



**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, MAY 20, 2021 | 12:00 PM
GUAM JUDICIAL CENTER
AND VIA VIDEOCONFERENCE**

AGENDA

- I. CALL TO ORDER**
- II. PROOF OF DUE NOTICE OF MEETING:** May 13, 2021
May 18, 2021
- III. DETERMINATION OF QUORUM**
- IV. READING AND DISPOSAL OF MINUTES:** April 15, 2021 Regular Meeting
- V. OLD BUSINESS**
- A. Judiciary FY21 Remittances pursuant to P.L. 35-099
 - i. Judiciary FY22 Pending Budget Proposal
 - B. Revised Code of Conduct
 - C. Memo re Reporting of Departures from the Mandatory Minimum Sentences Required by 9 GCA § 80.39.3 (Safety Valve Act)
 - D. Update on Capital Improvement Projects
- VI. NEW BUSINESS**
- A. Certificates of Commendation (T. Perez and M. Tungol)
 - B. JC Resolution Relative to Ratifying the Judicial Council's Award of the 2021 Hustisia Award to Retired Judge Joaquin V.E. Manibusan, Jr.
 - C. Update on the Judiciary's Response to COVID-19
 - D. Discussion re Proposed Rescindment of JC20-028
 - E. Judicial Officers Pay Adjustment Freeze
 - F. Notice of Next Meeting (June 17, 2021)
- VII. COMMUNICATIONS**
- VIII. PUBLIC COMMENT**
- A. Guam Bar Association – President's Report
- IX. EXECUTIVE SESSION**
- A. Ongoing Litigation
- X. ADJOURNMENT**

Doctor: No findings in rape case, doesn't rule it out

By **Phill Leon Guerrero**
phill@postguam.com

The physician who examined a woman who is accusing Jon Tuck of rape did not find diagnostic proof of a sexual assault, but said it was "logical to assume" minor injuries he observed could have occurred as a result of what she alleged.

Dr. William Weare testified during the second day of the former UFC fighter's trial. Weare is a forensic examiner at the Healing Hearts Crisis Center and has been with the organization for at least 20 years, he said.

In March 2020, he conducted an exam on the 22-year-old woman following her reporting of the crime. He documented a mild abrasion about a centimeter large and red, irritated skin in her genital area. Weare was asked by prosecutor Richelle Canto about the possible causes for the latter.

"Anything that irritates that area can cause this," he testified, but added that he also factored what the patient's reported the sexual assault along with pain and discomfort.

"One plus one equals two, in this case," Weare said.

However, because there were no other injuries – particularly deep lacerations, tears or bleeding, Weare reported there were "no positive findings" from the exam. About half of the cases he deals with ultimately have that conclusion, he testified.

"For the purposes of coming to a conclusions, I can't say that this finding is diagnostic of any kind of anything," Weare said.

Canto sought to clarify what the phrase "no findings" meant in terms of evidence of the alleged rape.

"So that's the question, 'no findings' here will be – I guess a more specific term, and not really how we normal people use the term 'no findings,'" she

said to the physician.

"I think that's a correct assessment," Weare answered, later testifying: "When you put these together: the findings and (the victim's) story, it's logical to assume that it may have some bearing on the case, and that's why it was documented."

'No one can know about this'

Tuck's accuser completed her testimony Wednesday. Her first testimony on the witness stand ended after she became emotional about 20 minutes into her appearance.

"I was a little bit nervous, and I (inaudible) some time with my thoughts and just refresh my memory in my head about everything," she testified.

Under questioning from Canto and defense attorney Randy Cunliffe, the 22-year-old couldn't recall specific details of the night in question, including what Tuck was wearing, how long she remained at a restaurant after the



TUCK: Former UFC MMA fighter Jon Tuck arrives at the Supreme Court of Guam on May 12. Kevin Milan/The Guam Daily Post

alleged rape occurred and specific statements she gave to the police.

She did state however, something Tuck said to her following the alleged assault.

"He said, 'No one can know about this,'" she testified.

The prosecution rested its case against Tuck. Cunliffe told the court he intends to call just one witness: a police officer. He successfully moved to dismiss one count of criminal sexual conduct from the case, without opposition from Canto. Closing arguments are expected Friday.



JUDICIAL COUNCIL OF GUAM

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NOTICE OF PUBLIC MEETING AND EXECUTIVE SESSION

The Judicial Council of Guam will conduct its monthly meeting on **Thursday, May 20, 2021, at 12 Noon in the Guam Judicial Center, 120 West O'Brien Drive, Hagåtña, by videoconference.** A monitor will be set up for any members of the public who would like to observe and offer comments. The meeting will also be streamed live on YouTube at <https://www.youtube.com/channel/UCfnFCWwllp99fAeh9zi4Q4g/featured>. The agenda will be made available prior to the meeting.

In addition, a request for Executive Session of the Judicial Council of Guam will be made pursuant to 5 G.C.A. §8111(c)(4) following the discussion of regular meeting agenda items. The agenda for the Executive Session will be to discuss ongoing litigation.

Any person(s) needing special accommodations, auxiliary aids or services, please contact the Administrator of the Courts at 475-3544, or Petrina M. Ula at 475-3413.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO
Chairman

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CURRENCY EXCHANGE RATES On May 17, \$1 was worth:	Keep posted and get more data and details online. Log on to see real time market data with our stock market tool at postguam.com/stock_market .					
	47.8000 PHP₱	109.37 JPY¥	1,132.88 KRW₩	28.0380 TWD NT\$	6.4415 CNY¥	1.2901 AUD A\$

Duty-free giants offer free flights to lure VIP shoppers

By Kyunghye Park, Bruce Einhorn and Angelina Rascoet Bloomberg

Last month, Hyun Jung-a boarded a flight from South Korea's Incheon Airport. Around two hours later, she was back in the same airport and loading up on duty-free shopping, despite never landing in another country.

The Air Busan Co. flight, organized by Lotte Duty Free for its VIP customers, was Hyun's first since the pandemic began and it didn't cost her a cent. Because the route briefly departed Korean airspace and went over a Japanese island, the 130 passengers on board qualified to shop at duty-free stores in Seoul typically reserved for people who have traveled internationally.

Destination-less flights like these are an attempt by duty-free operators to salvage an industry decimated by COVID-19. Before the virus, business was booming - the global duty-free market was worth \$85 billion in 2019 and on track to reach \$139 billion by 2027, according to Verified Market Research.

Sales plunged as countries restricted international travel. Globally, only 1.8 billion people took scheduled flights last year compared with 4.5 billion in 2019, the International Civil Aviation Organization has said. Annual revenue for Swiss duty-free giant Dufry, which operates outlets worldwide, fell 71%.

While shoppers on flights such as Hyun's won't fill the financial void, they at least bring in some much-

.....
Destination-less flights ... are an attempt by duty-free operators to salvage an industry decimated by COVID-19.
.....

needed business.

"I saw a lot of people with bags full of duty-free items," said Hyun, who bought a Chanel bag, shoes and cosmetics. "I tell all my friends that it's worth taking the flight because of the duty-free shopping opportunity."

Hotel Shilla, South Korea's second-biggest duty-free operator after Lotte, is offering 114 seats on two so-called flights to nowhere on May 23 and 30 to customers who have spent more than \$550 at its stores since May 3. Lotte is putting on another five flights this month.

Duty-free operators and other stores are among the last in South Korea to recover from the pandemic, with the country's retailers and wholesalers shedding 182,000 positions in April even as the economy added 652,000 jobs from a year earlier, the statistics office reported Wednesday.

The industry is in less of a squeeze where domestic air traffic has rebounded and tax-free shopping zones are in place. The palm-fringed Chinese island of Hainan has become an even more popular getaway for tourists from the mainland now starved of international travel. That's helped



TRAVEL: A man takes a photograph of a Jeju Air Co. passenger jet in Jeju, South Korea, on March 13, 2018. SeongJoon Cho/Bloomberg

the province's duty-free sales, which more than doubled to 27.5 billion yuan (\$4.3 billion) last year, according to the Ministry of Commerce.

Duty-free shopping has been permitted for domestic tourists in Hainan since 2011. In July, the government raised the spending limit to allow people to buy more and it is extending some duty-free shopping to Beijing, Shanghai and other cities to tap the growing purchasing power trapped in China.

Catering to the demand in Hainan, Alibaba Group Holding's logistics unit is starting daily cargo flights from Singapore to deliver cosmetics, handbags and other goods to the island. Japan's leading duty-free retailer, Laoc Co., which was acquired by Chinese retailer Suning Holdings Group Co. in 2009, is planning to enter Hainan as soon as the second half of this year, setting up stores designed similarly to its outlets in Japan.

"The trend of visiting Hainan to do luxury shopping is here to stay for the Chinese," said Jonathan Siboni, chief executive officer of data-intelligence firm Luxurysight.

International air travel, if it is happening at all, is tending toward shorter-haul, regional routes, and from places where vaccination programs are at a more advanced stage. Seven of the world's busiest international routes in the first four months of the year included U.S. links, such as Cancun-Houston and

New York-Santo Domingo, according to aviation analytics company Cirium.

Share prices suggest investors are upbeat. Dufry's stock has climbed more than 100% since the end of September, while Hotel Shilla is near the highest in nearly 15 months in Seoul, rallying 13% this year.

Paris-based Lagardere Travel Retail, which operates duty-free stores, restaurants and other shops in airports, is counting on customers from closer to home to help it through an uncertain summer in Europe after its revenue slid 56% from a year earlier to 341 million euros (\$414 million) in the first three months.

"We're betting more on retired Europeans traveling," said Frederic Chevalier, the company's chief operating officer for Europe, Middle East and Africa. McKinsey forecasts passenger flows between Asia and Europe will only return to 2019 levels "beyond 2024," said Anita Balchandani, a partner at the firm.

With vaccination rates lagging in places such as South Korea - which has delivered enough jabs for just 4% of the population, Bloomberg's Virus Tracker shows - retailers may rely on gimmicks like flights to nowhere for a while.

"The contribution from the flights to nowhere is small but it's better than having nothing," said Sung Junewon, an analyst at Shinhan Investment Corp. in Seoul. "Every little bit counts."



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NOTICE OF REGULAR BOARD MEETING

The Guam Economic Development Authority (GEDA), a public corporation, will be holding its Regular Board of Directors meeting on


Thursday, May 20, 2021 at 1:30PM

via Zoom and in the GEDA conference room located in Suite 511, 5th Floor, International Trade Center (ITC) Building, 590 South Marine Corps Drive, Tamuning, Guam.

For the link request or for persons requiring special accommodations, please contact GEDA's coordinator, Jennifer Calvo-Guzman, at 647-4332 or at jennifer.calvo@investguam.com by May 19, 2021.

Pursuant to PL 26-12, funding for this ad was paid by GEDA General Fund.

/s/ **MELANIE MENDIOLA,**
GUAM ECONOMIC DEVELOPMENT AUTHORITY CEO/ADMINISTRATOR



JUDICIAL COUNCIL OF GUAM

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In addition, a request for Executive Session of the Judicial Council of Guam will be made pursuant to 5 G.C.A. §811(c)(4) following the discussion of regular meeting agenda items. The agenda for the Executive Session will be to discuss ongoing litigation.

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/s/ **CHIEF JUSTICE F. PHILIP CARBULLIDO**
Chairman



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**JUDICIAL COUNCIL OF GUAM
REGULAR MEETING
THURSDAY, APRIL 15, 2021
Justice Monessa G. Lujan Appellate Courtroom
Guam Judicial Center
And via Videoconference**

★★★★

Hon. F. Philip Carbullido
Chairman

Hon. Katherine A. Maraman
Member

Hon. Robert J. Torres
Member

Hon. Alberto C. Lamorena, III.
Member

Hon. Arthur R. Barcinas
Member

★★★★

Advisory Committee Members:

Hon. Vernon G. Perez

Hon. Maria T. Cenzon

Hon. Elyze M. Iriarte

Hon. Dana A. Gutierrez

Atty. Jacqueline T. Terlaje

Atty. Frederick J. Horecky

★★★★

Administrator of the Courts:
Kristina L. Baird

Judicial Council Secretary:
Petrina Ula

Judicial Council Asst. Secretary:
Shelterihna T. Alokoa

MINUTES

I. CALL TO ORDER

The Regular Meeting of the Judicial Council was called to order by the Chairman, Chief Justice F. Philip Carbullido at the hour of 12:00 p.m.

ROLL CALL*:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)
Justice Robert J. Torres (calling in from Santa Rita)
Justice Katherine A. Maraman (calling in from Sinajana)
Presiding Judge Alberto C. Lamorena III (calling in from the Judiciary)
Judge Arthur R. Barcinas (calling in from the Judiciary)

Advisory Committee Members:

Judge Vernon P. Perez
Judge Maria T. Cenzon
Family Court Referee Linda L. Ingles
Administrative Hearing Officer B. Ann Keith
Attorney Jacqueline T. Terlaje
Attorney Frederick J. Horecky

Also, Present:

Ms. Kristina L. Baird, Administrator of the Courts (AOC)
Mr. Robert S. Cruz, Deputy Chief Administrator
Ms. Alicia A.G. Limtiaco, DPPCR
Mr. Andrew Sergio Quenga, Staff Attorney, Judiciary of Guam
Mr. Daniel Mensching, Staff Attorney, Judiciary of Guam
Ms. Dawn R. Blas, Judicial Educator
Ms. Hannah G. Arroyo, Clerk of Court, Supreme Court
Ms. Danielle T. Rosete, Clerk of Court, Superior Court
Ms. M. Erica R. Eschbach, Staff Attorney, Supreme Court

Ms. Barbara Jean T. Perez, Human Resources Administrator
Ms. Trisha T. Suzuki, Deputy Chief Probation Officer, Probation Division
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator
Mr. Carl V. Dominguez, Procurement & Facilities Management Administrator
Ms. Melissa C. Chargualaf, Client Services and Family Counseling Division Senior Judicial Therapist
Ms. Geraldine A. Cepeda, Compiler of Laws/Law Library Executive Director
Mr. Robert John S. Rabago, Management Information Systems Administrator
Mr. Joseph J. Leon Guerrero, Deputy Chief Marshal
Ms. Jessica Perez-Jackson, Administrative Service Officer
Ms. Shelterihna T. Alookoa, Judicial Assistant, Assistant Secretary
Ms. Petrina Ula, Judicial Assistant, Executive Secretary

*Note: All individuals listed above participated via video conference as per social distancing directives.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day Notices of Meeting of the Judicial Council, as required under the Open Government Law, were published in the Guam Daily Post. Acknowledgements are on file.

