

**JUDICIAL COUNCIL OF GUAM  
REGULAR MEETING  
THURSDAY, JUNE 16, 2022 | 12:00 PM  
GUAM JUDICIAL CENTER  
AND VIA VIDEOCONFERENCE**

**AGENDA**

- I. CALL TO ORDER**
- II. PROOF OF DUE NOTICE OF MEETING:**
  - June 9, 2022
  - June 14, 2022
- III. DETERMINATION OF QUORUM**
- IV. READING AND DISPOSAL OF MINUTES:**
  - April 21, 2022 Regular Meeting
  - May 19, 2022 Regular Meeting
- V. OLD BUSINESS**
  - A. Judiciary FY22 Remittances Pursuant to P.L. 36-54
  - B. Update on the Judiciary's Response to COVID-19
  - C. Update on Capital Improvement Projects
  - D. JC Resolution Relative to Acquisition of Properties
  - E. Presentation of the revised Proposed JOG Personnel Rules and Regulations
  - F. Common Areas Recording Policy
- VI. NEW BUSINESS**
  - A. Report on the Evaluation of Magistrate Judge Jonathan R. Quan for Consideration of Reappointment Pursuant to 7 GCA 4401(d)
  - B. Notice of Next Meeting (July 21, 2022)
- VII. COMMUNICATIONS**
- VIII. PUBLIC COMMENT**
  - A. Guam Bar Association – President's Report
- IX. ADJOURNMENT**

**Guam Public Library System (GPLS)  
Special Board Meeting  
Monday, June 13, 2022, 4:00 pm - Via Zoom.**

**AGENDA:**

Call to Order, Roll Call, Director's Trip to the American Library Association on June 21st - June 29th in Washington, D.C., Adjournment

Please call June Aflague for the Zoom Link information and those requiring special accommodations, auxiliary aid or services at 671-475-4755/54

*This ad is paid for by government funds*



**JUDICIAL COUNCIL OF GUAM**  
Suite 300 Guam Judicial Center  
120 West O'Brien Drive  
Hagatna, Guam 96910-5174  
Tel: (671) 475-3413 Fax: (671) 475-3140

**NOTICE OF PUBLIC MEETING**

The **Judicial Council of Guam** will conduct its monthly meeting on **Thursday, June 16, 2022, at 12 Noon in the Guam Judicial Center**, 120 West O'Brien Drive, Hagatna, 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 the Judiciary of Guam YouTube channel:  
<https://www.youtube.com/channel/UCfnFCWwIlp99fAeh9zi4Q4g/featured>

The following agenda is available on the Judiciary of Guam website:  
<http://www.guamsupremecourt.com/Judicial-Council/Judicial-Council-of-Guam.asp>

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**CHIEF JUSTICE F. PHILIP CARBULLIDO**  
Chairman

# THE SCORE

## Tiger Woods won't play US Open

Associated Press

Tiger Woods withdrew from the U.S. Open on Tuesday, saying that his damaged right leg needs more time to get stronger to contend in the majors.

Woods made a surprise return at the Masters, just 14 months after he broke bones in his right leg and ankle in a February 2021 car crash outside Los Angeles. He made the cut at Augusta National, then played the PGA Championship at Southern Hills.

Even though he made another cut, Woods was limping badly on Saturday and withdrew after the third round, the first time he had withdrawn on the weekend at a major.

Woods posted Tuesday on social media, "My body needs more time to get stronger for major championship golf."

He said he hopes to be ready



AP FILE PHOTO

**Tiger Woods watches his tee shot on the 11th hole during the first round of the PGA Championship May 19, 2022, in Tulsa, Oklahoma.**

to play in a charity pro-am event in Ireland ahead of the British Open at St. Andrews, where he won two of his three claret jugs.

This will be the sixth time in the last 12 years Woods does not play the U.S. Open, which he has won three times, most recently at Torrey Pines in

2008 when he had a double stress fracture in his left leg and shredded knee ligaments that required reconstructive surgery when the event was over.

He last played in 2020 at Winged Foot and missed the cut.

Before the previous two majors, Woods sent the internet buzzing, with private plane tracking sites indicating he was at Augusta National and Southern Hills a week or so early for a scouting trip, a clear sign he was thinking about playing.

Woods always had his sights on St. Andrews, even after he played in the Masters. He said after the Masters he wasn't sure whether he could play in the PGA Championship or the U.S. Open, but he would be at the British Open.

## Aaron Rodgers wants to retire as a Packer

GREEN BAY, Wis. — Aaron Rodgers says he's unsure how much longer he will keep playing football.

But he's definitive about at least one element of his playing future: The four-time MVP quarterback expects to retire with the Green Bay Packers.

That scenario seemed uncertain this time a year ago, when Rodgers skipped the Packers mandatory minicamp in a stand-off with team officials. That relationship has since improved enough that Rodgers signed a contract extension with the Packers after producing his second straight MVP season.

Although his new deal runs through 2026, Rodgers said Tuesday at the Packers minicamp that he doesn't know yet whether he will play beyond this upcoming season.

### CHamoru Land Trust Commission Board Meeting Thursday, June 16, 2022; 1:00 p.m.

Chamoru Land Trust Conference Room;  
590 S. Marine Corp Drive ITC Building, Suite 223,  
2nd Floor Tamuning, Guam

Public Comments may be made at [cltc.admin@cltc.guam.gov](mailto:cltc.admin@cltc.guam.gov). To view the meeting virtually please like us on Facebook and tune in on Facebook Live or GovGuam Live-YouTube or with **Zoom: <https://us06web.zoom.us/j/89938212060?pwd=dVJzbHp3dkdoaGNHeTJScGISWDRSdz09>**

- |  |   |
|--|---|
| 1. Call to Order   | 8. 1995 Application Status Update       |
| 2. Roll Call   | 9. Constituent Matters                  |
| 3. Approval of Minutes   | a. Lorette Guerrero                     |
| a. April 21, 2022, Regular Meeting Minutes                                 | b. Eddie Concepcion Muna                |
| 4. Financial Report  | 10. Unauthorize Usage of Lot 7164, Yigo |
| 5. Agency Report   | 11. Commissioners' Comments             |
| 6. MOU with CLTC and Guam Housing Corporation                              | 12. Public Comments                     |
| 7. CLTC Eligible Beneficiary process                                       | 13. Adjournment                         |
| a. Approval & Delegation of Responsibility for the Administrative Director |   |
| b. Affidavit & Checklist for approval of the eligible beneficiary process  |   |

**Next Meeting – Friday, July 22, 2022, at 1:00 PM**

In compliance with ADA requirements, individuals requiring special accommodations, auxiliary aids, or services, may contact 649-5263 ext. 815.

This ad is paid by CLTC funds.

Doc. No. 36GL-22-2188.\*

## Small protests in Japan against Olympic bid

TOKYO (AP) — A small group of protesters gathered Sunday in central Tokyo and in the northern city of Sapporo to oppose Japan's overtures to hold the 2030 Winter Olympics.

About 50 people gathered in each locale holding "No Olympics" banners and trying to make

their case to a passing public.

Sapporo is considered among the favorites to land the 2030 Games along with Salt Lake City and Vancouver. All three cities have held previous Winter Olympics.

Last week, Sapporo's city legislature rejected a proposal to hold a city-wide referendum on the issue. Cities that have held public votes have usually turned down the proposal.

Sapporo officials say polling shows 52% support the bid, making a referendum un-



AP PHOTO  
Protesters hold a banner which reads "The IOC is a bunch of thieves. Spend on welfare, not the Games," June 12, 2022, in the Shinjuku district of Tokyo.

cost at \$2.6 billion, though Olympic bids consistently

overrun estimates. billion was public money.

There was persistent opposition to the Tokyo Games, which faded when the Olympics opened just under a year ago with few fans allowed to attend during the pandemic.

The Sapporo bid is almost sure to go forward with the backing of Japan's ruling LDP party and commercial interests.

necessary.

"It is going to cost so much," said Yuki Kubo, a Sapporo resident, after marching through the city. "People are having a hard time making a living. This is no time to be wasting money on the Olympics."

Sapporo officials have estimated the

overrun estimates.

The official cost of the just-completed Tokyo Olympics was \$13.6 billion, twice the original estimate. In addition, several government audits showed the actual cost might be well over the official number. All but about \$6



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CHIEF JUSTICE F. PHILIP CARBULLIDO  
Chairman

## Japan players win tennis tourney

Pacific Daily News

The 2022 King's  
Guam World Tennis

Tour No. 2 ended over the weekend with Japan dominating the men's division. After a week's worth

of competition, it came down to Sho Shimabukuro of Japan and Seong Chang Hong of Korea in the men's singles event.

Shimabukuro defeated Hong 3-6, 6-4, 6-1.

Shimabukuro previously defeated Korea's Ji Sun Nam, Minkyu Song and Yunseok Jang, as well as Japan's Kaito Uesugi.

### Doubles

In the men's doubles, Toshihide Matsui and Uesugi of Japan took on Korea's Nam and Song. Uesugi and Matsui won the match, 6-3, 0-6 (10-7).

Matsui and Uesugi previously defeated Rio Noguchi of Japan and Colin Sinclair of the Northern Mariana Islands, Japan's Taku Niki and Takeru Yuzuki, and Japan's Mao Takada and Andre Ilagan of the U.S.

### CHamoru Land Trust Commission Board Meeting Thursday, June 16, 2022; 1:00 p.m.

Chamoru Land Trust Conference Room;  
590 S. Marine Corp Drive ITC Building, Suite 223,  
2nd Floor Tamuning, Guam

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**JUDICIAL COUNCIL OF GUAM  
REGULAR MEETING  
THURSDAY, APRIL 21, 2022  
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

Hon. Alberto E. Tolentino

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 12:03 p.m.

### ROLL CALL\*:

Chief Justice F. Philip Carbullido (calling in from the Judiciary)  
Justice Robert J. Torres (calling in from off-island)  
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 off-island)

**Advisory Committee Members:**  
Judge Maria T. Cenzon  
Judge Dana A. Gutierrez  
Judge Alberto C. Tolentino  
Attorney Frederick J. Horecky

**Also, Present:**  
Ms. Kristina L. Baird, Administrator of the Courts (AOC)  
Mr. Andrew Sergio Quenga, Deputy Administrator of the Courts  
Mr. Daniel F. Mensching, Staff Attorney  
Ms. Dawn R. S. Blas, Judicial Educator  
Ms. Danielle T. Rosete, Clerk of Court, Superior Court  
Ms. Valerie Tenorio, Deputy Clerk of Court, Sup  
Ms. Maria Erica R. Eschbach, Staff Attorney, Supreme Court  
Ms. Barbara Jean T. Perez, Human Resources Administrator  
Mr. Troy M. Pangelinan, Marshal of the Court  
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer  
Ms. Trisha T. Suzuki, Deputy Chief Probation Officer  
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl Dominguez, Procurement & Facilities Management Administrator  
Ms. Virginia W. Yasuhiro, Client Services and Family Counseling Division Administrator  
Ms. Geraldine A. Cepeda, Compiler of Laws/Law Library Executive Director  
Mr. Robert John S. Rabago, Management Information Systems Administrator  
Mr. Michael M. Kilayko, Special Projects Coordinator (PIO)  
Ms. Sophia Santos Diaz, Director of Policy, Planning, and Community Relations (DPPCR)  
Ms. Marcelene C. Santos, Public Guardian  
Ms. M. Grace Lapid Rosadino, Acting Court Programs Administrator  
Ms. Jessica Perez-Jackson, Administrative Service Officer  
Ms. Shelterihna T. Alokoa, Judicial Assistant, Judicial Council Assistant Secretary  
Ms. Petrina M. Ula, Judicial Assistant, Judicial Council Executive Secretary  
Public Access in the Atrium

\*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 Pacific Daily News. Acknowledgments are on file.

## **III. DETERMINATION OF QUORUM**

Chief Justice Carbullido began the roll call. Chief Justice F. Philip Carbullido, Associate Justice Robert J. Torres, Presiding Judge Alberto C. Lamorena III, and Judge Arthur R. Barcinas identified themselves and their location. This meeting determined a quorum with four (4) Judicial Council members present. Associate Justice Katherine A. Maraman later joined the meeting at 12:09 p.m.\*\*

## **IV. READING AND DISPOSAL OF MINUTES: March 17, 2022 Regular Meeting**

Presiding Judge Lamorena moved to approve the March 17, 2022 Regular Meeting minutes, subject to correction. Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. With no discussion, the four (4) Judicial Council members voted in favor; the minutes were approved, subject to correction.

## **V. OLD BUSINESS**

### **A. Judiciary FY21 Remittances under PL 36-54**

Ms. Dianne Gudmalin, the Financial Management Division (FMD) Administrator, reported that the Judiciary's scheduled bi-weekly allotment of \$1,257,204 for FY22 have been consistent and timely. She stated that from the \$32,687,000 appropriated to the Judiciary under PL 36-54, 57.69% or \$18,858,000 has been received. Ms. Gudmalin added that the last allotment was received on April 20, 2022; the next allotment is scheduled for May 3, 2022.

## **B. Update on the Judiciary's Response to COVID-19**

The Administrator of the Courts (AOC), Ms. Kristina Baird, reported that as of Tuesday, April 19, 2022, pursuant to ADM22-002, the Judiciary rescinded the 6-foot physical distancing requirements and mask-wearing outside the Judiciary's facilities. She added that the Judiciary still requires masks inside all facilities. Ms. Baird stated the Judiciary continues to clean and sanitize throughout the week. She noted that the high-capacity courtrooms at Route 4, San Ramon Building, and the Supreme Courtroom are available for use and encouraged the continued use of virtual platforms.

Ms. Baird stated some Judiciary employees are testing positive for COVID-19 and that the contact tracing teams are available to trace and monitor the employees.

## **C. Update on Capital Improvement Projects**

Ms. Baird (AOC) reported on two (3) ongoing Capital Improvement Projects (CIP): the 8<sup>th</sup> judge's courtroom and the Guam Historic Courthouse Building.

Ms. Baird reported that the construction work on the 8th judge's courtroom continues; the targeted completion date is now May 17, 2022.

Ms. Baird reported that the contracted architect completed the layout of the Guam Historic Courthouse Building; he is now working on the electrical and plumbing designs. She added that the project would be put out for bid once those components were complete. Ms. Baird stated preparation of other facilities to temporarily house the Probation Division and the Office of the Public Guardian.

**\*\*Chief Justice Carbullido recognized the presence of Justice Maraman in the virtual meeting room.**

## **D. Common Areas Recording Policy (tabled to the May 19, 2022 Judicial Council meeting)**

Mr. Daniel Mensching, Staff Attorney, reported that the Common Areas Recording Policy (the Policy) was sent to the Guam Bar Association for comment. He stated one response was received and that it was positive. He noted the Policy was sent to the media, and no response was received as of the Council meeting date.

Ms. Sophia Santos Diaz, Director of Policy, Planning, and Community Relations (DPPCR), requested the matter be tabled to the next Council meeting. Chief Justice Carbullido agreed.

# **VI. NEW BUSINESS**

## **A. JC Resolution Relative to Establishing a Salary for Referees and Hearing Officers**

Ms. Baird (AOC) reported that the Judiciary does not currently have a structured compensation plan in place for full-time Referees or Hearing Officers. She stated the Resolution sets a uniform and consistent scheduled pay schedule. Ms. Baird noted the Resolution is forward-moving and that there will be no decrease in pay for the Referees and Hearing Officers currently employed by the Judiciary. She said the compensation plan ties the forward-moving salaries to the Judiciary's Magistrate Salaries.

Chief Justice Carbullido stated that previously the salaries of the Referees and Hearing Officers had been set at the discretion of the Chief Justice. He added the Judiciary wants to avoid a situation where the salaries of the Referees and Hearing Officers, with adjustments and increments, exceed the salary of a Superior Court Judicial Officer.

**Justice Torres made the motion to adopt the Resolution for discussion purposes; Presiding Judge Lamorena seconded the motion.**

Justice Torre asked if the Resolution only affects the full-time Referees and Hearing Officers. Chief Justice Carbullido confirmed that is does.

Judge Barcinas asked how the proposed salaries were decided. Chief Justice Carbullido stated they are tied to the salary of the Magistrate Judges.

**Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution Relative to Establishing a Salary for Referees and Hearing Officers. The Resolution was unanimously adopted.**

#### **B. JC Resolution Relative to Approving Pay Increases for Non-Law Enforcement Employees Subject to Legislative Appropriation**

Ms. Baird (AOC) stated the Resolution concerns the proposed pay increase for all non-law enforcement employees of the Judiciary, excluding the Judicial Officers, and is subject to Legislative Appropriation. She noted that at the last Council meeting, the Judiciary Administration was instructed to research how the non-law enforcement proposed pay increase would occur and whether the Council has the legal authority to implement such a pay increase. Ms. Baird stated the Staff Attorney has opined on this matter and has concluded that the Council has the authority pursuant to 7 GCA 5102, which allows the Council to adopt pay schedules consistent with the Competitive Wage Act (CWA) and subject to Legislative Appropriation. She added that the proposed pay adjustment is also consistent with the requirement that the Council ensures that the pay scales have internal equity and external competitiveness. Ms. Baird said that based on the Staff Attorney's opinion, the Judiciary Management proposes that, upon Legislative appropriation in the FY2023 Budget, the 6% pay increase be implemented through the loading of the pay scales of non-law enforcement employees, excluding Judicial Officers.

Chief Justice Carbullido added that he had been informed of law enforcement employees' dissatisfaction with the 7% instead of the 18% increase implemented in the Executive Branch. He described the Judiciary's methodology to arrive at the percentages of proposed pay increases. Chief Justice Carbullido stated he and the Judiciary Administration met with the Oversight Chair of the Committee on Appropriations (the Committee), Senator San Agustin, regarding the Judiciary's FY2023 Budget, for guidance. He said Senator San Agustin stated there is no change: he will assist the Judiciary in obtaining an allocation of 5% of the General Fund Revenues Available for Appropriation, or \$37,000,000. Chief Justice Carbullido added that the Senator stated he would work with the Committee members to report that amount of out Committee and support the FY2023 budget request if the Judiciary stays within that limit; he would reserve any support for a higher budget request.



With those limitations in mind, the Judiciary's Administration determined that non-law enforcement employees' pay should also be adjusted to allow for parity and equity, said Chief Justice Carbullido.

**Justice Torres moved to adopt the Resolution for discussion purposes; Judge Barcinas seconded the motion.**

Justice Maraman asked how the pay increase would be implemented. Chief Justice Carbullido stated a 6% across-the-board adjustment to the pay plan, like the proposed 7% adjustment to the law-enforcement employees. Justice Maraman asked how new employees would be slotted. Ms. Barbara Jean Perez, Human Resources Administration, stated the four (4) pay plans would be adjusted uniformly and consistently, resolving the issue of different pay rates.

Judge Barcinas asked if the pay increase included unclassified employees. Chief Justice Carbullido confirmed they would.

Justice Torres asked if all executive-level employees would be included. Chief Justice Carbullido confirmed they would.

Presiding Judge asked if the pay increase would apply to the Superior Court Law Clerks. Chief Justice Carbullido confirmed they would be included.

**Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution Relative to Approving Pay Increases for Non-Law Enforcement Employees Subject to Legislative Appropriation. The Resolution was unanimously adopted.**

### **C. JC Resolution Relative to Approving the Judiciary of Guam Budget for FY2023**

Ms. Gudmalin (FMD) presented a PowerPoint slideshow that summarized the FY2023 Budget Request to be submitted to Legislature by May 2, 2022. She showed a chart outlining the five (5) year history of the Judiciary's budget requests vs. the actual appropriation received, which reflects a cut of \$3,000,000 compared to the FY2017 budget request. Ms. Gudmalin explained that the Judiciary intends to request \$37,088,548 for FY2023. She stated that the amount includes two below-the-line requests: \$652,728 to support the Electronic Monitoring program (EM) and \$1,655,864 to fund the Resolutions proposing the increase in non-law enforcement pay scale by 6% and the law enforcement pay scale by 7%. Ms. Gudmalin explained that the FY2023 budget request is \$386,231 or 1% less than the FY2022 request and that the amount requested for the EM program is \$74,000 higher in FY2023 than in FY2022. She described the budget determination process, including meetings with Ms. Baird and Judiciary managers to discuss division needs, operational priorities and strategies, mandates, and succession plans. Ms. Gudmalin added a budget for each division was devised using the data collected. She described the information presented on the slides, including personnel services, operational costs, the cost of utilities, and the EM program and special budget requests.

Chief Justice Carbullido requested to have the Resolution with the attached summary chart presented on screen and opened the floor for discussion.

**Justice Torres moved to adopt the Resolution for discussion purposes; Judge Barcinas seconded the motion.**



Justice Torres asked for an explanation of the reduction of operational costs when comparing the FY2022 and FY2023 budget requests and stated he thinks pay adjustments should be built into the below-the-line request and not listed as a separate line item. Ms. Gudmalin and Chief Justice Carbullido provided answers to his queries. Justice Torres also asked about the Judicial Building Fund (JBF) revenues and collections on the Client Services Fund. Ms. Gudmalin stated revenue collections were contemplated when the Budget was formulated. She added the JBF fund generated an average of \$1,300,000 in FY2021 when the Judiciary was still in pandemic mode. Ms. Gudmalin stated the Client Service Fund generated \$1,600,000 in FY2021 and is slowly increasing now that the pandemic wanes. Justice Torres asked if additional Indigent Defense Funds were included in the budget request to which the Chief Justice said no.

Presiding Judge thanked Ms. Gudmalin and the Judiciary staff for their excellent presentation.

Judge Barcinas asked if four (4) additional Probation Officers will be hired to support the EM program and why they need to be senior Probation Officers, as represented in the increased budget request. Ms. Gudmalin confirmed that is the plan. Judge Barcinas expressed reservations about the plan to hire additional senior Probation Officers to support the EM program. Chief Probation Officer Rossanna Villagomez-Aguon described the current EM program staffing pattern and the workload placed on the employees. Judge Barcinas expressed concerns about clients qualifying for the EM program and described ways the Judiciary could run the program more efficiently to reduce the costs. Presiding Judge Lamorena provided a detailed description of how clients qualify for the EM program. He commended Probation for how they run the program. Chief Justice Carbullido commented on how the EM program came to be and stated that while he agrees with Judge Barcinas's concerns, he supports Chief Probation Officer Villagomez-Aguon's request for additional staffing. He noted the Judiciary management was very rigid in considering other staffing requests.

**Chief Justice Carbullido called for an oral vote. All five (5) Council members voted to adopt the Resolution Relative to Approving the Judiciary of Guam Budget for FY2023. The Resolution was unanimously adopted.**

Justice Maraman requested an electronic copy of the budget request once transmitted to the Legislature.

#### **D. 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 stated that a review of the 2021 case data showed that of the approximately 800 Small Claims Court cases, only eleven (11) of those cases had an amount in controversy of \$10,000. She stated she also reviewed small claims jurisdictional limits for other courts and found that they have limits of \$10,000.

**Judge Barcinas moved to adopt the Resolution Relative to Review of Jurisdictional Limit for Small Claims Court for discussion purposes; Presiding Judge Lamorena seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.**

**E. JC Resolution Relative to the Declaration of Law Month**

Justice Torres shared the 2022 Law Month theme as set by the American Bar Association, *"Towards a More Perfect Union: The Constitution in Times of Change"*, and the Resolution to declare the month of May as Law Month.

**Judge Barcinas moved to adopt the Resolution Relative to the Declaration of Law Month; and Justice Torres seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.**

**F. JC Resolution Relative to Proclaiming the Month of April 2022 as Second Chance Month**

Presiding Judge Lamorena stated Second Chance Month is the theme for Adult Re-entry Court. He provided a description of the program and the success of the graduates.

**Presiding Judge Lamorena moved to adopt the Resolution Relative to Proclaiming the Month of April 2022 as Second Chance Month; and Judge Barcinas seconded the motion. Chief Justice Carbullido called for an oral vote. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.**

**G. JC Resolution Relative to Proclaiming the Month of May as Drug Court Month**

Presiding Judge Lamorena provided a description of the history of the Adult Drug Court and the success of the program. He stated the program is sustained by grants from the Department of Justice.

**Presiding Judge Lamorena moved to adopt the Resolution Relative to Proclaiming the Month of May as Drug Court Month. Judge Barcinas asked to have the Resolution amended to include Juvenile Drug Court. Justice Carbullido called for an oral vote on the Resolution as amended. All five (5) Council members voted in favor of adopting the Resolution. The Resolution was unanimously adopted.**

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

Chief Justice Carbullido asked the Judicial Officers who have not yet provided the required data as stipulated in the Safety Valve Act to please do so by the May 2, 2022 due date. He added the data must be published on the Judiciary's website by May 7, 2022.

**I. Notice of Next Meeting (May 19, 2022)**

Chief Justice Carbullido announced the next Judicial Council regular meeting will be Thursday, May 19, 2022.

**VII. COMMUNICATIONS**

**A. State of the Judiciary Address (April 29, 2022)**

Chief Justice Carbullido stated that now that the social distancing requirements have been lifted, the number of seats on the Legislature's floor will be restored to pre-pandemic numbers.

**VIII. PUBLIC COMMENT**

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

No one from the Guam Bar Association was present to provide a report.

**X. ADJOURNMENT**

Presiding Judge moved to adjourn, and the meeting was adjourned at 1:37 p.m.

Respectfully submitted this 16<sup>th</sup> day of June 2022.

  
SHELTERIHNA T. ALOKOA  
Assistant Secretary,  
Judicial Council of Guam

  
PETRINA M. ULA.  
Executive Secretary,  
Judicial Council of Guam

The Minutes of the April 21, 2022 Regular Meeting, as set out above, were approved by the Judicial Council at the June 16, 2022 Regular meeting.

  
F. PHILIP CARBULLIDO  
Chairman

Dated: 06/16/2022





# JUDICIAL COUNCIL OF GUAM

Suite 300 Guam Judicial Center  
120 West O'Brien Drive  
Hagåtña, Guam 96910-5174  
Tel: (671) 475-3413 Fax: (671) 475-3140

**JUDICIAL COUNCIL OF GUAM  
REGULAR MEETING  
THURSDAY, MAY 19, 2022  
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

Hon. Alberto E. Tolentino

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. Alokua

## 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 12:03 p.m.

### ROLL CALL\*:

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

Advisory Committee Members:  
Judge Elyze M. Iriarte  
Referee Maria G. Fitzpatrick  
Attorney Jacqueline T. Terlaje

Also, Present:  
Ms. Kristina L. Baird, Administrator of the Courts (AOC)  
Mr. Andrew Sergio Quenga, Deputy Administrator of the Courts  
Mr. Daniel F. Mensching, Staff Attorney  
Ms. Dawn R. S. Blas, Judicial Educator  
Ms. Danielle T. Rosete, Clerk of Court, Superior Court  
Ms. Hannah G. Arroyo, Clerk of Court, Supreme Court  
Ms. Maria Erica R. Eschbach, Staff Attorney, Supreme Court  
Ms. Barbara Jean T. Perez, Human Resources Administrator  
Mr. Troy M. Pangelinan, Marshal of the Court  
Mr. Joseph Leon Guerrero, Deputy Marshal of the Court  
Ms. Rossanna Villagomez-Aguon, Chief Probation Officer  
Ms. Trisha T. Suzuki, Deputy Chief Probation Officer  
Ms. Ma. Dianne Ollet Gudmalin, FMD Administrator

Mr. Carl Dominguez, Procurement & Facilities Management Administrator  
Ms. Marissa Antonio, Procurement & Facilities Management Deputy Administrator  
Ms. Virginia W. Yasuhiro, Client Services and Family Counseling Division Administrator  
Mr. Robert John S. Rabago, Management Information Systems Administrator  
Ms. Sophia Santos Diaz, Director of Policy, Planning, and Community Relations (DPPCR)  
Ms. Marcelene C. Santos, Public Guardian  
Ms. M. Grace Lapid Rosadino, Acting Court Programs Administrator  
Ms. Crystal C. Apiag, Court Information System Analyst I, MIS Division  
Ms. Shelterihna T. Alokoa, Judicial Assistant, Judicial Council Assistant Secretary  
Ms. Petrina M. Ula, Judicial Assistant, Judicial Council Executive Secretary  
Public Access in the Atrium

\*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. Acknowledgments 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 Judge Arthur R. Barcinas identified themselves and their location. Associate Justice Katherine A. Maraman later joined the meeting at 12:04 p.m.\*\* This meeting determined a quorum with four (4) Judicial Council members present.

## **IV. READING AND DISPOSAL OF MINUTES: April 21, 2022 Regular Meeting**

Judge Barcinas moved to approve the April 21, 2022 Regular Meeting minutes, subject to correction. Justice Torres seconded the motion. Chief Justice Carbullido called an oral vote. With no discussion, the four (4) Judicial Council members voted in favor; the minutes were approved, subject to correction.

## **V. OLD BUSINESS**

### **A. Judiciary FY21 Remittances under PL 36-54**

Ms. Dianne Gudmalin, the Financial Management Division (FMD) Administrator, reported that the Judiciary's scheduled bi-weekly allotment of \$1,257,204 for FY22 have been consistent and timely. She stated that from the \$32,687,295 appropriated to the Judiciary under PL 36-54, 65% or \$21,372,000 has been received. Ms. Gudmalin added that the last allotment was received on May 17, 2022; the next allotment is scheduled for May 31, 2022.

Ms. Gudmalin reported that the Judiciary's FY2023 budget request was timely submitted to the Legislature's Office of Finance and Budget on May 2, 2022. She stated the Council members received a digital copy of the budget and that each division manager received a copy of their budget and the executive summary. Ms. Gudmalin said that the total General Fund Appropriation budget request was \$37,088,548, as approved by the Council in the April 21, 2022 Judicial Council meeting. She noted the requested amount consists of an above-the-line request of \$34,779,956 for regular operations and a below-the-line request of \$652,748 for the Electronic Monitoring program (EM), and \$1,655,864 for the proposed pay adjustments of 6% for non-law enforcement salaries and 7% for law enforcement salaries. Ms. Gudmalin stated judicial officers are not included in the proposed pay adjustments. The Judiciary's request represents 5.33% of the total General Fund Appropriation reported in the Governor's FY2023 Executive budget, reported Ms. Gudmalin. She added that the Judiciary's Budget Hearing would be held at the Legislature on June 21, 2022, at 9:00 a.m.

Chief Justice Carbullido stated he would convene a budget hearing presentation team to prepare for the budget hearing.

#### **B. Update on the Judiciary's Response to COVID-19**

The Administrator of the Courts (AOC), Ms. Kristina Baird, reported that pursuant to ADM22-003 dated May 3, 2022, the Judiciary rescinded the mask-wearing requirement within the Judiciary's facilities. Ms. Baird stated the Judiciary continues to clean and sanitize throughout the week. She noted the Judiciary has an average of two COVID positive employees per week and that the contact tracing teams are available to trace and monitor them.

She noted that the high-capacity courtrooms at the Route 4 building, the second floor of the San Ramon Building, and the Supreme Courtroom are available for use and the use of virtual platforms continue to be encouraged.

#### **C. Update on Capital Improvement Projects**

Ms. Baird (AOC) reported on three (3) ongoing Capital Improvement Projects (CIP): the 8<sup>th</sup> judge's courtroom, renovations of the third floor of the San Ramon building, and the Guam Historic Courthouse Building.

Ms. Baird said that the construction work on the 8th judge's courtroom continues; the targeted completion date is now June 17, 2022, due to difficulties securing the materials needed.

Ms. Baird reported that the Financial Management Division and Regulation Counsel have moved into their new office spaces on the third floor of the San Ramon Building.

Ms. Baird reported that the contracted architect provided the blueprints and project specifications to the Procurement division last week. She added the Procurement team would review the provided documents and then put the project out for bid. Ms. Baird stated a 30-day turnaround timeframe for contractor bids would be included in the request for bids.



Chief Justice Carbullido stated once the contractor bids are received, the next funds' draw-down request will be prepared.

#### **D. Common Areas Recording Policy**

Mr. Daniel Mensching, Staff Attorney, reminded the Council of the timeline and purpose of the proposed Common Areas Recording Policy (the Policy).

Mr. Mensching reported that the Policy was sent to the Guam Bar Association (Bar) members for comment, and response from the Bar was limited but positive. He noted the Policy was sent to the Guam media outlets on April 20, 2022. He stated several Guam media outlets responded to express their concerns with the Policy. Mr. Mensching listed the media's concerns to include restrictions on transparency. Some media outlets suggested that if the Policy is implemented, it should not apply to credentialed media representatives.

Chief Justice Carbullido stated there is no urgency to act on this matter and, considering the vigorous response from the media outlets, he would like to table this matter. He stated he would like for Judiciary management to meet with the media outlets to discuss the proposed Policy. Justice Torres agreed with the suggestion to defer the matter. **Justice Maraman moved to table the matter until the June 2022 meeting; Judge Barcinas seconded the motion. Chief Justice Carbullido called for an oral vote. All four (4) Council members voted in favor of tabling the matter to the next meeting.**

### **VI. NEW BUSINESS**

#### **A. JC Resolution Relative to Memorializing the Passing of Attorney Joaquin C. Arriola, Sr.**

Chief Justice Carbullido stated that upon adoption, the Resolution would be presented to the Arriola family at the Memorial service to be held on Friday, May 20, 2022. He asked for Council members, Judicial Officers, and managers to attend.

**Justice Torres made the motion to adopt the Resolution for discussion purposes; Judge Barcinas seconded the motion.**

**Justice Maraman moved to amend the Resolution to reference Joaquin C. Arriola as Associate Justice and rather than use the title of Attorney. Judge Barcinas seconded the motion.**

**Chief Justice Carbullido called for an oral vote. All four (4) Council members voted in favor of amending the Resolution. The amendment was unanimously adopted.**

Justice Maraman pointed out that the Whereas Clause that refers to the time he served as an Associate Justice would need editing.

**Chief Justice Carbullido called for an oral vote. All four (4) Council members voted in favor of the Resolution as amended. The Resolution was unanimously adopted.**

**B. JC Resolution Relative to Ratifying the Judicial Council's Award of the 2022 Law Month Hustisia Award to Retired Judge Elizabeth Barrett-Anderson**

Chief Justice Carbullido introduced the Resolution Relative to Ratifying the Council's Award of the 2022 Law Month Hustisia Award to Retired Judge Elizabeth Barrett-Anderson. **Justice Torres made the motion to Ratify the action; Judge Barcinas seconded the motion. Chief Justice Carbullido called for an oral vote. All four (4) Council members voted in favor of the Resolution. The Resolution was unanimously adopted.**

Justice Torres noted that the May 12, 2022 *Hustisia* Award ceremony had been wonderful, and he thanked everyone involved in organizing the event.

**C. JC Resolution Relative to Acquisition of Properties**

Chief Justice Carbullido referred the matter to Justice Torres to lead since he recused himself due to a conflict concerning the owners of the property.

Justice Torres stated that this is an issue that has come before the Council previously and concerns the employee parking lot. He added the Resolution authorizes him and Ms. Baird, the AOC, to negotiate the purchase of the parking lot. Justice Torres stated they would need the Council's approval of the negotiated price. He described the options offered under the lease, including the opportunity to purchase and a chance to extend the lease. Justice Torres said the deadline to extend the lease has been deferred from June 1, 2022, to September 30, 2022.

**Judge Barcinas moved to adopt the Resolution for discussion purposes. There was not a second to the motion. Chief Justice Carbullido suggested tabling the matter to the next meeting.** Justice Maraman stated that when the Judiciary initially voted to acquire the parking lot a few years ago, the status of the Judiciary's finances was different. Justice Maraman said she does not think the Judiciary needs to buy the parking lot. **Justice Torres tabled the matter to the next Council meeting.**

Chief Justice Carbullido noted that the lease payments of the parking lot property were not included in the budget request. He asked Ms. Gudmalin to provide the pro forma prepared to support the purchase to the Council members.

Judge Barcinas noted a decision could not be made without the price and that the Resolution just grants permission to start the negotiation process. Justice Torres pointed out that the drawdowns of the loan need finalizing by January 1, 2023.

**D. Notice of Next Meeting (June 16, 2022)**

Chief Justice Carbullido announced the next Judicial Council regular meeting will be Thursday, June 16, 2022.

## VII. COMMUNICATIONS

## VIII. PUBLIC COMMENT

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

GBA President Jacqueline T. Terlaje reported on projects GBA (the Bar) is undertaking. She stated the Bar decided to create a kid's storybook about the foster care system. President Terlaje said the Bar would participate in the PJC Biennial Conference in September and provide a session on mental health. Finally, she shared that the Bar is exploring implementing an internship and scholarship program for those attending law school due to the declining number of attorneys in Guam.

## X. ADJOURNMENT

**Judge Barcinas moved to adjourn, Justice Torres seconded the motion, and the meeting was adjourned at 12:44 p.m.**

Respectfully submitted this 16<sup>th</sup> day of June 2022.



SHELTERINA T. ALOKOA  
Assistant Secretary,  
Judicial Council of Guam



PETRINA M. ULA.  
Executive Secretary,  
Judicial Council of Guam

**The Minutes of the May 19, 2022 Regular Meeting, as set out above, were approved by the Judicial Council at the June 16, 2022 Regular meeting.**



**F. PHILIP CARBULLIDO**  
Chairman

**Dated:** 06/16/2022



## CHAPTER 1 EXCERPTED

CHAPTER 1: PURPOSE, SCOPE AND STATUTORY AUTHORITY		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>Rules do not state how often rules are reviewed.</p> <p>These were just promulgated. Too early for a review.</p> <p>-----</p> <p>Should review of Code of Conduct and Personnel Rules &amp; Regulations be done annually? Bi-annually (2 years)?</p>	<p>Periodic review is appropriate.</p>	<p>Add a new subsection to § 1.500:</p> <p><u>D. PERIODIC REVIEW.</u></p> <p><u>The Judiciary's Human Resources Division shall periodically review and propose revisions to the Judicial Council to update these rules and regulations as necessary.</u></p>
STATEMENT OF POLICY:		
<p>Under Transparent personnel rules....Should it include: ADA</p>	<p>Agreed.</p> <p>Add: American with Disabilities Act.</p>	<p>Suggested edits to the 2<sup>nd</sup> paragraph of the Statement of Policy:</p> <p>Transparent personnel rules and regulations, consistent with the merit system, Equal Employment Opportunity Act, <u>Americans with Disabilities Act</u>, and provisions of Title 4 of the Guam Code Annotated <u>and other applicable laws and regulations</u>, instill public trust and confidence in the Judiciary as an independent and co-equal branch of government.</p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Redundant.... Can the paragraph..."The Judiciary is proud to be an equal opportunity..." be incorporated into 1.300 EQUAL EMPLOYMENT OPPORTUNITY...	Statement of Policy should emphasize EEO. <b>No change is recommended</b>	
I think the heading "Coverage" should be "Scope".	Heading is applicable. <b>No change is recommended.</b>	
<b>SECTION 1.100.: COVERAGE</b>		
Does the personnel rules include Judicial officers?	This section covers the extent to which the rules are applicable to unclassified positions. This includes Judicial Officers, limited term and contractual employees.	
If so, Should it include who these rules do not apply to or partially apply to (i.e. those under contract, limited term employees)?	Covered in this section. <b>No change is recommended.</b>	
Clarify who is unclassified, list positions	Section 4.002, refers to the Occupational Classification Listing which is a list of all positions, classified and unclassified. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Limited term employees in section 4.002 identifies LTA (Limited Term Appointment) as unclassified.	Yes. Limited term is included in section 4.402 under Unclassified service. <b>No change is recommended.</b>	
<b>SECTION 1.400.: AMERICAN WITH DISABILITIES ACT (ADA)</b>		
ADA - missing some parts ... I pulled this from dol.gov Title I of the ADA. Title I prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in applying for jobs, hiring, firing and job training". But still seems to be missing pay or compensation, promotion, protection from retaliation when they enforce their rights under the law.	Section 1.300, EEO, covers disability to include compensation, promotion and protection from retaliation when they enforce their rights under the law. <b>No change is recommended.</b>	
Should also include the Judiciary providing reasonable accommodations not only to compete for the job but also to employees with a disability who need an accommodation to their job or to gain access to the workplace.	Disability Accommodation Policy is attached to the rules as an Appendix. <b>No change is recommended.</b>	



## CHAPTER 2 EXCERPTED

CHAPTER 2: ADMINISTRATION AND RESPONSIBILITIES		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 2.200.: DIVISION MANAGERS</b> E. Ensure all service providers within their divisions, not employed by the Judiciary, comply with applicable rules and/or policies.		
Is this judiciary policies or division policies?	Both.	
Does this refer to those under contract or students/volunteers?	This section refers to service providers who are not employees. This includes students, volunteers and contracted individuals.	2.200.E. Ensure all service providers ( <u>e.g. student interns, contractors, volunteers</u> ) within their divisions, not employed by the Judiciary, comply with applicable rules and/or policies.
Is there a separate set of rules they must follow?	No. They must comply with all “applicable” Judiciary and division rules and/or policies as stated in Rule 2.200.E.	
<b>SECTION 2.300.: SUPERVISORS</b>		
B.: Take out "on their performance"	Agreed.  Remove: on their performance.	2.300.B. Advise employees of their work progress and conduct performance evaluations <del>on their performance</del> as required and make recommendations based on evaluations.

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 2.501: OFFICIAL PERSONNEL FOLDER</b>		
REVIEW RECORDS Employees will have controlled access to their records. After obtaining permission of the AOC, employees shall be scheduled to examine their records under the supervision of those charged with maintaining such records.	This rule allows an employee to access their own file.	
<b>SECTION 2.502.: OFFICIAL MEDICAL FOLDER</b>		
Official Medical Folder - shouldn't the employee also have access to their medical folder, since they also have access to personnel jacket?	Agreed.  Add: employee.	2.502 <u>Official Medical Folder</u>  An official medical folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's medical documents, drug testing results and other pertinent documents. The authorized personnel to have accessibility to an employee's official medical folder shall be the <u>employee</u> , employee's supervisor, division manager, Administrator of the Courts and human resources personnel.

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 2.601.: HUMAN RESOURCES ADMINISTRATOR RESPONSIBILITIES</b>		
The Human Resources Administrator shall be responsible for providing orientation, introduction and on-the-job training ... should include on-going training needs specific to job duties....	This section already includes “for the continuing development of employees...”  <b>No change is recommended.</b>	
<b>SECTION 2.602.: MATERIAL CHANGES TO A POSITION</b>		
Material Changes to a Position “introduction of new machinery or processor” would processes be more appropriate here... since it would include all job positions and not just those that deal with machinery or processors –	Agreed.  Amend: processor to processes.	2.602 <u>Material Changes to a Position</u>  Whenever the present duties of a position are to be materially changed by the introduction of new machinery or <del>processor</del> <u>processes</u> requiring different skills and knowledge, any permanent or probationary employee impacted by the change shall be given a reasonable opportunity to learn to perform the new duties and to qualify for such work. ...

### CHAPTER 3 EXCERPTED

CHAPTER 3:CODE OF CONDUCT		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>I think the code should stand on its own. Format is very different</p> <p>REVISED CODE OF CONDUCT - take this title out and under the title: JUDICIARY OF GUAM CODE OF CONDUCT FOR JUDICIAL EMPLOYEES ADD date created and subsequent revision dates if any/ Revisions approved by Approved in Judicial Council Resolution No. JC21-013 (June 17, 2021) Effective Date September 1, 2021</p>	Agreed in part.	<p>CHAPTER 3</p> <p><u>REVISED CODE OF CONDUCT</u></p>
<b>DEFINITIONS</b>		
Family Member - Step-grandchild is not included	Change is not recommended. Step-grandchild is not included elsewhere in the Personnel Rules.	
<b>Section IV.: JUDICIAL EMPLOYEES SHALL CONDUCT THEIR OUTSIDE ACTIVITIES AS TO MINIMIZE CONFLICTS WITH THEIR EMPLOYMENT RESPONSIBILITIES</b>		
Outside activities/outside employment - this was of concern by CSFC staff. Outside employment is understood. Outside	<b>No change recommended.</b> The description of “Outside Activities” in this section is comprehensive.	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>Section IV. (Continued)</p> <p>activities is questioned. What specific outside activities must we consult the AOC on? For example, Christian mother, equestrian order of the holy sepulcher or President of the PTA.</p> <p>Do we need to submit form annually if we got approval previously?</p>	<p>Note the Code of Conduct was approved by the Judicial Council in JC No. 21-03 after employee review and comment. Annual approval is required.</p>	
<p><b>Section V. JUDICIAL EMPLOYEES SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITIES</b></p>		
<p>A: Employee’s Rights: secures voting for all “employees”</p> <p>B.: Excludes judges and their staff from the definition of “employee,” meaning no section secures the voting rights of judges and their staff</p> <p>C.: Secures other political rights (e.g. soliciting votes) for all “employees”</p> <p>D.: Prohibits only “employees” (and consequently not judges and their staff) from problematic political activity (e.g. using authority to interfere with an election)</p> <p>I believe this section is meant to prohibit judges and their staff from the political</p>	<p>Changes made to clarify that all employees have the right to vote and that the restrictions applicable to those defined as “employees” are also applicable to chamber staff, managers, etc.</p>	<p>V.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. <u>This Section shall not be interpreted to restrict in any way the right of any person employed by the Judiciary (including those excluded from the below definition of “employee”) to cast a vote.</u></p> <p>V.D.3.i. <u>With the exceptions of voting and expressing political opinions in private</u>, the following positions are prohibited from taking part in any activity delineated in <del>this section</del> subsections C or D of this <u>Section</u>, or from taking an active part in political management or political campaigns</p>



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>Section V. (Continued)</p> <p>management and other political rights that “employees” hold. However, I read the text to (1) inadvertently make it ambiguous whether judges and their staff can vote and (2) not include judges and their staff in the group barred from problematic political activity (e.g. improperly influence an election).</p>		

## CHAPTER 4 EXCERPTED

CHAPTER 4: FILLING POSITIONS IN THE JUDICIARY		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Where in the rule does it say they have to compete for reemployment?	Refer to Rule 5.102 and 4 GCA § 2108.	
Should put rating evaluation criteria process to avoid inconsistency.	Internal HR procedure. <b>No change is recommended.</b>	
<b>SECTION 4.002: UNCLASSIFIED SERVICE</b>		
<p>LTA is used to fill temporary vacancies in permanent positions... shall be given normal employee benefits if the appointment is to occupy a permanent position? It is broader in 5.204 and included federally funded positions and professional level positions for a specific project or program for duration.</p> <p>No tenure does this mean no job security? Does this mean that unclassified employees do not have full grievance protection in general or only if terminated and the employee cites EEO violations for the termination do they have the right to appeal.</p>	<p>The concerns addressed are covered in the following sections: 1.100, 4.002 &amp; 5.204. <b>No change is recommended.</b></p> <p>The concerns addressed are covered in the following sections: 1.100, 4.002 &amp; Chapter 14. <b>No change is recommended.</b></p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.202.: FILLING OF VACANCIES</b>		
D.: <u>Drug Testing</u> .... suggest switching Drug Testing to C and Minimum Educational Requirements to D.	HR determines minimum educational requirements prior to drug testing. <b>No change is recommended.</b>	
<b>SECTION 4.204.: MINIMUM QUALIFICATIONS</b>		
In my experience, we have hired deputies to full-time permanent classified positions and even as part-time VDMR despite them not having me the minimum qualifications or necessary special qualifications as specified in the respective Job Announcements by HR (i.e. 1 year of experience in legal/law enforcement field, successful completion of PFQT, Chauffeur's License, etc.).	Concern is not related to the proposed rules.	
<b>SECTION 4.205.: DETERMINATION OF QUALIFICATIONS</b>		
Should specify what gives HR Administrator or the designee the authority to use their discretion when qualifying applicants for positions and not adhering to what is stated on the Job Announcements.	Judiciary follows the Government of Guam Rating process. <b>No change is recommended.</b>	
Is there a set standard that HR uses to rate applicant or does it differ from rater to rater?	Judiciary follows the Government of Guam Rating process. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.207.: TYPES AND DURATION OF JOB ANNOUNCEMENTS</b>		
B.: <u>Open Competitive Announcements</u> Does JOG notify those who separated on Job Announcements?	No. Employees who separate from the Judiciary are not added to the email distribution list for Job Announcements. <b>No change is recommended.</b>	
<b>SECTION 4.209.: VACANCIES THAT DO NOT REQUIRE ANNOUNCEMENTS</b>		
<p>Vacancies that do not Require Announcements - in the case of the Judicial Therapist intern - there is no vacancy, they are "under filling" a position. We have a Continuous Job announcement for Judicial Therapists... can we interview in-house if there is only one applicant for the position?</p> <p>Can we close the continuous job announcement and interview from that list...</p> <p>If there isn't sufficient numbers to interview, do we need to do an open competitive announcement.</p>	<p>Yes. Internal HR procedures. <b>No change is recommended.</b></p> <p>No. The position does not need to be closed to interview for a "Continuous Announcement". Internal HR Procedures. <b>No change is recommended.</b></p> <p>Continuous job announcements are Open Competitive. Internal HR Procedures. <b>No change is recommended.</b></p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.301.: BONAFIDE OCCUPATIONAL QUALIFICATION REQUIREMENTS</b>		
<p>Bona Fide Occupational Qualification Requirements In §703(e)(1),[1] Title VII provides an exception to its prohibition of discrimination based on sex, religion, or national origin. That exception, called the bona fide occupational qualification (BFOQ), recognizes that in some extremely rare instances a person's sex, religion, or national origin may be reasonably necessary to carrying out a particular job function in the normal operation of an employer's[2] business or enterprise. Might be good to give an example (i.e Probation Services Assistant (female)).</p>	<p>Section is clearly stated. <b>No change is recommended.</b></p>	
<b>SECTION 4.401.: ORDER OF USE AND LIMITATION ON ESTABLISHMENTS OF LISTS</b>		
<p>Says selection from top five or ten for labor/custodial positions ... it might be clearer if it says or from the top ten for labor/custodial positions.....</p>	<p>Agreed. Amend: from the top ten (10) for labor /custodial...</p>	<p>4.401 <u>Order of Use and Limitation on the Establishment of Lists</u></p> <p>The order listed below shall be followed in the use of the eligibility lists, and the Administrator of the Courts shall be restricted to selection from the top five or the top ten for labor/custodial positions found on these lists in the order of precedence herewith established:</p>



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.503.: REJECTION OF APPLICATIONS</b>		
A: Conviction of a crime within seven (7) years from date of application, which bears a nexus to the position applied for, unless otherwise required by statute. What if applicant has criminal history prior to 7 years that is of concern.	This seven year limitation is taken from the DOA and PAG Personnel Rules. <b>No change is recommended.</b>	
<b>SECTION 4.504: NOTIFICATION OF REJECTION OF APPLICATIONS</b>		
Notification of rejection and reason within 10 workdays of what? of submission? of review?	Agreed. Add: within ten (10) workdays from Human Resources review of the application.	4.504 <u>Notification of Rejection of Applications</u>  The applicant shall be notified of the rejection and reasons for rejection within ten (10) workdays <u>from completion of review of the applications by Human Resources.</u>
And will notice be in writing, sent via mail?	Yes. Internal HR procedures. <b>No change is recommended.</b>	
Does the applicant have the right to appeal this decision and if so what is the process and how long do they have and will it affect an appointment made for the position applied for.	Yes. Internal HR procedures. <b>No change is recommended.</b>	
<b>SECTION 4.600.: EXAMINATIONS</b>		
Tests and Examinations are used interchangeably. Do they mean the same and if so... should it be consistent.	“Test” and “examination” are used interchangeably but do not necessarily have the same exact meaning. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.604.: DEVELOPMENT AND VALIDATION OF TESTS</b>		
Development and Validation of Tests.... this sounds like legal may need to give input regarding the legality of certain tests for employment... it is pretty complicated ...	HR is responsible for ensuring the validity of tests. All tests administered have been validated from outside sources, i.e., DOA or G.C.C. <b>No change is recommended.</b>	
<b>SECTION 4.605.:ADMISSION TO COMPETE IN ASSEMBLED EXAMINATIONS</b>		
Admission to Compete in Assembled Examinations - for conditional admission to take the exam, the applicant must be informed that they have been conditionally admitted.	Agreed. Add: Applicant shall be notified in writing of their conditional admission.	4.605 Admission to Compete in Assembled Examinations SOURCE: New. PAG 4.505, DOA 4.205 (Admission to Compete in Assemble Examinations). Persons submitting applications during the period specified in the examination announcement shall be admitted to compete in the examination provided it is clearly shown that requirement for admission is met. Where doubt exists as to whether or not the applicant meets the minimum requirements for admission to the examination, the Administrator of the Courts may authorize conditional admission. The applicant will be advised in writing that admission is conditional. Such action shall not be construed as entitling the applicant to certification or appointment until the Administrator of the Courts has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.608.: RATINGS OF EXAMINATIONS</b>		
Ratings of Examinations. A. "Appropriate psychometrics.... " Although psychometrics has a broad definition, I tend to see them as clinical tests, psychological or achievement that is science based. Suggest not using psychometrics... appropriate testing and measurement techniques and procedures will be used in the...	Agreed. Amend: Appropriate testing and measurement techniques...	4.608 <u>Ratings of Examinations</u> SOURCE: New. PAG 4.508, DOA 4.208 (Rating Of Examinations).  A. Appropriate <del>psychometrics</del> <u>testing</u> and measurement techniques ...
B: Should the AOC set the minimum rating for each part of the examination. Should be HRA in consultation with Division Managers ... or just HRA.	This authority should remain with the AOC. <b>No change is recommended.</b>	
<b>SECTION 4.612.: CHANGES IN RATING</b>		
Employee is confused by this section.	Section is sufficient. <b>No change is recommended.</b>	
D.: I think if there is a change in a rating and the outcome of the rating is less than a qualified rating, it does not seem right that this will not affect the outcome of the hiring and/or appointment of an employee once already hired. May be a legal issue as the reason why.	This tracks the DOA and PAG rules. Legal will examine this if it becomes an issue.	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 4.615.: PROTECTION OF CONFIDENTIALITY OF MATERIALS</b>		
Does not allow review of the test materials, however 4.610 allows the review? and 4.611 allows for administrative review but does not explain what that means?	There is a difference between review of test material and examination papers. <b>No change is recommended.</b>	
<b>SECTION 4.616.: SPECIAL PROVISIONS</b>		
<p>B.: <u>Labor and Custodial</u> i.: Qualify by examination which shall consist of completing an application form - does this mean that the examination is to complete the application form?</p> <p>C.: <u>Employing Individuals with Severe Disabilities</u>  Just a question.... do we have 2% of our workforce with severe disabilities?</p>	<p>No. Amend: which shall consist of the completion, review and rating of the application form.</p> <p>No. <b>No change is recommended.</b></p>	<p>B. <u>Labor and Custodial</u> i. Each applicant for these classes shall, prior to appointment, qualify by examination which shall consist of <del>completing completion by the applicant of an application form, and the review and rating of the application form by Human Resources.</del> The Human Resources Administrator shall certify the names of the ten (10) top applicants.</p>
<b>SECTION. 4.700.: PREFERENTIAL CREDITS</b>		
<p>With the preference points, interviews will occur with the rule of 5 or 10. Non-selection of someone who is high on the eligibility list but does poor in the interview and any examinations.</p> <p>Employee is confused by this section. Preferential points are added to the exam score?</p>	<p>A point system is utilized. Once HR refers the top five (5) or ten (10), interviews are conducted and the panel submits their recommendation for selection to the AOC. <b>No change is recommended.</b></p> <p>Yes. Preferential points are added to an applicant's individual examination score upon initial employment only. This section mirrors 4</p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
	(Continued) GCA § 4104. <b>No change is recommended.</b>	
I am confused by examinations for a particular job class and the overall rating of an application.	Internal HR procedures. <b>No change is recommended.</b>	



## CHAPTER 5 EXCERPTED

CHAPTER 5: CERTIFICATION AND APPOINTMENT		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 5.001.: ELIGIBILITY LIST</b>		
<p>A.: <u>Order of Appointments</u></p> <p>What is custodial eligibles? Is this labor/custodial?</p>	<p>Agreed. Add: labor.</p>	<p>5.001.A. <u>Order of Appointments</u></p> <p>Appointments shall be made from among the top five (5) or ten (10) <del>labor</del>/custodial} eligibles certified by the Human Resources Administrator in the manner specified in these rules, provided that eligibles on the reemployment list are certified in chronological order of their separation from service.</p>
<b>SECTION 5.009.: CERTIFICATION OF ELIGIBILITY</b>		
<p>Labor/custodial, what does this mean?</p> <p>That you must have 10 in the case of a position that is labor or custodial?</p>	<p>Yes. <b>No change is recommended.</b></p>	
<b>SECTION 5.011.: CERTIFICATION OF ELIGIBLES FOR MORE THAN ONE VACANCY</b>		
<p>If they have 2 identical scores wouldn't they hold the same rank (i.e. 2nd ranked eligible, 2nd ranked eligible?)</p> <p>Would the same logic apply if there were 2 vacancies, the AOC may select 2 from the 11 certified for labor/custodial?</p>	<p>Yes. Internal HR procedures. <b>No change is recommended.</b></p> <p>Yes. Internal HR procedures. <b>No change is recommended.</b></p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION. 5.013.: INTERVIEWS OF ELIGIBLES AND NOTIFICATION OF SELECTION/NON-SELECTION</b>		
A.: <u>Interview Process</u> viii.: Is there a time frame or required number of days that the panel members have to submit their recommendation to the AOC?	No. <b>No change is recommended.</b>	
B.: Is there a time frame or required number of days that a selection must be made by the AOC?	No. <b>No change is recommended.</b>	
<b>SECTION 5.014. SUSPENSION AND REMOVAL OF ELIGIBLE FROM COMPETITIVE LIST OF ELIGIBLES; RESTORATION TO LIST</b>		
A. iv.: Remove first after.	Sentence is correct. <b>No change is recommended.</b>	
A. vi.: In the case of Judiciary-wide, termination of service with the Government.	Clarification recommended.	5.014.A.vi. In the case of Judiciary-wide <u>lists</u> , termination of service with the <del>Government</del> <u>Judiciary</u> .
and x. Conviction of a crime which bears a nexus to the position, applied for. Not sure if I understand these 2.	Regarding A.x, conviction of a crime which bears a nexus, this is similar to 4.503 above which states: REJECTION OF APPLICATIONS A: Conviction of a crime within seven (7) years from date of application...	
<b>SECTION 5.102.: RE-EMPLOYMENT</b>		

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
5.102 (Continued) Reemployment can only occur if there is a vacancy....	Yes. Pursuant to 4 GCA § 2108: Former classified employees of government of Guam who were in good standing at the time of resignation may be hired at not less than the salary they earned at their former position <b><u>if they apply</u></b> for the same or comparable job in the same department. This re-employment credit privilege must be exercised within a four (4) year period. The employee may waive this privilege. <b>No change is recommended.</b>	
<b>SECTION 5.202.: PROBATIONARY APPOINTMENT</b>		
A.: The probationary period is the time following the appointment to a permanent position to be utilized by _____ as fully as possible to determine whether the newly hired or newly promoted employee is a good fit for the position.	Section is sufficient. <b>No change is recommended.</b>	
D.: There should be a time frame or something that indicates when the recommendation for dismissal should happen.... don't think it should be on the 180th day.	Section is sufficient. <b>No change is recommended.</b>	
<b>SECTION 5.203.: DETAIL APPOINTMENT</b>		

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>5.203 (Continued)</p> <p>3E.: <u>Suspension of Differential Pay &amp; Affected Leave Time During Detail Appointments</u></p> <p>Suspension of differential pay is discussed in this section but there is nothing previous that explains differential pay when in a detailed position.</p>	<p>Refer to 8.1300.</p> <p><b>No change is recommended.</b></p>	
<b>SECTION 5.206: EMPLOYING STUDENTS ON VACATION</b>		
Employing students on vacation... just high school students?	<p>No. Recruitment of interns is an internal HR procedure.</p> <p><b>No change is recommended.</b></p>	
<b>SECTION 5.207: SUBFILLING POSITIONS</b>		
Subfilling positions - curious... is this CSFC's Judicial Therapist Interns?	<p>No, similar to Deputy Marshal Recruit.</p> <p><b>No change is recommended.</b></p>	
<b>SECTION 5.208: ACTING APPOINTMENT</b>		
<p>C.: <u>Expiration or Termination of Detailed Assignment</u></p> <p>Should it be titled Expiration or Termination of Acting Assignment</p>	<p>Title is correct.</p> <p><b>No change is recommended.</b></p>	

## CHAPTER 6 EXCERPTED

CHAPTER 6: INITIAL PROBATIONARY PERIOD AND STATUS		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Chapter 5 has a lengthy section on probationary appointments which is redundant. Could probationary appointment be defined simply in 5 and they can refer to this section for the details? Or incorporate all of chapter 6 in chapter 5. Chapter 5 has a pretty detailed explanation on detail appointments, LTA, and probationary appointments.	Initial probationary period should have its own section. <b>No change is recommended.</b>	
<b>SECTION 6.001.: LENGTH OF PROBATIONARY PERIOD</b>		
Should it say why the probationary period might be extended?	No. Management's discretion. <b>No change is recommended.</b>	



## CHAPTER 7 EXCERPTED

CHAPTER 7: CLASSIFICATION AND COMPENSATION		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 7.008.: PERIODIC REVIEW OF STANDARDS AND CLASSIFICATIONS</b>		
3 year review of standards and classifications... is this periodic review new or has the review been on-going?	Reference statute. <b>No change is recommended.</b>	
<b>SECTION 7.010.: RECLASSIFICATION/ REALLOCATION OF POSITIONS</b>		
Is this similar to a desk audit and does there need to be a funding source identified in order to effectuate a reclass or reallocation?	Yes. Internal HR procedures. <b>No change is recommended.</b>	
<b>SECTION 7.014.: CREATION OF NEW POSITIONS AND CLASSES OF POSITIONS</b>		
What is the petition for and why is it posted on the website?	Petition is the official request submitted to the Judicial council for review and adoption. <b>No change is recommended.</b>	
Is the petition the position description? Sorry.. don't understand. might help others to understand if explained a little in the paragraph.	No. It is a memo to council requesting to create the position. <b>No change is recommended.</b>	

## CHAPTER 8 EXCERPTED

CHAPTER 8: PAY ADMINISTRATION		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 8.200: SALARY INCREMENTS</b>		
<p>B.: <u>Unclassified Employees</u></p> <p>Salary adjustment? This would reset the unclassified performance evaluation date?</p>	<p>Yes. Refer to 8.1600 B.</p> <p><b>No change is recommended.</b></p>	
<p>D. 3.: This is the issue that they had with unclassifieds recently. Will increments be frozen for those on APP still?</p> <p>Is putting this in new PR&amp;R going to result in freezes in increments to unclassifieds?</p> <p>Are the attorney managers on the APP?</p>	<p>Yes, rule has been updated to include J.C. 21-017.</p> <p><b>No change is recommended.</b></p> <p>Yes. Refer to J.C. 21-017.</p> <p><b>No change is recommended.</b></p> <p>Yes.</p> <p><b>No change is recommended.</b></p>	
<b>SECTION 8.400.: MERIT BONUS/4 GCA § 6203</b>		
<p>Recommendation is to add the language from 4 GCA § 6203 regarding the fiscal year. "The merit bonus is in addition to the increment provided under § 6102 and is limited to the fiscal year in which superior performance is rendered."</p>	<p>Agreed.</p> <p>Add: The merit bonus is in addition to the increment provided under § 6102 and is limited to the fiscal year in which superior performance is rendered.</p>	<p>8.400 MERIT BONUS/<del>4 GCA § 6203.</del></p> <p>SOURCE: New. JOG 2014 Class &amp; Comp Policy, Section VI. (Merit Bonus), <u>4 GCA § 6203.</u></p> <p>Classified employees in grades A through X shall be rewarded a lump sum bonus equivalent to</p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
		(Continued) 3.5% of the employee's base salary upon superior performance review. The merit bonus shall be automatic upon a superior rating conducted for increment purposes. The merit bonus shall be in addition to the salary increment and is limited to the fiscal year in which superior performance is rendered.
Shouldn't the rules say... merit pay subject to availability of funds or not paid if there is a freeze on merit pay.... increments	No. Merit is pursuant to 4 GCA § 6203. Statements regarding availability of funds on the personnel action is subject to AOC & legal approval. <b>No change is recommended.</b>	
<b>SECTION 8.1200.: RE-EMPLOYMENT</b>		
Same as Rule 5.102		8.1200 RE-EMPLOYMENT.  <del>Former classified employees of the government of Guam who were in good standing at the time of resignation may be hired at not less than the salary they earned at their former position if they apply for the same or comparable job in the same department. This re-employment credit privilege must be exercised within a four (4) year period. The employee may waive this privilege.</del>  <u>Under 4 GCA § 2108, a permanent classified employee who separated through resignation or retirement while in good standing may be eligible for reemployment to the same or</u>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
		(Continued) comparable position with the Judiciary within four (4) years from the date of separation. For reemployment, the Administrator of the Courts must determine that the person has met the current minimum qualification requirements for the class to which reemployment is requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described in these rules. This re-employment credit privilege may be waived.
<b>SECTION 8.1700.: OTHER PAY POLICIES</b>		
<p>Citation was amended to 17 GCA, Chapter 28, Article 5. Recommendation is to also at the language from the P.L. that "awarding of the one (1)-step merit pay raise shall be subject to the availability of funds."</p> <p>B.: <u>Talent Management Program Track 1</u></p> <p>TMP is this still in place or has the LDA replaced it?</p> <p>Also... subject to availability of funds?</p>	<p>Agreed.</p> <p>No need to add "subject to availability of funds" as this is in the named statute.</p> <p>Yes, it's still in place. <b>No change is recommended.</b></p> <p>Yes.</p>	<p>8.1700 OTHER PAY POLICIES.</p> <p>A. <u>Pedro "Doc" Sanchez Scholarship Program</u> An employee shall be granted a one-step pay adjustment <del>upon meeting</del> <u>pursuant to</u> the requirements of Title 17, Chapter <del>1528</del>, Article <del>95</del> of the Guam Code Annotated.</p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 8.2000.: OVERTIME AND COMPENSATORY TIME EARNED</b>		
8.2000 (Continued) First mention of exempt vs nonexempt - exempt practiced differently in past (i.e. probation) - mentioned again in compensation 8.2005	Concern is unclear. <b>No change is recommended.</b>	
Overtime - will this replace the AD98-01 and other subsequent memos regarding overtime?	This section incorporates AD98-01. <b>No change is recommended.</b>	
<b>SECTION 8.2003.: OTHER COMPENSATORY TIME</b>		
Confusing	Agreed. Remove example from 8.2003.A.	8.2003 Other Compensatory Time. A. "Other Compensatory Time" is defined as hours during which an employee is not working and which are not counted as hours worked during the period when used. This is compensatory time which is earned and accrued by an employee in excess of a non-statutory (that is, non-FLSA) requirement. <del>An example would be a collective bargaining agreement providing that compensatory time be granted to an employee for hours worked in excess of eight (8) in a day, or for working on a scheduled day off in a non-overtime week.</del> B. Compensatory time earned and accrued by an employee during hours that are considered "overtime" under a State or local law, ordinance, or other provision but are not considered overtime under FLSA are considered "other compensatory time."

