “Supplemental Claim” at the top center of the Travel Voucher and submitted in accordance with the procedures outlined above. If necessary, requests for amended Travel Authorizations (TA’s) should be directed to the Personnel Officer.

- (4) The Full Amount of Transfer Allowance According to the Schedule of Transfer Allowance is Payable:

- (a) On the occasion of initial transfer which, in accordance with the Transportation Employment Agreement], is for a period of two (2) years. This occurs when an employee is recruited from his permanent place of residence or from another area or location geographically removed from the location of work assignment.
  - (b) Each time an employee is transfer to a new location of assignment geographically removed from the employee's place of permanent residence, after having filled completed at least one full year under the two-year Transportation Agreement.
  - (c) Payment of Transfer Allowance under (1) or (2) above is made only when the recruitment or transfer action is initiated by the Government of the Federated States of Micronesia.
- (5) A Transfer Allowance is not payable.
- (a) When an employee, who for personal and voluntary reasons has left his permanent place of resident, subsequently seeks employment at the location where he happens to be and becomes employed at that same location. This situation is considered to be the same as local hire.
  - (b) No transfer allowance may be paid under the provisions of this Sub-Part to any person holding an appointment of any of the following types:
    - (i) Temporary appointments to position created for relief, repair and rehabilitation as a result of a disaster.
    - (ii) Provisional[ninety (90) day appointment pending establishment of an eligibility list of persons from which selection may be made. If provisional appointee is appointed ninety (90) days of service, he shall be eligible for Transfer Allowance at the time or in the event a provisional appointee obtains a probationary and is otherwise qualified, he shall be eligible for Transfer Allowance on the date when probationary status is secured.
    - (iii) Emergency appointment to position not to exceed ten (10) days, which may be extended for an additional period not to exceed twenty (20) working days, for any temporary serious emergency, in order to prevent the stoppage of essential public Services.
- (6) .Household Effects: Shipment and Storage.
- (a). Arrangement for the shipment and temporary storage of household effect for new employees from point of recruitment is the responsibility of the employee. For

terminating employees, the Government is responsible to arrange for household effects packing, temporary storage, and delivery.

- (b). The maximum weight allowances for household effect shipped at government expense for new and transferred employees is established as follows:
  - (i) A single employee is authorized to ship to and from the duty post up to 100 pounds air parcel and 2,500 pounds surface shipment.
  - (ii). An employee with a family may ship up to 200 pounds air parcel and 5, pounds surface shipment.
  - (iii). Any shipment in excess of the above established maximum limitations shall be solely at the expense of the employees.
  - (iv). Any variation in established maximum weights may be authorized by the Personnel Officer if the result is a total charge to the Government less or equal than the total charge would be if the maximum shipping storage allowance enumerated above were utilized.
  - (v) No subsequent household effects shipment from the point of recruitment, at the expense of the Government, shall be authorized after the initial shipment at the time of recruitment irrespective of amount shipped.
- (c) Shipment of personal vehicle at the expense of the Government may be authorized for new and transferred employees, provided that the shipment originates and terminates within the Federated States of Micronesia.
- (d). Upon completion of the employment period, the Government will pay for shipment of household effects to the point of recruitment to the same extend and subject to the same limitation as set forth in paragraphs (6)(b)(i) of this subpart.

**8.11 Public Service System Employees Working and Residing Abroad.**

- (1) In addition to those benefits which are normally accorded employees in the Public Service System, citizen employees working outside the Federated States in liaison, foreign services, supply or other FSM Government Offices shall be provided with the Foreign Service premium.
- (2) No National Government employee is entitled to direct payment for local transportation, utilities, telephone or other expenses which are personal in nature.
- (3) The foreign service premium shall not be paid during any period of time that the employee is away from the employee's foreign duty station except when the employee is on

official business and, if the employee is in the FSM, only for the first ten (10) days of the employee's stay in the FSM during any single absence for the foreign duty station.

**8.12 Professional Premium.**

(1) In addition to the base salary provided to employees in the Public Service System, Citizen and non-citizen employees shall be provided with a professional premium if they have achieved advance professional status in certain fields.

(2) The professional premium established under 52 F.S.M. 163(3) shall be derived from the Public Service Base Salary Schedule set out at 52 F.S.M.C 205, as amended, and shall not be less than 90% or more than 150 percent<sup>1</sup> of the value of the employee's base salary. The amount of professional premium to be paid, if any, shall be determined by the head of the branch to whom the employee reports based upon the employee's education, experience and expertise.

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Source: P.L No. 21-224

(3) The professional premium so determined shall be added to the relevant biweekly official base salary in determining each employee's adjusted base biweekly salary

(4) Employees or prospective employees of the FSM national Government shall be eligible to receive the professional premium if they meet one of the following criteria:

(a) **Juris Doctor Plus State Bar Admission or Jurist Doctor Plus FSM Supreme Court Admission.**

To be eligible for the professional premium under 52 F.S.M. C. 163(3)(a), an employee or prospective employee must provide the Personnel Officer with either:

(i) evidence of graduation from an accredited law school awarding the degree of juris doctor at the graduate level after a prescribed program of at least three years of study; and

(ii). proof of admission to the State Bar of any United States jurisdiction and a Certificate of Good Standing with that State Bar;

or

(i) evidence of graduation from an accredited United States law school awarding the degree of Juris doctor degree at the graduate level after a prescribed program of at least three years of study; and

(ii) Proof of admission to the FSM Supreme Court Bar.

(b) **Attainment of an earned a JD degree in Law and admission to the FSM Supreme Court Bar and four (4) years of experience in the legal field.**

To become eligible for the professional premium through 52 F.S.M.C. 163(3)(b), an employee must provide to the Personnel Officer:

- (i) evidence of graduation from an accredited school either inside or outside the United States that awards a Juris Doctor degree in law, either at the Bachelor's level or graduate level after a prescribed program of at least three years of full-time study; and
- (ii) Proof of admission to the FSM Court Bar through passage of all parts of the FSM Bar Examination; and
- (iii). Proof of four (4) full years of full-time legal practice in the FSM as a trial Counselor, private attorney or attorney for a governmental body or agency, in a position in which the employee's primary responsibility and active role is the provision of legal advice and legal representation to clients or to the government.

(c) **Admission to the FSM Supreme Court Bar and eight (8) year of experience in the legal field.**

To become eligible for the professional premium through 52 F.S.M.C. (3)(c), an employee or prospect employee must provide to the Personnel Officer.

- (i). Proof of admission to the FSM Supreme Court Bar through passage of all parts of the FSM Bar Examination;
- (ii). Evidence of eight (8) full years of full-time legal practice in the FSM as Trail Counselor, private attorney or attorney for a governmental body or agency, in a position in which the employee's primary responsibility and active role is the provision of legal advice and legal representation to private clients or to the government.

The evidence required by subsection ii may take the form of affidavit sworn by the employee's former employers or co-workers who are in a position to attest to the dates of employee's employment and functions employee perform.

(d) **Attainment of full membership of one or more of the professional accountancy associations listed in the Public Service Regulations, as amended from time to time, or certification by the Public Auditor that the employee's qualifications and experience are equivalent to those which would be required to obtain full membership of such an association.**

To become eligible for the professional premium through 52 F.S.M.C.(3)(d), an employee or prospective employee must provide to the Personnel Officer satisfactory:

- (i) Proof of attainment of professional certification as a Certified Public Accountant (CPA) by the Association of Certified Public Accountants (AICPA) with at least a Bachelor degree and a minimum of five (5) years of work experience as an auditor in the public or private sector or a minimum of 10 years of direct work experience if less than a bachelor degree or no degree.
- (ii) Proof of attainment of professional certification as a Certified Internal Auditor (CIA) by the The Institute of Internal Auditors (TIIA) with at least a Bachelor degree and a minimum of five (5) years of work experience as an auditor in the public or private sector or a minimum of 10 years of direct work experience if less than a bachelor degree or no degree.
- (iii) Proof of attainment of professional certification as a Certified Fraud Examiner (CFE) by the Association of Certified Fraud Examiners (ACFE) with at least a Bachelor degree and a minimum of 5 years of work experience in the public sector or 10 years of direct work experience if less than a bachelor degree or no degree.
- (iv) Proof of attainment of professional certification as a Certified Information System Auditor (CICA) by the Information System Audit and Control Association (ISACA) with at least a Bachelor degree and a minimum of five (5) years of work experience as an auditor in the public or private sector or a minimum of 10 years of direct work experience if less than a bachelor degree or no degree.

Source: Amendment signed 2/14/22

(e) **Attainment of an Earned degree in Engineering:**

To become eligible for the professional premium through 52 F.S.M.C. (3)(e), an employee or prospective employee must provide to the Personnel Officer satisfactory proof of graduation from an accredited school awarding a degree in engineering either at Bachelor's Master's level or graduate level after a prescribed program of at least four years of full-time study, and possess a valid standard engineer's license or certificate from any jurisdiction.

**(f) Attainment of an Earned Doctorate in any field.**

To become eligible for the professional premium through 52 F.S.M.C. (3)(f), an employee or prospective employee must provide to the Personnel Officer.

- (i) Evidence of receipt of and an earned doctorate degree from an accredited institution;
  - (iii) Evidence that the doctorate degree earned is in a field that is directly related to the employee's position description;
  - (iii). A signed statement from the employee's supervisor, explaining how the employee's position directly utilizes the knowledge and/or experience gained in obtaining the doctorate and enhances the employee's service to the National Government, to be used by the Personnel Officer in assessing the employee's eligibility.
- (5) **Prime Contract** employees who have fixed-term and fixed salary employee contracts with the Government, but who should otherwise be eligible for the professional premium, shall be entitled to the benefit of the professional premium in the calculation of their biweekly salaries as National Government employees as of October 1, 2001. The Government's existing contracts with such employees shall be treated as creating a salary floor; no Prime Contract employee shall suffer a reduction in pay from his or her contract sum as a result of the application of a professional premium.