III. DETERMINATION OF QUORUM

Chief Justice Carbullido began the roll call. Chief Justice F. Philip Carbullido, Associate Justice Robert J. Torres, and Presiding Judge Alberto C. Lamorena III identified themselves and their location over videoconference, respectively. With the presence of four (4) Judicial Council members, a quorum was determined for this meeting. Judge Arthur R. Barcinas joined the meeting at 12:04 p.m.; Justice Katherine A. Maraman joined at 12:05 p.m.

IV. READING AND DISPOSAL OF MINUTES: March 18, 2021 Regular Meeting

Presiding Judge Lamorena moved to approve the March 18, 2021 Regular Meeting minutes, subject to correction. Judge Barcinas seconded the motion. Chief Justice Carbullido called an oral vote. With no discussion, the five (5) Judicial Council members voted in favor; the minutes were approved.

V. OLD BUSINESS

A. Judiciary FY21 Remittances under P.L. 35-099

Ms. Dianne Gudmalin, Finance Administrator (FMD), reported that the Judiciary's scheduled bi-weekly allotment of \$1,132,491 for FY21 have been disbursed in full and on time. She stated that from the \$29,444,000 appropriated to the Judiciary, 54% or \$15,854,000 has been received. Ms. Gudmalin added that the last allotment was received on April 8, 2021; the next allotment is scheduled for April 20, 2021.

B. Discussion re Proposed Rescindment of JC20-028

Chief Justice Carbullido reminded Council that the Proposed Rescindment of JC20-028 was tabled for 30 days at the Council meeting on April 15, 2021 pending approval of the Judiciary's FY2022 budget and receipt of information regarding the allocation of funds from the American Rescue Plan. Chief Justice Carbullido asked Justice Maraman if she wished to discuss the matter at today's meeting. Justice Maraman stated she was hoping for an update from the legal team or the Administrator of the Courts as to the status of the request for guidance from the Government of Guam Retirement Board. Justice Torres added Human Resources was tasked with determining if the FY2022 budget would allow funding of increments not yet paid and increments not rescinded. He added, the Council requested a schedule of increments and slotting of employees under the Attorney Pay Plan. Justice Torres stated it would be helpful for the Council have this information to decide if they would rescind JC20-028.

Chief Justice Carbullido noted that the Judiciary's FY2022 budget will be presented to the Council for approval in today's meeting, and that no new information has been disseminated from the Governor regarding the Judiciary's allocation of funds from the American Rescue Plan. He asked Human Resources Administrator, Ms. Barbara Jean Perez, (HR) if she had updated information to provide regarding retirement benefits and impact to the payout of increments. Ms. Perez stated the impact to benefits could not be determined until Finance Management Division (FMD) prepared and cut increments. She added the impact depends on each employee's situation, for example if the employee retires, or separates, the impact would be different. Ms. Perez stated, once HR receives direction and instruction from the Chief Justice and the Judicial Council, she can prepare a more detailed report. **Chief Justice Carbullido stated no new funding sources for payout of increments have been identified at this time, therefore he moved to table the matter until the FY2022 budget amount has been appropriated and the American Rescue Plan allocation has been decided; Justice Maraman had no objection. Chief Justice Carbullido stated this matter will remain on future meeting agendas until the matter can be concluded satisfactorily.**

Judge Barcinas requested to have the legal team and HR present their findings in writing regarding the impact to retirement benefits, to ensure employees and Judicial Officers whose increments have been deferred comply with the Government of Guam Retirement fund requirements, and if there is a catch-up provision. Chief Justice Carbullido clarified that the discussion at hand is regarding the employees affected by JC20-028; not the Judicial Officers increments, which are unfunded. He asked Ms. Perez to confirm; she stated there is no deferment of increments before the Council therefore there is no impact to benefits that needs to be considered. Justice Torres commented that increments for Judicial Officers granted in JC 17-024 were not rescinded; just not funded, which addressed the concern raised by Judge Barcinas. Justice Torres stated because the increments for Judicial Officers were not funded, the employees impacted by JC20-028 will continue to be affected.

Justice Maraman commented that the language of the JC20-028 authorized deferment; she added the Council members are not asking for enumeration of the impact but information from the Government of Guam Retirement Fund as to the consequence to the Judiciary if increments are paid in two years on a deferred basis. Ms. Perez described the FMD process for calculation and remitting deferred increments, which has occurred, statutorily, in the past. She stated she understands the Council is asking for information not limited to increments, but also on the impact to retirement benefits of the Judicial Officer, whose increments granted in JC 17-024 remain unfunded. Presiding Judge Lamorena inquired when Ms. Perez can provide the requested information. **Chief Justice Carbullido tabled the matter for 30 days to give the Judiciary administrative staff time to obtain the requested information; they are to report back in the next meeting.** He added that if the information is not complete, the Council can decide at that time as to what action to take. Chief Justice Carbullido noted that the Supreme Court has a Government of Guam Retirement case pending before it; he added a caution that some of the questions raised in today's meeting may be related to issues pending before the court. He clarified that the Council is trying to obtain information on how much is to be withheld as a result of paying out increments; that is a separate issue, but if it is the affect to an individual's retirement benefits, it may be related to the pending case.

Presiding Lamorena asked if the increments for Judicial Officers are to be addressed by the Council; Chief Justice Carbullido responded in the affirmative. He commented that the matter before the Council currently affects the administrative staff and in particular positions whose salary would exceed that of the Judicial Officers if increments were not suspended by JC20-028. Justice Torres commented the Council has taken no action to rescind, continue, or freeze Judicial Officers increments since 2017 (JC 17-024). Justice Maraman noted that on October 01, 2019 the first increment of 3.1% was included in Judicial Officers' salaries; she stated one increment was missed in 2017, and another is due in 2021. Chief Justice Carbullido noted lack of funding is exacerbating the situation.

C. Update on Capital Improvement Projects

Ms. Kristina Baird, Administrator of the Courts (AOC), reported on four (4) ongoing Capital Improvement Projects (CIP): the Route 4 building, construction of a high-capacity courtroom in the 8th judge's courtroom and M.I.S. server room relocation, construction of an additional jury deliberation room, and the San Ramon Building.

Ms. Baird reported the conversion of the Route 4 building into a temporary high-capacity courtroom is complete and that the first jury selection was held in the courtroom last week.

Ms. Baird stated that with the completion of the Route 4 building, focus shifts to moving the servers from the 8th judge's courtroom to the new M.I.S. server room on the second floor of the Judiciary. She reported that once the remaining servers have been moved, demolition of the 8th courtroom will commence. She added an RFP, with a close date of April 26, 2021, for the architectural services for the design of the 8th judge's courtroom and the Guam Historic Courthouse Building has been issued. Ms. Baird stated the target completion date of the 8th judge's courtroom is June 2021.

Ms. Baird explained the expected completion date of the additional jury deliberation room on the second floor of the Judiciary is end of April 2021.

Ms. Baird reported that the Judiciary has contracted for the painting of the exterior and the roof of the San Ramon building; work will commence this month and have a 30-day completion deadline.

Judge Barcinas explained for the information of the Guam bar members that the Route 4 building is a dual-purpose space: it serves as a courtroom and the main jury selection facility. Justice Maraman requested an update on the balance of the Bank of Guam loan funds being used for the CIP projects. Ms. Baird described the two drawn downs from the loan: the first in the amount of approximately \$5,000,000 to pay back the remaining balance and the second, approximately \$1,800,000, primarily to purchase the San Ramon building. She explained a third draw down for approximately \$1,000,00 to cover the shelling of the Route 4 building is being prepared. Ms. Baird added, an additional drawn down for \$1,500,000 to replace the air conditioning compressor at the Guam Historic Courthouse Building, will be required soon. She stated she will further report on the loan at the next Council meeting.

VI. NEW BUSINESS

A. JC Resolution Relative to Approving the Judiciary of Guam Budget for FY 2022

Ms. Dianne Gudmalin presented a summary of the Judiciary of Guam's General Fund proposed budget request for FY 2022 to be submitted to the Legislature no later than May 1, 2021. She explained the Judiciary intends to request \$35,121,186 for FY 2022. In addition, she noted, the Judiciary will make a below-the-line request for \$579,204 to replenish the Electronic Monitoring (EM) program funds, which brings the total request to \$35,700,390. Ms. Gudmalin presented a chart outlining the five (5) year history of the Judiciary's budget requests vs. the actual appropriation received, which reflects a significant cut since 2018. She described the budget determination process including meetings with Ms. Baird and Judiciary managers to ascertain their division needs, particularly to meet needs that arose because of the pandemic and to address the significant backlog of criminal jury trials. Ms. Gudmalin presented a detailed analysis of the expenditure types, including an anticipated increased need for personnel services, which explains the increase of \$227,187 in the FY 2022 budget request over FY 2021.

Presiding Judge Lamorena moved to adopt for discussion purposes; Judge Barcinas seconded the motion. Chief Justice Carbullido described the budget request as essentially status quo except for the increase in personnel costs; he added the health insurance procurement process is ongoing but an anticipated increase in cost has been included in the budget request. He recognized the ongoing challenges faced by the Government of Guam revenues; however, he feels this is the budget amount needed to address the level of services demanded of the Judiciary and to meet the mandates imposed by the Legislature.

Justice Torres questioned the increased costs for health and medical insurance reflected on the summary; Ms. Gudmalin explained the cost reflects the maximum subscriber count allowable, including current subscribers, new hires, and open positions. Chief Justice Carbullido explained the health insurance procurement process is ongoing so the administration is limited in commenting; he commented the Government of Guam will probably see a savings to the General Fund at the end of the fiscal year compared to joining the government-wide health insurance program.

Justice Torres asked whether increments were included in the budget request as he noticed a decrease in the amount requested. Ms. Gudmalin stated the decrease is because of changes in personnel. Ms. Baird noted the employees on limited term (LTA) who are not subject to increments are factored into the reduction in increments. Ms. Gudmalin also answered Justice Torres' question about the hazardous pay with an explanation of a survey of law enforcement personnel. He also questioned the significant reduction in the cost of counseling services. Ms. Gudmalin stated there has been a reduction in the requests for counseling and that some court programs are covered by federal funds.

Judge Barcinas asked if the four (4) probation officers included in the EM program below-the-line request are new hires. Ms. Gudmalin explained that due to the success of the program, more clientele is expected, therefore there is a need to hire and dedicate four employees to the program, which requires 24-hour per day staffing. Ms. Baird explained the current staffing pattern of probation services and the need to dedicate employees to the program. Judge Barcinas asked if the Council needs to create the new positions. Ms. Perez clarified there are vacancies to fill and then those new hires will be dedicated to the program. Judge Barcinas also questioned if more personnel are hired, will availability of equipment be jeopardized. Chief Justice Carbullido explained the cost of monitoring 100 clients is included in the request. Judge Barcinas raised the concern of updating and modernizing the courtroom computers and ensuring the FTR software in all courtrooms is compatible. Ms. Gudmalin noted M.I.S. included a request to update workstations, operating systems, and software.

Presiding Judge Lamorena expressed concerns about reduction in funding for interpreter services and for drug tests. Ms. Gudmalin explained the costs for indigent interpreters is included in Client Services funds and drug tests for special courts are covered by federal grants.

Chief Justice Carbullido stated the budget request summary is presented to the Council; the full budget request in proper form, in a binder, including all supporting documents, will be submitted to the Legislature.

Justice Torres asked to have the health insurance wellness benefit included in the health insurance request. Ms. Baird stated it would be included in the negotiations as part of health insurance procurement. Justice Torres suggested amending the budget request to include \$45,000 for wellness benefits. Chief Justice Carbullido had no objection. **Justice Torres moved to amend the Resolution; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called an oral vote. There was no objection. All Council members voted in favor of adopting the amended Resolution Relative to Approving the Judiciary of Guam Budget for FY 2022**

B. Memo re Reporting of Departures from the Mandatory Minimum Sentences Required by 9 GCA § 80.39.3 (Safety Valve Act)

Chief Justice Carbullido noted Speaker Terlaje requested the reports on Departures from the Mandatory Minimum Sentences, required by 9 GCA § 80.39.3 (Safety Valve Act), be posted on the Judiciary's website. Judge Barcinas commented that the judges are aware of the Safety Valve Act and supports the effort to report in the manner outlined in the Memorandum. Chief Justice Carbullido asked the judges to report the information to his chamber by the May 7, 2021 deadline, and noted that a system will be put in place going forward, to ensure the information is collected and posted in a timely manner.