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 8.2005.: COVERAGE OF EXEMPT AND NON-EXEMPT EMPLOYEES</b>		
8.2005 (Continued) A. ii.: <u>Non-Exempt Employees</u>  CTE accrual absent funding, should be indicated, No overtime..CTE only	Refer to 8.2005 A. ii. and 8.2005. B. ii. <b>No change is recommended.</b>	
<b>SECTION 8.2006.: MAXIMUM ACCRUAL OF COMPENSATORY TIME EARNED (CTE) IN ONE (1) FISCAL YEAR</b>		
Do limited term employees fall under the "unclassified" category?	Yes. Refer to 4.002. <b>No change is recommended.</b>	
<b>SECTION 8.2007.: COMPENSATORY TIME OFF USAGE</b>		
Is the language of "shall be used" equivalent to "shall be paid"?	Yes. <b>No change is recommended.</b>	
If they are unable to use it due to operational issues, Do we need to pay that or continue to roll it over?	No, unless they exceed the cap. Refer to 8.2008. B. <b>No change is recommended.</b>	
How will that be tracked? As hours are now lumped together	No tracking is required. <b>No change is recommended.</b>	
CTE shall be used within 60 days of the end of pay period which it is earned. If so, wouldn't this solve the CTE accumulation problem?	No. Accumulation problems are based on operational demands and division scheduling issues. <b>No change is recommended.</b>	
Does this apply to Marshals and Probations that CTE be used within 60 days.	Yes, applies to all employees. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 8.2008.: CONVERSION OF COMPENSATORY TIME OFF TO CASH</b>		
Do limited term employees fall under the "unclassified" category?	Yes. Refer to 4.002. <b>No change is recommended.</b>	
Hasn't the practice been to pay out CTE's?	Yes, it has been a practice subject to the availability of funds, but not a rule. <b>No change is recommended.</b>	
<b>SECTION 8.2009.: CTE PROVISIONS AND LIMITATIONS FOR BOTH EXEMPT OR NON-EXEMPT EMPLOYEES</b>		
Memorandum dated 10/24/2007, amending #AD98-01 relative to leave offset, was not incorporated in rule 8.	The amendments of 10/24/07 were incorporated here. Section III (1) and (2) and Examples A and B were omitted. However, recommend to edit the Source comment.	8.2000 OVERTIME AND COMPENSATORY TIME EARNED. SOURCE: New. JOG Overtime and Compensatory Time Policy. AD98-01 (Oct. 1, 1998 as last amended <del>in</del> <u>on</u> Oct. 24, 2007) (Statement of Policy).
<b>SECTION 8.2010.: OTHER PROVISIONS RELATING TO OVERTIME AND/OR COMPENSATORY TIME EARNED</b>		
<u>C.: On Call/Stand-By Time</u> Confusing. ii. Do you do this?  Does the court pay travel time?	Yes. <b>No change is recommended.</b>  Yes. <b>No change is recommended.</b>	



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>8.2010 (Continued)</p> <p>D.: TRAINING &amp; OVERTIME Please give an example on this “all employees exempt or non-exempt shall be entitled to overtime compensation at the rate of 1.5 or in the absence of funds, be awarded CTE at the same rate of 1.5” is this different from accruing 1.1 exempt or 1.5 non-exempt?</p> <p>Is planned leave taken (i.e. SL, AL and any admin leave) still applied to offset before accruing CTE?</p>	<p>No. Section is sufficient. <b>No change is recommended.</b></p> <p>Yes. Section will be added to Rule 8 as indicated above. <b>No change is recommended.</b></p>	
<p>H.: <u>INTEREST ON LATE OVERTIME PAYMENTS</u> Please elaborate how this process will be? Is this subject to fund availability?</p> <p>Is this in regards to CTE or Overtime?</p> <p>What if the claim of overtime was submitted late?</p>	<p>FMD internal process. <b>No change is recommended.</b></p> <p>Overtime. Refer to the section title. <b>No change is recommended.</b></p> <p>FMD Internal process. <b>No change is recommended.</b></p>	
<b>SECTION 8.2100.: HOLIDAY PAY</b>		
<p>What is the policy for holiday pay for employees on flextime and/or compressed work week?</p>	<p>Refer to 10.009. <b>No change is recommended.</b></p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>If the employee has no leave and is on leave without pay status before and after a holiday, they are not paid for the holiday. how do you record that in time sheet - do you put LWOP for the holiday?</p> <p>Employees do not accrue leave if they take LWOP too.</p> <p>Holiday Pay = double</p>	<p>Yes. Recorded as LWOP. <b>No change is recommended.</b></p> <p>Yes, they do not accrue.</p> <p><b>No change is recommended.</b></p> <p>Yes. <b>No change is recommended.</b></p>	
<b>SECTION 8.2200.: NIGHT DIFFERENTIAL</b>		
Night Differential: What happens if a person has chosen to work a schedule within the time earning night diff?	<p>They earn night differential. This is pursuant to statute. <b>No change is recommended.</b></p>	
Is there any exception to this rule? Such as if you choose your schedule, teleworking or if you asked for a flexible schedule?	<p>Employees do not have the discretion to choose their working hours or to choose to work at night. This is a solely a management decision. The Teleworking Policy states that unless approved otherwise, hours of work are 8am to 5pm. An employee who asks for a flexible schedule for their benefit of off-time during daylight hours should not expect to be paid night differential. Teleworking is not a right and can be revoked at any time.</p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Is this supposed to be an automatic payment even if the employee does not submit a claim for this?	Yes. <b>No change is recommended.</b>	
<b>SECTION 8.2300.: HAZARDOUS PAY</b>		
Hazardous pay limited to Marshals, PO, and ASO. Tried to get it for CSFC but denied. Shouldn't the PSA's get hazardous pay for having close contact with client while doing UA's? or those doing covid tests on clients?	Pursuant to statute. <b>No change is recommended.</b>	
<b>SECTION 8.2301.: SCOPE</b>		
Should the wording be "10% of hourly rate" or is it really "10% of Gross Pay"	No. DOA and PAG rules use "differential rate" to describe hazardous pay.	8.2301 <u>Scope</u>  Marshals, Probation Officers, and Alternative Sentencing Officers qualify for <u>a</u> hazardous pay <u>differential rate</u> , <del>a of 10% increase of their gross pay</del> , for such periods of time they are performing any duty considered to be a "hazardous condition," provided that "hazardous conditions" shall not include the ordinary, customary or routine duties of Marshals, Probation Officers and Alternative Sentencing Officers. Exceptions to this provision are indicated in this section.
<b>SECTION 8.2303.: CLAIMS ALLOWED</b>		
Hazardous Pay, Claims Allowed: Will this section supersede ACP UJ06-07?	Yes. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 8.2306.: PROCEDURE FOR DISCOVER DISCREPANCIES AND/OR DENIAL OF CLAIMS</b>		
<p>In the event payroll has discovered any discrepancy in claims, the Finance Administrator will issue a notice to the respective division manager for a response. The notice will include the date, time, number of hours, and reasons for the discrepancy. A copy of this notice is given to the Administrator of the Courts, the supervisor and employee.</p> <p>a.: Will this be for every discrepancy found during payroll audit? Does this not go through the regular payroll audit process? Or is this for claims that have already been processed through payroll?</p>	<p>No, just for claims that have been processed through payroll.  <b>No change is recommended.</b></p>	

## CHAPTER 9 EXCERPTED

CHAPTER 9: PERFORMANCE EVALUATION		
EMPLOYEE COMMENT OR QUESTION	RESPONSE	REVISED RULE
<b>SECTION 9.001.: PERFORMANCE STANDARDS AND INTERVIEW TECHNIQUES</b>		
This training that is to be given to all levels of management is a must. I definitely understand the importance of this training. Too many times I have seen supervisors give superior ratings to employees who perform satisfactorily just by doing what is expected. This sends the wrong message and creates resentment and poor morale for those employees that go “above and beyond” to achieve the mission. It has a negative effect on the work product when we lower the standards by rewarding average or mediocre employees with superior ratings. Please ensure this training happens.	<b>No change is recommended.</b>	
<b>SECTION 9.003.: PERFORMANCE EVALUATION PERIOD</b>		
<b>C.: <u>Salary Increment</u></b> Clearly states evaluations are due 15 days before the salary increment effective date. This should be communicated in the email when the performance evaluation quarterly list is submitted to the divisions. What about those evaluations that are overdue?	HR internal procedures. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	RESPONSE	REVISED RULE
<b>SECTION 9.502.: MERIT BONUSES</b>		
<p>Recommendation is to add the language from 4 GCA § 6203 regarding the fiscal year.  "The merit bonus is in addition to the increment provided under § 6102 and is limited to the fiscal year in which superior performance is rendered."</p> <p>Pay for merit and increments subject to availability of funding. 4GCA6203 entitlement stated, employees are expecting payout, should be informed subject to funding, liability of the court</p>	<p>Addressed in 8.400.  <b>No change is recommended.</b></p> <p>Addressed in 8.400.  <b>No change is recommended.</b></p>	

## CHAPTER 10 EXCERPTED

CHAPTER 10:HOURS OF WORK		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 10.002.: HOURS OF WORK</b>		
The normal workday shall consist of eight (8) hours, beginning at 8:00 a.m. and ending at 5:00 p.m., with a one (1) hour period therein constituting a lunch period.	<b>No change is recommended.</b>	
<b>SECTION 10.0003.: BREAK PERIODS</b>		
C.: Is this different from Rule 8.2010. I, relative to waiving meal period with mutual consent?	<p>Yes, the normal workday consists of a one (1) hour lunch; option to waive meal period is covered in 8.2010 (I).</p> <p>The exception in 8.2010.I is for a 6 hour work period.</p> <p>Same rule provides that if the employee cannot take a meal period because of work, it will be considered on duty.</p>	
Is this section for when there are no prior agreement or authorization for late arrival and early departure were arranged?	<p>No.</p> <p><b>No change is recommended.</b></p>	
Meal periods, DOA rule if they are with Judge & cannot take the meal period	<p>Refer to section 8.2010. I., "Meal period should not be considered on duty or counted as time worked unless the nature of work prevents an employee from being relieved of duty."</p> <p><b>No change is recommended.</b></p>	



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 10.004: MEAL PERIODS</b>		
A.: Added of more than 5 hours (why was this added or why is it different from DOA)	FLSA. <b>No change is recommended.</b>	
<b>SECTION 10.005.: FLEXTIME SCHEDULES</b>		
A.: <u>Applying for a Flextime Schedule</u> Application for flex time schedule. This currently not submitted to Division Head... Is this new? SOURCE in blue says compressed workweek policy (not flex time) and that current policy states Division Heads must seek prior approval for any employee request, subject to the approval of the AOC.	No. Refer to Employees on Flextime and/or Compressed Work Week Schedule effective January 15, 1998. <b>No change is recommended.</b>	
Shouldn't this be required in applications for flextime, submitted to Division Head, subject to AOC approval.	Memorandum of request is sufficient.	
Does this apply to flex time or just requests for compressed workweek.	Applicable any time the employee's hours are outside of the normal, Monday through Friday schedule.	
Applying for a Flextime Schedule – What if the employees are assigned work outside the normal business hours? Do they still need to apply or seek approval?	Yes. Stated clearly in this section. <b>No change is recommended.</b>	
C.: <u>Examples of Current Flextime Schedules</u> Gives examples of current flextime schedules which incorporate a weekend. What about schedules that are 7:00 am to 4:00 pm for example.... if an employee chooses a 7:45am to 4:45pm, 7-4, 7:30 - 4:30 work time for example (which is out of the 8-5 work-time) would this require application.	Yes. Refer to 10.005. A. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 10.006.: COMPRESSED WORKWEEKS</b>		
Recommendation is for flexible scheduling to be submitted to AOC for approval, then HR and Payroll, for processing.	Proposed process is sufficient. <b>No change is recommended.</b>	
What happens if the employee requests for flexible hours consisting of work hours between 6 p.m. and 6 a.m.? Will night differential pay apply?	Yes, by statute, if the flex schedule is approved.	
Does an employee need to apply for the compressed workweek like they do the flextime schedule? It is not mentioned in the rules.	Refer to the last sentence of 10.006. <b>No change is recommended.</b>	
In compressed work week scheduling, what if the employee is scheduled to work time in between two consecutive days; example is 5 p.m. (Jan 1) to 2 a.m. (Jan 2)? How is holiday pay/leave request applied?	Refer to section 10.009. <b>No change is recommended.</b>	
On compressed work week scheduling, if the employee requests to take leave on a day they are scheduled to work 10 hours on, do they get charged 10 hours or 8 hours of leave?	Refer to section 10.009. <b>No change is recommended.</b>	
How about if they take the 10hrs off on Tues and then come in on the Friday, is it ok to offset? Will they need approval from the Division supervisor?	Division manager's discretion. <b>No change is recommended.</b>	
<b>SECTION 10.007.: HOUR RESTRICTIONS FOR OUTSIDE EMPLOYMENT</b>		
Even if they are working a compressed schedule?	Refer to outside employment in Chapter 3. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 10.008.: HOURS WORKED BEYOND ASSIGNED WORK SCHEDULE FOR FLEXTIME AND/OR COMPRESSED WORKWEEKS</b>		
Should reference Chapter 8.2000.	<b>No change is recommended.</b>	
<b>SECTION 10.009.: HOLIDAYS OCCURING ON EMPLOYEES DAY OFF FOR FLEXTIME AND/OR COMPRESSED WORKWEEKS</b>		
How about for those on TGIF?	Same rules apply. <b>No change is recommended.</b>	

## CHAPTER 11 EXCERPTED

CHAPTER 11 LEAVE OF ABSENCE		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.005.: REVOCATION OF LEAVE</b>		
"when the good of the service requires it" this wording is strange... due to operational requirements of the Judiciary or when the operational needs of the Judiciary requires it.	Agreed. Amend: due to operational requirements.	11.005 <u>Revocation of Leave</u>  Approved leave may be revoked by the division manager, Human Resources Administrator, Administrator of the Courts or any delegated authority when the <u>operational need of the Judiciary</u> <del>good of the service</del> requires it, or when evidence shows that the employee on leave is engaged in activities for which the leave would not have been granted.
<b>SECTION 11.006.: DENIAL OF LEAVE OF ABSENCE</b>		
A. iii.: Clearing the position for temporary position. Asking for clarification on what that means?	The Judiciary can't place one employee on leave in order to recruit another temporarily. <b>No change is recommended.</b>	
iv.: "doing something contrary to the good of the service" I still don't like it... was "good of the service" used elsewhere in the JOG rules and regs.	Statement is sufficient. <b>No change is recommended.</b>	
<b>SECTION 11.101: ACCRUAL</b>		
Would like clarification if an employee goes on leave without pay for 1 hour doe he/she not accrue annual leave...more specifications	Indicated in section. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.104.: DETERMINING YEARS OF SERVICE FOR ANNUAL LEAVE ACCRUAL PURPOSES</b>		
c.: DETERMINING ANNUAL LEAVE FOR ACCRUAL PURPOSES – This section talks about accrual rate of 1 to 1 for years worked as a “school year employee.” Is this referring to teachers and the like, and if so, is it inclusive of teaching in the Catholic School System? This rules needs to be specific if this only applies to “DOE” school year employees.” This definition should be given for “school year employee” as well.	Catholic Schools are not part of the Government of Guam. <b>No change is recommended.</b>	
Is there anyone in this category prior to 8/1/50 still working? Is this saying that if anyone has had honorable service with the Armed forces of the US that they will get one year for each year of service not to exceed 3 years? Why does the last sentence say as a school year employee?	Per statute. <b>No change is recommended.</b>	
<b>SECTION 11.105.: MAXIMUM ACCUMULATION AND CARRY OVER OF ANNUAL LEAVE</b>		
No indication of Forfeit, other agencies still accrue and just get paid out 320 -720 cap balance, carry over source, 4GCA does not specify carry over	4 GCA § 4109(c), as amended by PL 27-109, sets the cap at 320 hours.	
C.: Would this only apply to accumulated leave in excess of 320 hours as of February 28, 2003....	Yes, per statute. <b>No change is recommended.</b>	
That date is long gone, does this need to be in the PR&R?	Yes, per statute. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.111.: LUMP SUM PAYMENT FOR ANNUAL LEAVE UPON SEPARATION OR TRANSFER</b>		
A: In computing lump sum payment, leave on leave shall not be allowed. i. What does this mean?	Recommend deletion of last sentence.	11.111 <u>Lump Sum Payment for Annual Leave upon Separation or Transfer</u>  <b>B.</b> When an employee separates from the Judiciary's service, the employee shall be given a lump sum payment for any accrued and unused annual leave up to a maximum of three hundred twenty (320) hours as of the date of separation. <del>In computing lump sum payment, leave on leave shall not be allowed.</del>
Lump sum payment covered by grant for AI payouts, no payouts	Unfunded liability if not covered by the grant. <b>No change is recommended.</b>	
B.: Are there corporations in GovGuam	This is statutory language. <b>No change is recommended.</b>	
What if the Employee has 400 hours and they chose to cash out 320hrs then can they still bring over the 80hrs left?	No. Refer to 11.105. <b>No change is recommended.</b>	
What if they decided to transfer all the leave is it possible to transfer the 400hrs?	No. Refer to 11.105. <b>No change is recommended.</b>	
What if they only want a partial cash out of the 400hrs say 100hrs and then transfer the rest is this possible?	No. Refer to 11.105. <b>No change is recommended</b>	
C.: There is that magic February 28, 2003.	This date is in the statute.	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.204.: USE OF SICK LEAVE</b>		
Had to look up loco parentis... might be helpful to explain what this means  B.: Use of Sick Leave: Providing health care for a member of the employee's immediate family as a result of serious injury or illness	Defined in the Glossary. <b>No change is recommended.</b>	
Does a preplanned Doctor's appointment for a family member apply to this, if a doctor's certification is provided.	If it meets the criteria as indicated in this section. <b>No change is recommended.</b>	
What is applicable under Sick leave C on the leave form where Section E would apply?	Criteria indicated on the leave form. <b>No change is recommended.</b>	
How do I know if it is applicable under the policy section A, B, C, or D? What do we need to look for, what do we need (dr note)?	Stated in the sections. Payroll should have SOP's relative to processing requirements. <b>No change is recommended.</b>	
As payroll auditing this type of leave what should be looking for since discretion is with the manager?	Manager's approval. <b>No change is recommended.</b>	
<b>SECTION 11.205.: NOTIFICATION, APPLICATION AND PHYSICIAN'S CERTIFICATION</b>		
C.: <u>Physician's Certification/Health Care Provider Certificate</u>  Take out certificate at the end of the first sentence.	Agreed. Remove: certificate.	<b>11.205.C. <u>Physician's Certification/Health Care Provider Certificate</u></b> An employee, who is absent because of illness, injury or quarantine in excess of three (3) consecutive days, or for the full day immediately before or after a holiday, weekend, day off or vacation, may be required to furnish a certification as to incapacity from a regularly licensed physician or health care provider <del>certificate</del> .

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
The second sentence... can the supervisor ask for certification for shorter periods? Not sure if I understand the 2nd sentence.	Yes. Supervisor's discretion. <b>No change is recommended.</b>	
Why would medical certification not be acceptable?	AOC discretion. <b>No change is recommended.</b>	
<b>SECTION 11.207.: ADMINISTRATION OF SICK LEAVE</b>		
Administration of Sick Leave: If the certification required in this section is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.  As Payroll what are we looking for in regards to this section if it is at the discretion of the manager.	Manager's approval and/or disapproval. Payroll internal procedure. <b>No change is recommended.</b>	
<b>SECTION 11.301.: LUMP SUM PAYMENT OF SICK LEAVE PROHIBITED</b>		
B. i.: Lump Sum Payment of Sick Leave Prohibited What is considered credited years of service?	Payroll/Retirement procedures. <b>No change is recommended.</b>	
What if an employee received an increment and chooses to retire in 1 or 3 months after, does that rate count as the highest?	Payroll/Retirement procedures. <b>No change is recommended.</b>	
ii. Is it different if it is done on is-land vs off is-land	Payroll/Retirement procedures. <b>No change is recommended.</b>	



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.400.: ON-THE JOB INJURY</b>		
Do we have the GovGuam WCC procedures?  Can it be an attachment to these personnel rules and regs?	Yes.  Gov Guam WCC is incorporated in this section. <b>No change is recommended.</b>	
<b>SECTION 11.401.: RESPONSIBILITIES</b>		
A.: Shouldn't it also be reported to Workers Compensation Commission?	Yes, upon discharge from the hospital as indicated in 11.401C. <b>No change is recommended.</b>	
<b>SECTION 11.502.: JURY DUTY</b>		
C.: Is this saying that jury duty fees must be surrendered to the JOG? or that the employee must cash the jury duty check and pay the court?	Yes, as required by 4 GCA § 6505. FMD will advise employee as to payment	C. Supervisors are responsible for advising employees that all compensation earned for such jury service, except for the following, must be paid to the <u>Judiciary's Financial Management Division</u> in accordance with 4 GCA § 6505
<b>SECTION 11.503.: WITNESS LEAVE</b>		
B.: What if the employee is a witness in district court. Do they collect the fee, are they required to turn the fee over to JOG.	Rule 11.503.A states "any court in Guam"...  Revision to 11.503.B clarifies witness fees for employees appearing in official capacity.	B. An employee called to serve as a witness is required to show the notification to the employee's supervisor. The employee must provide to the employee's immediate supervisor a certificate or certificates showing the time devoted to witness service. The fees shall be the same as the fees of witnesses before the Judiciary, except if the witness is a government employee, <u>appearing in their official capacity</u> , no witness fees shall be given.

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.506.: MILITARY TRAINING LEAVE</b>		
A.: Should be fiscal year based on 4GCA 4119 b not calendar.	Agreed. Amend: calendar to fiscal.	<b>11.506 Military Training Leave</b> A. An employee who is a member of any Reserve Component of the U.S. Armed Forces shall be entitled to military leave which may not exceed fifteen (15) days per <del>calendar</del> fiscal year. Any leave not used during the fiscal year, up to fifteen (15) work days, may be carried over to the next fiscal year.
B.: Please clarify will the employee be put on MLWOP or LWOP. There is a difference in payroll application as MLWOP flags payroll to continue benefits for employees on MLWOP.	Yes, if they are on MLWOP. <b>No change is recommended.</b>	
<b>SECTION 11.507.: MILITARY LEAVE</b>		
Would the overlap be charged to their 15 days in the year? Or MLWOP based on if there is any leave leftover?  Change Sunday 2am to Monday 2am	Dependent on employee's request. <b>No change is recommended.</b>  Agreed. Amend: Sunday to Monday.	11.507.D.iii.  When an employee returns from military service and the eight (8) hour rest period overlaps the employee's scheduled work shift, the employee shall receive paid military leave to the extent of the overlap. For example, if an employee returns home <del>Sunday</del> <u>Monday</u> at 2:00 a.m. and the employee's

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Change Sunday 2am to Monday 2am (Continued)		regular work shift normally begins Monday at 8:00 a.m., the eight (8) hour rest period would overlap the work schedule by two (2) hours and the employee would receive the employee's regular salary for that two (2) hour period.
<b>SECTION 11.508.: MILITARY FAMILY LEAVE</b>		
D iii.: <u>Provisions</u> Does this mean payroll will need to still process their share of the benefits same as MLWOP?	Follow FMLA procedures. <b>No change is recommended.</b>	
<b>SECTION 11.510: DISABLED VETERAN'S RE-EXAMINATION OR TREATMENT</b>		
Is this supposed to be calendar year or Fiscal? Payroll calculates our leave based on Fiscal year.	Calendar year as stated in the section. <b>No change is recommended.</b>	
FMD Internal: New Adm hours Code in NWS	FMD internal procedures. <b>No change is recommended.</b>	
<b>SECTION 11.511.: NATURAL DISASTERS AND EMERGENCY CONDITIONS</b>		
Is there a distinction between how we pay and process leave when there is a "Natural Disaster" or an "Emergency Conditions"?	No.	
If we have a natural disaster and we have to return SL or AL what if the person is off- island or on Military orders? Is this practicable if it is a Disaster and Emergency condition?	An employee who is on sick or annual leave (for any reason) during the period of the declared emergency will have their leave returned for that period. Military leave is not included.	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>Section 11.511 (Continued).</p> <p>What if an employee is on annual leave or sick leave and a typhoon is declared?</p> <p>What happens if they are on military leave status?</p> <p>What happens if the employee is on vacation (off-island) during the emergency declaration?</p>	<p>Only accrued/earned leave may be returned.</p>	
<p>How is overtime pay calculated? Does this mean Double pay (Typhoon Adm and typhoon premium)</p> <p>Is this only for Typhoon? Or any declared natural disaster?</p>	<p>Overtime during certain typhoon conditions is mandated by 4 GCA § 6226, which does not reference any other type of disaster or special pay.</p> <p>For clarification, Rule 11.511.C. will clarify that physical return to work is necessary.</p>	<p>11.511.C. Judiciary employees who are required to <u>physically</u> report to work during typhoon condition of readiness one or two are entitled to overtime pay.</p>
<p>What happens if the employee is on suspension status (not on any leave status)?</p>	<p>The rule does not apply to a suspended employee. The suspension period will not change.</p>	
<p>What happens if the employees is using their CTO hours for leave status?</p>	<p>CTO will be added to the rule.</p>	<p>11.511.E. During the declared emergency, employees who are on <u>compensatory time off</u>, annual or sick leave status shall be considered as released from duty with pay and without charge to leave.</p>
<p>What administrative leave hours is provided if they are on flexible/compressed schedule?</p>	<p>Flex schedules should not affect applicability of the rule.</p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.514.: BEREAVEMENT LEAVE</b>		
<p>Does this include reared parents, not the employee's biological parents, step-children? List could be endless... or easier case by case? i.e. an employee who has biological parents who are divorced and have step parents, 4 or more sets of grandparents but were raised by someone else.</p> <p>Does common-law qualify?</p> <p>Does immediate step family members qualify?</p>	<p>No. This section references statute. <b>No change is recommended.</b></p>	
<b>SECTION 11.516.: PREGNANCY RELATED MEDICAL LEAVE</b>		
<p>Pregnancy Related Medical Leave ... this would be 10 days administrative leave prior to and inclusive of childbirth or does pregnancy related medical leave extend after childbirth?</p>	<p>Encompassing childbirth. <b>No change is recommended.</b></p>	
<p>C. It says they can apply for leave share. Will they be able to apply for leave from the donated leave bank?</p>	<p>Yes. <b>No change is recommended.</b></p>	
<b>SECTION 11.517.: PARENTAL LEAVE</b>		
<p>A.: Does this apply to a Limited Term Employee as it says "eligible employee occupying a permanent position"?</p>	<p>Yes.</p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>B.: In part B it states “However, should pregnancy medical leave apply, then the pregnancy medical leave is used first, and parental leave is used second. In such a case, the parental leave would start ten (10) days following the birth of the child.”</p> <p>What if the employee was not aware of the Pregnancy Medical Leave of 10 days can this be applied retroactively?</p>	<p>No. The leave must encompass the birth or at most 10 days following birth.</p>	
<b>SECTION 11.520.: LEAVE FOR GOODWILL</b>		
<p>A.: Can we request to amend the period from calendar year to fiscal year as payroll uses calendar year?</p>	<p>No. <b>No change is recommended.</b></p>	
<b>SECTION 11.521.: VOTING LEAVE</b>		
<p>Think need to say, “Working Hours”. This is due to polls opening and early and the leave given.</p>	<p>Section is sufficient. <b>No change is recommended.</b></p>	
<p>for clarification: if the employee voted outside the working hours, will the admin leave apply?</p>	<p>No. <b>No change is recommended.</b></p>	
<p>What if the employee left their post early to allow for time to vote, how many hours is allowable for travel time and voting as administrative leave? Example: Employee left their post at 4 PM, then voted at 6 PM.</p>	<p>Maximum of 2 hours. <b>No change is recommended.</b></p>	
<p>What proof will be accepted that they voted during the hours absent?</p>	<p>Documentation by the Guam Election Commission. <b>No change is recommended.</b></p>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.522.: LEAVE FOR VOLUNTEERS FOR DISASTER RELIEF</b>		
What document do the employees have to submit to show proof of service?	Proof signed off by the organization. <b>No change is recommended.</b>	
Subject to AOC approval? Is prior approval needed?	Yes. Prior approval is required for any leave requested. <b>No change is recommended.</b>	
B.: Does the 15 days calculate to 8hrs a day so as long as they use 120 hours in total in a 12 month period?	Yes.	
Or is this only to be applied by day so if they work a compressed work week and work 10 hrs. a day they work 4 days a week will it be applied as 10 hrs. by 15 days?	No. <b>No change is recommended.</b>	
C.: If I am on a compressed work schedule will I be covered the 10hrs a day or only 8hrs a day?	A maximum of 120 hours in a 12 month period. <b>No change is recommended.</b>	
<b>SECTION 11.523.: EDUCATIONAL LEAVE</b>		
F.: <u>Other Provisions and Limitations</u> i. what about on-line programs?	Clarify.	11.523 <u>Educational Leave</u>  F. <u>Other Provisions and Limitations</u> i. Educational leave to attend an off-island institution will be approved only when the course of study is not available locally <u>or virtually</u> .

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.525.: CHILD SCHOOL – RELATED LEAVE ACT</b>		
A. <u>General Provisions</u> i. Administrative Leave a. Calendar year or Fiscal Year?	Calendar year. <b>No change is recommended.</b>	
Will supporting document for CSRLA have a line section showing approval and signature by HR	No. <b>No change is recommended.</b>	
<b>SECTION 11.526.: EDUCATIONAL CAREER ENHANCEMENT SCHOLARSHIP PROGRAM – LEAVE BENEFIT</b>		
Should you reference 13.000. allow enrollment in one work related course....	No. <b>No change is recommended.</b>	
who determines if it is work related.... would an English class for example be considered work related, since we all got to write	HR. <b>No change is recommended.</b>	
B.: Should travel time be spelled out like it is in 11.527. iii.	Yes. Amend 11.526C.: Travel time up to maximum of 30 minutes to and from court/university. However, if the recipient does not return to work or goes straight to school from home, no travel time will be granted for such hours.	<del>11.526.C. Travel time will only be granted when the employee is departing from the work site and when the employee is required to return back to work status.</del> <u>Travel time up to maximum of 30 minutes to and from court/university. However, if the recipient does not return to work or goes straight to school from home, no travel time will be granted for such hours.</u>



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
I. "No administrative leave will be granted when an employee is on leave status and does not report to duty." As an example, does this mean I cannot be on leave the whole day and use 6hrs Annual Leave and 2hrs Admin leave.	Yes. <b>No change is recommended.</b>	
<b>SECTION 11.527.: PEDRO "DOC" SANCHEZ SCHOLARSHIP PROGRAM: LEAVE BENEFITS</b>		
No time to read GCA but full admin leave in the last semester to write the Thesis or special project?	Yes. <b>No change is recommended.</b>	
Who determines how much time this is....	AOC. <b>No change is recommended.</b>	
Is it for the full semester?	Last semester. <b>No change is recommended.</b>	
They don't have to report to work?	Subject to the AOC's approval. <b>No change is recommended.</b>	
DOC SANCHEZ: indicate availability of Funds, TMP some programs have clause of availability of Funds	Refer to 8.1700. <b>No change is recommended.</b>	
<b>SECTION 11.601.: AUTHORIZATION</b>		
A. "administration discretion" administration's discretion or administrative discretion?	Agreed. Amend: administration's discretion to administrative discretion.	11.601 <u>Authorization</u>  A. Authorizing leave without pay is a matter of <del>administration</del> the <u>Administrator of the Court's</u> discretion. An employee cannot demand to be granted leave without pay as a matter of right except in the case of:

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.800.: LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE</b>		
Does this apply to other family members such as Grandparents, Step-Family members	No. Statue is specific. <b>No change is recommended.</b>	
<b>SECTION 11.900.: TGI THURSDAY PROGRAM</b>		
TGI- allow reduction in workweek from 40 hours to 32? could it be more?	No. Hours requested will determine the type of program. <b>No change is recommended.</b>	
and if so would it affect retirement and health insurance?	No employee will lose any benefits an employee was receiving prior to opting into the program. <b>No change is recommended.</b>	
If not shouldn't it say so like it does in 11.1000.	No. Section is sufficient. <b>No change is recommended</b>	
<b>SECTION 11.900. &amp; 11.1000.: TGI THURSDAY &amp; QUALITY TIME PROGRAM</b>		
Can the employees work at their second job during the times that they are not scheduled to work at the Judiciary? For example, if they are scheduled to report to the Judiciary 32 hours a week and off from Friday to Sunday, can the employee attend their other employment on Friday?	This issue will be deferred to the Administrator of the Courts for legal determination.  <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 11.1000.: QUALITY TIME PROGRAM</b>		
Voluntary leave for any purpose? Is it leave without pay, if employee has no accrued leave.	No. Reduction of hours.	
How does this affect employee benefits?	Benefits are not impacted as indicated in the section. <b>No change is recommended.</b>	
<b>SECTION 11.1100.: VOLUNTEER LEAVE ACT OF 1999 UNDER 4 GCA § 4109.4</b>		
What type of leave? Personal leave or is there an Administrative Leave for this?	LWOP. <b>No change is recommended.</b>	
What happens to the employees benefits?	No effect to benefits.	
<b>SECTION 11.1206.: HEALTH CARE MAINTENANCE</b>		
What about life insurance(Government Share)?	Agreed. Add a section relative to life insurance when on FMLA.	<p><u>11.1206 Health Care and Life Insurance Maintenance</u></p> <p>A. Under the FMLA the Judiciary must maintain coverage for eligible employees approved to participate under the FMLA program. However, the Court shall require the employee to sign a Memorandum of Agreement that the Judiciary is obligated to provide health care <u>and/or life insurance</u> coverage during the FMLA leave period for the employee and will also contribute the government's share. In return the employee shall make arrangements with the health care <u>and/or life insurance</u> provider as to the employee's share of contribution for said health care costs.</p> <p>B. Should the employee fail to contribute to the employee's share of health care <u>and/or life</u></p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Section 11.206 (Continued)		<p>insurance costs after a period of more than thirty (30) days from the date the payment is due, the Judiciary's obligation to maintain health <u>care and/or life</u> insurance coverage shall cease.</p> <p>C. The Judiciary may further recover the employee's share of any premium payments missed by the employee for any FMLA leave period if the employee missed payments during the FMLA period and the Judiciary paid the employee's share.</p>
<b>SECTION 11.1400.: VOLUNTARY LEAVE TRANSFER PROGRAM</b>		
For Federal Employees?	The controlling law applies only to Government of Guam employees.	
<b>SECTION 11.1402.: LIMITATIONS OF TRANSFER</b>		
A.: Sharing requests must be for a minimum of five (5) consecutive workdays, forty (40) hours.	Yes. <b>No change is recommended.</b>	
So no more leave transfers will be processed for less than 5 consecutive work days?	Yes. <b>No change is recommended</b>	
It will be denied for request for 1 hour or 8 hours?	Yes. <b>No change is recommended.</b>	
<b>SECTION 11.1405.: DONATED LEAVE BANK</b>		
A.: So any leave excess over 420 at the end of the fiscal year can be transferred to the donated leave bank?	Yes. <b>No change is recommended</b>	
Do they need to fill out a form to transfer?	Yes. <b>No change is recommended.</b>	
Will the leave bank now consist of both Annual & Sick Leave?	Yes. <b>No change is recommended.</b>	

## CHAPTER 12 EXCERPTED

CHAPTER 12:HEALTH AND SAFETY		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 12.002.: KINDS OF EMPLOYMENT MEDICAL EXAMINATIONS</b>		
Health & Safety Medical Examinations: work with HR/AOC/DH go through chain? HR works with AOC & DH	Division manager may request for the AOC's authorization. <b>No change is recommended.</b>	
C.: Suggest changing psychological examinations to mental health examinations or psychological or psychiatric examinations.	Agreed. Amend: psychological to mental health.	12.002. C. <u>Special</u>  The division manager may request for the Administrator of the Courts to authorize special medical, physical or <del>psychological</del> <u>mental health</u> examinations to determine the fitness for duty of an employee if the employee's behavior or actions raise questions about the employee's ability to perform essential job related functions or raises a safety concern. <del>A S</del> special <u>medical</u> , physical or <del>psychological</del> <u>medical mental health</u> examinations shall have as its purpose the determination of whether an employee should be assigned to duties and responsibilities that are within the employee's physical or psychological ability to perform. The Judiciary shall incur costs for the special <del>medical</del> examinations. ...
Not sure if you would want to include substance abuse evaluations.	Covered under the Drug Free Workplace Program and other court policies. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>There have been and currently are employees who hold positions within the Judiciary that cause an “undue hardship” on the respective division’s operations, but have been given special accommodations. It is extremely necessary to determine their “fitness for duty” of these particular employees sooner than later or never, especially if they are law enforcement officers.</p>	<p>Accommodations are handled under the Judiciary’s EEOC policy and other court policies.</p>	

## CHAPTER 13 EXCERPTED

CHAPTER 13:EMPLOYEE ADVANCEMENT AND WELLNESS PROGRAMS		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 13.000.: EDUCATIONAL CAREER ENHANCEMENT SCHOLARSHIP PROGRAM</b>		
<p>This program allows an employee to enroll in one (1) work-related course at the UOG or GCC. Is this during working hours?</p> <p>If during, should it say that the employee must secure approval of supervisor/division manager regarding class/work schedule (as in the Doc Sanchez) After hours? Work-related? What if the employee needs one final literature class to complete bachelor's degree?</p>	<p>Yes. Refer to 11.526 <b>No change is recommended.</b></p> <p>Covered in the section. <b>No change is recommended.</b></p>	
<b>SECTION 13.002.: PROGRAM BENEFITS</b>		
<p>A.: Reimbursement Plan.... there is no explanation. Should it say refer to 13.004</p> <p>B. Refer to Chapter instead of Rule?</p>	<p>Agreed. Add: Refer to Chapter 13.004.</p> <p>Chapter refers to this Chapter 13. The individual sections are "rules."</p>	<p>13.002 <u>Program Benefits</u> A. Reimbursement Plan – <u>Refer to Rule 13.004</u></p>
<b>SECTION 13.004.: REIMBURSEMENT PLAN FEATURES &amp; REQUIREMENTS</b>		
Shouldn't it say subject to the availability of funding?	Stated in Chapter 13.004. E. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>13.103: RESPONSIBILITIES OF DOC SANCHEZ SCHOLARSHIP RECIPIENTS</b>		
F.: Course progress report should also be submitted to supervisor and division manager.	Current requirement is sufficient. <b>No change is recommended.</b>	
<b>SECTION 13.200.: TALENT MANAGEMENT PROGRAM "TMP"</b>		
Defunct - is it the LDA?	No. <b>No change is recommended.</b>	
<b>SECTION 13.300.: EMPLOYEE ASSISTANCE PROGRAM "EAP"</b>		
Change EAP Program Coordinator to EAP Point of contact	Remain "Program Coordinator" as stated in JC19-002.	



## CHAPTER 14 EXCERPTED

CHAPTER 14: GRIEVANCE PROCEDURE		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 14.100.: EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT REVIEW PROCESS</b>	<b>14.100 moved to 14.003 C. (Renumbered all applicable sections.)</b>	
Last sentence .... shall be processed under the Judiciary's EEO Complaint Review Process and not through the Grievance Procedure.	Yes. <b>No change is recommended.</b>	
<b>SECTION 14.100.: GENERAL PROVISIONS</b>		
Grievance Procedure General Provisions (sorry 14.100 threw me off)	Moved 14.100 to a new subsection 14.003.C.	<p>14.003 <u>Coverage.</u></p> <p><u>C. When an aggrieved employee submits a written Equal Employment Opportunity Complaint based on an allegation of discrimination or harassment on the basis of the employee's race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law in connection with a matter which is subject to the grievance procedures, as well as the EEO Complaint Review Process, that allegation shall be processed under the Judiciary's EEO Complaint Review Process.</u></p> <p><b>14.100 EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT REVIEW PROCESS.</b></p> <p><del>When an aggrieved employee submits a written</del></p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Grievance Procedure General Provisions (Continued)		<del>allegation of discrimination or harassment on the basis of the employee's race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law in connection with a matter which is subject to the grievance procedures, as well as the EEO Complaint Review Process, that allegation shall be processed under the Judiciary's EEO Complaint Review Process.</del>
<b>SECTION 14.104.: REPRESENTATION</b>		
Is this legal representation or can the individual have anyone represent him or her	Section indicates a representative of the employee's choice. <b>No change is recommended.</b>	
<b>SECTION 14.109: EMPLOYEE'S RESPONSIBILITY</b>		
A.: Report to management - is defined as supervisor or division manager... if the grievance is against both then it should state here who to report to.	Covered in Sections 14.300. <b>No change is recommended.</b>	
<b>SECTION 14.200.: PROCEDURE</b>		
Shouldn't this be step one.... There should be an informal good faith effort on the part of the employee and supervisor to meet to resolve the dispute. This informal meeting does not extend the deadline however for filing the grievance.	It's informal. <b>No change is recommended.</b>	
Facts to support the grievance with sufficient detail and the specific remedy that the employee seeks. The grievance form must contain the employees confirmation the informal meeting took place.	Covered in the form. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<b>SECTION 14.202: STEP 1: INITIAL FILING OF GRIEVANCE AND REFERRAL TO MEDIATION</b>		
A.: Is there a grievance form or format for the employee to use?	Yes. <b>No change is recommended.</b>	
<b>SECTION 14.205: GRIEVANCE REVIEW COMMITTEE ("GRC")</b>		
C.: <u>Management defined</u> Different from Management defined in 14.002. Maybe explain the distinction here... for GRC	Agreed.	14.205.C. <u>Management Defined</u> <u>For purposes of the GRC, management</u> employees are defined as those employees listed in the Administrator of the Courts' Management Team, Human Resources' list of mid-managers and supervisors who have direct or indirect supervision of subordinates. Supervisors who conduct performance evaluation ratings of their subordinate employees also fall within the definition of management employee.
I.: <u>Grievant's Right to Request a Recusal</u> Submit a request for recusal "for the reasons specified in writing" - this was a little confusing to me. does the employee specify the reasons in writing? maybe submit a written request for recusal of any member with the specified reasons for recusal.	Agreed.	I. <u>Grievant's Right to Request a Recusal</u> <u>Within two (2) days of being notified</u> <del>When the grievant has been</del> notified in writing as to the members of the GRC, the grievant has the right to submit a <u>written</u> request <u>to the Administrator of the Courts</u> for recusal of any member <u>specifying for the reasons for such recusal specified in writing to the Administrator of the Courts within two (2) days after being notified.</u>
K.: <u>Pool of Names for Yearly Appointment by the Administrator of the Courts:</u> i. ii. lii. is listed in 4.205 C. No need to repeat here.	Section is necessary. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>L.: <u>Annual Appointments</u>  Yearly Appointment by the Administrator of the Courts.  Yearly appointment? can it be changed to a longer period (i.e. every 2 years) if not done annually?</p>	<p>Agreed.</p>	<p>14.205 <u>Grievance Review Committee (“GRC”)</u>  A. <u>Appointment of the Committee:</u>  This section establishes an orderly process for empaneling the Judiciary’s GRC to serve on a <del>twelve (12) month</del> <u>two-year</u> basis. The Administrator of the Courts will appoint twelve (12) employees to serve on the <del>Annual</del> Grievance Committee, consisting of six (6) employees representing management and six (6) employees representing non-management from various divisions. These employees will serve on a running pool of names that will be readily activated to serve on the GRC, which will consist of three (3) or five (5) members. The Administrator of the Courts and the Human Resources Administrator are responsible for appointing, qualifying, and providing training to the court employees selected to serve <del>one (1) year</del> <u>two years</u> on appointment.</p> <p><u>E. Recusal Protocol</u></p> <p>Whenever there is a recusal, the Administrator of the Courts may select another management or non-management employee, whichever is applicable, from the list of employees appointed to serve for <del>one (1)</del> <u>two years</u></p> <p>K. Pool of Names for <del>Yearly</del> Appointment by the Administrator of the Courts</p> <p>iv. Total number of employees to be appointed <del>on a yearly basis</del> shall be a pool of twelve (12) names. Six (6) representing management and six (6) representing non-management. When appointed by the Administrator of the Courts, these employees will</p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
		<p>serve on an on-call basis in the event of a need for a GRC.</p> <p>v. The selection of members in the event of a group of management and non-management employees filing a grievance will be selected from the pool of twelve (12) employees appointed to the <del>Annual</del> Grievance Committee.</p> <p>L. <del>Annual</del> <u>Two-Year</u> Appointments</p> <p>The Administrator of the Courts will commence the <del>one (1)</del> <u>two</u>-year appointment of the twelve (12) employees beginning from the first work day of the calendar year.</p> <p>Committee members that were not activated during the entire <del>twelve (12) month</del> <u>two-year</u> period may be extended or reappointed another year as requested by the Administrator of the Courts.</p>
Is this appointment occurring with the appointment commencing from the first work day of the calendar year?	Yes. <b>No change is recommended.</b>	

## CHAPTER 15 EXCERPTED

<b>CHAPTER 15</b> <b>ADVERSE ACTIONS AND JUDICIAL COUNCIL OF GUAM HEARING OFFICER PROCEDURES</b>		
<b>EMPLOYEE COMMENT OR QUESTION</b>	<b>HR RESPONSE</b>	<b>REVISED RULE</b>
<b>SECTION 15.400.: PROHIBITIONS</b>		
Should reference 15.800 and 15.900 for examples.	Section is sufficient. <b>No change is recommended.</b>	
<b>SECTION 15.1103.: EMPLOYEE'S ANSWER</b>		
Employee's right to counsel - would be at employee's expense?	Yes. <b>No change is recommended.</b>	
<b>SECTION 15.1308: CONDUCT OF HEARING</b>		
iii.: witness fees no payment if the witness is a government employee.... does that include all of government of Guam, U.S. Government...	Clarify rule to specify government of Guam employee.	iii. The Judicial Council Hearing Officer, upon the Hearing Officer's own initiative, or upon the request of any party, may summon in writing any person to attend a hearing as a witness and, in a proper case, to bring any book, record or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the Superior Court, except that if the witness is a government <u>of Guam</u> employee, no witness fee shall be given. ...
Employee Discipline not the same as Code of Conduct Code – VI. B report violations to the AOC / Chapter 15 Employee Discipline: follow chain (should be the same process) why not the same	Code of Conduct Section VI.A provides for chain of command reporting. Section VI.B provides the AOC to act upon a report from any person. <b>No change recommended.</b>	

## CHAPTER 16 EXCERPTED

CHAPTER 16: RESIGNATION, SEPARATION AND CLEARANCE		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Add section referring to retirement statute or types of retirement plans.	Unnecessary in the PRR. <b>No change is recommended</b>	
<b>SECTION 16.101.: RESIGNATION IN GOOD STANDING</b>		
Per the 4GCA §2107 and all Rules (JOG and DOA_ referenced regarding this, the qualified form employee does not need to compete for reinstatement as long as their intent is made within 4 years from date of resignation.	Section 8.1200. <b>No change is recommended.</b>	
Also, I have found no mention in any of the cited source documents that the reinstatement is allowable only if a position is open or available. What is written assumes that the position is held, so to speak, for up to 4 years.	Section is sufficient. <b>No change is recommended.</b>	

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
On a side note, it would be great if we could include in our rules what is written in the source documents so that we do not have to search for it ourselves.	<b>No change is recommended.</b>	
Reemployment inform them of Job Announcements	Announcement distribution list is sufficient. <b>No change is recommended.</b>	
<b>SECTION 16.102: FURLOUGH</b>		
F.: <u>Voluntary Furlough</u> Can employees do this at any time (I believe this is only if budgetary needs require a furlough but the way it reads .... sounds like it could be at any time).	Yes. Subject to Division Manager and AOC's approval. <b>No change is recommended</b>	
G.: <u>Involuntary Furlough</u> Sorry I may have missed it but what are retention points? I have an idea but maybe it can be explained here... so it is clear.	Refer to Section 16.102J <b>No change is recommended.</b>	
I.: <u>Furlough Impact on Employee Benefits</u> Doesn't seem fair for some employees who are living paycheck to paycheck and do have a spouse working ... without their income they would go bankrupt.	<b>No change is recommended.</b>	



EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
<p>M. <u>Procedures</u>  iv. a.: Earlier 16.102I. said that insurance will be paid ... unless the spouse has an income or goes below a certain level... here it was that they should be encouraged to continue insurance coverage by personally paying for the premiums... are you talking about health insurance or life insurance?</p>	<p>Under this section, health insurance is included but employee must pay their share if income disqualifies them from MIP. Basic life insurance is covered for all employees who are furloughed. Any supplemental life must be paid by the employee.</p>	
<p>iv.b.: all addresses (physical, mailing, email) all phone numbers (home, mobile, other)</p>	<p>Agreed.  Add: email address.</p>	<p>M.iv. Those employees who cannot be assigned to other positions within the division will receive written "Notice of Furlough." This final (or second notice) will again include the same information as the first notice. In addition, the furloughed employee shall be:</p> <p>a. Encouraged to continue insurance coverage by personally paying for the premiums.</p> <p>b. Informed that the employee's name will be retained in a "recall list" for one (1) year, and must keep current <u>home and mailing address, email address</u> and telephone number at the Human Resources Office</p>
<p>N.: <u>Recall</u>  Will their performance evaluation period stay the same or does it reset when they return or does it continue from when they were furloughed. For example anniversary period is 5/5/22. They are furloughed on 4/5/22. They return to work on 4/5/23. They are evaluated every 12 months.</p>	<p>Agreed.  Clarify.</p>	<p>N. <u>Recall</u>  Employees will be recalled according to need, classification, or ability to do the job based on retention standing points. The recall notice will be sent registered mail, return receipt requested, to the current home address furnished by the employee.  Returning employees will be paid the same salary as before they were furloughed. Any unused sick leave or annual leave accrued prior to the furlough will be reinstated. All employment benefits will be restored at the same rate as before the furlough <u>and the</u></p>

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
N. Recall (Continued) Before furlough they were to have been evaluated one month later on 5/5/2022. It is now 4/5/23... Do you evaluate them on 5/5/23? Help.		<u>employee's original employment anniversary date will continue.</u>
<b>SECTION: 16.103: LAY-OFFS</b>		
Last one in first one out?	Yes. <b>No change is recommended.</b>	
iv.: Can there be more clarification regarding retention points and what is considered when arriving at the amount of points? I read about the "Order of Layoffs" and am wondering if this is the calculation the point system is arrived at that will equal the retention point score.	Section is sufficient. <b>No change is recommended.</b>	
iv.f.: What if there is a mass request for temporary demotion?	This is subject to the Administrator's discretion under 16.103.c.ii.	
<b>SECTION 16.300.: EXIT INTERVIEW</b>		
Does not indicate who performs the interview.	Agreed. Add: as designated by the HRA.	16.300 EXIT INTERVIEW. <u>The Human Resources Administrator or designee may conduct A a personal interview shall be conducted</u> with an employee separating service from the Judiciary. The interview shall be held prior to the employee's effective date of separation. The interview shall be conducted in such manner as to obtain from the separating employee the true reason or reasons for separation. Such interview shall be recorded on forms prescribed by the Human Resources Administrator or designee and <u>placed in a separate confidential file not be made a part of the</u> employee's Personnel File.

EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
Exit Interview documents should be kept in a separate Confidential file and not the personnel file.	Agreed. Revised rule clarifies this.	
Exit interview should be conducted on all employees separating from service of the Judiciary?	This is subject to Administrator discretion.	
Would you still do an exit interview on those who were laid off or fired?	This is subject to Administrator discretion.	

## GLOSSARY

GLOSSARY		
EMPLOYEE COMMENT OR QUESTION	HR RESPONSE	REVISED RULE
I did not review the glossary in its entirety ... Glossary - Unclassified Services: "does not attain permanent status" what does this mean?	Section is sufficient. <b>No change is recommended.</b>	

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
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## **CHAPTER 1**

### **PURPOSE, SCOPE AND STATUTORY AUTHORITY**

**SOURCE:** JOG 1 (Authority and Purpose)

#### **STATEMENT OF POLICY:**

**SOURCE:** New.

The Judiciary of Guam (the “Judiciary”) strives to create and maintain a talented, qualified workforce to uphold the Mission and Vision of the Judiciary in line with the Judiciary’s Strategic Plan.

#### **Mission Statement**

*The Judiciary’s purpose is to administer justice by interpreting and upholding laws, resolving disputes in a timely manner, and providing accessible, efficient and effective court services.*

#### **Vision Statement**

*The Judiciary of Guam will provide the highest quality of justice services, thus enhancing public trust and confidence in Guam’s independent and co-equal branch of government and becoming a model of judicial excellence. The Courts will:*

- 1. Resolve matters and provide court services in a timely and efficient manner;*
- 2. Be user friendly, understandable, accessible and affordable to court users through the use of innovative resources and practices;*
- 3. Have sufficient resources to support operations, programs and services;*
- 4. Develop highly skilled and satisfied judges and personnel; and*
- 5. Be cost effective, accountable, and fiscally responsible.*

Transparent personnel rules and regulations, consistent with the merit system, Equal Employment Opportunity Act, **Americans with Disabilities Act, and** provisions of Title 4 of the Guam Code Annotated **and other applicable laws and regulations**, instill public trust and confidence in the Judiciary as an independent and co-equal branch of government.

The Judiciary is proud to be an equal opportunity employer and is firmly committed to non-discrimination in all employment decisions and practices and in the application of its personnel policies and procedures. Except where a bona fide occupational qualification ("BFOQ") exist, employment decisions will be made irrespective of the employee's race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law.

## **AUTHORITY.**

These Judiciary of Guam Personnel Rules and Regulations are promulgated by the Judicial Council of Guam pursuant to the authority granted by *I Liheslaturan Guahan* in 7 GCA § 5102(e).

## **1.000 PURPOSE.**

**SOURCE:** JOG 1.01.

The purpose of these rules is to: (1) provide a uniform system for the administration of human resources and employment matters; (2) ensure compliance with applicable local and federal laws; (3) establish clear standards, terms and conditions of employment; and (4) ensure that the recruitment and selection processes follow a systematic, merit based approach.

To fulfill this purpose, the Judiciary will exercise its exclusive right to determine the mission of each of its divisions, to set standards for employee classification, discipline, and grievance procedures, and to determine the methods, means and personnel by which the Judiciary's operations are to be conducted.

## **1.100 COVERAGE.**

**SOURCE:** New. DOA 1.000.

- A. These rules shall apply to all employees occupying classified, permanent, full time positions at the Judiciary.
- B. Employees of the Judiciary appointed to unclassified positions and who are categorized as such, are not governed by the merit system standard of these rules. However, other sections of the rules such as grievance, compensation, hours of work, and leave administration are applicable as indicated.
- C. These rules and regulations may be supplemented with appendices applicable to human resources management programs and/or judiciary-wide administrative policies sanctioned by the Administrator of the Courts, Chief Justice and/or the Judicial Council.

## **1.200 GUIDING PERSONNEL PRINCIPLES.**

**SOURCE:** New. DOA 1.100.

The following are guiding personnel principles, which the Judiciary shall apply in the implementation of personnel administration as required by Title 4, Section 4106 of the Guam Code Annotated.

Personnel Rules and Regulations are consistent with the merit principles which require the specific procedures and policies to be included in personnel rules governing the areas of selection, promotion, performance, evaluation, demotion, suspension, and other disciplinary action of classified employees. The principles are as follows:

- A. Recruiting, selecting, and promoting employees on the basis of their knowledge abilities and skills;
- B. Providing a uniform compensation policy;
- C. Training employees to ensure high quality performance;
- D. Retaining employees based on performance;
- E. Classifying positions systematically through job evaluation;
- F. Fair, expedient, and responsive processes for grievances, adverse actions and conflict resolution; and
- G. Provide for promotional and advancement opportunities in the recruitment process when filling classified full-time positions.

**COMMENT:** (G) is new.

## **1.300 EQUAL EMPLOYMENT OPPORTUNITY (EEO).**

**SOURCE:** JOG 1.04 (Affirmative Action Policy). Revised and updated.

The Judiciary is an equal employment opportunity employer. It is the policy of the Judiciary to afford equal employment opportunities to employees, applicants, volunteers and interns without regard to race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law. The EEO Policy and Procedure applies to all aspects of employment including, but not limited to, recruitment, hiring, placement, training, promotion, compensation, benefits, transfers, detailed appointments, leaves of

absence, discipline and termination. The Judiciary shall comply with all federal and Guam EEO laws and regulations in the workplace.

The Judiciary strives to create and maintain a work environment in which employees are treated with dignity, fairness, and respect. All employees should be able to work and learn in a safe environment. Every employee has the right to be treated courteously and also has the responsibility to treat coworkers in a manner that respects their individual differences. Therefore, it is the responsibility of all employees to conduct themselves in a manner that contributes to a workplace environment that is free of unlawful discrimination and harassment.

The Judiciary encourages employees who believe that they may have experienced discrimination or harassment, that another employee may have experienced discrimination or harassment, or are aware that another employee has allegedly engaged in discrimination or harassment in violation of the EEO Policy, to report such information using the Complaint Review Process under the EEO Policy and Procedure. In addition to this procedure, complaints may be filed with the Equal Employment Opportunity Commission (EEOC) or the Guam Department of Labor's Fair Employment Practice Office.

#### **1.400 AMERICANS WITH DISABILITIES ACT (ADA).**

**SOURCE:** New.

The Judiciary is committed to complying fully with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Amendments Act (ADAAA), which prohibit discrimination based on disability and ensure equal opportunity in employment for qualified individuals with disabilities.

#### **1.500 MISCELLANEOUS.**

##### **A. PENALTIES**

Any penalty imposed for violation of these rules shall be in accordance with applicable rules, regulations and statutes.

**SOURCE:** New. DOA 1.300.

##### **B. JUDICIAL COUNCIL**

Nothing in these rules and regulations is intended to limit or deprive the Chief Justice and Judicial Council of jurisdiction or authority vested by the Organic Act or the laws of Guam.

**SOURCE:** New. Based on DOA 1.500 (Civil Service Commission)

##### **C. STATUTORY CONFLICT**



In the event any rule or regulation is in conflict with statute, the statute shall prevail to the extent of consistency.

**SOURCE:** New. DOA 1.600.

**D. PERIODIC REVIEW.**

The Judiciary's Human Resources Division shall periodically review and propose revisions to the Judicial Council to update these rules and regulations as necessary.

**SOURCE:** New.

**DE. SEVERABILITY**

If any part of the personnel rules and regulations is deemed to be inorganic then the rules which are unaffected shall continue to be in force and effect.

**SOURCE:** New. DOA 1.700.

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PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 2**

### **ADMINISTRATION AND RESPONSIBILITIES**

**SOURCE:** JOG 2 (Administration and Organization).

#### **STATEMENT OF POLICY:**

This policy sets forth the responsibilities of the Administrator of the Courts, in implementing and enforcing these Personnel Rules and Regulations and applicable law.

**SOURCE:** New. DOA 2 (Statement of Policy).

#### **2.000 THE ADMINISTRATOR OF THE COURTS.**

**SOURCE:** JOG 2.01. Revised and updated.

- A. Administer and enforce these Personnel Rules and Regulations, direct, develop, and implement administrative policies and procedures relative to proper management and acceptable standards of conduct for all employees of the Judiciary, and ensure compliance with all regulations and laws which affect these rules.
- B. Recommend and advise the Chief Justice and Judicial Council on policies and procedures concerning personnel matters.
- C. Exercise discretionary authority and provide decision-making leadership in administrative personnel management matters to include recruitment and termination.
- D. Direct and supervise all division managers of the Judiciary with respect to all personnel matters and enforcement of these rules.
- E. Maintain authority for final interpretation, application, and enforcement of the Judiciary's personnel policies, rules, and regulations. This enforcement

shall also be applicable to local and federal employment laws and their resultant effect upon the Judiciary's personnel policies, procedures and practices.

- F. Ensure proper administration of the grievance process and appeals procedure as provided in these rules.
- G. Determine the minimum qualifications of all applicants, the subjects to be covered in each pre-employment testing, methods of testing, and the relative weights for recruitment.
- H. Perform all other functions necessary to execute and carry out the intentions of these Personnel Rules and Regulations.
- I. Maintain records of all personnel employed by the Judiciary.
- J. Carry out personnel administration activities as necessary to assure the promotion and continuity of the merit-based personnel system.

## **2.100 HUMAN RESOURCES ADMINISTRATOR.**

**SOURCE:** New.

The Human Resources Administrator provides direction and assistance to all division managers regarding employment matters such as staff projections, classification, staffing, compensation, labor and employee management relations, training, and employee development. The Human Resources Administrator also provides professional advice to ensure proper administration of the Judiciary's personnel management program and compliance on provisions of these rules and all other applicable personnel laws. In addition to the above, the Human Resources Administrator shall:

- A. Review and determine appropriate classification standards for all positions in the classified service, maintain a schematic list of all classes in the classification plan, and prepare and maintain job descriptions for each class.
- B. Order, prepare, coordinate, and conduct all employment examinations.
- C. Ensure that managers, supervisors, team leaders or senior employees are equipped with proper training, tools and information required to manage, supervise, evaluate and discipline employees.
- D. Respond to all inquiries and/or appeals relating to the eligibility of applicants, admissibility of applicants to the testing, extensions of time,

and all other inquiries arising during the course of the recruitment process, subject to the appeal provisions as written in these rules.

- E. Consult with and provide guidance and direction to the Administrator of the Courts in maintaining an adequate system of review to determine that the application of statutes, rules, regulations, and standards relating to personnel management are being carried out by all divisions.
- F. Provide initial and periodic orientation to all employees concerning the provisions of these rules and regulations, to include training of all supervisors, program and division managers in their specific responsibilities for advising employees about the requirements and provisions of these rules and regulations.
- G. Communicate and disseminate all information regarding personnel policies.
- H. Ensure that current and future supervisors are provided a copy of these rules and apprise them of any subsequent changes to personnel policies.

## **2.200 DIVISION MANAGERS.**

**SOURCE:** New.

For purposes of proper enforcement of these rules, the Administrator of the Courts has delegated the authority to the division managers to:

- A. Ensure that all supervisors, team leaders, or senior employees within their division possess adequate supervisory and managerial skills necessary for effective supervisor-subordinate relationships.
- B. Ensure goals regarding conduct and performance established by management are achieved and that the personnel policies established by these rules and regulations are in the best interest of the Judiciary and its employees.
- C. Initiate and recommend adverse actions to the Administrator of the Courts as required by these rules.
- D. Consult with the Human Resources Office on personnel matters relative to all levels of employee discipline, sub-standard performance and the grievance and appeals procedures.
- E. Ensure all service providers (e.g. student interns, contractors, volunteers) within their divisions, not employed by the Judiciary, comply

with applicable rules and/or policies.

### **2.300 SUPERVISORS.**

Supervisors are ultimately responsible for communicating and implementing the goals and policies of management. The scope of responsibilities for supervisors to effectively enforce these rules shall be to:

- A. Keep employees informed on factors relating to their work assignments, division operational requirements, policies and standard operating procedures.
- B. Advise employees of their work progress and conduct performance evaluations ~~on their performance~~ as required and make recommendations based on evaluations.
- C. Control absenteeism and tardiness which adversely affect the employee's performance and duties.
- D. Ensure that all rules and regulations are followed by employees under their supervision. Investigate and determine if any violation or non-compliance warrants disciplinary action.
- E. Initiate disciplinary action necessary to correct the behavior and conduct of employees who warrant it in accordance with the policies and procedures set forth in these Rules.
- F. Initiate and recommend adverse actions.
- G. Consult with the division manager and/or Human Resources Office on personnel matters relative to employee disciplinary actions.
- H. Respond to and address employee complaints in a timely manner to ensure proper compliance with the grievance process.

### **2.400 EMPLOYEES.**

It shall be the responsibility of the employees to familiarize themselves with and adhere to these personnel rules and regulations to guide them in understanding and acknowledging what is expected from them as Judiciary employees.

**SOURCE:** New.

### **2.500 RECORD KEEPING.**

#### 2.501 Official Personnel Folder

**SOURCE:** JOG 2.03 (Personnel Records).

The Administrator of the Courts, or the Administrator's designee, shall maintain personnel records on each employee. Such records shall include copies of personnel action forms and other documents necessary to accurately record the employment history of the employee. The employee shall have access to all materials in the employee's personnel jacket. The personnel records of Judiciary employees are confidential and are only available to the employee or person(s) specifically authorized, in writing, by the employee, or the employee's immediate supervisor, or division manager, and are not available to the general public.

Employees are required to inform the Human Resources Office of changes of name, address, telephone number, next of kin and other pertinent information as soon as possible, so that employee's records will be kept up to date.

#### 2.502 Official Medical Folder

**SOURCE:** New. PAG 8.980 (Official Medical Folder).

An official medical folder shall be maintained for each employee by the Human Resources Office. The folder shall contain the employee's medical documents, drug testing results and other pertinent documents. The authorized personnel to have accessibility to an employee's official medical folder shall be the **employee**, employee's supervisor, division manager, Administrator of the Courts and human resources personnel.