**8.13 Contract Renewal Bonus.**

- (1) Any prime contract employee who has completed two years of continuous service for the FSM national Government under a Prime Contract, and who signs a contract renewal for a period of one year or more, shall be entitled to a contract renewal bonus.
- (2) Contract renewal bonuses shall be payable in two installments; a first installment upon the commencement of the contract renewal period; and a second installment upon the successful conclusion of the contract renewal period.
- (3) A contract renewal for an additional one year shall entitle an employee a \$1,500 bonus, payable in two installments;
- (4) A contract renewal bonus for an additional two years shall entitle an employee to a \$3,000 bonus, payable in two installments;
- (5) Any employee who has renewed his/her contract for one year, and who has received a first installment contract renewal bonus in the amount of \$750.00 for a one-year extension and

who fails to complete the agreed upon term of his/her contract, shall repay the Government the full amount of the contract bonus that have been advanced to the employee by the Government.

- (6) Any employee who has renewed his/her for two years, and who has received a first installment contract renewal bonus in the amount of \$1,500.00 (for a two-year extension) and who fails to complete the agreed upon term of his/her contract, shall repay the Government the full amount of the contract bonus that have been advance to the employee by the Government. However, if such employee completes the first full year of the contract renewal period he/she shall not be required to repay the first installment to the government.
- (7) If an employee fails to complete the agreed upon term of his/her prime contract extension, and owes repayment to the Government, the Government shall deduct the full amount of the first installment advance to the employee from: (1) any salary that remains due to the employee and (2) from any accrued annual leave that is payable to the employee upon contract termination. If this salary and accrued annual Leave, if withheld, are insufficient to reimburse the National Government for the first installment paid to the employee, then the Government shall deduct the balance owed by the employee to the Government from repatriation expenses that would otherwise be payable by the Government on the employee's behalf.

**8.14 Cost-of-living allowance (COLA)**

Employees of the National Government of the Federated States of Micronesia (including contract and exempt employees) shall receive a cost-of-living allowance (COLA) in the amount of \$ 40.00 per 80 hours pay period. This COLA shall be in effect beginning July 1, 2015. Employees exempt from the cost-of-living adjustment includes all officials elected in national elections including members of the Congress of the Federated States of Micronesia, President and Vice President of the Federated States of Micronesia, all employees whom are appointed to a position that requires advise and consent under Chapter 2, Section 207(1) of the Code of the Federated States of Micronesia, employees who receive a professional premium, and employees who receive the foreign service premium.<sup>1</sup>

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<sup>1</sup>Source: P.L No. 18-114

**PART 9. PERFORMANCE EVALUATION**

**9.1. Purpose:**

The performance evaluation system is designed primarily for the purpose of informing each employee of how well he is discharging his duties and responsibilities, and of indicating areas in his/her performance where he could be more effective in the application of his knowledge, skill, and abilities. It provides a means for letting the employee know where he/she stands.

## **9.2. Coverage:**

Every employee shall participate, with his supervisor, in periodic evaluations of the employee's achievement of established standards of performance. Every permanent and probationary employee covered by these Regulations shall receive an annual written rating of performance. A completed evaluation report shall be reviewed and signed by the employee and the supervisor prior to its submission to the Personnel Officer. The Personnel Officer shall review the evaluation report and file it in the employee's official personnel file. The evaluation report shall include such matters as: the employee's work habits, work attendance, quality of work, work creativity, work attitude, workload and volume, other work strengths and weaknesses, and the employee's work related goals and objectives and realization of them. Every permanent and probationary employee covered by these regulations shall receive an annual written rating of performance.

## **9.3. Responsibilities:**

Each management official shall ensure preparation, on forms prescribed by the Personnel Officer for each employee under his jurisdiction, of standards of performance which relate to the employee's assignment. Arrangements shall be made for the employee's immediate supervisor and the employee to work together to develop realistic original standards of performance, in terms of the employee's job demands and the level of results to be achieved; and for the employee's immediate supervisor, together with other concerned supervisors if this appears desirable, and the employee in conference, to objectively and consistently evaluate the employee's performance, in terms of the standards established, and to jointly revise his performance, in terms of the standards established, and to jointly revise her performance standards upon review of his development in the job. Where improvement of the employee's performance is desired, the supervisor shall explain to the employee how such improvement is to be achieved.

Annually, on the basis of the preceding twelve months; performance standards reviews and other pertinent factors, an annual written rating of performance shall be submitted by the supervisor, and concurred in by the activity head, on forms prescribed by the Personnel Officer for each permanent and probationary employee. The Personnel Officer shall, through his authorized representative, administer the performance evaluation system and shall be alert to changes needed for improvement of the system.

## **9.4 Due Dates.**

Original standards of performance shall be developed as a major factor in an employee's orientation to a new job. Performance standards review and revision conferences shall be held as the work relationship required, but at least quarterly.

Permanent regular employees shall be given written performance rating annually, on their service anniversary dates. Annual written performance ratings shall be submitted to the Personnel Officer no later than the end of the pay period preceding the service anniversary date.

Employees serving probationary periods shall be given a written performance rating at the end of each three month increment of their probationary periods, except that the final rating shall be submitted no later than one (1) month before completion of their period of probation for probationary employees and two (2) weeks before completion of their period of probation for permanent employees.

Where ratings are not received within the time limits required by this Part, the employee shall be presumed to have been rated “Less than Satisfactory” by his supervisor, with concurrence of his activity head until such time as a rating is received.

#### **9.5 Categories of Ratings.**

Performance ratings shall be “Satisfactory”, “Exceptional” , or “Less than Satisfactory.” Such ratings shall be based on ratings standards established and defined by the Personnel Officer and explained to the employee by his immediate supervisor. Ratings of statement giving a full explanation of such rating and shall be concurred to by the activity head. Employee rated “Less than Satisfactory” shall be counseled and warned that lack of improvement may result in an adverse action.

#### **9.6 Impact of Ratings.**

- (1) Annual written performance ratings are the basis for granting or withholding annual step increases. Employees rated “Satisfactory” or “Exceptional” shall be eligible for a step increase within their pay level. Those rated “Less than Satisfactory” shall not be eligible for a step increase. A step increase shall not be granted until the written performance rating is completed.
- (2) Annual written performance rating serves also as a factor in selection for promotion, in determining retention status in reduction-in-force, and in adverse action.

#### **9.7 Effective Date.**

The effective date of the step increase shall be the date on which the period of performance under evaluation pursuant to 52 F.S.M. 166 is completed.

#### **9.8 Review.**

Employees who believe their ratings are unjust shall be entitled to review under the Grievance Procedure.

## **PART 10 LEAVES OF ABSENCE**

### **10.1 Purpose.**

Leaves of absence from the public service are for the mutual benefit of the employee and his employer. When leaves of absence are granted, they are considered to be for legitimate reasons not detrimental to the public service.

**10.2 Kinds.** Broadly characterized, leaves of absence are either with pay or without pay.

### **10.3 Leaves with Pay.**

- (1) **Annual.** Annual leaves, or vacation, shall be granted for the purpose of rest, relaxation and for other purposes. Employees who have less than [three] service years of creditable service shall earn annual leave at the rate of [four (4) hours per pay period, except that newly appointed employees shall undergo a waiting period of 180 calendar days before being eligible to the annual leave. Employees with more than three but less than ten service years of creditable service shall earn annual leave at the rate of six (6) hours per pay period. Employees who have ten or more service years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period. Annual leave requests of more than three (3) working days must be made in advance on a leave request form. All annual leave requests must be approved by the employee's division head upon recommendation of such employee's immediate supervisor. In agencies where divisions do not exist, the heads of such agencies shall approve annual leave.
- (2) **Maximum Accumulation.** The maximum accumulation of annual leave shall be two hundred eighty (280) hours. Any excess over such maximum shall be forfeited unless taken before the end of the calendar year in which the excess was accumulated.
- (3) **Cash Payment in Lieu of Accrued Leave.** Request for lump sum cash payment for annual leave hours accumulated by an employee shall only be authorized under one of the following conditions:
  - (a) When an employee is permanently terminated from the National Government or Public Service;
  - (b) When an employee is transferred from a position covered under the Public Service System to an exempt position within the Government;
  - (c) When specifically provided for in the employment contract; or
  - (d) When an employee is transferred from one branch of government to another, or from a department, office, or agency to another, the employee may choose to receive a lump sum cash payment, provided that such payment shall be made only on accumulated hours not to exceed one hundred and forty (140) hours. The balance

shall continue to be credited to the employee and shall be transferred to the receiving branch, department, office or agency.

- (e) All employees of the National Government are encouraged to utilize accrued annual leave whenever possible in lieu of cash payment. Such leave should be planned in advance and subject to the approval of the supervisor.

(4) **Sick Leaves.**

- (a) All employees of the Federated States of Micronesia shall earn sick leave at the rate of four (4) hours per pay period. There shall no limit to the amount of sick leave which may be accumulated.
- (b) Illnesses of more than three (3) days' duration shall require a certificate from qualified medical personnel certifying to the fact of such illness and the treatment being administered. The supervisor may require a certificate for shorter periods when use of such leave is chronic and excessive. The employee's immediate supervisor is responsible for approving such leave requests. For sick leave necessarily taken without advance approval shall be applied for and approved upon an employee's return to work.
- (c) Former employees of the Public Service who are rehired within three (3) years after their termination will be credited with the unused sick leave accumulated during their previous employment.
- (d) **Donation of Sick Leave.**
  - (i) For compassionate reasons and for pecuniary gain, an employee may donate his/her unused earned accumulated sick leave which has not been advanced to him/her to another employee who has entirely used up his/her accumulated sick leave and is suffering from a catastrophic illness. The donation shall be voluntary and no employee shall be coerced in any way to donate his/her unused earned accumulated sick leave.
  - (ii) The effect of donating sick leave shall be the same as if the donor employee had used the donated sick leave her/himself. Once a donor employee has donated sick leave, the donated sick leave of the donor employee is no longer available to the donor employee, regardless of whether the donee employee is able to make use of the donated sick leave. Nothing in this paragraph shall be construed to prevent a donor employee from becoming a donee employee, provided that he becomes eligible to receive donated sick leave by suffering a catastrophic illness and using up all his accumulated sick leave.
  - (iii) The donor employee shall complete a leave request indicating the amount of sick leave to be donated and the name of the donee employee. The

Personnel Officer or his designee shall prescribe the form of the leave request. At a minimum, the form shall indicate the name of the donor employee, the [donated] donee, and an acknowledgement signed by the donor employee that he or she freely and willingly and not for pecuniary gain forfeits all rights to the donated sick leave.