C. JC Resolution Relative to Review of Jurisdictional Limit for Small Claims Court

Ms. Danielle Rosete, Clerk of Court, Superior Court, requested that the Jurisdictional Limit for Small Claims Court remain status quo at \$10,000. Ms. Rosete reminded Council that in 2020 she requested a delay in increase of the jurisdictional limit because she was compiling and collecting data and case information from civil collection cases in line with civil justice reform initiatives. She noted that in all of 2020 small claims case filings decreased by 50%. She also noted the amount of civil collection cases filed in where the cause of action was for debt collection, like the cases filed in small claims court. Ms. Rosete stated she is examining the data to determine why attorneys are choosing to file as civil action in lieu of going before the small claims court. She added she researched other courts jurisdictional limits and found that there are not many courts nationwide with limits over \$10,000. Based on her initial cursory review, the Judiciary of Guam is still within the same limits of other jurisdictions. She asked for more time to work with her team to review the data for presentation and review at the April 2022 Council meeting. Chief Justice Carbullido noted the Resolution as presented states April 2021 in the last clause; it should read April 2022. **Justice Torres moved to adopt the Resolution with the date for jurisdictional review be amended to April 2022; and Presiding Judge Lamorena seconded the motion.** Judge Barcinas asked if Ms. Rosete would consider surveying the attorneys to determine why the small claims court filings have decreased when the filing fees in the small claims are lower than the filing fees in the higher jurisdiction court. **Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution Relative to Review of Jurisdictional Limit for Small Claims Court as amended.**

D. JC Resolution Relative to Proclaiming the Month of May as Guam Drug Court Month

Presiding Judge asked the Council to support the JC Resolution Proclaiming the Month of May as Guam Drug Court month. He stated, since the Drug Court's inception in 2002, the Adult Drug Court program has been a ray of hope for many members of our community. He commended all the probation officers, treatment providers, and stakeholders involved in making the Adult Drug Court a success.

Presiding Judge moved to adopt the Resolution; Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution Relative to Proclaiming the Month of May as Guam Drug Court Month.

E. JC Resolution Relative to the Declaration of Reentry Month

Ms. Alicia A.G. Limtiaco, Director of Policy, Planning, & Community Relations (DPPCR) described the planned outreach activities planned to commemorate National Reentry Court week, which will be held April 26 to 30, 2021. She stated probation services division, courts programs office, and DPPCR office have been working together to recognize the work done since 2018 by the Judiciary's Guam Adult Reentry Court and external stakeholders. She described videos submitted to the National Reentry Recovery Center to be highlighted on their website. Presiding Judge Lamorena added the Guam Adult Reentry program provides a second chance for people on parole. He thanked the many agencies and stakeholders for their support of the program, particularly the Department of Public Health and Social Services for providing birth certificates for the program participants, which helps the individuals secure Government of Guam identification and social security numbers, to get reestablished. Judge Barcinas asked to have the Resolution amended to name all stakeholders, based on his consideration of the Guam Adult Reentry program as part of recent sentencing hearings. Presiding Judge Lamorena and Ms. Limtiaco assured Judge Barcinas that all agencies and stakeholders will be recognized in upcoming events.

Presiding Judge moved to adopt the Resolution; Judge Barcinas seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution Relative to the Declaration of Reentry Month.

F. JC Resolution Relative to Commending the Judiciary of Guam, The District Court of Guam, and The Guam Bar Association for a Job Well Done in Celebrating Law Week 2020 and for its Selection for the American Bar Association 2020 Outstanding Law Day Activity Award for the Best Public Program

Justice Torres stated this is the 8th year the American Bar Association has recognized the Law Week Committee's outstanding Law Week program with the national award.

Justice Torres moved to adopt the Resolution; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution Relative to the Declaration of Reentry Month.

G. JC Resolution Relative to the Declaration of 2021 Law Day and Law Month

Justice Torres announced the virtual Law Day and Law Month Proclamation Ceremony with the Governor's Office and the Legislature slated for Friday, April 23, 2021 at 3:30 p.m. He asked to have the Resolution changed to include the signature blocks for all members of the Council and the Chief Judge of the District Court of Guam.

Justice Torres moved to adopt the Resolution with the noted change; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called an oral vote. All Council members voted in favor of adopting the Resolution Relative to the Declaration of Reentry Month.

H. Update on Judiciary's Response to COVID-19

Ms. Baird reported the Judiciary's Response to COVID-19 includes continued support of virtual platforms, sanitization of all facilities daily, and construction and maintenance of high-capacity courtrooms to address criminal jury trials.

I. State of the Judiciary Address (April 30, 2021)

Chief Justice Carbullido shared that the 2021 State of the Judiciary Address will be delivered in the Guam Congress Building on Friday, April 30, 2021 at 10:00 a.m. He pointed out in-person attendance is limited and by invitation only due to social distancing protocols.

J. Notice of Next Meeting (May 20, 2021)

Chief Justice Carbullido announced that the next Judicial Council regular meeting will be on Thursday, May 20, 2021.

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

A. Guam Bar Association Board (GBA) – President's Report

There was no one present from the Guam Bar Association Board of Governors when the agenda item came forward. Justice Torres announced the GBA Annual meeting, which will be a hybrid meeting, on Friday, April 30, 2021 at 5:00 pm at the Hyatt hotel. Chief Justice Carbullido described the tentative order of events.

X. ADJOURNMENT

The meeting was adjourned at 1:40 pm.

Respectfully submitted this 20th day of May 2021.



SHELTERIHNA T. ALOKOA
Assistant Secretary,
Judicial Council of Guam



PETRINA M. ULA
Executive Secretary,
Judicial Council of Guam

The Minutes of the April 15, 2021 Regular Meeting as set out above were approved by the Judicial Council at the May 20, 2021 Regular meeting.



F. PHILIP CARBULLIDO
Chairman

Dated:

5/20/2021

**CODE OF CONDUCT
RESPONSES TO QUESTIONS / COMMENTS**

**Employee comments and questions are presented anonymously
in this table with corresponding responses from Human Resources.**

STATEMENT OF PURPOSE	
Employee Comment or Question	HR Response
<p>First paragraph.</p> <p>Add: "as a co-equal branch of government" to the end of the second sentence in the first paragraph.</p>	Agreed. See revised Code.
<p>First paragraph.</p> <p>Add: "and should be consistent with the Judiciary's core values of professionalism, integrity and excellence" to the end of the third sentence in the first paragraph.</p>	Agreed. See revised Code.
<p>Second paragraph.</p> <p>Add: "Employees should direct any questions or concerns they may have with regard to specifics of the Code of Conduct to their supervisor or Division Manager who may in turn consult the Administrator of the Court and the Staff Attorney for further clarification. Where examples are provided it is for illustrative purposes and is not exhaustive."</p>	Agreed in part. See revised Code.

DEFINITIONS	
Employee Comment or Question	HR Response
<p>B. Family Member.</p> <p>Family members should include adopted as well as reared children (mapoksai)</p>	Agreed. See revised Code.

SECTION I. JUDICIAL EMPLOYEES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY	
Employee Comment or Question	HR Response
<p>First paragraph.</p> <p>Change "Judicial Employee's supervisor" at the end of the paragraph to "appointing authority."</p>	Agreed in part. See revised Code.

SECTION II. JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES FOR THE JUDICIARY	
Employee Comment or Question	HR Response
<p>§ II.B. Statements on Pending Cases.</p> <p>Employees should not only abstain from public comment, to include social or electronic media, but also refrain from expressing personal opinions to anyone (to include court employees) about a pending or impending case before the court</p>	<p>This § II.B. prohibits ex parte communications and disclosure of information to anyone who is not a court employee. This rule is not intended to prohibit discussion of cases between employees.</p> <p>No change is recommended.</p>
<p>§ II.C. Gifts and Extra Compensation</p> <p>Is there a way we could add a disclaimer for IFIK and/or Frolic/Morale activities? For example, if we can show that we contacted all listed organizations (via Google search, etc.) and are providing an opportunity for each to participate, maybe we could request assistance with employee-related activities. Also, we could put a disclaimer stating that our involvement with each establishment in no way implies favor, etc. It's just difficult to raise funds or solicit for employee morale/appreciation</p>	<p>IFIK members are Judiciary employees and the same standards must apply.</p> <p>No change is recommended.</p>
<p>§ II.C. Gifts and Extra Compensation.</p> <p>Unsolicited gifts of de minimis requires authorization by the AOC which would be difficult often times impossible to get prior to the client leaving after a session (for example a handmade item would then have to be declined...better not to put this in since authorization difficult to get on such short notice and best that we let clients know gifts of any sort or of little to no value cannot be accepted)...</p>	<p>The requirement for AOC approval of a <i>de minimus</i> gift is necessary to avoid even the appearance of an impropriety and is intended to apply equally to all judicial employees.</p> <p>No change is recommended.</p>
<p>§ II.D. Judicial Employees shall report gifts under 4 GCA § 15202.</p> <p>4 GCA § 15202(d)(7) seems to contradict the concept of receiving gifts or not. More expansion or understanding of the term "Exchange" itself.</p>	<p>§ II.D. incorporates by reference 4 GCA § 15202 (Reporting of Gifts).</p> <p>§ 15202(d)(7) excludes gift exchanges between people. Further clarification or any of the exclusions, if necessary, may be done on a case-by-case basis.</p> <p>No change is recommended.</p>
<p>§ II.E. Abuse of Position.</p> <p>Add: "to personally benefit themselves or</p>	<p>Agreed. See revised Code.</p>

SECTION II. JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES FOR THE JUDICIARY	
someone else” to the sentence.	
<p>§ II.G.3. Nepotism</p> <p>Definition of “Immediate Family” in § II.G.3 (Nepotism) is inaccurate and should be the same as “Family Member” as defined in the Definitions Section.</p>	<p>The definition of “Immediate Family” in § II.G.3 regarding nepotism is taken directly from 4 GCA § 4204.</p> <p>The term “Family Member” is different from “Immediate Family” as these terms are used in the Code.</p> <p>No change is recommended.</p>
<p>§II.G.3. Nepotism</p> <p>Immediate Family should be changed to mean the same as Family Member [in the Definitions]. It shouldn’t necessarily refer to only those living in the same household, as it is currently written</p>	<p>The definition of “Immediate Family” in § II.G.3 regarding nepotism is taken directly from 4 GCA § 4204.</p> <p>The term “Family Member” is different from “Immediate Family” as these terms are used in the Code.</p> <p>No change is recommended.</p>
<p>§ II.G.3. Nepotism</p> <p>Whenever it indicates “Wherever there are already two or more members of an immediate family.... “it should just be limited to “two” not “two or more”.</p>	<p>Language is awkward but is taken directly from 4 GCA § 4204.</p> <p>No change is recommended.</p>
<p>§ II.H. Use of Public Resources.</p> <p>Will the commentaries be kept in the final document? If so, then commentaries should be provided for each Section. Some areas are pretty comprehensive and some i.e. Abuse of Position for example could really use a commentary. It is not so common sense. If the commentaries are not kept in the document, then you may need to add some information into the code.</p>	<p>Yes. The Commentaries will be kept in the Code. HR may explore adding commentaries as needed.</p> <p>Agreed in part. See revised Code.</p>

SECTION III. JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY	
Employee Comment or Question	HR Response
<p>§ III.A. Professionalism.</p> <p>Add Suggested edit: Judicial Employees shall never criticize a co-worker in front of another person nor denigrate a court user. There are so many instances of employees criticizing their coworker or staff in front of other; this can lead to decrease morale and, if extreme or repeated, can create a hostile work environment and impact an employee's emotional health. Praise in public, correct in private.</p>	<p>§ III.A. adequately covers this as public criticism is prohibited.</p> <p>No change is recommended.</p>
<p>§ III.A. Professionalism.</p> <p>Add: A Judicial employee should abstain from public comment or criticism of a Judicial Officer, administration, managers, supervisors or co-workers and other court employees.</p>	<p>Agreed in part, otherwise this is adequately covered. See revised Code.</p>
<p>§ III.C. Bias and Prejudice.</p> <p>Replace the EEO statement with updated verbiage.</p>	<p>Agreed. See revised Code.</p>
<p>§ III.D. Further Requirements.</p> <p>Concerns by Judicial Council</p>	<p>See revised Code.</p>
<p>§ III.E. Harassment.</p> <p>Replace statement with update verbiage</p>	<p>Agreed. See revised Code.</p>
<p>§ III.F. Information and Records.</p> <p>Add: court employees should not falsify, backdate, destroy, alter, mutilate, or deliberately fail to make required entries on court on any court records.... not sure if this is anywhere. Maybe it is in III.I. Electronic Records... however there is the paper records too.</p>	<p>Agreed. See revised Code.</p>
<p>§ III.G.1.</p> <p>Last sentence confusing.... A Judicial Employee</p>	<p>No change is recommended.</p>

SECTION III. JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY	
should abstain from public comment about pending or impending proceedings in the Courts, other employee, their superiors or Judicial Officers	
<p>§ III.G.6.</p> <p>Regarding inquiries concerning court procedure... maybe should go in another section and not in confidentiality. This looks like it is already incorporated in III. J.</p>	Agreed. § II.G.6. will be deleted as it is adequately covered in § III.J.
<p>§ III.G.7.</p> <p>Curious... what are the consequences for disclosure of confidential information from former judicial employees ... knowing the consequences here would scare the dickens out of any temptation to disclose when I retire... (for example)</p>	<p>Consequences are governed by law and ethical regulations that may be applicable to the profession (e.g. attorneys and counselors).</p> <p>No change is recommended.</p>
<p>§ III.H. Media Requests.</p> <p>Gives the titles of DPPCR or PIO... named... what if it changes. Should be forwarded to the individual responsible or to designated public information officer in case that duty is given to another job title.</p>	Agreed in part. See revised Code.
<p>§ III.I. Electronic Information.</p> <p>Add: Electronic Records... however there is the paper records too.</p>	Agreed. See revised Code.
<p>§ III.N. Duty to Report.</p> <p>Duty to Report: Please provide a location for Judicial Officer conduct rules/regulations and where one can go should they wish to report a Judicial Officer.</p>	This section III.N. will be moved to § VI. Reporting of a Judicial Officer will be included.
<p>§ III.O. Duty to Report Arrest or Conviction (Except Traffic Court Violation).</p> <p>Is it a statutory requirement [in § III.O.2] that government employees must sign a partial waiver at their respective agencies granting access to treatment recommendations as part of probation conditions? Or is this specific to the JOG?</p>	§ III.O. will be removed from the Code and placed in the forthcoming revised Judiciary Personnel Rules and Regulations. Comments and questions regarding this section will be addressed there.