#### 2.503 Required Records under 22 GCA § 3110

The Judiciary follows the requirements outlined by the Wage and Hour Commissioner in 22 GCA § 3110 regarding the requirement to keep a record of all employees in or about the premises where the employee is employed.

**SOURCE:** New. 22 GCA § 3110.

#### 2.504 Social Security Number Confidentiality

**SOURCE:** New. 5 GCA § 32704.

In order to prevent identity theft and credit fraud, 5 GCA § 32704 limits the public exposure of social security numbers (SSNs). These limitations apply to public and private entities. The Judiciary adheres to the statutory limitations in the GCA and will not assign identification numbers identical to or involving employee SSNs, publicly post or display SSNs, print an individual's SSN on access cards or badges, or require an individual to transmit private information or SSN over an unsecured or unencrypted internet connection.

## **2.600 TRAINING RESPONSIBILITIES.**

**SOURCE:** JOG 3.50 (Training Programs (moved from AOC to HR Administrator))

### **2.601 Human Resources Administrator Responsibilities**

**SOURCE:** JOG 3.50.01.

The Human Resources Administrator shall be responsible for providing orientation, introduction and on-the-job training for the continuing development of employees of the Judiciary. The Judicial Educator shall be utilized in carrying out this responsibility and in meeting any special needs of the Judiciary.

### **2.602 Material Changes to a Position**

**SOURCE:** JOG 3.50.02.

Whenever the present duties of a position are to be materially changed by the introduction of new machinery or **processor processes** requiring different skills and knowledge, any permanent or probationary employee impacted by the change shall be given a reasonable opportunity to learn to perform the new duties and to qualify for such work. An employee whom, after a reasonable training period, qualified for appointment in the different class shall be deemed to possess the specific education, experience or other requirements for such class and shall be appointed thereto with the same status and seniority which the employee last had in the previous class; upon the written recommendation of the division manager and the approval for such appointment shall be reassigned to other duties appropriate to their class.

### **2.603 Specialized Training**

**SOURCE:** JOG 3.50.03.

In order to meet the needs of the Judiciary for technical, professional and management skills which cannot be provided through available in-service training, the Administrator of the Courts may arrange for such training through recognized educational facilities or to other training facilities, on and off-island.



## CHAPTER 3

### **REVISED CODE OF CONDUCT**

# **JUDICIARY OF GUAM CODE OF CONDUCT FOR JUDICIAL EMPLOYEES**

Approved in Judicial Council Resolution No. JC21-013 (June 17, 2021)  
Effective Date September 1, 2021

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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.

## 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, *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.

**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 rigorous conduct standards set by law, Supreme Court Administrative Orders, or other Judiciary policies.

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.

**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.

- 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.

- 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.

- D. Reporting of Gifts. Judicial Employees shall report gifts in accordance with 4 GCA § 15202.
- 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 themselves or any other person.
- 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.
- 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.

Commentary:

Judicial Employees shall not, for example, knowingly 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 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.

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

### **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.
- 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.

- 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, 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.

- 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.

- E. Harassment. 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.
- 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.

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. A former Judicial Employee should not disclose confidential information when disclosure by a current Judicial Employee would be a breach of confidentiality.

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

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.



- 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.

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

#### **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.
- B. Outside Activities. A Judicial Employee's activities outside of official duties may not detract from the dignity of the court, interfere with the performance of official duties, or adversely reflect on the operation of the court or office the Judicial Employee serves. A Judicial Employee may engage in 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. 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 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 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;
2. Requires or induces the Judicial Employee to disclose confidential information acquired in the course of and by reason of official duties;
3. Is within the judicial, executive or legislative branch of the government unless allowed by public law or authorized by the Judiciary;
4. Performs any non-court ordered transcribing either during or after working hours;
5. Is conducted during the Judicial Employee's normal working hours, regardless of leave status;
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;
7. Requires the Judicial Employee to appear regularly in judicial or administrative agency proceedings;
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;
9. Is detrimental to the interests of the Judicial Branch;
10. Is directly related to the practice of law, unless it is approved pro bono work or pro se; or
11. Requires use of judicial equipment, materials, supplies, telephone or Internet services, office space, computer time, or facilities.

Commentary:

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

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.

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.

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.
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.

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.

- 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.

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.

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

- 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. This Section shall not be interpreted to restrict in any way the right of any person employed by the Judiciary (including those excluded from the below definition of "employee") to cast a

vote.

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, transportation, equipment, supplies, 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. With the exceptions of voting and expressing political opinions in private, the following positions are prohibited from taking part in any activity delineated in this section subsections C or D of 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.

## **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, 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.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 4**

### **FILLING POSITIONS IN THE JUDICIARY**

**SOURCE:** New. DOA 4 (Filling Positions in the Government of Guam).

#### **STATEMENT OF POLICY:**

**SOURCE:** DOA 4 (Statement of Policy).

This policy implements a system to recruit employees in accordance with the merit system principles and equal employment opportunity guidelines. In order to implement a uniform system of recruitment and selection, applications for classified positions shall be accepted only during the activation period of a competitive job announcement.

#### **4.000 EMPLOYMENT CATEGORIES.**

There are two (2) categories of employment service within the Judiciary as prescribed by statutes: classified service and unclassified service.

**SOURCE:** New. 4 GCA § 4102 (Classified and Unclassified Services).

##### **4.001 Classified Service**

**SOURCE:** New. PAG 4.301.

Employment in the classified service is governed by the merit system principles. Opportunities for employment with the Judiciary exist when a job announcement has been activated. Once a completed application form has been submitted, the Human Resources Office will rate the application to determine eligibility or non-eligibility based on the minimum job requirements explicitly stated in the job announcement. Notification letters are sent to applicants officially informing them of their eligibility or non-eligibility status.

#### 4.002 Unclassified Service

**SOURCE:** New. DOA 4.603.A ([Limited-Term Appointments](#)).

Unclassified appointments are discretionary appointments made by the appointing authority. Employees in the unclassified service serve at the pleasure of the appointing authority. They are considered to be “at-will” employees and therefore, have no tenure or rights of appeal. They are, however, entitled to most of the fringe benefits extended to full-time classified employees such as retirement, leave, health insurance, etc., or other benefits as authorized by law, rules and regulations and administrative policies. Appeal rights for termination as an unclassified employee are applicable only when the employee has alleged violation of the Judiciary’s EEO policies. These positions when created are categorized and identified in the Occupational Classification Listing maintained by the Human Resources Office.

The Unclassified Service also include the following:

##### Limited-Term

Limited-Term appointments may be used to fill temporary vacancies in permanent positions. Persons appointed on a limited-term basis shall be given normal employee benefits if the appointment is to occupy a permanent position. Employee’s term may end at any time upon notice in writing from the Administrator of the Courts. These employees do not serve a probationary period nor do their appointments imply permanent status.

#### **4.100 AUTHORIZED POSITIONS PER FISCAL YEAR.**

**SOURCE:** New. DOA 4.003, PAG 4.303 ([Maintenance of List of Authorized Positions](#)).

The official Staffing Pattern of the Judiciary will identify classes of positions that have been established and authorized through the Chief Justice and Judicial Council approval and subsequent legislative enactment. The Financial Management Office will be responsible for maintaining records of authorized positions throughout each budget year. This document shall be designated as the official Judiciary of Guam Staffing Pattern. Upon passage of the Judiciary’s Budget, the Finance Administrator will maintain and update the Staffing Pattern in accordance with staffing changes.

## **4.200 RECRUITMENT THROUGH THE MERIT SYSTEM.**

### **4.201 Recruitment**

Recruitment of persons for employment in the classified service shall be accomplished consistent with the merit system principles of recruiting, selecting applicants and advancing employees on the basis of their relative knowledge, abilities and skills.

**SOURCE:** New. DOA 4.00, PAG 4.301 (Recruitment and Examinations)

### **4.202 Filling of Vacancies**

**SOURCE:** New. DOA 4.002, PAG 4.302, (Filling of Vacancies)

- A. No person shall be appointed to or employed in, or paid for service in any classified position until that position has been established, funded, and allocated to its proper class by the appropriate authorities. Nor shall any person be allowed to begin work before such person submits an employment application, is placed on an eligibility list as "eligible" for the position applied for and is certified, selected, and processed through the merit system. This applies to all appointments within the classified service, subject to the rules herein. Exceptions to the establishment and certification requirements may be for reemployment, transfers, demotions, and temporary appointments consistent with these rules.
- B. Competitive examinations may also apply to all appointments subject to the rules herein.
- C. Minimum Educational Requirements: All new employees in the service of the Judiciary shall have, as a reasonable measure of job performance, minimum requirement of high school diploma or a successful completion of a General Education Development (GED) Test, or any equivalent of a general education high school program. This section shall not be applicable to the Summer Youth Employment and any person with a disability which prevents him/her from complying with this section consistent with the Americans with Disabilities Act or its successor's laws.
- D. Drug Testing: Applicants selected for and offered employment with the Judiciary shall undergo and pass a mandatory drug test before being employed. Failure to submit to or pass such drug test shall be grounds for rescinding the offer of employment, unless the applicant is undergoing treatment through a rehabilitation program approved

or recognized by the Guam Behavioral Health and Wellness Center, in which case the applicant must successfully complete the program within the prescribed time before being employed.

#### 4.203 Certification from Eligibility Lists

**SOURCE:** New. DOA 4.004, PAG 4.304 (Certification from Eligibility Lists)

All original and promotional appointments to positions shall be made through certifications from eligibility lists resulting from open competitive examinations except as otherwise provided by statute and these rules. These lists shall be established and maintained by the Human Resources Office.

#### 4.204 Minimum Qualifications

**SOURCE:** New. JOG 4.01 (Minimum Qualification).

No person may be appointed to a classified position in the Judiciary unless that person meets the minimum qualifications set for the position .

#### 4.205 Determination of Qualifications

**SOURCE:** New.

The determination as to whether a person meets the specified qualifications for a position shall be made by the Human Resources Administrator or that person's designee after review of the person's academic credentials, work experience, examination results if required, and any other pertinent information. Written or oral examination may be required to determine whether the qualifications for a position have been met by an applicant.

#### 4.206 Job Announcements

**SOURCE:** DOA 4.103(Content of Recruitment and Examination Announcements), PAG 4.400 (Recruitment) / DOA 4.103.

Job Announcements are authorized and activated for the sole purpose of soliciting employment applications from qualified persons.

- A. The Administrator of the Courts, through the Human Resources Administrator, shall order a job announcement whenever there is a need to recruit eligible applicants for certification to be placed on the eligibility lists or to establish a list of certified eligibles.

- B. Each job announcement may contain information on the type of announcement, EEO declaration, job announcement number, position title, pay grade, salary range per annum, nature of work, duties and responsibilities, and examples thereof, minimum qualification requirements and/or any necessary special qualifications for entry into the position and other information deemed necessary for employment eligibility. The job announcement shall also indicate the opening date, closing date, location for filing applications and must bear the signature of the Administrator of the Courts or the Administrator's designee.

When the Administrator of the Courts has determined that newspaper publication is necessary for job announcements, information and contents of the announcement may be limited to only job title, pay grade, announcement number, minimum qualification requirements, deadline submission and EEO declaration.

#### 4.207 Types and Duration of Job Announcements

**SOURCE:** PAG 4.401 / DOA 4.101 (Announcement of Recruitment and Examinations).

A. In-House Announcements

This announcement is limited to solicitation of applicants from Judiciary employees. Limited-term employees are eligible to apply under this type of announcement. This will cover Promotions, Transfers, Voluntary Demotions and Change of Status. Period of opening and closing may be no less than ten (10) workdays. Job Announcements will be disseminated electronically through email to all employees and will be posted on the Judiciary's Intranet. Division managers are responsible to communicate to their employees who do not have electronic access and/or to those employees who are on leave status. Copies will also be available at the Human Resources Office.

B. Open Competitive Announcements

This is an announcement for solicitation of applicants from all interested persons. This will include government wide distribution. Period of opening and closing shall be announced for no less than ten (10) work days. Electronic mail distribution will suffice in complying with this section.

C. Continuous Announcements

Continuous open announcements are usually activated for positions that have experienced recruitment difficulties.

D. Amended Announcements

Amendments are made to close a continuous announcement or to correct, extend or add information to an active announcement.

4.208 Cancellation of Announcements

**SOURCE:** New. Current Practice.

In the event there is no need for eligible applicants after a job announcement has been published or if other circumstances warrant it, the announcement may be canceled at any time by the Administrator of the Courts.

4.209 Vacancies that do not Require Announcements

**SOURCE:** New. Current practice.

Vacancies that occur when there is an active eligibility list do not require the Judiciary to announce for recruitment. As a general rule, continued utilization of active eligibility listings will be referred to the recruiting divisions. When it has been determined by the Administrator of the Courts that the lists to be utilized are insufficient for future vacancies, a job announcement may be activated to establish a list.

Other exceptions for positions that do not require position announcements are:

- A. Unclassified Appointments
- B. Limited Term Appointments
- C. Reclassifications
- D. Disciplinary related actions and/or Administrative Transfers
- E. Temporary Acting or Detail Appointments

**4.300 SELECTIVE FACTORS.**



**SOURCE:** New. PAG 4.402 (Selective Factors).

Upon the request of the division manager and approval of the Administrator of the Courts, selective factors may be used on job announcements when specific identifiable knowledge, abilities or skills are essential to the successful performance of the duties and responsibilities of the position. The factors shall pertain to knowledge, abilities and skills pertinent to certain program operations when these qualifications and skills cannot be readily acquired after appointment. As a standard for determining eligibility based on a selective factor, applicants must have at least six (6) months of work experience in the particular selective knowledge, ability and skill or the equivalent in education.

#### 4.301 Bona Fide Occupational Qualification Requirements

**SOURCE:** New. PAG 4.403 (Bona Fide Occupational Qualification Requirements).

Job announcements may include bona fide occupational qualification (BFOQ) requirements when justified. For example, certification based on sex is a BFOQ when the duties and responsibilities involve certain institutional or custodial services which can be properly performed only by a member of the same sex as the recipient of the services.

#### 4.302 Job Related

**SOURCE:** New. PAG 4.402(b) (under Selective Factors).

All selective factor statements must be job related and must be included in the job announcement.

### **4.400 CERTIFICATION FROM ELIGIBILITY LISTS.**

**SOURCE:** New. DOA 4.004, PAG 4.304 (Certification from Eligibility Lists).

All original and promotional appointments to positions shall be made through certifications from eligibility lists resulting from competitive examinations and for selections.

#### 4.401 Order of Use and Limitation on the Establishment of Lists

**SOURCE:** New. PAG 4.305 (Order of Use and Limitation on the Establishment of Lists).

The order listed below shall be followed in the use of the eligibility lists, and the Administrator of the Courts shall be restricted to selection from

the top five or **the top** ten for labor/custodial positions found on these lists in the order of precedence herewith established:

Type of List	Order of Priority
In-House (Classified/Unclassified/LTA)	First Priority
Reemployment/Reappointments	Second Priority
Open List	Third Priority

#### **4.500 THE APPLICATION FORM.**

**SOURCE:** New. PAG 4.407, DOA 4.105 (The Application Form)

The Administrator of the Courts shall prescribe a form to be used by applicants, which shall require information covering experience, education, training, and other pertinent data. Applications shall be signed and the truth of all statements therein certified to by such signature. The application form may not make any pre-employment inquiry about a disability or about the nature or severity of a disability. Medical Information received on an employee as a result of an employment requirement shall be filed separate and apart from the employee's active personnel records.

##### **4.501 Acceptance of Applications**

**SOURCE:** New. PAG 4.408 (Acceptance of Employment Applications) / DOA 4.106 (Acceptance of Applications). Current practice.

- A. Applications for competitive examinations shall be accepted only during the period specified in the job announcement, which shall be referred to as Chamorro Standard Time.
- B. All applications submitted shall be date stamped to indicate the date received by the Human Resources Office. An incomplete application form may be rejected.
- C. Applications submitted by mail must be postmarked by midnight of the closing date specified on the job announcement.
- D. Applications submitted by electronic form must be received by midnight of the closing date specified on the job announcement.
- E. Late applications for competitive examinations may be accepted if the examination has not been administered and an eligibility list established. This is provided that the late filer is a Judiciary employee who can establish to the satisfaction of the Administrator of the Courts that the employee was not aware of the job announcement and unable to file a job application due to factors

beyond the employee's control (i.e., official off-island training, on extended annual or sick leave, military leave, etc.).

#### 4.502 Evaluation Rating of Applications

**SOURCE:** New. PAG 4.409, DOA 4.107 (Evaluation of Applications).

- A. The closing date of the announcement shall be the ending date to credit the job applicant's education, experience and training for the position applied for.
- B. For continuous job announcements, the ending date to credit the job applicant's education, experience and training shall be the date the application was received.

#### 4.503 Rejection of Applications

**SOURCE:** New. PAG 4.410, DOA 4.108 (Rejection of Applicants).

Pursuant to applicable laws, including 22 GCA Chapter 6 (the Fair Chances Hiring Process Act) (Appendix B), the Administrator of the Courts may reject applications for reasons including:

- A. Conviction of a crime within seven (7) years from date of application, which bears a nexus to the position applied for, unless otherwise required by statute.
- B. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to pose a security threat or not possess the appropriate legal status to work in Guam.
- C. Conviction of a sex offense or listing on the Sex Offender Registry.
- D. Refusal or failure to furnish documents required to verify any statements made in the application.
- E. Intentional false statements or deception or fraud in the application or recruitment process.
- F. Failure to indicate position applied for on the application.
- G. Failure to attest to the accuracy of information presented on the application form.

- H. Failure to submit an application within the announcement period.
- I. Evidence that the applicant has been removed from the position with the Judiciary or otherwise for reasons which would render the applicant unsatisfactory for the position class for which the applicant is applying.
- J. Failure to submit to a drug test for a position with the Judiciary or successfully complete a prescribed drug rehabilitation program.
- K. Conviction of family violence when applying for a position as a director, deputy director, managerial or supervisory position. Family Violence Act of 1998, PL 24-239; 4 GCA § 4203.2.
- L. Is found to lack any of the minimum qualifications established for admission to the selection process.
- M. Has used or attempted to use political pressure or bribery to secure an advantage in the selection process or appointment.
- N. Has directly or indirectly obtained information regarding the selection process which as an applicant would cause an unfair advantage over other applicants.

#### 4.504 Notification of Rejection of Applications

**SOURCE:** New. PAG 4.411, DOA 4.109 (Notification of Rejection of Applicants).

The applicant shall be notified of the rejection and reasons for rejection within ten (10) workdays from completion of review of the applications by Human Resources.

### 4.600 EXAMINATIONS

**SOURCE:** New. DOA 4.200 (Examinations)

#### 4.601 Scope and Character of Examinations

**SOURCE:** New. PAG 4.501, DOA 4.201 (Scope and Character of Examinations).

- A. Competitive examinations shall be held for original appointments and promotions and shall be job related in nature and designed to reveal the capacity and fitness of the applicant to satisfactorily perform the characteristic duties of the class or position for which the examination is held.

- B. Any accepted personnel examining technique may be used, including a verification and evaluation of education, training and experience; tests of knowledge, skill, ability, intelligence or aptitude; medical examinations, appraisals of personal suitability; and any other matters that the Administrator of the Courts deems appropriate. Notification of examination shall be indicated on the job announcement.
- C. All examinations shall be either or both:
  - i. Assembled, wherein the applicants assemble in a designated place at a specific time to take written, oral or performance tests pertinent to the position(s) sought; or
  - ii. Unassembled, wherein interested persons responding to an examination announcement submit to designated places and by designated times, their records of education, training, experience and such other information as requested in the announcement be evaluated and rated by a qualified personnel or by a board of rating examiners.

#### 4.602 Parts of Examinations

**SOURCE:** New. PAG 4.502, DOA 4.202 (Parts of Examination).

- A. The parts of total examination may consist of various combinations of such selection devices as work sample and performance tests, written tests, individual or group oral examinations, assessment center exams, rating of training and experience and background and reference inquiries.
- B. An applicant for any examination must pass all parts of that examination in order to qualify for appointment to a position.

#### 4.603 Education and Experience

**SOURCE:** New. PAG 4.503, DOA 4.203 (Education and Experience).

If education and experience form a part of the total examination, the Administrator of the Courts shall determine a procedure for the evaluation of the education and experience qualifications of the various applicants.

The formula used in appraisal shall give regard to recentness and quality, as well as quantity of experience and to the pertinence of the education. This procedure shall allow for the substitution of the education for experience, and experience for education within the limits stated in the class standards.

#### 4.604 Development and Validation of Tests

**SOURCE:** New. PAG 4.504, DOA 4.204 (Development and Validation of Tests).

Tests for each examination shall be developed and validated in compliance with EEO objectives and merit system principles, and in accordance with professionally approved validation strategies, such as content, criterion-related or construct validation where it is technically feasible.

#### 4.605 Admission to Compete in Assembled Examinations

**SOURCE:** New. PAG 4.505, DOA 4.205 (Admission to Compete in Assemble Examinations).

Persons submitting applications during the period specified in the examination announcement shall be admitted to compete in the examination provided it is clearly shown that requirement for admission is met. Where doubt exists as to whether or not the applicant meets the minimum requirements for admission to the examination, the Administrator of the Courts may authorize conditional admission. **The applicant will be advised in writing that admission is conditional.** Such action shall not be construed as entitling the applicant to certification or appointment until the Administrator of the Courts has confirmed such conditional admission. Persons admitted to take an examination must provide a valid document verifying their identity.

#### 4.606 Conduct of Examinations

**SOURCE:** New. PAG 4.506, DOA 4.206 (Conduct of Examinations).

- A. Examinations shall be held at the time and place which is most practical and meets the need of the service, and shall be administered by an authorized representative designated by the Human Resources Administrator.
- B. If an assembled examination is to be administered, qualified applicants shall be notified of the date, time and place of the examination. The Human Resources Administrator shall not be responsible if a notice is lost or delayed in the mail, or sent to an applicant's former address through failure of the applicant to inform the Judiciary of a change of address.

- C. No applicant shall be entitled to take an examination at a date, time or place other than that stated in the applicant's notification, except as the Human Resources Administrator may authorize.
- D. All applicants for examinations involving physical ability or performance tests may be required to sign a waiver of liability.
- E. All reasonable precautions shall be taken to protect the confidentiality of information about applicants.
- F. Applicants with disabilities shall be given reasonable accommodation in the administration of tests.

#### 4.607 Assembled Examinations for Closed and Continuous Announcements

**SOURCE:** New. PAG 4.507, DOA 4.207 (Assembled Examination for Close and Continuous Announcements).

- A. For announcements having a specific closing date, and closed announcements, an examination shall not be administered until after the closing date and until such time all applications have been evaluated. Applicants applying under a closed announcement may take the required examination only once and only one eligibility list is established.
- B. For continuous announcements, the following provisions shall prevail:
  - i. No examination shall be administered until ten (10) work days after the date of the announcement.
  - ii. Candidates who fail an examination may retake the same examination after thirty (30) days have elapsed. Exception to this rule may apply when the Human Resources Administrator has certified that there are less than five (5) eligible for each vacancy in a given class of position.
  - iii. When a closing date is announced, a final eligibility list shall be established and no examinations shall be administered thereafter.

#### 4.608 Ratings of Examinations

**SOURCE:** New. PAG 4.508, DOA 4.208 (Rating Of Examinations).

- A. Appropriate **psychometrics testing** and measurement techniques and procedures shall be used in evaluating the results of examinations, and in determining the minimum rating by which eligibility may be achieved, and the relative rank of candidates.
- B. The Administrator of the Courts shall set the minimum rating for each part of an examination. All candidates shall be required to obtain the set minimum passing score for each part of the examination in order to proceed to each successive test. In order to receive a final passing rating, the final earned rating of each applicant shall be determined by combining the earned rating of each part of the examination in accordance with the weights established for each part.

#### 4.609 Notification of Examination Results

**SOURCE:** New. PAG 4.509, DOA 4.209 (Notification of Examination Results).

Each applicant who participates in an examination shall be given written notice of their examination results. The record of ratings, as well as examination papers, shall be held as official records for the life of the resulting eligibility lists.

#### 4.610 Inspection of Written Examination Papers

**SOURCE:** New. PAG 4.510, DOA 4.210 (Inspection of Written Examination Papers).

The Human Resources Administrator shall, upon request of a candidate, authorize such candidate to inspect the candidate's own written examination papers within thirty (30) days of the date of examination and in the presence of a representative of the Human Resources Office, except that when a candidate is scheduled to retake the same examination, inspection shall not be allowed within five (5) work days prior to the examination date. The privilege of inspection shall not be deemed to include authorization to copy examination papers or to inspect or to copy examination instructions, questions, or answers.

#### 4.611 Administrative Review of Examination Ratings

**SOURCE:** New. PAG 4.511, DOA 4.211 (Administrative Review of Examination Ratings).

An applicant may request administrative review of the applicant's examination test score by submitting a written request to the Human



Resources Administrator providing reasons for such request within ten (10) workdays following the date the examination notice was postmarked. Certification of Eligible(s) is authorized only after the administrative review period has elapsed.

#### 4.612 Changes in Rating

**SOURCE:** New. PAG 4.512, DOA 4.212 (Changes in Rating).

- A. Changes in rating may be made as a result of a discovery of errors in the rating or scoring process, or as a result of an administrative review wherein the facts warrant a change.
- B. Rating errors may be corrected throughout the life of the eligibility list.
- C. Any such changes shall be reported to the applicants affected.
- D. Changes in rating generally will not affect a certification already issued or invalidate an appointment already made from the eligibility list.

#### 4.613 Duration of Examination Ratings

**SOURCE:** New. PAG 4.513, DOA 4.213 (Duration of Examination Ratings).

- A. Examination ratings are good only for the life of the eligibility list and shall not be carried over to a new eligibility list for the same position after a period of one (1) year.
- B. Exceptions to this rule shall also apply when minimum qualifications are amended or when written, oral or performance examinations are likewise amended. In this event, the existing eligibility list will be invalidated and candidates must take and pass any and all new examinations, both assembled and unassembled, in order to remain eligible for certification.
- C. In the event an applicant has passed a previous test for a position and the same test is to be utilized for another position, such test results shall be applied, provided that the test results are still in an active period of eligibility.

#### 4.614 Security of Tests

**SOURCE:** New. PAG 4.514, DOA 4.214 (Security of Tests).

Examination questions shall be maintained under conditions affording maximum security. All precautions to safeguard the confidential nature of examination materials shall be taken. No information concerning the nature of the tests shall be divulged to any person prior to the examination. Proved disclosure of unauthorized release of examination material by any employee shall be the basis for disciplinary action.

#### 4.615 Protection of Confidentiality of Materials

**SOURCE:** New. PAG 4.515, DOA 4.215 (Protection of Confidentiality of Materials).

- A. Because of the continuing use of the examination materials prepared by the Human Resources Office, and where exposure would jeopardize the confidentiality of the examination questions, the review of such test materials shall not be permitted.
- B. All examination materials relating to a particular applicant, or applicants including, but not limited to reports of character and material regarding personal suitability of the applicant, shall be considered confidential material. Such examination material shall be maintained for a period of one (1) year from date the eligibility list was established.

#### 4.616 Special Provisions

**SOURCE:** New. PAG 4.516, DOA 4.216 (Special Provisions).

Special arrangement for examinations on a non-competitive basis, such as, upon reallocation of position and temporary appointments, may be made by the Administrator of the Courts subject to the limitations which follow:

##### A. Non-Competitive Examinations

**SOURCE:** New. PAG 4.516(A), DOA 4.216(A) (Non-Competitive Examinations).

The Administrator of the Courts may authorize non-competitive examinations under the following conditions:

- i. No more than one person applies who meets the minimum qualification requirements.
- ii. Examination given is to test the fitness of an employee who has a permanent appointment and who seeks transfer to a position in a class in the same

pay grade, but which requires a skill not required in the present classification.

- iii. The examination is to test an employee who has a permanent appointment in position, which has been reallocated to a class requiring a new skill.
- iv. When a permanent position is to be filled by a temporary appointment.
- v. To facilitate the employment of qualified persons with disabilities consistent with provisions of law and these rules.

B. Labor and Custodial

**SOURCE:** New. DOA 4.216 (B) (Labor and Custodial).

Examinations of applicants for the labor classification or for employment as custodian shall be governed by the following regulations:

- i. Each applicant for these classes shall, prior to appointment, qualify by examination which shall consist of completing completion by the applicant of an application form, and the review and rating of the application form by Human Resources. The Human Resources Administrator shall certify the names of the ten (10) top applicants.
- ii. Notwithstanding the limitation of this rule, the Administrator of the Courts may, at any time, prescribe such additional tests for applicants in the labor and custodial classes as the Administrator shall deem practical and feasible to assure equitable consideration of all applicants.

C. Employing Individuals with Severe Disabilities

**SOURCE:** New. PAG 4.516(B), DOA 4.216(C) (Appointment of Qualified Individuals with Disabilities), 17 GCA § 41210 (agencies to adopt rules and regulations for hiring of individuals with severe disabilities).

17 GCA § 41210 requires Government of Guam departments or agencies to employ at least 2% of the workforce with individuals who have severe disabilities. Departments and agencies can meet

this requirement through direct employment or by contract with nonprofit organizations employing individuals with disabilities.

- i. This protection is only given to individuals with severe physical or mental impairments, whose ability to function independently in the family or community or whose ability to obtain, maintain or advance employment is substantially limited. A person becomes eligible when certified from a counselor from the Division of Vocational Rehabilitation. The certification must be supported by a report of a medical examination.
- ii. Employment shall be on a temporary, limited-term employment not to exceed six (6) months until the immediate supervisor evaluates the individual's performance. If the immediate supervisor, with the concurrence of the appointing authority, determines that the individual has performed satisfactorily either prior to or after the expiration of the six (6) months, the position shall be converted to permanent employment.
- iii. Standards, criteria, or other methods of administration that have the effect of discrimination on the basis of disability are prohibited. This includes employment tests (unless the tests are related to the job and consistent with government needs) and screening criteria.
- iv. Reasonable accommodations shall be provided in order to 1) make existing facilities used by employees readily accessible to persons with disabilities; and 2) job restructuring; flexible work schedules; acquisition or modifications of equipment or devices; modification of examinations; training materials or policies; and similar accommodations for individuals with severe disabilities.

#### **4.700 PREFERENTIAL CREDITS**

**SOURCE:** New. PAG 4.600, DOA 4.300 (Preference), 4 GCA § 4104 (b) (upon initial employment only).

Preference credits are only added to employment applications in limited circumstances. In such circumstances, preference credits are issued in the form of points to be added to an individual's examination score upon initial employment only. Acceptable preferences and qualifying circumstances are outlined below.

#### 4.701 Preference Credit for Individuals with Disabilities

**SOURCE:** New. PAG 4.601, DOA 4.301 (Preference Credit for Individuals with Disabilities), 4 GCA §4104(a)(1)(A) (no preference shall be given in government service except that residents of Guam: who are physically or mentally impaired, but are physically and mentally able to perform efficiently and safely the duties of the job being applied for as certified by DPHSS).

Under 4 GCA § 4104(a)(1)(A), residents of Guam who have physical or mental disabilities, but are physically or mentally able to perform efficiently and safely the duties of the position applied for, as certified by the Director of Public Health and Social Services (DPHSS), Department of Integrated Services for Individuals with a Disability (DISID) or Guam Behavioral Health and Wellness Center (GBHWC), shall receive a preferential credit of five (5) points which shall be added to their passing examination score for initial appointment only to a position. The preference credit does not apply to subsequent applications for employment in the Government after separation.

#### 4.702 Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol

**SOURCE:** New. PAG 4.602 / DOA 4.302 (Preference Credit for Veterans of the United States Armed Forces or Former Members of the Guam Police Combat Patrol), 4 GCA § 4104(a)(1)(C) (former member of the Guam Combat Patrol, as certified by the Chief of Police).

- A. Pursuant to 4 GCA § 4104(a)(1)(B) and (C), veterans of the Armed Forces of the United States, or former members of the Guam Police Combat Patrol, as certified by the Chief of Police, shall receive a preferential credit of five (5) points which shall be added to their passing examination score. If requesting credit, an applicant must provide certification of service in the armed forces by submitting one of the following forms, DD 214, DD Form 2 (Retired), Department of Veterans Affairs I.D. Card, or Department of Defense official verification. In order to qualify for this preference, an applicant must have completed at least 180 cumulative days of service in the armed forces and not have received a dishonorable discharge. The five (5) points are only added upon initial employment.

- B. Pursuant to 4 GCA 4104(a)(2), such veterans, or former members who are *disabled* as a result of their services in the Armed Forces or Combat Patrol, shall receive a preferential credit of ten (10) points which shall be added to their passing examination scores upon initial employment only. The preference credit does not apply to subsequent applications for employment in the Government after separation.
- C. Applicants who qualify for both disability and veteran preference credits may receive both credits but may not receive more than ten (10) points.

#### 4.703 Proof of Eligibility for Veteran's Preference Credit

**SOURCE:** New. PAG 4.603, DOA 4.303 (Proof of Eligibility for Veteran's Preference Credit), 4 GCA § 4104(c)(1&2) (submission of DD Form 214, ... and completion of at least 180 cumulative days of service in the Armed Forces of the United States....)

4 GCA § 4104(c)(1) and (2) require that an applicant have completed at least 180 consecutive days of service in the Armed Forces and was not dishonorably discharged. Persons claiming veteran's status must submit their DD Form 214, Armed Forces of the United States Report of Transfer or Discharge, DD Form 2 (Military Identification Card, Certificate of Service, Department of Veteran's Affairs (DVA) Veteran's Identification Card or other official verification from the Department of Defense. .

#### 4.704 Graduates of the Basic Law Enforcement Academy

**SOURCE:** New. 4 GCA § 4104(a)(1) (D).

Pursuant to 4 GCA § 4104(a)(1)(D) and (b), graduates of the Peace Officer Standards and Training Commission Academy are entitled to five (5) preference credits upon initial employment.

#### 4.705 Offer of Employment for Preference Credit Recipient

**SOURCE:** New. PAG 4.604, DOA 4.304 (Offer of Employment for Preference Credit Recipient), 4 GCA § 4104 (a)(3) .

Pursuant to 4 GCA § 4104(a)(3), when two applicants are equally qualified for a position, and one of the applicants qualifies for a preference credit, the individual who qualifies for the preference credit shall be given the first offer of position.

#### 4.706 Preferential Hiring of a Recipient of an Award or Scholarship

**SOURCE:** New. PAG 4.605, DOA 4.305 (Preferential Hiring of A Recipient of an Award of Scholarship), 4 GCA § 4104.1.

Pursuant to 4 GCA § 4104.1, residents of Guam who have completed their post-secondary education assisted by the award of educational scholarships or loans from the Government of Guam shall be given preference to jobs with the Judiciary for which they have applied and are qualified. Such preference shall be applicable only in selection for initial employment. The preference does not apply to subsequent applications for employment after separation or after an initial job offer is declined.

#### 4.707 Preference Credit for Disabled Veteran's Spouse or Legal Guardian

**SOURCE:** New. 4 GCA § 4B101.

Pursuant to 4 GCA § 4B101, spouses and legal guardians of veterans who are 100% disabled, or individually unemployable under 4 GCA § 4104 (Preferences provided to Veterans with one hundred percent (100%) Disability or Individually Unemployable) are eligible to receive ten (10) preference credits as a "derived benefit."

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 5**

### **CERTIFICATION AND APPOINTMENT**

**SOURCE:** JOG 5 (Certification and Appointment).

#### **STATEMENT OF POLICY:**

**SOURCE:** New.

It is the policy of the Judiciary to select and appoint the most qualified candidates using uniform examination procedures and eligibility lists to ensure merit-based appointment. Appointments can only be made when positions are classified, numbered, a salary range has been assigned, and minimum qualifications have been established. When filling positions, the Human Resources Administrator or that person's designee shall certify the names from the appropriate eligibility list or authorized method of appointment discussed in these rules.

#### **5.000 CERTIFICATION.**

**SOURCE:** New. PAG 4.700, DOA 4.400 (Certification).

##### **5.001 Eligibility List**

**SOURCE:** New. PAG 4.701, DOA 4.401 (Eligibility Lists).

Employees shall be selected from the highest available eligibles on appropriate eligibility lists, established and maintained by the Human Resources Office. Within the limitations found elsewhere in these rules, qualified applicants shall be placed on eligibility lists as a result of examinations. When more than one (1) competitive examination or area of consideration is announced simultaneously for a particular class, an appropriate eligibility list shall be established for each competitive examination or area of consideration for that class.

##### **A. Order of Appointments**



**SOURCE:** New (current practice).

Appointments shall be made from among the top five (5) or ten (10) **(custodial) labor/custodial** eligibles certified by the Human Resources Administrator in the manner specified in these rules, provided that eligibles on the reemployment list are certified in chronological order of their separation from service.

B. Rule of Five/Ten

**SOURCE:** New (current practice).

Upon certification by the Human Resources Administrator, the interview panel may select one of the first five/ten eligibles on the list. If the interview panel does not wish to select any of the candidates certified, they must, in writing, justify within five (5) working days to the Administrator of the Courts reasons for non-selection before a new certification is authorized.

5.002 Establishment of Eligibility Lists

**SOURCE:** New. PAG 4.702, DOA 4.402 (Establishment of Eligibility Lists).

Names of candidates shall be placed on the eligibility lists in rank order of qualifying scores after appropriate examination. This list shall be designated as an "Eligibility List" for that class of position and area of consideration. After the Human Resources Administrator has approved the eligibility list, it shall then be considered "established."

5.003 Ranking Individuals on Eligibility Lists

**SOURCE:** New. PAG 4.703, DOA 4.403 (Ranking of Eligibles).

After each examination, the Human Resources Administrator shall prepare a list of persons with passing scores. The names of such persons shall be placed on eligibility lists in order of their final earned rating, starting with the highest. Prior eligibility lists resulting from a continuous examination announcement shall be merged by ranking the names of all successful applicants in order of their final earned rating.

5.004 Determination in the Event of a Tie

**SOURCE:** New. PAG 4.704, DOA 4.404 (Determination of Rank in Event of Tie).

Final earned ratings shall be ranked from highest to lowest. In the event of a tie such tied scores shall not be broken if they are all certified as being the fifth (5<sup>th</sup>) eligible.

#### 5.005 Duration of Eligibility Lists

**SOURCE:** New. PAG 4.705 (Duration of Eligibility List), DOA 4.405 (Duration of Eligibility).

A certified list of eligible(s) shall be valid for one (1) year from the establishment date of the eligibility list. Whenever a position is re-announced at the discretion of the Administrator of the Courts, and a new eligible list is established, the names of eligibles on a former list, which has yet to expire, shall be combined with those on the new list according to final score.

For continuous announcements, eligible applicants will be certified for one (1) year from the date the application was evaluated.

#### 5.006 In-House Competitive Eligibility List

**SOURCE:** New. DOA 4.407 (Department Competitive Eligibility Lists).

In-House Competitive Eligibility list shall be established consistent with this rule.

#### 5.007 Re-Employment List

**SOURCE:** New. 4 GCA § 2108 (Former Classified employees in good standing have re-employment rights for four (4) years).

For reemployment, the Human Resources Administrator must determine that the person has met the current minimum qualification requirements for the class to which reemployment is requested. Reemployment appointments are subject to the certification procedures as described in these rules. Qualified employees shall be placed on the reemployment list and shall be accorded priority certification under an open competitive eligibility list.

#### 5.008 Open Competitive Eligibility List

**SOURCE:** New. PAG 4.708, DOA 4.409 (Open Competitive Eligibility Lists).

Open Competitive Eligibility list shall be established consistent with this rule.

#### 5.009 Certification of Eligibility

**SOURCE:** New. PAG 4.709, DOA 4.410 (Certification of Eligibles).

Certification of eligible(s) shall normally consist of five (5)/ ten (10) (labor /custodial) or such fewer eligible(s) as may be available for the position. Eligible(s) shall be certified in the order that they appear on the eligible list provided that:

- A. Eligibles with reemployment rights shall be accorded priority certification for open competitive eligibility list.
- B. When the fifth (5<sup>th</sup>) [10<sup>th</sup> for labor/ custodial] eligible to be certified is one (1) of two (2) or more eligible(s) who have identical examination scores, such two (2) or more eligible(s) shall be certified notwithstanding the fact that more than five (5) [10 for labor/custodial] persons are thereby certified to fill a vacancy.
- C. In the event one (1) or more eligible(s) decline or fail to respond to an employment interview, the interview panel shall be entitled to such additional eligible(s) as would provide a full certification list. (Refer to Rule 4.712, Supplemental Certification.)
- D. The interview panel does not wish to select from the certified eligible applicants referred for interviews, the panel shall submit in writing the reasons for non-selection to the Administrator of the Courts. If the reasons for the non-selection are acceptable to the Administrator of the Courts, the panel shall be entitled to such additional eligible(s) as would provide a full new list of referrals. (Refer to 5.012, Supplemental Certification.)
- E. A Certification of Eligibles shall be effective for no more than thirty (30) days after the date of certification, unless extended by the Administrator of the Courts.

#### 5.010 Certification of Eligibles from Multiple Lists

**SOURCE:** New. PAG 4.710, DOA 4.411 (Certification of Eligibles from a Multiple List).

After eligibility lists are established for a particular job announcement with multiple competitive examinations or areas of consideration, the appointing authority may merge the list.

#### 5.011 Certification of Eligibles for More than One Vacancy

**SOURCE:** New. PAG 4.711, DOA 4.412 (Certification of Eligibles for More than One Vacancy).

- A. For more than one (1) vacancy, the Human Resources Administrator shall certify an additional eligible for each additional vacancy.
- B. When the last eligible to be referred is one (1) of two (2) or more eligible(s) who have identical examination scores, such two (2) or more eligible(s) shall also be certified.
- C. For example, when certification is made for two (2) vacancies, certification of eligible(s) will appear as follows:

First Ranked Eligible  
Second Ranked Eligible  
Third Ranked Eligible  
Fourth Ranked Eligible  
Fifth Ranked Eligible  
Sixth Ranked Eligible

The Administrator of the Courts may select two (2) persons from the six (6) certified to fill two (2) vacancies.

- D. Should the Administrator of the Courts decide to fill only one (1) of two (2) vacancies, the Administrator of the Courts shall be restricted to select from the first five/ten eligible on the certification and may not select the sixth ranked eligible.
- E. Should an additional vacancy exist and certification was not made for such vacancy, the Administrator of the Courts may not select from among the six (6) eligible(s) to fill the third (3rd) vacancy. The Administrator of the Courts must request an additional eligible and then make the selection for the third (3rd) vacancy from among the seven (7) certified eligibles.
- F. If a suitable candidate is not selected, reasons must be documented before a new certification is authorized.

#### 5.012 Supplemental Certification

**SOURCE:** New. PAG 4.712, DOA 4.413 (Supplemental Certification).

The Human Resources Administrator may submit a supplemental certification of eligibles to provide the appointing authority with a full certification.

- A. The supplemental certification may be used only upon the failure to appear for an interview, refusal of appointment by eligible or the rejection of eligible by the appointing authority for cause.
- B. The additional eligible to be certified shall be of such number that will provide the appointing authority with a full certification.
- C. The Human Resources Administrator or that person's designee shall contact eligibles in descending order to ascertain their interest in the vacant position. If the last eligible contacted is one (1) of two (2) or more eligible with identical examination scores, such two (2) or more eligible shall also be contacted.

#### 5.013 Interview of Eligibles and Notification of Selection/Non-selection

**SOURCE:** New. Subsection A is new (current practices merged with New Mexico Personnel Rules). Subsection B is from PAG 4.714 (B), DOA 4.415 (B).

- A. Interview Process
  - i. Once a certified list of eligibles is established applicants will be contacted for an interview.
  - ii. Interview time allotted shall be the same for all applicants.
  - iii. The interview questions shall be reviewed and approved by the EEO Officer prior to the interview.
  - iv. All applicants shall be asked the same questions by the interview panel.
    - a. Questions shall be relevant to the job and panel members may ask follow up questions as necessary.
    - b. Personal questions shall not be asked of any applicant.

- v. The interview panel may consist of at least three (3) judicial employees, one (1) must be the immediate supervisor, or if necessary the supervisor's designee.
- vi. The EEO Officer or designated representative shall be present during the interviews.
- vii. Panel members shall disclose to Human Resources any relations or information they have about the candidates. This information shall be disclosed prior to the interview or as soon as possible thereafter.
- viii. Panel members must submit their recommendation for selection on the designated form.

B. Within thirty (30) calendar days from the date a selection is made, the Human Resources Administrator shall notify, in writing, all eligible(s) certified as to whether they were selected or not.

5.014 Suspension and Removal of Eligible from Competitive List of Eligibles; Restoration to List

**SOURCE:** New. PAG 4.715, DOA 4.416 (Suspension and Removal of Eligible from Competitive List of Eligibles; Restoration to List).

- A. The Administrator of the Courts may suspend or remove an eligible from an Eligibility List for any of the following reasons:
- i. Refusal to two (2) offers of permanent employment in the class of position for which eligibility has been established.
  - ii. Failure to reply within fifteen (15) calendar days to a written inquiry relative to availability for employment.
  - iii. Appointment to a permanent position for the class.
  - iv. Failure to report after two (2) days after notice, or failure to report for duty within the prescribed time.
  - v. Failure to report for selection interview on three (3) occasions.

- vi. In the case of Judiciary-wide lists, termination of service with the Government Judiciary.
- vii. When further investigation of eligible candidate suitability needs to be conducted.
- viii. Withdrawal by the eligible.
- ix. Findings of deception and fraud in the employment process.
- x. Conviction of a crime which bears a nexus to the position, applied for.
- xi. Conviction of a sex offense under the provisions of Chapter 25 of Title 9 GCA, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry.
- xii. Advocates, aids or belongs to any party, organization or association which advocates for the overthrow of the Government of Guam or the United States.
- xiii. Evidence that the applicant has been identified by the U.S. Department of Homeland Security to pose a security threat or not possess the appropriate legal status to work in Guam.
- xiv. Refuses or ignores the requirement to take a drug test without cause or the verified drug test result is found to be positive and the applicant is not participating in a rehabilitation treatment program.

In the event the eligible has already received an appointment, the Administrator of the Courts shall take appropriate action to ensure the termination of the employee if any of the above occurs.

- B. The following eligible(s), upon their request, may have their names restored to the list if the list is still active:

- i. A probational employee who is separated without cause.
- ii. An eligible who had been removed from the list under A. viii, above and who then makes themselves available for employment.
- iii. An eligible who received an appointment as a result of this list, then resigned in good standing and wishes to be placed on the list for future consideration. This provision applies only to open competitive eligibility lists.
- iv. An eligible who had been removed from the list as a result of a positive drug test, and who then submits documentation that the eligible has successfully completed a rehabilitation program.

#### 5.015 Notification of Disqualification of Eligibles

**SOURCE:** New. PAG 4.716, DOA 4.417 (Notification of Disqualification of Eligibles).

An eligible who is disqualified pursuant to Rule 5.014 shall be notified in writing of such action and the reasons of disqualification within ten (10) workdays of the action.

#### 5.016 Cancellation of Competitive Eligibility Lists

**SOURCE:** New. PAG 4.717, DOA 4.418 (Cancellation of Competitive Eligibility Lists).

The Administrator of the Courts may cancel an eligibility list for any of the following reasons:

- A. Changes in minimum qualifications or classification standards of a class of position;
- B. Abolishment of the class for which the list of eligible(s) was established; or
- C. All eligible(s) on the list are unavailable for employment.

### **5.100 NON-COMPETITIVE ACTIONS.**

**SOURCE:** New. PAG 4.800, DOA 4.500 (Non-Competitive Actions).



Under certain circumstances, eligibility lists may be rendered unnecessary. Qualifying circumstances are listed below.

#### 5.101 Transfer

**SOURCE:** New. PAG 4.801 (A) (Transfer Defined).

A transfer is defined as a change from one position to another position of the same class or a change to a related position in another class, which carries the same pay grade and same qualification requirements.

**SOURCE:** New. PAG 4.801(D), DOA 4.501(A) (Intra-departmental and Inter-departmental).

##### A. Internal Division Transfers

Upon the approval of the Administrator of the Courts employees may transfer within the same division or to another division when the following conditions are met:

- i. The employee meets the minimum qualification requirements for the position which the employee seeks movement, including any assembled examination requirements.
- ii. Movement is within the same class of position, or from one class of position to another class of position having comparable duties and responsibilities and qualification requirements.
- iii. Any such transfer shall require clearance of the Administrator of the Courts. The employee shall give the releasing division reasonable notice of the transfer. Prior approval for the transfer is not required by the releasing division. The releasing division cannot require the employee to resign.
- iv. Any employee affected by this section shall not have adversely affected the employee's government service, retirement credits, sick or annual leave and other fringe benefits normally granted to an employee of the government.
- v. The Administrator of the Courts may require a transferred employee to serve a probationary period.

B. Inter-Governmental

A transfer of an employee of any Federal, State or other local government to the Government of Guam is prohibited. The employee must go through the competitive merit system process.

C. Involuntary Transfer

**SOURCE:** PAG 4.801 (B) (Involuntary Transfer).

With the exception of Adverse Action, no employee may be involuntarily transferred to a position which is unrelated with respect to duties and responsibilities to the position occupied by the employee before the transfer.

D. Transfer Prohibited

**SOURCE:** New. PAG 4.801 (C) (Transfer Prohibited).

- i. No employee shall be transferred:
  - a. if the employee has filed a legitimate grievance for discrimination based on race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law; or
  - b. if the employee, acting in good faith, report or expose bad business practices, illegal activities, or inappropriate conduct by public officials.
- ii. Such transfer can be made only if it has been agreed to by the employee.

5.102 Re-Employment

**SOURCE:** New. 4 GCA § 2108 (Former Classified employees in good standing have re-employment rights for four (4) years).

Under 4 GCA § 2108, a permanent classified employee who separated through resignation or retirement while in good standing may be eligible

for reemployment to the same or comparable position with the Judiciary within four (4) years from the date of separation. For reemployment, the Administrator of the Courts must determine that the person has met the current minimum qualification requirements for the class to which reemployment is requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described in these rules. This re-employment credit privilege may be waived.

#### 5.103 Voluntary Demotion

**SOURCE:** New. PAG 4.804, DOA 4.504 (Voluntary Demotion).

A voluntary demotion may be made when the following conditions are met:

- A. The employee meets the minimum qualification requirements of the position to which the employee seeks movement, including any assembled examination requirements.
- B. The employee to be demoted is a permanent employee and the movement is from a position in which the employee last held permanent appointment.
- C. Such demotion shall require the prior approval of the Administrator of the Courts with the consent of the employee.

### 5.200 TYPES OF APPOINTMENTS.

**SOURCE:** New. PAG 4.900, DOA 4.600 (Types of Appointments).

#### 5.201 Permanent Appointment

**SOURCE:** New. PAG 4.901, DOA 4.601 (Permanent Appointment).

A permanent appointment is granted to an employee after successfully completing a probationary period in the permanent position.

#### 5.202 Probationary Appointment

**SOURCE:** New. PAG 4.902, DOA 4.602 (Probationary Appointment).

##### A. Probationary Period

**SOURCE:** New. PAG 4.902 (A), DOA 4.602 (D) (Probationary Period).

The probationary period shall be utilized as fully as possible to determine the fitness of the employee for the position.

B. Original Probationary Period

**SOURCE:** New. PAG 4.902(B), DOA 4.602(B) (Original Probationary Period).

An original probationary period shall be required when an individual who has not obtained permanent status is appointed to a permanent position. This also applies to former employees who have not been employed in the Government of Guam service after four (4) years of separation in good standing.

C. Duration of Probationary Period

**SOURCE:** New. PAG 4.902(C), DOA 4.602(D) (Duration of Probationary Period).

Original probationary period will be for six (6) months, except that service as a result of the six (6) months employment program provided for placement of persons with severe disabilities may be credited consistent with statute.

D. Discontinuance of a Probationary Appointment

**SOURCE:** New. PAG 4.902 (D) (Discontinuance of a Probationary Appointment).

If the employee fails to render satisfactory service during the original probationary period, the division manager shall submit a recommendation for dismissal, together with the employee's performance evaluation report, to the Administrator of the Courts for approval. The dismissal notice shall indicate the effective date of the action.

Failure by the Administrator of the Courts to submit a probationary letter to the employee prior to the expiration of the established end date of the probationary period does not grant the employee permanent status.

Employees dismissed while completing an original probationary period may appeal the dismissal only if the employee alleges that the dismissal was discriminatory based on race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation,

ancestry, honorably discharged veteran or military status, or any other protected classification under Federal or Guam law.

### 5.203 Detail Appointment

**SOURCE:** New. JOG Policy: HRD SOP-UJ01 (Detail Appointment SOP), 4 GCA § 4117 (Temporary Assignment Limitations).

#### A. Detail Assignment Defined

A detail is when an employee is selected by the immediate supervisor to temporarily assume the duties and responsibilities of a higher position classification. Detail assignment is not applicable to division manager and supervisory positions. The assignee shall not suffer any loss in pay while assigned to a detail in accordance with 4 GCA § 4117(c).

#### B. Time Limits on Detail Assignments

- i. Under Title 4, Section 4117 of the Guam Code Annotated, no employee shall be assigned or detailed to a position, other than the one to which the employee has already been appointed, for a period in excess of ninety (90) days.
- ii. The appointing authority can extend the detail for an additional ninety (90) days via written application, but it shall not be extended any more than the additional ninety (90) days. The extension must be approved, in writing, by the Chief Justice.
- iii. Detail assignments may be given to an employee for less than a thirty (30) day period, however the employee will not be eligible for compensation.
- iv. The Administrator of the Courts has full discretion to terminate the detail assignment prior to the expiration.

For details to unbudgeted positions, the division manager may provide the Administrator of the Courts a position description and justification for such detail prior to the detail appointment, as requested.

C. Selecting an Employee for Detail Assignment

- i. Detail assignments are applicable to full-time positions, but not to division managers and supervisors.
- ii. It is recommended to appoint the most senior employee within the classification series, i.e. appointing a Fiscal Officer I for detail to a Fiscal Officer II, or a Deputy Clerk II for detail to a Deputy Clerk III position.
- iii. Employees selected for detail assignment must have completed their initial probationary status.
- iv. Classified employees may be detailed to either classified or unclassified positions. Unclassified employees can only be detailed to other unclassified positions.
- v. Detail assignments are only applicable to established positions, categorized and listed in the Judiciary's Occupational Listing.
- vi. Detail assignments not within the classification series may be allowed with appropriate justification.

D. Temporary Needs

Details shall be made only for meeting temporary needs of the Judiciary, such as:

- i. Emergency details – to meet emergencies occasioned by abnormal workload, change in organization, or unanticipated absences;
- ii. To fill a vacancy for which recruitment is in progress;
- iii. Pending description and formal classification of a new position; or
- iv. To replace an incumbent who is undergoing training or on extended leave status.

Employees serving a detail on the first calendar day in a position having a lower pay grade shall not have their pay adjusted to the lower pay.

E. Suspension of Differential Pay & Affected Leave Time During Detail Appointments

- i. While detailed to a classified position: Any leave taken with the exception of administrative leave for official court business or mandatory training that exceeds forty (40) consecutive hours will automatically suspend or defer the differential pay for the entire period of leave until the employee resumes active duty status.
- ii. While detailed to an unclassified position: Any leave taken with the exception of administrative leave for official court business or mandatory training that exceeds eighty (80) consecutive hours will automatically suspend or defer the differential pay for the entire period of leave until the employee resumes active duty status.
- iii. Suspension of differential pay or the taking of leave time during the detail appointment period does not extend the ninety (90) day period.

F. Performance Appraisals

Employees appointed on detail assignments remain eligible for salary increments due in their classified position held prior to the detail.

G. Expiration or Termination of Detail Assignment

Upon expiration or termination of a detail appointment/assignment, the employee retains the right to return to the position, salary, and classified status held prior to their detail assignment. Such salary may include a salary increment given during the detail appointment period.

5.204 Limited-Term Appointments

**SOURCE:** New. PAG 4.903 (B), DOA 4.603 (A) ([Limited-Term Appointments](#)).

A. Limited Term Appointments may be made to fill:

- i. Temporary Vacancy in Permanent Positions;
- ii. Federally funded positions, grant specific positions and project specific positions for specific periods of time that are commensurate with the funding sources or the project's duration; or
- iii. A professional level position in the classified service for a specific project or program which commensurate with the duration of a specific project or program.

B. Employees appointed on a limited-term basis shall be given the usual employee benefits.

C. Limited Term Appointments may be terminated at any time.

D. Limited-Term Appointments do not serve a probationary period.

E. Tenure of Limited-Term Appointments: In the absence of an appropriate eligibility list, the Administrator of the Courts may fill the position.



5.205      Contracts for Personnel Services

**SOURCE:** New. PAG 4.904, DOA 4.604 (Contracts for Personnel Services).

- A.      Contracts shall not be used as a substitute for merit system employment. The Judiciary will not contract for personnel services which normally are performed by the employee under the merit system unless every effort has been exhausted to recruit on-island. Such effort must be documented to prove there was a lack of qualified individuals on-island.
- B.      Contracts for personnel services may be used only in accordance with all applicable laws and Judiciary rules.

5.206      Employing Students on Vacation

**SOURCE:** New. PAG 4.905, DOA 4.605 (Vacation Employment for Students).

The Administrator of the Courts may employ students during the vacation period between school years, at a rate not exceeding the minimum wage specified by any applicable Federal or Guam law, students of the various public or private schools in Guam who are at least sixteen (16) years of age, provided that such employment may not exceed eight (8) hours in one (1) day and five (5) days in one (1) week and that such employment may not be of a hazardous nature or in any way injurious to, or endangering the student. Students employed under this section shall not be eligible for sick leave, annual leave, or other benefits as applicable unless required by statute.

5.207      Subfilling Positions

**SOURCE:** New. Current JOG 5.02 (Subfilling Positions).

In the event qualified applicants are not available for permanent positions in the Judiciary, the Administrator of the Courts may authorize the hiring supervisor to fill the position at a lower classification which is commensurate with the applicant's qualifications. A condition for approval of such request shall be a planned program of job assignments and on-the-job training which will qualify the applicant for the higher level job within one (1) year. The one (1) year period of subfill constitutes the probationary period for the higher level job.

5.208      Acting Appointment

**SOURCE:** Current JOG 5.10 (Acting Appointment).

An acting appointment is the temporary promotion of a Judiciary employee to a vacant supervisor/management position for the period of time necessary to fill that vacancy on a permanent basis. An acting appointment cannot exceed one (1) calendar year and cannot be made without prior approval of the Administrator of the Courts.

A. Suspension of Differential Pay & Affected Leave Time During Acting Appointments

- i. While acting to a classified position: Any leave taken with the exception of administrative leave for official court business or mandatory training that exceeds forty (40) consecutive hours will automatically suspend or defer the differential pay for the entire period of leave until the employee resumes active duty status.
- ii. While acting to an unclassified position: Any leave taken with the exception of administrative leave for official court business or mandatory training that exceeds eighty (80) consecutive hours will automatically suspend or defer the differential pay for the entire period of leave until the employee resumes active duty status.

B. Performance Appraisals

Employees appointed on acting assignments remain eligible for salary increments due in their classified position held prior to the acting.

C. Expiration or Termination of ~~Detail~~ Acting Assignment

Upon expiration or termination of an acting appointment/assignment, the employee retains the right to return to the position, salary, and classified status held prior to their acting assignment. Such salary may include a salary increment given during the acting appointment period.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
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## **CHAPTER 6**

### **INITIAL PROBATIONARY PERIOD AND STATUS**

**SOURCE:** JOG 6 (Initial Probationary Period and Status).

#### **STATEMENT OF POLICY:**

**SOURCE:** New.

Probationary periods are an integral part of the selection process. No appointment shall be final unless a performance report has been prepared for this period stating that the employee's service has been satisfactory and recommending that the employee be given permanent status.

#### **6.000 INITIAL PROBATIONARY PERIOD.**

**SOURCE:** JOG 6.00 (Initial Probationary Period).

In order to obtain permanent status in the classified service, all persons initially appointed from eligibility lists shall be subject to a satisfactory completion of a probationary period. There may be two exceptions to this requirement:

- A. Reemployment under 5.102; and
- B. Subsequent appointments in connection with a promotion or demotion.

##### **6.001 Length of Probationary Period**

**SOURCE:** JOG 6.01 (Length of Probationary Period).

All employees in the classified service shall serve a probationary period of six (6) months.

The Administrator of the Courts may extend an initial probationary period, or a new probationary period not to exceed a total of twelve (12)

months from the initial date of employment. Written notice of the extension shall be given to the employee by the Administrator of the Courts prior to the expiration of the probationary period.

#### 6.002 Evaluation of Performance

**SOURCE:** JOG 6.02 (Evaluation of Performance).

Each supervisor shall objectively evaluate probationary employees on a performance report to determine whether they should be:

- A. Classified as permanent; or
- B. Dismissed, with the reasons stated in writing.

#### 6.003 Removal During Initial Probationary Period

**SOURCE:** JOG 6.05 (Removal During Initial Probationary Period).

During the initial probationary period, the Administrator of the Courts, upon the recommendation of the division manager, may discharge an employee who is not performing satisfactorily or whose habits and dependability do not merit continuation of employment. Notice of such action shall be given to the employee and the reason for the dismissal stated.

Employees so dismissed shall not have recourse to any grievance or appeal procedure except on grounds of discrimination in which case the employee may appeal through the EEO Discrimination Complaint Procedure. Judiciary procedures for submission of appeals shall be in accordance with prescribed guidelines, adopted and provided by the Judicial Council.

### **6.100 FINAL PERFORMANCE EVALUATION REPORT.**

**SOURCE:** JOG 6.15 (Reports).

Final performance evaluation reports concerning the probationary employee shall be made to the Administrator of the Courts by the appointing authority no later than ten (10) days prior to the expiration of the probationary period. Such reports shall specifically recommend the continuance of the employee in the service of the Judiciary or the employee's removal from service. However, in instances where an individual has been on extended leave, *i.e.*, in excess of thirty (30) days, the probationary period shall be extended an equivalent period of time.

### **6.200 PROTECTION OF STATUS.**

**SOURCE:** JOG 6.25 (Protection of Status).

Every employee in the classified service who has satisfactorily served a probationary period shall be entitled to hold the employee's position during satisfactory performance of duties.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
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## **CHAPTER 7**

### **CLASSIFICATION AND COMPENSATION**

**SOURCE:** JOG 9 (Classification and Compensation), JOG Admin Policy 2014 Classification and Compensation Implementation Procedures, DOA 5 (Position Classification System and Compensation Plan)

#### **STATEMENT OF POLICY:**

Pursuant to 7 GCA § 5102(d), the Judicial Council is authorized to adopt a pay plan for classified and unclassified employees of the Judiciary. This Chapter is to develop and maintain a system for the objective, consistent and timely classification of all positions and for the reasonable assignment of classes of positions to pay grades.

Compensation of position classes shall be based on know-how, problem solving, and accountability. Where not otherwise specified by laws, pay relationships shall take into consideration prevailing wage in the primary area of recruitment for the same or related classes of positions.

#### **7.000 POSITION CLASSIFICATION SYSTEM.**

**SOURCE:** JOG Admin Policy 2014 Classification and Compensation Implementation Procedures. 7 GCA § 5102 (d).

##### **7.001 Preparation and Publication of Classification Standards**

**SOURCE:** New. PAG, DOA 5.002 (Preparation and Publication of Classification Standards)

Established classification standards placed positions in their proper classes and pay grades to:

- A. define the various classes of positions that exist in the classified service in terms of duties, responsibilities and qualification requirements;
- B. establish the official class titles; and
- C. set forth the pay grades.

Standards may be created, amended or abolished.

#### 7.002 Delegation of Classification Authority and Responsibilities

**SOURCE:** New. PAG, DOA 5.003 (Delegation of Classification Authority and Responsibilities)

The Administrator of the Courts as delegated by the Judicial Council is authorized to classify positions, subject to:

- A. existing policies and procedures;
- B. class standards approved by the Judicial Council;
- C. post audits by the Judicial Council; and
- D. classification appeals by the employee.

The Administrator of the Courts may review published standards and submit amendments to the standards for approval by the Judicial Council.

#### 7.003 Classification Maintenance

**SOURCE:** New. PAG, DOA 5.004 (Classification Maintenance)

- A. The Administrator of the Courts may review positions in each division to determine whether positions are allocated to classes and grades in conformance with, or consistent with the Judiciary's position classification and compensation plan.
- B. Positions shall be placed in their appropriate class and grade, provided that if a position is downgraded, the position title and pay grade shall not be applicable to an incumbent until the expiration of two (2) years from the date of downgrade. The Administrator of the Courts shall take action in accordance with such determination.
- C. Whenever the Judicial Council finds that the positions are not placed in classes and grades in conformance with the classification and compensation plan, it may prescribe, revoke or suspend in whole, or in part the classification authority of the Administrator of the Courts. Further, the Judicial Council may require its prior approval be secured before an action placing a position in a class and pay grade becomes effective for payroll and other purposes. The Judicial Council may at any time restore such authority to the extent that it is satisfied that subsequent actions placing positions in classes and pay grades will be taken in conformance with the Classification Plan.

#### 7.004 Class Standards

**SOURCE:** New. PAG (Class Standards), DOA 5.005 (Class Specifications)

The class standards shall be considered in allocating positions and shall be applied as follows:

- A. Class standards are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration of duties, qualification requirements or other attributes shall not be regarded as excluding others not mentioned which are of similar nature.
- B. In determining the class to which any position shall be allocated, the standards for each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, minimum qualification requirements, and relationships to other classes consistent with statutory provisions.
- C. A class standard shall be construed as general description of work characteristic of positions that are properly allocated to that class, and not as prescribing what the duties or responsibilities of any position shall be; nor as limiting or modifying the authority which the Administrator of the Courts has to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities; to assign duties or delegate responsibilities to employees; or direct and control their work.
- D. The fact that all of the actual tasks performed by the incumbent of a position do not appear in the standards of a class to which the position has been allocated, shall not be taken to mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to the other parts of the specification be construed as determining that a position should be allocated to the class.
- E. The statement of minimum qualification is to be construed as an expression of the minimum knowledge, abilities and skills, and experience and training which would be required of any appointee to a position in the class as partial evidence of the ability to perform the work satisfactorily.
- F. Qualification requirements in the standard for any class, as interpreted herein, shall constitute the basis for other tests to be



included in examinations for the class, and for the evaluation of qualifications of applicants.