- (iv) For purpose of this regulation, a catastrophic illness is one which prevents the employee from returning to his duties for a period of 30 consecutive days or more as certified by qualified medical personnel. A donee employee may receive no more than 180 days of donated sick leave per year in total from donor employees.
- (e) ..... **Paid maternity leave** of absence shall be granted to an employee for a period of eight consecutive weeks per twelve month period:
  - (i) For purpose of this section, “maternity leave” means leave in connection with the birth of a child of the employee.
  - (ii) Paid maternity leave shall not be considered to be annual leave or sick leave accrued in a calendar year.
  - (iii) Paid maternity leave shall not accumulate for any subsequent use if not used by an employee before the end of each calendar year.
  - (iv) The employer through its management officials may require the employee to provide a doctor’s certificate indicating general condition during pregnancy and the expected delivery date.

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Source: PL. 22-61

- (f) **Leave Advance**. Where, for good reason, an employee requires additional annual or sick leave, the Personnel Officer as requested by supervisor or department head may grant advance leave up to a maximum of one-half (1/2) of the total earnable leave credits for one (1) year from the date the application is made. Subsequent earnings shall serve to replace the amount of advance leave granted and taken.
- (g) **Training and Education Leave**. Leave with pay for the purpose of job-related training and education may be granted to permanent regular employees for a period not to exceed one (1) year by the Personnel Officer based on recommendation of the department or agency head. The one-year period may be extended with the approval of the President. Additional leaves for training and education may not be granted to the same employee until he has returned to active duty in his position for at least one (1) year following expiration of the first leave.

The period of leave with pay shall not affect the employee's service anniversary date.

- (h). **Compassionate Leave.** Permanent Regular employees may be granted compassionate leave with pay of no more than five (5) working days in cases of death, or imminent death, in the immediate family of the employee. For the purpose of this Sub-Part, the term "immediate family" shall be defined as an employee's mother, father, spouse, immediate offspring (natural or legally adopted), brother and sister. The management official is responsible for approving requests for compassionate leave.
- (i) **Excused Absence (Administrative Leave).** An absence from duty administratively authorized, without loss of pay and without charge to leave, is an excused absence. Such absences are authorized under emergency conditions beyond the control of management (e.g., typhoons), for participation in civic activities in the interest of the Government, or for employment-connected examinations. Administrative leave shall not be granted for the running or campaigning for any political office, or sickness, vacation, compassionate reasons, education, training, or religious ceremonies. The management official is responsible for authorizing excused absences.

#### **10.4. Leaves without Pay.**

- (1) Permanent Regular FSM citizen employees who are ineligible for further training or education leaves with pay, as provided for under 19.3, or who wish to pursue their education on a full-time basis without financial assistance by the Government may be granted leaves of absence without pay for a period not to exceed one (1) year. This period may be expanded with the approval of the President. Such employees shall have the right to return to their positions at the conclusion of their education or training, and their service anniversary dates shall be adjusted by the amount of leave without pay taken. The Personnel Officer is responsible for approving requests for Training and Education Leave without pay.
- (2). **Annual Vacation or Sick Leave.** With the concurrence of his department head, a regular employee may be granted leave without pay for the purpose of extending his vacation; provided however, that such extension shall not exceed a period of ten (10) working days. Similar extension may be granted for sick leave purposes; provided however, that the attending physician certifies to the necessity of the extension and the extension does not exceed thirty working days.
- (3) **Special Assignment.**
  - (a) A permanent regular employee may be granted leave without pay for the purpose of assisting a governmental agency or other public entity outside the national

Government for a period of time whose duration is established by a written agreement between the FSM National Government and the governmental agency or public entity, which agreement has been approved and signed by the President for the mutual benefit of the FSM national Government and that governmental agency or public entity.

- (b) Upon termination of the established period of the special assignment, the permanent regular employee shall be entitled to resume his vacated permanent position at the same grade and pay level he occupied at the commencement of the period of special assignment. The agreed period of special assignment shall not exceed one year. A permanent regular employee who fails to resume his/her vacated permanent position after the special assignment period end shall be subject to dismissal under part 18 of these regulations. The Personnel Officer or his/her designee shall notify the permanent regular employee of this provision in writing prior to the commencement of the special assignment.
- (c) If the employee fails to resume the vacated permanent regular position within one month of completion of the agreed period of special assignment, the employee shall be deemed to have resigned from his/her position.
- (d) During the absence of the permanent regular employee on special assignment, the permanent employee's supervisor, at his discretion, may hire a temporary employee to perform the duties of the absent permanent regular employee or distribute his /her duties among existing employees. If the permanent regular employee's supervisor hires a temporary employee to perform the duties of the absent permanent regular employee, he/she shall ensure that the temporary employee is advised of the temporary nature of his employment and of the expected date of return from the special assignment of the permanent regular employee.

#### **10.5. Unauthorized Leave.**

Unauthorized leave or Absence without leave (AWOL) is absence from duty without appropriate authorization. Employees who are absent from duty without prior approval, except in bona fide emergencies, shall be charged AWOL. Employee on AWOL are disciplinary action and loss of pay.

#### **10.6 Responsibilities.**

The employee shall be responsible for initiating his request for leave, using such forms, documentation, and explanatory material as may be required. He shall initiate such request sufficiently in advance, whenever possible, so as to enable management to make the necessary staff adjustments for coverage of his assignments during his absence.

Management shall be responsible for reviewing all requests in the light of program needs, replacement services, and legal and policy requirements. In consideration of the foregoing and any pertinent considerations, management may approve, disapprove, or modify leave requests.

The Personnel Officer shall be available for advice and assistance and for final decisions in cases requiring interpretation of legal requirements and policy.

## **PART 11. TRAINING AND EMPLOYEE DEVELOPMENT**

### **11.1 Policy:**

The Government of the Federated States of Micronesia commits itself to provide the highest quality of service to its citizens. Therefore, the National Government intends to provide and foster training opportunities for Government employees which would upgrade their skills and enhance the quality services available to FSM Citizens.

**11.2 Establishment of Presidential Committee on Training:** There is hereby established a Presidential Committee on Training which shall consist of the following members:

- (1) Secretary, Department of Finance and Administration
- (2) Assistant Secretary, Budget officer
- (3) National Public Auditor
- (4) Personnel Officer

**11.3 Definitions.** Three categories of training are recognized in this part:

- (1). Job-Skill Training: Training intended to equip the employee's performance on his present job or other closely related ones.
- (2). Promotion Training: Training intended to equip the employee to perform the work of a specific higher position, e.g. succession planning.
- (3). Employee Development: Training intended to improve the employee's abilities and potentialities, but not directly related to his present or impending job assignment.

### **11.4 Responsibilities.**

Responsibility for the training programs is born by both the Department or Office to which an employee is assigned and the Personnel Officer, utilizing proceeds from an established training fund. In case of training outside the FSM, the Personnel Office shall coordinate with the Department of External Affairs. All three should do all they can to ensure that effective training and orientation are made available to all employees who can benefit from it. The initial communication and transmittals to the outside sponsoring government or agency are to be made by the Personnel Officer unless the President directs otherwise. However, primary responsibilities are distributed as follows:

(1). Management Official

- (a) Inform all employees under his supervision of suitable training programs available to them.
- (b) Keep informed of specialized training programs offered by outside agencies, and inform the Personnel Office of all such programs of which the Personnel Officer may not be aware.
- (c) Plan appropriate specialized training program for personnel of his own agency, in consultation with the Personnel Office.
- (d) Nominate candidates for specific training programs for specific training programs.
- (e) Give appropriate duty assignments to employees who have complete training programs, ensuring proper utilization of their newly acquired abilities and skills.

(2). Personnel Officer.

- (a) Analyze the overall training needs of the FSM government and develop a national government training policy to meet those needs.
- (b) Keep informed of training opportunities offered by outside governments and institutions, and bring such opportunities to the employee's attention through the management officials, and request each department, office, or agency to nominate candidates.
- (c) Stimulate, advice, and assist management officials in planning their own training programs.
- (d) Coordinating the nomination of candidates from respective departments, offices, or agencies to insure that selections are made in accordance with the appropriate guidelines, deadlines, and requirements provided in the training notice.
- (e) Make final selection of employees to receive training, using tests or other screening devices when necessary.
- (f) Recruit instructors and arrange for classrooms and other logistic support for on-site training programs.
- (g) Monitor the progress of employees who are taking long training programs.
- (h) Evaluate training programs on the basis of trainees' performance and of their reactions to the program.

- (i) Monitor the proper utilization of employees who have taken training programs.
- (j) Be responsible for the over-all coordination and distribution of all training materials.
- (k) Develop and maintain on file a master list including the names of all agencies and individuals that would normally receive distribution of training related announcements or materials, and the names of training participants.

#### **11.5. Payment of Costs.**

The government will pay all costs, salaries, and other benefits in connection with training programs, to the following extent:

- (1). **Job-Skill Training.** The government will pay all costs related to such training. Employees selected for job-skill training will be on leave with pay while attending the course. If classes are held outside the state in which the training normally works, the government will provide his transportation and a per diem or stipend for the time the trainee must spend away from his home.
- (2). **Promotional Training.** The government will pay fifty percent of any costs related to promotional training, and fifty per cent of any necessary transportation expenses. No per diem or stipend will be paid but on the recommendation of the responsible management official and approval by the Personnel Officer, the trainee may be carried on leave with pay while he is attending a promotional training course.
- (3). **Employee Development.** The government will pay twenty five percent of any costs related to training categorized as employee development. On recommendation by the responsible management official and approval by the Personnel Officer, employees may be placed on leave with or without pay while they are receiving training of this kind.
- (4). **Duration.** Salary and related benefits provided to employees in accordance with the paragraphs above shall be limited to a period of one year, unless an extension is recommended by the responsible management official, endorsed by the Personnel Officer, and approval by the President.

#### **11.6. Reimbursement for Non-Completion of Training.**

If an employee fails to satisfactorily complete a training course, the employee may be required to reimburse the government all or part of the training and related costs.

### **11.7. Evaluation of Training.**

The Personnel Officer will develop and maintain a system which will provide information about training which has been given and will permit analysis of such training. The results of the analysis will be used in surveying training needs and, as necessary, in altering future programs. All employees who complete training programs outside the FSM will be required on their return to submit a written report including a summary of the course and judgment of the added value which they derived from the course. Copies of these reports will be addressed to the responsible management official and to the Personnel Officer.