SECTION III. JUDICIAL EMPLOYEES SHALL PERFORM THEIR DUTIES IMPARTIALLY AND DILIGENTLY	
Why does the language regarding the 90 day limitation not include the usual “when management knew or should have known” and instead indicates “when the employee gives notice ... to the AOC? It seem as there would be a difference.	
§ III.O. Duty to Report Arrest or Conviction (Except Traffic Court Violation).. Should be clear that a court employee must inform the AOC if he or she is arrested in any jurisdiction (not just Guam) and is involved in any pending legal action at the JOG	See comment above.

SECTION IV. Judicial Employees Shall Conduct Their Outside Activities as to Minimize Conflicts with Their Employment Responsibilities	
Employee Comment or Question	HR Response
§ IV.B. Outside Activities. What drove the decision to require JOG approval of all outside activities/association or membership in organizations? What if an employee has been a part of an organization for many years that the JOG may now see a potential conflict with? It appears to me that the JOG is over-reaching and now attempting to dictate what employees do outside working hours, on their free time.	§ IV.B does not require AOC approval of all outside activities. To avoid actual or potential conflicts, specific outside activities are to be reported or avoided because of the role of the courts in impartially administering justice. No change is recommended.
§ IV.B. Outside Activities. Does this affect JOG employees who are GPD or Conservation Reserve Officers?	The new Code will not affect employees who are in the law enforcement reserves See revised Code.
§ IV.B. Outside Activities. Please explain the process for alerting management to pro bono work being done outside the court. What should we declare, when, and to whom? I know if we are on a Board or engage in a long-term effort, but what if we’re simply helping out a friend/organization by presenting to their class, creating resources for their non-profit, helping research funding sources for someone	§ IV.B does not require AOC approval of all outside activities. To avoid actual or potential conflicts, specific outside activities are to be reported or avoided because of the role of the courts in impartially administering justice. Questions on specific outside activities should be directed to the appropriate supervisor and/or HR. No change is recommended.

SECTION IV. Judicial Employees Shall Conduct Their Outside Activities as to Minimize Conflicts with Their Employment Responsibilities	
starting a business, etc. If it's all for free and random, do we need to declare that? If so, just to supervisor? HR?	
<p>§ IV.B. Outside Activities.</p> <p>First sentence.</p> <ul style="list-style-type: none"> • Outside activities – suggest changing the word "should" to "may." • Take out the second "and dignity" - repetitive. 	Agreed in part. See revised Code.
<p>§ IV.B. Outside Activities.</p> <p>Second sentence.</p> <p>Add "such as, but not limited to" the second sentence after "activities."</p>	Agreed. See revised Code.
<p>§ IV.B. Outside Activities.</p> <p>Second sentence.</p> <p>Put a period after recreational activities.</p>	Agreed. See revised Code.
<p>§ IV.B. Outside Activities.</p> <p>Second sentence.</p> <p>Add: "Such activities may include speaking, writing, lecturing and teaching."</p>	Agreed. See revised Code.
<p>§ IV.B. Outside Activities.</p> <p>Fourth sentence.</p> <p>Change "should" to "may" - "Employee may not accept a governmental appointment... during judicial employment" add at the end of this sentence "any exceptions may be subject to the to the AOC's approval".</p>	Agreed in part. See revised Code.
<p>§ IV.B. Outside Activities.</p> <p>Fourth sentence.</p>	See revised § IV.B. in the revised Code.

SECTION IV. Judicial Employees Shall Conduct Their Outside Activities as to Minimize Conflicts with Their Employment Responsibilities	
The next sentence says that an employee may not accept a governmental appointment that has potential for dual service to and/or supervision by independent branches of government - Question: Does this mean that we can no longer be appointed to certain boards?	
§ IV.B. Outside Activities. Fifth sentence. Change the last word "activity" to "activities."	Agreed. See revised Code
Can IV.B.1 say "unless explicitly approved by the AOC" or some similar language.	Agreed. See revised Code.
Section IV.B.5 seems redundant to IV.B.1.	Agreed. § IV.B.5. will be deleted.
§ IV.C.2. Conflict of Interest [personal interest in court proceeding]. What happens when we want to sit in a court hearing, etc. with a friend/family member? Do we go on our lunch hours/sign leave? Do we need to disclose to the judge that we are a court employee and let them determine whether we can stay? (Example: providing support for a family member/friend in a domestic abuse case, a probation case, a divorce, etc.) Since this is our "own time", to we need to alert our supervisor?	§ IV.C.2. primarily applies to a direct personal interest in a court proceeding. An employee's attendance as a member of the public at a court hearing does not necessarily create a conflict. However, if it is not a part of an employee's job responsibilities, appropriate leave should be taken if attending during regular work hours. See revised Code. Note § IV.C. deleted as it was duplicated in IV.E.
§ IV.D. Solicitation of Funds. Solicitation of Funds...does this mean that I as a manager cannot solicit funds from staff for fundraising for Relay for Life (as an example)	Correct. A supervisor may not directly solicit funds from a subordinate but may inform them of a general fund-raising campaign.
§ IV.E.2. Conflict of Interest [personal interest in court proceeding]. Who do employees report conflicts to?	Per IV.E.1, conflicts should be reported to the appropriate supervisor.

SECTION IV. Judicial Employees Shall Conduct Their Outside Activities as to Minimize Conflicts with Their Employment Responsibilities	
<p>§ IV.F. Restrictions on Post Employment.</p> <p>Does this mean for 1 year after termination, CSFC cannot hire a former employee to run a group (for example)?</p>	<p>The prohibition is not intended to apply to certain professional contracts for which the Judiciary has critical needs (e.g. legal research, counseling, etc.)</p>

SECTION V. JUDICIAL EMPLOYEES SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITIES	
Employee Comment or Question	HR Response
<p>§ V.C.1.i. Permitted Activity [employee expressing political opinion].</p> <p>This directly conflicts with what we train in our Social Media Policy. We always remind employees that what they post can and will be used against them.</p>	<p>§ V.C.1.i. relates to an employee’s right of free speech. We do not believe there is a conflict with the Social Media Policy which restricts inappropriate and unlawful postings.</p> <p>No change is recommended.</p>
<p>§ V.C. Permitted Activity.</p> <p>Last sentence. Each employee specifically retains the right to register and vote in an election. While not on duty, not in a uniform identifying the person as a judicial employee, and not using their judicial position or title in connection to any political activity, an employee can: (Just want to be clear... employees can vote with their uniform on?)</p>	<p>Wearing a uniform while casting a vote is not prohibited.</p>
<p>§ V.C.2. Permitted Activity [division manager my limit participation]</p> <p>Allowing the division manager the discretion to prohibit or limit participation in permitted political activities seems contradictory. If an activity is permitted by the personal rules and by Guam law, it must be ok. Is the manager the final decision maker on this issue? If the employee does not agree with the manager’s decision, who can he/she appeal to?</p>	<p>A division manager can deny leave based on operations or if there is a conflict. The role of the courts in impartially administering justice also may affect the determination of a conflict.</p> <p>The division manager is not the final approving authority. If the employee does not agree the employee may utilize Grievance Procedures which are established to protect employee rights.</p> <p>No change is recommended.</p>
<p>§ V.D. Prohibited Activity.</p> <p>Add: shall not display or have in the workplace political materials such as signs, brochures, badges, buttons.</p>	<p>Agreed. See revised Code.</p>
<p>§ V.D. Prohibited Activity.</p> <p>Add: should not solicit signatures for political candidacy.</p>	<p>Agreed. See revised Code.</p>
<p>§ V.D.2.vi. Prohibited Activity [use of government resources]</p> <p>Add government equipment, supplies or resources</p>	<p>Agreed. See revised Code.</p>

SECTION VI. VIOLATIONS	
Employee Comment or Question	HR Response
<p>Violations to code also covered in Section III N. If the AOC has violated the Code and an employee wishes to report it... then who?</p> <p>Can the violation be reported to the supervisor or manager who in turn will report to the AOC? Reporting to the AOC can be intimidating.</p> <p>Can the violation be reported to the supervisor or manager who in turn will report to the AOC? Reporting to the AOC can be intimidating</p>	<p>§ III.N. will be moved to § VI.</p> <p>Agreed. See revised Code.</p>

SECTION VII. COURT MANAGERS	
Employee Comment or Question	HR Response
<p>Add a new a statement that as court leaders, managers must set the example for employees to follow in terms of their ethical behavior and the judiciary's expectations regarding standards of conduct, integrity, honesty and truthfulness</p>	<p>Agreed. See revised Code.</p>

JUDICIARY OF GUAM CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

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STATEMENT OF PURPOSE

A fair and independent judicial system is essential to the administration of justice. Proper conduct by Judicial Employees inspires public confidence and trust in the Judiciary of Guam (“Judiciary”) as a co-equal branch of government. Certain principles should govern the conduct of all Judicial Employees and should be consistent with the Judiciary’s core values of professionalism, integrity and excellence. This Code of Conduct (“Code”) provides uniform standards for the conduct of all Judicial Employees other than Judicial Officers.

The minimum standards in this Code are in addition to 4 GCA Chapter 15, Standard of Conduct for Elected Officers and Public Employees of the Government of Guam that are applicable to Judicial Employees and do not preclude the adoption of, nor do they usurp more rigorous conduct standards set by law, Supreme Court Administrative Orders, or other Judiciary policies. Violations of this Code shall be enforced in the same manner as violations of the Judiciary of Guam Personnel Rules and Regulations. Questions regarding this Code may be directed to the Human Resources Administrator or the Administrator of the Courts.

HR Comment: “Preamble” of the New Mexico Judicial Branch Code of Conduct for Judicial Employees, adopted by the New Mexico Supreme Court, effective February 9, 2010.

DEFINITIONS

The following terms have specific meanings within the context of this Code:

- A. Domestic Partner. A person in a mutually exclusive committed relationship with a Judicial Employee and who both share a primary residence for twelve (12) or more consecutive months and who are jointly responsible for the common welfare of each other and who share financial obligations.
- B. Family Member. A relation by blood or marriage within the third degree, who is a spouse, parent, mother-in-law, father-in-law, stepparent, child to include adopted and reared children (in loco parentis), son-in-law, daughter-in-law, stepchild, brother, stepbrother, brother-in-law, sister, stepsister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great grandchild and great grandparent.
- C. Household Members. Persons living together at the same residence.
- D. Judicial Officer. Any person who performs judicial functions within the judicial system who is a Supreme Court Justice, Superior Court Judge, Magistrate Judge, Court Referee, Administrative Hearings Officer, ~~or~~ pro tempore justice, or pro tempore judge.
- E. Judicial Officer’s Personal Staff: Staff dedicated specifically to a judge to include a courtroom chamber clerk, bailiff, law clerk, intern, extern, volunteer, secretary, or other staff as assigned.
- F. Judiciary. The Supreme Court of Guam and the Superior Court of Guam.

- G. Judicial Employee. Any employee of the Judiciary, whether at-will, exempt, non-exempt, permanent, part-time, full-time, probationary or temporary, including voluntary deputy marshals reserves, but does not include Judicial Officers. Contractors and other nonemployees not covered above who serve the Judiciary are not covered by this Code, but the Judiciary may impose these or similar ethical standards on such nonemployees, as appropriate.

HR Comment: Definitions adopted in part from the New Mexico Code of Conduct, except for the last sentence in the definition of “Judicial Employee,” which was adopted from Section 310.10(d) of the US Courts Code of Conduct for Judicial Employees.

SECTION I. JUDICIAL EMPLOYEES SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

Independence and Integrity. An independent and honorable judicial branch is indispensable to justice in our society. Therefore, Judicial Employees shall maintain high standards of conduct, integrity, honesty, and truthfulness so that the independence of the judicial branch is preserved. This Code shall be construed and applied to further these objectives. The standards of this Code do not affect or preclude other more ~~stringent standards required by law, court order, or a Judicial Employee’s supervisor~~ rigorous conduct standards set by law, Supreme Court Administrative Orders, or other Judiciary policies.

HR Comment: First sentence adopted from Canon 1 of the New Mexico Code of Conduct. Second sentence adopted from Canon 1 of the US Courts Code of Conduct.

Commentary:

The fundamental attitudes and habits of individual Judicial Employees reflect on the integrity and independence of the Judiciary and are of vital importance in maintaining the confidence of the public in the Judiciary. Honesty and truthfulness are paramount.

HR Comment: Commentary adopted from Canon 1 of the New Mexico Code of Conduct.

SECTION II. JUDICIAL EMPLOYEES SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL THEIR ACTIVITIES FOR THE JUDICIARY

- A. Compliance with Law and Public Confidence. Judicial Employees shall respect and comply with the law regarding their employment by the Judiciary and in the performance of their duties for the Judiciary, shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

Commentary:

As public servants, Judicial Employees shall respect and comply with the law, personnel rules, policies, and this Code. Public confidence in the Judiciary is maintained by the

willingness of each employee to live up to this standard. When faced with conflicting loyalties, Judicial Employees shall seek first to maintain public trust.

HR Comment: Rule and Commentary adopted from Canon 2(a) of the New Mexico Code of Conduct.

- B. Statements on Pending Cases. Judicial Employee shall not express to any person not an employee of the court a personal opinion about a pending or impending court case or disclose the extent of his or her involvement in the decision-making process. This prohibition does not extend to public statements made during one's official duties or to an explanation of court procedures.