#### 7.005 Title of Positions

**SOURCE:** New. PAG, DOA 5.006 (Title of Positions)

The assigned class title shall be the official title for the purpose of personnel actions, and shall be used on payroll, budget, and official records and reports. This requirement, however, shall not prevent the use of organizational or other titles for internal administration, public convenience, law enforcement, or similar purposes.

#### 7.006 Job Standard

**SOURCE:** New. PAG/DOA 5.007 (Position Description)

- A. The Judiciary must prepare a written description of duties and responsibilities of each budgeted position on a form prescribed by the Judicial Council. A group of like positions may be covered by a single description. The employee, supervisor and/or Human Resources Officer may prepare the description. However, the major responsibility to insure accurate descriptions is on the division manager.
- B. The division manager must certify as to the accuracy of the duties assigned and such certification should be authenticated by the Administrator of the Courts. The Human Resources Officer must certify as to the proper classification of the position. Copies of the job standards must be filed with the Human Resources Office.
- C. The job standards must be amended whenever significant changes occur that would affect the recruitment and classification of a position, and must be promptly reported to the Administrator of the Courts so that a review of the position can be made to determine the proper classification of the position.

#### 7.007 Responsibilities

**SOURCE:** New. PAG, (Port Responsibilities), DOA 5.008 (Departmental Responsibilities)

- A. The Administrator of the Courts shall ensure that the duties and responsibilities assigned to each of its positions are accurately reflected in an official job standard. Amended descriptions should be submitted on a timely basis if significant changes in the duties and responsibilities of a position are made.

- B. The Judiciary shall not use the classification process to evade the principles of the merit system and effect personnel changes for which other personnel processes exist.

#### 7.008 Periodic Review of Standards and Classifications

**SOURCE:** New. PAG, DOA 5.009 (Periodic Review of Descriptions and Classifications)

In addition to the day-to-day work of describing and classifying new or changed positions to reflect current duties assigned and reported by supervisors or employees, the Administrator of the Courts must review, at intervals not exceeding three (3) years, all positions of the classified service within the Judiciary to ensure that the official position descriptions accurately reflect the work being performed and that the positions are properly classified, and shall take appropriate action as necessary.

#### 7.009 Determination of Proper Allocation for Newly Budgeted or Vacant Positions

**SOURCE:** New. PAG, DOA 5.010 (Determination of Proper Allocation for Newly Budgeted or Vacant Positions)

When a new position is to be established/budgeted or a vacant position is to be filled, the division manager shall submit a position description to the Administrator of the Courts in order that a determination of proper classification and pay allocation may be made. After the Administrator of the Courts approves the allocation, the Administrator shall notify the division manager affected, in writing, of the approved allocation. No position may be filled until the Administrator of the Courts certifies that the position is properly classified.

#### 7.010 Reclassification/Reallocation of Positions

**SOURCE:** New PAG, DOA 5.011 (Reclassification/Reallocation of Positions)

- A. The Administrator of the Courts may, upon the Administrator's own initiative, or upon the written request of a permanent employee, or the division manager, review the duties of any position to determine if it is properly classified; and shall take appropriate action as necessary, in accordance with the Judiciary's regulations, policies and procedures.

In making a request for the review of a position, the employee or division manager shall set forth the changes that have occurred in the particular position since the last review or other factors which in

the employee's or division manager's opinion warrant reclassification provided, that such changes in duties and responsibilities have been acquired or performed for at least six (6) months and are not temporary in nature.

- B. The Administrator of the Courts shall, after a thorough review of a position, notify the division manager and employee affected of the classification study result within twenty (20) work days from the completion of the audit.

#### 7.011 Effective Date of Reclassification of Positions

**SOURCE:** New. PAG, DOA 5.012 (Effective Date of Reclassification of Positions)

- A. When a position is reclassified to a class of the same or higher pay grade, the effective date of such reclassification shall not be prior to the date of the Administrator of the Court's approval.
- B. When a position is reclassified to a class of a lower pay grade, the effective date of such reclassification shall not be applicable to an incumbent until the expiration of two (2) years from the effective date of downgrade.

#### 7.012 Status of Incumbents when Positions are Reallocated

**SOURCE:** New. PAG, DOA 5.013 (Status of Incumbents When Positions are Reallocated)

- A. When a position is reallocated as a result of gradual accretion of duties and responsibilities, the employee in the position shall be entitled to serve in that class provided the employee continues to perform the same basic functions and meets the minimum qualifications for the class to which the position is reallocated. Reallocation within a series of positions that is non-supervisory shall be without competition.
- B. If ineligible for reallocation to the position as reallocated, the employee may be transferred, promoted, or demoted to an appropriate class by appropriate action in accordance with the provisions of these rules.
- C. The incumbent of the position designated for downgrade shall not have the incumbent's current salary reduced. Salary adjustment in the reclassified position shall be suspended until the incumbent's salary

increment in the new grade is granted. This salary adjustment is subsequent to section 7.011 B.

#### 7.013 Administrative Review

**SOURCE:** New. PAG, DOA 5.014 (Administrative Review)

- A. An administrative review may be requested by an employee in the position, the employee's designated representative acting on the employee's behalf or, the division manager which the position is located under.
- B. All requests for administrative review must be in writing, shall contain the specific reason(s) for disagreement with the classification action taken by the Administrator of the Courts, and shall state the action requested and the reasons the action is deemed more appropriate.
- C. An administrative review consists of a reevaluation of a classification action and is therefore confined to the duties and responsibilities assigned to the position at the time the description was prepared and which were the basis for the classification action. Subsequent changes in duties and responsibilities cannot be the basis for a request for administrative review, but must be reported on a new description and submitted for another classification action.
- D. The division manager shall notify the affected employees of the original notice of classification action immediately upon receipt from the Administrator of the Courts. Requests for administrative review shall be filed with the Administrator of the Courts within twenty (20) calendar days of the date when notice of classification action was received by the employee.
- E. The Administrator of the Courts shall take such action as the Administrator deems appropriate, which may include rescinding the earlier action and taking a different classification action. The affected employee and division manager shall be notified of the action taken.
- F. Any permanent employee whose position is reviewed may appeal to the Judicial Council. The employee may file a written appeal with the Judicial Council within fifteen (15) calendar days upon receipt of the Administrator of the Court's decision.

#### 7.014 Creation of New Positions and Classes of Positions

**SOURCE:** New. PAG 5.015 (Creation of New Positions and Classes of Positions), 4 GCA § 6303(a) new positions can be created by the Administrator of the Courts

- A. Pursuant to 4 GCA § 6303(a), new positions may be created by the Administrator of the Courts when necessary for the efficient performance of the duties and functions of the Judiciary.
  - i. The Administrator of the Courts shall submit to the Judicial Council the positions within thirty (30) calendar days after creation and post the position descriptions on the Judiciary website.
  - ii. The positions shall be terminated unless approved by the Judicial Council within ninety (90) days after submission.
  - iii. No newly created positions shall be filled in the absence of appropriations to pay the salary of the proposed positions.
- B. The petition shall be posted on the Judiciary's website for ten (10) days (Saturdays, Sundays and Government of Guam holidays excepted). After the posting, the Administrator of the Courts shall submit to the Judicial Council the petition and if approved shall do so by resolution.
- C. The Judicial Council shall file the approved petition and resolution for record with the Legislative Secretary.
- D. No new position may be filled until after compliance of the provisions of this Section and thirty (30) days have elapsed from the date of filing with the Legislative Secretary.

7.015 Transparency and Disclosure of Creation of New Positions or Classes of Positions

**SOURCE:** New. PAG 5.016 (Transparency and Disclosure of Creation of New Positions or Classes of Positions)

- A. Prompt notice of the postings required by 4 GCA §§ 6205 and 6303 shall be provided to each newspaper of general circulation and broadcasting station which airs a regular local news program within Guam.

- B. The petitions required by 4 GCA §§ 6205 and 6303 are public documents for the purposes of 5 GCA Chapter 10 (The Sunshine Reform Act of 1999).
- C. Any attempted creation of a position or above-step recruitment not in compliance with provisions of 4 GCA §§ 6205, 6303 and 6303.1(a) is void.

## **7.100 COMPENSATION PLAN.**

### **7.101 Assignment of Classes to Pay Grades**

**SOURCE:** New. PAG, DOA 5.100 (Compensation Plan).

Pay grades for all classes of positions are assigned by the Judicial Council.

### **7.102 Evaluation of Classes for Assignment to Pay Grades**

**SOURCE:** New. DOA 5.102 (Evaluation of Classes for Assignment to Pay Grades).

- A. Classes are evaluated on the basis of job know-how, problem solving and accountability consistent with the Hay methodology of position classification and salary administration guidelines.
- B. The assignment of classes of pay grades shall be in accordance with policies and standards established in conformance with statute and the following principles:
  - i. Classes which are related and are substantially equal shall be assigned to the same pay grade.
  - ii. Significant difference between related classes in job know-how, problem solving and accountability shall be reflected in the relative difference in assignment to pay grades.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
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## **CHAPTER 8**

### **PAY ADMINISTRATION**

**SOURCE:** New. JOG 2014 Classification & Compensation Implementation Policy and Procedures ("2014 Class & Comp Policy") (JC Res No. JC14-016 approved July 17, 2014); DOA Chapter 6 (Pay Administration).

#### **STATEMENT OF POLICY:**

**SOURCE:** New. DOA Ch. 6 (Statement of Policy).

It is the policy of the Administrator of the Courts to provide a uniform pay administration to facilitate pay actions, while ensuring the proper compensation of employees and to provide the opportunity for the divisions to carry out their respective missions.

#### **8.000 SCOPE.**

**SOURCE:** New.

- A. This Plan covers Judiciary positions, classified and unclassified.
- B. These policies and procedures shall be utilized for the following pay plans:
  - 1. General Pay Plan (GPP) – **Exhibit A**
  - 2. Attorney Pay Plan (APP) – **Exhibit B**
  - 3. Executive Pay Plan (EPP) – **Exhibit C**
  - 4. Law Enforcement Pay Plan (LEPP) – **Exhibit D**

These policies and procedures will be used to administer the pay plans referenced above as well as govern the movement from any of the same to and from the various pay plans.

## **8.100 NEW APPOINTMENTS/PROBATIONAL APPOINTMENTS.**

### **A. Classified Positions**

**SOURCE:** New. JOG 2014 Class & Comp Policy. Section IV. 1. (Classified Positions).

The determination of hiring rates shall be as follows:

1. Step 1 of the Pay Grade assigned to a classified position shall be the regular rate of initial employment.
2. Hiring above Step 1 must be approved by the Judicial Council and in conformance with 4 GCA §§ 6205 and 6303.1.
3. The Judiciary may accept inter-branch transfers from other government entities and apply proper pay formulas in accordance with the nature of the transfer (lateral transfer, transfer and promotion, transfer and voluntary demotion).

### **B. Unclassified Positions**

**SOURCE:** New. JOG 2014 Class & Comp Policy. Section IV. 2. (Unclassified Positions).

1. Attorneys may be slotted within the new pay structure utilizing the APP descriptors of work.
2. A Courtroom/Chamber Clerk shall be slotted in Pay Grade M, Step 5 when hired if the employee meets the minimum job requirements. A Courtroom/Chamber clerk shall be slotted in Pay Class M, Step 1 if the employee does not meet minimum job requirements.
3. Limited Term Positions Step 1 of the Pay Grade assigned to a classified position on a temporary basis shall be the minimum rate of pay. Hiring above Step 1 shall be approved by the Administrator of the Courts.

## **8.200 SALARY INCREMENTS.**

### **A. Classified Employees**

**SOURCE:** New. JOG 2014 Class & Comp Policy. Section V. 1. (Classified Employees).

Employees shall be entitled to a one (1) step salary increment for satisfactory performance.



1. Employees at Steps 1 through 6 shall be entitled to an increment after twelve (12) months of satisfactory performance.
2. Employees at Steps 7 through 9 shall be entitled to an increment after eighteen (18) months of satisfactory performance.
3. Employees at Steps 10 and above shall be entitled to an increment after twenty-four (24) months of satisfactory performance.

Any employee due an increment beyond the maximum step in each pay plan shall be entitled to an equivalent of a one-step salary increment of 3.1%.

B. Unclassified Employees

**SOURCE:** New. JOG 2014 Class & Comp Policy Section. V. 2. (Unclassified Employees); JOG Admin Comp Policy UJ06-06 (Increments for Unclass) (JC06-004), Section 4.3.

1. Unclassified employees of the Judiciary who complete two (2) years of full time satisfactory service shall be entitled to a one (1) step increase or a pay adjustment of 3.1%.
2. Any unclassified employee who receives a salary adjustment with an increase in pay prior to the employee's anniversary date, for any basis or reason as approved by the Chief Justice, shall constitute a new two (2) year waiting period from the date of the salary increase.

C. Limited Term Employees and Senior Law Clerks

**SOURCE:** New. JOG 2014 Class & Comp Policy Section. V.3. (Limited Term Employee and Senior Law Clerks).

Limited-Term employees and Senior Law Clerks are ineligible for any salary increment or pay adjustment.

D. Attorneys

**SOURCE:** New. JOG 2014 Class & Comp Policy. Section V. 4. Attorneys (as amended by JC Resolution No. 21-017).

Attorneys shall be entitled to a one (1) step salary increment for satisfactory performance as follows:

1. Attorney Levels 1-4. Upon satisfactory review, Attorneys 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.
2. 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.
3. 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.

### **8.300 METHOD AND SALARY PLACEMENT FOR UNCLASSIFIED EMPLOYEES.**

**SOURCE:** New. JOG Admin Comp Policy UJ06-05 (Methodology for Step and Salary Eligibility for Unclass) (JC06-003).

#### **A. Scope**

**SOURCE:** New. JOG Methodology for Step and Salary Eligibility for Unclassified Appointments Policy. UJ06-05. Section 2 (Policy).

This section provides procedures for recruiting and retaining qualified and exceptional employees for unclassified positions and allows for upward salary adjustments for Judiciary unclassified personnel. The administration of this section is subject to the availability of funds. It is also limited to full-time personnel whose salaries are not fixed or established by statute or the Judicial Council.

Nothing shall limit the discretionary authority of the Administrator of the Courts to make a lesser or greater salary offer. No salary increase is

authorized to be retroactive from the date of its authorization, unless so specified by law.

B. Exceptional Qualifications

**SOURCE:** New. JOG Methodology for Step and Salary Eligibility for Unclassified Appointments Policy. UJ06-05. Section 2 (Policy).

For purposes of this section, “exceptional qualifications” is defined on the basis of two criteria:

1. Relevant Experience: Step allocation may be allowed for relevant experience that surpass the minimum requirements as prescribed in the official job standard.
2. Education and Training: Step allocation may be allowed for any education that surpasses the minimum educational requirements as prescribed in the job standard. This may include any professional credentials, certifications and licenses.

C. Point System

**SOURCE:** New. JOG Methodology for Step and Salary Eligibility for Unclassified Appointments Policy. UJ06-05. Section 2 (Policy).

The rating system utilized by the Human Resources Office to assess and award points relative to an applicant’s excessive experience and education will be the basis of granting one step allocation for every one (1) point earned.

D. Eligibility, Offer and Appointment

**SOURCE:** New. JOG Methodology for Step and Salary Eligibility for Unclassified Appointments Policy. UJ06-05. Section 3 (Salary Eligibility, Offer and Appointment).

1. The Human Resources Administrator is responsible for creating an employee/applicant profile, which lists relevant education and experience. This profile may be created based on an initial or updated employment application or an assessment of the employee’s official personnel file, or a combination of both, if applicable.
2. The profile will indicate salary eligibility and offer based on minimum qualifications and any additional experience, education and training.

3. The Administrator of the Courts has discretionary authority to hire, appoint, authorize salary placement up to a maximum Step 10 of the designated pay grade of the position. Any and all offers beyond Step 10 shall require approval of the Chief Justice.

#### **8.400 MERIT BONUS /4 GCA § 6203.**

SOURCE: New. JOG 2014 Class & Comp Policy, Section VI. (Merit Bonus), 4 GCA § 6203.

Classified employees in grades A through X shall be rewarded a lump sum bonus equivalent to 3.5% of the employee's base salary upon superior performance review. The merit bonus shall be automatic upon a superior rating conducted for increment purposes. The merit bonus shall be in addition to the salary increment and is limited to the fiscal year in which superior performance is rendered.

#### **8.500 PROMOTIONS.**

SOURCE: New. JOG 2014 Class & Comp Policy, Section VII (Promotion).

A promotion is a change from one position to another which is evaluated at a higher pay grade than the previous position. This also applies when moving between plans.

- A. Promotion: In a promotion, the incumbent's salary shall be increased by one step within the incumbent's current pay grade and then slotted closest to but not less than the salary within the target pay grade.

SOURCE: New. JOG 2014 Class & Comp Policy, Section VII. 1 (Promotion).

- B. Promotion beyond Step 18: In a promotion beyond Step 18 the incumbent's salary shall be calculated at one adjustment of 3.1% from the incumbent's salary prior to promotion and then slotted closest to but no less than the salary within the target pay grade.

SOURCE: New. JOG 2014 Class & Comp Policy, Section VII. 2 (Promotion beyond Step 18).

- C. Promotion between different pay plans: In a promotion between different pay plans the incumbent's salary shall be increased by one step within the incumbent's current pay plan and then slotted closest to but not less than the salary within the new pay plan i.e. L.E. plan. Refer to 8.800 for transfer between law enforcement to other pay plans.

Employees serving their initial probationary period are not eligible for a promotion.

SOURCE: New. JOG 2014 Class & Comp Policy, Section VII. 3 (Promotion between different pay plans).

## **8.600 DEMOTIONS.**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section VIII. (Demotion).

- A. Voluntary Demotion is a move from one position to another which is evaluated at a lower pay grade than the previous position. This also applies when moving between other plans. In a demotion, the incumbent's salary shall be slotted within the target pay grade closest to and not more than the salary prior to demotion.

Demotion between different pay plans: The incumbent's salary shall be slotted into the new pay plan closest to but not more than the salary held prior to demotion. Refer to 8.800 for transfer between law enforcement to other pay plans.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section VIII. 1. (Voluntary Demotion).

- B. Involuntary Demotion is a move from one position to another which is evaluated at a lower pay grade than the previous position for cause. Employees involuntarily demoted shall have their compensation reduced at least one step and slotted closest to but not more than the salary within the target pay grade. For Adverse Actions, the Administrator of the Courts may reduce the salary to the lowest step of the target pay grade.

Demotion between different pay plans: Employees involuntarily demoted between different pay plans shall have their compensation reduced at least one step and slotted closest to but not more than the salary within the target pay grade. For Adverse Actions, the Administrator of the Courts may reduce the salary to the lowest step of the target pay grade. Refer to 8.800 for transfer between law enforcement to other pay plans.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section VIII. 2. (Involuntary Demotion).

## **8.700 INTRA-JUDICIARY TRANSFER.**

A transfer is a change from one position to another position with the same pay grade within the Judiciary.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section IX. (Inter-Judiciary Transfers).

- A. General Pay Plan (GPP) Transfers

1. Lateral Transfers (Same Pay Grade, Salary Range and Title)

2. Transfer – Change of Position Title (Same Pay Grade and Salary Range)

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section IX. 1. (General Pay Plan (GPP) Transfers).

B. Different Pay Plan Transfers

Transfers/Change of Position Title: Incumbents are slotted closest to but no less than the salary prior to transfer.

Pay Steps are not considered when determining movement between different pay plans. The salary range of the position held prior to the transfer is the determining factor for salary placement.

Refer to 8.800 for transfer between law enforcement to other pay plans.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section IX. 2. (Different Pay Plan Transfers).

**8.800 TRANSFER BETWEEN LAW ENFORCEMENT & COMPETITIVE WAGE ACT.**

**SOURCE:** New. JOG Policy Governing Employee Transfers Between Law Enforcement and Competitive Wage Act Pay Scales (adopted by JC15-020 (Oct. 2, 2015)).

The Judiciary compensates its employees in a manner appropriate to the skills they must hold, the nature of their duties, and any particular licensure or certification that is necessary for the job. Thus given the special nature of law enforcement at the Judiciary as Category 1 peace officer – which is the highest class of peace officer – it is appropriate that those employees who move into positions that do not require such certification realize the loss of the premium pay that is assigned to law enforcement positions.

A. Movement to a Higher Pay Grade - Promotion

When an employee moves from the Law Enforcement pay scale into a position in a higher pay grade on the General Pay Plan, the employee's salary shall first be slotted at the corresponding salary on the Unified Pay Schedule set forth at 4 GCA § 6201. The salary shall then be slotted at one step higher on the same pay grade and then slotted to a salary closest to but not less than the salary in the higher pay grade under the Unified Pay Schedule. Once slotted appropriately in the lesser pay grade, the employee's salary will then be slotted on the appropriate pay plan utilizing the Implementation procedure.

**SOURCE:** New. JOG Policy Governing Employee Transfers Between Law Enforcement and Competitive Wage Act Pay Scales, Section I (Movement to a Higher Pay Grade).

B. Movement to a Lower Pay Grade – Demotion (Voluntary/Involuntary)

When an employee moves from the Law Enforcement pay scale into a position in a lower pay grade on the General Pay Plan under the CWA, the employee's salary shall first be slotted at the corresponding salary on the Unified Pay Schedule. Then, salary shall be slotted closest to but not more than the salary in the lesser pay grade under the Unified Pay Schedule. Once slotted appropriately in the lesser pay grade, the employee's salary will then be slotted on the appropriate CWA pay plan utilizing the Implementation procedure.

**SOURCE:** New. JOG Policy Governing Employee Transfers Between Law Enforcement and Competitive Wage Act Pay Scales, Section II (Movement to a Lower Pay Grade).

C. Movement to a Position in the Same Pay Grade - Transfer

When an employee moves from the Law Enforcement pay scale into a position in the same grade on the General Pay Plan, the employee's salary shall be slotted at the corresponding salary on the Unified Pay Schedule. Then, the salary shall be slotted in the General Pay Plan using the Implementation Procedure.

Implementation Procedure:

A one-step adjustment after initial slotting shall be granted in the appropriate category on the GPP only if salary increase after initial slotting is less than a 3.8%.

1. At minimum, employees who receive equal or more than a 3.8% increase upon initial slotting shall not receive an implementation step. Employees receiving less than a 3.8% pay adjustment upon initial slotting shall move to the next higher step.
2. Between Step 2 and 17: All employees shall move to the next higher step after initial slotting if the increase is less than 3.8%.
3. At Step 18 and Above: All employees shall move to the next higher salary multiplied by 3.1% of the maximum step if their increase is less than 3.8%.

**SOURCE:** New. JOG Policy Governing Employee Transfers Between Law Enforcement and Competitive Wage Act Pay Scales, Section III (Movement to a Position in the Same Pay Grade).

## **8.900 INTER-GOVERNMENTAL TRANSFERS (Transfers from External Pay Plans).**

Applicants from other branches may be considered as transfers rather than initial employment. All inter-governmental recruitment by the Judiciary shall be compensated pursuant to the pay policies identified.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section X (Inter-Governmental Transfers).

### **A. General Pay Plan (GPP) Transfers**

1. Lateral Transfers (Same Pay Grade & Title)
2. Transfer – Change of Position Title (Same Pay Grade)

**SOURCE:** New. JOG 2014 Class & Comp Policy,, Section X. 1 (General Pay Plan (GPP) Transfers).

### **B. Different / Other Pay Plan Transfers**

1. Transfer – Promotion
2. Transfer – Demotion
3. Lateral Transfers (Same Pay Grade / Same Pay Scale):  
Incumbent maintains the same Pay Grade & Salary Range.
4. Lateral Transfers (Same Pay Grade/Different Pay Scale):  
Incumbents are slotted closest to but no less than the current salary.

Pay Steps are not considered when determining movement between different pay plans. The salary range of the position held prior to the transfer is the determining factor for salary placement.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section X. 2 (Different/ Other Pay Plan Transfers).

## **8.1000 TRANSFERS.**

- A. Same position transfers from external pay plans shall be straight slotted (closest to and not less than) or placed into the assigned grades/levels and ranges of position.
- B. Position transfers between the Law Enforcement and Public Safety Pay Plan, GPP, NPP, and the EDU, refer to 8.800 for transfer between law enforcement to other pay plans.



**SOURCE:** New. JOG 2014 Class & Comp Policy, Section X. 2. (Different/Other Pay Plan Transfers).

## **8.1100 SALARY PROTECTION DUE TO MEDICAL CONDITION.**

The Judiciary provides salary protection to employees injured, through no fault of their own, while performing their assigned duties and responsibilities, and provided that the injury was not the result of their own negligence or intentional act.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XI (Salary Protection Due to a Medical Condition).

### **A. Compensation Following a Service-Connected Disability (Medical Condition)**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XI. 1 (Compensation Following a Service-Connected Disability (Medical Condition)).

1. Employees who are unfit to perform the duties and responsibilities of their original positions due to a work-related medical condition shall retain their present pay grade and salary until they receive medical retirement.
2. Employees who request for transfer to another class of position with the same pay grade, due to a work-related medical condition, and the transfer is approved by the Administrator of the Courts, shall retain their present pay grade and salary.
3. Employees who are transferred to another class or position at a lower pay grade, due to a work-related medical condition, shall retain their present pay grade and salary.

### **B. Compensation Following a Non-Service Connected Disability Demotion (Medical Condition)**

Employees who are unfit to perform the duties and responsibilities of their position due to a medical condition may be voluntarily demoted pursuant to Section 8.600.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XI, 2 (Compensation Following a Non-Service Connected Disability Demotion (Medical Condition)).

## **8.1200 RE-EMPLOYMENT.**

Former classified employees of the government of Guam who were in good standing at the time of resignation may be hired at not less than the salary they earned at their former position if they apply for the same or comparable job in the same department. This re-employment credit privilege must be exercised within a four (4) year period. The employee may waive this privilege.

Under 4 GCA § 2108, a permanent classified employee who separated through resignation or retirement while in good standing may be eligible for reemployment to the same or comparable position with the Judiciary within four (4) years from the date of separation. For reemployment, the Administrator of the Courts must determine that the person has met the current minimum qualification requirements for the class to which reemployment is requested. A reemployed employee may be hired at not less than the salary earned at the former position. Reemployment appointments are subject to the certification procedures as described in these rules. This re-employment credit privilege may be waived.

**SOURCE:** New. [4 GCA § 2108](#); JOG 2014 Class & Comp Policy, Section XII (Re-Employment).

#### **8.1300 ACTING AND DETAIL APPOINTMENTS.**

Employees serving a detail or acting appointment, consistent with statutory provisions set forth in 4 GCA § 4117, in excess of thirty (30) consecutive calendar days in a classified position having a higher pay grade than the employee's regular position, shall be deemed a temporary promotion therefore be compensated in accordance with Section 8.500. Payment of the differential shall be deferred until the employee has served at least thirty (30) consecutive calendar days in a detail/acting appointment. This provision would also apply to classified employees detailed to an unclassified position. This provision supersedes the three-step salary increase as previously approved by the Judicial Council in Administrative Compensation Policy UJ06-08.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XIII (Acting and Detail Appointment).

#### **8.1400 PAY GRADE REASSIGNMENT.**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XV (Pay Grade Reassignment).

The Administrator of the Courts, or an employee, may initiate a written request for consideration of an amendment to the pay grade allocation for a class of position with justification. If the findings of the Human Resources Administrator indicate the need to amend the pay grade allocation, the request will be forwarded to the Administrator of the Courts for the submission to the Judicial Council for approval. This authority for the Judicial Council to reassign pay grades

is pursuant to 4 GCA § 6302. Changes adopted shall become effective on the date of approval by the Judicial Council.

#### **8.1500 PAY ADJUSTMENT FOLLOWING PAY GRADE REASSIGNMENT.**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVI (Pay Adjustment Following Pay Grade Reassignment).

- A. When a pay grade for any class is reassigned to a higher pay grade, the current salary shall be slotted closest to but not less than the previous salary in the new pay grade.
- B. When a pay grade for any class is reassigned to a lower pay grade (right-sized), the current salary shall be slotted closest to but not more than the previous salary in the new pay grade. Incumbents of the right-sized positions shall not have their current salaries reduced until the expiration of two (2) years from the date of reassignment.

#### **8.1600 GENERAL PROVISIONS RELATING TO SALARY INCREMENT INCREASES.**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVII (General Provisions Relating to Salary Increment Increases).

A. Increment Status Upon Demotion Due to Position Reclassification

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVII. 2 (Increment Status Upon Demotion Due to Position Reclassification).

The salary increment anniversary date before the reclassification determination shall be used to determine the appropriate salary increment date in the new pay grade. Where there is no change in the waiting period, the salary increment date in the pay grade before the reclassification shall be maintained. Where there is a change to a shorter waiting period (Steps 1 through 7), the salary increment date before the reclassification shall be maintained. Where there is a change to a longer waiting period (Steps 8 through 18), the new waiting period shall be applied.

B. Personnel Actions Not Affecting Increment Anniversary Dates

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVII. 3 (Personnel Actions Not Affecting Increment Anniversary Dates).

The following personnel actions shall not change increment anniversary dates:

1. Reassignment of pay grade for a class or classes of positions.

2. Pay adjustment from statutory amendments to the pay plans.
3. Acting/Detail Appointment.
4. Transfer from one position to another of the same or related class of position while retaining the same salary rate upon transfer.
5. Involuntary demotion for other than adverse or disciplinary action.
6. Reclassification to a class of the same pay grade or lower while the employee retains the same salary rate.
7. Salary increment freeze.
8. Voluntary demotion.
9. Merit step increase.
10. Other action as determined by the Administrator of the Courts in consultation with the Human Resources Administrator.

C. Creditable Service Upon Re-Employment

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVII. 4 (Creditable Service Upon Re-Employment).

Permanent classified employees who separate from the government of Guam in good standing shall be credited for time served in the position held prior to separation when exercising their reemployment rights.

## **8.1700 OTHER PAY POLICIES.**

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVIII (Other Pay Policies).

A. Pedro “Doc” Sanchez Scholarship Program

An employee shall be granted a one-step pay adjustment **upon meeting pursuant to** the requirements of Title 17, Chapter **1528**, Article **95** of the Guam Code Annotated.

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVIII. 1 (Pedro “Doc” Sanchez Scholarship Program).

B. Talent Management Program Track I

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVIII. 2 (Talent Management Program Track 1).

Upon determination that the TMP participant has achieved readiness, the Administrator of the Courts, in consultation with the Chief Justice, will certify and approve completion of the program, resulting in a one-step TMP Readiness Salary Adjustment (or 3.5% of their annual salary).

No court employee may receive more than one TMP Readiness Salary Adjustment in Track 1 throughout the course of their employment (including employees who have separated or who have retired and become reemployed with the Judiciary).

C. Talent Management Program Track 2

**SOURCE:** New. JOG 2014 Class & Comp Policy, Section XVIII. 3 (Talent Management Program Track 2).

Upon successful completion of Track 2, the Administrator of the Courts, in consultation with the Chief Justice, will provide a one time, lump sum payment based on 3.5% of their annual salary, contingent upon funding availability.

No court employee may receive more than one lump sum payment in Track 2 throughout the course of their employment (including employees who have separated or who have retired and become reemployed with the Judiciary).

**8.1800 MINIMUM WAGE.**

**SOURCE:** New. DOA 7.100, PAG 8.100 (Minimum Wage)

Employees shall be paid not less than the established minimum wage for Guam.

**8.1900 HOURLY RATE OF PAY.**

**SOURCE:** New. DOA 7.300, PAG 8.300 (Hourly Rate of Pay)

The hourly rate of pay is the rate reflected on the pay grade schedule approved by the Judicial Council.

**8.2000 OVERTIME AND COMPENSATORY TIME EARNED.**

The Judiciary must comply with the federal mandate of the Fair Labor Standards Act (FLSA) and compensate employees for hours worked (planned or unplanned) beyond their scheduled forty (40) hour workweek. In accordance with FLSA, there are provisions of the mandate, which prescribe to those employees who are classified as “exempt” or “nonexempt” employees. The Judiciary’s Human Resources Office maintains a list of FLSA positions designated as “exempt” and “nonexempt.”

New. JOG Overtime and Compensatory Time Policy. AD98-01 (Oct. 1, 1998 as last amended in on Oct. 24, 2007) (Statement of Policy).

## 8.2001 Types of Overtime Work

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. Section I (Types of Overtime Work).

### A. Planned Overtime

**SOURCE:** New. JOG JOG Overtime and Compensatory Time Policy, Section I.1. (Planned Overtime).

Occurs when overtime plans or work assignments are to go beyond the normal eight (8) hours per day or forty (40) hour workweek. In these instances, a supervisor or division manager has predetermined the need for overtime assignments and has forwarded the required documentation to the Administrator of the Courts.

### B. Unplanned Overtime

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. Section I.2. (Unplanned Overtime).

Occurs when overtime assignments are unplanned, urgent, or of an emergency nature as determined or required by division manager, judge, justice and the Administrator of the Courts. Emergency situations categorized for unplanned overtime are:

- i. When an established post of duty must be covered 24 hours per day and the employee assigned to that shift is not available, i.e. shortage of manpower;
- ii. When danger to life, health, or well-being of the public, employees, inmates or other persons could occur or where danger to property is eminent;

- iii. Other situations where the Administrator of the Courts determines that the responsibilities prescribed for the Judiciary cannot be accomplished unless overtime work is authorized; or
- iv. Employees who work during typhoon emergency periods, defined as Typhoon Conditions I and II, as declared by the Governor of Guam.

#### 8.2002 Occurrence of Qualifying Overtime Work

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section II (Occurrence of Qualifying Overtime Work).

Qualifying overtime work occurs when an employee performs work assignments under the following conditions:

- A. The employee's immediate supervisor or higher authority has instructed, directed, acknowledged or approved any employee to perform job duties outside or beyond the employee's regular work schedule; and
- B. Actual work time (on-duty) is in excess of forty (40) hours in a single workweek; and
- C. The employee had performed work outside regular scheduled hours.

#### 8.2003 Other Compensatory Time.

- A. "Other Compensatory Time" is defined as hours during which an employee is not working and which are not counted as hours worked during the period when used. This is compensatory time which is earned and accrued by an employee in excess of a non-statutory (that is, non-FLSA) requirement. ~~An example would be a collective bargaining agreement providing that compensatory time be granted to an employee for hours worked in excess of eight (8) in a day, or for working on a scheduled day off in a non-overtime week.~~
- B. Compensatory time earned and accrued by an employee during hours that are considered "overtime" under a State or local law, ordinance, or other provision but are not considered overtime under FLSA are considered "other compensatory time."

**SOURCE:** New. 29 CFR § 553.28 (a) and (b).

#### 8.2004 Unauthorized/Unrecorded Work

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section IV (Unauthorized/Unrecorded Work) and Section XI (Administration and Enforcement Responsibility).

Any of the circumstances below shall be considered unauthorized, may not be subject to compensation, and may subject an employee to disciplinary action.

- A. Hours worked by an employee without the knowledge, permission or approval of an immediate supervisor or higher authority.
- B. Work performed at an unauthorized workstation or place.
- C. Any previous unrecorded hours submitted two pay periods or more after the work was performed. In this event, the employee's immediate supervisor or the person who authorized the work, will be held accountable for the unrecorded hours and will be cited for non-compliance of work policies by the Division Manager. The Payroll Section, FMD, will advise and return such OT forms back to the division manager for disposition.

#### 8.2005 Coverage of Exempt and Non-Exempt Employees

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section V (Coverage).

##### A. Non-Exempt Employees

The Human Resources Office shall maintain the Occupational Listing of all classified positions grouped as non-exempt (FLSA) positions of the Judiciary. Overtime compensation is limited to compensatory time earned instead of paid compensation. The compensation formula below is limited to Compensatory Time Earned conversion.

- i. Compensation Formula: Overtime compensation for non-exempt positions shall be at the rate of 1 and ½ times the regular rate of pay for each hour or portion of the hour worked. Any fraction of an hour of overtime worked shall be converted to the nearest fifteen (15) minutes.
- ii. Compensatory Time Earned (CTE) in Lieu of Overtime Pay: In the absence of any funds for



overtime compensation, the overtime performed will automatically be converted to Compensatory Time Earned at a rate of 1 and ½ hour for each hour or portion of the hour worked. Any fraction of an hour worked shall be converted to the nearest fifteen (15) minutes.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section V. A. (Coverage (Non-Exempt Employees)).

B. Exempt Employees

Overtime compensation is limited to compensatory time earned instead of paid compensation. The compensation formula below is limited to Compensatory Time Earned conversion.

- i. Compensation Formula: Overtime compensation for exempt positions shall be at the rate of one to one (1:1) for each hour or portion of the hour worked. Any fraction of an hour shall be converted to the nearest fifteen (15) minutes.
- ii. Compensatory Time Earned in Lieu of Overtime Pay: In the absence of funds for overtime compensation for exempt employees, the overtime work hours will automatically be converted to Compensatory Time Earned (CTE) at the rate of one to one (1:1) for each hour or portion of the hour worked. Any fraction of an hour shall be converted to the nearest fifteen (15) minutes.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section V. B. (Coverage (Exempt Employees)).

8.2006 Maximum Accrual of Compensatory Time Earned (CTE) in One (1) Fiscal Year:

A. Classified Employees:

- i. Non-exempt employees with the exception of Marshals and Probation Officers, may accrue up to 240 hours of CTE within one (1) fiscal year. Non-exempt Marshals and Probation Officers may accrue up to 480 hours of CTE.

- ii. Exempt employees cannot accrue more than 240 hours of CTE within one (1) fiscal year. This 240 hours is inclusive of any CTE accrued at the rate of 1.5 for non-exempt work compensation.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy, Section VI. (Maximum Accrual of Compensatory Time Earned (CTE) in One Fiscal Year).

B. Unclassified Employees:

Employees cannot accrue more than 160 CTE hours in one fiscal year. Any CTE hours not used within the fiscal year are forfeited. However, any hours worked during September may be carried over and used by the following month, October, only if approved by the Administrator of the Courts.

**SOURCE:** New. JOG Compensatory Time Policy for Unclassified Employees. UJ08-09. Section 5 (Accrual Rate & Cap Limitations).

8.2007 Compensatory Time Off Usage

CTE shall be used within sixty (60) calendar days of the end of the pay period which it is earned. Management will be free to schedule time off as CTO for any employee after the 60-day period has passed at its sole discretion in order to manage the levels of accumulated CTE.

**SOURCE:** New. JOG Overtime & Compensatory Time Policy. AD98-01 (as amended Sept. 12, 2006).

8.2008 Conversion of Compensatory Time Off to Cash

- A. CTE hours earned for unclassified employees shall never be converted to cash.

**SOURCE:** New. JOG Compensatory Time Policy for Unclassified Employees. UJ08-09. Section 8.1 (under Other Related Provisions).

- B. Whenever these caps are maximized, any hours worked by classified employees beyond the cap is required to be paid in cash for the pay period the work is performed.
- C. The Administrator of the Courts may direct, upon the availability of funds at the end of every fiscal year, payment of all or part of unused accumulated CTE balances for classified employees.

**SOURCE:** (B) and (C). New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VII (Conversion of Compensatory Time Off to Cash)

## 8.2009 CTE Provisions and Limitations for Both Exempt or Non-Exempt Employees

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VIII (CTE Provisions and Limitations for Both Exempt or Non Exempt Positions).

- A. Overtime compensation is limited to compensatory time earned instead of paid compensation. Division managers and supervisors are required to ensure that employees who do not wish to accept compensatory time for working after their regularly scheduled work hours are relieved from their duties.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VIII.1. (Employee's Option of OT/CTE).

- B. Official Record of CTE: No supervisor or division manager is authorized to accumulate a separate record of CTE. Any and all accumulated CTE maintained and recorded by the Payroll Office is deemed official recording and must be submitted within time deadlines.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy AD98-01, Section VIII. 3. (Official Record of CTE).

- C. Separated Classified Employees with Unused CTE: Any employee who terminates or separates employment service shall automatically be compensated for any unused accumulated CTE balance as certified by the Payroll Section. Compensation for unused accumulated CTE shall be at the employee's final rate of pay.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VIII. 4. (Separated Employees with Unused CTE).

- D. Exhausting CTE: Employees who begin to accumulate a CTE balance of half or more of the maximum accruable are encouraged to exhaust as much CTE as possible prior to charging any sick or annual leave. The employee's immediate supervisor and the employee share the responsibility in working out a schedule to exhaust any unused or excess CTE before the end of the fiscal year. This schedule should normally be planned at the earliest possible time into the third quarter of the fiscal year.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VIII. 5. (Exhausting CTE).

- E. **Use of Sick Leave in Lieu of CTO:** When sickness lasting one or more days occurs during a scheduled Compensatory Time Off (CTO), and the employee substantiates such to the satisfaction of the immediate supervisor as approved by the division manager, the employee may request that the period be changed to sick leave instead of CTO. Application for such substitution of sick leave for CTO must be made within three (3) working days upon return to duty.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section VIII. 6. (Use of Sick Leave in Lieu of CTO).

#### 8.2010 **Other Provisions Relating to Overtime and/or Compensatory Time Earned**

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX (Other Provisions Relative to Overtime and/or Compensatory Time Earned Compensation).

- A. **Prior Approval:** All employees who work outside their regular scheduled work hours and/or designated holidays must have had prior approval from their immediate supervisor or higher authority before any overtime work can be performed.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 1. (Prior Approval)

- B. **Time Recording and Reporting Deadline:** All employees scheduled, instructed or required to work overtime must record the employee's time in and out on the bi-weekly Daily Time and Attendance Log sheet. This form as prescribed by the Payroll Office shall include the employee's signature and the immediate supervisor's signature which will attest to all the hours worked by the employee for the pay period inclusive of any overtime work.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 2. (Time Recording and Reporting Deadline).

- C. **On Call/Stand-By Time**
- i. Considered compensable for overtime purposes only when the employee is at the official work site or so close thereto where the employee cannot use the time effectively for their individual purpose. The time spent on-call or stand-by must be outside the

employee's regular work hours, or emergency situations.

- ii. Travel Time is only compensable for overtime purposes when the employee has gone home after completing the employee's day's work or was administratively released for emergency situations and was subsequently called back to work for emergency situation; or when an employee has been directed to undergo mandatory drug or alcohol testing and the testing is outside the employee's regular scheduled hours. Travel time of one (1) hour is allowed for these purposes.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 3. (On-Call/Stand-By Time/Travel Time).

- D. Training & Overtime: All employees exempt or non-exempt shall be entitled for overtime compensation at the rate of 1.5, or in the absence of funds, be awarded Compensatory Time Earned at the rate of 1.5 for any mandatory training required outside the employee's regular scheduled work hours. Mandatory training is defined as training required or directed by the employee's immediate supervisor or higher authority. Overtime requests for such training shall require clearance from the Human Resources Office. Additionally, all Marshals and Probation Officers who attend a local law enforcement training cycle will be entitled for overtime or compensatory time earned for any training conducted or performed beyond the employee's regular scheduled work hours. Such entitlement will be on the condition that this training is verified by the training official.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 4. (Training and Overtime).

- E. Employee Status While Off-Island for Training or Assignment

- i. Employees who are authorized administrative leave for off-island training are only eligible to be compensated for the administrative leave time while on "training status." This administrative leave is only applicable to the employee's regular work schedule. Any mandatory training that goes beyond the employee's regular scheduled hours may be considered qualifying overtime work subject to certification by training institute or provider.

- ii. Employees who are authorized off-island assignments, i.e. escorts shall be placed on regular work status and shall be eligible for overtime compensations or compensatory time earned for any and all hours identified as escort time, which exceeded the forty (40) hours in one workweek.
- iii. For off-island escorting assignments, sleep time can be excluded from compensable hours of work. All employees are required to log escort work schedule inclusive of break and sleep time by completing an off-island escort activity log. The maximum sleep time that may be deducted is eight (8) hours for duty assignments of more than a 24-hour period.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 5. (Employee Status While Off-Island for Training and Assignment).

- F. **Board Appointments:** All employees, exempt or non-exempt, appointed by their division managers or higher authority to serve on any official (government) related committee, i.e. grievance, ethics, investigative, awards, etc. shall be entitled for overtime compensation at the rate of 1.5, or in the absence of funds, be awarded Compensatory Time Earned at the rate of 1.5 for all hours worked outside the employee's regular scheduled work hours. Such appointment must have been in writing and include clearance from the Human Resources Administrator and the Administrator of the Courts as required on the Overtime Request Form.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 6. (Board Appointments).

- G. **Mandatory Drug or Alcohol Testing:** Any employee (exempt or non-exempt) instructed or directed to undergo mandatory drug or alcohol testing outside the employee's regular work schedule shall be compensated overtime 1.5 rate for any time spent to undergo such test. Compensable travel time of one (1) hour is allowed for this purpose.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 8. (Mandatory Drug or Alcohol Testing).

- H. **Interest on Late Overtime Payment:** Any overtime not paid to an employee within fifteen (15) working days after a request for

payment is submitted shall earn interest at the rate of 10% per annum from the date due until the date paid.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 9. (Interest on Late Overtime Payment).

- I. **Meal Break:** Pursuant to 22 GCA § 3107(c), no employer shall employ any employee for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes; except that when a work period of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of employer and employee. Meal period shall not be considered 'on duty' or counted as time worked, unless the nature of work prevents an employee from being relieved of duty.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section IX, 10. (Meal Break).

#### 8.2011 Administration and Enforcement Responsibility

All employees, employee supervisors, official designated timekeepers, managers, Human Resources Office and the Financial Management Office share the responsibility of ensuring proper enforcement, compliance and administration of this section. Any violation, abuse, disregard or non-compliance will be subject to administrative action.

**SOURCE:** New. JOG Overtime and Compensatory Time Policy. AD98-01. Section XI (Administration and Enforcement Responsibility).

#### **8.2100 HOLIDAY PAY.**

Qualifying legal holidays are listed under Chapter 11. When an employee is absent from duty at the close of the working day immediately preceding a holiday and at the beginning of the working day immediately following a holiday, and such absence is determined to have been on a leave without pay status, the employee shall not be eligible for compensation for holiday and shall be considered as on leave without pay status.

Employees who are required, because of emergency or other reasons authorized by the Administrator of the Court to be present on the job on those holidays (or their equivalent day) shall be paid at a rate equivalent to double their hourly rate of pay.

**SOURCE:** JOG 9.28 (Holiday Pay).

#### **8.2200 NIGHT DIFFERENTIAL PAY.**

In accordance with 4 GCA § 6217, all employees of the Court except the Administrator of the Courts and Deputy Administrative Director of the Court (Unclassified), shall be entitled to night differential calculated at the rate of their regular wage plus ten percent (10%) for all periods worked between the hours of 6:00 p.m. and 6:00 a.m.

**SOURCE:** JOG 9.29 (Night Differential Pay); 4 GCA § 6217 (Night Differential Pay).

## **8.2300 HAZARDOUS PAY.**

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07.

### **8.2301 Scope**

Marshals, Probation Officers, and Alternative Sentencing Officers qualify for a hazardous pay ~~differential rate, a~~ of 10% ~~increase of their gross pay,~~ for such periods of time they are performing any duty considered to be a “hazardous condition,” provided that “hazardous conditions” shall not include the ordinary, customary or routine duties of Marshals, Probation Officers and Alternative Sentencing Officers. Exceptions to this provision are indicated in this section.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 2 (Statements of Policy).

### **8.2302 Procedural Requirements**

Any employee claiming hazardous pay must follow the procedural requirements. These procedural requirements are instituted for auditing purposes to ensure the hazardous conditions being claimed are not within the ordinary and customary duties as required by statute.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 2 (Statements of Policy).

### **8.2303 Claims Allowed**

Marshals, Probation Officers and Alternative Sentencing Officers may submit hazardous claims on the customary, ordinary or routine duties as follows:

- A. Providing security for a Justice, Judge or Referee so long as such Justice, Judge or Referee and the Administrator of the Courts certify that such duty exposed the employee to potentially dangerous circumstances;
- B. Providing security at a Family Visitation Center; or



C. Performing work-related duties involving exigent circumstances resulting in:

- i. Imminent danger of bodily injury to the employee or others; or
- ii. Exposure to potentially dangerous circumstances. The existence of such circumstances for Marshals must be certified by the Marshal of the Court and must be certified by the Chief Probation Officer for Probation Officers and Alternative Sentencing Officers.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 2 (Statements of Policy).

#### 8.2304 Good Faith Requirement

As officers and employees of the Judiciary, those claiming hazardous pay are subject to good faith efforts and ethical conduct when making their request. Audits will be conducted randomly. Any claim found to be misleading, falsified and/or exaggerated will be cause for disciplinary action and reimbursement.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 2 (Statements of Policy).

#### 8.2305 Employee's Responsibility to Pursue Claims

Compensation is subject to the availability of funds. Each eligible employee is responsible for pursuing any claim(s) for hazardous pay. Supervisors and division managers must ensure that the employee's claim conforms to claim requirements.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 2 (Statements of Policy).

#### 8.2306 Procedure for Discovered Discrepancies and/or Denial of Claims

- A. In the event payroll has discovered any discrepancy in claims, the Finance Administrator will issue a notice to the respective division manager for a response. The notice will include the date, time, number of hours, and reasons for the discrepancy. A copy of this notice is given to the Administrator of the Courts, the supervisor and employee.

- B. Within five (5) working days from the date of receipt (by the division manager), the division manager will respond to the discrepancy notice.
  - i. When a response is received from the division manager to the Finance Administrator, the Finance Administrator will then review the response and if applicable, certify funds availability and then forward the form to the Administrator of the Courts for final decision.
  - ii. In the event the discrepancy is not properly justified, compensation for hazardous pay will be denied by the Administrator of the Courts.
- C. Upon the decision of the Administrator of the Courts to deny or approve the claim in question, the original form will be returned to the Financial Office for records and/or processing. A copy of this decision is then forwarded to the respective division manager, supervisor and the employee.
- D. Employee will be given five (5) days after receipt of the Administrator of the Courts' decision to request for reconsideration. This written request will provide the reasons therein to justify reconsideration.
- E. The Administrator of the Courts will have five (5) working days to make a final decision and notify the employee on the reconsideration request. The Administrator of the Courts' decision is final.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 6 (Procedures for Discovered Discrepancies and/or Denial of Claims).

#### 8.2307 Other Related Provisions

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 7 (Other Related Provisions).

##### A. Rounded Clock Times, Nearest 15 Minutes as Minimum

Any fraction of an hour will be rounded down to the nearest fifteen (15) minutes.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 7.01 (Round Clock Times, Nearest 15 Minutes as a Minimum).

B. Supervisor Responsibility

As specifically stated throughout the claim requirements, supervisors have the responsibility of verifying and certifying that the hours being claimed are accurate and in accordance with this chapter.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 7.03 (Supervisor Responsibility).

C. Division Manager Responsibility

The Marshal of the Court and the Chief Probation Officer have the responsibility to audit and verify claim forms to ensure proper documentation and compliance with this chapter.

**SOURCE:** New. JOG Hazardous Pay Policy. UJ06-07. Section 7.04 (Division Head Responsibility).

### **Explanation of Source Terms**

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## **CHAPTER 9**

### **PERFORMANCE EVALUATION**

**SOURCE:** JOG 7.00 (Performance Evaluation); JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016

#### **STATEMENT OF POLICY:**

It is the policy of the Judiciary to evaluate each employee in the classified and unclassified service for efficient performance of work in accordance with these chapters. The evaluation shall be conducted by the immediate supervisor using uniform standards.

**SOURCE:** JOG 7.00 (Performance Evaluation)

#### **9.000 PERFORMANCE EVALUATION.**

**SOURCE:** JOG 7.00 (Performance Evaluation)

##### **9.001 Performance Standards and Interview Techniques**

**SOURCE:** JOG 7.05 (Performance Standards and Interview Techniques)

The Human Resources Administrator shall be responsible for scheduling periodic training for all levels of management concerning the development of performance standards, interview techniques and evaluations.

**COMMENT:** JOG 7.05 indicates Administrative Director

##### **9.002 Performance Evaluation Form**

Evaluations shall be accomplished on a form selected by the Administrator of the Courts.

**SOURCE:** JOG 7.10 (Performance Evaluation Form)

##### **9.003 Performance Evaluation Period**

The performance evaluation review is the time to establish a clear definition of the employee's duties and responsibilities, set performance standards, and develop a reasonable understanding of goals. Monitoring employee performance includes conducting periodic progress reviews and providing ongoing feedback.

**SOURCE:** JOG 7.15 (PERFORMANCE EVALUATION PERIOD); JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV

A. Mid Review – The monitoring process includes conducting at least one formal progress review during each evaluation period at approximately midway through the rating cycle to discuss the employee's current level of performance. The Mid-Review performance evaluation shall be submitted as follows:

- i. Permanent Appointment – 3 Months
- ii. Salary Increment –  
6 Months, Pay Steps 1-6  
9 Months, Pay Steps 7-9  
12 Months, Pay Step 10 & Above/  
Unclassified Employees

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV. Performance Evaluation Review Period (A.) Mid-Review

B. Probationary/Permanent Appointment – All employees in the classified service shall serve a probationary period of six (6) months or up to twelve (12) months if applicable to determine whether to be given permanent status or be terminated for "Unsatisfactory" work performance. Evaluations are due ten (10) days prior to their 6<sup>th</sup> month probationary appointment.

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV. Performance Evaluation Review Period (B.) Probationary/Permanent Appt.

C. Salary Increment – Eligible employees may be granted the applicable 12 month, 18 month, or 24 month salary increment in accordance with this chapter. Evaluations are due fifteen (15) days prior to their salary increment effective date.

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV. Performance Evaluation Review Period (C.) Salary Increment

- D. Transfer/Reassignment – Evaluation must be completed prior to an employee being transferred to another division, given the supervisor has met the 120 day supervision requirement as provided in Rule 9.100.

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV. Performance Evaluation Review Period (D.) Transfer/Reassignment

- E. Other – Further evaluations may be conducted as requested by the Administrator of the Courts.

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section IV. Performance Evaluation Review Period (E.) Other

### **9.100 RESPONSIBILITY FOR PERFORMANCE EVALUATION.**

The employee's immediate supervisor or that person's designee is responsible for conducting performance evaluations. The evaluator must have supervised the employee for not less than 120 calendar days during any single rating period. If the supervisory criteria is not met, then the previous supervisor will be required to make an evaluation of the employee's previous duties. In the event there are multiple ratings with conflicting overall evaluations, the Administrator of the Courts will determine the final overall rating.

**SOURCE:** JOG ADMIN POLICY: Performance Management System Evaluation Rating Guide Judiciary of Guam - Amended April 2016, Section V. Rating Responsibility

### **9.200 PRELIMINARY EXPLANATION TO EMPLOYEES.**

The evaluator will explain the purpose of the performance report personally to the employee and will also advise the employee of the factors considered.

**SOURCE:** JOG 7.21 (Preliminary Explanation to Employees)

### **9.300 POST-RATING CONFERENCE.**

After rating the employee, the evaluator will confer with the employee and explain the reasons for the ratings. An employee who feels that the rating is not justified may submit a written statement five (5) days from the date of acknowledgement, explaining the reasons for disagreement. The written statement shall be addressed to the division manager for review and comments. The final decision shall be made by the Administrator of the Courts based on the findings presented by the division manager. Comments by the employee will be made a permanent and integral part of the performance evaluation.

Should the individual be under the direct supervision of the division manager, the written statement shall be submitted to the Administrator of the Courts. The final decision shall be made by the Administrator of the Courts based on the findings presented by the division manager and employee.

**SOURCE:** JOG 7.22 (Post-Rating Conference)

#### **9.400 USE OF PERFORMANCE REPORTS.**

The performance report shall be used as the basic document in granting pay increases, determining order of layoffs and in rating the employee's suitability for promotion.

**SOURCE:** JOG 7.30 (Use of Performance Reports)

#### **9.500 SALARY ADJUSTMENTS FOLLOWING PERFORMANCE EVALUATION.**

**SOURCE:** JOG 7.40 (Salary Increment-Procedures)

##### **9.501 Salary Increments**

When a performance report shows that an employee has rendered satisfactory service, the employee may be advanced to the next higher step as indicated in this chapter.

For an employee who is on leave without pay for more than twenty (20) consecutive days, the increment date shall be extended the number of days in excess of the twenty (20) days beyond the anniversary date, thus creating a new increment date.

Salary Increments are not automatic, but are subject to the recommendation of the immediate supervisor/division manager, approval of the Administrator of the Courts and the availability of funds.

An employee must serve a minimum of 120 days during the review period to be eligible for a salary increment.

**SOURCE:** JOG 7.40 (Salary Increment-Procedures)

##### **9.502 Merit Bonuses**

Merit Bonuses under 4 GCA § 6203 are available when a classified employee receives a superior performance review. Chapter 8.400 permits a lump sum bonus equivalent to 3.5% of the employee's base salary, in addition to increment allowances.

**SOURCE:** 4 GCA § 6203 (superior performance by a classified employee shall be rewarded by a lump sum bonus based of an amount equivalent to 3.5% of the employee's based salary, shall be in addition to the increment received.

#### 9.503 Salary Increments – Detail Assignments

The employee's performance appraisal will continue to be based on the applicable waiting period in the employee's official classification prior to the detail appointment. The rating supervisor will evaluate the employee's official position and not the detailed assignment.

**SOURCE:** JOG ADMIN POLICY: (HRD SOP-UJ01) Section 7: Performance Appraisals while on Detail Appointment or on Reassignment of Duties (7.1)



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## **CHAPTER 10**

### **HOURS OF WORK**

**SOURCE:** JOG 3.60 "Hours of Work. The normal work day shall consist of eight (8) hours beginning at 8:00 a.m. and ending at 5:00 p.m., with one-hour period therein constituting a lunch period. For swing shift employees, the hours of work shall be set from time to time by the Administrative Director."

#### **STATEMENT OF POLICY:**

Under 4 GCA § 4106(a)(2)(I), personnel rules are required to address hours of work, attendance, and working conditions. This Chapter complies with Section 4106 while retaining diligent, well-informed employees. The Judiciary outlines labor standards consistent with the Fair Labor Standards Act (FLSA) and Guam law.

**SOURCE:** New. DOA Ch. 7 and PAG Ch. 8 (Hours of Work, Overtime and Premium Pay) Statement of Policy.

4 GCA § 4106(a) The personnel rules provided for in § 4105 of this Chapter shall provide procedures for their employment of persons on the basis of merit, and shall include an orderly and systematic method of recruitment and the establishment of qualified lists for employment purposes.

...

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

...

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

### **10.000 HOURS OF WORK AND WORKWEEK STANDARDS.**

#### **10.001 Work Week**

- A. Forty (40) hours of actual attendance on duty shall constitute the minimum workweek for full-time employees of the Judiciary with due allowance for legal holidays under Chapter 11 and leaves of absence with pay. The normal workweek shall consist of five (5) consecutive workdays, Monday through Friday.

**SOURCE:** JOG 3.61

- B. An employee's workweek may be in accordance with office hours, with designated shifts, or with such flexible hours programs as are implemented by the Judiciary provided that the Judiciary shall not operate less than a forty (40) hour work week, except as provided by law.

**SOURCE:** New. DOA Rule 7.000(B)

- C. The scheduled workweek for shift workers shall be prepared and prominently posted at least two (2) weeks in advance so that the employees affected will be informed. Such schedule shall not be less than two (2) weeks and shall not be changed, except for good cause and provided affected employees are given at least twenty-four (24) hours prior notice. Whenever possible, work schedules should permit an employee to enjoy a holiday on the day it is observed.

**SOURCE:** New. DOA Rule 7.000(E)

- D. The Administrator of the Courts may permit flexible work schedules as deemed appropriate.

**SOURCE:** New. DOA Rule 7.000(F)

#### 10.002 Hours of Work

The normal workday shall consist of eight (8) hours, beginning at 8:00 a.m. and ending at 5:00 p.m., with a one (1) hour period therein constituting a lunch period.

**SOURCE:** JOG 3.60 "Hours of Work. The normal work day shall consist of eight (8) hours, beginning at 8:00 a.m. and ending at 5:00 p.m., with one-hour period therein constituting a lunch period. For swing shift employees, the hours of work shall be set from time to time by the Administrative Director."

#### 10.003 Break Periods

A full time employee may be allowed a fifteen (15) minute break period in the first half and second half of the work day, except for law enforcement employees subject to Section 7(K) of the FLSA, provided that:

- A. No single work break shall exceed fifteen (15) minutes absence from the employee's workstation;
- B. An employee may not accumulate unused work breaks; and

- C. Work break time shall not be authorized for covering an employee's late arrival on duty or early departure from duty.

**SOURCE:** New. DOA Rule 7.000(C)

#### 10.004 Meal Periods

- A. Full-time employees shall be allowed a minimum of thirty (30) minutes and up to a one (1) hour meal period during each workday of more than five (5) hours.

**SOURCE:** New. DOA Rule 7.000(C) – except DOA Rule does not include “of more than five hours.”

- B. When a workday of not more than six (6) hours will complete the day's work, the meal period may be waived by mutual consent of the employee and the Judiciary.

**SOURCE:** New. Port Rule 8.003(B)

- C. Meal period shall not be considered “on duty” or counted as time worked, unless the nature of work prevents an employee from being relieved of duty.

**SOURCE:** New. Port Rule 8.003(C)

#### 10.005 Flextime Schedules

4 GCA § 4120 authorizes extended hours at the discretion of the organization. Normal work hours may vary because of job nature or the public service requirements for that division. Employees assigned work schedules outside of the normal Monday through Friday, 8:00 a.m. to 5:00 p.m. schedule shall be deemed to be on a flextime schedule. Regardless of flextime schedule, there shall be no deviation from forty (40) hours total per single workweek or eighty (80) hours biweekly. Additional requirements for flextime scheduling are listed below.

**SOURCE:** New. 4 GCA § 4120(a) – applicable to Superior Court of Guam

##### A. Applying for a Flextime Schedule

Employees must seek prior approval from the division manager through memorandum of request to be assigned outside the normal 8:00 a.m. to 5:00 p.m., Monday through Friday schedule. The

request must be made before flextime is implemented, renewed every fiscal year, and copies forwarded to the Human Resources and Payroll. Each request must specify the days of the flextime workweek, the forty (40) hours assigned, and days off.

**SOURCE:** New. JOG Compressed Workweek Policy (1998). However, current policy states that Division Heads are required to seek prior approval for any employee request, subject to approval by AOC. AOC then approves and forwards to HR and FMD.

B. Employee Recording Requirements for Flextime Schedules

Employees are required to record their own individual time in and time out on the form prescribed for their division. The biweekly form shall also indicate the appropriate leave applicable for any unworked time.

**SOURCE:** New. JOG Compressed Workweek Policy

C. Examples of Current Flextime Schedules

Five (5) day work week, eight (8) hours per workday

- a. Tuesday through Saturday (off Sunday & Monday)
- a. Monday, Tuesday, Thursday, Friday, Saturday (off Sunday and Wednesday)

**SOURCE:** New. JOG Compressed Workweek Policy

10.006 Compressed Workweeks

Compressed workweeks are a variation of flextime scheduling. A standard compressed workweek occurs when a full time employee works more than eight (8) hours per day to accomplish a forty (40) hour workweek in less than five (5) full days. Typically, working four (4) days per week with an extra day off. Division managers must follow the application and recording requirements for Flextime Schedules.

**SOURCE:** New. JOG Compressed Workweek Policy. However, the last sentence has been added ("Division managers must follow the application and recording requirements for Flextime Schedules").

Employees on compressed workweek schedules, i.e. ten (10) hours per day, shall be charged a maximum of ten (10) hours of leave for one full day's absence whenever any type of leave is applicable paid or unpaid.

**SOURCE:** [New. JOG Compressed Workweek Policy.](#)

#### Examples of Compressed Workweek Schedules

##### Day Work Week, ten (10) Hours Per Workday

- a. Monday, Tuesday, Thursday, Friday (off Wednesday, Saturday and Sunday)
- b. Tuesday, Wednesday, Thursday, Friday (off Monday, Saturday and Sunday)

**SOURCE:** [New. JOG Compressed Workweek Policy.](#)

#### 10.007 Hour Restrictions for Outside Employment

Detailed criteria for outside employment are referenced under Chapter 3. No employee shall engage in any outside employment, either public, private or self-employment, during the hours the employee is scheduled to work for the Judiciary.

**SOURCE:** [JOG 3.62.](#)

#### 10.008 Hours Worked Beyond Assigned Work Schedule for Flextime and/or Compressed Workweeks

Employees who are assigned to work beyond their assigned work schedule forty (40) hours per week will be compensated either over time or straight time or be credited with compensatory time as determined by their qualifying exempt or nonexempt status.

**SOURCE:** [JOG Compressed Workweek Policy.](#)

#### 10.009 Holidays Occurring on Employee's Day Off for Flextime and/or Compressed Workweeks

When a legal holiday listed under Chapter 11 falls on the employee's regular day off, the next workday shall be designated as the employee's day off. Holiday compensation will be equal to the assigned number of hours the employee is scheduled to work. When the employee is required to report for duty on the employee's designated holiday, all time worked

shall be considered holiday work and compensation will be in accordance with the holiday pay rate formula.

**SOURCE:** [JOG Compressed Workweek Policy](#).

### **Explanation of Source Terms**

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## **CHAPTER 11**

### **LEAVE OF ABSENCE**

**SOURCE:** JOG 8 - Leave of Absence

#### **STATEMENT OF POLICY:**

This chapter establishes a uniform and equitable system where employees may be reasonably excused from work for rest, recreation, health, education, welfare and other purposes without any appreciable decrease in the productivity of and services provided by the Judiciary.

The procedures for Leave Sharing may be used to augment the provisions of this chapter.