## **PART 12 TRANSFER ALLOWANCE**

### **12.1 Transfer Allowance -Per Diem**

When employees, whether exempt or non-exempt, FSM citizens or non-FSM citizens are recruited or transferred beyond normal commuting distance from their place of permanent residence, as determined by the Personnel Officer or his/her designee, for work elsewhere, they shall be entitled to (1) per diem at established rates at the new location for a period not to exceed fifteen calendar days from the date of entrance in the new position; (2) approved expenses connected with travel of themselves and their immediate families; and (3) transportation of household effects to the new work location. This household effects allowance is covered under the procedure in subpart 12.7 Household Effects: Shipment and storage.

### **12.2 Purpose of Transfer Allowance.**

Payment of Transfer Allowance per diem is in addition to travel per diem in effect during actual travel status up to the day of arrival at the new duty station. Commencement from the day of arrival at the new duty station, these funds are provided for the purpose of assisting the employee to effect the transfer without undue economic impact on personal fund or savings

### **12.3 Application of Transfer Allowance.**

The schedule below provides for uniform application and interpretation of that reference within Chapter 1 of title 52 of the Code of the Federated States of Micronesia, which reads “per diem not exceeding fifteen calendar days”, for all eligible employees as prescribed within this regulation:

Schedule of Transfer Allowance – Per Diem

Employee Category	Family/Dependent & Status	No. of Calendar days Perdiem to be paid at established rate
I	Employee w/out dependent, or w/ one dependent	3 days
II	Employee with 2 or 4 dependents	6 days
III	Employee with 5 or more dependents	9 days

**12.4 Controls and Procedures.**

- (1) Payment Calculation. Payment of the [3,6, or 9] calendar days per diem as appropriate, will be calculated from the date of the employee’s arrival at the new location of assignment. All per diem will be calculated at established rates for the new location.
- (2) Election to Travel Without All of Employee’s Dependent .
  - (a) If an employee in Category II or III, elects to travel without all of his dependents accompanying him at the time of transfers, he shall be paid in the appropriate employee category based on the actual number of dependents who did accompany him.
  - (b) .If additional dependents perform subsequent travel and join the employee within one (1) year of the date of his arrival at the new location of assignment, and if this move increases the total number of his dependents so as to justify his placement in a high Employee Category and payment of an additional amount of transfer allowance Per Diem, adjustment and additional payment will be made. To qualify for additional payment based on an increased number of dependents joining, the employee at a date later than his reporting date, such additional dependents must have been dependents of the employee at the time of recruitment or transfer.
  - (c) Adjustment for an increased amount of transfer allowance occasioned by additional dependents joining the employee after one (1) year from the date of his arrival at this new location of assignment will be made only in unusual cases, where it can be substantiated that such additional dependents could not have joined the employee earlier because of reasons of extreme hardship, health, completion of a school term, or similar reasons which provide clear evidence that earlier travel was prevented.
  - (d) For purposes of this regulation, “dependents” are restricted to include only the following:

- (i) spouse;
- (ii) All dependent unmarried children, without age restriction, who because of physical or mental incapacity are incapable of supporting themselves,
- (iii) All dependent unmarried children, under age of 18, including step-children and legally adopted children; and children, without age restriction, who because of physical or mental incapacity are incapable of supporting themselves.

(3) Travel Authorizations. Travel Authorizations prepared by the Personnel Office to effect the transfer of personnel, will indicate in Item #18, "Transfer Allowance Authorized".

(4) Travel Voucher.

(a) Upon arrival at the duty station, the employee is required to submit a Travel Voucher which shall include a claim for Transfer Allowance with a statement as follows:

Employee arrived at duty station on: \_\_\_\_\_ \* \_\_\_\_\_.  
 With the following dependents: \_\_\_\_\_ \*\* \_\_\_\_\_.  
 Verified correct: \_\_\_\_\_ \*\*\* \_\_\_\_\_.

\* Date of arrival.....

\*\* List dependents by name and birth date as indicated on the Travel Authorization (TA), who actually arrived at the duty station with the employee.

\*\*\* Signature of the management official to indicate verification of information on the travel voucher.

(b) The Travel Voucher will be submitted to the Personnel Officer for approval. The Department of Finance will compute the voucher for payment. All calculations for the Travel Allowance will be based on the established per diem rate in effect for the new location as of the date the employee arrived at his location of assignment.

(c) When an employee is not accompanied at the time of travel to his work assignment by his dependents, he may later file for an increased amount under the conditions of the preceding second paragraph of this Sub-Part (3), Controls and Procedures. Travel Vouchers submitted for an increased amount will be identified as a "Supplemental Claim" at the top center of the Travel Voucher submitted in accordance with the procedures outlined above. If necessary, requests for amended

Travel Authorizations (TA's) should be directed to the Personnel Officer or his/her designee.

**12.5 When Transfer Allowance is Payable.**

- (1) The Full Amount of Transfer Allowance According to the Scheduled of Transfer Allowance is Payable:
  - (a) On the occasion of initial transfer which, in accordance with the Transportation Employment Agreement, is for a period of two (2) years. This occurs when an employee is recruited from his/her permanent place of residence or from another area or location geographically removed from the location of work assignment.
  - (b) Each time an employee is transferred to a new location of assignment geographically removed from the employee's place of permanent resident, after having fulfilled at least one full year under the two-year Transportation Agreement.
- (2) Payment of Transfer Allowance under 12.5(1)(a) or 12.5(1) (b) above is made only when the recruitment or transfer action is initiated by the Government of the Federated States of Micronesia.

**12.6. A Transfer Allowance is Not Payable:**

- (1) A transfer allowance is not payable:
  - (a) When an employee, who for personal and voluntary reasons has left his permanent place of residence, subsequently seeks employment at the location where he happens to be and becomes employed at the same location. This situation is considered to be the same as local hire.
  - (b) To any person holding an appointment of any of the following types:
    - (i) Temporary appointments to positions created for relief, repair and rehabilitation as a result of a disaster.
    - (ii) Provisional ninety (90) day appointments to positions pending establishment of an eligible list of persons from which selection may be made. If a provisional appointee is appointed to an additional ninety (90) days service, he shall be eligible for Transfer Allowance at the time or in the event a provisional appointee obtains a probationary appointment and is otherwise qualified, he shall be eligible for Transfer Allowance on the date when probationary status is secured.

- (iii) Emergency appointment to positions not to exceed ten (10) working days, which may be extended for an additional period not to exceed twenty (20) working days, for any temporary serious emergency, in order to prevent the stoppage of essential public service.

## **12.7 Household Effects: Shipment and Storage.**

- (1) Arrangement for the shipment and temporary storage of household effects for new employees from point of recruitment is the responsibility of the employee. For terminating employees, the FSM Government is responsible to arrange for household effects, packing, temporary storage, and delivery.
- (2) The maximum weight allowances for household effects shipped at Government expense for new and transferred employees is established as follows:
  - (a) A Single employee is authorized to ship to and from the duty post up to 100 pounds air parcel and, 2,500 pounds surface shipment.
  - (b) An employee with a family may ship up to 200 pounds air parcel and 5,000 pounds surface shipment.
  - (c) Any shipment in excess of the above established maximum limitations shall be solely at the expense of the employee.
  - (d) Any variation in established maximum weights may be authorized by the Personnel Officer if the result is a total charge to the Government less or equal than what the total charge would be if the maximum shipping/storage allowance enumerated above were utilized.
  - (e) No subsequent household effects shipments from the point of recruitment, at the expense of the Government, shall be authorized after the initial shipment at the time of recruitment irrespective of amount shipped.
- (3). Shipment of personal vehicle at the expense of the Government may be authorized for new and transferred employees, provided that the shipment originates and terminates within the Federated States of Micronesia.
- (4). Upon completion of the employment period, the Government will pay for shipment of household effects to the point of recruitment to the same extend and subject to the same limitations as set forth in paragraphs 12.7(2)(a) thru 12.7.(2)(d) of this subpart.

## **12.8. Travel, Transportation and Moving Expenses for Repatriation Employees.**

Upon completion of the employment period, the Government shall pay all return travel and transportation expenses and shipment of household effects from the duty station to the point of

recruitment for both public services and exempt employees, whether FSM citizens or non- FSM citizens, unless the terms of the contract between the Government and the employee otherwise specify, as follows:

- (1) Economy class air transportation by the shortest direct route for the employee and dependents of employee from employee's duty station to his or her point of recruitment. The term "dependents" is restricted to include only spouse and dependent unmarried children, under the age of 18, or under the age of 22 if full-time students, including stepchildren and legally adopted children.
- (2) Per diem, for the employee only, at established Government rates not to exceed necessary travel time by the shortest direct route from the employee's duty station to his or her point of hire.
- (3) The expenses of shipment of household effects from employee's duty station to his her point of recruitment as set forth in sub-section 12.7(2)(a) through 12.7(2)(e) of this subpart, as well as expenses of temporary storage of household effects waiting shipment for a period not to exceed thirty days.

## **PART 12A. HOUSING FOR PUBLIC SERVICE SYSTEM EMPLOYEES**

### **12A.1 Policy.**

It is the policy of the FSM National Government that all employees eligible for Government housing pursuant to these Regulation shall receive housing allowances in accordance with the established schedule provided herein. The purpose of these regulations is to provide necessary, adequate and updated<sup>1</sup> housing benefits to eligible employees of the Government of the Federated States of Micronesia in order to encourage candidates from as wide as possible a cross-section of the population of the Federated States of Micronesia to accept government employment.

### **12A.2 Eligibility for Housing Allowance for Off-island Recruits<sup>1</sup>.**

- (1) **Off-island Recruits**-Employees who are recruited from a place beyond the normal commuting distance from their work location or transfer to a new work location beyond normal commuting distance from their last place of permanent residence, are considered to be off-island recruits and are eligible for housing allowance unless they are transferred back to their home island<sup>1</sup>.
  - (a) For the purposes of this section "permanent residence" means that place where a person has his true, fixed, and permanent home and principal establishment to which, whenever absent, he has the intention of returning. A person may have only one permanent residence at a time.<sup>1</sup>

- (b) “Permanent Residence” shall not be a location the employee travels to on a temporary basis to seek employment.<sup>1</sup>

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Source: <sup>1</sup>*P.L. 20 – 143.*

(2) **Change in Circumstances:**

- (a) **Employee Responsible to Notify.** An employee who receives a housing allowance is responsible for notifying the Personnel Officer or his/her designee of any changes in circumstances that may affect his or her eligibility for housing allowance or the amount of housing allowance for which he or she is eligible, including, but not limited to, marriage, divorce, birth or adoption of a child, and inheritance of land, as soon as that employee know or should have known of the change in circumstances.
- (b) **Housing questionnaire.** At least once each year, employees who receive a housing allowance shall complete a questionnaire regarding their eligibility to receive a housing allowance. The Personnel Officer or his/her designee shall prescribe the form of the questionnaire.