HR Comment: Commentary adopted from Canon 2(a) of the New Mexico Code of Conduct.

- C. Gifts and Extra Compensation. Judicial Employees shall not solicit, accept, agree to accept or dispense any gift, favor or loan either for themselves or on behalf of another based on the understanding either explicit or implicit that such would influence an official action of the court. Unsolicited gifts of *de minimis* or insignificant value may be allowed if authorized by the Administrator of the Courts.

Judicial Employees shall not request or accept any fee or compensation beyond their regular compensation for assistance given as part of their official duties for the Judiciary.

Commentary:

Examples of improper conduct include seeking a favor or receiving a gift at any time, or the promise of one at any time, whether it is money, services, travel, food, entertainment, or hospitality that could be reasonably viewed as a reward for past or future services. Employees may accept awards in recognition of public service. If authorized by the Administrator of the Courts, Judicial Employees may receive unsolicited refreshments and items of *de minimis* or insignificant value (*e.g.* a cake, snacks, flowers and other items with a low fair market value but never cash or cash equivalents like gift cards) during the holidays or when attending a conference, seminar, or meeting. Receiving fees or compensation not provided by law in return for public service is not permissible. Accepting, agreeing to accept, giving, or requesting a gift with an understanding that any judicial business or proceeding would be influenced may violate Guam law.

HR Comment: Rule and Commentary (in part) adopted from Canon 2(b) of the New Mexico Code of Conduct.

- D. Reporting of Gifts. Judicial Employees shall report gifts ~~under~~ in accordance with 4 GCA § 15202.

HR Comment: Reference 4 GCA § 15202, which states:

§ 15202. Reporting of Gifts.

(a) Every employee shall file a gifts disclosure statement with the Guam Ethics Commission on June 30 of each year if all the following conditions are met:

(1) The employee, or spouse or dependent child of an employee, received directly or indirectly from any source any gift or gifts valued singly or in the aggregate from a single source in excess of \$200, whether the gift is in the form of money, services, goods, or in any other form;

(2) The source of the gift or gifts have interests that may be affected by the official action or lack of action by the employee; and

(3) The gift is not exempted by subsection (d) from reporting requirements under this section.

(b) The report shall cover the period from January 1 of the preceding calendar year through December 31 of the year of the report.

(c) The gifts disclosure statement shall contain the following information:

(1) A description of the gift;

(2) A good faith estimate of the value of the gift;

(3) The date the gift was received; and

(4) The name of the person, business entity, or organization from whom, or on behalf of whom, the gift was received.

(d) Excluded from the reporting requirements of this section are the following:

(1) Gifts received by will or intestate succession;

(2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;

(3) Gifts from a spouse, fiancé, fiancée, any relative within three degrees of consanguinity or the spouse, fiancé, or fiancée of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for any person not covered by this paragraph;

(4) Political campaign contributions that comply with territorial law. This section shall not exempt the recipient of campaign contributions from the reporting requirements of the Election Code.

(5) Anything available to or distributed to the public generally without regard to the official status of the recipient;

(6) Gifts that within thirty days after receipt, are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as a charitable contribution for tax purposes; and

(7) Exchange of approximately equal value on holidays, birthday, or special occasions.

(e) Failure of an employee to file a gifts disclosure statement as required by this section shall be a violation of this Code.

E. Abuse of Position. Judicial Employees shall not use or attempt to use their positions as employees of the Judiciary to influence or secure special privileges or exemptions to personally benefit ~~for~~ themselves or any other person.

HR Comment: Rule and Commentary adopted from Canon 2(c) of the New Mexico Code of Conduct.

F. Employment of Family, Domestic Partner, Household Members. No Judicial Employee shall knowingly employ, advocate, or recommend for employment any Family Member, Domestic Partner, or Household Member.

HR Comment: Rule adopted from Canon 2(d) of the New Mexico Code of Conduct.

G. Nepotism.

1. Spouses and persons within the first degree of relation such as brother/sister or parent/child may not be employed in the same division in a direct supervisor-subordinate relationship. Exception to this rule may be

made when it is for the good of the service and upon the approval of the Chief Justice and Judicial Council.

2. No spouse of any division manager or chief may be employed within the division so headed by such division manager or chief.
3. Whenever there are already two or more members of an immediate family in the public service under the same division, no other members of such family shall be eligible for appointment to any such division. (“Immediate Family” means a collective body of persons living together in one house under one head).

H. Use of Public Resources. Judiciary resources must be used to benefit the citizens of Guam. These resources include staff time, equipment, facilities, information systems, and the money allocated to the Judiciary. Judicial Employees must ensure proper accountability of the Judiciary’s resources. Use of these resources must be transparent to the public and beyond reproach. Resources must not be expended simply for the direct benefit of individual employees. Physical resources must be safeguarded to avoid unnecessary damage or wear. Equipment must be properly maintained and replaced when appropriate. All Judicial Employees should constantly look for improved efficiency in job processes. Deficiencies and safety hazards must be reported and addressed in a timely manner. Sound business practices must be employed in managing contracts to avoid waste of court resources.

HR Comment: Rule adopted from “Guideline for Tenet Eight” of the Code of Ethics for the Court Employees of California, which is more descriptive than the corresponding New Mexico Rule.

Commentary:

Judicial Employees shall not, for example, knowingly ~~make false~~ falsify, backdate, destroy, alter, mutilate, or deliberately fail to make required entries on any court record or document to include electronic documents. ~~Employees shall not entries on time cards or personnel records; backdate a judicial document without the consent of the Administrator of the Courts; falsely claim reimbursement for mileage or expenses; misuse the telephone, computer, internet, instant messaging, facsimile machine, or copying machine; or take supplies for private use.~~

HR Comment: Commentary adopted from Canon 2(e) of the New Mexico Code of Conduct.

Judicial Employees may not install personal software or equipment without prior approval, nor may they take copyrighted software outside the court for personal use.

HR Comment: Adopted from “Guideline for Tenet Twelve” of the Code of Ethics for the Court Employees of California.

SECTION III.
JUDICIAL EMPLOYEES SHALL PERFORM THEIR
DUTIES IMPARTIALLY AND DILIGENTLY

- A. Professionalism. Judicial Employees shall be respectful, dignified, patient, prompt, and courteous to everyone, including jurors, witnesses, co-workers, supervisors and others who come in contact with the Judiciary. Judicial Employees shall never criticize a Judicial Officer, manager, supervisor or co-worker in public nor denigrate a court user.

HR Comment: First sentence adopted from Canon 3(A) of the New Mexico Code of Conduct. Second sentence adopted from “Guideline for Tenet Three” of the California Code of Conduct.

- B. Impartiality. Judicial Employees shall perform their duties impartially, and shall not be influenced by kinship, domestic partnership, a household member, social or economic status, political interests, public opinion or fear of criticism or reprisal.

Commentary:

Judicial Employees who think they may be unduly influenced in a particular matter shall discuss the situation immediately with a supervisor, administrator, or human resources.

HR Comment: Rule and Commentary adopted from Canon 3(B) of the New Mexico Code of Conduct.

- C. Bias and Prejudice. Judicial Employees shall perform their duties without bias or prejudice and shall not manifest bias or prejudice by words or conduct.

Commentary:

~~Judicial Employees encounter a variety of people from many walks of life. They may be of a different race, sex, religion, national origin, ancestry, age, spousal affiliation, sexual orientation, gender identity or socioeconomic status. They may have a physical or mental handicap, disability, or medical condition, or they may have an actual or perceived health condition. Regardless, Judicial Employees shall perform their duties with no bias or prejudice toward those with whom they come in contact including fellow employees and members of the public.~~

Judicial Employees encounter a variety of people from many walks of life. They may be of a different race, color, national origin, age, religion, genetic information, sex, sexual orientation, ancestry, military or socioeconomic status. They may have a physical or mental disability, or medical condition, or they may have an actual or perceived health condition. Regardless, Judicial Employees shall perform their duties with no bias or prejudice toward those with whom they come in contact including fellow employees and members of the public.

HR Comment: Rule and Commentary adopted from Canon 3(C) of the New Mexico Code of Conduct.

- D. Further Requirements. Judicial Employees who are also part of a Judicial Officer’s Personal Staff may be subject to Certain Canons of the Model Code of Judicial Conduct.

Judicial Employees who are law students, attorneys, or members of other professional groups are also bound by the appropriate professional duties of these roles. Judicial Employees who are law students or attorneys are bound by the Guam Rules of Professional Conduct for their term of employment with the Judiciary.

Notwithstanding this Code of Conduct, other professionals employed by the Judiciary are bound by the standard model codes of conduct or ethics as established within their respective professions and/or governed by rules and regulations set forth by the Judicial Council. These employees include, but are not limited to psychologists, psychiatrists, counselors, social workers, probation officers, marshals, court reporters, etc.

HR Comment: Adopted from the “Scope” section of the Judiciary’s current Code of Conduct.

- E. ~~Harassment. Judicial Employees must always conduct themselves in a professional manner. Judicial Employees must not engage in inappropriate, offensive, or unwelcome conduct of a sexual nature, or inappropriate or offensive conduct based upon a person’s race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, sexual orientation, or other personal characteristic, whether or not it rises to the level of harassment. Judicial Employees are expected to treat all persons with dignity and respect and, by doing so, will foster a work environment free from harassment. Judicial Employees should follow the appropriate reporting procedures in reporting their concerns about inappropriate behavior so that their issues can be addressed.~~

Judicial Employees must always conduct themselves in a professional and respectful manner. Judicial Employees must not engage in inappropriate, offensive, or unwelcome conduct of a sexual nature, or inappropriate or offensive conduct based upon a person’s race, color, national origin, age, religion, genetic information, sex, sexual orientation, ancestry, military status, socioeconomic status, physical or mental disability, or other personal characteristics, whether or not it rises to the level of harassment. Judicial Employees are expected to treat all persons with dignity, fairness, and respect and, by doing so, will foster a work environment free from harassment. Judicial Employees should follow the appropriate procedures in reporting inappropriate behavior.

HR Comment: Adopted from “Guideline for Tenet Eleven” of the California Code of Conduct.

- F. Information and Records. Judicial Employees, when authorized, shall furnish timely, accurate, information and shall provide the public access to public judicial proceedings and records according to established procedures and subject to applicable law. Falsification of any court record or document is strictly prohibited.

HR Comment: Canon 3(D) of New Mexico Code of Conduct.

- G. Confidentiality. Judicial Employees shall not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.

1. No Judicial Employee shall disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment, or acquired through unauthorized disclosure by another. A Judicial Employee should abstain from public comment about pending or impending proceedings in the Court, other employees, their superiors, or Judicial Officers.
2. Confidential information includes, but is not limited to, information on pending cases that is not already a matter of public record and information concerning the work product of any judge, law clerk, staff attorney or other employee including, but not limited to, notes, papers, discussions and memoranda, as prescribed under the Freedom of Information – Sunshine Act, Title 5 GCA, Chapter 10. Confidential information also includes information involving juvenile matters.
3. Confidential information that is available to specific individuals by reason of statute, court rule, or administrative policy shall be provided only by persons authorized to do so.
4. Every Judicial Employee shall report confidential information to the appropriate authority when the employee reasonably believes this information is or may be evidence of a violation of law or of unethical conduct. No Judicial Employee shall be disciplined for disclosing such confidential information to the appropriate authority.
5. Court managers should educate Judicial Employees about what information is confidential and, where appropriate, should designate materials as confidential.
- ~~6. Judicial Employees are not precluded from responding to inquiries concerning court procedures, but a Judicial Employee shall not give legal advice. Standard court procedures, such as the method for filing an appeal or starting a small claims action, should be summarized in writing and made available to litigants.~~
6. A former Judicial Employee should not disclose confidential information when disclosure by a current Judicial Employee would be a breach of confidentiality.

HR Comment: Section 2 of the Judiciary’s current Code of Conduct.

- H. Media Requests. All media requests should be forwarded to the Judiciary’s Director of Policy Planning & Community Relations, ~~or~~ Public Information Officer, or Administrator of the Courts.

HR Comment: Section 2(f) of the Judiciary’s current Code of Conduct requires that “all media requests for information should be referred to the Court Director of Communications.”

- I. Electronic Information. Information retained in electronic files must be safeguarded like any other official court document. Its confidentiality should be assumed unless otherwise specified. To preserve the integrity of electronic systems, Judicial Employees must monitor court electronic information and take appropriate steps to ensure that the

information is accurate. Falsification of any electronic court record is strictly prohibited. Great care should be taken in the transmission of electronic data and communications so as not to embarrass the court or the sender if read by an unintended recipient.

HR Comment: California's Code of Conduct - Guideline for Tenet Twelve.

- J. Legal Advice. Judicial Employees shall respond to inquiries regarding standard court procedures but shall not give legal advice unless it is required as part of one's official position.

Commentary:

Judicial Employees may assist the public, consistent with the Judiciary's resources, with matters within the scope of their responsibilities and knowledge. In performing their official duties, Judicial Employees shall not recommend the names of private attorneys to the public unless the Judicial Employee works in a court-approved lawyer-referral program but may refer members of the public to bar associations or legal aid organizations.

HR Comment: Rule and Commentary from Canon 3(E) of the New Mexico Code of Conduct.

- K. Education, Licensing, and Certification. Judicial Employees shall comply with judicial education requirements and maintain any licensing or certification required for their positions.

HR Comment: Canon 3(F) of the New Mexico Code of Conduct.

- L. Communication with Judicial Officers. Unless as required as part of a Judicial Employee's official duties, he or she shall not communicate personal knowledge about the facts of a pending case to the assigned Judicial Officer of the case and shall not make or repeat remarks about a pending case before the Judiciary that might affect the outcome of the proceeding.

HR Comment: Canon 3(G) of the New Mexico Code of Conduct.