**SOURCE:** New. DOA 8 - Statement of Policy.

#### **11.000 GENERAL PROVISIONS.**

##### **11.001 Leave of Absence Defined**

A leave of absence is an approved absence from duty, by the Administrator of the Courts, or the Administrator's designated representative, for a prescribed period of time, with or without pay.

**SOURCE:** DOA 8.001

##### **11.002 Entitlement**

All full-time employees shall be entitled to leave benefits under this chapter subject to specific limitations.

**SOURCE:** JOG 8.01.

##### **11.003 Leave Year**

Leave year means the period from the beginning with the first day of the first complete pay period in a fiscal year and ending immediately before the first day of the first complete pay period in the following fiscal year.

**SOURCE:** JOG 8.02.

#### 11.004 Cancellation of Leave

Employees on vacation are subject to recall to duty under emergency conditions.

**SOURCE:** JOG 8.11.

#### 11.005 Revocation of Leave

Approved leave may be revoked by the division manager, Human Resources Administrator, Administrator of the Courts or any delegated authority when the **operational need of the Judiciary good of the service** requires it, or when evidence shows that the employee on leave is engaged in activities for which the leave would not have been granted.

**SOURCE:** DOA 8.002.

**COMMENT:** Modified to authorize revocation by Division Manager, HR Administrator and the AOC.

#### 11.006 Denial of Leave of Absence

Leave accumulation is a right granted to all eligible employees, but leave taking is a privilege to be scheduled for the convenience of both the employees and the Judiciary. The Judiciary will afford opportunities for employees to take leave and particularly to avoid, whenever possible, loss of leave by forfeiture. However, leave may be denied by the division manager when the services of the employee are required after full consideration of the employee's request and operational requirements of the Judiciary.

- A. No leave of absence, with or without pay, shall be authorized where it appears that it is requested for the purpose of:
- i. Allowing the employee to work at the employee's outside employment;
  - ii. Engaging in prohibited unlawful activities;
  - iii. Clearing the position for a temporary appointment;  
or



iv. Doing something contrary to the good of the service.

B. Leave may also be denied when the loss of the employee's service on days for which leave is requested would result in discontinuance of critical services to the public.

**SOURCE:** Subsection (A) from JOG 8.56. Introductory paragraph and subsection (B) from JOG 8.04.

#### 11.007 Leave Application

Application for leave of absence shall be made in the form prescribed by the Administrator of the Courts.

**SOURCE:** DOA 8.004.

#### 11.008 Failure to Return

Failure to report for assignment at the expiration of leave of absence without acceptable excuse shall be subject to Employee Disciplinary Action.

**SOURCE:** New. PAG 9.005.

#### 11.009 Abandonment of Position

Any employee who is absent from duty without an approved leave of absence for five (5) consecutive workdays, shall be considered to have abandoned the employee's position and may be subject to immediate termination of employment consistent with adverse action procedures.

**SOURCE:** JOG 8.60.

### **11.100 ANNUAL LEAVE.**

**SOURCE:** JOG 8.03.

#### 11.101 Accrual

The Judiciary calculates annual leave accrual according to 4 GCA § 4109(a). Annual leave shall be accrued by full time employees, for biweekly pay periods in which they are in pay status for the entire ten (10) days thereof, as follows:

A. Less than five (5) years of service – four (4) hours per each biweekly pay period.

- B. More than five (5) and less than fifteen (15) years of service – six (6) hours per each biweekly pay period.
- C. Fifteen (15) or more years of service – eight (8) hours per each biweekly pay period.

An employee shall continue to earn annual leave credits during the leave of absence with pay for each biweekly pay period; otherwise there shall be no accrual for such period.

Annual leave earned during any pay period shall be credited to the employee's account on the last day of that pay period or, in the case of separation, the last day the employee is on the payroll.

**SOURCE:** JOG 8.03.01.

#### 11.102 Minimum Charge for Annual Leave

The minimum charge for annual leave shall be one (1) hour and additional charges in multiples thereof. Under extraordinary circumstances, unavoidable absence from duty of less than one (1) hour, and tardiness may be excused by the division manager for adequate reasons without charge of leave.

**SOURCE:** JOG 8.04.

#### 11.103 Annual Leave Exemption

Judges and Justices who are not members of the defined benefits retirement plan do not accrue annual leave under 4 GCA § 4109(a) .

**SOURCE:** 4 GCA § 4109(a) as amended by P.L. 30-117 (2010).

#### 11.104 Determining Years of Service for Annual Leave Accrual Purposes

Computation of years of service as a basis for the rate of accrual of annual leave shall be in accordance with the following.

In determining years of service employees shall be credited with:

- A. All service for which annual leave shall accrue.
- B. Full-time employment in the Executive or Legislative branches.

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

**SOURCE:** JOG 8.03.02 and DOA 8.105.

#### 11.105 Maximum Accumulation and Carry Over of Annual Leave

- A. Employees entitled to annual leave may accumulate up to three hundred twenty (320) hours.
- B. Any annual leave earned by eligible employees in excess of three hundred twenty (320) hours shall be credited to employee's accumulated sick leave; provided that no more than one hundred (100) hours shall be credited to said sick leave at the end of each fiscal year.
- C. However, employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of February 28, 2003 may carry over their excess and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion permitted to be credited to sick leave shall be credited and the remainder of the excess leave, if any, shall be lost. Nothing herein shall allow lump sum compensation or retirement credit for annual leave in excess of three hundred twenty (320) hours.
- D. The determination of accumulation of annual leave, and crediting of excess sick leave hours, shall be done at the end of each fiscal year. Leave year commences October 1 and ends September 30.

**SOURCE:** 4 GCA § 4109(c).

#### 11.106 Request for Annual Leave

All employees are required to request approval of annual leave from the appropriate supervisor at least twenty-four (24) hours prior to taking such leave. Failure to do so as required may cause absence to be charged to AWOL (absence without leave). The twenty-four (24) hour advance request may be

waived by the supervisor only for extraordinary or unavoidable circumstances.

Annual leave requests in excess of eighty (80) hours must be submitted to the Administrator of the Court for administrative disposition two (2) weeks prior to the commencement of leave.

**SOURCE:** JOG 8.06.

11.107 Advance Annual Leave Credit Not Permitted

Annual leave shall not be granted in advance of being earned. If employees have insufficient leave credit to cover a period of absence, the employees shall be placed on leave without pay status or request for leave sharing provided that all requirements are met.

**SOURCE:** JOG 8.08.

11.108 Use of Annual Leave to Avoid Forfeiture

Employees shall submit advance requests for planned annual leave which will be earned in the current leave year to preclude forfeiture of annual leave.

**SOURCE:** JOG 8.04.

11.109 Holidays During Annual Leave

Should a legal holiday, as listed under Chapter 11, occur during an employee's vacation, that day shall be charged as a holiday.

**SOURCE:** JOG 8.07.

11.110 Advance Lump Sum Payment for Annual Leave

In accordance with 4 GCA § 4111, an employee may, prior to taking authorized annual vacation leave, receive a lump sum payment in advance for the period of leave authorized. If any such employee returns to work status prior to the expiration of the leave period for which the employee received a payment in advance, the employee shall reimburse the Judiciary for any portion of such period which shall not have expired no later than the pay period following the return to work status and shall be credited with the unused annual leave for future use.

**SOURCE:** DOA 8.110.

#### 11.111 Lump Sum Payment for Annual Leave upon Separation or Transfer

- A. When an employee separates from the Judiciary's service, the employee shall be given a lump sum payment for any accrued and unused annual leave up to a maximum of three hundred twenty (320) hours as of the date of separation. ~~In computing lump sum payment, leave on leave shall not be allowed.~~
- B. When an employee transfers from a branch of the Government of Guam to another, or from one department, agency, instrumentality, or corporation of the Government of Guam to another department, agency, instrumentality or corporation at the employee's option, the employee may accept cash value of earned leave, up to a maximum of three hundred twenty (320) hours, at the time of transfer, or transfer accumulated annual leave to the employee's new government position, notwithstanding the fact that such transfer may appear on the employee's personnel records as a resignation and reappointment.
- C. Employees who have accumulated annual leave in excess of three hundred twenty (320) hours as of February 28, 2003 may carry over their excess annual leave and shall use the excess amount of leave prior to retirement or termination from service. At the time of retirement or termination of service, that portion shall be credited and the remainder of excess leave, if any, shall be lost.

**SOURCE:** DOA 8.107.

#### 11.112 Liberal Consideration of Annual Leave Requests upon Birth or Adoption of Child

Employees may, upon the birth or adoption of a child, submit a request on the appropriate leave form for annual leave for the purposes of assisting or caring for the child. Such requests should be liberally considered by supervisors and for other leaves set forth in the Family and Medical Leave Act (FMLA).

**SOURCE:** DOA 8.109.

### 11.200 SICK LEAVE.

#### 11.201 Accrual

In accordance with 4 GCA § 4108, employees occupying permanent positions shall accrue sick leave at the rate of one-half day (four (4) hours) for each

biweekly pay period in which they are in pay status for the entire ten (10) days; otherwise there shall be no accrual for such period.

**SOURCE:** JOG 8.02 and 4 GCA § 4108.

11.202 Minimum Charge for Sick Leave

The minimum charge for sick leave shall be one (1) hour and additional charges in multiples thereof.

**SOURCE:** JOG 8.25.03.

11.203 Accumulations

Unused sick leave may be accumulated and carried over to succeeding years without limitation.

**SOURCE:** JOG 8.21.

11.204 Use of Sick Leave

Under 4 GCA § 4108, sick leave with pay shall be allowed whenever the employee is compelled to be absent from duty on account of:

- A. Physical or mental illness, injury, mental health examination, counseling or treatment; pregnancy; childbirth; medical, dental, or optometric examination or treatment; or because of quarantine due to the employee's own or another's illness.

**SOURCE:** JOG 8.22 and 4 GCA § 4108(c)(1).

- B. Providing health care for a member of the employee's immediate family as a result of serious injury or illness;
  - i. Serious injury illness or injury is defined as an urgent condition that is certified by the attending physician as requiring hospitalization, institutionalization, or extended home care in which the person needs the constant administration of special medical care or support.
  - ii. Immediate family is defined as the employee's spouse, common law, parents, parents-in-law, grandparents, brothers, sisters, children, grandchildren, any step or adoptive parents, adopted children or grandchildren of

both the employee and the spouse, a guardian or person in loco parentis.

**SOURCE:** 4 GCA § 4108(c)(2).

- C. Sick leave with pay shall be allowed during leaves of absence or vacations, provided, however, that any sick leave taken by an employee while on vacation must be supported by a certificate issued by a licensed physician.

**SOURCE:** JOG 8.25.02.

- D. Responsibility for administration of this section shall remain with the Administrator of the Courts, subject to such audit as ordered by the Judiciary.

**SOURCE:** JOG 8.25.06.

#### 11.205 Notification, Application and Physician's Certification

##### A. Notification

Notification of absence on account of sickness shall be given to the immediate supervisor or division manager on the first day of absence, within one (1) hour of the employee's scheduled work hours, or if impracticable, as soon as circumstances permit. If such notification has not been given in accordance with this section, the employee may be subject to disciplinary action.

**SOURCE:** DOA 8.202.

##### B. Application

- i. Application for sick leave shall be filed on a form prescribed by the Administrator of the Courts.
- ii. Sick Leave shall be granted in accordance with statute, policy, rules and procedures.

**SOURCE:** DOA 8.203.

##### C. Physician's Certification/Health Care Provider Certificate

An employee, who is absent because of illness, injury or quarantine in excess of three (3) consecutive days, or for the full day immediately

before or after a holiday, weekend, day off or vacation, may be required to furnish a certification as to incapacity from a regularly licensed physician or health care provider-certificate. The supervisor may require certification of such other period of illness as necessary. Supervisors shall apply reasonable judgement when requesting a doctor's/ health care provider's certification.

- i. If the certification required is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.
- ii. If the medical certification furnished by the employee is not acceptable, the Administrator of the Courts may require the employee to submit to a medical examination which may be paid by the Judiciary. Based on the medical certification, the Administrator of the Courts:
  - a. shall not approve further use of sick leave if the employee is medically evaluated as fit to return to work; or
  - b. shall allow the employee to use accrued sick leave if the employee is medically evaluated as unfit to return to work. In the event, the employee exhausts sick leave, the provisions of these rules shall apply.

**SOURCE:** JOG 8.23 and DOA 8.210.

**D. Refusal to Comply**

An employee who, upon a written request by the Administrator of the Courts, refuses to comply with these rules shall not be eligible to use accrued sick leave and any absence from work shall be leave of absence without pay.

**SOURCE:** DOA 8.210.

**11.206 Sick Leave Charged Only for Working Hours**

An employee shall be charged sick leave only for the hours which were or would have been scheduled to work.



**SOURCE:** DOA 8.204.

11.207 Administration of Sick Leave

If the certification required in this section is not furnished, all absences which would have been covered by such certification shall be indicated on the payroll as leave of absence without pay.

**SOURCE:** JOG 8.24.

11.208 Reinstatement of Accumulated Sick Leave (Vesting)

As stated in 4 GCA § 4108, sick leave accrued for service with the Government of Guam shall remain vested with the employee. Sick leave remains vested in the event that the employee is transferred to another branch, or to an autonomous agency, authority or entity within the Government of Guam. Sick leave accrued and unused at the time of separation from the government shall remain credited to the employee if the employee returns to government service. An employee approved for disability medical retirement under the defined benefit plan, shall exhaust the employee's accrued sick leave prior to effecting the employee's retirement.

**SOURCE:** JOG 8.40.

11.209 Special Provisions

The foregoing is subject to the following special provisions:

- A. Falsification of an illness report shall be considered cause for disciplinary action;

**SOURCE:** JOG 8.25.01.

- B. No employee shall be allowed to undertake gainful employment while on sick leave status; and

**SOURCE:** JOG 8.25.02.

- C. Responsibility for administration of this Section 11.200 shall remain with the division managers, subject to audit as requested by the Administrator of the Courts.

**SOURCE:** JOG 8.25.06.

### **11.300 ADVANCE OF SICK LEAVE.**

- A. An employee who has suffered a serious illness or ailment and has exhausted sick leave and who intends to return to work may submit a written request for advance of sick leave to the Administrator of the Courts. Each request for advance of sick leave must be accompanied by a certification of incapacitation for duty by the employee's physician/ health care provider. An advance of sick leave may not exceed thirteen (13) working days and shall be subject to approval by the Administrator of the Courts.
- B. If an employee is separated from service without having earned all of the sick leave allowed and taken, there shall be deducted from any money due to the employee at the time of separation, an amount equal to the employee's salary for the period of unearned sick leave allowed and taken. If the employee is medically certified as being unable to return to work after all accrued and or advanced sick leave credits have been used, the employee shall be allowed to use any compensatory or annual leave before being placed on Leave Without Pay.

**SOURCE:** JOG 8.25.04.

#### **11.301 Lump Sum Payment of Sick Leave Prohibited**

No employee who separates from the Judiciary for any reason may receive a cash payment for sick leave accrued at the time the employee leaves such service, except for:

- A. death of the employee as provided for by 4 GCA § 7101; and
- B. retirement of an employee under the Defined Contribution Retirement System.

The Judiciary shall issue a lump sum payment for an employee who retires under the Defined Contribution Retirement system which shall be calculated by multiplying:

- i. the employee's hourly rate based on the average of three (3) highest salaries received during the employee's years of credited service by one-half (1/2) of the employee's unused accumulated sick leave hours.
- ii. Payment of the lump sum for unused sick leave shall be the responsibility of the Judiciary.

**SOURCE:** DOA 8.211 and 4 GCA §§ 4108(h) and 7101.

## **11.400 ON-THE-JOB INJURY.**

In the event that an employee incurs a job-related injury, the Government of Guam's Workers Compensation Commission (WCC) Procedures will apply.

### **11.401 Responsibilities**

An employee who incurs a job-related injury while on duty must comply with the following procedures:

- A. Immediately report the injury to the employee's supervisor.
- B. If the employee requires medical treatment, the employee's supervisor, division manager or the Human Resources Office will issue the Authorization for Medical Examination and/or Medical Treatment form.
- C. Employees are to be sent to the Guam Memorial Hospital Authority or Guam Regional Medical City for the initial medical treatment unless otherwise authorized by WCC. The employee should report to WCC upon discharge from the hospital.
- D. Employees are not to use their personal health insurance or pay for any medical services received.
- E. Any administrative leave must be approved by WCC and/or the Administrator of the Courts.
- F. Any referrals after initial treatment must be authorized by Workers Compensation.
- G. In cases of serious injury, medical assistance shall be sought for the employee at the nearest medical facility. If necessary, an ambulance should be called to transport the employee.
- H. The supervisor, or the supervisor's designee, shall accompany the injured employee to the medical facility. Prompt notification of the employee's family must be made by the supervisor.

**SOURCE:** DOA 8.304 in part.

## **11.500 ADMINISTRATIVE LEAVE.**

An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. Supervisors and employees will apply the following procedures for excused absences.

**SOURCE:** JOG 8.30 and DOA 8.400.

11.501 Attendance at Official Meetings/Conferences On or Off-Island

- A. Time spent attending and travelling to and from official meetings and conferences on or off-island is considered authorized leave with pay and without charge to the employee's leave.
- B. Travel off-island is subject to the Judiciary of Guam Official Travel Policy Rules.

11.502 Jury Duty

**SOURCE:** JOG 8.30.07. PAG 9.403.

- A. Employees who are called for jury duty in any Court in the territory of Guam shall be excused from duty with full pay and without charge to leave for all hours required for such duty, not to exceed the number of hours in the employee's normal workday. However, if the jury does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called for jury duty is required to show the jury duty call notification to the employee's immediate supervisor.
- C. Supervisors are responsible for advising employees that all compensation earned for such jury service, except for the following, must be paid to the Judiciary's Financial Management Division in accordance with 4 GCA § 6505:
  - i. allowances of travel;
  - ii. services rendered on days the employee is not required to report to work;
  - iii. services rendered when the employee is sequestered and unable to report to the employee's home after normal working hours; and/or services rendered during the employee's normal working hours but that the Judiciary requires the employee to make up work

before or after normal working hours, including work on weekends and Government of Guam holidays; and

An employee may elect to request for annual leave for the purpose of jury duty service, in which case the employee may keep the compensation earned for such jury duty.

**COMMENT:** i – iii are from PAG 9.403

11.503 Witness Leave

- A. Employees who are called to testify or produce official records on behalf of the Government of Guam in any court in Guam shall be excused for duty with full pay and without charge to leave required for such service, not to exceed the number of hours in the employee's normal work day. However, if the witness service does not require absence for the entire workday, the employee shall return to duty immediately upon release by the court.
- B. An employee called to serve as a witness is required to show the notification to the employee's supervisor. The employee must provide to the employee's immediate supervisor a certificate or certificates showing the time devoted to witness service. The fees shall be the same as the fees of witnesses before the Judiciary, except if the witness is a government employee, appearing in their official capacity, no witness fees shall be given.
- C. Such leave is applicable to law enforcement officers who are required to appear in any court of Guam for contested traffic citations they issued to the public found violating the Motor Vehicle Code. The employee must provide the employee's immediate supervisor with a copy of the summons requiring the employee's presence in court.

**SOURCE:** New. PAG 9.404.

11.504 Participating as a competitor in a Government of Guam personnel examination or interview.

- A. Employees who are participating in a competitive examination or interview for Government of Guam employment shall be excused from work with pay and without charge to leave for the time required for the examination or interview. Employees are required to report to their work location after completion of the examination or interview.

- B. Employees must advise their supervisor in advance of the need for excused absence to participate in a scheduled examination or interview. This notice should be given as soon as the employee receives information of the scheduled date and time of examination or interview.

**SOURCE:** JOG 8.30.04; DOA 8.404; PAG 9.405

**11.505 Participation in Armed Forces physical examinations prior to enlistment and induction or upon direction.**

An employee who is scheduled to appear for an examination for entrance into the United States military service shall be excused from work with pay and without charge to leave for the time required for the examination. The employee shall submit written confirmation of scheduled examination to the employee's immediate supervisor.

**SOURCE:** JOG 8.30.05; DOA 8.405.

**11.506 Military Training Leave**

- A. An employee who is a member of any Reserve Component of the U.S. Armed Forces shall be entitled to military leave which may not exceed fifteen (15) days per ~~calendar~~ **fiscal** year. Any leave not used during the fiscal year, up to fifteen (15) work days, may be carried over to the next fiscal year.
- B. The employee shall submit a copy of orders or other documents which place the employee on military training to the Administrator of the Courts. A copy of the official orders shall be filed in the employee's personnel file.
- C. Any absence in excess of fifteen (15) work days may, upon request by the employee and approval of the Administrator of the Courts, be covered by accrued annual leave or accrued compensatory leave. If not requested by the employee or approved by the Administrator of the Courts as annual or compensatory time off leave, such absences in excess of fifteen (15) work days shall be considered as leave without pay.

**SOURCE:** JOG 8.30.08. Military Leave; PAG 9.407

**11.507 Military Leave**

**SOURCE:** New. PAG 9.408.

A. Purpose

The Uniformed Service Employment and Reemployment Act of 1994 (USERRA) prohibits employers from discriminating against employees who fulfill non-career military obligations in the Uniformed Services and requires employers to provide a leave of absence to allow employees to perform obligations. The purpose is to provide military leave as required by law and to comply with other relevant provisions of USERRA. Title 20, Section 1002.34(b) in the Code of Federal Regulations, states that USERRA applies to public employers, regardless of size, with physical branches in the United States, including U.S. Territories.

B. Eligibility

All full-time and part-time employees who are also members, or intend to become members of one of the Uniformed Service.

C. Definitions

For the purposes of this Rule, the following definitions apply:

- i. Benefit, Benefit of Employment, Rights and Benefits or any variation of these terms - any advantage, profit, privilege, gain, status, account or interest other than wages or salary for work performed that accrues by reason of employment. These terms include, but not limited to, retirement pension plan, health plan, other types of insurance coverage, awards, paid leave, title, work schedule, and clothing allowance.
- ii. Federal fiscal year: October 1 through September 30 of each year.
- iii. Military leave with pay: A period of approved absence during which employees are paid their regular rate of compensation while performing military service.
- iv. Military leave without pay: A period of approved absence during which employees do not receive compensation while performing military service.

- v. Military service: The performance of military duty on a voluntary or involuntary basis in a uniformed service. It includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, time spent undergoing an examination to determine fitness to perform military duty, and a period for which an employee is absent to perform funeral honors. 10 U.S.C. § 12503 or 32 U.S.C. § 115.
- vi. Qualified or qualify: With respect to an employment position, means having the ability to perform the tasks of the position.
- vii. Reasonable efforts: In cases of actions required of an employer pursuant to USERRA, means actions, including training provided by the Judiciary, that do not place an undue hardship on the Judiciary.
- viii. Seniority: Longevity in employment, together with any benefit that accrues with or is determined by longevity.
- ix. Undue hardship: In the case of actions taken by an employer, means requiring significant difficulty or expense when considered in light of:
  - a. the nature and cost of the action required;
  - b. the overall financial resources; and
  - c. the effect on expenses and resources as set forth in USERRA.
- x. Uniformed services: The Armed Forces (U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard); the reserve components of the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty; and any other category of service designated by the President of the United States in time of war or national emergency.
- xi. Working days: A working day for full-time employment shall mean eight (8) hours a day.



D. Leave of Absence for Military Service

- i. Pursuant to USERRA (38 U.S.C. § 4301), a full-time employee who is a former or current member of the uniformed service shall be entitled to paid leave for military service not to exceed fifteen (15) working days per federal fiscal year.
- ii. Employees whose military service was less than thirty-one (31) days, are entitled to an eight (8) hour rest period after safely arriving home from the place of military service before the employee is required to return to work.
- iii. When an employee returns from military service and the eight (8) hour rest period overlaps the employee's scheduled work shift, the employee shall receive paid military leave to the extent of the overlap. For example, if an employee returns home **Sunday Monday** at 2:00 a.m. and the employee's regular work shift normally begins Monday at 8:00 a.m., the eight (8) hour rest period would overlap the work schedule by two (2) hours and the employee would receive the employee's regular salary for that two (2) hour period.
- iv. Where leave of absence for military service exceeds fifteen (15) working days of paid military leave, employees shall be permitted, upon request, to use any accrued annual, compensatory time-off, leave sharing leave or military leave without pay during the period of military service. However, extended specifically by the terms of USERRA military leave and leave without pay shall not exceed five (5) years of cumulative military service.

E. Advance Notice

An employee who is leaving to perform military service shall submit a Military Leave Clearance Form or provide verbal notice to the employee's immediate supervisor of the need for a leave of absence (including the approximation of the expected dates of the leave). However, advance notice is not required if precluded by military necessity or under all relevant circumstances it is impossible or

unreasonable to give notice. Employees shall submit a leave request indicating the type of leave the employee wants to take. i.e., military leave with pay (if the fifteen (15) days has not been exhausted), military leave without pay, annual leave, compensatory time-off, leave sharing, or an appropriate combination of leaves. It is requested that the employee provide a copy of their military orders, if available, to the supervisor, preferably before leave is taken.

F. Employee Benefit(s)

- i. During the fifteen (15) days of military leave with pay or when an employee requests to use another kind of paid leave to cover a period of military service, an employee shall receive the same benefits as if the employee remained continuously employed with the Judiciary.
- ii. If on military leave without pay, the employee shall be entitled to retain the same rights and privileges as an employee granted leave without pay in accordance with these rules. The Judiciary shall pay the employer's and employee's Government of Guam retirement contributions, group health and life insurance premiums during the period the employee is on leave without pay status and on active military duty.
- iii. All unused leave benefits shall be retained by the employee, who shall have the same credited to the employee's record upon return to the employee's assigned position consistent with 4 GCA § 6218(d).

G. Returning from Military Service

- i. Upon completion of military service, the employee shall report back to work in accordance with the time limits indicated below:

Length of Military Service	Employee's Obligation to Report Back to Work
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1-30 days (or an absence of any length that requires the employee to have an examination to determine fitness for military service)	<p>An employee shall report to work no later than the first full regularly scheduled work shift on the first full calendar day after service ended and the eight (8) hour rest period allowing for the safe transportation back to employee's home expired; or</p> <p>As soon as possible after the expiration of the eight (8) hour rest period, if through no fault of the employee, it would be impossible or unreasonable to report within the time described above.</p>
31-180 days	<p>An employee shall report to work at least fourteen (14) calendar days after completion of military service. If complying with this deadline is impossible or unreasonable through no fault of the employee, the request shall be submitted on the first next full calendar day when submitting the request becomes possible.</p>
More than 180 days	<p>An employee must report to work within ninety (90) calendar days after completion of the period of military service.</p>

ii. Illness and Injury Time Exception

Under 38 U.S.C. § 4312(e)(2)(A), an employee hospitalized for, or convalescing from an illness or injury incurred in or aggravated during military service shall, at the end of the period necessary to recover from the illness or injury, which cannot exceed two (2) years, report for work. The two (2) year period for recovery from illness or injury shall be extended by the minimum time required to accommodate circumstances beyond the employee's control that make compliance with the reporting deadline impossible or unreasonable.

If an employee does not comply with the above reporting deadlines disciplinary action may be imposed by the Judiciary in accordance with Chapter 15 Adverse Action Procedures.

iii. Employer's Obligation for Reemployment if Disability is Incurred

In the event that a disability is incurred or aggravated while in military service, the employer must: 1) make reasonable efforts to accommodate a person's disability so that the person can perform the duties of the reemployment position; 2) If, despite reasonable accommodations, the person is not qualified for the position discussed in (ii) above, due to the person's disability, the person must be reemployed in a position of equivalent seniority, status and pay, to the escalator position. The employee must be qualified to perform the duties of this position, or be able to become qualified with reasonable effort; 3) If the employee cannot become qualified in (1) or (2), the person must be employed in a position that, consistent with the circumstances of that person's case, most nearly approximates the position in (2) in terms of seniority, status and pay. Such a position may be a higher or lower position, depending on the circumstances. 38 U.S.C. § 4313(a)(3).

iv. If an employee does not comply with the above reporting deadlines, disciplinary action can be imposed by the Judiciary in accordance with Chapter 15 Adverse Actions.

11.508 Military Family Leave

**SOURCE:** New. PAG 9.409. 4 GCA § 4A101 et seq. This section, 11.508, tracks the statute exactly.

A. Mandate and Purpose

Required by 4 GCA § 4A101 et seq. The purpose is to serve the families of those troops currently serving in military conflicts, and to assure that these families are able to spend time together during the qualified service member's leave to and from deployment, to include pre-deployment, post-deployment, during deployment, any return from Rest and Relaxation (R&R) leave during deployment or reintegration from deployment, and to handle their personal affairs by their spouse or designated next of kin or attorney in fact.

B. Definitions

The following definitions shall be used in this Rule:

- i. Qualified Employee means a person who satisfies all of the following:
  - a. Is the spouse, authorized representative, designated next of kin, or attorney-in-fact of a qualified member.
  - b. Performs service for hire for an employer for an average of twenty (20) or more hours per week, but does not include an independent contractor.
  - c. Provides the qualified employer with notice, within two (2) business days of receiving official notice, that the qualified member will be on leave from deployment, and intends to take leave.
  - d. Submits written documentation to the qualified employer certifying that the qualified member will be on leave from deployment during the time the leave is provided for.
- ii. Period of military-conflict means either of the following:
  - a. A service member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States;
  - b. A service member of the National Guard who has been deployed during a period of military conflict; or

- c. A service member of the Reserves who has been deployed during a period of military conflict.

Qualified leave period means the period during which the qualified service member is on leave from deployment during a period of military conflict, to include pre-deployment, post deployment, return from R&R, reintegration, or after deployment.

C. Leave Required

The Judiciary may allow a qualified employee to take up to fifteen (15) days of unpaid leave during a qualified leave period.

D. Provisions

- i. The Judiciary shall not retaliate against a qualified employee for requesting or taking the leave provided for in this section.
- ii. The leave provided for in this section shall not affect or prevent the Judiciary from allowing a qualified employee to take a leave that the qualified employee is otherwise entitled to take.
- iii. This section shall not affect the qualified employee's rights with respect to any other employee benefits provided for in other laws.

11.509 Coverage of Retirement Benefits and Insurance Premiums for Employees on Active Duty

- A. The Judiciary shall pay the employer's and employee's shares for Retirement Fund contributions, group health insurance premiums, and group life insurance premiums for all employees who are:
  - i. On leave without pay; and
  - ii. On active duty with the Guam National Guard or reserve components of any of the Armed Services of the United States.

- B. The Judiciary shall fund, from its annual budget, the contributions for retirement, health insurance, and life insurance.

**SOURCE:** New. Required by 4 GCA § 8137.2.

#### 11.510 Disabled Veteran's Re-examination or Treatment

An employee, who has been rated by the Veteran's Administration to have incurred a service-connected disability and has been scheduled by the Veterans Administration to be re-examined or treated for such disability shall, upon presentation of written confirmation of having been so scheduled, be excused from duty without charge to leave for such re-examination or treatment. Excused absences shall not exceed five (5) work days in a calendar year. Thereafter, the employee may utilize other forms of leave as provided in these rules.

**SOURCE:** New. DOA 8.409, PAG 9.410.

#### 11.511 Natural Disasters and Emergency Conditions

**SOURCE:** New. DOA 8.406, PAG 9.411 (in part); 4 GCA § 6226.

- A. Excused absence with pay and without charge to leave shall be granted to employees when natural disasters or other emergency conditions create unsafe working conditions as described in this rule.
- B. Excused absence, for natural disaster or other emergency conditions, may be granted only when there has been an official declaration of the emergency conditions by order of the Chief Justice.
- C. Judiciary employees who are required to **physically** report to work during typhoon condition of readiness one or two are entitled to overtime pay.
- D. All employees not specifically required by the Administrator of the Courts to remain physically on duty at Judiciary facilities shall be released from duty with pay and without charge to leave for as long as directed by the Administrator.
- E. During the declared emergency, employees who are on **compensatory time off**, annual or sick leave status shall be

considered as released from duty with pay and without charge to leave.

#### 11.513 Absence Pending Formal Investigation

An employee, who is under formal investigation by the Judiciary for misconduct, or violation of a rule or statute, may be placed on excused absence from duty without charge to leave, not to exceed twenty (20) work days when the employee's absence from the work location is essential to the investigation.

**SOURCE:** New. DOA 8.408, PAG 9.414.

#### 11.514 Bereavement Leave

- A. An employee shall be granted two (2) days bereavement leave upon the death of an immediate member of the family.
- B. The employee may use the two (2) days of bereavement leave in any manner which best satisfies the employee's needs. For example, four (4) hours of two different days for funeral arrangements and eight (8) hours on the day of the funeral, or the day preceding and the day of the funeral, or the day of the funeral and the subsequent day.
- C. For the purpose of this section, the following relationship shall be considered immediate family: father, mother, foster parents, brother, sister, spouse, son, daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents and grandchildren.
- D. The Judiciary also allows unpaid, protected leave under the Guam Family Medical Leave Act as discussed in this chapter.

**SOURCE:** JOG 8.30.09. PAG 9.415.

#### 11.515 Participation in a Medical Examination Requested by the Administrator of the Courts

An employee who is required to undergo a medical examination, such as, to determine fitness for the job, shall be excused from work with pay and without charge to leave for the time required from the examination.

**SOURCE:** JOG 8.30.06.

#### 11.516 Pregnancy Related Medical Leave



**SOURCE:** JOG 8.35 and 4 GCA § 4107.

Pursuant to 4 GCA § 4107, maternity leave shall be granted to an eligible female employee as a result of pregnancy, childbirth, or medical conditions relating to pregnancy or childbirth. Pregnancy related medical leave shall be paid administrative leave for any ten (10) days encompassing the date of childbirth.

- A. An “eligible female employee” is defined as a full-time classified or unclassified employee.
- B. After pregnancy related medical leave is exhausted, eligible female employees are permitted to take additional leave, so long as the additional leave and pregnancy related medical leave do not exceed a total of one hundred thirty (130) work days. The order for requesting leave is as follows:
  - i. Pregnancy Related Medical Leave
  - ii. Parental Leave
  - iii. Sick Leave
  - iv. Annual Leave
  - v. Compensatory Time Off
  - vi. Leave without pay
- C. If the employee has used all of the previously stated forms of paid leave, they may then use any donated sick leave obtained through the leave sharing program.
- D. Approval of Pregnancy Related Medical Leave: The Judiciary shall approve up to one hundred thirty (130) work days of leave, comprised of the above leave forms. Any additional leave may be approved on a case-by-case basis at the discretion of the Administrator of the Courts.
- E. Eligible female employees who have taken pregnancy related medical leave and additional leave surrounding the birth of a child while on probationary status will have their probation status increased by the number of work days they miss during their leave period.

F. Notice Requirements:

The Employee must provide their supervisor with no less than ninety (90) days notification of intent to use pregnancy related medical leave, and additional leave.

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

G. Employees who give birth to multiple children are granted the same leave as an employee who gives birth to a single child. Pregnancy related medical leave is not cumulative, and cannot be sold or donated to other employees.

H. Employment and Benefits Protection

- i. Except for workforce reduction situations, an employee taking paid leave shall be restored to the same or equivalent position held prior to leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
- ii. There shall be no loss of employment benefits accrued prior to leave, except for paid administrative leave expended.

11.517 Parental Leave

**SOURCE:** New.4 GCA § 4107.1.

Pursuant to 4 GCA § 4107, parental leave shall be granted to an eligible employee occupying a permanent position upon the birth of the employee's child(ren) or adoption of a child(ren) five (5) years old or younger.

- A. An "eligible employee" is defined as a full-time classified or full-time unclassified employee.
- B. Parental leave is paid administrative leave not to exceed twenty (20) work days encompassing the date of birth or adoption. However, should pregnancy medical leave apply, then the pregnancy medical leave is used first, and parental leave is used

second. In such a case, the parental leave would start ten (10) days following the birth of the child.

- C. After parental leave is used, an eligible employee is permitted to take additional leave, not to exceed one hundred thirty (130) working days of total leave.
  - i. After parental leave is used, employees shall use sick leave, annual leave, compensatory time off, and leave without pay, in that order.
  - ii. After the above paid leave is exhausted, the employee may then use donated sick leave through the leave sharing program.
- D. The Judiciary shall approve parental leave, and any additional leave up to one hundred thirty (130) working days total. Any leave in excess may be approved on a case-by-case basis at the Judiciary's discretion.
- E. Eligible employees who have taken parental leave and additional leave while on probationary status will have their probation status increased by the number of work days they miss during their leave period.
- F. Notice Requirements:
  - i. The Employee must provide their supervisor with no less than ninety (90) days notification of intent to use pregnancy related medical leave, and additional leave.
  - ii. If less than ninety (90) days is available, then notice shall be given as soon as is reasonably practical.
- G. Employees who give birth to multiple children are granted the same leave as an employee who gives birth to a single child. Parental leave is not cumulative, and cannot be sold or donated to other employees.
- H. Employment and Benefits Protection
  - i. Except for workforce reduction situations, an employee taking paid leave shall be restored to the

same or equivalent position held prior to leave, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

- ii. There shall be no loss of employment benefits accrued prior to leave, except for paid administrative leave expended.

#### 11.518 Blood Donor Leave

**SOURCE:** New. 4 GCA § 4127.

Pursuant to 4 GCA §4127, blood and platelet donors are eligible for administrative leave. The amount of administrative leave is as follows:

- A. Two (2) hours of administrative leave for the donation of whole blood;
- B. Three (3) hours of administrative leave for the donation of platelets;
- C. Two (2) hours of administrative leave for blood donor screening; and
- D. Additional leave may be granted in the event that the clinic receiving the donation determines that more time is needed for the donor to recover.
- E. The approving authority may require up to five (5) days' notice of the date of the blood donation. The clinics shall provide certification of the date and time of the employee's donation.

#### 11.519 Medical Donor Leave

**SOURCE:** New. 4 GCA 4109(g)

Pursuant to 4 GCA § 4109(g), an employee of the Judiciary who has been qualified as a donor for medical purposes and has received that the employee has been determined to be a match shall be granted leave with pay by the Administrator of the Courts for the time it takes to complete the medical procedure involved, however, not to exceed ten (10) working days.

#### 11.520 Leave for Goodwill Purposes

**SOURCE:** JOG 8.30.11.

- A. Judiciary employees wishing to participate in “goodwill events,” such as sport, academic or any other competition where the employee is a participant, a team manager or coach, or official, which does not conflict or interfere with their responsibility to the Judiciary, shall be granted administrative leave for a period not to exceed five (5) work days in a calendar year.
- B. In the event that the employee has exhausted the five (5) days of administrative leave, the employee may request annual leave, compensatory time off, or leave without pay for the remainder of the term of the event. The granting of annual leave, compensatory time off, or leave without pay for goodwill purposes remains at the discretion of the Administrator of the Courts.

#### 11.521 Voting Leave

**SOURCE:** New. 3 GCA § 9125.

- A. On the day of every election, an employee who is entitled to vote shall be provided two (2) consecutive hours between the time of opening and the time of closing of the polls to leave work in order to vote. No penalty or deduction to an employee’s salary or wages shall be made for the two (2) hour period, nor shall the employee be suspended or discharged from employment.
- B. An employee who unilaterally leaves the workplace to vote shall submit proof from Guam Election Commission that the employee voted during the hours absent.

#### 11.522 Leave for Volunteers For Disaster Relief

**SOURCE:** New. PAG 9.421. 4 GCA § 16104.

- A. The Disaster Service Volunteer Leave Act under 4 GCA Chapter 16, allows government and private sector employees to receive paid administrative leave for volunteer services provided during disasters.

- B. Employees may receive up to fifteen (15) days paid leave from work, consecutively or non-consecutively, in any twelve (12) month period to participate in specialized disaster relief services of the American Red Cross, or an NGO or faith-based member organization registered with the Guam Office of Homeland Security or Office of Civil Defense, upon the request of the American Red Cross or any other organization, and upon the approval of the Judiciary.
- C. The employee will be compensated at the employee's regular rate of pay for the regular work hours during which the employee is absent from work, but shall not receive overtime pay, shift differential pay, hazardous duty pay, or any other pay or compensation in addition to the employee's regular pay.
- D. Any employee of an agency who is granted leave shall not lose seniority or any already accumulated vacation time, sick time, or earned overtime due to such leave.
- E. This Section does not include paid leave for training towards certification as a disaster services volunteer.
- F. The Judiciary is not liable for any worker's compensation claims arising from accident or injury while an employee is on assignment as a certified disaster service volunteer.

#### 11.523 Educational Leave

**SOURCE:** JOG 8.37.

A. Background/Purpose

The Judiciary grants eligible employees an opportunity to pursue graduate or post-graduate studies. In order to be granted leave with pay, the employee's course of study must be tailored to the employee's professional development within the current position/classification, or in a discipline/specialization that is vital to the organization's goals and mission.

B. Scope

The Judiciary provides educational leave with pay for employees conducive to the objectives of the Judiciary's training and career developmental programs. Educational leave is granted

administratively upon approval of the Administrator of the Courts. Requests for educational leave will be considered based on the eligibility requirements as specified below and shall be scheduled in such a way as to not interfere or disrupt the operation of the Judiciary. Any employee granted educational leave who satisfactorily completes an academic year or any portion thereof, is obligated to serve the Judiciary twice the period of the leave granted.

C. Eligibility

- i. The employee must be a full-time employee of the Judiciary.
- ii. The employee must have completed seven (7) consecutive years of service with the Judiciary.
- iii. Employee must have demonstrated exemplary performance two (2) years prior to submission of an educational leave request.
- iv. Employee must have already obtained a Baccalaureate Degree in the same or related field of study that is being requested at the time of application for educational leave

D. Procedure

- i. The employee must submit a letter of application to the Administrator of the Courts via the division manager for review and approval/disapproval, which must include a statement from the employee indicating the type of discipline or specialization that will enhance the employee's career and have direct benefit to the Judiciary; and purpose of requesting educational leave.
- ii. Education Leave period to be requested must not exceed twelve (12) calendar months or 2,080 work hours;
- iii. The letter must be submitted no less than twelve (12) months prior to the commencement of leave being requested;

- iv. Upon approval by the Administrator of the Courts, the Human Resources Office will execute a written service obligation agreement which must be signed by the employee prior to the commencement of the approved leave period. Such agreement shall indicate that the employee agrees to serve the Judiciary twice the period of leave granted.
- v. A leave form must be submitted to the Administrator of the Courts with the service obligation agreement for approval.

E. Educational Leave Status

- i. Upon admission to the university or college, the employee must obtain verification of full-time student status from the Office of the Registrar, or other authorized official and submit to the Human Resources Office within forty-five (45) days upon commencement of studies;
- ii. The employee maintains full-time employment status with the Judiciary; and
- iii. The employee must submit to the Human Resources Office upon completion of each semester or upon completion of training, the grades awarded and certified copy of the transcript.

F. Other Provisions and Limitations

- i. Educational leave to attend an off-island institution will be approved only when the course of study is not available locally **or virtually**.
- ii. All accrued annual and/or compensatory time off (CTO) must be taken together with educational leave.
- iii. Employee shall be prohibited from other employment outside the Judiciary.
- iv. An employee who withdraws from the course of study or training due to illness must substantiate



withdrawal by a licensed physician's statement of the employee's inability to complete the course of study and/or training. These reasons must be submitted to the Administrator of the Courts.

- v. Any employee who withdraws from the formal course of study or training for reasons other than illness as medically certified, shall reimburse the court for paid leave granted.
- vi. Educational leave with pay shall be payable to the employee on a bi-weekly basis at the current rate of the employee's salary.
- vii. With the exception of legislative mandates, the employee will not be entitled to a salary increase, advancement or promotion during educational leave.
- viii. Upon return from educational leave, employee will be reinstated in the same position held prior to leave.
- ix. The employee shall be responsible for all costs relating to the formal study to include airfare and educational tuition fees and other incidental costs.
- x. An employee who resigns from service prior to completing service obligation shall reimburse the court for all salary paid for the unserved portion of the obligation on a pro-rated basis.
- xi. An employee shall be terminated from the approved leave status if the employee fails any of the courses enrolled.
- xii. An employee who is dismissed for cause (adverse action), while on educational leave status or training, shall reimburse the Judiciary for all salary paid and incurred.

#### 11.524 Early Childhood Intervention Leave Act of 2016

**SOURCE:** New. 4 GCA § 4129.

A Judiciary employee who is a parent of a child with a developmental delay or disability is entitled to administrative leave for the purpose of

meeting, supporting and participating in the child's early childhood intervention learning activities at home, in the community, or in a controlled setting under the guidance of the Guam Early Childhood Intervention System. The amount of leave is as follows:

- A. Two (2) hours per pay period of administrative leave for meeting, supporting and participating in the child's activities.
- B. In the event that a representative from the Department of Education determines that more time is required, additional administrative leave hours may be granted. The additional leave time is dependent on the approval of the employee's supervisor for the good of the Judiciary.
- C. The Judiciary may require up to five (5) days' notice. If it is an urgent matter, and five (5) days' notice is unavailable, then documentation may be required from the Department of Special Education.
- D. For the purposes of meeting, supporting, and participating in the employee's child's early childhood intervention learning activities at home, in the community, or in a controlled setting under the guidance of the Guam Early Childhood Intervention System, the employee shall provide certification of the dates and times of the activities to their respective supervisor upon returning to work or as required by the supervisor.
- E. This provision shall apply to an employee who is the parent or legal guardian of a non-school aged child with a developmental delay or disability, and who is enrolled in the Guam Early Childhood Intervention System, a Division of Special Education of the Department of Education, and who is not otherwise prohibited from such contact with the child by order of a court.

#### 11.525 Child School – Related Leave Act

**SOURCE:** New. JOG Child School Related Leave Act Policy (JC Resolution No. JC18-023). 22 GCA § 3703(e).

##### A. General Provisions

##### i. Administrative Leave

- a. A Judiciary employee who is a parent shall be granted up to a maximum of four (4) hours

administrative leave every two (2) pay periods for child school-related activities, up to forty (40) hours each calendar year.

- b. Leave requests may be split into smaller separate segments over the two (2) pay period time frame, but shall not carry over to the next two (2) pay periods or thereafter.

ii. Reasons for Administrative Leave

Administrative Leave is intended and limited to the following reasons:

- a. To find, enroll, or re-enroll the employee's child in a school or with a licensed child care provider;
- b. To meet with a teacher or other school official concerning the employee's child's performance;
- c. To volunteer parental-involvement time at the employee's child's school; or
- d. To participate in activities of the school or licensed child care provider of the child, including attendance at a graduation, school play, school fair, and related events, which shall be considered as attendance at an official meeting or conference.

B. Definitions

- i. Parent - a parent, guardian, stepparent, foster parent or grandparent of, or a person who stands in loco parentis to a child.
- ii. Child (plural children) - a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis.

iii. Child Care Provider or School Emergency - an employee's child cannot remain in a school or with a child care provider due to one (1) of the following:

- a. The school or child care provider has requested that the child be picked up, or has an attendance policy, excluding planned holidays, that prohibits the child from attending or requires the child to be picked up from the school or child care provider;
- b. Behavioral or discipline problems;
- c. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays; or
- d. A natural disaster, including, but not limited to, fire, earthquake or flood.

C. Worksite - primary assigned work location, i.e. Hagatna, Dededo or other.

D. Limitation

If more than one (1) parent of a child is employed by the same employer at the same worksite, the entitlement of a planned absence as to the child applies, at any one (1) time, only to the parent who first gives notice to their immediate supervisor, via submission of the Judiciary's Child-School Related Leave Act Request Form. The other parent may take a planned absence by using vacation, personal leave, compensatory time off, or leave without pay simultaneously as to that same child if the employee obtains the employer's approval for the requested time off.

E. Responsibilities:

**COMMENT:** The following "Responsibilities" section is included in the current policy

i. Administrator of the Courts (AOC)

- a. Ensure compliance with this Policy by equipping the Human Resources and

Financial Management offices with the necessary resources to comply with their obligations under this Policy.

- b. Serve as final approving authority for employees requesting to use Child School-Related Leave.

ii. Court Managers

- a. Ensure that all employees in their divisions and offices comply with this Policy.

iii. Employees

- a. Give reasonable notice to the employer of planned leave of absence prior to charging such leave.
- b. Submit a completed Judiciary of Guam Child School-Related Leave Act Form signed by a school official/licensed child care provider along with a Judiciary of Guam Leave Application Form.
- c. Abuse of the provisions of this Policy may be grounds for discipline.

iv. Timekeepers

- a. Will forward all Child School-Related Leave Act Requests; to Human Resources for review upon approval from division managers.

v. Human Resources

- a. Provide policy and program guidance to Judiciary employees.
- b. Review all Child School-Related Leave Act Requests prior to submission to the AOC for final approval.

- c. Conduct any investigations of abuse or unethical conduct.

#### 11.526 Educational Career Enhancement Scholarship Program – Leave Benefit

**SOURCE:** JOG Educational Career Enhancement Training Program (1998).

In an effort to encourage employees to enhance job performance and promote upward mobility, the Judiciary developed this program to allow an employee to enroll in one (1) work related course per semester. Work related course is defined as a course that will assist the employee in the performance of their present duties and responsibilities. This program is explained in Chapter 13, however the administrative leave benefits are:

- A. Employees are allowed up to four (4) hours for advisement, registration, and pre-examination requirements.
- B. Employees may enroll in one (1) course (up to 4 credit hours) and may be allowed up to five (5) hours of administrative leave per week during working hours. This time is inclusive of travel time to and from the institution for employees returning to work status after class attendance.
- C. ~~Travel time will only be granted when the employee is departing from the work site and when the employee is required to return back to work status.~~ Travel time up to maximum of 30 minutes to and from court/university. However, if the recipient does not return to work or goes straight to school from home, no travel time will be granted for such hours.
- D. Employees are on official duty while placed on administrative leave to attend classes.
- E. Division managers have the responsibility to monitor and ensure that administrative leave taken is reflective of time taken for class attendance and other activities approved for administrative leave application. Employees are required to submit appropriate administrative leave forms every pay period ending.
- F. Employees who fail to comply with this section may be penalized by charging the employee's annual leave retroactively to the beginning of the semester, and the division manager/supervisor may be placed on Notice in writing for noncompliance.

- G. If the employee fails to complete the class enrolled and is granted administrative leave for class attendance or related activities, the employee may be required to reimburse the Judiciary for the total number of administrative leave hours taken to be charged to the employee's personal annual leave.
- H. The Administrator of the Courts must approve all administrative leave before it is granted.
- I. No administrative leave will be granted when an employee is on leave status and does not report to duty.
- J. Administrative leave is limited to hours within the employee's assigned work schedule.

11.527 Pedro "Doc" Sanchez Scholarship Program - Leave Benefit

**SOURCE:** New. JOG Pedro "Doc" Sanchez Scholarship Program In-House Policy. 17 GCA Chapter 28, Article 5.

Administrative leave is available for participants to take classes during working hours, however this circumstance is limited to ensure operations run smoothly. The following situations qualify for administrative leave:

- i. Scheduled initial registration, advisement, orientation, examinations and required academic conferences. Pre-registration for the second semester takes place before the end of each semester, so no administrative leave will be granted.
- ii. Class attendance during working hours is subject to approval by the division manager.
- iii. Travel time up to maximum of 30 minutes to and from court/university. However, if the recipient does not return to work or goes straight to school from home, no travel time will be granted for such hours.
- iv. Graduate MPA or MBA students will be granted full administrative leave on their last semester to write their Thesis or Special Project requirement subject to approval by the Administrator of the Courts and the MPA/MBA Program Coordinator from the University of Guam.

- v. No administrative leave will be granted for study time or for research.

## **11.600 LEAVE WITHOUT PAY.**

**SOURCE:** JOG 80.50, DOA 8.601, PAG 9.601.

Leave without pay is a temporary non pay status and absence granted in response to an employee's request for good cause when their current authorized annual or sick leave with pay will not cover the total period of requested leave. Permanent employees may be granted leave without pay for a period of one (1) year. For extenuating circumstances the Administrator of the Courts may extend the leave without pay for an additional year. No extension may be granted thereafter.

When an employee is on Leave Without Pay status, accrual of annual, sick or retirement credit is not allowed.

### **11.601 Authorization**

**SOURCE:** JOG 8.50, DOA 8.603, PAG 9.603.

- A. Authorizing leave without pay is a matter of administration the Administrator of the Court's discretion. An employee cannot demand to be granted leave without pay as a matter of right except in the case of:
  - i. Disabled Veterans who are entitled to leave without pay, if necessary, for medical treatment; and
  - ii. Members of the reserve components of the U.S. Armed Forces who are entitled to leave without pay, if necessary, to perform military service duties.
- B. An employee who does not have sufficient annual or sick leave may submit a written request for leave without pay to the employee's supervisor, which requires approval from the division manager and the Administrator of the Courts.

### **11.602 Conditions for Approval of Leave Without Pay**

**SOURCE:** New. DOA 8.604, PAG 9.604.

- A. Each request, for extended leave without pay, should be evaluated carefully to assure that the value to the Judiciary or the serious



needs of the employee is sufficient to offset the costs and administrative inconveniences to the Judiciary which results from the retention of an employee in a leave without pay status. Among these costs are:

- i. encumbrance of a position;
- ii. loss of services which may be needed in the organization; and
- iii. obligation to provide active employment at the end of the approved leave period.

B. As a basic condition for approval of extended leave without pay there should be reasonable expectation that the employee will return to work at the end of the approved period. In addition, it should be apparent that at least one of the following benefits would result:

- i. increased job ability;
- ii. protection or improvement of employee's health;
- iii. retention of a desirable employee; or
- iv. furtherance of a program of interest to the Judiciary.

#### 11.603 Examples of Appropriate Use of Leave Without Pay

**SOURCE:** New. DOA 8.605, PAG 9.605.

The following examples of types of cases are not all inclusive for which approval of extended leave without pay would be proper, all other factors being favorable, are:

- A. For educational purposes, when the course of study or research is in line with a type of work which is being performed by the Judiciary, and completion of which would contribute to the Judiciary's best interest.
- B. For the purposes of recovery from illness or disability, not of a permanent or disqualifying nature, when continued employment or immediate return to employment would impact the employee's health, or the health of other employees.

- C. For the purpose of caring for a child upon birth or adoption.
- D. For the purpose of providing care to a spouse or child who is ill or disabled, or to provide care to elderly parents or parents-in-laws.

## **11.700 UNAUTHORIZED LEAVE OF ABSENCE FROM DUTY.**

**SOURCE:** New. DOA 8.700, PAG 9.700

An employee who is absent from duty without proper authorization shall be placed on leave of absence without pay. Repeated unauthorized absences may be grounds for disciplinary action.

## **11.800 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE**

**SOURCE:** New. 22 GCA § 3401. Required Leave (victims of violence).

- A. Pursuant to 22 GCA § 3401, the Judiciary grants reasonable and necessary leave from work, with or without pay, for an employee to:
  - i. Prepare for and attend court proceedings;
  - ii. Receive medical treatment or attend to medical treatment for a victim who is the employee's son, daughter, parent or spouse; or
  - iii. Obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking.
- B. The leave must be needed because the employee or the employee's son, daughter, parent or spouse is a victim of a crime of violence to include, but not be limited to, domestic violence, assault, sexual assault, stalking or any act that would support an order of protection.
- C. The Judiciary shall not sanction an employee or deprive an employee of pay or benefits for exercising a right granted by 22 GCA § 3401.
- D. The rule is not violated if:

- i. The employer would sustain undue hardship from the employee's absence;
- ii. The request for leave is not communicated to the employer within a reasonable time under the circumstances; or
- iii. The requested leave is impractical, unnecessary or unreasonable based on the facts then known to the employer.

### **11.900 TGI THURSDAY PROGRAM**

**SOURCE:** New. Public Law No. 25-72 (1999).

This program allows employees to voluntarily reduce their workweek from forty (40) hours to thirty two (32) hours. This results in an additional day off during the workweek without pay. No employee will lose any benefits an employee was receiving before opting into the program. Participation in the program will not affect the employee accrual of years of service for the purpose of retirement. The employee may choose any day of the week for the additional day off. Employees participating in this program must complete the designated form for approval.

### **11.1000 QUALITY TIME PROGRAM**

**SOURCE:** New. Public Law No. 25-72 (1999).

This program allows an employee to elect to work twenty (20) hours per week and get paid 50% of their current salary or thirty (30) hours per week and get paid 75% of their current salary. An employee will not lose any benefits the employee was receiving prior to opting into the program.

However, approval from the appointing authority must be obtained provided such absence is not detrimental to the Judiciary's mission. Employees participating in this program must complete the designated form for approval.

### **11.1100 VOLUNTEER LEAVE ACT OF 1999 UNDER 4 GCA § 4109.4**

**SOURCE:** New. 4 GCA § 4109.4.

The Voluntary Leave Act allows for voluntary leave for up to five (5) consecutive working days. Employees must submit their request in writing and obtain approval from their supervisor.

## **11.1200 FAMILY AND MEDICAL LEAVE ACT.**

**SOURCE:** New. JOG Family Medical Leave Act Program (date?); DOA 8.800, PAG 9.800.

**COMMENT:** 22 GCA §§ 3601-3611 is the Guam Family and Medical Leave Act enacted by PL 33-170(2016); 29 U.S.C. §§ 2601-2654 is the Family and Medical Leave Act.

### **11.1201      Scope**

The Guam Family and Medical Leave Act (22 GCA §§ 3601-3611) provides eligible employees with job-protected leave for qualifying events or circumstances as described below. Some of those events or circumstances may involve the employee's own health event or circumstance, or may involve the health or military service of the employee's family member.

Leave may be taken in continuous full-time periods or may include a reduced or intermittent schedule when medically necessary or for a qualifying exigency due to a call to active duty. When intermittent or reduced scheduled leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must consult with the supervisor and make reasonable effort to schedule treatment so as not to unduly disrupt the Judiciary's operations.

**SOURCE:** PAG 9.801.

### **11.1202 Employee Eligibility**

Employees are eligible to apply the family and medical leave under this section if they meet the following requirements below:

- A. An employee is eligible for FMLA leave if the employee has worked for the Judiciary for at least twelve (12) months, or fifty two (52) weeks, and worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA leave.
- B. Temporary employees working part-time, after completion of 1,250 hours, are counted as completing the workweek even if they do not work a forty (40) hour workweek.

- C. For the purposes of this section, full-time employment is considered to be 2,080 hours per year. An employee returning from fulfilling National Guard or Reserve military obligation will be credited with the hours of work that would have been performed during the period of military service.

**SOURCE:** JOG FMLA I.A.in part; PAG 9.802

#### 11.1203 Reasons for Leave

FMLA allows eligible employees to take leave for the following qualifying events or circumstances:

- A. The employee is suffering from a “serious health condition.” “Serious health condition” defined under 22 GCA § 3630(i) means an injury, impairment, or physical or mental condition that involves either of the following: 1) inpatient care in a hospital, hospice, or residential health care facility; or 2) continuing treatment or continuing supervision by a health care provider.
- B. The birth of the employee’s child and in order to care for the child.
- C. The placement of an adoptive child or to provide foster care for such child.
- D. To care for an “immediate family member” who is suffering from a “serious health condition.” “Immediate family” is defined as a spouse, son, daughter, mother or father only.

**SOURCE:** A-D from JOG FMLA Policy.

- E. Under 22 GCA § 3610, employees are permitted to take, and not exceed, fourteen (14) days of unpaid FMLA protected leave upon the death of a family member. Leave must be completed within 60 calendar days from the date the employee learns of the death of a family member.

**SOURCE:** 22 GCA § 3610

- F. Any qualifying exigency (as the Secretary of Labor shall, be regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered activity duty) in the Armed Forces.

**SOURCE:** 29 U.S.C. § 2612(a)(1)(E).

11.1204      Limitations of FMLA

FMLA leave is limited to the following circumstances:

- A.      The employee or an immediate family member is suffering from a “serious health condition” that prohibits the employee from performing work duties and responsibilities required of their position.
- B.      Requests for FMLA shall accompany a certification from the attending physician concerning the nature and anticipated duration of the serious health condition.
- C.      If the employee plans to take intermittent leave the certification must also include dates and the duration of treatment and a statement of medical necessity for taking such intermittent leave. For purposes of FMLA, “intermittent leave” is defined as leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from one hour or more to several weeks.
- D.      Eligible employees can take up to twelve (12) weeks of leave under FMLA during a twelve (12) month period. FMLA does not need to be taken in consecutive weeks. Employees may make arrangements to intermittently apply FMLA within the twelve month period.
- E.      The Judiciary may require any “leave with pay” taken to be considered FMLA leave, twelve (12) weeks provided such leave meets FMLA qualifications. The employee has the option of applying FMLA while combining both periods of “paid and unpaid leave.”

**SOURCE:** JOG FMLA I.C. in part.

11.1205      Status of Employees Participating in FMLA Program

Employees approved to participate in the FMLA program shall:

- A.      Be placed on “leave without pay” status and forfeit their benefit to accrue annual or sick leave credits until such time the employee has resumed to “work duty status.”
- B.      Continue to receive health care benefits.

- C. Be responsible for arranging compensation of their share of health care costs with their health care provider and life insurance benefits, and their personal debts on payroll deduction, if any.
- D. Temporarily suspend their annual salary increment should the waiting period of their performance evaluation be in effect while participating in the FMLA program.

Should the employee participate in FMLA leave for more than twenty (20) consecutive days, the increment date shall be extended the number of days in excess of twenty (20) beyond the anniversary date thus creating a new increment date.

- E. Discontinue to receive retirement service benefits while placed on "leave without pay" status, therefore employee and government has temporarily ceased contribution.
- F. Employees approved to participate in FMLA leave may be subject to period requests of employee status reports of the medical condition of the employee or a family member and the intent to return to work.

**SOURCE:** JOG FMLA I.D.

#### 11.1206 Health Care and Life Insurance Maintenance

- A. Under the FMLA the Judiciary must maintain coverage for eligible employees approved to participate under the FMLA program. However, the Court shall require the employee to sign a Memorandum of Agreement that the Judiciary is obligated to provide health care and/or life insurance coverage during the FMLA leave period for the employee and will also contribute the government's share. In return the employee shall make arrangements with the health care and/or life insurance provider as to the employee's share of contribution for said health care costs.
- B. Should the employee fail to contribute to the employee's share of health care and/or life insurance costs after a period of more than thirty (30) days from the date the payment is due, the Judiciary's obligation to maintain health care and/or life insurance coverage shall cease.
- C. The Judiciary may further recover the employee's share of any premium payments missed by the employee for any FMLA leave

period if the employee missed payments during the FMLA period and the Judiciary paid the employee's share.

**SOURCE:** JOG FMLA I.F.

#### 11.1207 Employee Status Upon Return from FMLA Leave

A. Eligible employees who return from FMLA leave and resume "regular work duty" status are entitled to be returned to the same position, or an equivalent position, that entails substantially equivalent pay, skill, effort, responsibility, conditions and authority to the employee's previous position granted the position remains available.

B. Eligible employees are entitled to the same benefits provided by the organization to the employee at the same level prior to the FMLA leave.

C. Exception:

The Judiciary may deny restoration of employment to "key employees," should restoring them cause "substantial and grievous economic injury" to the operation of the Judiciary. A "key employee" is defined under the FMLA as among the highest ten (10%) percent of all the employees employed by the Judiciary who are paid on a salaried basis. For purposes of this section, the Judiciary recognizes such employees as division managers and unclassified employees.

**SOURCE:** JOG FMLA I.F.

#### 11.1208 Responsibilities

**SOURCE:** JOG FMLA I.G.

A. Financial Management Office

The Financial Management Division shall be responsible for:

- i. Providing payroll information of employees applying for FMLA leave.
- ii. Processing approved program applications.
- iii. Monitoring employee program participation.



- iv. Informing a Human Resources Officer of employee's expiration of program participation.
- v. Monitoring employee memorandum of agreement and ensuring employee's share of contributions for health insurance costs are made according to the agreement schedule. Financial Management shall inform the Administrator of the Courts of any employees who have defaulted on their payments after the thirty (30) days grace period.
- vi. Providing information on amount of monies to be recovered by the Judiciary from the employee's failure to contribute the employee's share of health insurance costs and employer's contributions.
- vii. Maintaining and making readily available records of employees participating in the FMLA Program. The records available for viewing shall include but not be limited to:
  - a. FMLA leave application
  - b. Employee Memorandum of Agreement
  - c. FMLA leave period
  - d. Amount of monies to be recovered by the organization for employee's payment default for health insurance costs.
  - e. Required documents and memorandum

B. Human Resources Office

The Human Resources Office shall be responsible for:

- i. Providing the following information: employee payroll number and employee pay grade and hourly wage.
- ii. Monitoring employee program participation and memorandum of agreement and ensuring

employee's share of contribution for health insurance costs are made according to the agreement schedule.

- iii. Providing program guidance to the employees, Financial Management, and Administrator of the Courts. At the request of the Administrator of the Courts, the Human Resources Office shall conduct program application review to ensure compliance, entertain investigations of abuse, misconduct of participants and employees who default on their share of health insurance payment contributions, and FMLA inquiries not addressed in this policy.

C. Administrator of the Courts

The Administrator of the Courts is the approving authority for employees requesting to participate in the FMLA leave program. The Administrator of the Courts shall have the authority to terminate an employee's participation when there is good cause for revocation.

11.1209 Procedures for Requesting FMLA Leave

- A. Employees must submit a completed FMLA program application at least thirty (30) days before commencing FMLA leave. If participation in the program was unforeseeable, this clause does not apply.
- B. It is the employee's responsibility to monitor application approval with the Administrator of the Courts.
- C. Once approved by the Administrator of the Courts, the employee shall forward the original application and supporting documents to Financial Management Office and to the Human Resources Office for processing.

**SOURCE:** JOG FMLA I.H.

11.1210 No Retaliation or Interference

The Judiciary will not discriminate or retaliate against an employee who exercises the employee's rights under the FMLA, or otherwise interfere with those rights.

**SOURCE:** PAG 9.812

#### 11.1211 Enforcement

If an employee has concerns or complaints regarding FMLA, the employee may contact the Human Resources Office. In addition, an employee may file a complaint with the Department of Labor or may file a private lawsuit.