(3) **Enforcement.**

- (a) **Review of Housing Questionnaire.** The Personnel Officer or his/her designee shall be responsible for reviewing the employee housing questionnaires to verify employees’ eligibility to receive a housing allowance and the amount of their housing allowance.
- (b) **Adjustment to Housing Allowance.**
- (i) The Personnel Officer or his/her designee shall adjust the housing allowances of those employees whose verified responses to the questionnaire indicate that they are eligible for a housing allowance in a different amount than the one they are actually receiving.
- (ii) The adjustments to housing allowance shall be prospective from date of notification and, in the case of an increase, shall start to be paid in the second quarter of the fiscal year following notification, and, in the case of a reduction, shall start to be paid in the quarter immediately following notification, unless in the case of a reduction, the Personnel Officer or his/her designee finds that the employee lied about or willfully delayed in notifying the Personnel Officer of the changed circumstances.
- (iii) Where the Personnel Officer or his/her designee finds that an employee has lied about or willfully delayed in notifying him/her of the changed circumstances that led to a reduction in the employee’s housing

allowance, the employee may be subject to an adverse action under part 18 of these regulations or repayment of overpaid amounts or both.

- (4). **Normal Commuting Distance.** All locations on the island on Pohnpei and within its reef are presumed to be within “normal commuting distance” of all other locations on the island of Pohnpei and within its reef. All locations on the island of Kosrae are presumed to be within “normal commuting distance” of all other locations on the island of Kosrae. All locations on the lagoon islands of Chuuk are presumed to be within “normal commuting distance” of Weno, except for Tol, Pata, Polle, Piispaneu, Uman<sup>1</sup> and Wonei. All location on the Yapese islands of Ramung, Maap, Gagil-Tomil and Maraba are presumed to be within “normal commuting distance of Colonia.

<sup>1</sup> Amendment to PSSR signed, 5/14/16

(5). **Ownership of Home or Land.**

- (a) **Ownership of Home.** No employee shall be eligible for a housing allowance if the employee or his or her parent, spouse, or children owns a home within normal commuting distance of the work locations.
- (b) **Ownership of Land.** If an employee or his or her spouse owns land within normal commuting distance of the work location, the employee’s eligibility for a housing allowance shall expire twelve years after the commencement of his or her employment with the National Government or twelve years after his or her acquisition of the land.

- (6) **One Housing Allowance Per Household.** Only one employee per household may receive a housing allowance. “Household” means a group of persons dwelling in the same premises and related by blood, by law, by marriage, by their own customs, or by customs they have adopted as their own. If one person claims another as a dependent for purposes of the National Government Employees Health Insurance Plan, this shall be prima facie evidence that they are related.

- (7). **Eligibility of Another Member of the Household.** A member of the household other than the employee receiving a housing allowance may become eligible to receive a housing allowance under the following circumstances:

- (a) he arrived at the location of the duty station under the provisions of the transfer allowance of the household member who is eligible to receive and does receive a housing allowance;
- (b) he becomes a national government employee within 3 years of his arrival at the location of the duty station;
- (c) he would be eligible to receive a housing allowance but for the fact that he his living with the household member on whose transfer allowance he arrived at the location of the duty station and that household member already receives a household allowances; and

- (d) One of the following has occurred:
  - (i) the member of the household who was receiving a housing allowance has lost his eligibility to receive housing allowance due to a change in his employment status; or
  - (ii) the member of the household who was receiving a housing allowance is no longer part of the same household.

### **12A.3 Duties of All Employees.**

It will be the responsibility of all employees who are eligible to receive housing allowances to negotiate and execute lease agreements with their landlords. Any amount or rental in excess of the housing allowance shall be the sole responsibility of the affected employee. Personnel Officer or his/her designee shall provide all possible assistance, including, but not limited to, the provision of a Model Lease developed in coordination with the Secretary of Justice. The employee shall bear the responsibility for any late payments and related fees, expenses or costs under his or her lease agreement. The National Government shall not be liable to any landlord or employees for the payment or reinstatement of late fees or similar expenses resulting under private lease agreements to which the National Government is not a party, resulting from delays in the processing of housing allowance checks.

### **12A.4 Furnishings.**

- (1). Furnishings shall be the sole responsibility of the eligible employee and landlord, except that the government shall supply a refrigerator and a stove, if necessary, to all eligible employees. The government shall also supply beds, living room set<sup>1</sup> and a dinette set, if necessary, to eligible employees and may be replaced after 10 years<sup>1</sup>.

Furniture and appliances shall be returned to the government within 30 days of the end of employment.

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<sup>1</sup>Amendment to the PSSR, signed 5/14/16

- (2). The Personnel Officer or his/her designee shall purchase the necessary appliances, keep and inventory, maintain the appliances as long as they are serviceable, and shall dispose of them when the Personnel Officer or his/her designee determines that they have outlived their usefulness.

Surplus appliances shall be sold in “as-is” condition, with no guarantees, once per year to the highest bidder. Mailed bids shall be opened 20 days after a radio announcement of the sale is made in each State. Appliances shall be assigned a sale number and shall be made available for inspection in the government’s warehouse in Pohnpei. Sale shall be by cash or check, with all cost of moving the appliances from the warehouse assumed by the buyer.

Appliances for which no bid is received, or which are not paid for and removed after ten business days, shall be donated to the T3 Program or other vocational school, or else to a charity, non-profit corporation which a charitable purpose, school, or any other public entity approved by the President, or else disposed of properly at a waste disposal facility.

- (3). The Personnel Officer shall dispose of all surplus refrigerators, stoves, beds and dinette sets; and also other appliances and furniture currently owned by the government and being used by employees. The Personnel Officer shall inventory and depreciate at a rate of 20% per year all such furniture and appliances. The employee using such furniture and appliances may be buy them from the government at the full depreciated value. If the employee does not purchase and pay for such furniture and appliances within 30 days of receiving notice of the option to buy, the Personnel Officer shall take possession of such furniture and appliances, and dispose of them as provided in Subpart 12.4.b. The responsibility to use or dispose of all furniture which has depreciated to zero value is upon the employee who is in possession of the furniture.

**12A.5 Schedule of Allowances.**

- (1). Eligible employees stationed within the FSM shall receive an allowance based upon dependent status. An Employee’s dependent status shall be determined based on the number of dependents who are actual members of the employee’s household at the employee’s duty station. When a dependent ceases to meet the definition of a dependent or ceases to be a member of the employee’s household, eh employee’s dependent status and housing allowance shall be revised accordingly. When a new dependent becomes a member of the employee’s household, the employee’s dependent status and housing allowance shall be revised accordingly.
- (2) For purposes of this regulation, “dependents” means:
  - (a) The employee’s spouse;
  - (b) The employee’s dependent unmarried children, step children, and legally adopted children under the age of 18; and
  - (c) The employee’s dependent unmarried children, step children, and legally adopted children under the age of 22 who are full-time students
- (3). Determination of the amount of the allowance shall be made by reference to the maximum set forth in the following schedule, but in no event shall the allowance be in excess of the actual rental amount.

No. of Dependents	Amount of Housing Allowance
1	One bedroom- \$500 <sup>1</sup>
2	Two bedrooms-\$700 <sup>1</sup>

3-or more	Three bedrooms-\$1,000 <sup>1</sup>
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<sup>1</sup> Amendment to the PSSR, signed, 5/14/17

**12A.6 Allowance for Overseas Posts.**

- (1) The Ambassador of each FSM Embassy and the highest ranking official of every other overseas office may enter a Rental Agreement on behalf of the National Government in order to provide housing for any FSM citizen employee assigned to that mission.
- (2). The Ambassador or other FSM official must certify that the housing is not extravagant, and that the rent is typical, fair and reasonable for that locality. The Ambassador or official must describe in writing all of the factors which were considered in determining that the rent is typical, fair, reasonable, and send them along with any evidence of housing prices in that location, to the Personnel Officer or his designee. This evidence may consist of newspaper classified ads, real estate rental listings, or any other evidence showing how much an average family would have to pay for ordinary decent housing in that location. The Personnel Officer or his/her designee shall send all of this information to the President's Office with a cover letter. The President shall then determine whether to allow the house to be rented for the staff member's use.

**12A.7 Government Assistance.**

Each new employee who is eligible for housing allowance shall be assisted by his or respective department in securing a house for lease.

**12A.8 National Government as Lessor.**

- (1). In the event that circumstances require the National Government to assign a house to an employee so that a house owned or leased by the Government does not sit empty, such housing shall be provided under a lawful assignment or sublease to the employee. The Government may enter into a lease agreement on behalf of a public service employee if the employee is one who holds an overseas post.
- (2). Any lease agreement entered into by National Government shall provide for rental payments at interval no longer than one-quarter of a year.
- (3). The assignment or sublease shall require the employee to pay rent to the government in the same amount as the primary lease, and shall place responsibility for maintenance and upkeep upon the sub lessee to the same extend as does the primary lease upon the Lessee.
- (4). The Government's lease payment under the terms of the primary lease agreement shall not exceed the amount of housing allowance for which the employee is eligible.

**12A.9 Employee Responsibility upon Expiration of Lease or Expiration of Occupancy.**

Upon expiration of an existing lease between the Government and a landlord, or upon an employee vacating governmental-leased housing, the Personnel Officer or his/her designee, the landlord, and the employee will inspect the quarters. The employee shall ultimately be responsible for damages beyond ordinary wear and tear to appliances, furnishings and quarters. The employee shall reimburse the government for the total cost incurred based on documentary evidence such as receipts for work performed and materials used.

**PART 12B. HOUSING FOR EXEMPT EMPLOYEES.**

**12B.1. Policy.**

The purpose of these regulations is to provide necessary housing benefits to certain officers, administrators, and employees of the government of the Federated States of Micronesia, in order to ensure that acceptance of a government post does not become a financial burden.