- M. Permitted Communications. Based upon general direction by a Judicial Officer, a Judicial Employee may communicate information from a party to the Judicial Officer for scheduling, administrative, or emergency purposes, which does not address substantive matters.

HR Comment: Rule 2.9(B) of Arizona's Code of Conduct (AZ ST Code of Jud. Admin., Section 1-303).

- N. Duty to Report. ~~Judicial Employees shall immediately report any violation or perceived violation of the law by a Judicial Employee or Judicial Officer. Judicial Employees shall also immediately report any violation of this Code by another Judicial Employee. Reports shall be made to the applicable division manager, or as provided by rule, order, or policy as applicable within the Judiciary. Minor infractions need not be reported. Judicial~~

~~Employees shall not be subject to retaliation for reporting violations if such report is made in good faith. Judicial Employees shall report to their supervisor any personal violation of the law or charge immediately. Failure to report may be a violation of this Code.~~

~~Commentary:~~

~~This obligation does not prohibit reporting illegal conduct to a law enforcement agency or other appropriate authority. In addition, Judicial Employees shall cooperate with the Ethics Prosecutor and may communicate with the Ethics Prosecutor at any time, without fear of reprisal to discuss potential or actual judicial misconduct. Minor matters such as a parking ticket, jay walking, littering, or speeding (less than 10 miles per hour over the posted speed limit) need not be reported. Other infractions that might reflect adversely on the Judiciary such as charges or convictions of assault, battery, domestic violence, fraud, and driving while intoxicated must be reported to the appropriate person.~~

~~**HR Comment:** Rule and Commentary adopted from Canon 3(H) of the New Mexico Code of Conduct.~~

~~O. Duty to Report Arrest or Conviction (Except Traffic Court Violation):~~

- ~~1. Upon Arrest. An employee who is arrested in any jurisdiction must report the arrest to his or her immediate supervisor or Division Manager within seventy-two (72) hours of the arrest. Immediately upon return to work the employee must also complete the *Notification of Arrest* form. Although the fact of arrest is not a basis for termination, failure to report is just cause for discipline up to and including immediate termination.~~
- ~~2. Upon Conviction. An employee, within seventy two (72) hours of conviction in any jurisdiction must provide his or her Human Resources Administrator a completed *Notification of Conviction* form, with a copy of the criminal complaint and statement of probable cause, any plea and disposition agreement entered in the case, the judgment and sentence, the order of probation, completion of probation, and any probation violations and a signed *Partial Waiver* form, to permit the Judiciary of Guam to access the treatment recommendation of the Probation Division.~~
- ~~3. Failure to provide the notice is grounds for separate disciplinary action. The ninety (90) day limitation commences when the employee gives notice of the charges or conviction of a crime to the Administrator of the Courts.~~

~~HR Comment: From 4 GCA § 4202.1.~~

SECTION IV.
**JUDICIAL EMPLOYEES SHALL CONDUCT THEIR OUTSIDE ACTIVITIES AS TO
MINIMIZE CONFLICTS WITH THEIR EMPLOYMENT RESPONSIBILITIES**

- A. General. Judicial Employees shall avoid all outside activities that reflect negatively upon the Judiciary or that might detrimentally affect their ability to perform their duties for the Judiciary.

HR Comment: Canon 4(A) of the New Mexico Code of Conduct.

- B. Outside Activities. A Judicial Employee's activities outside of official duties ~~should~~ may not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation ~~and dignity~~ of the court or office the Judicial Employee serves. ~~Subject to the foregoing standards and the other provisions of this code, a~~ A Judicial Employee may engage in ~~such~~ activities such as, but not limited to, civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities. Such activities may include speaking, writing, lecturing and teaching. ~~and may speak, write, lecture, and teach.~~ If such outside activities concern the law, the legal system, or the administration of justice, the Judicial Employee should first consult with the Administrator of the Courts to determine whether the proposed activities are consistent with the foregoing standards and the other provisions of this code. A Judicial Employee ~~should~~ may not accept a governmental appointment that has the potential for dual service to and/or supervision by independent branches of government (including other courts) or different governments during judicial employment, except as allowed by law or approved by the Administrator of the Courts. In addition, outside activities may include but are not limited to outside employment (including self-employment), business activities and non-compensated ~~activity~~ activities. Before Judicial Employees engage in outside employment, notice must be given and approval granted as per rules and policies of the Judicial Branch.

Except as provided by law or authorized by the Judicial Branch, Judicial Employees shall not engage in any outside activity that:

1. Is with an entity that regularly appears in court or conducts business with the court system, and requires the Judicial Employee to have frequent contact with attorneys who regularly appear in the court system, unless approved by the Administrator of the Courts;

HR Comment: Source: Current Judiciary Code – Section 3(d)(1) and Canon 4(A) of the U.S. Courts Code of Conduct.

2. Requires or induces the Judicial Employee to disclose confidential information acquired in the course of and by reason of official duties;

HR Comment: Source: Current Judiciary Code of Conduct – Section 3(d)(4)

3. Is within the judicial, executive or legislative branch of the government unless

allowed by public law or authorized by the Judiciary;

HR Comment: Source: Current Judiciary Code of Conduct– Section 3(d)(5)

4. Performs any non-court ordered transcribing either during or after working hours;

HR Comment: Source: Current Judiciary Code of Conduct – Section 3(d)(8)

- ~~5. Involves an organization or a private employer that regularly conducts business with the Judicial Branch;~~

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(1)

5. Is conducted during the Judicial Employee’s normal working hours, **regardless of leave status;**

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(2)

6. Places the Judicial Employee in a position of conflict with the Judicial Branch, with his or her official role at the Judicial Entity or otherwise creates a conflict of interest;

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(3)

7. Requires the Judicial Employee to appear regularly in judicial or administrative agency proceedings;

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(4)

8. Identifies the Judicial Employee with the Judicial Branch or gives an impression that the employment or activity is on behalf of the Judicial Branch;

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(5)

9. Is detrimental to the interests of the Judicial Branch;

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(6)

10. Is directly related to the practice of law, unless it is approved pro bono work or pro se; or

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(7)

11. Requires use of judicial equipment, materials, supplies, telephone or Internet services, office space, computer time, or facilities.

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B)(8)

Commentary:

These provisions should be read to not inhibit the exercise of constitutional rights such as freedom of speech, association or religion.

~~To avoid any employment in conflict with a Judicial Employee's official role within the Judicial Branch, a Judicial Employee shall not, for example, work for a police department, public defender, or prosecutor. Judicial Employees may become foster parents, and may teach, lecture, speak, or write on any subject, so long as any payment does not create the appearance of impropriety, any presentation or document clarifies that the Judicial Employee is not representing the Judicial Branch, and any confidential documents and information are not disclosed.~~

HR Comment: Source: New Mexico Code of Conduct, Canon 4(B) Commentary

~~C. Conflict of Interest. Judicial Employees shall manage personal and business matters to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of their employment for the Judicial Branch.~~

- ~~1. Judicial Employees shall inform the appropriate supervisor of any potential conflict of interest involving their duties.~~
- ~~2. Judicial Employees shall refrain from conducting official duties in relation to a court proceeding or judicial business in which they have a personal, business, or family interest or in which a Family Member, Domestic Partner or Household Member is involved or that may actually or appear to influence the outcome of the judicial proceeding or business.~~

HR Comment: Source: Canon 4(C) of the New Mexico Code of Conduct; 4 GCA § 4205(e)(1)

~~Commentary:~~

~~Every Judicial Employee has a legal and moral obligation to identify, disclose and avoid conflicts of interest. A potential conflict of interest exists when an official action or decision in which a Judicial Employee participates may specially benefit or harm a personal, business or employment interest of the Judicial Employee, the Judicial Employee's Family Member, Household Member or Domestic Partner, or the Judicial Employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a Judicial Employee's business associate, Family Member, Household Member, Domestic Partner or close friend is an interested party. Even if no impropriety actually occurs, a conflict of interest creates an appearance of impropriety that can seriously undermine the public's confidence and trust in the judicial system. If withdrawal from a matter would cause unnecessary hardship, the Judge, or Administrative Authority may authorize the Judicial Employee to participate in the matter if:~~

- ~~• Permitted by this Code;~~

- ~~• No reasonable alternative exists, and~~
- ~~• Safeguards, including full disclosure to the parties involved, ensure official duties are properly performed.~~

~~HR Comment: Source: Canon 4(C) of the New Mexico Code of Conduct.~~

~~Judicial Employees shall not process any paperwork filed by themselves, a family member, domestic partner, household member or close friend. For example, if the son of a Judicial Employee who is a clerk in Superior Court or Supreme Court files a case in that court, the related Judicial Employee should not process the paperwork.~~

~~HR Comment: Source: Canon 4(C) of the New Mexico Code of Conduct.~~

C. Solicitation of Funds. A Judicial Employee may solicit funds in connection with outside activities, subject, but not limited, to the following:

1. A Judicial Employee should not use or permit the use of the prestige of the office in the solicitation of funds.
2. A Judicial Employee should not solicit subordinates to contribute funds to any such activity but may inform them about a general fund-raising campaign. A member of a Judicial Officer's personal staff should not solicit any Judiciary personnel to contribute funds to any such activity if the staff member's close relationship to the Judicial Officer could reasonably be construed to give undue weight to the solicitation.
3. A Judicial Employee should not solicit or accept funds from lawyers or other persons likely to come before the Judicial Employee or the court or office the Judicial Employee serves, except as an incident to a general fund-raising activity.

HR Comment: Canon 4(B) of the US Courts Code of Conduct.

D. Conflict of Interest. Judicial Employees shall manage personal and business matters to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of their employment for the Judiciary.

1. Judicial Employees shall inform the appropriate supervisor of any potential conflict of interest involving their duties.
2. Judicial Employees shall withdraw from participation in a court proceeding or judicial business in which they have a personal, financial, business, or family interest or in which a Family Member, Domestic Partner or Household Member is involved or that may actually or appear to influence the outcome of the judicial proceeding or business.

HR Comment: Canon 4(C) of the New Mexico Code of Conduct.

3. Every Judicial Employee who has a direct or indirect interest in any firm, partnership, business or corporation which contracts with the Judiciary, at the time of submission of bids or commencement of negotiations as the case may be, shall file a statement under oath with the Administrator of the Courts describing such interest. Any such statement shall also be given to the division manager of such employee and shall also be a public record for all purposes.

HR Comment: From 4 GCA 4205(e)(2)

Commentary:

Every Judicial Employee has a legal and moral obligation to identify, disclose, and avoid conflicts of interest. A potential conflict of interest exists when an official action or decision in which a Judicial Employee participates may specially benefit or harm a personal, financial, business, or employment interest of the Judicial Employee, the Judicial Employee's Family Member, Household Member or Domestic Partner, or the Judicial Employee's close friends. In a judicial proceeding, a potential conflict of interest arises if a Judicial Employee's business associate, Family Member, Household Member, Domestic Partner, or close friend is an interested party. Even if no impropriety **actually** occurs, a conflict of interest creates an appearance of impropriety that can **seriously** undermine the public's confidence and trust in the judicial system. If withdrawal from a matter would cause unnecessary hardship, the Judicial Officer or Administrator of the Courts may authorize the Judicial Employee to participate in the matter if:

- Permitted by this Code,
- No reasonable alternative exists, and
- Safeguards, including full disclosure to the parties involved, ensure official duties are properly performed.

Judicial Employees shall not process any paperwork filed by themselves, a Family Member, Domestic Partner, Household Member or close friend. For example, if the son of a Judicial Employee who is a clerk in Superior Court or Supreme Court files a case in that court, the related Judicial Employee should not process the paperwork.

HR Comment: Commentary adopted from Canon 4(C) of the New Mexico Code of Conduct.

- E. Restrictions on Post Employment. Under 4 GCA § 15210, no former Judicial Employee shall disclose any information which by law is not available to the public and which the employee acquired in the course of official duties or use the information for personal gain or the benefit of anyone.

HR Comment: From 4 GCA § 15210

No former Judicial Employee shall, within twelve (12) months after termination from employment, assist any person or business, or act in a representative capacity for a fee or other consideration, on matters involving official action by the Judiciary.

HR Comment: From 4 GCA § 15210

**SECTION V.
JUDICIAL EMPLOYEES SHALL REFRAIN FROM
INAPPROPRIATE POLITICAL ACTIVITIES**

HR Comment: Section V is adopted entirely from current Judiciary Personnel Rule 13

- A. Employee's Rights. Every employee has the right to freely express his/her views as a citizen and to cast his/her vote. Political activities of employees shall be in accordance with prevailing provisions in the Guam Code Annotated and this section.
- B. Definitions. As used in this Section, the following terms have the meanings specified below:
1. Employee: A person employed in the Judicial Branch with the following exceptions:
 - i. Judges and chamber staff, including chamber clerks, law clerks and bailiffs, including magistrates, full time hearing officers and full time *pro tem* judges;
 - ii. Justices and staff of the Supreme Court;
 - iii. The Administrator of the Courts, the Clerk of Court for the Superior Court, the Clerk of Court for the Supreme Court, the Director of Policy Planning and Community Relations, the Marshal of the Court, the Chief Probation Officer, the Compiler of Laws, the Staff Attorney for Superior Court, the Staff Attorney for Supreme Court, the Public Guardian, and the following Division Managers: Procurement and Facilities Management Administrator, Human Resources Administrator, Client Services and Family Counseling Administrator, Court Programs Administrator, Finance Administrator, and Management Information Systems Administrator;
 - iv. A person retained from time to time to perform professional or special services for a specific fee;
 - v. A person working on a casual basis on the days he/she performs no services; and

- vi. Employee includes a person on administrative, annual, or sick leave, unless such person has resigned or has received a lump sum payment for such leave.