**SOURCE:** PAG 9.814

#### **11.1300 FITNESS OF DUTY EXAMINATIONS.**

Employees who have been on extended sick leave or leave without pay because of severe illness, surgery, contagious disease or other medical problems shall be required to furnish a written statement from their physician that they may return to work. Management reserves the right to have the employee obtain a fitness for duty examination.

**SOURCE:** JOG 8.41

#### **11.1400 VOLUNTARY LEAVE TRANSFER PROGRAM.**

**SOURCE:** New. JOG Donated Leave - Voluntary Leave Transfer Program Policy (2008). 4 GCA § 4109.2 (Leave Sharing Program). Changes have been noted.

The Judiciary provides its employees the opportunity to voluntarily donate or transfer accrued leave to other employees of the Government of Guam who have exhausted all their earned leave hours.

Judiciary of Guam employees may also receive donated leave from other government employees for medical, military, or personal reasons provided they have exhausted all earned and accrued leave hours.

The leave sharing program is further intended to address employees who need to take care of sick family members, or for the Military Reservist or National Guard members who are called to active duty in excess of the allowable fifteen (15) days military leave per fiscal year.

##### 11.1401 Eligibility

- A. Leave sharing shall apply to all employees in classified, appointed and unclassified positions.
- B. Leave sharing donor must have sufficient hours of accrued leave to cover the donation.
- C. Leave sharing recipient must first exhaust all accrued leave and

compensatory time earned for purposes of a medical emergency, military or personal reasons.

- D. Requests for donated leave for medical reasons must be substantiated with a certification from the attending medical doctor specifying the medical condition, and time frame the employee is physically unable to return to work.
- E. Requests for donated leave to care for an immediate family member must be substantiated with a certification from the attending medical doctor specifying the relationship to the employee, the medical condition, and time frame necessary to be on leave.
- F. Requests for donated leave for personal reasons must be substantiated with documentation justifying the request (i.e. funeral announcement, legal documents, or military orders.)

#### 11.1402 Limitations of Transfer

- A. Leave sharing requests must be for a minimum of five (5) consecutive workdays, forty (40) hours.
- B. Employees may transfer leave to another employee not to exceed a maximum of one hundred sixty (160) hours of annual or sick leave per request.
- C. Participation in the leave sharing program shall not exceed ninety (90) working days per fiscal year with the following exceptions:
  - i. An employee who needs additional time for medical treatment or recovery, and is physically unable to return to work due to a medical illness may be granted an additional ninety (90) work days upon similar certification from the attending medical doctor. This certification must be provided within two (2) weeks of the first ninety (90) day period. A final thirty (30) working days may be granted upon certification from the attending medical doctor that the additional time is needed for recovery.

- ii. An employee certified by the employee's attending medical doctor as having a catastrophic or chronic illness and who requires additional time beyond the two hundred ten (210) working days for medical treatment or recovery may be authorized additional leave upon approval of the Administrator of the Courts. Authorization of additional leave may be granted upon similar certification from the attending medical doctor made within two (2) weeks of the final thirty (30) day period confirming the employee is physically unable to return to work.
- 
- A. Employees must exhaust all accrued leave and compensatory time earned.
  - B. The Judiciary of Guam's Leave Sharing Request Form shall not be used when donating to employees from another Government of Guam agency. The recipients' agency form must be utilized.
  - C. Donated leave for personal reasons may not be used for vacation.
  - D. The transfer of leave shall strictly be on a voluntary basis.
  - E. Employees may not transfer leave to their immediate supervisor or to any person above them in the supervisory chain, or any of their immediate family members.
  - F. Recipients may not use donated leave for credit towards retirement or accumulated leave.
  - G. In no event shall transferred leave be converted to cash or retirement credit by the recipient.
  - H. Any donated leave that is not used in its entirety by the recipient shall be returned to the donor.
  - I. Leave transferred from donors whose hourly rates of pay or salaries are **lower** than the recipient, shall be paid at the hourly rate or salary of the donor.
  - J. Leave transferred from donors whose hourly rates of pay or

salaries are **higher** than the recipient, shall be paid at the hourly rate or salary of the recipient.

- K. **Donated leave banking shall not be allowed.** Only donated leave requests that will be used within two (2) weeks from date of request will be accepted for review and processing. Donated leave requests will be accepted beyond the two (2) week time frame only if the recipient will commence leave status exhausting accrued leave prior to charging donated leave, and the supporting documents justifying the request are submitted.
- L. No employee of the Government of Guam shall transfer their unused annual or sick leave to another employee in exchange for money, favors, or items of value, or be guilty of official misconduct pursuant to 9 GCA § 49.90.

#### 11.1403 Status of Recipients under Leave Sharing Program

Recipients of donated leave are placed on "leave with pay" status and continue to receive employee benefits such as leave accrual, paid holidays and group insurance, with the exception of retirement benefits. Leave recipients temporarily suspend their retirement benefits, therefore, will not be contributing toward retirement until they return to regular work duty.

#### 11.404 Responsibilities

- A. Recipient
  - i. Complete and submit the Leave Sharing Program Request Form, Leave Application Form and required documentation to the Human Resources Office for review and clearance. **Incomplete forms will not be processed.**
  - ii. Obtain approvals from their supervisor and/or division manager prior to charging such leave.
  - iii. Monitor donated leave hours.

- iii. Inform their supervisor/division manager and timekeeper of any change in leave status.

B. Financial Management

- i. Certify payroll information of employees as required, to include accrued leave balances and hourly rates.
- ii. Maintain, certify and transfer the leave hours in the Donated Leave Bank, as approved.
- iii. Process approved program request forms, applying the hourly rate or salary of the recipient or donor, whichever is lower, in paying the recipient.
- iv. Maintain records of employees participating in the Leave Sharing Program, to include, but not limited to donated leave balances and Leave Bank records.
- v. Inform the recipient and donor in writing of the amount of unused donated leave hours and credit back such hours to the donor(s) within two (2) pay period endings upon return of recipient to work duty.
- vi. Monitor donated leave utilization to ensure compliance.

C. Human Resources

- i. Provide program guidance to employees of the Judiciary.
- ii. Conduct program application reviews to ensure compliance, monitor and maintain records of Leave Sharing Program requests.
- iii. Process and disseminate all Leave Sharing Program requests.
- iv. Review any report of abuse, unethical conduct and/or

misconduct of program participants.

D. Administrator of the Courts

- i. Serves as the final approving authority for the Leave Sharing Program which is not subject for appeal to the Chief Justice and Judicial Council.
- ii. Terminate an employee's participation (recipient/donor) where there is good cause for revocation.

11.1405 Donated Leave Bank

**SOURCE:** New. JOG Donated Leave - Voluntary Leave Transfer Program Policy (2008).

- A. For purposes of creating a Donated Leave Bank, Judicial employees may opt to deposit unused leave hours upon separation from employment or any excess leave hours at the end of a fiscal year.
- B. The Donated Leave Bank shall be made available only to judicial employees for the sole purpose of medical reasons as provided in this chapter. Donated leave requests for personal reasons are not eligible to receive leave hours from the donated leave bank.
  - i. Eligibility - Leave Bank Donors
    - a. Employees who have accumulated excess leave hours at the end of a fiscal year and are willing to transfer such to the donated leave bank.
    - b. Employees with accrued sick leave balances who are resigning/ separating from the Judiciary.
    - c. Employees retiring may donate the amount of leave hours not creditable toward retirement service as determined by the Retirement Fund.
    - d. Employees retiring under the Judicial



Retirement Plan pursuant to 7 GCA §6112, may donate the amount of sick leave hours not creditable toward retirement service as determined by the Financial Management Division.

ii. Application of Donated Leave Bank

- a. Judicial employees interested in the Leave Sharing Program for medical reasons may apply for the Donated Leave Bank.
- b. The Financial Management shall certify on the request form as to the availability of leave hours in the donated leave bank.
- c. Should the certified leave amount in the bank be insufficient for the recipient, the recipient may indicate the employee (donor) volunteering to donate leave on the request form.
- d. Request Forms shall be entertained in the order of submission for approval and processing. In the event there are two (2) or more employees requesting from the leave bank, the distribution of available bank leave hours shall be determined by the Human Resources Administrator, using pro rata method.
- e. Donated Leave Bank Program participation is limited to one hundred sixty (160) hours per fiscal year per applicant.
- f. Any leave transferred not used in its entirety shall revert back to the leave bank within two (2) pay periods upon return of recipient to work duty.
- g. Employees applying for the Donated Leave

Bank shall be subject to the policies and procedures defined in the Leave Sharing Program, as applicable.

#### 11.1406 Solicitation of Donated Leave

**SOURCE:** New. JOG Donated Leave - Voluntary Leave Transfer Program Policy (2008).

- A. Managers/Supervisors may solicit for leave donation through memorandum of request to the Administrator of the Courts on behalf of their employees who are eligible to receive donated leave for a serious medical condition.
- B. Divisions soliciting leave on behalf of their employees shall also verify with the Financial Management Office as to the availability of leave in the Donated Leave Bank prior to requesting for solicitation with the Administrator of the Courts.
- C. Upon response of eligible donors, the recipient or representative shall complete and submit the Leave Sharing Program Request Form, Leave Application Form and required documentation to the Human Resources Office for review and clearance.

#### 11.1407 Donated Leave Transfer Procedures

**SOURCE:** New. JOG Donated Leave - Voluntary Leave Transfer Program Policy (2008).

- A. Employees or their representative may request leave from the Donated Leave Bank or from a volunteer donor.
- B. Recipients shall complete and submit the Leave Sharing Request Form, Leave Application Form, and required documentation to the Human Resources Office for review and clearance.
- C. Upon approval by the Administrator of the Courts, the Human Resources Office will process the request and disseminate accordingly.

#### 11.1408 Definitions

**SOURCE:** New. JOG Donated Leave - Voluntary Leave Transfer Program Policy (2008).

For the purposes of this program, the following definitions apply:

- A. Employee - a person who is currently employed by the Judiciary of Guam, occupying a full time position and is entitled to leave accrual.
- B. Donor- a government of Guam employee who voluntarily donates accrued leave hours to a recipient or to the donated leave bank, in the case of a judicial employee, by signing the donated leave request form as certified and approved by the employee's payroll officer and supervisor.
- C. Recipient - an employee who is eligible to receive donated leave hours from the designated donor or leave bank, as applicable.
- D. Medical Reasons - a medical condition of an employee or an immediate family member that requires the employee's absence from work for a period of time. Medical reasons as defined in the use of sick leave shall apply.
- E. Personal Reasons – are reasons not defined as "medical or military reasons", i.e., adoption of a child, divorce or separation, loss of a family member, child care, legal commitments, education, temporary care of an elderly or physically/mentally disabled member of the immediate family, and other reasons as determined by the Administrator of the Courts.
- F. Immediate Family - for purposes of this section and as defined in 4 GCA § 4108, the following relationship shall be considered as immediate family: spouse, common law, parents, parents-in-law, grandparents, children, brothers, sisters, grandchildren, any step or adoptive parents, adopted children or grandchildren of both the employee and the spouse, a guardian or person in loco parentis.
- G. Good Cause - refers to fraud, abuse or related behavior deemed as unethical conduct of the recipient/donor for purposes of charging donated leave credits, and may be grounds for disciplinary action.
- H. Leave With Pay Status - employee is considered to be on pay status while charging donated leave credits and continues to receive other benefits such as leave accruals, paid holidays, health insurance premiums, and other payroll deductions

withheld from their payroll check.

- I. Regular Work Duty - employee returns from "leave" status and actively performs duties and responsibilities required of their position.

## **11.1500 HOLIDAYS.**

**SOURCE:** New. 1 GCA § 1000; DOA 8.502

Employees may be absent from duty on the holidays established by this section, however, work assignments may be required to be carried out if previous notification is given by the Administrator of the Courts. When an employee is absent from duty at the close of the working day immediately preceding a holiday and at the beginning of the work day immediately following a holiday, and such absences are determined to have been on a leave without pay status, the employee shall not be eligible for compensation for the holiday under this rule but shall be considered as on leave without pay status.

### **11.1501 Legal Holidays**

The Judiciary observes the holidays enumerated in 1 GCA § 1000. These holidays include:

- A. New Year's Day, January 1;
- B. Martin L. King, Jr. Day, the third Monday in January;
- C. Guam History and Chamorro Heritage Day, the first Monday in March;
- D. Memorial Day, last Monday in May;
- E. Independence Day, July 4<sup>th</sup>;
- F. Liberation Day, July 21<sup>st</sup>;
- G. Labor Day, first Monday in September;
- H. All Souls' Day, November 2<sup>nd</sup>;
- I. Veterans Day, November 11<sup>th</sup>;

- J. Thanksgiving Day, fourth Thursday in November;
- K. Our Lady of Camarin Day, December 8<sup>th</sup>; and
- L. Christmas Day, December 25<sup>th</sup>

Should any of the above holidays fall on a Sunday, the following Monday is a holiday, and if any such holidays fall upon a Saturday, the preceding Friday is a holiday.

In addition to the holidays specified above, any holiday declared by the Governor by Executive Order may be declared a holiday by the Chief Justice by Administrative Order.

#### 11.1502 Legal Holidays for Irregular Hours of Duty

For employees whose work week is other than Monday through Friday and whose holiday falls on a non-workday, this holiday shall be determined as follows:

- A. Sunday Holiday
  - i. When an employee's workweek does not include a Sunday and a holiday falls on Sunday, the next regular workday within the workweek is the employee's holiday.
  - ii. When an employee's workweek includes Sunday, and a holiday falls on the day that has been designated as the employee's non-workday in lieu of Sunday, the employee's next regular workday after the employee's "in lieu of Sunday" within the work week is the employee's holiday.

- B. Other Holidays

When a holiday falls on an employee's non-workday other than Sunday, the regular workday preceding the employee's non-workday is the employee's holiday.

**SOURCE:** New. DOA Rule 8.503

#### **11.1600 PAYROLL RECORD KEEPING.**

**SOURCE:** New. DOA Rule 7.975

Records of hours worked and wages paid are required to be kept for each employee subject to this section. The Administrator of the Courts is responsible for making available the following information for review by the Federal Wage and Hour Division. Records must be preserved for at least three (3) years.

- A. Name
- B. Home Address
- C. Date of birth
- D. Sex and position classification in which employed
- E. Time and day of work, the workweek or work period begins
- F. Total wages paid each pay period
- G. Date of payment and pay period covered
- H. Basis on which wages are paid
- I. Regular hourly rate of pay for any week in which overtime is worked
- J. Amount and nature of each payment excluded from regular rate
- K. Hours worked each work day and total hours worked each workweek
- L. Total daily or weekly straight time earned or wages
- M. Other records or information as the Administrator of the Courts may require.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 12**

### **HEALTH AND SAFETY**

#### **STATEMENT OF POLICY:**

The purpose of this chapter is to ensure that applicants and employees meet the health and physical requirements for the efficient performance of their duties. In addition, this chapter is to develop a safe and healthful environment for employees and for the public when using the Judiciary's facilities, by establishing, maintaining and properly supervising an active safety and health program tailored to meet the needs of the organization. No provision of this chapter shall be interpreted as to conflict with the American with Disabilities Act (ADA) or any other federal or local law.

**SOURCE:** New. PAG 10 (Health and Safety)

#### **12.000 MEDICAL STANDARDS.**

**SOURCE:** New. PAG 10.000 (Medical Standards)

##### **12.001 Establishment of Medical Standards**

Medical standards include, but are not limited to, pre-entry medical examinations, medical re-evaluations, the method of administration of medical examinations, and the consequences of failure to meet health and physical condition requirements.

The Administrator of the Courts is authorized to establish medical standards in order to:

- A. Ensure that persons seeking employment with the Judiciary meet the health and physical requirements necessary for the safe and efficient performance of the duties of the position in which they seek employment, and can continue to meet the health and physical requirements for a reasonable period of time.

- B. Ensure that each employee is able to perform the duties of the position satisfactorily and without undue hazard or imminent threat to the employee and others or without undue hardship on the operation of the program.
- C. After making a conditional job offer and within the initial six (6) months of employment with the Judiciary, the Administrator of the Courts may request a medical examination or ask health-related questions, provided that all candidates who receive a conditional job offer in the same job category are required to take the same examination and/or respond to the same inquiries.

**SOURCE:** New. PAG 10.001 (Establishment of Medical Standards)

#### 12.002 Kinds of Employment Medical Examinations

**SOURCE:** New. PAG. 10.002 (Kinds of Employment Medical Examinations)

The Administrator of the Courts is authorized to require three (3) types of medical examinations:

- A. Pre-entry

Pre-entry physical examinations shall be required of all persons within six (6) months of initial appointment to the Judiciary.

**SOURCE:** New. PAG 10.002 A. (Pre-Entry)

- B. Periodic

Periodic physical examinations shall be required of all employees holding positions in classes which the division manager and the Administrator of the Courts approves, that the nature of the work performed is such that a periodic check of ability to meet the health and physical condition standards are necessary. The Administrator of the Courts will determine the intervals, at which periodic physical examinations shall be taken consistent with the Judiciary's operational requirements.

**SOURCE:** New. PAG 10.002 B. (Periodic)

- C. Special

The division manager may request for the Administrator of the Courts to authorize special medical, physical or psychological mental health



examinations to determine the fitness for duty of an employee if the employee's behavior or actions raise questions about the employee's ability to perform essential job related functions or raises a safety concern. A ~~Special medical~~, physical or ~~psychological medical mental health~~ examinations shall have as its purpose the determination of whether an employee should be assigned to duties and responsibilities that are within the employee's physical or psychological ability to perform. The Judiciary shall incur costs for the special ~~medical~~ examinations.

**SOURCE:** New. PAG 10.002 C. (Special)

### 12.003 Administration of Employment Medical Examinations

Medical examinations shall be administered by a licensed physician or other licensed professional on forms prescribed by the Administrator of the Courts. The examination form shall request a medical determination of the individual's fitness for employment in the class of position. For special medical examinations, forms shall provide a means for recommendations by the examining physician or licensed professional, as to whether the individual employee should be retired or placed in other employment more suited to the employee's physical or mental condition and ability and for which the employee can perform the essential function of the job.

**SOURCE:** New. PAG 10.003 (Administration of Employment Medical Examinations)

## **12.100 PLACEMENT OF EMPLOYEES WHO BECOME MEDICALLY NON-QUALIFIED.**

**SOURCE:** New. PAG 0.100 (Placement of Employees Who Become Medically Non-Qualified)

### 12.101 General Provisions

- A. The provisions of this section shall apply to permanent employees who become medically non-qualified and to original probationary employees with a service-connected disability.
- B. It is the responsibility of the Judiciary to assure, to the extent possible, the continued employment of employees who:
  - i. become disabled as a result of an injury, accident or illness that is not a result of misconduct;
  - ii. are found to be medically non-qualified for their present position; or

- iii. has a disability incurred in or aggravated during military service but who are medically qualified for other types of positions within the Judiciary.
- C. The employee shall be examined at the expense of the Judiciary by a government or private physician or physicians, in such field or fields of medicine and/or psychiatry as may be applicable to evaluate the employee's qualifications for the present position, or assess the employee's current physical and emotional capacities and/or evaluate qualifications for a vacancy for which the employee is being considered under the provisions of this section.
- D. Employees affected by this rule shall be considered for those vacancies for which they qualify.
- E. In the placement of an employee with a disability, the Judiciary shall consider the following:
  - i. The ability of the employee to safely perform the essential functions of the position without undue interruption to the work program and/or undue hardship on the operations of the program;
  - ii. The ability of the employee to absorb any required training or re-training; and
  - iii. The mutual interest of both the Judiciary and the employee.
- F. If demotion is involved, whether or not initiated by the employee, the employee shall be compensated accordingly.

**SOURCE:** New. PAG 10.101 (General Provisions)

#### **12.102 Placement of Employees with Disabilities**

After medical, physical, or psychological re-evaluation, an employee who is no longer qualified to perform the duties of the employee's position satisfactorily within a stated reasonable period of time and in spite of reasonable accommodations due to permanent medical physical or mental incapacity, the Administrator of the Courts shall take the following action (provided the employee is qualified and able to perform the new duties within the limitations established by the these rules and the American with Disabilities Act (ADA)):

- A. Transfer the employee to an equivalent position elsewhere in the Judiciary structure; or
- B. Placement of the employee consistent with Chapter 4; or
- C. If no equivalent position is available, to reassign the employee to a lower graded position, without loss of pay, elsewhere in the Judiciary. This section does not apply to those employees on the law enforcement pay plan.

**SOURCE:** New. PAG 10.102 (Placement of Employees with Disabilities)

#### 12.103 Reasonable Accommodation

Every effort shall be made by the Administrator of the Courts to provide reasonable accommodations to ensure continued employment.

**SOURCE:** New. PAG 10.103 (Reasonable Accommodation)

#### 12.104 Termination of Employment

The Administrator of the Courts shall terminate the employment of those employees who become disabled as a result of an injury, accident or illness that is not a result of misconduct or found to be medically non-qualified for their present position only for the following reasons:

- A. If no suitable placement can be made or if the employee refuses placement in a suitable position.
- B. If the employee refuses or is ineligible for retirement.
- C. If the Administrator of the Courts has evidence that the employee is permanently disabled from performing the job, will be disabled for a long time, or that termination is necessary in light of demonstrated business realities.

Such termination shall be consistent with the Adverse Action Procedures.

**SOURCE:** New. PAG 10.104 (Termination of Employment)

### **12.200 APPEALS AGAINST EMPLOYMENT MEDICAL EXAMINATION.**

A person not recommended for initial appointment for failure to meet health and medical standards may appeal such decision, in writing, to the Administrator of the Courts not later than fifteen (15) calendar days from the receipt of the notice of rejection. An employee who is not recommended for continued employment in the employee's position for failure to

meet medical requirements may appeal such decision in accordance with the appeal procedures adopted by the Judicial Council.

**SOURCE:** JOG 5.34 (Appeal Against Employment Medical Examination Request)

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 13**

### **EMPLOYEE ADVANCEMENT AND WELLNESS PROGRAMS**

#### **STATEMENT OF POLICY:**

The Judiciary encourages employees to participate in wellness programs to enhance job performance and promote upward mobility. The programs below include scholarships, employee assistance, and employee fitness.

#### **13.000 EDUCATIONAL CAREER ENHANCEMENT SCHOLARSHIP PROGRAM.**

This program allows an employee to enroll in one (1) work-related course at the University of Guam or Guam Community College. Work-related is defined as a course that will assist employees in the performance of their present duties and responsibilities.

**SOURCE:** JOG Educational Career Enhancement Training Program (1998).

##### **13.001 Eligibility**

Eligible employees include those who currently occupy a permanent position. Employees who are serving a probationary period, employed as a Limited Term Appointment, or placed on light duty status are not eligible to participate in the program.

##### **13.002 Program Benefits**

- A. Reimbursement Plan – Refer to Rule 13.004
- B. Administrative Leave – Refer to Rule 11.526

##### **13.003 Responsibilities**

- A. The Human Resources Administrator is tasked with administering the program by designating a Human Resources Officer to coordinate all administrative activities required to ensure compliance with program policies and procedures.
- B. The division manager is required to justify the employee's request to participate in the program on the application form.
- C. Once the employee has completed an application form, the Human Resources Officer will forward the application to the Administrator of the Courts for approval.
- D. When the employee has been approved to participate in the program, has completed the course, and submitted the Reimbursement Request Form, the Human Resources Office will forward the Reimbursement Request Form to the Financial Management Office, and then to the Administrator of the Courts for final approval.
- E. Once approved by the Administrator of the Courts, the Human Resources Office will forward the Reimbursement Request Form to the Financial Management Office.
- F. Employees have the responsibility of following up on the status of their request for reimbursement and receipt of reimbursement payment.

#### 13.004 Reimbursement Plan Features and Requirements

The Reimbursement Plan allows the employee to be reimbursed for one (1) work related course per semester, including registration fees, tuition, textbooks and related fees incurred by the employee. The following must be met in order to qualify for reimbursement:

- A. Employee must have completed the prescribed Career Enhancement Forms requesting approval to participate in the program.
- B. Upon approval, the employees must inform their immediate supervisor/division manager, the Human Resources Administrator and the Administrator of the Courts of any change in class schedule or status of course enrolled in during the semester.

- C. Employee must receive a letter grade of “C” or better upon course completion. Proof of the grade must be submitted to the Human Resources Office at the end of the semester.
- E. Employee must complete a reimbursement form to obtain clearance from the Human Resources Office and subsequently file for certification of funding availability with the Financial Management Office by providing original receipts for registration fees, tuition, textbooks, and related fees. The employee has no more than five (5) weeks after the semester has completed to submit the form to Human Resources for processing.
- F. Employee must obtain a signature of approval from the Administrator of the Courts on the reimbursement form.
- G. Employees may enroll in one (1) work related course after their assigned work schedule. No administrative leave will be granted to employees for class attendance after their assigned work schedule.
- H. Employee must reapply every semester to continue participation.

### **13.100 PEDRO “DOC” SANCHEZ SCHOLARSHIP PROGRAM.**

**SOURCE:** [17 GCA Chapter 28, Article 5.](#)

In order to provide for professional academic growth and development in the field of public management, the Pedro “Doc” Sanchez Scholarship Program was established. The following section is based on the in-house procedures for the Judiciary’s Program Recipients. The Judiciary’s objective is to ensure that operations are not hampered while recipients are attending classes and to provide guidance in maintaining recipients’ employment obligations as well as scholarship.

#### **13.101 Scholarship Eligibility**

This scholarship is available to Judiciary employees who are **classified, permanent employees with at least two (2) years of satisfactory employment service** to pursue undergraduate or graduate studies in Public Administration, College of Agriculture and Life Science, and College of Arts and Sciences. Covered graduate programs include M.P.A. and M.B.A. programs offered at the University of Guam. Undergraduate students with non-Public Administration majors must have Public Administration as a minor. This program is subject to changes pursuant to statute.

#### **13.102 Scholarship Application Process**

Upon acceptance by the College of Business and Public Administration at the University of Guam to participate in the scholarship program, the grantee shall:

- A. Enroll in an undergraduate or graduate degree program in Public Administration or any other undergraduate under the College of Business and Public Administration, College of Agriculture & Life Science, and the College of Arts & Science at the University of Guam immediately after being awarded the scholarship.
- B. Secure the approval of the supervisor/division manager and the Administrator of the Courts on the class/work schedule. This process should be done by all recipients at least one (1) month prior to beginning each semester. The Administrator of the Courts, based on the supervisor's recommendations, has the discretion to limit the grantee's subjects that are taken during working hours so as not to hamper the Judiciary's operations. In such circumstances, the Administrator of the Courts will issue a written justification. Grantees are responsible for notifying their supervisors and the Administrator of the Courts of any scheduling changes.
- C. The grantee must submit a Judiciary Application to participate in the program and also an Agreement form. Both must be approved by the grantee's supervisor/division manager and the Administrator of the Courts. These forms only apply to first time program recipients.

#### 13.103 Responsibilities of DOC Sanchez Scholarship Recipients

- A. First time recipients must submit the Application and Agreement forms as approved by the Administrator of the Courts.
- B. First time recipients must submit a Letter of Acceptance to the Program, signed by the Coordinator, DOC Sanchez Program, University of Guam, together with the approved class schedules.
- C. All recipients must notify their immediate supervisor before each semester. The schedule is subject to the mutual agreement of the recipient and the supervisor/division manager.
- D. Pre-registration of courses for subsequent semesters takes place before the end of each semester, therefore work/study schedules can be arranged with the supervisor/division manager during this period.



- E. Recipients must apply for administrative leave for class attendance and authorized activities on a biweekly basis. Both must be approved by the immediate supervisor and Administrator of the Courts. The approved administrative leave form must be attached to the time sheet every pay period.
- F. At the end of every semester, a course progress report must be submitted to the Administrator of the Courts and Human Resources Office. The report must contain the following:
  - i. Subjects taken for each semester which satisfy the requirements of the degree program.
  - ii. Subjects completed with grades and academic units at the end of each semester.
  - iii. Other matters pertinent to the scholarship program which may be required by the Administrator of the Courts.
- G. Recipients must maintain a satisfactory or better performance evaluation rating during their regular evaluation period.
  - i. An unsatisfactory rating may be cause to limit classes being taken during working hours.
  - ii. The Scholarship Committee has the discretion to terminate a recipient from the Program following an unsatisfactory rating.
  - iii. Neglect of duty or conflict of class with work responsibilities may be a cause for an unsatisfactory evaluation rating.
  - iv. Recipients must prioritize work responsibilities over studies. The scholarship is a privilege, not a right.
- H. Recipients must maintain a minimum grade point average of 2.5 for undergraduate and 3.0 for graduate courses throughout the scholarship.

- i. Any recipient who fails a course shall reimburse the program via the University of Guam for all costs incurred for that failed subject.
  - ii. Those who withdraw from the program in good academic standing (without a D, F or UW) and continue service in the Government of Guam will not be required to reimburse the scholarship fund.
  - iii. Those who terminate employment from the government prior to completing the service payback period will be required to repay the program for any failing grades (D, F, or UW) via the University of Guam.
- I. Upon graduation, the recipient is responsible for submitting a copy of the recipient's diploma, and/or a certified official transcript of records to the Administrator of the Courts and the Human Resources Administrator in order to receive the one-step merit pay increase.
  - i. This increase is only available to those who participated in the Program prior to Spring Semester 1997.
  - ii. P.L. 23-111 repealed the one step merit increase for recipients completing a degree under the College of Business and Public Administration. However, employees participating in the program after 10/1/96 may major in any undergraduate degree under the College of Business and Public Administration, College of Agriculture and Life Science, and College of Arts and Sciences provided they minor in Public Administration.
- J. Service Payback Rule

As provided in 17 GCA § 28506(c)(3), each recipient must serve in the career service of the Government of Guam for the duration of scholarship and after graduating with the degree for two (2) years for every academic year of scholarship received. This also applies to recipients who are dropping or terminating from the program prior to completion of the degree.

#### 13.104 Judiciary Responsibilities

- A. Division managers and supervisors must coordinate class schedules for recipients taking classes during work hours. If possible, classes should be taken either in the morning or in the afternoon to minimize work disruptions.
- B. Division managers must ensure that participants provide a work and class schedule for each semester with proof of registration. Such proof must also be submitted to the Human Resources Office.
- C. Refer to Rule 11.527 for use of Administrative Leave.

### **13.200 TALENT MANAGEMENT PROGRAM “TMP.”**

**SOURCE:** JOG Talent Management Program (approved in Judicial Council Resolution No. JC13-001).

The purpose of the TMP is to help the Judiciary anticipate and meet its future staffing needs by: (a) developing internal staff ensuring the Judiciary has a pipeline of qualified candidates for critical positions, and (b) providing additional training and career enhancement opportunities for high potential staff to ensure a highly skilled workforce.

#### 13.201 Program Statement

The Judiciary is committed to operating efficiently and effectively and providing the highest quality of services to the people of Guam. Qualified, talented personnel are necessary to achieve the goals of the Judiciary.

The Judiciary acknowledges the skills and capabilities of its workforce. Therefore, it is implementing a TMP with two tracks. Track 1 focuses on developing talent pools to increase the number of qualified internal candidates for key positions from which future successors may be selected. Track 2 provides eligible and interested staff with additional training and career enhancement opportunities to ensure a skilled workforce. The TMP will adhere to and complement the Government of Guam’s merit system in the following way:

Pursuant to the merit system, the Judicial Council of Guam will establish the TMP. The Judicial Council may provide additional compensation to those participants who complete the program, which for Track 1, shall be known as the TMP Readiness Salary Adjustment, and for Track 2, shall be known as a one time, lump sum payment. Such compensation may be in addition to any other compensation currently being paid. However, such

compensation shall be administered pursuant to the merit system in the Organic Act.

### 13.202 Process

- A. The Administrator of the Courts is primarily responsible for implementing the TMP.
- B. The Chief Justice will appoint a five (5) member TMP Review Team ("Review Team") to lead, oversee, make recommendations, and continually improve the Program. The Human Resources Administrator will lead this team along with four (4) additional, rotating appointees. Two (2) appointees will rotate off of the Review Team in a one (1) year period; and the two (2) remaining appointees will rotate off of the Review Team in a two (2) year period. This staggered, rotational system will ensure continuity in the TMP as well as provide an opportunity for other court division managers to actively lead and participate in the Program.
- C. Members of the Review Team are not eligible to participate in the TMP during the time they are on the Review Team. To avoid a conflict of interest, members of the Review Team will recuse themselves if a relative or friend applies to the program.
- D. The charge and expectations of the Review Team are as follows:

The purpose of the Review Team is to lead, administer, and oversee the TMP to ensure the goals are achieved. This includes: (1) overseeing the administration and implementation of the Program; evaluating, ranking, and recommending applicants to the Program; (2) regularly reviewing and documenting the progress of staff participating in the Program; (3) promoting and serving as champions of the Program; and (4) evaluating and improving the Program as needed.

Specific expectations include:

- i. Communicate and actively promote the TMP to staff;
- ii. Educate and train managers and supervisors about the TMP and how to identify high potential staff/internal talent;

- iii. Review, evaluate and rank applicants (interested and eligible staff);
  - iv. Make recommendations to the Administrator of the Courts about acceptance into the TMP;
  - v. The Administrator of the Courts will make decisions about acceptance into the TMP in consultation with the Chief Justice;
  - vi. Track, monitor and document the progress/status of staff participating in the TMP (e.g., meet semi-annually or as defined in the IDP or Training and Development Plan);
  - vii. Evaluate and continually refine/improve the TMP (e.g., ensure the goals are being achieved; ensure Program participants are closer to being “ready” to fill key positions; ensure the process is working; to review feedback/suggestions from participants of the TMP; update the workforce analysis to discover future vulnerabilities; etc.).
- E. Upon considering the recommendations of the Review Team, the Administrator of the Courts in consultation with the Chief Justice will make final decisions about the acceptance of applicants into the TMP.
- F. All division managers are responsible for leading and implementing the TMP including communicating the program to staff, encouraging and sponsoring eligible high potential staff, reviewing and tracking progress and developing staff, etc.
- G. The Human Resources Office will support the Review Team as well as the TMP including helping to administer the TMP, providing tools and resources, tracking forms and progress, developing and maintaining the database, etc.
- H. The Administrator of the Courts, the Review Team, and appropriate division managers will meet at least annually to evaluate and improve the TMP and to assess progress of high potential staff participating in the TMP.

- I. Other leaders within the Court (e.g., judicial officers, division managers, supervisors) should encourage high potential staff to participate in the TMP.
- J. Applicants will be evaluated and ranked by the Review Team pursuant to objective evaluation criteria.

### **13.300 EMPLOYEE ASSISTANCE PROGRAM “EAP.”**

**SOURCE:** JOG Employee Assistance Program Policy (approved by Judicial Council Res. No. JC19-002).

The Judiciary is committed to providing a productive working environment for all its employees, volunteers and interns. Judicial Council Res. No. 19-002 establishes the Employee Assistance Program (“EAP”), a voluntary, work-based program that provides cost-free employee referrals to employees experiencing personal or work-related problems that may affect attendance, work performance or conduct. The program is confidential and can potentially assist employees in the following areas: substance abuse education, emotional distress, work concerns, supportive services for families, and healthy lifestyle options. The scope, depth and growth of the program will largely depend on the employee needs, employer concerns, and available resources.

#### **13.301 Scope**

This program applies to all regular classified, unclassified and limited-term appointment employees as well as judicial officers, volunteers and interns.

#### **13.302 Disclosing Information Related To EAP**

##### **A. Disclosure with consent**

EAP staff must obtain the employee’s written consent before releasing or obtaining any information except where disclosure without the consent of the employee is allowed. This applies to all releases, including those to supervisors, treatment specialists and/or facilities, and family members.

##### **B. Disclosure without consent**

Disclosure without consent is permissible only as follow:

- 1. To medical and/or law enforcement personnel when there is a threat or concern of danger to self or others;

2. In response to a court order;
3. To comply with the Judiciary of Guam's Drug Free Workplace Policy; and/or
4. To comply with any/all applicable local and federal laws.

#### 13.303 Employee Use of the EAP

Employees are free to utilize the EAP while not on duty to include authorized breaks or lunch. Employees can schedule a time to meet with the EAP Coordinator while on duty, after coordinating with their immediate supervisor/division manager. Employees are not charged leave when meeting with the EAP Coordinator. With the exception of urgent circumstances, employees are responsible for ensuring any meetings with the EAP Coordinator do not impede or interrupt Judiciary operations. If the employee avails themselves of services recommended by the EAP, then appropriate leave provisions will apply.

#### 13.304 EAP Program Coordinator

The EAP Program Coordinator, or designee of the Administrator of the Courts, is responsible for developing and implementing the Judiciary's Employee Assistance Program. The EAP Program Coordinator will be responsible for but not limited to the following:

- A. Implementing and operating the EAP within the Judiciary;
- B. Serving as the initial point of contact for employees using the EAP;
- C. Making referrals to outside agencies/organizations as appropriate; and
- D. Coordinating or conducting educational activities on a variety of issues such as healthy lifestyle options, substance abuse, stress management, financial management/planning, suicide prevention, and/or balancing work and family responsibilities.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 14**

### **GRIEVANCE PROCEDURE**

**SOURCE:** JOG 10.

#### **STATEMENT OF POLICY:**

It shall be the policy of the Judiciary to promote favorable relations between all levels of management and its employees by resolving issues of complaints expeditiously, ensuring fair and equitable treatment of all employees, and promoting harmonious working relationships among all levels of employees.

The purpose of this grievance procedure is to secure, at the lowest possible administrative level, a prompt and mutually acceptable solution to grievances that may arise periodically over issues involving personnel actions or employment conditions.

#### **14.000 SCOPE AND DEFINITIONS.**

##### **14.001 Applicability**

- A. This rule applies to full-time (classified and unclassified) employees of the Judiciary.
- B. Two or more employees may file jointly only if the grievance issue and resolution requested is of the same nature.

##### **14.002 Definitions**

- A. Grievance - A grievance is any question or complaint filed by an employee alleging that there has been a misinterpretation, misapplication or violation of a personnel statute, rule, regulation, or written policy which directly affects the employee in the



performance of official duties; or that the employee has received prejudicial, unfair, arbitrary, capricious, hostile, intimidating, or unprofessional treatment in working conditions, or work relationships.

- B. Days - "Days" as used in these procedures mean workdays. In counting the number of days for each step, if the last day falls on the employee's weekend or a holiday, the filing time or receipt time will apply to the employee's next work day.
- C. Supervisor - "Supervisor" as used in these procedures means the grievant or another employee's immediate supervisor or anyone within their supervisory chain of command.
- D. Manager - "Manager" as used in these procedures means a division manager, regardless if the position title has the word "administrator."
- E. Management - "Management" as used in these procedures means a supervisor and/or a division manager, unless specified otherwise.

#### 14.003 Coverage

- A. Grievances may involve, but are not limited to, such matters as a personnel action taken; employee-supervisor relations; duty assignments not related to job classification; assigned shift or job locations; hours worked; working facilities and conditions; policies for granting leave; employee conditions imposed that are alleged by an employee or by a group of employees to be contrary to personnel rule or personnel policy.
- B. A written reprimand alleged by the employee to be unjustified to which the employee has not been previously been given an opportunity to respond is also covered in the grievance process because it is not an adverse action.
- C. When an aggrieved employee submits a written Equal Employment Opportunity Complaint based on an allegation of discrimination or harassment on the basis of the employee's race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any

other protected classification under federal or Guam law in connection with a matter which is subject to the grievance procedures, as well as the EEO Complaint Review Process, that allegation shall be processed under the Judiciary's EEO Complaint Review Process.

#### 14.004 Exclusions

##### A. General Exclusions

The following actions are not covered by these grievance procedures:

- i. Disqualification or ineligibility of an applicant for employment (Covered by Chapter 5);
- ii. Non-selection of an eligible applicant (Covered by Chapter 5);
- iii. Applicant examination ratings or results (Covered by Chapter 5);
- iv. Removal or dismissal during probationary period (Covered by Chapter 6);
- v. Appeals from classification and compensation determinations (Covered by Chapter 7 and 8);
- vi. Appeals of adverse personnel actions (Covered by Chapter 15);
- vii. Allegations or complaints of EEO covered discrimination; and
- viii. Appeals of performance evaluations under Chapter 9.

If an employee has questions about an action that is not mentioned above, the employee may inquire with the Human Resources Office for proper guidance on complaints or grievances.

#### **14.100 EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT REVIEW PROCESS.**

When an aggrieved employee submits a written allegation of discrimination or harassment on the basis of the employee's race, color, national origin, age, religion,

disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law in connection with a matter which is subject to the grievance procedures, as well as the EEO Complaint Review Process, that allegation shall be processed under the Judiciary's EEO Complaint Review Process.

#### **14.100 GENERAL PROVISIONS.**

##### **14.101 Freedom from Reprisal or Interference**

- A. An employee and the employee's representative shall be free to use the grievance system without restraint, denial, coercion, discrimination, or reprisal.
- B. No employee shall interfere or attempt to interfere with another employee's rights under this grievance system.

##### **14.102 Employee's Status and Work Time During Grievance Procedures**

An employee shall be on regular work status during each procedural level unless the employee is on leave status.

##### **14.103 Right to Seek Advice**

All levels of management will provide an opportunity for an employee to communicate with and seek advice from:

- A. Judiciary's Human Resources Office;
- B. Equal Employment Opportunity Officer or other EEO officials, counselors; or
- C. A supervisor or management official of a higher rank than the employee's immediate supervisor.

##### **14.104 Representation**

- A. An employee has the right to present a grievance with or without representation.

- B. An employee has the right to be accompanied, represented, and advised by a representative of the employee's choice at any stage of the grievance proceedings.
- C. An employee must notify the respective management official in writing at least one (1) day prior to any hearing or meeting when the employee will be represented by an attorney or there is a change in representation. Failure of this notification may delay any meeting, hearing, or proceeding date.
- D. An employee who prevails on appeal to the Superior Court or a higher court in a grievance case shall be reimbursed for any legal fees incurred in the appeal to the Superior Court or a higher court.

#### 14.105 Timeline for Presentation of the Grievance while on Leave Status

- A. An employee must file a grievance within the ten (10) day time frame.
- B. If the grievant is on approved leave during the 10-day presentation period, all time limits of the grievance procedures are suspended until the employee returns to non-leave work status.

#### 14.106 Extension of Time Limits

Deadlines may be extended only if mutually agreed, in writing, and the reasons for the extension are listed.

#### 14.107 Termination of Grievance

- A. An employee who has filed a grievance may terminate or withdraw the grievance at any time.
- B. Failure on the part of the employee to proceed to a higher step of the grievance procedures within the time period specified will automatically terminate the grievance.

#### 14.108 Management's Responsibility

An employee's grievance may or may not be objectively justified. What is important is that the grievance is real to the employee. When the grievance is well-founded, management has both a duty and a need to eliminate the cause. When the grievance is not well-founded, it is equally important to reach an understanding based on all the facts presented.

Therefore, this procedure should assure consideration of every employee's grievance with a degree of promptness, sympathy, understanding, fairness, competence, and authority to ensure that the employee has been treated fairly. Management shall allow the employee ample time during working hours to prepare the documentation necessary to file the grievance.

- A. It shall be the responsibility of management to attempt to settle grievances fairly and promptly at or near the organizational level where the grievance was introduced by the employee.
- B. Failure by management to render a decision to the employee within the allotted time at any step constitutes denial, and the employee may then proceed to the next step or level of the grievance procedures.

#### 14.109 Employee's Responsibility

- A. Each is expected to make a concerted effort to achieve settlement of their grievances. Each employee must promptly report the grievance to management.
- B. Each employee has the right to present matters to the employee's supervisor, and every supervisor has the obligation to act promptly and fairly on such matters, seeking the advice and assistance of others when necessary.
- C. It is the responsibility of the employee to obtain reports of personnel interviews, statements of witnesses and copies of decisions in support of a grievance.
- D. It is known that some grievances may present issues the supervisor cannot mediate or resolve. Examples of these situations are when the employee is filing or presenting a grievance which involves an action or decision made by a management official who has authority above the employee's supervisory level such as a division manager or the Administrator of the Courts. A grievance against a higher authority is covered in Section 14.500 herein.

#### 14.110 Human Resources Office's Responsibility

The Human Resources Office shall be responsible for:

- A. Training the employees appointed to the Grievance Review Committee;
- B. Coordinating all logistics such as meeting room, equipment, supplies, time sheets, notifications and other needs for the Grievance Review Committee;
- C. Serving as the facilitator in the event there is an offer from either parties to resolve the grievance at any level; and
- D. Providing guidance to the employee by monitoring the step processes and grievance forms to ensure documentation is complete and timelines are met.

#### **14.200 PROCEDURE.**

##### **14.201 Mandatory Use of the Procedure**

Employees must complete the step-by-step process as outlined in this section.

##### **14.202 Step 1: Initial Filing of Grievance and Referral to Mediation**

- A. An employee must present a grievance issue in writing on the prescribed Grievance Complaint Form within ten (10) days after the action, incident or occurrence which gave grounds for the grievance.
  - i. Day one (1) starts on the day after the incident, action, or cause of grievance.
  - ii. This initial presentation of grievance must be given directly to the grieving employee's supervisor.
  - iii. In the case of an employee filing a grievance against another employee, the grievance would be presented to the other employee's supervisor.
  - iv. In all cases, the employee is required to provide the Human Resources Office a copy of the initial grievance.
- B. Mediation: Within forty eight (48) hours after the presentation of a grievance in writing, the supervisor, division head, or other

authority must offer outside mediation by a nonprofit mediator selected by the Human Resources Administrator. The choice shall be presented on the Grievance Complaint Form, which shall contain the name of the grievant and all parties grieved against. The form will identify the parties involved and a checkbox to indicate an interest to proceed with mediation. If the grievant does not wish to proceed with mediation, the case shall not proceed to Mediation.

- i. **If Mediation proceeds to resolution:** Since all time limits are suspended, it is the grievant's responsibility to ensure that the case proceeds to mediation. On written confirmation that the parties agree to voluntary mediation, the time lines set forth in this grievance rule are immediately suspended.

**If the case is resolved by Mediation,** the parties must present a "Voluntary Mediated Resolution of Grievance," on which the terms of the resolution will be set forth, and must be signed by all parties to the mediation. This Form is considered a contract between the parties. Failure to observe the terms of this "Voluntary Mediated Resolution of Grievance" may form the basis of another grievance. A signed copy of this resolution must be given to the Human Resources Administrator for the grievance file.

- ii. **If Mediation is unsuccessful:** Upon written confirmation by the Mediator to the Human Resources Administrator and served on the party against whom the grievance is directed that the matter will not be resolved by mediation, the timelines are immediately reinstated and the process proceeds to Step 2.
- iii. **Mediation at any level.** By mutual agreement, the parties may enter mediation at any point during the grievance procedure and such voluntary participation in mediation will immediately suspend the time lines.

- C. After the parties fail to resolve the grievance through mediation, the grievant's immediate supervisor shall render a written decision within five (5) days from the date the immediate supervisor was notified by the mediator that no resolution can be reached, using

the same form submitted by the employee in order to document the completion of Step 1.

- D. In the event an employee is filing a grievance against another employee from another division or section, the grievant shall present the grievance directly to the other employee's immediate supervisor who shall comply with the steps provided. The grievant is required to provide a copy to grievant's immediate supervisor and the Human Resources Administrator.

#### 14.203 Step 2: Submission to Division Manager

A. Presentation of the Grievance to the Division Manager:

- i. An employee is entitled to present a grievance under Step 2 within five (5) days of receipt of the decision in Step 1, or if no decision was rendered, within five (5) days of the date it was due.
- ii. The grievance presented in Step 2 must be in writing on the grievance form and must be submitted and acknowledged received by the division manager.

B. Division Manager's Response to Grievance:

- i. The division manager must determine whether the grievance is timely, covered by the grievance procedures, and has been processed through Step 1.
- ii. The division head shall attempt to resolve the grievance. Upon receipt of the grievance, the division head shall render a decision, in writing, to the employee within five (5) days of receipt of the written grievance.
- iii. The division head shall be responsible for advising the employee on the next level of administrative remedies by proceeding to the formal grievance procedures if the employee is dissatisfied with the decision.

#### 14.204 Step 3: Filing with the Administrator of the Courts

Presentation of the Formal Grievance:



- A. An employee is entitled to present a grievance under Step 3 within five (5) days of receipt of the decision in Step 2 or, if no decision was rendered, within five (5) days of the date the decision was due.
- B. The Administrator of the Courts shall review the grievance case and determine if it can be resolved at the Administrator's level prior to referring the grievance to a Grievance Review Committee. The Administrator of the Courts must do one of two things no later than the 5th day of receiving the grievance, which is: 1) Attempt to resolve the grievance; or 2) Appoint the Grievance Review Committee.

#### 14.205 Grievance Review Committee ("GRC")

##### A. Appointment of the Committee:

This section establishes an orderly process for empaneling the Judiciary's GRC to serve on a ~~twelve (12) month~~ two-year basis. The Administrator of the Courts will appoint twelve (12) employees to serve on the ~~Annual~~ Grievance Committee, consisting of six (6) employees representing management and six (6) employees representing non-management from various divisions. These employees will serve on a running pool of names that will be readily activated to serve on the GRC, which will consist of three (3) or five (5) members. The Administrator of the Courts and the Human Resources Administrator are responsible for appointing, qualifying, and providing training to the court employees selected to serve ~~one (1) year~~ two years on appointment.

In the event the Administrator of the Courts is unable to resolve the grievance case, the Administrator of the Courts shall appoint the GRC within the five (5) days of receipt of the grievance case. The GRC will then be responsible to investigate the circumstances of the grievance, gather documentation and facts, hold hearings and make a recommendation to the Administrator of the Courts.

##### B. Committee Composition

The GRC shall normally consist of three (3) full-time employees for one single grievance case. In the event there is a grievance case filed by more than one (1) employee whose issue and resolution is

of the same nature, then five (5) employees will be appointed to serve on the GRC.

- i. In the case of a non-management employee's grievance, the committee composition will be one (1) management employee and two (2) non-management employees.
- ii. In the case of a management employee filing a grievance, the committee composition will be two (2) management employees and one (1) non-management employee.
- iii. In the case of two (2) or more employees filing a grievance case of the same nature, the committee composition will be a total of five (5) members. Two (2) management employees and three (3) non-management employees.

C. Management Defined

For purposes of the GRC, management employees are defined as those employees listed in the Administrator of the Courts' Management Team, Human Resources' list of mid-managers and supervisors who have direct or indirect supervision of subordinates. Supervisors who conduct performance evaluation ratings of their subordinate employees also fall within the definition of management employee.

D. Non-Management Defined

Non-management employees are defined as those employees who are not management or mid-management employees.

E. Recusal Protocol

Whenever there is a recusal, the Administrator of the Courts may select another management or non-management employee, whichever is applicable, from the list of employees appointed to serve for ~~one (1)~~ two years.

F. Mandatory GRC Member Rotation

The selection of employees to serve on the GRC shall be rotated from among the twelve (12) members so that at least each appointed employee is given the opportunity to serve on a GRC.

G. Human Resources Administrator Responsibility

The Human Resources Administrator shall have the responsibility to ensure appropriate representation for management and non-management employees regardless of classified or unclassified employees filing the grievance.

H. GRC Appointment Timeline

All three (3) or five (5) members of the GRC shall be empaneled by the fifth (5th) day after the grievance was received by the Administrator of the Courts. If a committee member self-recuses, or if the grievant requests for a recusal of one of the appointed members, the Administrator of the Courts is allowed an additional three (3) days to appoint a new member.

I. Grievant's Right to Request a Recusal

Within two (2) days of being notified, the grievant has the right to submit a written request to the Administrator of the Courts for recusal of any member specifying for the reasons for such recusal. specified in writing to the Administrator of the Courts within two (2) days after being notified.

J. Grievance Review Committee Inquiry

- i. The GRC shall be expected to convene and initiate a grievance inquiry or investigation appropriate to the nature and scope of the issues presented in the grievance.
- ii. The inquiry must be completed no more than five (5) days from the date the GRC was officially empaneled by the Administrator of the Courts. The five (5) days is inclusive of the Committee's report of findings and recommendation. If the GRC needs additional time, it must provide the reasons and get approval from the Administrator of the Courts. When the approval is

granted, the Human Resources Administrator must advise the grieving employee regarding the extension.

- iii. The GRC's inquiry may include the securing of documentary evidence and personal interviews in an effort to fully understand the issues and obtain the maximum information available pertinent to the issues.
- iv. The GRC shall conduct meetings, hearings and interviews during working hours and any personnel called or summoned to appear before the GRC shall do so without loss of salary.
- v. Hearings shall be informal and technical rules of evidence shall not apply. Proceedings of the investigation shall be recorded in summary form and shall contain all pertinent facts brought out during the investigation.
- vi. The GRC shall elect a "Chairperson" for purposes of signing requests for documents, summons to appear, time and attendance certification, and other needed documents for the GRC. The final recommendation to the Administrator of the Courts, however, must be signed by all appointed members of the GRC .
- vii. No confidential document may be released to the GRC without the consent of the document's author or approval of the Staff Attorney.

K. Pool of Names for Yearly Appointment by the Administrator of the Courts:

- i. If grievant is a Non-Management Employee

Grievance Review Committee = 1 Management + 2 Non-Management Employees

Back Up Alternates = 1 Management + 2 Non-Management Employees

- ii. If grievant is a Management Employee

Grievance Review Committee = 2 Management + 1 Non-Management Employees

Back Up Alternates = 2 Management + 1 Non-Management Employees

- iii. If grievants are Management and Non-Management Employees

Grievance Review Committee = 2 Management + 3 Non-Management Employees

- iv. Total number of employees to be appointed ~~on a yearly basis~~ shall be a pool of twelve (12) names. Six (6) representing management and six (6) representing non-management. When appointed by the Administrator of the Courts, these employees will serve on an on-call basis in the event of a need for a GRC.

- v. The selection of members in the event of a group of management and non-management employees filing a grievance will be selected from the pool of twelve (12) employees appointed to the ~~Annual~~ Grievance Committee.

L. ~~Annual Two-Year~~ Appointments

- i. The Administrator of the Courts will commence the ~~one (1) two-year~~ appointment of the twelve (12) employees beginning from the first work day of the calendar year.
- ii. Committee members that were not activated during the entire ~~twelve (12) month two-year~~ period may be extended or reappointed another year as requested by the Administrator of the Courts.
- iii. The Administrator of the Courts may appoint other employees at any time to fill the term of a committee vacancy caused by separations from employment with the Judiciary or for those on extended or indefinite periods of leave.

iv. Training and Resources

- a. The Human Resources Administrator is tasked with training, providing equipment, supplies and the meeting location for the GRC.
- b. The Human Resources Administrator will communicate and certify the time and attendance of committee members when activated for payroll coordinating purposes.
- c. The Human Resources Administrator may conduct exit interviews with the committee members for purposes of soliciting recommendations.

M. The Grievance File

The Human Resources Administrator shall establish the grievance file with an identifying case number once the grievance has been filed at the initial step. The file is independent, separate and distinct from the grievant's official personnel folder maintained by the Human Resources Office. The grievance file is the official record and must contain all documents pertaining to the grievance including:

- i. Completed forms for all the steps completed;
- ii. Statement of facts and statement(s) of witness(es) if any;
- iii. Records/copies of pertinent documents related to the grievance;
- iv. Reports of personal interviews;
- v. GRC's accumulated records of pertinent documentation; and
- vi. All decisions made relative to the step-by-step process.

The grievance file can be reviewed only by the grievant and/or the grievant's authorized representative. Information that is received by the committee but cannot be made available to the grievant in the form it was received must be included in the file in a form which the grievant can review or it must not be used.

N. Grievance Review Committee Report

The GRC shall complete its investigation and submit a written report on their findings and recommendation to the Administrator of the Courts within the five (5) days. Extension of the five (5) days is provided in this same section.

O. Administrator of the Courts' Written Decision

The Administrator of the Courts shall render a written decision to the grievant within three (3) days of receipt of the written report from the GRC.

**14.300 GRIEVANCES FILED AGAINST A HIGHER AUTHORITY.**

14.301 Grievance Against a Division Manager

- A. An employee may file a grievance against a division manager for an action, inaction, decision, or incident. In this event, the grievant may proceed to file the grievance directly with the division manager within ten (10) days of the action, incident or occurrence. All forms required by Step 1 must be submitted in writing. (Note: The mediation process as outlined in this section continues to apply in this type of grievance case).
- B. This provides a time period whereby the employee is requesting the division manager to reconsider or rectify the issue or complaint which gave cause to the grievance.
- C. The division manager shall respond to the employee with a decision within five (5) days from the date of receipt of the grievance filed.
- D. If the grievant is not satisfied with the division manager's decision, the grievant may proceed to file a formal grievance under Step 3 to the Administrator of the Courts within five (5) days upon receipt of response from the division head.

- E. The Administrator of the Courts will resolve the grievance or may empanel the GRC in accordance with the provisions and steps under this section.
- F. Timelines, GRC appointments, responsibilities and all other provisions found under this section will continue to apply.

#### 14.302 Grievance Against the Administrator of the Courts

- A. An employee may file a grievance complaint against the Administrator of the Courts for an action, inaction, decision, or incident which gave cause to grieve against the Administrator of the Courts. The employee would proceed to file the grievance complaint in writing to the Administrator of the Courts within ten (10) days of that action, incident or occurrence. Step 1 must be submitted in writing on the form prescribed. The Administrator of the Courts has five (5) days to respond from the date the grievance was received.
- B. In the event the employee is not satisfied with the Administrator of the Courts' response, decision or resolution being offered, the grievant may proceed to the next level, which would refer the grievance case to the GRC.
- C. The employee must notify the Human Resources Administrator in writing, within five (5) days that the employee is not satisfied with the Administrator of the Courts' decision, response or inaction therefore, requests the Human Resources Administrator to empanel the GRC pursuant to these procedures.
- D. The Human Resources Administrator will then notify the Chairperson of the Judicial Council of the need to appoint an Administrative Hearing Officer (AHO) in preparation to receive and decide on the GRC's findings and recommendations.
- E. Timelines, GRC appointments, responsibilities and all other provisions will continue to apply.
- F. After the GRC completes its inquiry, findings and recommendation, it will then forward its report or recommendation to the designated AHO, via the Human Resources Administrator within three (3) days from the date the recommendation was received by the Human Resources Administrator.



- G. The AHO will then have ten (10) days to review the complete grievance case file and render a decision from the date the AHO received the grievance file from the Human Resources Administrator.
- H. The AHO may hold a hearing at which the grievant and the Administrator of the Courts' representative, and the GRC, if the AHO so requests, may make presentations on the evidence.
- I. The AHO may request to meet with grievant and grievant's representative and/or the GRC.
- J. The AHO shall deliver a decision to the grievant, the Administrator of the Courts, Human Resources Administrator and the Chairperson of the Judicial Council no later than the thirtieth (30th) day from the date the case was received by the AHO.
- K. The AHO's decision is considered the final administrative process of the Grievance Procedure.
- L. Appeal to Superior Court

In the event the employee is not satisfied with the AHO's decision or did not receive a decision within the deadlines specified, the employee has thirty (30) days to file a petition for judicial review in the Superior Court.

#### **14.400 GRIEVANCES FILED BY UNCLASSIFIED EMPLOYEES.**

Unclassified employees, defined as Judiciary employees occupying a full-time position who did not compete under the merit system for their position, are permitted to file grievances in the same manner as classified employees with the following distinctions:

- A. Section 14.002, 14.003, 14.004, 14.200, and 14.300 shall apply and be available to all unclassified employees.
- B. Section 14.700 (Grievance Appeals) shall not be available to unclassified employees.
- C. Section 14.401 and 14.402 shall continue to apply to unclassified employees however appeal rights to the Judicial Council level does not apply. The last administrative step applicable is the GRC recommendation to the Administrator of the Courts and the final

decision rendered by the Administrator of the Courts based on the GRC's report.

#### **14.500 GRIEVANCE APPEALS.**

**NOTE:** These grievance appeal procedures are taken in large part from Part II of the "Judicial Council of Guam Hearing Officer Procedures for the Hearing of Appeals of Adverse Actions, Grievances and EEO Matters" (adopted by the Judicial Council in Resolution No. JC16-025) and in part from former JOG Personnel Rule 10 (Grievance Procedures).

##### **14.501 Right to Appeal**

An employee who is entitled to file a grievance and who has complied with the grievance procedures herein may appeal the decision of the Administrator of the Courts to the Judicial Council if:

- A. the employee is not satisfied with the decision, action or resolution offered by the Administrator of the Courts in Step 3; or
- B. the Administrator of the Courts failed to render a decision within the three (3) days of receiving the written report from the Grievance Review Committee

##### **14.502 Appeal Requirements**

A grievance appeal must meet the following requirements:

- A. the appeal must be filed in writing with the Judicial Council within five (5) days of:
  - i. receipt of the decision by the Administrator of the Courts, or
  - ii. inaction by the Administrator of the Courts within three (3) days of receipt of the written report from the Grievance Review Committee;
- B. contain sufficient detail to identify and clarify the basis for appealing the Administrator of the Court's decision;
- C. specify the personal relief or resolution requested by the employee; and
- D. a copy of the appeal must be provided to the Administrator of the Courts and Human Resources Administrator.

14.503 Judicial Council Hearing Officer

The grievance appeal shall be heard, considered and decided by a Hearing Officer appointed by the Judicial Council.

14.504 A grievance appeal shall be allowed by the Judicial Council Hearing Officer only if predicated on:

- A. A violation of the Personnel Rules and Regulations;
- B. The procedural rights of the employee filing the complaint as outlined have been disregarded; or
- C. The decision of the supervisor, GRC, or Administrator of the Courts is unjust, inequitable or not in accord with the facts.

14.505 Appeal and Decision

- A. The Judicial Council Hearing Officer shall review the official grievance file and all relevant written representations.
- B. The Judicial Council Hearing Officer, may afford the parties an opportunity to appear personally and present oral arguments and representations.
- C. The Judicial Council Hearing Officer shall normally be expected to issue a written decision within ten (10) days after receipt of the grievance. Copies of the decision shall be provided to the parties and the Judicial Council.
- D. Judicial Review

The decision of the Judicial Council Hearing Officer shall be final but subject to judicial review. In order to seek judicial review of a Judicial Council Hearing Officer decision, the Appellant shall file a petition for judicial review in the Superior Court within thirty (30) calendar days of the decision.

### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 15**

### **ADVERSE ACTIONS AND JUDICIAL COUNCIL OF GUAM HEARING OFFICER PROCEDURES**

**SOURCE:** JOG 11 (Adverse Actions Covered/Definitions).

#### **STATEMENT OF POLICY:**

It is the policy of the Judiciary to set forth the guidelines and procedures by which the appointing authority may suspend, demote or dismiss a permanent employee. This chapter also provides an employee a clear understanding of the Judicial Council of Guam Hearing Officer Procedures for appeals should they be involved in an adverse action, grievance, Equal Employment Opportunity matter, or subsequent appeal. These procedures seek to resolve disputes justly and to preserve and protect the due process rights of all permanent classified Judiciary employees.

#### **15.000 COVERAGE.**

**SOURCE:** New.

This chapter shall apply to all permanent classified Judiciary employees.

**SOURCE:** Current JOG 11.10 (Employees Covered).

#### **15.100 SCOPE.**

For the purpose of this chapter, the term “dismissal” shall not be interpreted to include:

- A. Action taken by the Administrator of the Courts referenced in Chapter 16.
- B. Action taken by the Administrator of the Courts in the termination of services of an original probationary employee.

**SOURCE:** New.

#### **15.200 EMPLOYEE DISCIPLINE.**

**SOURCE:** New.

15.201 General Provision

**SOURCE:** New.

A. Responsibility for Discipline:

The Administrator of the Courts has the responsibility to remove, suspend, or demote to another position on a fair and equal basis, any employee in the classified service whose conduct or capacity is such that the employee's removal, suspension or demotion will promote the efficiency of Judiciary service.

**SOURCE:** New. PAG 11.201 A(Responsibility for Discipline).

B. Delegation of Authority:

The Administrator of the Courts may delegate responsibility for administration of day-to-day discipline to division managers, to include such progressive discipline as verbal counseling, letters of warning, letters of reprimands, and recommendations of adverse actions.

**SOURCE:** New. PAG 11.201 B. (Delegation of Authority)

C. Vested Authority:

The Administrator of the Courts is the only official vested with the final authority to take adverse action, including removal, demotion, or suspension against an employee.

**SOURCE:** New. PAG 11.201 C. (Vested Authority)

15.202 Job Protection Procedures in Employee Discipline Actions

All levels of supervisory and management officials share the responsibility for strict adherence to employee's job protection rights and considerations including:

- A. Informal counseling at the first indication that an on-the-job or personal problem is affecting the employee's job performance.
- B. A reasonable opportunity for the employee to correct inadequate performance including providing specific training to the employee to improve the level of the employee's job performance, or to correct

unacceptable habits or practices, such as tardiness or lack of attention to work requirements.

- C. The right to reply to the notice of proposed adverse action that may result in a suspension, demotion or dismissal.
- D. The right to reply to the notice of proposed adverse action and careful consideration of any reply.
- E. The right to appeal to the Judicial Council as provided in this Chapter.

The Administrator of the Courts shall require that each supervisor and manager receive orientation and training on the Judiciary's basic intent that discipline is a tool for correcting people in such a way as to produce satisfactory job performance. The use of discipline in a punitive manner is inconsistent with the Judiciary's concept of discipline as an opportunity to provide constructive correction.

**SOURCE:** [New. PAG 11.202 \(Job Protection Procedures in Employee Discipline Actions\)](#)

## **15.300 DEFINITIONS.**

### **A. Suspension**

Suspension is a disciplinary action placing an employee in a temporary non-duty and non-payment status, normally not to exceed thirty (30) working days in one (1) calendar year.

**SOURCE:** [JOG 11.01 \(Suspensions\)](#)

### **B. Demotion**

Demotion is the involuntary reduction of an employee for cause from a position in another class where the maximum rate of pay for the class which the employee held or a reduction to a lower salary step in the same range.