**12B.2. Applicability.**

Unless Congress or the Supreme Court otherwise provides for these employees from their own funds, and until such time as other legal provision is made for these employees, these regulations shall apply to the following employees or their successors in the organizational structure of the national government:<sup>1</sup>

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<sup>1</sup>Amended, 10/20/2004

- (1). the Speaker and the other members of the Congress of the Federated States of Micronesia;
- (2). the President and Vice President;
- (3). the Justices and Judges of the national courts;
- (4). the legislative counsel, deputy legislative counsel, the director of administration, budget officer, and the chief clerk of Congress;
- (5). the Public Auditor;
- (6). the Director of Administration of the national courts;
- (7). the special assistants and secretaries to President and Vice President;
- (8). the Ambassadors, Deputy Chiefs of Missions, and Consuls-General of the Federated States of Micronesia, the Postmaster General, the Secretary of Foreign Affairs, the Secretary of Finance and Administration, the Secretary of Resource and Development, the Secretary of Transportation, Communication, and Infrastructure, the Secretary of Health and Social Affairs, the Secretary of Justice, Secretary of Education, the Public Defender, all Office Directors and the statutory deputies of any of the foregoing positions; and
- (9). person hired under special services or temporary contracts.

**12B.3 Eligibility**

(1) Housing for Heads of Branches of Government.

(a) Suitable housing shall be provided for the President, Vice President, Speaker of the Congress, and Chief Justice of the Supreme Court of the Federated States of Micronesia. “Suitable housing” means a dwelling that will:

- (i) accommodate the official functions of the Head of a Branch of Government who occupies that dwelling;
- (ii) ensure the safety of the Head of a Branch of Government who occupies that dwelling, as well as the safety of his or her family; and

<sup>1</sup> Amendment to the PSSR, signed 11/6/17

(b) The housing allowance of the President and Vice President is as follows:

- (i). Among the considerations for the provision of housing for the President and Vice President are as follows:
  - 1. Security and safety of the President and immediate family.
  - 2. Dignity fitting and appropriate to the Office of the President.

(c) If any President, Vice President, Speaker of Congress or Chief Justice of Supreme Court chooses not to utilize government housing, he or she is automatically entitled to housing allowance of \$ 2,000 monthly and to furnishings and fixtures.

Source: Amendment to the PSSR, signed 5/14/16

d). Housing allowance for President

Where the President is not assigned or not using government housing, the Government through Personnel will find suitable housing accommodation taking into consideration safety of the President and of his immediate family and to accommodate the needs and purposes of the official duties and functions of the President. The amount shall not exceed \$ 4,500.00<sup>1</sup>.

(Source: Emergency Amendment, signed 2/24/20)

(2). Housing for Cabinet Members

The housing Allowance of eligible Cabinet Members shall be up to \$ 1,000 per month. For the purpose of this amendment, “Cabinet members” means heads of departments and

offices appointed by the President subject to the advice and consent of Congress, under sections 203 and 204 of title 2 of the Code of the Federated States of Micronesia<sup>1</sup>.

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<sup>1</sup> Amendment to the PSSR, signed 2/24/20

- (3). A person named in Subpart 12.B.2 of these regulations, other than the President, Vice President, Speaker of Congress, and Chief Justice of the Supreme Court, is eligible for housing or a housing allowance if:
- (a) At the time of hire or election, such person is not living and does not maintain a residence within normal commuting distance of his or her duty station and must relocate in order to fill the position or such person maintains a residence within normal commuting distance of his or her duty station and is already receiving a housing allowance from the national government for such residence, provided that, for a member of Congress, “his or her duty station” shall be deemed to mean the congressional delegation office in the state in which he or she was elected; and
  - (b) In the case of a special services or temporary contract, the employee is not receiving a travel stipend or per diem allowance.
- (4). Change of circumstances.
- (a). Employee Responsibility to Notify. An employee who receives a housing allowance is responsible for notifying the Personnel Officer or his designee of any change in circumstances that may affect his or her eligibility for housing allowance of the amount of housing allowance for which he or she is eligible, including, but not limited to marriage, divorce, employment of a member of the same household by the national Government, appointment of a member of the household to a political office within the national Government, and inheritance of land, as soon as that employee knows or should have known of the change in circumstances.
  - (c) Housing Questionnaire. At least once each year, employees who receive a housing allowance shall complete a questionnaire regarding their eligibility to receive a housing allowance. The Personnel Officer or his designee shall prescribe the form of the questionnaire.
- (5) Enforcement.
- (a) Review of Housing Questionnaire. The Personnel Officer or his/her designee shall be responsible for reviewing the employee housing questionnaire to verify employee’s eligibility to receiving a housing allowance and the amount of their housing allowance.
  - (b). Adjustment to Housing Allowance.

- (i). The Personnel Officer or his/her designee shall adjust the housing allowances of those employees whose verified responses to the questionnaire indicate that they are eligible for housing allowance in a different amount than the one they are actually receiving,
- (ii). The adjusted to housing allowance shall be prospective from the date of notification and , in the case of an increase, shall start to be paid in the second quarter of the fiscal year following notification, and, in the case of a reduction, shall start to be paid in the quarter immediately following notification, unless in the case of a reduction, the Personnel Officer or his/her designee finds that the employee lied about or willfully delayed in notifying the Personnel Officer of the changed circumstances.
- (iii). Where the Personnel Officer or his designee finds that an employee has lied or willfully delayed in notifying him/her of the changed circumstances that led to reduction in the employee's housing allowance, the employee may be subject to termination under the terms of his contract or repayment of overpaid amount or both.

(6). Ownership of Home or Land

- (a). Ownership of Home. No employee shall be eligible for a housing allowance if the employee or his or her parents, spouse, or child owns a home within normal commuting distance of the work location.
- (b). Ownership of Land. If an employee or his or her spouse owns land within normal commuting distance of the work location, the employee's eligibility for housing allowance shall expire twelve years after the commencement of his or her employment with the National Government or twelve year after his or her acquisition of the land.

(7). One Housing allowance per Household

Only one public service employee or one exempt employee per household may receive a housing allowance. "Household" means a group of persons dwelling in the same premises and related by blood, by law, by marriage, by their own customs, or by customs they have adopted as their own. If one person claims another as a dependent for purposes of the National Government employees Health insurance Plan, this shall be prima facie evidence that they are related.

(8). Eligibility of Another Member of the Household.

A member of the household other than the employee receiving a housing allowance may become eligible to receive a housing allowance under the following circumstances;

- (a). He arrived at the location of the duty station under the provisions of the transfer allowance of the household member who is eligible to receive and does receive a housing allowance;
- (b). He becomes a national government employee within 3 years of his arrival at the location of the duty state;
- (c) He would be eligible to receive a housing allowance but for the fact that he is living with the household member on whose transfer allowance he arrived at the location of the duty station and that household member already receives a household allowance; and
- (c). One of the following has occurred:
  - (i) The member of the household who was receiving a housing allowance has lost his eligibility to receive a housing allowance due to a change in his employment status; or
  - (ii) The member of the household who was receiving a housing allowance is no longer part of her same household.
- (9). All locations on the island of Pohnpei and within its reef are presumed to be within “normal commuting distance” of all other locations on the island of Pohnpei and within its reef. All locations on the island of Kosrae are presumed to be within “normal commuting distance” of all other locations on the island of Kosrae. All locations on the lagoon islands of Chuuk are presumed to be within “normal commuting distance” of Weno, Except for Tol, Pata, Polle, Piispaneu, Uman and Wonei. All locations on the Yapese islands of Ramuning, Maap, Gagil-Tomil and Marba are presumed to be within “normal commuting distance” of Colonia.
- (10). An employee is eligible for a housing allowance only as long as a valid Lease Agreement containing beginning and ending dates is on file at the Personnel Officer.

**12B.4 National Government as Lessor.**

- (1) The Personnel Officer or his designee may enter rental agreements on behalf of the National Government in order to provide housing to persons eligible under these regulations. The Personnel Officer or his designee is not required to lease a house for any exempt employees, except as necessary to provide suitable housing under subpart 12B.3.(1). The National Government may also enter into a lease agreement on behalf of an exempt employee in order to provide housing for an ambassador under subpart 12B.6.

- (2). Any such rental agreement shall provide for rental payments at intervals no longer than one-quarter of a year.
- (3). Such housing may be assigned to eligible persons upon the signing of a sublease which shall place all responsibilities except payment of rent onto the resident officer or employee.
- (4). The Government's lease payments under the terms of the lease agreement shall not exceed the amount of housing allowance for which the employee is eligible.
- (5). If government leased or government owned housing is not currently available for assignment to a person eligible under these regulations, a housing allowance shall be paid to the employee, if the employee has filed a valid and binding lease with the Personnel Officer.

**12B.5 Maximum Housing Allowances.**

- (1). The following are the maximum allowance payable, which shall not exceed the actual rental amount.
  - (a) Unless stated otherwise, all others listed in subpart 12B.2 of these regulations are subject to the housing allowance schedule below:

No. of Dependents	Amount of housing Allowance
1	One bedroom -\$ 500
2-3	Two bedrooms- \$ 700
3 or more	Three bedrooms -\$ 1,000

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<sup>1</sup>Source: Amendment to the PSSR, signed 5/14/16

- (2). Appropriate furniture shall be supplied to the President, the Vice-President and the Speaker, if necessary, and shall remain the property of the National Government. Appropriate furniture and utilities shall be provided to each Justice of the Supreme Court. Furniture provided shall remain the property of the National Government. All other exempt employees, appropriate furniture shall be provided shall remain the property of the National Government. and must supply their own furniture, except that a refrigerator] [and stove shall be supplied by the government, if necessary. The government shall also supply beds and a dinette set, if necessary, to exempt employees hire for the first time after June 1, 1992. The Personnel Officer, shall maintain, recover, and dispose of these appliances and furnishing as provided in part 12A.4.

**12B.6 Ambassadors.**

- (1) The Chief of Mission of each FSM embassy is authorized to enter into a rental agreement on behalf of the national government in order to provide housing for the Ambassador and other eligible staffs of the embassy.

- (2). Prior to execution of any rental agreement on behalf of the FSM National Government, the Chief of Mission must certify that the rent is reasonable, taking into consideration current market rental rates, the size and ages of the Ambassador's family and any other relevant considerations, such as whether the Ambassador is required to entertain foreign officials at home. The Chief of Mission must describe in writing all of the relevant considerations, and send them along with evidence of housing prices in that location, to the Personnel Officer or his designee.
- (3). The Personnel Officer or his designee shall send all of this information to the President with a cover letter. The President shall then determine whether to allow the house to be rented for the Ambassador's use.