2. Election: Means any local, primary, general or special election.

3. Activity: Means the independent action of an employee, the action of an employee in open or secret cooperation with others, and the indirect action of an employee through an agent. Activity does not mean the independent action of the husband or wife of an employee, upon his or her own initiative and his or her own behalf;

4. Political Party: Means a national political party, a state or territorial political party and an affiliated organization;

5. Partisan and Non-Partisan: When used as an adjective refers to political parties; and

6. Candidate: As used herein, candidate means:

- i. An individual as defined in 3 GCA § 1115; and
- ii. A candidate for an office in a political party.

C. Permitted Activity.

1. An employee may engage in political activity to the fullest extent consistent with restrictions set forth in this section, so long as such activity does not materially compromise the efficiency or integrity of the employee or the neutrality, efficiency or integrity of the employee's division. Each employee specifically retains the right to register and vote in an election and, while not on duty and a while not in a uniform identifying the person as an employee to:

- i. Express his/her opinion as an individual citizen privately and publicly on political issues and candidates;
- ii. Take an active part in an organized solicitation of votes in support of or in opposition to a candidate, including distributing and displaying campaign literature, advertisement, stickers, pictures or buttons, and endorsing or opposing a candidate in a political advertisement, a broadcast, campaign literature, a letter or article in the newspaper (signed or unsigned), or similar material;
- iii. Participate in the non-partisan political activities of a civic, community, social, labor, professional or similar organization;

- iv. Be a member, officer or delegate, of a political party or other political organization and participate in its activities to the fullest extent consistent with this section, and organize or reorganize a political party, partisan political organization, or committee thereof, or serve as delegate, alternate or proxy to a political party convention;
 - v. Attend and address a political convention, rally, fundraising function or other gathering of a political party in support of or in opposition to a candidate or on a partisan political question;
 - vi. Initiate, circulate or sign a nominating petition for a candidate;
 - vii. Make, as an individual citizen, a contribution to or expenditure on behalf of a political party or organization or candidate;
 - viii. Be free from any obligation to contribute to any political fund or to render any political service;
 - ix. Participate in political activity in connection with a question not specifically identified with a political party; for example, soliciting signatures for a petition relative to changing working conditions or campaigning for an issue in a referendum;
 - x. Serve as a member of a precinct board or other election official who performs duties under this Title 3 GCA, including acting as a recorder, watcher, challenger or similar officer at the polls on behalf of a political party, partisan political organization or candidate;
 - xi. Drive voters to the polls on behalf of a political party, partisan political organization, or candidate;
2. The division manager may prohibit or limit participation of an employee in an activity otherwise permitted under this section if such participation would interfere with the efficient performance of official duties or create a conflict or apparent conflict of interest.

D. Prohibited Activity.

1. An employee shall not use his or her official authority or influence for the purpose of interfering with or affecting the result of an election.
2. Specific activities in which employees are prohibited from participating include but are not limited to:
 - i. Soliciting, collecting, handling, disbursing, or accounting for assessments, contributions or other funds for a political party, partisan political

organization or candidate;

- ii. Organizing, selling tickets to, seeking support for, or actively participating in a fund-raising activity or a political party, partisan political organization or candidate;
- iii. Taking an active part in managing the political campaign of a candidate;
- iv. Being a candidate;
- v. Discharging, promoting, demoting, or changing the compensation of any other employee, or promising or threatening to do so, because said other employee advocates or fails to advocate through contribution, voting or otherwise for a candidate; and
- vi. Using government travel allowances, ~~government~~ transportation, ~~government~~ equipment, supplies, or ~~government~~ facilities or resources for the benefit of any political party, partisan political organization or candidate.
- vii. Displaying political materials such as signs, brochures, badges and/or buttons in the workplace.
- viii. Soliciting signatures for a candidate in the workplace.

3. Special Restrictions

- i. The following positions are prohibited from taking part in any activity delineated in this section, or from taking an active part in political management or political campaigns:
 - a. Judges and chamber staff, including chamber clerks, law clerks and bailiffs, including magistrates, full time hearing officers and full time *pro tem* judges;
 - b. Justices and staff of the Supreme Court;
 - c. The Administrator of the Courts, the Clerk of Court for the Superior Court, the Clerk of Court for the Supreme Court; the Director of Policy Planning and Community Relations , the Marshal of the Court, the Chief Probation Officer, the Compiler of Laws, the Staff Attorney for Superior Court, the Public Guardian, and the following Division Managers: Procurement and Facilities Management

Administrator, Human Resources Administrator, Client Services and Family Counseling Administrator, Court Programs Administrator, Finance Administrator and Management Information Systems Administrator.

- ii. For the purposes of this Section, the term “active part in political management or in a political campaign” means a campaign for or against candidates, or political activity in concert with a political party, or a candidate for partisan political office, or a partisan political group, or campaigns involving initiatives, referenda, plebiscites, or removal. “Political organization” means a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office.
- E. Activities Not Affected. Nothing in this Code shall preclude the use under a rental agreement of government of Guam facilities by a political party, partisan political organization or candidate.
- F. Review by Administrator of the Courts.
1. When any person has reason to believe that an employee has violated the provisions of the section, he/she may report the matter to the Administrator of the Courts. On receipt of a written report, or on receipt of such other information which seems to the Administrator to warrant a review, the Administrator of the Courts shall review the matter in accordance with the provisions of these sections to determine whether disciplinary action is appropriate.
 2. If the Administrator of the Courts has determined that disciplinary action is appropriate, the procedures outlined in the Adverse Action and Judicial Council Hearing Officer Procedures shall govern.
- G. Other Restrictions. No person, whether or not an employee, shall solicit or receive a contribution or distribute literature for any political purpose in any room or building occupied in the discharge of official duties by a person employed by the Executive, Legislative, or Judicial Branch of the Government of Guam. For purposes of this section, soliciting a contribution includes a solicitation by letter or circular addressed to and delivered to an employee in said room or building.

SECTION VI.

DUTY TO REPORT AND VIOLATIONS

- A. Duty to Report. Judicial Employees shall immediately report any violation or perceived violation of the law by a Judicial Employee or Judicial Officer. Judicial Employees shall also immediately report any violation of this Code by any Judicial Employee. Reports shall be made to the applicable division manager, to the Administrator of the Courts in

the case of a division manager or Judicial Officer, or to the Chief Justice in the case of the Administrator of the Courts or as otherwise provided by rule, order, or policy as applicable within the Judiciary. Division managers shall forward any reports to the Administrator of the Courts. Minor infractions need not be reported. Judicial Employees shall not be subject to retaliation for reporting violations if such report is made in good faith. Judicial Employees shall report to their supervisor any personal violation of the law or charge immediately. Failure to report may be a violation of this Code.

- B. Violations. When any person has reason to believe that a Judicial Employee has violated the provisions of this Code, he or she may report the matter to the Administrator of the Courts. Upon receipt of information which seems to warrant a review, the Administrator of the Courts shall review the matter to determine whether disciplinary action is appropriate. If the Administrator of the Courts has determined that disciplinary action is appropriate, the Judiciary of Guam Personnel Rules and Regulations shall govern.

HR Comment: Adopted from the Judiciary's current Personnel Rule 13.05(A), which applies to violations of the Political Activities rule.

SECTION VII. COURT MANAGERS

Court Managers include the Administrator of the Courts, Deputy Administrative Director, Director of Policy Planning & Community Relations, Supreme Court Staff Attorney, Superior Court Staff Attorney, Supreme Court Clerk of Court, Superior Court Clerk of Court, Finance Administrator, Human Resources Administrator, Procurement & Facilities Management Administrator, Court Programs Administrator, Management Information Systems Administrator, Marshal of the Court, Chief Probation Officer, Client Services & Family Counseling Administrator, Compiler of Laws, ~~and~~ Public Guardian, and any other position designated by the Administrator of the Courts.

- A. Court Managers shall require Judicial Employees subject to their direction and control to observe the ethical standards set out in this Code.
- B. As leaders, Court Managers must set the example for employees to follow in terms of their ethical behavior and the Judiciary's expectations regarding standards of conduct, integrity, honesty and truthfulness.
- C. Court Managers shall diligently discharge their administrative responsibilities, maintain professional competency in judicial administration and facilitate the performance of other Judicial Employees.
- D. Court Managers shall take action regarding any unethical conduct of any Judicial Employee by filing a complaint with the Administrator of the Courts for administrative review and appropriate disciplinary measures.

HR Comment: Source: The Judiciary's current Code of Conduct. Other jurisdictions generally do not have a section like this.

**May 2021 Judicial Council of Guam Report on Departures from
Mandatory Minimum Sentences as Required by 9 GCA § 80.39.3**

Judge	Reporting Period	Number of Cases Departing from the Mandatory Minimum Sentence
Hon. Alberto C. Lamorena, III (Presiding)	May 7, 2015 to May 7, 2016	0
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	0
	May 8, 2020 to May 7, 2021	0
Hon. Arthur R. Barcinas (as of April 22, 2021)	May 7, 2015 to May 7, 2016	0
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	0
	May 8, 2020 to May 7, 2021	0
Hon. Vernon P. Perez	May 7, 2015 to May 7, 2016	0
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	0
	May 8, 2020 to May 7, 2021	0
Hon. Maria T. Cenzone (as of April 22, 2021)	May 7, 2015 to May 7, 2016	1
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	1
	May 8, 2020 to May 7, 2021	0
Hon. Elyze M. Iriarte (as of April 27, 2021)	May 7, 2015 to May 7, 2016	0
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	1
	May 8, 2019 to May 7, 2020	0
	May 8, 2020 to May 7, 2021	0
Hon. Dana A. Gutierrez (as of May 7, 2020) (sworn in July 24, 2020)	May 8, 2020 to Present	0
Hon. Anita A. Sukola (retired)	May 7, 2015 to May 7, 2016	0
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	0
	May 8, 2020 to May 7, 2021	0
Hon. Michael J. Bordallo (retired)	May 7, 2015 to May 7, 2016	1
	May 8, 2016 to May 7, 2017	0
	May 8, 2017 to May 7, 2018	0
	May 8, 2018 to May 7, 2019	0
	May 8, 2019 to May 7, 2020	1
	May 8, 2020 to May 7, 2021	0



Certificate of Commendation

*On behalf of the Judiciary of Guam,
this Certificate of Commendation is presented to:*

Thelma R. Perez

for 22 years of service to the Judiciary of Guam.

In gratitude for your dedication and commitment to justice, we, the undersigned Justices and Judges of Guam, do hereby express our sincere appreciation and congratulations on your retirement from service.

F. PHILIP CARBULLIDO
Chief Justice of Guam
Chairman, Judicial Council of Guam

ROBERT J. TORRES
Associate Justice, Supreme Court of Guam
Member, Judicial Council of Guam

KATHERINE A. MARAMAN
Associate Justice, Supreme Court of Guam
Member, Judicial Council of Guam

ALBERTO C. LAMORENA, III
Presiding Judge, Superior Court of Guam
Member, Judicial Council of Guam



ARTHUR R. BARCINAS
Judge, Superior Court of Guam
Member, Judicial Council of Guam

Attested:

KRISTINA L. BAIRD
Administrator of the Courts

BARBARA JEAN T. PEREZ
Human Resources Administrator



Certificate of Commendation

*On behalf of the Judiciary of Guam,
this Certificate of Commendation is presented to:*

Manuel G. Tungol

for 32 years of service to the Judiciary of Guam.

*In gratitude for your dedication and commitment to justice, we, the undersigned
Justices and Judges of Guam, do hereby express our sincere appreciation and
congratulations on your retirement from service.*

F. PHILIP CARBULLIDO
Chief Justice of Guam
Chairman, Judicial Council of Guam

ROBERT J. TORRES
Associate Justice, Supreme Court of Guam
Member, Judicial Council of Guam

KATHERINE A. MARAMAN
Associate Justice, Supreme Court of Guam
Member, Judicial Council of Guam

ALBERTO C. LAMORENA, III
Presiding Judge, Superior Court of Guam
Member, Judicial Council of Guam



ARTHUR R. BARCINAS
Judge, Superior Court of Guam
Member, Judicial Council of Guam

Attested:

KRISTINA L. BAIRD
Administrator of the Courts

BARBARA JEAN T. PEREZ
Human Resources Administrator



BEFORE THE 2021 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC 21-012

**RELATIVE TO RATIFYING THE JUDICIAL COUNCIL'S AWARD OF THE
2021 LAW WEEK HUSTISIA AWARD TO
RETIRED JUDGE JOAQUIN V.E. MANIBUSAN, JR.**


WHEREAS, as a regular part of its annual Law Week, the Judiciary of Guam presents the Hustisia Award, an award recognizing a member of our community who has made an outstanding contribution to strengthening the rule and role of law throughout our island community; and

WHEREAS, on April 30, 2021, the decision was made to present the Honorable Joaquin V.E. Manibusan, Jr. as the 2021 recipient of the award; and

WHEREAS, the resolution recognizing the award was prepared, and signed by all Members of the Judicial Council and of the bench of the Superior Court of Guam, and presented to Judge Manibusan on April 30, 2021; and

NOW, THEREFORE, BE IT RESOLVED, that the resolution recognizing the presentation of the 2021 Hustisia Award to the Honorable Joaquin V.E. Manibusan, Jr. be, and is hereby, **RATIFIED**.

DULY ADOPTED this 20th day of May 2021 at a duly noticed meeting of the Judicial Council of Guam.