**Source:** [JOG 11.02 \(Demotion\)](#)

### **C. Dismissal**

Dismissal is the involuntary separation, discharge or removal for cause of an employee from the Judiciary's service.

**SOURCE:** [JOG 11.03 \(Dismissal\)](#)

## **15.400 PROHIBITIONS.**

The Judiciary may not take an adverse action against an employee except for such substantial cause as will promote the efficiency of the Judiciary's operations. A just substantial cause is necessary as a basis for an adverse action and the action must be determined on the merits of each individual case. Among such causes as will promote the efficiency of the service are those listed in this Chapter.

**SOURCE:** JOG 11.05 (Prohibitions)

## **15.500 EMPLOYEES COVERED.**

All employees in the classified service of the Judiciary are covered in this chapter except the following:

- A. Employees whose employment is purely temporary, seasonal, intermittent, part-time, or only for a specific project; and
- B. Employees serving their probationary periods.

**SOURCE:** JOG 11.10 (Employees Covered) & 11.10A & 11.10B

## **15.600 PROGRESSIVE DISCIPLINE.**

Progressive discipline is designed to provide a structured corrective action process to improve and prevent a recurrence of undesirable employee behavior, performance or any violations of the Judiciary's Code of Conduct and/or Personnel Rules and Regulations.

The Judiciary reserves the right to combine or skip steps depending on the facts or circumstances of each situation and the nature of the offense. Some factors that will be considered are whether the offense is repeated despite coaching, counseling or training; the employee's work record; and the impact the conduct and performance issues have on the Judiciary.

In situations where performance, conduct or safety incidents are recurring, problematic and harmful, the most effective action may be to proceed directly to Adverse Action Procedures.

**SOURCE:** New. SHRM Policy

## **15.700 STEPS FOR PROGRESSIVE DISCIPLINE.**

**SOURCE:** New. SHRM Policy

### **15.701 Step 1: Verbal Warning and Counseling**

Verbal warning creates an opportunity for the immediate supervisor to bring attention to the existing performance, conduct, or attendance issue. The supervisor should discuss with the employee the nature of the issue or the violation of policies, procedures, personnel rules or code of conduct. The supervisor is expected to clearly describe expectations and steps the employee must take to improve performance or resolve the issue.

Within five (5) workdays, the supervisor will complete the Judiciary's Counseling Form documenting the verbal counseling. The employee will be asked to sign and be provided a copy of this document to demonstrate understanding of the issues and the corrective action.

This form may remain at the division level.

**SOURCE:** New. SHRM Policy

#### **15.702     Step 2: Written warning**

Written warning involves more formal documentation of the violation, performance, conduct or attendance issues and consequences.

The immediate supervisor and Division Manager will meet with the employee to review any additional incidents or information about the performance, conduct, violations or attendance issues as well as any prior relevant corrective action plans. Supervisor or Division Manager will outline the consequences for the employee of continued failure to meet performance or conduct expectations.

A formal Performance Improvement Plan (PIP) requiring the employee's immediate and sustained corrective action will be issued within five (5) workdays of a Step 2 meeting. The written warning may also include a statement indicating that the employee may be subject to adverse action, up to termination, if immediate and sustained corrective action is not taken.

The employee will be provided copies of all progressive discipline documentation, including the PIP. The employee will be asked to sign copies of this documentation attesting to the employee's receipt and understanding of the corrective action outlined in these documents.

Copies of these documents will also be provided to the Human Resources Office to be placed in the employee's official personnel file for one (1) year and then removed should no further infractions occur.

**SOURCE:** New. SHRM Policy

### **15.800     PERFORMANCE/CONDUCT NOT SUBJECT TO PROGRESSIVE DISCIPLINE.**



- A. Illegal actions are not subject to progressive discipline and may result in adverse action. Such behavior may be reported to local law enforcement authorities.
- B. Theft, substance abuse, intoxication, fighting and other acts of violence at work are also not subject to progressive discipline and may be grounds for adverse action.

**SOURCE:** New. SHRM Policy

## **15.900 AUTHORIZED CAUSES FOR ADVERSE ACTION.**

**SOURCE:** New. DOA 11.303; PAG 11.303 (Authorized Causes for Adverse Action).

The list below provides examples of just cause and is not considered all inclusive. Performance and/or behavior relating to the employee's work that is inconsistent with the employee's obligation to the employer forms the basis for discipline. Examples of just cause include but are not limited to:

- A. Refusing to perform assigned duties or performing assigned duties in an inefficient, incompetent, or negligent manner;
- B. Unsatisfactory performance, careless workmanship, or attempting to conceal or destroy defective work, sleeping or loafing while on duty or idleness while on duty;
- C. Acting in a manner that reflects poorly upon the integrity of the Judicial Branch;
- D. Discourteous treatment of the public, customers or other employees;
- E. Insubordination, including but not limited to, resisting management's directives through actions and/or verbal exchange, or failure or refusal to follow supervisor's instructions to perform assigned work, or otherwise failure to comply with applicable established written policy(ies);
- F. Unauthorized absence, tardiness, failure to return from breaks/lunch, departure from duty station or failure to provide proper documentation for absence;
- G. Attempting to use influence to affect a court action's outcome;
- H. Making a knowingly false statement to judges or court staff regarding court business;

- I. Falsification or mishandling of records, such as, but not limited to reports, time records, information system records, leave records, employment applications, or other official Judiciary documents;
- J. Offenses related to Judiciary charge/debit card;
- K. Taking reprisal against an employee for exercising rights provided by Guam law or statutes;
- L. Neglecting to take corrective action regarding job-related misconduct;
- M. Failing to obtain and maintain current licensure or certification required as a condition of employment;
- N. Violation of safety rules and regulations;
- O. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment;
- P. Deliberately making false, malicious statements against another person or entity to undermine reputations;
- Q. Using court property, equipment, or funds in a careless, negligent, or improper manner;
- R. Stealing court property, equipment or funds;
- S. Violations of any Equal Employment Opportunity provision, including discrimination based upon classifications in regards to race, color, national origin, religion, disability, genetic information, pregnancy, sex (including general identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law;
- T. Violations of Code of Conduct;
- U. Violations of Firearms Policy;
- V. Violation of Drug Free Workplace Policy;
- W. Attempting to use undue influence for a promotion, leave, favorable assignment, or other individual advantage;
- X. Distributing literature, vending, soliciting, or collecting contributions while on the job and/or on the Judiciary premises or property, utilizing court

property or assisting with the same, without prior authorization of the Administrator of the Courts;

- Y. Refusal to testify or cooperate in connection with investigations, inquiries, or other proper proceeding;
- Z. Engaging in political activity, outside employment or private activities prohibited by law;
- AA. Bringing a weapon into the workplace, unless carrying a weapon is a part of the employee's job duties;
- AB. Failing to report an arrest for DWI or revocation of drivers' license when a drivers' license is required for the job;
- AC. Fraud in securing appointment;
- AD. Reporting to work under the influence of, or when ability is impaired by the use of alcohol or the unlawful use of controlled substance;
- AE. Unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the Judiciary's premises including while operating the Judiciary's equipment;
- AF. Criminal convictions for felonies or misdemeanors while employed, including conviction of a moving traffic violation while operating the Judiciary's equipment;
- AG. Acts of physical violence or fighting endangering and threatening the life or safety of customers, employees, or the public;
- AH. Engaging in gambling related activities or failure to meet financial obligations; or
- AI. Acts prohibited by Section 9102, Title 4 of GCA relating to strikes against the Government or any acts against national security.

#### **15.1000 ADVERSE ACTION COVERED.**

- A. These Rules apply to the following adverse actions:
  - 1. Suspension
  - 2. Demotion (disciplinary action)
  - 3. Dismissal

- B. The use of any combination of the adverse actions listed for the same offense is prohibited.

**SOURCE:** New. PAG 11.305 (Adverse Action Covered)

## **15.1100 ADVERSE ACTION PROCESS.**

### **15.1101 Ninety Day Rule**

Under 4 GCA § 4406(b), an employee in the classified service must be given the final notice of adverse action and statement of charges no later than:

- A. Ninety (90) calendar days after management knew or should have known the facts or events which form the alleged basis for the adverse action; or
- B. Ninety (90) calendar days from the date of entry of a judgment of conviction in any court of competent jurisdiction that forms the alleged basis of the adverse action.

**SOURCE:** 4 GCA § 4406.

### **15.1102 Notice of Proposed Adverse Action**

An employee in the classified service who is demoted, dismissed, or suspended shall be given immediate written notice stating any and all reasons, specifically and in detail, for the proposed action. The written notice must make it clear that it concerns only proposed action and not a matter already decided. Copies of the charges must be filed with the Human Resources Office. The Administrator of the Courts or designated manager may issue the proposed adverse action to the employee.

**SOURCE:** JOG 11.15 (Notice of Proposed Adverse Action); PAG 11.306 (Notice of Proposed Adverse Action...designation of AOC)

### **15.1103 Employee's Answer**

Under 4 GCA § 4406(d), an employee shall be entitled to twenty (20) calendar days to answer the charge(s) contained in the written notice of proposed adverse action, personally or in writing, and to submit affidavits in support of the employee's answer to the Administrator of the Courts or designated manager. The employee shall have the right to counsel and may be represented by a person of the employee's choice. When the employee

requests an opportunity to answer personally, the Administrator of the Courts or designated manager shall be available for a conference on the employee's answer.

When a twenty (20) day proposed notice period falls on Saturday, Sunday, or a legal holiday, the next business day shall constitute the twenty (20) day filing deadline. The entire twenty (20) days for the employee to respond to the notice of proposed adverse action must expire before a final notice of adverse action is issued.

**SOURCE:** 4 GCA §4406(d).

#### 15.1104 Consideration of Answer

The employee's answer constitutes the employee's defense and, as such, shall be accorded, detailed and objective consideration before reaching a decision on the proposed adverse action. The Administrator of the Courts or designated manager shall determine whether the proposed action, under all circumstances, is such cause as will promote the efficiency of the Judiciary's service. When appropriate, the proposed action may be withdrawn, or a less severe action may be substituted without issuing a new notice of proposed adverse action. The Administrator of the Courts shall not, however, substitute a more severe action originally proposed, nor may rely on reasons which were not stated in the proposed notice.

**SOURCE:** JOG 11.25 (Consideration of Answer)

#### 15.1105 Suspension During Notice Period

- A. An employee must be retained in active duty status during the notice period. However, in an emergency situation, an employee may be immediately suspended during the notice period, but not to exceed twenty (20) work days under any of the following conditions:
  - i. the continued presence of the employee would interfere with the efficient operations of the Judiciary, or the, of the employee or others ;
  - ii. suspension is necessary to eliminate the possibility of deliberate damage to equipment, property or important documents; or
  - iii. the employee's absence without authorized leave prevents the issuance of notice of proposed adverse action and the Judiciary's attempt to contact the employee was unsuccessful.

**SOURCE:** New. PAG 11.308 (Suspension During Notice Period)

- B. Suspension under this section is a separate action and is appealable to the Judicial Council. The number of days suspension under this section shall be considered as part of the final disciplinary penalty.

**SOURCE:** JOG 11.30 (Suspension During Notice Period)

#### 15.1106 Leave Pending Investigation

In cases requiring investigations of allegations against an employee involving misappropriation of Judiciary funds or property or acts involving moral turpitude, the Administrator of the Courts may order the employee on administrative leave of absence with pay not to exceed fifteen (15) days. The administrative leave may be terminated by the Administrator of the Courts by giving forty-eight (48) hours notice in writing to the employee.

**SOURCE:** JOG 11.35 (Leave Pending Investigation)

#### 15.1107 Employment Status During Imprisonment

- A. An employee who is incarcerated pending disposition of a case by the court, and who does not have accrued annual leave, may be granted leave without pay at the discretion of the Administrator of the Courts.
- B. The Administrator of the Courts shall determine whether to take adverse action against an employee so imprisoned or take such appropriate action necessary pursuant to laws and the Judiciary's Personnel Rules and Regulations. Nothing in this Section shall preclude the Administrator of the Courts from taking adverse action against an employee during imprisonment or upon release.

**SOURCE:** New. PAG 11.310 Employment Status During Imprisonment

#### 15.1108 Final Notice of Adverse Action

An employee is entitled to a final notice of the Judiciary's decision within ten (10) calendar days after receipt of the employee's answer to the charge(s). The final notice shall be delivered to the employee at or before the time the action will be made effective. The final notice shall be in writing, be dated, state the specific facts found upon which such action is based, and inform the employee of the right to appeal to the Judicial Council within twenty (20) calendar days of the effective date of the action.

Copies of the final notice of adverse action shall be filed by the Judiciary with the Judicial Council not later than the workday next following the effective date of the action.

**SOURCE:** JOG 11.40 (Final Notice of Adverse Action)

#### 15.1109 Service of Proposed and Final Notices of Adverse Action

The proposed and final notices of adverse action shall be personally served upon the employee. In the event, the Administrator of the Courts cannot locate the employee after reasonable efforts have been made to locate the employee, service of the proposed or final notices may be made by leaving the notice at the employee's dwelling or usual place of abode with some person of suitable age and discretion residing therein, or by registered mailing the notice to the employee at the last known address. Service by registered mail is complete upon mailing.

**SOURCE:** New. PAG 11.313 (Service of Proposed and Final Notices of Adverse Action)

### **15.1200 GUIDELINES FOR DISCIPLINARY OFFENSES AND PENALTIES.**

**SOURCE:** New.

#### 15.1201 General Provisions

- A. The table that follows is not intended to cover every possible type of offense affecting the efficiency of the service. Penalties for offenses not listed will be prescribed by the Administrator of the Courts.
- B. Many of the items listed on this schedule combine several offenses in one statement, connected by the word "OR". Usage of the word "OR" in a charge makes it non-specific. Use only the items which describe the employee's actual conduct and leave out parts which do not apply.
- C. Penalties for disciplinary offenses will, in general, range from the minimum penalty to the maximum indicated. In unusual circumstances, depending on the gravity of the offense, the past record, and the position of the employee, a penalty outside the general range may be imposed.
- D. Suspension penalties on this schedule apply to work days and holidays.

E. Depending on the gravity of the offenses, dismissal proceedings may be instituted against an employee for any number of offenses committed. A greater penalty may be imposed for any offense if the circumstances justify greater penalty.

F. In as much as a reprimand is not an adverse action under these rules, a management official need not apply the Adverse Action Procedures. The penalty of reprimand is included in the schedule of penalty to provide certain flexibility for management's discretion to institute progressive disciplinary action against an employee or group of employees.

G. Documents relating to reprimand(s) shall not remain in an employee's personnel jacket for more than one (1) year from date of issue.

**SOURCE:** New. PAG 11.401 (General Provisions)

15.1202 Range of Penalties for Stated Offenses: (Reprimands – Suspensions – Demotion -Dismissals)

**SOURCE:** JOG Rule 11 and US DOJ Table of Offenses and Penalties for employee discipline.

This Table provides a list of common infractions, along with a suggested range of penalties for each; it does not presume to cover all possible offenses, nor does it mandate the use of specific penalties in most disciplinary situations. The range of penalties described in the Table is intended to serve as a guide to discipline, not a rigid standard, and deviations are allowable for a variety of reasons. Greater or lesser penalties than suggested may be imposed as circumstances warrant, and based on a consideration of mitigating and aggravating factors. Management must exercise reasonable judgment and consider all relevant factors in determining the most appropriate corrective action for each situation. Any penalty determination outside the suggested range should be based upon a reasonable consideration and the rationale documented in the notice.

The use of this Table as a guide will help to ensure appropriateness of penalty in relation to the charge(s), as well as relative consistency in discipline throughout the Judiciary. The fact that a particular offense is not listed nor reference to a particular policy or rule is made in the Table does not mean that the employee cannot be charged with that offense. In such instances, a reasonable penalty can be determined with the assistance of the Human Resources Administrator.

The Table lists only disciplinary and adverse actions which become a matter of record in the employee's Official Personnel File; it does not mention verbal warnings, counseling notices, and other corrective actions which may be



more appropriate for correcting minor offenses. The First Offense column, therefore, refers to the first offense for which a disciplinary/adverse action is taken, although it may not be the first time the employee engaged in misconduct.

In addition to a management-initiated corrective action, an employee also may be subject to criminal prosecution when there is evidence of a possible statutory violation.

Nature of Offense (General Misconduct)	Penalty for First Offense	Penalty for Second	Penalty for Third Offense	Remarks (References may be made to other Chapters, administrative policies/guidelines or statutes not listed)
<p>1. Attendance-related offenses.</p> <p>a. Absence without leave (AWOL). This includes tardiness and unauthorized delay in returning from lunch and break periods, or in returning after leaving work station on official business; unauthorized departure or absence from duty station.</p> <p>b. Failure to follow established leave procedures; failure to provide administratively acceptable documentation to support absence(s).</p> <p>c. Excessive tardiness</p> <p>d. Excessive unauthorized absences (e.g., more than 5 consecutive workdays).</p>	<p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>5-day suspension to removal</p>	<p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>10-day suspension to removal</p>	<p>30-day suspension to removal</p> <p>30-day suspension to removal</p> <p>30-day suspension to removal</p> <p>Removal</p>	<p>Refer to Chapter 11 (Leave of Absence) for leave requirements and guidance.</p> <p>Penalty depends primarily on length and frequency of unacceptable absences. Removal may be appropriate for a first or second offense if the absence is prolonged, the failure to adhere to leave procedures is flagrant, or the circumstances are otherwise particularly burdensome.</p>

<p>2. Performance</p> <p>a. Careless workmanship resulting in spoilage or delay in production.</p> <p>b. Covering up or attempting to conceal defective work; removing or destroying same without permission.</p> <p>c. Failure to carry out judge's order.</p> <p>d. Attempting to use influence to affect a court action's outcome.</p> <p>e. Failing to obtain and maintain current licensure or certification required as a condition of employment.</p> <p>f. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.</p>	<p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 5-day suspension</p>	<p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p> <p>5- to 20-day suspension</p>	<p>20-day suspension to removal</p> <p>20-day suspension to removal</p> <p>20-day suspension to removal</p> <p>20-day suspension to removal</p> <p>20-day suspension to removal</p> <p>20-day suspension to removal</p>	
<p>3. Violating traffic regulations driving on Government premises, or improper operation of government motor vehicles.</p>	<p>Written Reprimand to 5-day suspension</p>	<p>5- to 20-day suspension</p>	<p>20-day suspension to removal</p>	<p>Refer to Judiciary's Official Vehicle Policy.</p>
<p>4. Improper or unauthorized release of sensitive and administratively-controlled information or employee records; failure to safeguard classified material.</p> <p>a. Information is not compromised and release is unintentional.</p> <p>b. Information is compromised and release is unintentional.</p> <p>c. Release of restricted information is deliberate.</p>	<p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 20-day suspension</p> <p>20-day suspension to removal</p>	<p>5- to 20-day suspension</p> <p>20-day suspension to removal</p> <p>Removal</p>	<p>20-day suspension to removal</p> <p>Removal</p>	<p>Refer to Chapter 3 (Code of Conduct) regarding the misuse of personal information</p>

<p>5. Offenses related to substance abuse.</p> <p>a. Alcohol-related</p> <p>(1) Reporting to or being on duty while “under the influence” of alcohol.</p> <p>(2) Unauthorized use and/or possession of alcoholic beverages while on Judiciary premises (or operating an official vehicle).</p> <p>(3) Operating an official vehicle while “under the influence” of alcohol.</p> <p>(4) Failing to report an arrest for DWI or revocation of drivers’ license when a drivers’ license is required for the job.</p> <p>b. Drug-related</p> <p>(1) Administratively confirmed positive finding under the testing portion of the Judiciary’s Drug-Free Workplace Program.</p> <p>(2) Unlawful use, being under the influence or unauthorized possession of drugs, drug paraphernalia or controlled substance while on Government premises or in a duty status.</p> <p>(3) Sale or transfer of an illegal drug or controlled substance while on Judiciary premises (or operating an official vehicle).</p> <p>(4) Refusal or failure to provide a required specimen for drug-testing; tampering with a drug-test specimen; refusal to obtain counseling or rehabilitation program (after finding of illegal drug use).</p>	<p>Written Reprimand to 5-day suspension</p> <p>Written Reprimand to 20-day suspension</p> <p>20-day suspension to removal</p> <p>Written Reprimand to 20-day suspension</p> <p>Written Reprimand to removal</p> <p>Written Reprimand to removal</p> <p>Removal</p> <p>10-day suspension to removal</p>	<p>5- to 20-day suspension</p> <p>20-day suspension to removal</p> <p>Removal</p> <p>20-day suspension to removal</p> <p>Removal</p> <p>20-day suspension to Removal</p> <p>20-day suspension to removal</p>	<p>20-day suspension to removal</p> <p>Removal</p> <p>Removal</p>	<p>Refer to Chapter 8 (Pay Administration) , Judiciary’s Drug Free Workplace Policy and Official Vehicle Policy.</p> <p>Actions involving these offenses must assure that counseling or rehabilitative assistance is offered; however, referral to an employee assistance program (EAP) does not preclude the initiation of corrective action. The illegal drugs currently tested for include: marijuana, cocaine, opiates, amphetamines, methamphetamine, barbiturates and alcohol. However, the Judiciary is authorized to test for any illegal drugs as deemed necessary. When there is possession of illegal drugs - call law enforcement and notify the Administrator of the Courts or the Human Resources Administrator. When the substance is prescribed by an appropriate medical authority and used accordingly, it would not be an offense. This requires mandatory initiation of removal from service for a second offense of failing to refrain from illegal drug use</p>
<p>6. Discourteous conduct (e.g., rude, insolent, disgraceful acts or remarks) toward other judiciary employees, clients or to the public.</p>	<p>Written Reprimand to 5-day suspension</p>	<p>5- to 20-day suspension</p>	<p>20-day suspension to removal</p>	<p>Refer to Chapter 3 (Code of Conduct )</p>

7. Boisterous or disruptive/disorderly conduct; use of insulting, intimidating, abusive or offensive language to or about another judiciary employee.	Written Reprimand to 5-day suspension	5- to 20-day suspension	20-day suspension to removal	Refer to Chapter 3 (Code of Conduct )
8. Deliberately making known false, malicious, or unfounded statements against another judiciary employee or any other government official which could undermine the authority or damage the reputation of those concerned.	Written Reprimand to removal	10-day suspension to removal	20-day suspension to removal	Refer to Chapter 3 (Code of Conduct)
9. Threatening statements or behavior (of a physical nature).	10-day suspension to removal	Removal		Charge involving “threat” must consider the listener's reactions, the listener's apprehension of harm, the speaker's intent, any conditional nature of the statements, and the attendant circumstances
10. Fighting and offenses related to fighting.  a. Engaging in potentially dangerous “horseplay.”  b. Hitting, pushing, or other acts against another without causing injury.  c. Hitting, pushing, or other acts against another causing injury.	Written Reprimand to 10-day suspension  5- to 20-day suspension  20-day suspension to removal	10-day suspension to removal  20-day suspension to removal  Removal	20-day suspension to removal Removal	Penalty depends on such factors as provocation, extent of injuries, and whether actions were defensive or offensive in nature.
11. Misconduct of a sexual nature that includes, but is not limited to, unwelcome sexual remarks, indecent comments/jokes, offensive sexual banter, unwanted sexual advances, or unwelcome physical touching.	Written Reprimand to removal	10- day suspension to removal	Removal	Refer to the Judiciary’s EEO Policy. More severe discipline is appropriate for egregious misconduct.
12. Failure to provide equal opportunity regardless of race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law.	Written Reprimand to removal	10-day suspension to removal	Removal	Refer to the Judiciary’s EEO Policy.

13. Unauthorized possession/sale (actual or attempted) of Judiciary property or property of others; improper acceptance of Judiciary funds/reimbursement.	Written Reprimand to removal	10-day suspension to removal	20-day suspension to removal	Appendix: Judiciary's Loss, Damage or Theft of Court-Issued Property.
14. Loss, misuse of, damage to or failure to safeguard Judiciary property, records, or information (e.g., willful or negligent damage to Judiciary resources; carelessness in performance of duty resulting in waste of Judiciary funds).	Written Reprimand to 10-day suspension	10- to 20-day suspension	20-day suspension to removal	Appendix: Judiciary's Loss, Damage or Theft of Court-Issued Property
15. Failure to comply with safety regulations, instructions or prescribed safe practices; failure to use proper safety equipment; failure to report accident or injury.	Written Reprimand to 10-day suspension	10- to 20-day suspension	20-day suspension to removal	Refer to Chapter 11 (Leave of Absence) and Worker's Compensation.
16. Sleeping or loafing while on duty; inattention to duty; willful idleness while on duty.	Written Reprimand to 5-day suspension	5- to 10-day suspension	10-day suspension to removal	Seriousness of offense is greater if persons/property endangered.
17. Refusal, failure or delay in carrying out instructions; failure or carelessness in performing assigned work; failure to take/complete officially-directed training.	Written Reprimand to 10-day suspension	10- to 20-day suspension	20-day suspension to removal	
18. Insubordination; disregard of directive; refusal to comply with a proper order.	5-day suspension to removal	20-day suspension to removal	Removal	An "insubordination" charge requires a showing that the employee deliberately disregarded supervisory directives. In some instances (e.g., refusal to report for an ordered reassignment) removal may be appropriate.
19. Falsification/misrepresentation of official Judiciary records or documents including, but not limited to, time and attendance records, travel vouchers, job applications, performance appraisals, claims for benefits, and other employment-related documents.	Written Reprimand to removal	20-day suspension to removal	Removal	Refer To Chapter 3 (Code of Conduct)

20. Misrepresentation, falsification, exaggeration, concealment or withholding of material fact in connection with an official investigation, inquiry or other administrative proceeding.	10-day suspension to removal	20-day suspension to removal	Removal	Refer to Chapter 3 (Code of Conduct).
21. Influencing or attempting to influence the Judiciary employment of a relative or self.	5- to 20-day suspension	10-day suspension to removal	Removal	Refer to Chapter 3 (Code of Conduct).
22. Refusal to testify or cooperate in connection with any administrative investigation, inquiry, or other proper proceeding (when criminal charges are not anticipated).	5-day suspension to removal	10-day suspension to removal	20-day suspension to removal	
23. Prohibited/improper use of Judiciary property (e.g., office equipment; supplies; facilities; credentials; records; communication resources; cellular phones; official time); misuse of the Internet/electronic mail; using the Internet/electronic mail for unauthorized purposes.	Written Reprimand to 10-day suspension  More severe discipline (including removal) may be appropriate for first/second offense if misconduct involves using the Judiciary's Internet/electronic mail system for prohibited reasons, including gambling, accessing/sending prohibited sexually-related material, or other egregious acts of misuse.	10- to 20-day suspension  More severe discipline (including removal) may be appropriate for first/second offense if misconduct involves using the Judiciary's Internet/electronic mail system for prohibited reasons, including gambling, accessing/sending prohibited sexually-related material, or other egregious acts of misuse.	20-day suspension to removal	Refer to Chapter 3 (Code of Conduct) and Policy and Procedures Governing Computing and Technology Resources in the Judiciary of Guam.
23. Offenses related to gambling.				Refer to Chapter 3 (Code of Conduct)
a. Participating in a gambling activity while on Judiciary premises or on duty status	Written Reprimand to 10-day suspension	10- to 20-day suspension	20-day suspension to removal	
b. Operating, assisting, or promoting a gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	5- to 20-day suspension	20-day suspension to removal	Removal	
24. Indebtedness; failure to meet financial obligations in a proper and	Written Reprimand to 5-day suspension	5- to 10-day suspension	10-day suspension	Refer to Chapter 3 (Code of Conduct). Actionable

timely manner.			to removal	if there is a nexus between the failure to pay and the efficiency of the service. Since a suspension may reduce an employee's ability to pay overdue financial obligations, a reprimand may be more appropriate for a first offense (more severe discipline may be appropriate for subsequent offenses). Special care is called for in dealing with this type of offense, as it may involve mitigating circumstances.
25. Offenses related to Judiciary charge/debit card.				
a. Misuse of charge/debit (i.e., personal/unauthorized purchases) <b>or</b> delinquent in payment.	Written Reprimand to 20-day suspension	5-day suspension to removal	20-day suspension to removal	Refer to the Judiciary's Procurement Debit Card Policy.
b. Misuse of charge/debit (i.e., personal/unauthorized purchases) <b>and</b> delinquent in payment.	5- to 20-day suspension	10-day suspension to removal	Removal	
c. Unauthorized use of or failure to appropriately monitor use of charge/debit card; "micro-purchasing" violations.	Written Reprimand to 20-day suspension	10-day suspension to removal	Removal	
26. Carrying a firearm or other weapon on Judiciary property (or in Judiciary vehicle) unless specifically authorized/required in the performance of duties.	20-day suspension to removal	Removal		Refer to Judiciary's Firearms Policy.
27. Using public office for private gain.	5-day suspension to removal	Removal		Refer to Chapter 3 (Code of Conduct).
28. Engaging in unauthorized/prohibited selling, soliciting or fundraising activities.	Written Reprimand to 5-day suspension	5- to 10-day suspension	10-day suspension to removal	Refer to Chapter 3 (Code of Conduct)
29. Engaging in prohibited outside employment or private business activities.	Written Reprimand to removal	Removal		Refer to Chapter 3 (Code of Conduct)
30. Participating in particular matters while having a conflicting financial interest.	5-day suspension to removal	Removal		Refer to Chapter 3 (Code of Conduct)

31. Participating in matters affecting financial interests of an entity where employment is being sought.	5-day suspension to removal	Removal		Refer to Chapter 3 (Code of Conduct)
32. Violating the Judiciary's Code of Conduct (or other professional code of conduct that applies to employees).	Written Reprimand to 20-day suspension	20-day suspension to removal	Removal	Refer to Chapter 3 (Code of Conduct)
33. Unauthorized use of nonpublic information.	Written Reprimand to removal	Removal		Refer to Chapter 3 (Code of Conduct)
34. Engaging (on-duty or off-duty) in criminal, infamous, dishonest, or notoriously disgraceful conduct prejudicial to the Judiciary.	34. Engaging (on-duty or off-duty) in criminal, infamous, dishonest, or notoriously disgraceful conduct prejudicial to the Judiciary.	20-day suspension to removal	Removal	Refer to Chapter 3 (Code of Conduct)
35. Failure to report criminal charges or convictions.	5-day suspension to removal	20-day suspension to removal	Removal	Refer to Chapter 3 (Code of Conduct)
36. Taking, directing others to take, recommending or approving any action which may be considered a "prohibited personnel practice" (e.g., reprisal against an employee for engaging in protected activities; discrimination based on race, color, gender, age, religion, national origin, marital status, political affiliation, sexual orientation or handicapping condition race, color, national origin, age, religion, disability, genetic information, pregnancy, sex (including gender identity or expression), sexual orientation, ancestry, honorably discharged veteran or military status, or any other protected classification under federal or Guam law.).	5-day suspension to removal	10-day suspension to removal	Removal	Refer to Judiciary's EEO Policy.  Action may be taken regardless of whether there was an official "finding" of discrimination (or other prohibited personnel practice).
37. Taking reprisal action against an employee for exercising rights provided by applicable Guam or Federal Statutes.	5- to 20-day suspension	10-day suspension to removal	Removal	
38. Neglecting to recommend/take corrective action upon receipt of information regarding the job-related misconduct of a subordinate	Written Reprimand to 10-day suspension	10-day suspension to removal	Removal	



employee.				
39. Failure to appropriately monitor employee use of Judiciary's Government purchase/travel debit/charge card.	Written Reprimand to 10-day suspension	10-day suspension to removal	Removal	
40. Misconduct of a sexual nature that includes, but is not limited to, unwelcome sexual remarks, indecent comments/jokes, offensive sexual banter, unwanted sexual advances, or unwelcome physical touching.	5-day suspension to removal	10-day suspension to removal	Removal	Refer to Judiciary's EEO Policy.
41. Violating, or inducing a subordinate to violate, the Judiciary's Code of Conduct (or other profession's Code of Ethical Conduct).	5-day suspension to removal	Removal	Removal	
42. Using Government Judiciary employees in duty status for other than official purposes.	Written Reprimand to removal	10-day suspension to removal	20-day suspension to removal	Refer to Chapter 3 (Code of Conduct).
43. Engaging in prohibited partisan political activity (e.g., partisan campaigning; soliciting/receiving political contributions).	20-day suspension to removal	Removal		Refer to 3 (Code of Conduct).
44. Participating in a strike, work stoppage, work slowdown, sick-out, or other similar job action.	30-day suspension to removal	Removal		Refer to Chapter 3 (Code of Conduct).
45. Misappropriating/misapplying Government Judiciary funds; directing, expecting, or rendering services not covered by appropriations.	1- to 20-day suspension	20-day suspension to removal	Removal	Refer Chapter 3 (Code of Conduct).
46. Willfully mutilating or destroying a public record.	Removal			Refer to Chapter 3 (Code of Conduct).
47. Willfully using or authorizing the use of a Government official vehicle or equipment for other than official purposes.	20-day suspension to removal	Removal		Refer to Judiciary's Official Vehicle Policy.
48. Engaging in actions against national security or government.	Removal			

### **15.1300 JUDICIAL COUNCIL OF GUAM HEARING OFFICER PROCEDURES FOR ADVERSE ACTION APPEALS.**

**NOTE:** These adverse action appeal procedures were adopted by the Judicial Council in Resolution No. JC16-025 which approved the "Judicial Council of Guam Hearing Officer Procedures for the Hearing of Appeals of Adverse Actions, Grievances and EEO Matters." Part I of these Hearing Officer Procedures covers both adverse actions and EEO appeals. For inclusion within this Section 15.1300 on adverse action appeals, references to EEO appeals within Part I of the Hearing Officer Procedures have been removed.

#### 15.1301 Right to Appeal

##### A. Classified Employees

Any person in the classified service holding a permanent appointment and who is subject to an adverse action by management, except one who is exempted by law from the jurisdiction of the Judicial Council, is entitled to appeal an adverse action to the Judicial Council. A person who has been appointed to a permanent position and who has satisfactorily completed the probationary period holds a permanent appointment.

##### B. Contract Employees

A contract employee occupying a permanent position in the classified service is entitled to appeal an adverse action to the Judicial Council during the term of the contract. Non-renewal of the contract is not appealable

#### 15.1302 Contents of an Appeal

An appeal shall be in writing and shall set forth the answer to the charges and the grounds for appeal. An appeal may be amended within fifteen (15) calendar days after filing. A person who is the subject of an adverse action who files an appeal on the person's own behalf or through a representative is the "Appellant."

#### 15.1303 Time Limit for Filing an Appeal

An adverse action appeal must be filed with the Judicial Council within twenty (20) calendar days from the effective date of the adverse action.

#### 15.1304 Judicial Council Hearing Officer

The adverse action appeal shall be heard, considered, and decided by a Hearing Officer appointed by the Judicial Council.

#### 15.1305 Rights in Pursuit of Appeal

An Appellant shall:

- A. Be assured freedom from restraint, interference, coercion, discrimination, or reprisal.
- B. Have the right to be accompanied, represented and advised by a representative and/or legal counsel of the Appellant's choice.
- C. Be assured a reasonable amount of official time to prepare the Appellant's case while on duty status.

#### 15.1306 Entitlement

An Appellant who files an appeal in accordance with these rules is entitled to a hearing on the appeal before the Judicial Council Hearing Officer. Except in the case of an emergency, or death, incapacitation, or absence from the island of the Appellant, the Appellant shall be personally present at the hearing of the appeal. The term "emergency" means an occurrence of a serious nature demanding immediate attention. The term "absence from the island" covers off-island emergencies, relocation, situations in which the Appellant was not notified of the hearing date before leaving the island, and situations in which the Appellant was excused by the Judicial Council Hearing Officer for off-island purposes.

#### 15.1307 Place and Time of Hearing

The Judicial Council Hearing Officer shall set the place, date, and time of hearing as expeditiously as possible.

#### 15.1308 Conduct of Hearing

- A. The hearing is open to the public.
- B. The hearing will be conducted so as to bring out pertinent facts, including the production of certain records.
- C. Decisions on the admissibility of testimony or other evidence are made by the Judicial Council Hearing Officer.
- D. Testimony is under oath or affirmation.
- E. Each party shall have the right to call, examine, or cross-examine witnesses, and introduce exhibits. Either party may be called and examined by the Judicial Council Hearing Officer after examination of the witness has been completed by both parties; except that questions may be asked during examination to clarify a response by a witness.

F. Rules of evidence shall not be applied. The only grounds for excluding any proffered evidence are that the evidence is irrelevant or unduly repetitious. If any evidence is ruled inadmissible by the presiding officer, the grounds shall be stated for the record.

G. The order of presentation in the hearing shall be as follows:

- i. Opening statement of management.
- ii. Opening statement of opposing party.
- iii. Presentation by management or Charging Party of evidence in support of the charges.
- iv. Presentation by the opposing party of such evidence in defense or rebuttal.
- v. Closing statement of management or Charging Party.
- vi. Closing statement of opposing party.
- vii. Preliminary motions and issues shall be disposed of prior to the hearing on the merits.

H. Burden of Proof

Management shall have the burden of proof by a preponderance of the evidence. In cases involving charges which could be a crime, if the person was charged in a criminal action, the Judicial Council Hearing Officer shall determine the matter based upon substantial evidence.

I. Witnesses

- i. Both parties are entitled to produce witnesses. The Administrator of the Courts, or designee, shall be in attendance without subpoena. Except, as otherwise provided in Section 15.306, the Appellant shall be in attendance without subpoena.
- ii. The Judicial Council Hearing Officer may call additional witnesses as may deemed necessary and require the production of documents.
- iii. The Judicial Council Hearing Officer, upon the Hearing Officer's own initiative, or upon the request of any

party, may summon in writing any person to attend a hearing as a witness and, in a proper case, to bring any book, record or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the Superior Court, except that if the witness is a **government of Guam** employee, no witness fee shall be given. The subpoena shall issue in the name of the Judicial Council Hearing Officer, and shall be directed to the person and served in the same manner as subpoenas to appear and testify before the court. If any person summoned to testify shall refuse or neglect to obey said subpoena, upon petition, the court may compel the attendance of such person before the Judicial Council Hearing Officer, or punish said person for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the Superior Court.

- iv. An employee is considered to be on duty status during the time the employee is made available as a witness. Such employee is entitled to compensatory time-off if serving during normal non-working hours. The Judicial Council Hearing Officer shall furnish the witness a certificate showing the time devoted to the hearing. "Employee" in this section does not include the parties to the appeal or their representatives.
- v. The Judicial Council Hearing Officer shall ensure that all witnesses are treated with courtesy and respect while giving testimony at the hearing.
- vi. The Judicial Council Hearing Officer shall assure that witnesses be free from restraint, interference, coercion, discrimination, or reprisal in presenting testimony.

J. Record of Hearing

- i. The hearing shall be audio recorded. The recordings, testimonies and exhibits admitted during the hearing, together with all pleadings and papers filed by the parties, shall constitute the official record.

- ii. Filming, videotaping, or recording of the hearing or other proceedings by any of the parties shall be permitted only upon written request and prior approval by the Judicial Council Hearing Officer, with notice to the other parties in the case.
- iii. Transcripts of the hearing may be made available upon request and at a cost of one dollar (\$1.00) per page. Additional copies may be provided for fifty cents (\$0.50) per page. These charges do not apply to the court.

#### 15.1309 Termination of Appeal

The Judicial Council Hearing Officer may terminate an employee's or Charging Party's appeal:

- A. At the Appellant's request;
- B. When an Appellant fails to furnish required information necessary to proceed with the appeal; or
- C. When, without reasonable justification or excuse, an Appellant fails to personally appear for the hearing.

#### 15.1310 Death of Appellant

When an appeal has been filed properly before the death of the Appellant, the Judicial Council Hearing Officer shall process it to completion and adjudicate it. The Judicial Council Hearing Officer may include in its decision, retroactive compensation and benefits to which the deceased employee would have been entitled to at the time of death.

#### 15.1311 Scope of Hearing

The scope of the appeal hearing shall be limited to:

- A. The issues in dispute.
- B. A review of compliance with procedural requirements for effecting an adverse action.

#### 15.1312 Decision

- A. The Judicial Council Hearing Officer shall decide the appeal on the basis of the evidence presented.
- B. Except, as provided in Subsection D of this Section 15.1312 below, if management proves the charges against the Appellant, the Judicial Council Hearing Officer shall sustain the adverse action.
- C. If management fails to prove the charges, the Judicial Council Hearing Officer shall dismiss the adverse action with prejudice.
- D. If management proves the charges, but the Judicial Council Hearing Officer finds that, because of the Appellant's past record, the gravity of the offense, or the facts and circumstances of the case, the adverse action be modified, it may modify the adverse action accordingly. The reasons for such modification shall be stated, in sufficient detail, in the decision of the Judicial Council Hearing Officer. Any compensation or benefits due as a result of the modification shall be restored to the Appellant.
- E. If the Judicial Council Hearing Officer finds that the adverse action was substantially procedurally defective because it is not in conformity with the applicable rules and regulations for adverse actions, it shall dismiss the adverse action, with or without prejudice, as it considers fair and equitable under the facts and circumstances of the case. The Judicial Council Hearing Officer shall be satisfied that procedural requirements have been met before proceeding with the hearing on-the merits.
- F. The Judicial Council Hearing Officer shall issue a written decision within thirty (30) calendar days after the hearing is completed and provide copies thereof to the parties and Judicial Council. If the adverse action is sustained, the effective date of the action shall stand as issued by the Administrator of the Courts or designee.
- G. A written decision or ruling from the Judicial Council Hearing Officer shall be dispositive of the issues presented therein. Notwithstanding any other Judicial Council Hearing Officer regulation, or policy, written decisions and rulings mentioned herein shall be issued within thirty (30) calendar days from the conclusion of the deliberation in which a decision or ruling is made, which forms the basis of the final written decision or ruling.
- H. If the adverse action is revoked by the Judicial Council Hearing Officer, all compensation and other benefits which would have accrued to the

Appellant from the effective date of the decision, shall be restored to the Appellant.

15.1313 Compliance

Compliance with any order specified in the decision is required by law. The Administrator of the Courts to whom an order is directed, must report, within ten (10) working days after receipt of the decision, that the Administrator has carried the order into effect, or has taken action to have the decision judicially reviewed.

15.1314 Judicial Review

The decision of the Judicial Council Hearing Officer is final, but subject to judicial review. In order to seek judicial review of a Judicial Council Hearing Officer decision, the Appellant shall file a petition for judicial review in the Superior Court within thirty (30) calendar days of the decision.

15.1315 Amendment and Supplemental Policies

These procedures and guidelines may be amended by the Judicial Council as the need arises, or may be amended or supplemented by other written appeal policies of the Judicial Council.



### **Explanation of Source Terms**

New	Section was not in the 1984 Judiciary of Guam Personnel Rules and Regulations.
JOG	1984 Judiciary of Guam Personnel Rules and Regulations
DOA	Government of Guam Department of Administration Personnel Rules and Regulation
PAG	Port Authority of Guam Personnel Rules and Regulations

## **CHAPTER 16**

### **RESIGNATION, SEPARATION AND CLEARANCE**

**SOURCE:** JOG 12 and as noted.

#### **STATEMENT OF POLICY:**

The purpose of this Chapter is to provide orderly, uniformed and fair procedures for non-disciplinary separation of employees from the Judiciary service.

#### **16.000 SCOPE.**

This Chapter applies to all classified and unclassified employees of the Judiciary.

#### **16.100 TYPES OF SEPARATION.**

##### **16.101 Resignation in Good Standing**

A resignation shall be deemed to be in good standing when it is made voluntarily and not as a direct result of final adverse action or criminal conviction. With the exception of an employee serving an original probationary period, an employee who resigns in good standing shall have reemployment rights consistent with 4 GCA §§ 2108 and 5.102.

**SOURCE:** New. DOA 13.004.

##### **A. Notice Requirements**

An employee may resign in good standing from the service of the Judiciary by presenting a resignation in writing to the employee's supervisor at least ten (10) working days prior to its effective date. Where notice of less than ten (10) working days is not given, placement on the reemployment list may be forfeited unless the division manager certifies that such failure did not seriously hamper the work of the organization. In addition, lump sum

payment for last work status and any accrued annual leave would be delayed.

**SOURCE:** JOG 12.01.

B. Withdrawal of Resignation

With the approval of the Administrator of the Courts, the employee may withdraw a resignation at any time prior to the effective date of the resignation.

**SOURCE:** New. DOA 13.003.

C. Resignation Pending Adverse Action

An employee who resigns after receipt of a notice of proposed adverse action is deemed to have resigned voluntarily and has no right to appeal to the Judicial Council Appeals Hearing Officer. Any employee who resigns under this Chapter and is subsequently convicted of a crime based on the same facts, which forms the basis of the adverse action, shall be deemed not to resign in good standing.

**SOURCE:** New. DOA 13.005.

16.102 Furlough

**SOURCE:** New. DOA App. H.

A. Purpose

To establish furlough procedures as an option for the Judiciary to cut administrative costs and continue to provide vital public service. In addition, furlough procedures shall be administered and coordinated with procedures for employee layoff, priority placement, outside employment, and leave without pay. The Judiciary may revise, change or add to the procedure, as appropriate, subject to the review of the Judicial Council.

B. Statement

The Judiciary may resort to employee furloughs, when necessary, to avoid layoff of employees and to ensure that the Judiciary meets its mission. This procedure will be used only after all other efforts have been explored by division managers to cut operating costs. Division managers shall submit requests for employee furlough to the Administrator of the Courts.

C. Definition

A furlough action is the placement of an employee in a temporary non-duty and non-pay status on a continuous basis (for example ten (10) consecutive days), or a non-continuous basis (for example one (1) day a week). A furlough is not a layoff or reduction in force action.

D. Reasons

Furlough is caused by any one (1) of the following reasons:

- i. Lack of work;
- ii. Shortage of funds;
- iii. Insufficient personnel authorization;
- iv. Reorganization; or
- v. Reclassification of an employee's position due to erosion of duties when such action will take effect after a formal announcement of a reduction in force.

E. Time Limit

The Administrator of the Courts may furlough an employee for a period of time listed below:

- i. One to thirty (1 to 30) consecutive days on a continuous basis, or twenty two (22) work days if done on a non-continuous basis.
- i. More than thirty (30) consecutive days, or more than twenty two (22) work days to a maximum of one (1) year. The one (1) year limit begins the day after the notice period ends and when the furlough begins.

F. Voluntary Furlough

Employees who are interested in taking leave of absence without pay will be encouraged to voluntarily apply for a furlough. This opportunity is especially beneficial to employees who have outside part-time employment. Employees who volunteer for furlough for a period not to exceed one (1) year, will be allowed to work increased hours at their outside employment without regard to the scheduled hours of work with the Judiciary.

G. Involuntary Furlough

Where budget constraints are crucial, the Administrator of the Courts may resort to involuntary furloughs after it has been decided that the voluntary furlough will still not meet the necessary cost reduction. Furloughed employees shall be furloughed, based on retention points, for the time limits authorized above. Furlough will be used to the maximum extent possible in order to reduce the necessity for layoffs.

H. Restrictions

The Administrator of the Courts may not:

- i. Furlough any employee not intended to be recalled to duty in the same position within one (1) year; or
- ii. Separate an employee through layoff while an employee with lower retention points in the same competitive level is on furlough.

I. Furlough Impact on Employment Benefits

Employees on furlough, voluntary or involuntary, will be covered for health benefits based on the following conditions:

- i. The Judiciary will pay for both government and employee contributions during any period of furlough only when the employee is certified to have family income at or below the Department of Public Health and Social Services, Medically Indigent Program Income Eligibility Level for the specific household size.
- ii. Employees with some form of income (e.g., spouse's income, part-time or full-time job, etc.) during the furlough period shall be required to pay for the employee's contribution portion only, if the health plan premium provided this income is greater than the Department of Public Health and Social Services, Medically Indigent Program Income Eligibility Level for the specific household size.

Employees who wish to continue their life insurance benefits will be required to pay for the premium for supplemental plans only. The employee will continue to be fully covered for the basic life insurance while on furlough.

J. Furlough Retention Rights

- i. **Release by Furlough.** The action to release an employee scheduled for a furlough must be consistent with established layoff procedures. The Administrator of the Courts may furlough an employee under the layoff provisions only if the employee has no right of assignment or refuses an offer of assignment. A furloughed employee who accepts another offer of assignment, becomes the incumbent of the offered position unless the employee accepts an offer of recall to the position from which furloughed.
- ii. **Assignment Rights.** In determining whether a furloughed employee has assignment rights to another position, it is important for the division manager to consider whether the offer would result in undue interruption to the Judiciary. Since a furlough anticipates an employee's recall to the same position, the Judiciary should consider whether undue interruption would result from the displacement of a lower-standing employee and from the recall of both employees to their positions of record at the end of the furlough period. The assignment right does not apply when all employees in the division are furloughed at the same time, or on the same basis. For example, if all employees of the Judiciary were furloughed one (1) day a week (either the same day or different days) on a non-continuous basis for twenty eight (28) weeks, none of the employees would have a right of assignment to another position. If only some of the employees were furloughed one day a week for twenty eight (28) weeks, and other employees were not furloughed, the furloughed employees would have a right of assignment to positions held by employees with lower retention standing, and not affected by the furlough only if there was no undue interruption.

K. Recall from Furlough

If all employees furloughed from a competitive level cannot be recalled at the same time, the employees must be recalled according to their retention points beginning with the highest-standing employee.

L. Separation in Lieu of Recall

- i. **No Recall.** If the situation changes and the Administrator of the Courts determine that a furloughed employee cannot be recalled within the one (1) year period, the employee must be separated unless the employee accepted an offer of assignment to another position. If some, but not all furloughed employees in a competitive level must be separated, employees are selected for separation by retention standing points beginning with the lowest-standing employee. A new layoff notice of separation must be given to the furloughed employee at least sixty (60) days prior to the end of the one year furlough period. The separation of a furloughed employee is a new layoff action. Separated employees are entitled to the same rights as those employees separated through regular layoff procedures.
- ii. **Failure to Return.** If a furloughed employee refuses or does not respond to a notice to return to duty, the Administrator of the Courts may separate the employee by layoff effective on the specified date of recall. A new layoff notice of separation is not required.

M. Procedures

The Human Resources Administrator must submit a request to the Administrator of the Courts for authorization to conduct a furlough within six (6) months of the proposed furlough. The request must specify the reason for the furlough, the number of employees and/or positions to be affected, and the duration of the furlough. After the Administrator of the Courts approval, the following procedure applies:

- i. A written thirty (30) day notice that a furlough is planned must be issued to all employees. (whether or not identified for furlough). Such notice must include the following:
  - a. The date the furlough will commence.
  - b. The period of furlough (i.e., one – thirty (1-30)

days continuous, twenty two (22) or more days non-continuous, or a maximum of one (1) year).

- c. Employees may volunteer to be furloughed.
  - d. Loss of some employment benefits for furloughed employees.
  - e. Employees under furlough are not restricted from seeking other employment during the furlough period. Those employees who already have part-time jobs while employed with the Judiciary may opt to increase their hours of work up to a full-time basis during the furlough period.
  - f. Furloughed employees must report to work when recalled to duty.
  - g. Furlough will be conducted in accordance with employees' retention standing points.
  - h. Furloughed employees have the right to appeal to the Judicial Council.
- ii. Encourage the use of voluntary furlough to the maximum extent possible before implementing involuntary furlough.
  - iii. Coordinate with the Human Resources Office with regard to the feasibility of assigning employees reached for furlough to ensure fairness in the assignment and that the furlough poses no unnecessary disruption to the Judiciary's mission.
  - iv. Those employees who cannot be assigned to other positions within the division will receive written "Notice of Furlough." This final (or second notice) will again include the same information as the first notice. In addition, the furloughed employee shall be:
    - a. Encouraged to continue insurance coverage by personally paying for the premiums.
    - b. Informed that the employee's name will be retained in a "recall list" for one (1) year, and must keep current home and mailing address, email address and telephone number at the Human Resources Office.
    - c. Informed that if the employee fails to provide a

current home address on record, recall rights will be lost.

- d. Informed that the employee must respond to the recall notice within seven (7) days of receipt or its attempted delivery, or lose rights for reemployment.
- e. Notified that the employee must inform the Human Resources Office if the employee becomes unavailable for recall.
- f. Provided appeal rights to the Judicial Council.

N. Recall

Employees will be recalled according to need, classification, or ability to do the job based on retention standing points. The recall notice will be sent registered mail, return receipt requested, to the current home address furnished by the employee.

Returning employees will be paid the same salary as before they were furloughed. Any unused sick leave or annual leave accrued prior to the furlough will be reinstated. All employment benefits will be restored at the same rate as before the furlough and the employee's original employment anniversary date will continue. .

16.103 Lay-Offs

**SOURCE:** JOG 5.45.

The Administrator of the Courts may terminate the services of any employee because of the abolition of the position, lack of work or funds, or other reasons outside of the employee's control which do not reflect discredit on the services of the employee. An employee whose services are terminated under such circumstances shall be deemed to have been laid off.

A. Written Notice Required Prior to Lay Off

All employees of the Judiciary who have been employed for a period of not less than two hundred sixty (260) working days shall be entitled to a written notice of at least sixty (60) working days prior to their layoff for any reason beyond control of the employee.

B. Absence of Written Notice from the Judiciary

In the absence of the written notice mentioned above, any attempt to lay off any employee shall be void and the employee shall be on



pay status until sixty (60) days after the employee has been given written notice of layoff.

C. Order of Layoffs

The order of layoffs shall be determined in accordance with the following:

- i. The Administrator of the Courts shall determine in which division the reductions shall occur.
- ii. The Administrator of the Courts shall determine in what class series and at what level reduction in staff will have the least detrimental effect on the Judiciary's operations. The Administrator of the Courts will also specify the number of layoffs and positions to be eliminated from the specific classes.
- iii. Within the class series selected and at the specified level, all non-permanent employees of the Judiciary shall be laid off and in the following order:
  - a. Part-time or seasonal;
  - b. Temporary/ Limited Term;
  - c. Exempted;
  - d. Probationary.
- iv. In the event that additional reductions are necessary, permanent employees shall be laid off based on the following procedures:
  - a. Performance ratings shall be the primary basis for establishing order of layoffs.
  - b. Seniority shall be considered only in the event that performance rating are substantially equal; one (1) point shall be allowed for each complete month of continuous service in the class of the layoff or in the classified or unclassified positions, that on the effective date of the layoff have substantially the same or higher maximum salary rate.

- c. Three fourths (3/4) of one (1) point shall be allowed for each complete month of full-time continuous government service in all other classes before the layoff class.
- d. In addition, any employee who has been subject to formal disciplinary action in the last twelve (12) months prior to the date of the announcement of the layoff will have twelve (12) points subtracted from the employee's service points.
- e. Any employee who has received a meritorious step increase in the past twelve (12) months of the date of announcement of the layoff shall receive three (3) additional service points.
- f. In lieu of being laid off, an employee may elect demotion temporarily to any class series in which the layoff is occurring with the Judiciary.
- g. Those employees laid off will have reemployment rights at a lower level within the same class series determined by the total points. The individual being displaced establishes the layoff class for the purpose of points toward continued employment.
- h. A copy of the layoff computations as well as a copy of notice of layoff will be furnished to each employee who is laid off and a copy of the notice of layoff will be incorporated in the reemployment files.
- i. The names of permanent and probationary employees who have served at least three (3) months consecutive service shall be placed upon the reemployment list for the class of position involved in the layoff, in reverse order of termination. Each person on such a list shall retain eligibility for appointment therefrom for a period of two (2) years from the date of their separation. A permanent employee who had

been laid off and is reemployed shall have permanent status restored.

## **16.200 TERMINATION OF EMPLOYMENT.**

**SOURCE:** New. DOA 13.100

The Administrator of the Courts may terminate the services of an employee for any of, but not limited to the following reasons:

- A. The duration of the temporary period of employment has ended .
- B. The employee failed to demonstrate satisfactory work performance during the original probationary period or failed to satisfy other conditions of employment.
- C. For misconduct, in which case, the adverse action procedures in Chapter 15 shall be adhered to.

## **16.300 EXIT INTERVIEW.**

The Human Resources Administrator or designee may conduct ~~A a personal interview shall be conducted~~ with an employee separating service from the Judiciary. The interview shall be held prior to the employee's effective date of separation. The interview shall be conducted in such manner as to obtain from the separating employee the true reason or reasons for separation. Such interview shall be recorded on forms prescribed by the Human Resources Administrator or designee and ~~placed in a separate confidential file not be made~~ a part of the employee's Personnel File.

**SOURCE:** JOG 12.05.

## **16.400 CLEARANCE.**

Each separating employee must be cleared of all obligations and property accountability within the Judiciary and other governmental agencies no later than the employee's last working day. A separation clearance form will be provided to each separating employee who will be authorized to be temporarily relieved of regular duties without charge to leave only for the purpose of obtaining clearance. Final payment of wages will be withheld pending completion of exit interview by the Human Resources Office and clearance and obligation to the Judiciary.

**SOURCE:** JOG 12.10.



## GLOSSARY

1. Accretion of Duties: Duties which only incidentally affects the level of the employee's performance or change in workload, procedures, or organization which was not the result of planned management action.
2. Active Duty: Duty under a call or order to active duty.
1. Administrative Leave: Paid leave authorized by the Administrator of the Courts or Administrative Authority without charge to an employees accrued/earned leave.
3. Administrative Workweek: Consists of forty (40) hours of work or paid leave per workweek.
2. Adverse Action: Action taken by the Administrator of the Courts or the Administrator's designated representative which may suspend, demote, or dismiss a permanent employee.
3. Allocation/Classification: The assignment of an individual position to an appropriate class in the classification plan based on the basis of the kind and level of difficulty, of the duties and job requirements and duties of the work performed. in the position.
4. Appointing Authority: Appointing authority shall mean Administrator of the Courts, division/section managers which comprise within the Judiciary.
5. Business Day: 8:00 am – 5:00 pm, Monday through Friday, except holidays.
6. Certification of Eligibles: A document containing names from which competitive appointment is made.
7. Classification Plan (Position Classification Plan): A plan in which classes of positions are arranged in a logical and systematic order according to similarities and differences in duties, responsibilities, and qualification requirements.
8. Class of Position: Includes all positions which are sufficiently similar, as to: 1) Kind and subject matter of work; and 2) Level of difficulty and responsibility; and 3) The qualification requirements of the work to warrant similar treatment in personnel and pay administration.
9. Class Series: Consists of two or more classes that are similar as to line of work but differ as to level of responsibility and difficulty.

10. Classified Service: ~~Includes all employees in the government service who are subject to the provisions of Section 4007 of the Government Code of Guam. Government service of which employees have attained permanent status and cannot be removed from employment without cause.~~
11. Class Title: The official name given to a class of positions to identify the class and all positions in the class and shall be used for personnel, budget and fiscal purposes.
12. Classification Specification Standard: An official document which describes the general characteristics of the class, including a title, a nature of work summary, a statement of examples of typical duties performed, and a statement of minimum qualifications, abilities and skills and experience and training requirements needed to perform the work which provides the criteria for placing each position in its proper class.
13. Comparable Positions: Positions of equivalent or lower grade and pay in the same occupational category.
14. Council: As used in these Rules and Regulations, Council shall mean the Judicial Council of Guam.
15. Compensatory Time Off: Time off in lieu of overtime pay. ~~The amount of time off shall be granted at time and one-half.~~
16. Compensation Plan: A compilation of all classes of positions in the classification plan setting forth their assignments of pay ~~ranges grades~~ in accordance with 4 GCA Chapter 6. ~~Section 4103 of Title V of the Government Code of Guam, as amended.~~
17. Creation of New Class or Classes of Positions: ~~Job positions created in accordance with 4 GCA Chapter 6. Those creations pursuant to Section 4107 of the Government Code of Guam because there is no existing class in the classification plan to which a position can be properly allocated.~~
18. Creditable Service: Service period for increments step increases.
19. Demotion: The change of an employee to a position with a lower minimum salary rate.
20. Demotion (Involuntary): Demotion of an employee for cause.
21. Demotion (Voluntary): Demotion requested by an employee in order to retain employment, when lay-off from the employee's position is eminent or for other

reason when the action is entirely voluntary on the part of the employee and not for cause.

22. Detail: The temporary assignment of an employee by a division ~~manager or section head~~ to perform a particular function.
23. Discipline: Corrective action(s) ~~taken by the Administrator of the Courts~~ which is/are necessary to maintain the efficiency of the service.
24. Dismissal: Separation, discharge or removal for cause of an employee from the employee's position.
25. Division Manager: The head of a respective division within the Judiciary.
26. Duty: A task assigned to an employee by responsible management authority.
27. Emergency: Situations which may jeopardize human life and property or Judiciary operations which require immediate action.
28. Employee: Any person employed by the Judiciary.
29. Essential Functions: Those functions contained in a job specification ~~which consist of the basic job duties that an employee must be able to perform, with or without reasonable accommodation. that the Administrator of the Courts believes to be important in accomplishing the purpose of the job.~~
30. First Degree of Consanguinity: Blood relationship restricted to parent-child or sibling-sibling, to include adoptive and step-parents and children.
31. GCA: Shall mean the Guam Code Annotated.
32. Grievance: Grievances are employee's complaints wherein the employee alleges prejudicial, unfair, arbitrary, capricious treatment in the employee's employment, working conditions, or working relationships in the Judiciary.
33. Initial Probationary Period: ~~As used in these chapters, initial probationary period in which A period of time~~ an employee initially serves to attain permanent status ~~as a Judiciary employee.~~
34. In-loco Parentis: The situation of an individual who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
35. Job Content: Duties and ~~responsibility~~ responsibilities assigned to a particular position.

36. Lay-Off: The involuntary termination of employment as a result of reorganization or lack of funds.
37. Leave Year: The period from the beginning of the first complete pay period in the fiscal year commencing October 1 to the beginning of the first complete pay period in the following fiscal year.
38. Limited Term Appointment (LTA): Temporary appointment to positions which are temporary or permanent in nature, ~~which shall not exceed one (1) year.~~
39. Minimum Qualifications: Minimum experience and training requirements derived from the knowledge, skills and abilities and other qualifications required to perform the duties and responsibilities of the position.
40. Misconduct: Any action of an employee which is of a personal nature not related to the employee's ability to perform the job, but which constitutes a violation of policy and regulations governing expected employee conduct, ~~on the job.~~
41. Nepotism: Supervisor-Subordinate relationship between and among spouses and persons within the first degree of consanguinity as prescribed in 4 GCA Chapter 6.
42. Open Competitive: An examination which permits the competition of persons who meet the requirements of the official announcement for the position and is not restricted to persons currently employed in the Judiciary, classified service.
43. Overtime: Hours in excess of ~~eight (8) hours of any workday or~~ forty (40) hours in a ~~an administrative~~ workweek. ~~Classified employees whose normal workweek schedule does not consist of five (5) working days and two (2) days off in a workweek, overtime shall mean only hours in excess of their administrative workweek.~~
44. Pay Grade: The designated grade of compensation, as provided in the compensation schedule.
45. Pay Grade Schedule: A systematic arrangement of salary grades, ~~set forth in Guam Code Annotated.~~
46. Pay Grade Reassignment: Change of pay grade allocation of a class as determined by the Guam Judicial Council.
47. Passing Score: A score of 70.00 or above.
48. Permanent Appointment: An appointment made by an appointing authority to a position subject to the probationary period requirements.



49. Permanent Status: Permanent status is attained once an employee completes a satisfactory initial probationary period.
50. Position: The work consisting of the duties and responsibilities assigned by an appointing authority for performance by an employee whether part-time or full time, temporary or permanent, occupied or vacant.
51. Priority Placement List: List established for displaced permanent classified employees to be afforded first offer of employment to positions that they previously filled, or to comparable positions they are qualified for.
52. Position Description: A statement of the duties and responsibilities comprising the work assigned to an employee.
52. Probational Appointment: Initial appointment by an appointing authority of an employee to a class of position in which the employee will commence serving a probationary period.
53. Probationary Period: A working test period and is part of the examination process following an appointment from the certification list during which an employee is required to demonstrate fitness for the position.
53. Promotion: A change of an employee to a position with a higher maximum salary rate.
54. Promotional Competitive: Competitive recruitment under the merit system that are only open to permanent status employees of the Judiciary.
55. Raw Score: A numerical score which is attained by an examinant without the application of a formula.
54. Reallocation (Reclassification): The change in the allocation of a position by assigning it to a higher or lower class or another class at the same level for any of the following reasons:
- (1) Significant changes in the nature or variety of work which influence the overall level of difficulty.
  - (2) Re-determination of the initial classification judgment without a change of duties and responsibilities.
55. Recruitment: The process of announcing positions in an effort to solicit candidates for appointments in the Judiciary service.

56. Reemployment: A former permanent classified employee who returns to government service within four (4) years of separation in good standing to the same or comparable job in the Judiciary.
57. Reinstatement: A permanent classified employee who returns to the employee's former position.
58. Resignation: The voluntary termination of employment by an employee without cause.
59. Series of Classes: Consists of two or more classes that are similar as to kind of work, but differ as to level of responsibility and difficulty.
60. Subfilling Position: Class series of positions within an organization which provide for upward career mobility exclusive of supervisory positions which will qualify the applicant for a higher level job within one (1) year.
60. Suspension: The temporary removal of an employee from the employee's position with loss of pay for cause.
61. Termination: The removal of an employee from employment not related to adverse action.
62. Transfer: Is the lateral movement of an employee without any change in position title or salary or from one class of position to another class of position having similar duties and responsibilities and qualification requirements or a movement from one division to another division.
63. Unauthorized Leave of Absence: An unauthorized absence from the job, which shall result in unpaid leave.
64. Unclassified Service: An employee who serves at the pleasure of the appointing authority and does not attain permanent status.
65. Weighted Score: A product of the raw score and the appropriate formula for the particular examination.
65. Workday: A regularly recurring period of eight (8) consecutive hours exclusive of lunch hours.
66. Workweek: A regularly recurring period of seven consecutive twenty-four (24) intervals. A workweek need not coincide with a calendar week. It may begin any day of the week at any hour of the day. Workweek must remain the same unless any change is intended to be permanent. Forty (40) hours of actual attendance on duty shall constitute the minimum workweek for full-time employees of the

Judiciary with due allowance for legal holidays under Chapter 11 and leaves of absence with pay. The normal workweek shall consist of five (5) consecutive workdays, Monday through Friday.