## **PART 13      OUTSIDE EMPLOYMENT AND OTHER ACTIVITIES**

### **13.1.      Off-Duty Activities.**

No employee in the Public Service shall engage in outside employment or other outside activities not compatible with the responsibilities of his office or position, or as prohibited by law. Employees shall not accept any fee, compensation, gift, payment of expenses, or anything of monetary value which would result in:

- (1) Use of public officer for private gain,
- (2). Affording preferential treatment to anyone,
- (3). Loss of efficiency or economy to the Government,
- (4) Loss of independence or impartiality,
- (5) Making a Government decision outside official channels, or
- (6) Any adverse effect on the public's confidence in the integrity of the Government.

### **13.2.      Activities Within the Public Service.**

No person shall receive compensation or anything of monetary value, other than that to which he is entitled from the Government, for the performance of duties during his employment with the Public Service and within the scope of his official responsibilities.

### **13.3.      Violation Penalties.**

Whenever it is established that the provisions of this Part have been violated, the employee will be subject to adverse action and other legal penalties in accordance with Part 18.

## **PART 14 POLITICAL ACTIVITIES**

The political activities of employees in the Public Service System shall be subject to the restrictions of this section.

**14.1. Rights of Employees.** All employees in the Public Service shall have the following rights:

- (1) To vote for the candidate of their choice and to express their opinion on political matters, provided that this does not take place while on Government time and premises.
- (2) To be an active member of the political party or organization of their choosing.
- (3) To make voluntary contributions to a political party for its general expenditures, and
- (4) To become a candidate for political office while working in the Public Service System, provided that their campaigning does not take place while on Government time and premises.

**14.2. Prohibitions.** Employees of the Public Service System shall not:

- (1) Use their office or official influence to interfere with an election or to affect the results of an election,
- (2) Use their official authority to coerce any person or political party in reference to any politically related activity,
- (3) Be obligated to contribute to any political fund or render service to any political activity,
- (4) Solicit or receive political contributions from anyone while on Government time or on Government property/ premises, or
- (5) Campaign for any candidates for public office during official working hours and on Government premises.

**14.3. Penalty.** Any employee found guilty of a prohibited activity shall be subject to disciplinary action by management.

## **PART 15     GRIEVANCES**

**15.1. Employee Coverage.** The Public Service Grievance System covers all Public Service System employees.

**15.2. Grievance Coverage.** The grievance system will cover any matter of concern or dissatisfaction to an eligible employee.

**15.3. By Whom Presented.** A grievance may be presented by an individual employee or by a group of employees acting jointly. For the purposes of this part, the word “employee” shall be understood to refer also to group of employees acting jointly. An employee has the right to be assisted by a representative of his choice in submitting a grievance.

**15.4. Grievance Procedure.**

(1). Grievance may be presented either orally or in writing. An employee may present a grievance concerning a continuing practice or condition at any time. If his grievance is related to a particular act or occurrence, he must present it within [fifteen] calendar days of the date of that act or occurrence or the date when he became aware of it.

(2).. An employee shall ordinarily present a grievance first to his immediate supervisor. If the employee believes that he has a valid reason for not taking the grievance to his immediate supervisor, or if his immediate supervisor so authorizes, he may submit his grievance to a supervisory or management official of higher rank than the employee’s immediate supervisor. If the employee believes that he has a valid reason for not taking the grievance to any official in his agency, or if his grievance is not settled to his satisfaction by officials in his agency, he shall submit his grievance to the Personnel Officer. The action of the Personnel Officer shall be final unless he himself authorized referral of the grievance to another official.

**15.5. Obligation of Supervisors and Management Officials.**

Supervisors and other management officials have an obligation and a solemn duty to accept an employee’s grievance and to act promptly, fairly, and in good faith in the issue or issues presented in the grievance. They also have the obligation to abstain from any restraint, interference, or reprisal against employees and their representatives who are exercising the right to present grievances. It is not enough for an official to abstain from overt threats or interference. He must also refrain from making any statement or taking any action that has the appearance of a threat, interference, or intimidation.

## **PART 16. TERMINATIONS OTHER THAN FOR CAUSE**

### **16.1. Resignation.**

Resignations shall be in writing and shall be submitted at least fourteen (14) calendar days in advance of the effective date. The Personnel Officer may designate management and highly skilled technical classes for which this period may be extended to thirty (30) calendar days. The Department or Office Head shall submit a copy of the written resignation, together with the necessary terminating documents, to the Personnel Officer or his authorized representative.

**16.2 Abandonment.** If any employee ceases work without explanation for not less than six (6) consecutive working days, the management official shall file with the Personnel Officer a statement showing termination of employment because of abandonment of position. The management official shall promptly transmit a copy of the statement to the employee by the most practical means.

Source: § 146 Title 52 FSMC

### **16.3 Termination for Medical Reasons.**

When the Personnel Officer believes that an employee has incurred an illness, injury, or other physical defect which may cause long- lasting impairment of his ability to perform the duties of his position, or that the employee has become mentally incapacitated or has contracted an infectious or contagious disease which endangers the health of others, the Personnel Officer shall cause the employee to undergo medical examination as provided in sub-part 3.23. The medical examiner shall be requested to determine whether the employee suffers from such a disqualifying condition and, if so, to provide the best possible estimate of how long the disability is likely to last.

If it is expected that the disability will have ceased no later than ten working days after the expiration of the employee's accrued sick leave, the provisions of Paragraphs 10.3.(4). and 10.4.(2). shall apply.

If it is expected that the disqualification will last beyond the period of the employee's accrued sick leave plus ten working days, or if at the end of that period a reexamination discloses that the employee is still unable to perform the duties of his position, the following procedure shall be followed:

- (1). The employee will be retained in pay status until he has exhausted his accrued sick leave.
- (2). Thereafter, unless a reassignment is available which the Personnel Officer deems suitable, he may terminate the employee for medical reasons.

### **16.4. Reduction-in-Force.**

Department and agency Heads may terminate the service of an employee because of the condition of his position, for lack of work or funds, or for other reasons outside the employee's

control which reflect no discredit on the services of such employee. When there is an impending reduction in-force and Department or agency concerned shall inform the Personnel officer of this fact at least sixty (60) days in advance of the proposed action.

- (1) **Reduction-in-Force Notice.** When the determination to abolish a position is made and all efforts to place the affected employee in another position within his competitive area have failed, the Personnel Officer shall inform the employee, in writing, that he has been reached by reduction-in-force and that his services shall be terminated. The Personnel Officer's letter shall be dispatched at least thirty (30) days before the effective date of termination and it shall inform the employee whether his is eligible for placement on the re-employment list. The employee shall sign a copy of the letter to acknowledge receipt and return it to the Personnel Officer.
- (2). **Reemployment List.** Permanent Regular employees terminated because of reduction-in-force shall be entitled to be placed on an appropriate reemployment list. Temporary employees shall not be entitled to these reemployment rights. It is the displaced employee's responsibility to request placement on the reemployment list, as outlined in Sub-Part 4.4 of these Regulations.

#### **16.5. Exit Interview.**

A Personal interview shall be provided each employee terminating his service, before the effective date of the termination action. The interview shall be conducted for the purpose of learning from the employee the reason for his termination and such other information as may be appropriate. Interviews shall be recorded in report form and be made a part of the employee's personnel folder. The interview shall be conducted by the Personnel Officer or his delegation.

### **PART 17 MINOR DISCIPLINARY ACTIONS**

#### **17.1. Definition.**

For the purposes of this Part, "minor disciplinary actions" means oral admonitions, written reprimands, and suspensions for no more than three working days.

#### **17.2. Oral Admonition.**

An oral admonition may be directed to an employee by his immediate supervisor or by a supervisor of higher rank, except as the responsible management official may restrict this authority. Oral admonition need not be reported to the Personnel office.

#### **17.3. Written Reprimand.**

A written reprimand may be addressed to an employee by his/her immediate supervisor or by a supervisor of higher rank, except as the responsible management official may restrict this authority. Written reprimands shall be subject to the following procedures:

- (1). The language of the written reprimand must make clear the nature of the offense for which the employee is being reprimanded.
- (2). A copy of the written reprimand will be sent through the responsible management official and to the Personnel Officer.
- (3). The Personnel Officer will retain the reprimand in the employee's Personnel Folder for a period of not to exceed 3 years from its date. If, during the one-year period, the employee becomes subject to another minor disciplinary action (except an oral admonition) or to an adverse action, the reprimand shall be retained in the employee's Personnel Folder for a period of one year from that date to such subsequent action. While the reprimands are included in the Personnel Folder, it shall be taken into consideration in connection with performance evaluations, performance (within- grade) increases promotions, and action purposes.
- (4). Upon the expiration of the one-year period described in Paragraph (3), the reprimand shall have no further force or effect for any purpose and shall be discarded from the Personnel Folder.
- (3). At any time before the expiration of the one-year period described in Paragraph (3), the responsible management official may request the Personnel Officer to discard the reprimand from the employee's Personnel Folder. The Personnel Officer shall carry out this request if he thinks that the best interest of the Public Service will benefit thereby.

**17.4. Suspension for no more than Three Working Days.**

All suspension, regardless of their duration, will be initiated submission of a request for Personnel Action, which will state the reason why the suspension is being effected. A copy of the respective Personnel Action Form, like all other Personnel Action Forms relating to a particular employee, shall be permanently included in the employee's Personnel Folder as part of his official record.

**17.5. Recourse.**

An employee who has been made subject to a minor disciplinary action and who is not in conformity therewith may have recourse to the grievance procedure described in Part 15.

<b>PART 18      ADVERSE ACTION</b>
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**18.1 Definition.**

For the purpose of this Part, "adverse actions" means dismissals, demotions for disciplinary reasons, and suspension for more than three working days.

## **18.2 Authority to Take Adverse Action.**

The authority to effect adverse actions is granted to management officials by Chapters 1 & 2 of title 52 of the Code of the Federated States of Micronesia and further amended by Section 25(1) and 25(2). P.L. No 1-47, as amended. For this purpose, management officials shall include;

- (1). The Speaker of the Congress.
- (2). The Public Auditor
- (3). The President and Vice-President of the Federated States of Micronesia.
- (4). The heads of all executive Departments, Offices, and Agencies.
- (5) The Chief Justice.
- (6) The chairman of each commission, authority, or similar body whose employees are included in the Public Service.