F. PHILIP CARBULLIDO, Chairman
Dated: 05/20/2021

ATTEST:



Petrina M. Ula, Executive Secretary

Dated: 5/20/21



BEFORE THE 2021 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC 21-011

**RELATIVE TO GRANTING THE 2021 HUSTISIA AWARD TO
RETIRED JUDGE JOAQUIN V.E. MANIBUSAN, JR.**

WHEREAS, as a regular part of Law Week, the Judiciary of Guam presents the Hustisia Award, an award recognizing a community member or organization that has made an outstanding contribution to strengthening the rule and role of law throughout our island. Modeled on the American Bar Association's Liberty Bell Award, the Guam Judiciary Hustisia Award is meant to honor individuals and community partners who contribute to the betterment of our island and the rule of law; and

WHEREAS, in considering the criteria used in determining worthy recipients, specifically, promotion of a better understanding of the rule of law, encouraging a greater respect for law, generating a sense of civic responsibility, and contributing to good government in the island, it is our distinct honor to give this award to retired Judge Joaquin V.E. Manibusan, Jr.

Judge Manibusan's legal career began as an Assistant Attorney General for the Civil Division before moving into private practice, where he served as legal counsel to various government boards and agencies. In 1995, he was sworn in as a Judge of the Superior Court of Guam, filling the vacancy created by his father's retirement. Judge Manibusan also served as a Designated Judge for the District Court of Guam and as a Pro Tem Judge for the CNMI Superior Court. After nearly two decades as a Superior Court judge, Judge Manibusan was appointed as the first Magistrate Judge for the District Court of Guam, where he served from 2004 until his retirement in 2020.

Both on and off the bench, Judge Manibusan modeled a demeanor and temperament that exemplified respect for the law and the importance of civility. He was a great proponent of practicing civic responsibility and of lending our time and service for the betterment of the community we live in. Through his work as an adjunct professor at the University of Guam, he imparted his great intellect to countless young adults. Through his volunteer efforts with the Chalan Pago-Ordot Municipal Planning Council, the Chalan Pago Parish Council, the Knights of Columbus, and the Guam Chapter of the American Red Cross, he worked to improve his village, his faith community, and the lives of those in need. In his most unassuming manner, Judge Manibusan has left a lasting imprint on the work of justice in our island.

WHEREAS, in his 25 years of service to the Guam and Federal courts, Judge Manibusan has distinguished himself as a fair and compassionate jurist and is a true embodiment of the 2021 Law Week Theme: "Advancing the Rule of Law Now."

NOW, THEREFORE, BE IT RESOLVED, that the 2021 Hustisia Award be given to retired Superior Court of Guam Judge and retired District Court of Guam Magistrate Judge Joaquin V.E. Manibusan, Jr. for his dedicated service to the administration of justice in Guam.

DULY ADOPTED this 27th day of April, 2021.

A blue ink signature of F. Philip Carbullido, written in a cursive style.

F. PHILIP CARBULLIDO
Chief Justice of Guam &
Chairman, Judicial Council of Guam

A blue ink signature of Robert J. Torres, written in a cursive style.

ROBERT J. TORRES
Member
Justice, Supreme Court of Guam

A blue ink signature of Katherine A. Maraman, written in a cursive style.

KATHERINE A. MARAMAN
Member
Justice, Supreme Court of Guam

A blue ink signature of Alberto C. Lamorena III, written in a cursive style.

ALBERTO C. LAMORENA III
Member
Presiding Judge, Superior Court of Guam

A blue ink signature of Arthur R. Barcinas, written in a cursive style.

ARTHUR R. BARCINAS
Member
Judge, Superior Court of Guam

Financial Impact of Proposed Resolutions (Revised on 5/20/2021)

A. Financial impact of applying pay increments based on the proposed resolution

Summary of Calculation

Calculation for 10/1/2019 to 9/30/2020 (FY 2020)	\$ 14,427
Calculation for 10/1/2020 to 9/30/2021 (FY 2021)	\$ 20,249
Calculation for 10/1/2021 to 9/30/2022 (FY 2022)	\$ 25,209
Total Estimated Financial Impact	<u>\$ 59,885</u>

Calculation notes:
NOTE 1: Retirement percentage used for calculation for pay adjustment estimated for FY 2018 to FY 2021 is 26.97%. Retirement percentage used for calculation for pay adjustment estimated for FY 2022 is 28.5%. Information herein are estimated only and are for analysis and review purposes only.
NOTE 2: Based on previous estimations, total financial impact of rescinding JC Resolution 20-08 is estimated at \$88,307. The proposed resolution amending the percentage increase and increment dates starting on a certain APP grade and step will result in an estimated savings of \$28,422 from the rescission of JC Resolution 20-028 for fiscal years 2020 to FY 2022.
NOTE 3: Estimated payments of \$45,459 calculated with the proposed resolution are calculated for unclassified employees listed as follows:
FY 2019 \$14,427 - Public Guardian and Ethics Prosecutor
FY 2020 \$20,249 - Public Guardian, Family Court Referee and Clerk of Court (Superior)
FY2021 \$25,209 - Public Guardian, Family Court Referee, Clerk of Court (Superior), Clerk of Court (Supreme), Ethics Prosecutor, Compiler of Law

B. Financial impact of applying pay adjustments of Judicial Officers

Summary of Calculation

I. Calculation for 10/19/2017 to 9/30/2018 (FY 2018)	\$ 67,486
II. Calculation for 10/1/2018 to 9/30/2019 (FY 2019)	\$ 76,099
III. Calculation for 10/1/2019 to 9/30/2020 (FY 2020)	\$ 69,623
IV. Calculation for 10/1/2020 to 9/30/2021 (FY 2021)	\$ 74,509
V. Calculation for 10/1/2021 to 9/30/2022 (FY 2022)	\$ 147,744
Total Estimated Financial Impact	<u>\$ 435,462</u>

NOTE: Retirement percentage used for calculation for pay adjustment estimated for FY 2018 to FY 2021 is 26.97%. Retirement percentage used for calculation for pay adjustment estimated for FY 2022 is 28.5%. Information herein are estimated only and are for analysis and review purposes only.



BEFORE THE 2021 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC21-

**RELATIVE TO RESCINDING JUDICIAL COUNCIL RESOLUTION NO. JC20-028
AND AMENDING THE INCREMENT SCHEDULE FOR THE ATTORNEY PAY PLAN**

WHEREAS, pursuant to 7 GCA § 5102(d), the Judicial Council is authorized to set salaries of non-judicial, unclassified employees of the Judicial Branch consistent with the Guam Competitive Wage Act of 2014; and

WHEREAS, on September 17, 2020, the Judicial Council approved Resolution No. JC20-028 which froze any salary increases or increments for unclassified employees that would result in a salary being greater than the lowest salary earned by any Judicial Officer; and

WHEREAS, the Judicial Council now desires to rescind Resolution No. JC20-028 and amend the 2014 Classification & Compensation Implementation Policy and Procedures relative to the increments of Judiciary attorneys, and the Judiciary of Guam Attorney Pay Plan, to provide for a more equitable increment schedule at higher ranges while capping such increments below the lowest salary earned by any Superior Court Judge.

NOW THEREFORE BE IT RESOLVED, that Judicial Council Resolution No. JC 20-28 is rescinded.

BE IT FURTHER RESOLVED, that Section V.4 of the 2014 Classification & Compensation Policy is amended as follows:

ATTORNEYS

- a. Attorney Levels 1-4. Upon satisfactory review, Attorneys ~~in levels at Levels 1-4~~ Steps 1 through 6 shall be entitled to a salary increment after twelve (12) months, and Steps 7 through 9 after eighteen (18) months. Attorneys at Levels 1-4 Step 10 or above shall receive an increment after twenty-four (24) months with a 3.1% increase upon satisfactory review.
- b. Attorney Level 5. Upon satisfactory review, Attorneys at Level 5, Steps 1 through 6 shall be entitled to a salary increment after twelve (12) months, and Steps 7 and 8 after eighteen (18) months. Attorneys at Level 5 Step 9 or above shall receive an increment after twenty-four (24) months with a 3.1% increase upon satisfactory review.

RESOLUTION NO. JC21-
RELATIVE TO RESCINDING JUDICIAL COUNCIL RESOLUTION NO. JC20-028
AND AMENDING THE INCREMENT SCHEDULE FOR THE ATTORNEY PAY PLAN
Page 2

- c. However, an increase or increment shall be frozen if such increase or increment will result in a salary that exceeds the lowest salary earned by a Superior Court Judge. If the lowest salary earned by a Superior Court Judge is increased, the increase or increment to the attorney's salary shall be adjusted accordingly with no retroactive pay.

BE IT FURTHER RESOLVED, that the amendments herein shall be effective *nunc pro tunc* to October 1, 2020.

DULY ADOPTED this 20th day of May 2021 at a duly noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO, Chairman

Dated: _____

ATTEST:

Petrina M. Ula, Executive Secretary

Dated: _____



BEFORE THE 2020 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. 20-028

RELATIVE TO SALARIES OF UNCLASSIFIED EMPLOYEES

WHEREAS, pursuant to 7 GCA § 5102(d), the Judicial Council is authorized to set salaries of non-judicial, unclassified employees of the Judicial Branch consistent with the Guam Competitive Wage Act of 2014; and

WHEREAS, on October 19, 2017, the Judicial Council adopted Judicial Council Resolution JC17-024, *Relative to Adjusting Judicial Officer Salaries*, which set the annual salary for the position of Judge of the Superior Court (other than the Presiding Judge) at \$139,777; and

WHEREAS, 7 GCA § 4401(b)(8) provides that "[a] magistrate shall . . . receive a salary *no greater than* ninety percent (90%) of a Judge who is *not* the Presiding Judge." (emphasis in original); and

WHEREAS, under the aforementioned JC17-024 and 7 GCA § 4401(b)(8), Magistrate Judges of the Superior Court currently earn a salary of \$125,799; and

WHEREAS, on July 17, 2014, the Judicial Council in Resolution No. JC14-016 adopted the pay scales and salary increases included in the Competitive Wage Act of 2014 for classified and unclassified, non-law enforcement employees of the Judiciary; and

WHEREAS, the current staffing pattern allows unclassified non-Judicial Officers to continuously receive salary increments and ultimately earn salaries higher than those earned by Judicial Officers;

NOW, THEREFORE, BE IT RESOLVED that salary increases or increments for any unclassified employee shall be frozen if such an increase or increment would result in the unclassified employee's salary being an amount greater than the lowest salary earned by any Judicial Officer.

BE IT FURTHER RESOLVED, that if the lowest salary earned by any Judicial Officer is increased, the increase or increment to an unclassified employee's salary affected by the freeze herein shall be adjusted accordingly at such time with no retroactive pay.

DULY ADOPTED this 17th day of September, 2020 at a duly noticed meeting of the Judicial Council of Guam.

A handwritten signature in black ink, appearing to read "F. Philip Carbullido".

F. PHILIP CARBULLIDO, Chairman

Dated: SEPTEMBER 17, 2020

ATTEST:

A handwritten signature in black ink, appearing to read "Petrina M. Ula".

Petrina M. Ula, Executive Secretary

Dated: SEPTEMBER 17, 2020



BEFORE THE 2021 JUDICIAL COUNCIL OF GUAM

RESOLUTION NO. JC21-

RELATIVE TO FREEZING JUDICIAL OFFICER SALARY ADJUSTMENTS

WHEREAS, in Judicial Council Resolution No. JC17-024, the Judicial Council approved salary adjustments for Judicial Officers to be effective on October 2017; and

WHEREAS, because of budgetary restraints, the salary adjustments approved in JC17-024 were not made effective until on or about October 1, 2019; and

WHEREAS, JC17-024 further authorized salary adjustments of 3.1% every other fiscal year beginning with Fiscal Year 2020 with the next salary adjustment due in the upcoming Fiscal Year 2022 and every other fiscal year thereafter; and

WHEREAS, continued budgetary restraints in the present fiscal year and which may become worse in Fiscal Year 2022 require reconsideration of the upcoming salary adjustments for Judicial Officers; and

WHEREAS, the Judicial Council now desires to freeze further salary adjustments for Judicial Officers until current budgetary challenges that the entire Government of Guam faces are reasonably overcome.

NOW THEREFORE BE IT RESOLVED, that Judicial Officer salary adjustments approved in JC17-024 shall be frozen for Fiscal Year 2022 (beginning October 1, 2021).

BE IT FURTHER RESOLVED, that if judicial officer salary adjustments are implemented in Fiscal Year 2024 (beginning October 1, 2023) the payment of such salary adjustments shall not be retroactively applied and shall only be prospectively paid.

BE IT FURTHER RESOLVED, that every effort will be made to pay the judicial officer salary adjustment that was not paid but accrued from the date of the approval by the Judicial Council of JC17-024 on October 19, 2017 until September 30, 2019.

F. PHILIP CARBULLIDO, Chairman

Dated: _____

ATTEST:

Petrina M. Ula, Executive Secretary

Dated: _____



HON. F. PHILIP CARBULLIDO
CHIEF JUSTICE

JUDICIARY OF GUAM

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3544 • Fax: (671) 477-3184



HON. ALBERTO C. LAMORENA III
PRESIDING JUDGE
KRISTINA L. BAIRD
ADMINISTRATOR OF THE COURTS

May 20, 2021

TO: JUDICIAL COUNCIL MEMBERS
FROM: STAFF ATTORNEY
SUBJECT: Recommendation for Executive Session to Discuss Ongoing Litigation at the Judicial Council Regular Meeting of May 20, 2021

Pursuant to 5 GCA § 8111(c)(1), I recommend that the Judicial Council hold an executive session at its regular meeting scheduled for May 20, 2021 for the limited purpose of discussing the following ongoing litigation matters, which involve the Administrator of the Courts as a defendant:

- *TakeCare v. Birn and Baird*, District Court Case Civil Case No. CV19-00126, and
- *Story-Bernardo v. Government of Guam, et. al.*, Superior Court Civil Case No. CV0733-20.

Further pursuant to Section 8111(c)(1), an affirmative vote of the Judicial Council will be necessary to hold this executive session.

Submitted for your consideration.

Andrew S. Quenga, Staff Attorney

CC: Kristina L. Baird, Administrator of the Courts