These persons may delegate in writing the power to effect adverse actions, to such other persons under their supervision as they deem appropriate. Copies of all such written delegations shall be sent to and retained by the Personnel Officer. In this part the expression “management official” will refer only to a person authorized to effect adverse actions in accordance with this Sub-Part.

## **18.3 Employee Coverage.**

This part applies to all permanent regular employees for the National Government of the Federated States of Micronesia not exempt under section 8, P.L. No. 1-47. (Section 117,52 FSMC.)

## **18.4 Merit of Adverse Action.**

An adverse action may not be taken against an employee covered by this part except for such cause as will promote the efficiency of the public service.

## **18.5 Notification of Adverse Action.**

A management official assisted by the Personnel Officer shall effect an adverse action by delivering or causing to be delivered to the employee affected a notification containing at least the following information:

- (1) Nature of adverse action which is being taken.
- (2) Its effective date.
- (3) A full and detailed statement of the reasons for which the action is being taken, specifying names, dates, and places.

- (4) A statement of the employee's right of appeal of the adverse action, including the statement that such an appeal must be filed with the Personnel Officer within fifteen calendar days after the date of transmittal of the notification pursuant to Paragraph 18.6.(2) below.

**18.6 Delivery of Notification of Adverse Action.**

- (1). The notification of adverse action shall be delivered to the employee affected by one of the following means:
  - (a) Whenever possible, to the employee personally. His written acknowledgement of its receipt should be obtained; in the absence of such written acknowledgement, a certificate by the person who made the delivery may be substituted.
  - (b) When personal delivery is not possible, to the residence of the employee. Delivery at that location may be made to any person not less than eighteen years of age and of sound mind residing or employed there. Delivery in these circumstances shall be proved by means either of writing acknowledgement of receipt by the person accepting delivery, or of a certificate signed by the person who made the delivery.
  - (c) When neither personal delivery nor delivery to the residence is possible by registered mail with return receipt requested, to the employee's last known address.
- (2). The date of transmittal of the notification to the employee shall be;
  - (a) When personal delivery is made, the date of such delivery.
  - (b) When delivery is made to the employee's residence, the date of such delivery.
  - (c) When the notification is sent by mail, the date of mailing.
- (3). The effective date of the adverse action shall not be earlier than the close of business on the date of delivery.

**18.7 Procedure for Filing Appeals.**

An employee may appeal from an adverse action at any time during the period of [fifteen calendar days], counted from the date when the notification of the adverse action was transmitted to him. All appeals shall be in writing and shall be filed with the Personnel Officer, by the employee personally or by his authorized representative. The appeal shall include or be accompanied by the following materials:

- (1) A statement of the employee's reasons for contesting the adverse action.
- (2) Any offer of proof or documentary evidence which the appellant then wishes to submit.
- (3) The names of witnesses and the description of documentary and other evidence that the appellant wishes to have at the hearing, with such explanation of their relevancy as may be appropriate.
- (4) Any request the appellant may wish to make for a delay in the date of his hearing, beyond the period of [fifteen] days from the date when the appeal is filed.
- (5) The designation of the employee's authorized representative, if any.

**18.8 Ad Hoc Hearing Committee.**

- (1) Appeal: Appeals from adverse actions will be heard by an ad hoc hearing committee consisting of three members, selected from a panel of not less than seven officers or employees of the National Government, nominated by the President. Each committee shall comprise one member chosen by the appellant, one chosen by Personnel Officer, and a third chosen jointly by the other two members. If the first two members are unable to agree on the choice of a third member within two working days after they have been notified of their selection, the Personnel Officer shall then select the third member by lot from among the remaining members of the panel.

Persons appointed shall be non-exempt employees of the Government of the Federated states of Micronesia, of mature judgment and experience. The panel shall include at least one member from each of the three branches of Government. Exempt employees shall not be eligible for membership on the panel.

- ' The President may remove a member of the panel for cause.

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Source: P.L 7-90

- (2) No member of an ad hoc committee shall be an officer or employee of component of government to which the appellant is or was assigned, or a close relative of either the appellant or the responsible management official. For the purposes of this Sub-Part, the work "component" shall mean either:
  - (a) The legislative Branch;
  - (b) The Judicial Branch;
  - (c) Any Executive Department or Office; or
  - (d) Any board, commission, authority, or similar body.

- (3) At the time of filing his appeal with the Personnel Officer, the appellant or his authorizing representative shall select from the panel a member of the ad hoc hearing committee. The Personnel Officer shall immediately determine whether or not the member named is prevented from serving in conformance with Paragraph (2) of this Sub-Part; If so, he shall inform the appellant's representative, who shall forthwith make another selection. The Personnel Officer shall then choose the second member of other the committee and shall promptly notify the two persons of their selection, urging them to meet at the first opportunity to jointly select the third member.

### **18.9 Personnel Officer: Responsibilities before Hearing.**

In the period after the ad hoc hearing committee has been constituted, the Personnel Officer will have, among another responsibilities, the following:

- (1). To inform the management official who authorized the adverse action that an appeal has been filed, and to obtain from him the names of witnesss and the description of tangible evidence for which he wishes subpoenas to be issued, if any;
- (2). To turn over to the ad hoc committee the original appeal, supporting documentation, and lists of subpoenas requested by the appellant and the management official concerned.
- (3). To ascertain from the committee the date and time of the hearing, and inform all interested parties. The hearing shall be held within fifteen days after the appeal is filed, unless the appellant requests a delay; if he does so, the date of the hearing shall be at the discretion of the ad hoc committee.
- (4). To serve as a channel of communication between the committee and the interested parties and to explain all legal, technical, and procedural requirements.
- (5). To arrange for a hearing room and other logistical needs.

### **18.10 Subpoenas.**

- (1). The ad hoc hearing committee may on its own motion or that of the Personnel Officer management, or the appellant subpoena witnesses and tangible evidence, when such witnesses and evidence are relevant and material to the hearing. The committee shall be the judge of relevancy and materiality.
- (2). The appellant shall be entitled to review all material relied on by the management official to support the reasons specified in the notification of adverse action, including material relevant to the appellant's past record if that record forms part of the basis for the action. This requirement means that management cannot use any material to support its reasons which, because of security or other considerations, cannot be disclosed to the appellant or his authorized representative. The appellant must be informed of his right to review the material relied upon.

### **18.11 Representative.**

- (1). An appellant has the right to present an appeal without representative, or to be accompanied, represented, and advised by a representative of his choice at any stage of the proceeding. The representative may be either an officer or employee of the National Government (provided that no conflict of interest would be produced) or a person from outside the government. A representative who is a government officer or employee shall be allowed reasonable periods of Administrative Leave from his regular duties to attend his functions as such representative. To change his authorized representative, the appellant must give written notice to the ad hoc hearing committee through the Personnel Officer.
- (2). The representative of management in connection with the hearing shall be the Attorney General or his designee.

### **18.12 Freedom from Reprisal or Interference.**

An appellant and his representative must be free to use the appeal system without restraint, interference, coercion, discrimination, or reprisal. An employee, whether acting in an official capacity for the government or on any other basis, must not interfere with or attempt to interfere with another employee's exercise of his rights under this Part. It is not enough for an official to abstain from overt threats or interference. He must also refrain from making any statement or taking any action that has the appearance of a threat, interference, or intimidation.

### **18.13 Conduct of Hearings.**

All hearings shall be public unless the appellant requests a closed hearing. At the hearing, technical rules of evidence shall not apply and evidence shall be taken stenographically or by recording machine. The appellant and the management official who authorized the adverse action shall each have the right to be heard, to present evidence, and to be confronted by all adverse witnesses. The appellant may be represented by counsel of his own choosing. The Personnel Officer or his qualified designee shall attend the hearing and all meetings of any ad hoc hearing committee and provide technical advice on request.

### **18.14 Report of Ad Hoc Committee.**

Within seven calendar days after the close of the hearing, the ad hoc committee shall prepare a full written statement of its findings of fact and its recommendation concerning the adverse action that was appealed. It may recommend that the action be affirmed, modified, or reversed. The committee shall immediately deliver this statement, with such supporting documentation as it deems appropriate, to the highest management official responsible for the agency in which the appellant is or was employed, with a signed copy to the Personnel Officer. That management official, after considering the findings and recommendations, will personally give the final decision on the appeal. This management official shall be;

- (1). For the Legislative Branch, the Speaker of the Congress.

- (2). For the Executive Branch, the President.
- (3). For the Judicial Branch, the Chief Justice.
- (4). For each commission, board, authority, or similar body, the Chairman thereof.

**18.15. Appeal File.**

For every appeal which is submitted in connection with an adverse action, the Personnel Officer shall establish an appeal file, which shall be separated and distinct from the regular employee files. The contents of the appeal file shall include, but not necessarily be limited to, the following:

- (1). Copy of the notification of adverse action.
- (2). The appeal submitted by the employee, with all supporting documents.
- (3). All Written statements, authorizations, requests, and other documents presented in connection with the appeal and the hearing.
- (4). The lists of subpoenas requested by the appellant at the hearing.
- (5). Copies of all documentary evidence introduced at the hearing.
- (6). Transcript of the hearing, including original tapes or other recordings, if any.
- (7). Signed copy of the report of the ad hoc committee.

Each appeal file shall be kept by the Personnel Officer for not less than six years from the date of final decision of the respective appeal, and thereafter for such additional period as the Attorney General may find appropriate.

**FEDERATED STATES OF MICRONESIA  
OFFICE OF THE PRESIDENT  
PALIKIR, POHNPEI STATE 96941**

**Subject:** Promulgation of Public Service Regulations; concerning Public Employment:  
National Public Service System Act, PL No. 1-47, FSMC Title 52, as amended

Pursuant to authority vested in me as Personnel Officer by Section 6 (c) of PL No. 1-47 and the FSMC Title 52, as amended. These Regulations are updated and hereby submitted for approval of the President.

_____ Date	_____ Samson Pretrick, Director, Office of Personnel
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The provisions set forth herein have been reviewed by me as Secretary, Department of Justice and are found to be in proper legal form.

_____ Date	_____ Joses Gallen Secretary of Justice
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Under the authority of the FSM Constitution and PL No, 1-47, FSMC Title 52, as amended, these Regulations are hereby approved and shall become effective immediately.

_____ Date	_____ David W. Panuelo President, Federated State of Micronesia
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