**BEFORE THE 2022 JUDICIAL COUNCIL OF GUAM**

**RESOLUTION NO. JC22-**

**RELATIVE TO APPROVING THE JUDICIARY OF GUAM COMMON AREAS RECORDING POLICY**

- WHEREAS,** on August 11, 2016, the Supreme Court of Guam issued Promulgation Order No. PRM16-001-01, adopting the Judiciary of Guam Rules Governing Coverage of Judicial Proceedings. Under Rule 3(c), the media may use electronic devices in the common areas of the courthouse, subject to reasonable restrictions that may be put into place by the Judiciary that are appropriate to maintain safety, decorum, and order; and
- WHEREAS,** electronic devices with the ability to record audio and video have become widely available, increasing the need for regulations on their usage; and
- WHEREAS,** the use of audio and video recording devices can be used in a harassing manner which could compromise the safety and security of Judiciary facilities, and could also be used purposely or inadvertently to record individuals who are entitled to privacy, such as juveniles; and
- WHEREAS,** a draft Judiciary of Guam Common Areas Recording Policy, which does not apply to audio or video recording of courtroom proceedings, was introduced to the Judicial Council by the Administrator of the Courts during the Judicial Council meeting on March 17, 2022, and circulated to the Bar Association on April 4, 2022; and
- WHEREAS,** as directed by the Judicial Council during its meeting on April 21, 2022, Judiciary Administration sent the proposed policy to Guam's various media outlets for comment. Upon receiving feedback from multiple entities, members of Judiciary Administration met with media representatives on June 2, 2022, to discuss the concerns raised during the written comment period; and
- WHEREAS,** in consideration of the media's concerns, Judiciary Administration revised the proposed policy to create an exemption for members of the media who have received credentials under the Judiciary of Guam Rules Governing Coverage of Judicial Proceedings; and
- WHEREAS,** the Judicial Council recognizes the need to maintain integrity, security, and decorum in all Judiciary locations, while also recognizing the important role played by the media in keeping citizens informed of the judicial process.

**NOW, THEREFORE, BE IT RESOLVED** that the Judicial Council hereby adopts the Judiciary of Guam Common Areas Recording Policy, attached here at "Attachment 1."

**DULY ADOPTED** this 16th day of June 2022 at a duly noticed meeting of the Judicial Council of Guam.

\_\_\_\_\_  
**F. PHILIP CARBULLIDO**, Chairman

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Petrina M. Ula, Executive Secretary

Dated: \_\_\_\_\_

**Resolution No. JC 22-**  
**Attachment 1**  
**Judiciary of Guam Common Areas Recording Policy**

**I. PURPOSE**

The Judiciary of Guam (the “Judiciary”) institutes this policy as part of its commitment to maintain decorum and order in all Judiciary facilities and to ensure a safe and non-threatening environment for all Judiciary patrons and employees.

**II. AUTHORITY**

This policy is authorized pursuant to Rule 3(c) of the Judiciary of Guam Rules Governing Electronic Coverage of Judiciary Proceedings, adopted by the Supreme Court of Guam via Promulgation Order No. PRM16-001-01.

**III. APPLICATION**

This policy shall apply to the common areas in all Judiciary facilities. Common areas include entrances, exits, hallways and spaces that are accessible to the public. This policy shall not apply to the interiors of individual courtrooms, which are specifically covered in the Rules Governing Electronic Coverage of Judiciary Proceedings.

This policy shall not apply to members of the media who are credentialed pursuant to the Judiciary of Guam Rules Governing Electronic Coverage of Judicial Proceedings.

**IV. PROHIBITIONS**

Except as provided in the Rules Governing Electronic Coverage of Judiciary Proceedings, all audio and video recording by any person in the common areas of Judiciary facilities without the prior consent of the Administrator of the Courts or a judicial officer is prohibited.

This prohibition shall not apply to investitures and other official ceremonies held in the common areas.

**V. POSTING OF THIS POLICY**

A copy of this policy shall be posted on the Judiciary website, entrances to all Judiciary facilities, Superior Court and Supreme Court Clerk’s Offices and at other appropriate public locations at each Judiciary facility as determined by the Administrator of the Courts.

**VI. REFERENCES**

A. Judiciary of Guam Rules Governing Electronic Coverage of Judicial Proceedings.



**BEFORE THE 2022 JUDICIAL COUNCIL OF GUAM**

**RESOLUTION NO. JC22-016**

**RELATIVE TO REAPPOINTMENT OF JONTHAN R. QUAN AS SITTING MAGISTRATE  
Under 7 GCA § 4401(d)**

- WHEREAS,** the initial term of Magistrate Judge Jonathan R. Quan is to expire on September 4, 2022; and
- WHEREAS,** Title 7 GCA § 4401(d) provides that the Chief Justice of Guam may reappoint a sitting magistrate without confirmation of *I Liheslaturan Guåhan* upon a unanimous recommendation of the Judicial Council for an additional term of four years; and
- WHEREAS,** on February 21, 2022, the Chief Justice of Guam created the Magistrate Judge Evaluation Committee (the "Committee"), chaired by Judge Alberto E. Tolentino and comprised of Jacqueline T. Terlaje (Guam Bar Association President), Danielle T. Rosete (Clerk of the Superior Court of Guam), Barbara Jean Perez (Human Resources Administrator of the Judiciary of Guam) and Andrew S. Quenga (Deputy Administrator of the Courts of the Judiciary of Guam) to evaluate the performance of Magistrate Judge Quan and to report its findings to the Judicial Council; and
- WHEREAS,** the Committee surveyed Guam Bar members, court patrons, court staff and judicial officers on the performance of the Magistrate Judge Quan; and
- WHEREAS,** Judge Tolentino presented a report on the results and findings of the survey of Magistrate Judge Quan (the "Report") at the regularly scheduled Judicial Council meeting of June 16, 2022, wherein the Committee was requested to submit its recommendation as an addendum to the Report (the "Addendum"), which Report, and Addendum are appended as an attachment; and
- WHEREAS,** the conclusion of the Committee was that "[b]ased on the information from the questionnaire/survey of those who have interacted with Magistrate Quan in their respective capacities, he has performed acceptable to excellent in the evaluation of the different criteria for judicial performance;" and
- WHEREAS,** the recommendation of the Committee was that "Magistrate Jonathan R. Quan be re-appointed to serve for another four-year term, pursuant to the provisions of 7 GCA § 4401."
- NOW THEREFORE BE IT RESOLVED,** that those members of the Judicial Council present and voting unanimously recommend (Chief Justice abstaining) that the Chief Justice of Guam re-appoint Magistrate Judge to another four-year term as provided in Title 7 GCA § 4401(d).
- DULY ADOPTED** this 16th day of June 2022 at a duly noticed meeting of the Judicial Council of Guam.

F. PHILIP CARBULLIDO, Chairman

Dated:

06/16/2022

ATTEST:

Petrina M. Ula, Executive Secretary

Dated:

06/16/22



# Superior Court of Guam

Guam Judicial Center • 120 West O'Brien Drive • Hagåtña, Guam 96910

Telephone: (671) 475-3323 • Facsimile: (671) 477-1852



HON. ALBERTO E. TOLENTINO  
JUDGE

## MEMORANDUM

**To:** Chief Justice F. Philip Carbullido

**From:** Honorable Alberto E. Tolentino, Chairperson  
Superior Court of Guam Magistrate Judge Evaluation Committee

**Cc:** Magistrate Judge Evaluation Committee Members

**Date:** May 27, 2022

**Subject:** Report of the Findings of the Magistrate Judge Evaluation Committee  
Regarding the Reappointment of Magistrate Judge Jonathan R. Quan

*Hafa Adai*, Chief Justice Carbullido,

The Magistrate Judge Evaluation Committee has completed its evaluation on the reappointment of Magistrate Jonathan R. Quan whose initial term expires in September 2022. Attached is the Committee's final report and supporting documents.

On behalf of the Committee, we thank you for the opportunity to serve on the Committee and to conduct an evaluation of Magistrate Quan's reappointment. The Committee will be available for any questions you or the Judicial Council members may have.

*senseramente,*

Hon. Alberto E. Tolentino

### Attachments:

Report of the Findings of the Magistrate Judge Evaluation Committee  
Exhibit A (Guidelines for the Evaluation of Judicial Performance)  
Exhibit B (Survey to GBA Members, Court Patrons, and Court Staff)  
Exhibit C (Survey Results and Magistrate Self-Assessment)

*The Judiciary of Guam is an equal opportunity employer and provider.*

# **REPORT OF THE FINDINGS OF THE MAGISTRATE JUDGE EVALUATION COMMITTEE REGARDING THE REAPPOINTMENT OF MAGISTRATE JUDGE JONATHAN R. QUAN**

## **INTRODUCTION**

On February 21, 2022, Chief Justice of Guam, F. Philip Carbullido appointed the following individuals to serve on the Magistrate Judge Evaluation Committee (the “Committee”) to evaluate the performance of Magistrate Jonathan R. Quan whose initial term will expire on September 4, 2022:

Chair – Judge Alberto E. Tolentino, Superior Court of Guam  
Jacqueline T. Taitano, President of the Guam Bar Association  
Danielle T. Rosete, Superior Court of Guam Clerk of Court  
Barbara Jean T. Perez, Judiciary of Guam Human Resources Administrator, and  
Andrew S. Quenga, Judiciary of Guam Deputy Administrator of the Courts

The Committee was charged with evaluating the performance of Magistrate Judge Quan and to provide information for the Judicial Council to consider in contemplation of his potential reappointment pursuant to 7 GCA § 4401(d) which states:

The Chief Justice may reappoint a sitting magistrate without confirmation by *I Liheslaturan Guåhan* upon a unanimous recommendation of the Judicial Council:  
(1) for one (1) additional term of four (4) years; or (2) until a new magistrate is appointed and duly confirmed, but not to exceed ninety (90) days.

## **BACKGROUND<sup>1</sup>**

Magistrate Judge Jonathan R. Quan was selected to serve as one of two Magistrate Judges by then-Chief Justice of Guam Katherine A. Maraman. His nomination was presented to and confirmed by *I Liheslaturan Guåhan* and he officially assumed the position on September 4, 2018.

The qualifications and duties of the magistrate are contained in Title 7 GCA § 4401(c). With specific regard to the duties of the magistrate judges it is noted that over the succeeding years since the statute was originally promulgated the responsibilities of the magistrate have been expanded and are reflected in the current iteration of this statutory provision.

## **METHODOLOGY**

<sup>1</sup> The Committee notes that during Magistrate Quan’s four-year term, he was appointed by Chief Justice F. Philip Carbullido to serve as Judge *pro tempore* to assist with the docket vacated by Judge Michael J. Bordallo in February 2020 and Judge Anita A. Sukola in March 2021.



This report seeks to provide as comprehensive an evaluation as possible of the magistrate's performance in the discharge of his statutory duties as contained in the iterations of 7 GCA § 4401. Previous reports on the performance of a magistrate judge for reappointment consisted of the dissemination of surveys to members of the Guam Bar Association, court patrons, and Superior Court of Guam trial court judges. Those prior reports covered an average of the ratings assigned to each subject inquired upon; and an "approval rating" which was described as "the average rating compared to the maximum rating of 5." However, for the review of Magistrate Quan, this Committee wanted to capture his performance on a qualitative basis.

Therefore, the Committee considered and adopted the reasoning and methodology advocated by the American Bar Association (ABA) and its *Guidelines for the Evaluation of Judicial Performance* (February 2005). A copy of the guidelines is attached and incorporated by reference herein as Exhibit "A." As described by the ABA:

[i]n February 2005, the Judicial Division Lawyers Conference, working in cooperation with the former ABA Standing Committee on Judicial Independence, submitted to the association House of Delegates a collection of updated guidelines intended to provide a model for the evaluation of judicial performance. The guidelines were overwhelmingly adopted at the 2005 ABA Midyear Meeting.

([https://www.americanbar.org/groups/judicial/conferences/lawyers\\_conference/judicial\\_performance\\_resources/](https://www.americanbar.org/groups/judicial/conferences/lawyers_conference/judicial_performance_resources/)) (Last checked May 2, 2022). The guidelines generally provide a comprehensive basis and criterion for judicial performance evaluations that not only improve individual judge's performance as well as the judiciary as a whole; but also enable those responsible for reappointing of a judge to make an informed decision. *See Guidelines for the Evaluation of Judicial Performance* 1-1, 1-2, and 2-1. An important *caveat* to the use of these evaluations is that they cannot be used nor should they be disseminated to the judicial disciplinary authority. *Id.* 2-3.

The evaluation proposed by the ABA focuses on aspects of the judge's legal ability, his or her integrity and impartiality, communication skills, professionalism and temperament, and administrative capacity. *See Guidelines for the Evaluation of Judicial Performance* 5-1 *et seq.* The Guidelines included proposed questionnaires/surveys that seek input on specific criteria for each trait of judicial performance and the content and wording of the questionnaire is structured with the relevant respondent group and the nature and extent of that group's interaction with the judge.

Thus, the Committee considered the proposed questionnaires/surveys and determined that they would be most helpful in constructing an appropriate inquiry into the performance of the magistrate. They were modified accordingly to match the most relevant respondent groups that they would be disseminated to. The survey groups included: (1) lawyers who had practiced before the magistrate; (2) court patrons, *i.e.*, parties or litigants, that appeared before the judicial officer; (3) court staff who interacted with the magistrate in the performance of his duties; and (4) a self-assessment by the magistrate himself. The Committee determined that the identified groups would most likely be able to provide actual insight into Magistrate Quan's performance and thus the Committee did not seek input from other judicial officers. The Committee

encouraged and assured the respondents that their responses would be completely anonymous and that case-identifying or respondent-identifying information would be excluded. A copy of each of the surveys is attached and incorporated herein as Exhibit "B."

The collection of data for this evaluation took place over the period of March 31, 2022 through May 6, 2022. The respondent groups were identified by the court's case management system as having appeared before Magistrate Judge Quan as lawyers and parties or other litigants in the various cases handled by him. Court staff included members of the Courts & Ministerial, Marshals, and Probation Divisions who have also interacted with Magistrate Judge Quan. The surveys were disseminated electronically utilizing a data collection tool, SurveyMonkey, which the Judiciary has used in the past. Access to this tool was accomplished with the assistance of the Guam Bar Association's ListServ, e-mail correspondence with parties and/or litigants and court staff. Paper surveys were distributed to those parties who were physically present at hearings before the Magistrate but after their matters were concluded and also mailed to parties who appeared before Magistrate Quan in the last year. As of the closing date, the following information is provided:

**Court Patrons**

Total Number of surveys disseminated - 84

Completed - 18

**Attorney Surveys**

The survey link was sent via ListServ to the active Guam Bar members

Completed - 49

**Court Staff**

Total number of surveys disseminated - 167

Completed - 102

**Total surveys completed: 169**

## **SURVEY RESULTS/ANALYSIS**

The surveys/questionnaires were designed to capture information on specific criteria of legal ability, integrity and impartiality, communication skills, professionalism and temperament, and administrative capacity. The respondents were asked to rate Magistrate Judge Quan on the basis of the several attributes described above as either: excellent, very good, average, poor, or unacceptable. Copies of the Summary Evaluations from each responding group are attached to this memorandum. Additionally, Magistrate Quan submitted a self-evaluation which is also attached as Exhibit C for your review.

## **Legal Ability<sup>2</sup>**

The Magistrate Judge was evaluated on his legal ability which includes legal reasoning ability; knowledge of substantive law; knowledge of rules of procedure and evidence; and keeping current on developments in law, procedure, and evidence.

In this regard, the surveys completed by attorneys provide an insight and perspective on the magistrate's performance. Ninety-eight percent of those who responded rated Magistrate Quan as excellent to acceptable on his legal reasoning ability and knowledge of the rules of procedure and evidence. Out of 49 responses, only one rated his performance as poor. The Magistrate's knowledge of substantive law was rated to be 96% excellent to acceptable. One rated his performance as poor, and another responded did not know/does not apply. Whether or not Magistrate Quan kept current in substantive law and rules of procedure and evidence, seventy-one percent rated his performance as acceptable to excellent, one respondent rated him poor and 13 responded that they did not know/does not apply.

## **Impartiality and Integrity<sup>3</sup>**

The results of the evaluation of Magistrate Quan's performance on integrity and impartiality, included the avoidance of impropriety and the appearance of impropriety; treating all people with dignity and respect; absence of favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status; acting fairly by giving people individual consideration; consideration of both sides of an argument before rendering a decision; basing decisions on the law and the facts without regard to the identity of the parties or counsel, and with an open mind in considering all issues; and the ability to make difficult or unpopular decisions. All respondents provided input on these characteristics and the following conclusions are made:

Among the court patrons and attorneys who appeared before the magistrate and provided input of Magistrate Quan's avoidance of impropriety and the appearance of impropriety; 88% collectively evaluated his performance as excellent to acceptable. None rated his performance as poor to unacceptable. In contrast, seventy-two percent of court staff rated the magistrate's performance positively; however, nearly 18% found his performance poor to unacceptable.

When it came to Magistrate Quan's treatment of all people with dignity and respect, positive impressions in this regard were overwhelmingly favorable among court patrons and attorneys,

<sup>2</sup> Judges have a duty to know and understand the law. Judges must address, and therefore be knowledgeable in, many areas of law including a broad range of substantive law issues, constitutional law, procedure, and evidence. *Guidelines for the Evaluation of Judicial Performance* 5-1, commentary.

<sup>3</sup> Judges must not show favor or disfavor with respect to issues, parties, or attorneys in matters before the court. Judicial impartiality is defined by the 1990 ABA Model Code of Judicial Conduct (Revised 2003) as an absence of bias or prejudice in favor of, or against, particular parties or classes of parties, and an open mind in considering issues that may come before the judge. Judges must appear to be and actually be fair. Both the appearance of and the quality of fairness are essential. For example, the fairness of a judge who consistently disregards or overrules one side's objections may be questioned, even if the rulings are legally sound. *Guidelines for the Evaluation of Judicial Performance* 5-2, commentary.

ninety-four percent and ninety-one percent, respectively. Among court personnel that favorable rating was at 71%; but 29% found his performance poor to unacceptable.

Similarly, when evaluated for favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, Magistrate Quan was rated positively around 88% by all respondents; however, among court employees he rated unacceptable to poor by 12% of respondents. His negative rating among lawyers and court patrons was 2% and 5.56%, respectively.

Court personnel were asked if they found the magistrate acting fairly by giving people individual consideration. Twenty-eight percent found he performed in an excellent manner but 37% found it acceptable. Sixteen percent rated his performance as poor or unacceptable.

Ninety-two percent of lawyers rated Magistrate Quan's consideration of both sides of an argument before rendering a decision as excellent to acceptable. Four percent opined he performed poorly. Court staff however, rated the magistrate 76% acceptable or above, and 8% thought he performed poorly.

Both lawyers and court personnel were asked to assess whether Magistrate Quan based his decisions on the law and the facts without regard to the identity of the parties or counsel, and with an open mind in considering all issues, and the ability to make difficult or unpopular decisions. While 92% of lawyers rated the magistrate's performance as acceptable or better only 74% thought so. Nine percent of court staff thought the magistrate did poorly or unacceptable. In addition, 86% of lawyers thought Magistrate Quan rated acceptable and above in keeping an open mind and considering all relevant issues in making decisions while only 71% of court staff thought he did. Eight percent of lawyers and 17% of court personnel rated him poor or unacceptable.

### **Communication Skills<sup>4</sup>**

Magistrate Judge Quan was evaluated on his communication skills, including clear and logical oral communication while in court and clear and logical written decisions. Among the court patrons, he performed excellent or very good by 94% of the respondents who were asked about clear and logical communication when speaking to lawyers, witnesses, and litigants while in court. Seventy-eight percent of court patrons thought he was very good or excellent in clearly explaining court procedures.

Ninety-four percent of lawyers found Magistrate Quan performed acceptable or above in the use of clear and logical oral communication while in court and that he uses plain English and

<sup>4</sup> All judges must be able to communicate effectively. Effective communication skills include the ability to speak and write so that what is expressed is understood. The law of a case, whether presented in spoken or written form, should be clear and concise. If it is not, the law remains ambiguous not only for the parties to the case, but also for other litigants who attempt to employ it as precedent. Judges must also recognize the potential negative impact of verbal and nonverbal communications such as tone of voice, facial expressions, eye contact, hand motions, and posture. These mannerisms can create either an appropriate or inappropriate atmosphere in a judicial proceeding. Avoiding negative verbal and nonverbal communications is equally important. *Guidelines for the Evaluation of Judicial Performance* 5-3, commentary.

understandable language when speaking to litigants and witnesses. Eighty-three percent of the lawyers said his performance was acceptable or excellent in producing clear and logical written decisions. Two percent of the lawyers felt he performed poor or unacceptable.

Among court staff, 86% thought Magistrate Quan's use of clear and logical oral communication in court was acceptable to excellent. Nearly 10% rated him poor to unacceptable. Similarly, 85% of the court staff rated the magistrate's performance in using plain English and understandable language when speaking to litigants and witnesses as acceptable or better; while 8% found his performance poor to unacceptable.

### **Professionalism and Temperament<sup>5</sup>**

With regard to Magistrate Judge Quan's professionalism and temperament, insight was sought on whether he acts in a dignified manner; treats people with courtesy; acts with patience and self-control; deals with *pro se* litigants and litigation fairly and effectively; and promotes public understanding of and confidence in the courts.

Eighty-nine percent of court patrons evaluated Magistrate Quan's performance in a dignified manner and courteous treatment of litigants and witnesses as acceptable to excellent. Of the eighteen responses only one found his performance poor and another found it unacceptable. Lawyers rated his performance in these areas a bit higher at approximately 90% of respondents for both characteristics. Out of the 49 lawyers who responded four found his performance in each category as poor and one as unacceptable. Court employees, however, reported a very different perspective. Seventy percent of the 102 respondents found that the magistrate acted in a dignified manner; while 19 court employees found his conduct poor and nine said it was unacceptable.

Whether the Magistrate Judge acted with patience and self-control, the surveys showed similar results. While 83% of the court patrons and 92% of the lawyers rated him acceptable or better; 64% of court employees rated him as such. Of the 18 court patron responses, two found the magistrate's performance as poor and one unacceptable. Of the 49 lawyers who responded, two found his performance poor and one unacceptable. One hundred and two court employees were surveyed and 24 rated him poor and 11 as unacceptable.

Court employees and lawyers found Magistrate Quan's work with *pro se* litigants and litigation in a fair and effective manner as acceptable or better by 63%, collectively. In promoting public understanding and confidence in the court, 80% of the lawyers responding thought he did excellent to acceptable; whereas 70% of court staff agreed. Nineteen percent of court staff thought the magistrate performed poor to unacceptable while 6.12% of lawyers thought he performed poorly.

<sup>5</sup> The image of a judge is important, for a positive image creates respect for the judiciary. The most important element of a positive image is that elusive quality called judicial temperament. It includes such criteria as patience, courtesy, dignity, and compassion. *Guidelines for the Evaluation of Judicial Performance* 5-4, commentary.

## Administrative Capacity<sup>6</sup>

Finally, a critical issue that the Committee believed was an important consideration for a proper evaluation had to include the Magistrate Judge's administrative capacity, which encompasses: punctuality and preparation for court; maintaining control over the courtroom; appropriate enforcement of court rules, orders, and deadlines; making decisions and rulings in a prompt, timely manner; managing his or her calendar efficiently; demonstrating appropriate innovation in using technology to improve the administration of justice; fostering a productive work environment with other judges and court staff; and acting to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system.

Court patrons overwhelmingly agreed that Magistrate Quan performed in an excellent manner in maintaining control over the courtroom and proceedings, that he appropriately enforced court rules, orders and time limits, and that he acted to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system.

Amongst lawyers, the magistrate averaged a positive rating of 89% of the respondents for both his punctuality and preparedness for court. Ten percent rated his performance as poor to unacceptable for punctuality while his preparedness was found to be poor to unacceptable by 4% of the respondents. By comparison, court employees ratings were substantially lower at 52% of respondents believing his performance was acceptable to excellent. Forty-two percent found his performance to be poor or unacceptable.

Lawyers and court staff also differed in Magistrate Judge Quan's performance in maintaining control over the courtroom, including courtroom personnel. Ninety-four percent of lawyers were of the opinion that he performed at least acceptable to excellent in this regard compared to only 73% of court staff. Twenty percent of court staff found his performance to be poor to unacceptable.

When the issue involved whether the Magistrate appropriately enforces court rules, orders, and deadlines, lawyers and court employees found he did an acceptable to excellent job 96% and 69%, respectively. Only 2% of lawyers rated his performance poor while 22% of court employees rated his performance poor to unacceptable.

Ninety percent of lawyers rated his ability to make decisions and rulings in a timely manner positively while 61% of court employees felt he did acceptable to excellent. Almost 25% of court staff thought he performed poor to unacceptable while only 6% of lawyer felt that way.

Magistrate Quan's performance in managing his court's calendar efficiently was approved of by 88% of the lawyers while only 51% of court staff thought he did at least acceptable to excellent.

<sup>6</sup> Promptness in adjudication is essential and is equally important at both the appellate and trial levels. While an appellate judge may be unable to control completely the promptness with which a case is decided and an opinion filed, a reasonably prompt decision in all cases is important, and every appellate court judge must work toward this end. Trial court judges are generally in a position to control the disposition of their cases without regard to the schedule of other judges. *Guidelines for the Evaluation of Judicial Performance* 5-5, commentary.

Forty-three percent of staff thought he did poor to unacceptable compared to 4% of lawyers who found her performed poorly.

The magistrate's performance in fostering a productive work environment with other judges, magistrates, and court staff; 43% of lawyers rated him very good to excellent. Fifty-three percent of the respondents did not know/does not apply. Fifty-five percent of court staff thought he performed acceptable to excellent while 33% of them thought he did poor to unacceptable.

Lawyers were asked if the magistrate demonstrates appropriate innovation in the use of technology to improve the administration of justice. Seventy-three percent rated him acceptable to excellent and only 4% rated him poor.

When asked how Magistrate Quan performed in acting to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system, 79% of court employees found that he was acceptable to excellent compared to 65% of lawyers. Thirty-three percent of lawyers responded that they did not know/does not apply.

Finally, court patrons were asked if their interaction could have been improved to which 11 of 18 responded no.

Comments submitted by the different respondents is included in each of the summary evaluation reports and provide more personalized explications of their perception of Magistrate Quan's performance. The largest group of respondents that Magistrate Quan performed poorly for appears to be the court staff. It is noted that:

Judges must possess the attribute of cooperativeness. Trial court judges frequently work with other trial court judges and share responsibility for administration, scheduling, and other tasks crucial to accomplishing the work of the trial court ... [and] ...promoting cooperative relationships with other judges and with court staff will create a harmonious and productive work environment.

*Guidelines for the Evaluation of Judicial Performance 5-5, commentary*

### **Conclusion**

Based on the information compiled from the questionnaire/survey of those who have interacted with Magistrate Quan in their respective capacities, he has performed acceptable to excellent in the evaluation of the different criteria for judicial performance.

### **Recommendation**

Therefore, the Magistrate Judge Evaluation Committee recommends that Magistrate Jonathan R. Quan be re-appointed to serve for another four-year term, pursuant to the provisions of 7 GCA § 4401.

# Exhibit A



**AMERICAN BAR ASSOCIATION**  
**BLACK LETTER GUIDELINES FOR THE**  
**EVALUATION OF JUDICIAL PERFORMANCE**

**FEBRUARY 2005**

**I. GOALS**

**Guideline 1-1.** Judicial evaluation programs improve the performance of individual judges and the judiciary as a whole. All court systems should develop and implement a formal program for the evaluation of judicial performance.

**Guideline 1-2.** In jurisdictions where judges are subject to reappointment, retention, or reelection, judicial evaluation programs enable those responsible for continuing judges in office to make informed decisions.

**II. USES**

**Guideline 2-1.** Primary uses of judicial performance evaluation include promoting judicial self-improvement, enhancing the quality of the judiciary as a whole, and providing relevant information to those responsible for continuing judges in office.

**Guideline 2-2.** Additional uses that may be considered include the effective assignment of judges within the judiciary and the improved design of continuing education programs.

**Guideline 2-3.** The uses of judicial performance evaluation do not include judicial discipline. The information developed in a judicial evaluation program should not be disseminated to authorities charged with disciplinary responsibility, unless required by law or by rules of professional conduct.

**III. DISSEMINATION**

**Guideline 3-1.** The dissemination of data and results from a judicial evaluation program should be consistent with and conform to the uses of the program. Except for the authorized uses of the performance evaluation and consistent with the law, the data and results should be confidential.

**Guideline 3-2.** When judicial evaluations are used only for judicial self-improvement, individual results should be provided only to the judge evaluated and the presiding or supervisory judge responsible for the performance of the court on which the judge serves.

**Guideline 3-3.** When judicial evaluations are used to improve the quality of the judiciary as a whole, results should not identify or give comparative rankings of individual judges.

**Guideline 3-4.** When judicial evaluations are used to inform decision makers regarding the continuation of judges in office, results should be made readily available to those responsible for continuation decisions, including voters, governors, legislatures, and commissions.

**-4.1.** Those responsible for reappointing, reelecting, or retaining judges should be provided with objective summaries of evaluation results for each judge and an explanation of how to interpret the results.

**-4.2.** If evaluation results are provided to an individual or entity responsible for continuation decisions, and those results include assessments of a judge's overall performance or recommendations as to whether a judge should be continued in office, judges should have an opportunity to review and respond to the evaluation report before it is disseminated.

**-4.3.** If evaluation results are publicly disseminated, and those results include assessments of a judge's overall performance or recommendations as to whether a judge should be continued in office, judges should have an opportunity to review, respond, and meet with members of the evaluation body before the results are made public.

#### **IV. ADMINISTRATION AND SUPPORT**

**Guideline 4-1.** Ultimate authority over the development and implementation of a judicial performance evaluation program should be vested in the highest court or other constitutionally mandated body having ultimate responsibility for judicial administration.

**-1.1.** In states where performance evaluation programs have not been established by the judiciary or other governmental body, bar associations should develop and administer evaluation programs according to these guidelines.

**-1.2.** In states where judges are chosen in contested elections, it may be inappropriate for the judicial branch or any other entity using public funds to disseminate performance evaluations of incumbent judges running for reelection. In order to provide voters in these states with relevant information, bar associations should develop and administer judicial performance evaluation programs according to these guidelines.

**Guideline 4-2.** The day-to-day activities of the judicial evaluation program should operate through an independent, broadly based, and diverse committee.

**-2.1.** In jurisdictions where judicial evaluations are used solely for self-improvement and for improving the quality of the judiciary as a whole, oversight committees should be composed of members of the bench and the bar.

**-2.2.** In jurisdictions where evaluations are used to inform decisions regarding the continuation of judges in office, oversight committees should also include members of the public who are familiar with the judicial system.

**Guideline 4-3. Staff support and adequate funding should be available to support a judicial evaluation program of high quality.**

**Guideline 4-4. Judicial evaluation programs should be structured and implemented so as not to impair judicial independence. The evaluation process should be free from political, ideological, and issue-oriented considerations.**

**Guideline 4-5. Judicial evaluation programs should be developed systematically and may be implemented in progressive stages. Evaluation programs should remain flexible so that they may be modified as needed. The entity having ultimate responsibility for the evaluation program should conduct periodic assessments of the program.**

## **V. CRITERIA**

**Guideline 5-1. A judge should be evaluated on his or her legal ability, including the following criteria:**

- 1-1. Legal reasoning ability.**
- 1.2. Knowledge of substantive law.**
- 1.3. Knowledge of rules of procedure and evidence.**
- 1.4. Keeping current on developments in law, procedure, and evidence.**

**Guideline 5-2. A judge should be evaluated on his or her integrity and impartiality, including the following criteria:**

- 2.1. Avoidance of impropriety and the appearance of impropriety.**
- 2.2. Treating all people with dignity and respect.**
- 2.3. Absence of favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.**
- 2.4. Acting fairly by giving people individual consideration.**
- 2.5. Consideration of both sides of an argument before rendering a decision.**
- 2.6. Basing decisions on the law and the facts without regard to the identity of the parties or counsel, and with an open mind in considering all issues.**
- 2.7. Ability to make difficult or unpopular decisions.**

**Guideline 5-3. A judge should be evaluated on his or her communication skills, including the following criteria:**

-3.1. Clear and logical oral communication while in court.

-3.2. Clear and logical written decisions.

**Guideline 5-4. A judge should be evaluated on his or her professionalism and temperament, including the following criteria:**

-4.1. Acting in a dignified manner.

-4.2. Treating people with courtesy.

-4.3. Acting with patience and self-control.

-4.4. Dealing with pro se litigants and litigation fairly and effectively.

-4.5. Participating and providing leadership to an appropriate degree in professional development activities and in jurisdiction-wide and statewide court improvement and judicial education activities.

-4.6. Promoting public understanding of and confidence in the courts.

**Guideline 5-5. A judge should be evaluated on his or her administrative capacity, including the following criteria:**

-5.1. Punctuality and preparation for court.

-5.2. Maintaining control over the courtroom.

-5.3. Appropriate enforcement of court rules, orders, and deadlines.

-5.4. Making decisions and rulings in a prompt, timely manner.

-5.5. Managing his or her calendar efficiently.

-5.6. Using settlement conferences and alternative dispute resolution mechanisms as appropriate.

-5.7. Demonstrating appropriate innovation in using technology to improve the administration of justice.

-5.8. Fostering a productive work environment with other judges and court staff.

-5.9. Utilizing recruitment, hiring, and promotion policies and practices to ensure that the pool of qualified applicants for court employment is broad and diverse.

-5.10. Acting to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system.

**Guideline 5-6. Additional criteria should be developed reflective of jurisdiction (specialized versus general) and level of court (trial versus appellate).**

**-6.1. A specialized court judge should be evaluated according to whether he or she demonstrates the knowledge and skills necessary.**

**-6.2. An appellate court judge should be evaluated on the quality of his or her preparation for and participation in oral argument and on his or her effectiveness in working with other judges of the court.**

## **VI. METHODOLOGY**

**Guideline 6-1. The judicial evaluation process is comprised of data collection, synthesis and analysis, and its usage.**

**Guideline 6-2. Expert competence should be used in developing methods for evaluating judges and collecting and analyzing data.**

**Guideline 6-3. Behavior-based instruments should be used to evaluate judges.**

**Guideline 6-4. The evaluation process must ensure the anonymity of individual respondents.**

**Guideline 6-5. Reliable sources of information should be developed for judicial evaluation programs.**

**-5.1. Multiple sources should be used whenever feasible.**

**-1.1. Potential sources of information for trial judge evaluations include attorneys, jurors, litigants, and witnesses who have appeared before the judge; non-judicial court staff, social service personnel, and law enforcement officials who have had regular contact with the judge; and appellate judges who have reviewed the judge's decisions.**

**-1.2. Potential sources of information for appellate judge evaluations include attorneys who have appeared before the judge, non-judicial court staff who have had regular contact with the judge, other appellate judges, and trial court judges whose decisions have been reviewed by the judge.**

**-5.2. Sources should be limited to those with personal and current knowledge of the judge.**

**-5.3. Objective sources of information may include public records.**

**Guideline 6-6. At the outset of the evaluation program, program administrators should establish minimum thresholds for both response rates and number of respondents.**

**Guideline 6-7. Questionnaire content and wording should be structured with the relevant respondent group, and the nature and extent of that group's interaction with judges, in mind. In most instances, it will be necessary to use a different performance questionnaire for each respondent group.**

**Guideline 6-8. Judges should be evaluated periodically. The frequency of judicial evaluations should be related to such factors as the length of time the judge has served on the bench and when the judge will be considered for reappointment, retention, or reelection.**

# Exhibit B

# **Attorney Evaluation**



April 15, 2022

**To:** Attorneys, Litigants, and Parties Who Have Appeared Before  
Magistrate Judge Jonathan R. Quan *and* All Superior Court of Guam Staff  
Who Have Interacted with Magistrate Judge Quan

**From:** Honorable Alberto E. Tolentino, Chairperson  
Superior Court of Guam Magistrate Judge Evaluation Committee

**Subject:** Magistrate Judge Evaluation Committee Survey/Questionnaire

*Hafa Adai!* The Judiciary of Guam respectfully requests your assistance in completing an assessment of Magistrate Judge Jonathan R. Quan's performance during his term as Magistrate Judge. A survey will be made available for you to complete beginning April 15, 2022 and concluding May 6, 2022.

Magistrate Judge Quan's four-year term will be expiring this September 2022, and the reappointment will be considered by the Judicial Council pursuant to 7 GCA § 4401(d). In preparation, Chief Justice F. Philip Carbullido has appointed the following individuals to serve with me on the Evaluation Committee: Danielle T. Rosete, Superior Court of Guam Clerk of Court, Barbara Jean T. Perez, Judiciary of Guam Human Resources Administrator, Andrew S. Quenga, Deputy Administrator of the Courts, and Jacqueline T. Terlaje, Guam Bar Association President. The Committee is tasked with reporting to the Judicial Council an assessment of Magistrate Judge Quan's performance, as evaluated by practitioners, litigants and parties who have appeared before him, as well as court staff who have interacted with him.

It is urgently requested that the evaluation be completed. The survey/questionnaire will be made available to you by various means of dissemination to facilitate contact with all interested individuals so that they might have the opportunity to provide input. To complete the survey online, please click on the following link <https://www.surveymonkey.com/r/PCL73MS>.

Your responses are invaluable to ensuring that the appointee continues to serve the interests of justice. The Committee thanks you in advance for taking the time to be a part of this important process.

Thank you!

## JUDICIAL PERFORMANCE EVALUATION

### Attorney Evaluation of Magistrate Judge Jonathan R. Quan

In an effort to improve the quality of the judiciary and justice system the above-named magistrate's performance on the bench is being evaluated. A critical component of this effort is to obtain the thoughtful, considered input from individuals who have appeared before the magistrate. As part of this process, attorneys who appeared before the magistrate during the past twelve months are being asked to complete a brief questionnaire.

Court records indicate that you or others in your law firm/office appeared before the magistrate during this time period. As you have had the opportunity to personally observe the magistrate on the bench, you are in a position to provide meaningful, reliable information to this evaluation by completing the attached questionnaire as completely and forthrightly as possible.

The survey should take 5 to 10 minutes to complete. Your responses will **remain totally confidential** and will be attributed to you in no manner. Neither your name nor any other identifying information will be asked and should not be provided on the questionnaire. Any potentially personally identifying information will remain confidential and responses will be reported only in summary form and aggregated with the other attorneys that complete the survey.

For each of the statements below, mark the box that best represents your own perspective on the topic, **based solely on your experience appearing before the above named magistrate**. You will be asked to provide background information that will help put the survey results into context. There is space in the questionnaire for you to provide any comments or additional information on the magistrate's performance or the evaluation materials and procedures.

Thank you for your participation and effort in this important endeavor.

**Judicial Performance Evaluation**  
**Attorney Evaluation of**  
**Magistrate Judge Jonathan R. Quan**

Please rate the magistrate's performance, based on your own personal experience, using the following scale:

**A Excellent      B Very Good      C Acceptable      D Poor      F Unacceptable**

Please answer **Don't Know/Does Not Apply** ("DK/DNA") for any items in which you lack sufficient information from your own observation to fairly and accurately rate the magistrate's performance or items which do not apply to your interactions with the magistrate.

	A	B	C	D	F	DK/DNA
<b><u>Section 1 Legal Ability</u></b>						
a. Legal reasoning ability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Knowledge of substantive law.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Knowledge of rules of procedure and evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Keeps current on developments in substantive law and rules of procedure and evidence.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Section 2 Integrity and Impartiality</u></b>						
a. Avoids impropriety and the appearance of impropriety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Treats all people with dignity and respect	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Willingness to make difficult or unpopular decisions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Acts fairly by giving people individual consideration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Considers both sides of an argument before rendering a decision.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Presents a neutral presence on the bench.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Refrains from inappropriate <i>ex parte</i> communication.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Bases decisions on the law and facts without regard to the identity of the parties or counsel.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Keeps an open mind and considering all relevant issues in making decisions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Acts without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IF YOU ANSWERED A, B, C, OR DK TO QUESTION J ABOVE, PLEASE **SKIP** TO SECTION 3

- k. If you believe the magistrate acts with favor or disfavor to anyone based upon personal characteristics, such as those listed above, please list the characteristic(s) giving rise to your belief.

**A    B    C    D    F    DK/DNA**

**Section 3 Communication**

- |   |                          |                          |                          |                          |                          |                          |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Uses clear and logical oral communication while in court.                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Uses plain English and understandable language when speaking to litigants and witnesses. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Prepares clear and logical written decisions and orders.                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Section 4 Professionalism and Temperament**

- |   |                          |                          |                          |                          |                          |                          |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Acts in a dignified manner.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Treats people with courtesy.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Is attentive to proceedings.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Acts with patience and self-control.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. When working with <i>pro se</i> litigants and litigation does so fairly and effectively. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Has appropriate levels of empathy with the parties involved in proceeding.               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Promotes public understanding of and confidence in the courts.                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Section 5 Administrative Capacity**

- |  |                          |                          |                          |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Is punctual for court.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Is prepared for court.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Maintains control over the courtroom.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Appropriately enforces court rules, orders, and deadlines.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Makes decisions and rulings in a prompt, timely manner.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| f. Manages the court's calendar efficiently.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| g. Demonstrates appropriate innovation in the use of technology to improve the administration of justice.              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| h. Fosters a productive work environment with other judges, magistrates and court staff.                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| i. Acts to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

## **Section 6 Background Information**

- a. Which of the following areas of law best describe your practice (select up to 2 items)
- ☐ CIVIL TORT -- DEFENSE
  - ☐ CIVIL TORT -- PLAINTIFF
  - ☐ CRIMINAL -- DEFENSE ATTORNEY
  - ☐ CRIMINAL -- PROSECUTION
  - ☐ COMMERCIAL & GENERAL CIVIL
  - ☐ JUVENILE OFFENDER OR DEPENDENCY
  - ☐ DOMESTIC RELATIONS/FAMILY LAW
  - ☐ ESTATE/PROBATE
  - ☐ GOVERNMENT PRACTICE
  - ☐ OTHER (please specify) \_\_\_\_\_
- b. Which of the following best describes your work setting?
- ☐ PROSECUTING ATTORNEY'S OFFICE
  - ☐ ATTORNEY GENERAL'S OFFICE
  - ☐ PUBLIC DEFENDER
  - ☐ LEGAL AID
  - ☐ IN HOUSE CORPORATE COUNSEL
  - ☐ PRIVATE PRACTICE
  - ☐ OTHER (please specify) \_\_\_\_\_
- c. How many times have you appeared for a virtual or in-person hearing in Magistrate Quan's court over the past year?
- ☐ NEVER
  - ☐ ONCE
  - ☐ 2-3 TIMES
  - ☐ 4-10 TIMES
  - ☐ MORE THAN 10 TIMES

## **Comments**

Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below. You may use the back of this page or add additional pages if needed.

**Thank you very much for your time and effort.**

# **Court Patron Evaluation**

April 15, 2022

**To:** Attorneys, Litigants, and Parties Who Have Appeared Before  
Magistrate Judge Jonathan R. Quan *and* All Superior Court of Guam Staff  
Who Have Interacted with Magistrate Judge Quan

**From:** Honorable Alberto E. Tolentino, Chairperson  
Superior Court of Guam Magistrate Judge Evaluation Committee

**Subject:** Magistrate Judge Evaluation Committee Survey/Questionnaire

*Hafa Adai!* The Judiciary of Guam respectfully requests your assistance in completing an assessment of Magistrate Judge Jonathan R. Quan's performance during his term as Magistrate Judge. A survey will be made available for you to complete beginning April 15, 2022 and concluding May 6, 2022.

Magistrate Judge Quan's four-year term will be expiring this September 2022, and the reappointment will be considered by the Judicial Council pursuant to 7 GCA § 4401(d). In preparation, Chief Justice F. Philip Carbullido has appointed the following individuals to serve with me on the Evaluation Committee: Danielle T. Rosete, Superior Court of Guam Clerk of Court, Barbara Jean T. Perez, Judiciary of Guam Human Resources Administrator, Andrew S. Quenga, Deputy Administrator of the Courts, and Jacqueline T. Terlaje, Guam Bar Association President. The Committee is tasked with reporting to the Judicial Council an assessment of Magistrate Judge Quan's performance, as evaluated by practitioners, litigants and parties who have appeared before him, as well as court staff who have interacted with him.

It is urgently requested that the evaluation be completed. The survey/questionnaire will be made available to you by various means of dissemination to facilitate contact with all interested individuals so that they might have the opportunity to provide input. To complete the survey online, please click on the following link <https://www.surveymonkey.com/r/P2HWP55>. You can also complete the attached paper survey and return it to the Judiciary of Guam using the self-addressed envelope provided. The survey should be completed by May 6, 2022. If you completed an online survey you do not need to send a paper survey.

Your responses are invaluable to ensuring that the appointee continues to serve the interests of justice. The Committee thanks you in advance for taking the time to be a part of this important process.

Thank you!

## JUDICIAL PERFORMANCE EVALUATION

### Evaluation of Magistrate Judge Jonathan R. Quan

In an effort to improve the quality of the judiciary and justice system the above-named magistrate's performance on the bench is being evaluated. A critical component of this effort is to obtain the thoughtful, considered input from individuals who have appeared in the magistrate's courtroom. You have had the opportunity to personally observe the magistrate during the course of proceedings before the magistrate. As such, you are in a unique position to provide meaningful, reliable information in this process by completing the attached questionnaire as completely and forthrightly as possible. By answering these questions you will not only be helping the magistrate improve his performance, you will also be providing information that can lead to improving the quality of services the entire court system can provide to the public.

The survey should take about 5 minutes to complete. Your responses will remain **totally confidential** and will be attributed to you in no manner. Neither your name nor any other identifying information will be asked and should not be provided on the questionnaire. Any potentially personally identifying information will remain confidential and responses will only be reported in summary form.

For each of the statements on pages below, please mark the box that best represents your own perspective on the topic, **based solely on your experience**. You can also provide any comments or additional information on the magistrate's performance or the evaluation materials and procedures.

Thank you for your participation and effort in this important endeavor.



## Judicial Performance Evaluation Court

### Patron Evaluation of

### Magistrate Judge Jonathan R. Quan

Please rate the magistrate's performance, based on your own personal experience, using the following scale:

**A Excellent      B Very Good      C Acceptable      D Poor      F Unacceptable**

Please answer **Don't Know/Does Not Apply ("DK/DNA")** for any items in which you lack sufficient information from your own observation to fairly and accurately rate the magistrate's performance or items which do not apply to your interactions with the magistrate.

	A	B	C	D	F	DK/DNA
1. Avoided impropriety and the appearance of impropriety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Treated all people with dignity and respect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Acted without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IF YOU ANSWERED A, B, C, OR DK TO QUESTION 3 ABOVE, PLEASE **SKIP** TO QUESTION 5

- |  |                          |                          |                          |                          |                          |                          |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 4. If you believe the Magistrate acted with favor or disfavor to anyone based upon personal characteristics such as those listed above, please list the characteristic(s) (if any) giving rise to your belief. | <hr/>                    |                          |                          |                          |                          |                          |
| 5. Used clear and logical oral communication when speaking to lawyers, witnesses, and litigants while in court.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Clearly explained court procedures.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Acted in a dignified manner.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Treated the attorneys, litigants and witnesses with courtesy.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Acted with patience and self-control.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Maintained control over the courtroom and proceedings.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Appropriately enforced court rules, orders, and time limits.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Acted to ensure that disabilities and linguistic and cultural differences did not limit access to the justice system.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Do you feel that your interaction with the Magistrate could have been improved?  |                          |                          |                          |                          |                          |                          |
| ○ YES  |                          |                          |                          |                          |                          |                          |
| ○ NO   |                          |                          |                          |                          |                          |                          |

If so, how?

**Comments**

Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below. You may use the back of this page or add additional pages if needed.

**Thank you very much for your time and effort.**

# **Court Staff Evaluation**

April 15, 2022

**To:** Attorneys, Litigants, and Parties Who Have Appeared Before  
Magistrate Judge Jonathan R. Quan *and* All Superior Court of Guam Staff  
Who Have Interacted with Magistrate Judge Quan

**From:** Honorable Alberto E. Tolentino, Chairperson  
Superior Court of Guam Magistrate Judge Evaluation Committee

**Subject:** Magistrate Judge Evaluation Committee Survey/Questionnaire

*Hafa Adai!* The Judiciary of Guam respectfully requests your assistance in completing an assessment of Magistrate Judge Jonathan R. Quan's performance during his term as Magistrate Judge. A survey will be made available for you to complete beginning April 15, 2022 and concluding April 29, 2022.

Magistrate Judge Quan's four-year term will be expiring this September 2022, and the reappointment will be considered by the Judicial Council pursuant to 7 GCA § 4401(d). In preparation, Chief Justice F. Philip Carbullido has appointed the following individuals to serve with me on the Evaluation Committee: Danielle T. Rosete, Superior Court of Guam Clerk of Court, Barbara Jean T. Perez, Judiciary of Guam Human Resources Administrator, Andrew S. Quenga, Deputy Administrator of the Courts, and Jacqueline T. Terlaje, Guam Bar Association President. The Committee is tasked with reporting to the Judicial Council an assessment of Magistrate Judge Quan's performance, as evaluated by practitioners, litigants and parties who have appeared before him, as well as court staff who have interacted with him.

It is urgently requested that the evaluation be completed. The survey/questionnaire will be made available to you by various means of dissemination to facilitate contact with all interested individuals so that they might have the opportunity to provide input. To complete the survey online, please click on the following link <https://www.surveymonkey.com/r/CVD7XT2>.

Your responses are invaluable to ensuring that the appointee continues to serve the interests of justice. The Committee thanks you in advance for taking the time to be a part of this important process.

Thank you!

## JUDICIAL PERFORMANCE EVALUATION

### Court Staff Evaluation of Magistrate Judge Jonathan R. Quan

In an effort to improve the quality of the judiciary and justice system the above-named magistrate's performance on the bench is being evaluated. A critical component of this effort is to obtain the thoughtful, considered input from individuals who have worked with the magistrate over an extended time period. The magistrate and court administration are aware that a number of court personnel, including but not limited to bailiffs, courtroom clerks, deputy clerks, court interpreters, probation officers, and marshals have been selected to provide the information requested in the attached questionnaire.

As a member of the courthouse staff, you are in a position to provide meaningful, reliable information to this evaluation by completing the attached questionnaire as completely and forthrightly as possible. By answering these questions you will not only help the magistrate improve his/her performance on and off the bench, but will also help enhance the quality of services the court system can provide to the public.

The survey should take 5 to 10 minutes to complete. Your responses will remain **totally confidential** and will be attributed to you in no manner. Neither your name nor any other identifying information will be asked and should not be provided on the questionnaire. Any information provided that could potentially identify you as a respondent to the questionnaire will be deleted and responses provided by you and other participants will be reported only in summary form and aggregated with all other individuals that complete the survey.

For each of the statements in the survey on pages 2 and 3, select the response that best represents your own perspective on the topic, **based solely on your personal observations**. The questionnaire also has space for you to provide any comments or additional information on the magistrate's performance or the evaluation materials and procedures.

Thank you for your participation and effort in this important endeavor.

**Judicial Performance Evaluation  
Court Staff Evaluation of  
Magistrate Jonathan R. Quan**

Please rate the magistrate's performance, based on your own personal experience, using the following scale:

**A Excellent      B Very Good      C Acceptable      D Poor      F Unacceptable**

Please answer **Don't Know/Does Not Apply ("DK/DNA")** for any items in which you lack sufficient information from your own observation to fairly and accurately rate the magistrate's performance or items which do not apply to your interactions with the magistrate.

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>DK/DNA</b>
<b><u>Section 1 Integrity and Impartiality</u></b>						
a. Avoids impropriety and the appearance of impropriety.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Treats court personnel with dignity and respect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Treats litigants with dignity and respect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Treats attorneys with dignity and respect.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Willingness to make difficult or unpopular decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Acts fairly by giving people individual consideration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Considers both sides of an argument before rendering a decision.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Bases decisions on the law and facts without regard to the identity of the parties or counsel.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Keeps an open mind and considers all relevant issues in making decisions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Acts without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IF YOU ANSWERED A, B, C, OR DK TO QUESTION j. **PLEASE SKIP TO SECTION 2**

- k. If you believe the Magistrate acts with favor or disfavor to anyone based upon personal characteristics such as those listed above, please list the characteristic(s) (if any) giving rise to your belief.
-

	A	B	C	D	F	DK/DNA
<b><u>Section 2 Communication</u></b>						
a. Uses clear and logical oral communication in court.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Uses plain English and understandable language when speaking to litigants, and witnesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Section 3 Professionalism and Temperament</u></b>						
a. Acts in a dignified manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Treats people with courtesy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Acts with patience and self-control.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Works with <i>pro se</i> litigants and litigation fairly and effectively.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Promotes public understanding of and confidence in the courts through conduct on the bench.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Section 4 Administrative Capacity</u></b>						
a. Is punctual and prepared for court.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Maintains control over the courtroom, including courtroom personnel.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Appropriately enforces court rules, orders, and deadlines.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Makes decisions and rulings in a prompt, timely manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Manages the court's calendar efficiently.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Fosters a productive work environment with other judges, magistrates, and court staff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Acts to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments**

Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below. You may use the back of this page or add additional pages if needed.

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**Thank you very much for your time and effort.**

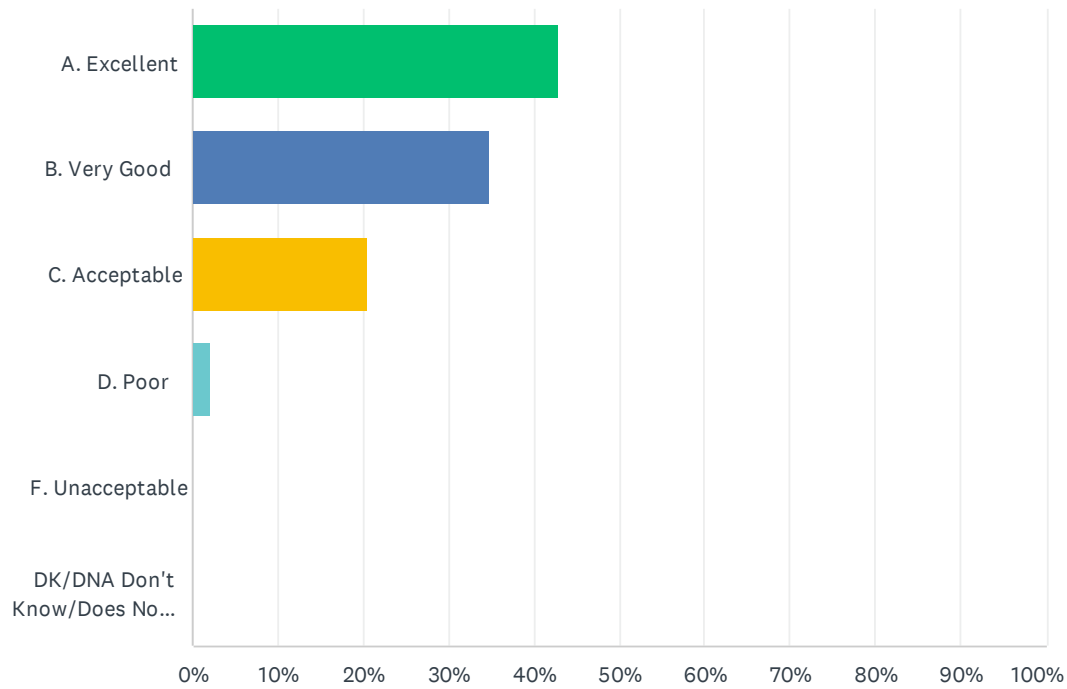
# **Exhibit C**



# **Attorney Evaluation Summary**

## Q1 Legal reasoning ability

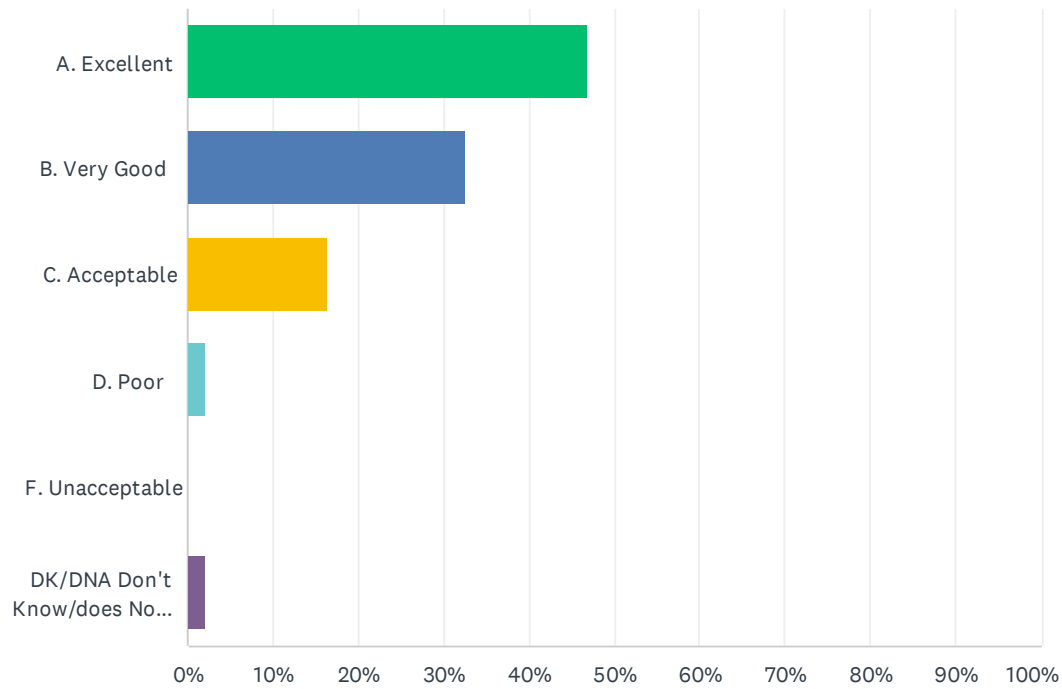
Answered: 49   Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	42.86%	21
B. Very Good	34.69%	17
C. Acceptable	20.41%	10
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	0.00%	0
TOTAL		49

## Q2 Knowledge of substantive law

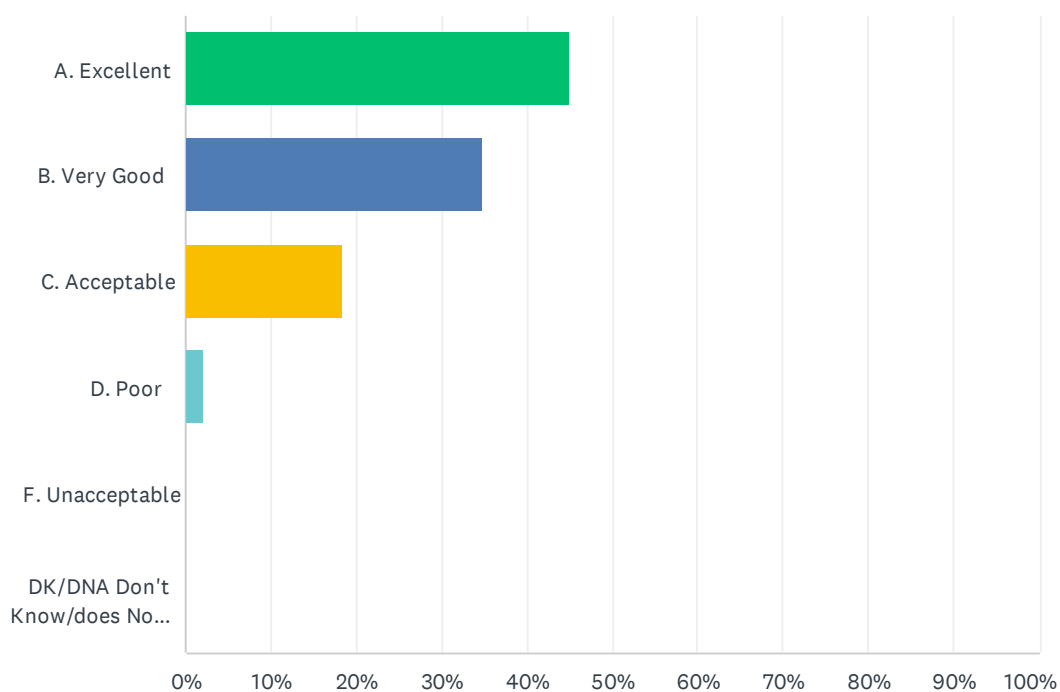
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	32.65%	16
C. Acceptable	16.33%	8
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/does Not Apply	2.04%	1
TOTAL		49

## Q3 Knowledge of rules of procedure and evidence

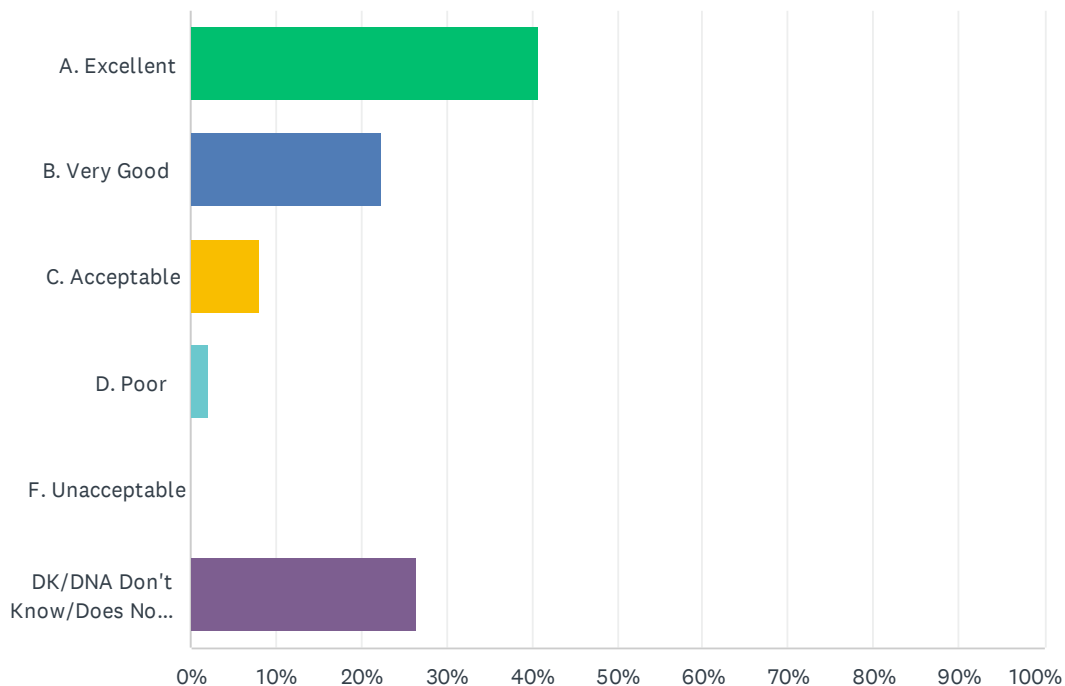
Answered: 49    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	44.90%	22
B. Very Good	34.69%	17
C. Acceptable	18.37%	9
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/does Not Apply	0.00%	0
<b>TOTAL</b>		<b>49</b>

## Q4 Keeps current on developments in substantive law and rules of procedure and evidence

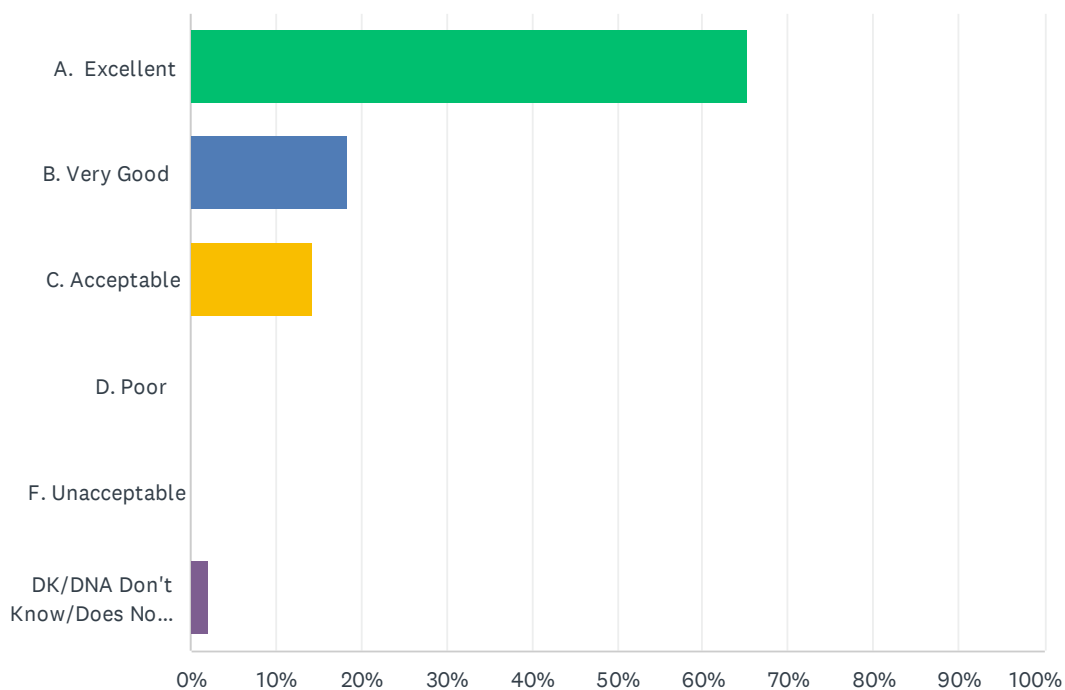
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	40.82%	20
B. Very Good	22.45%	11
C. Acceptable	8.16%	4
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	26.53%	13
TOTAL		49

## Q5 Avoids impropriety and the appearance of impropriety

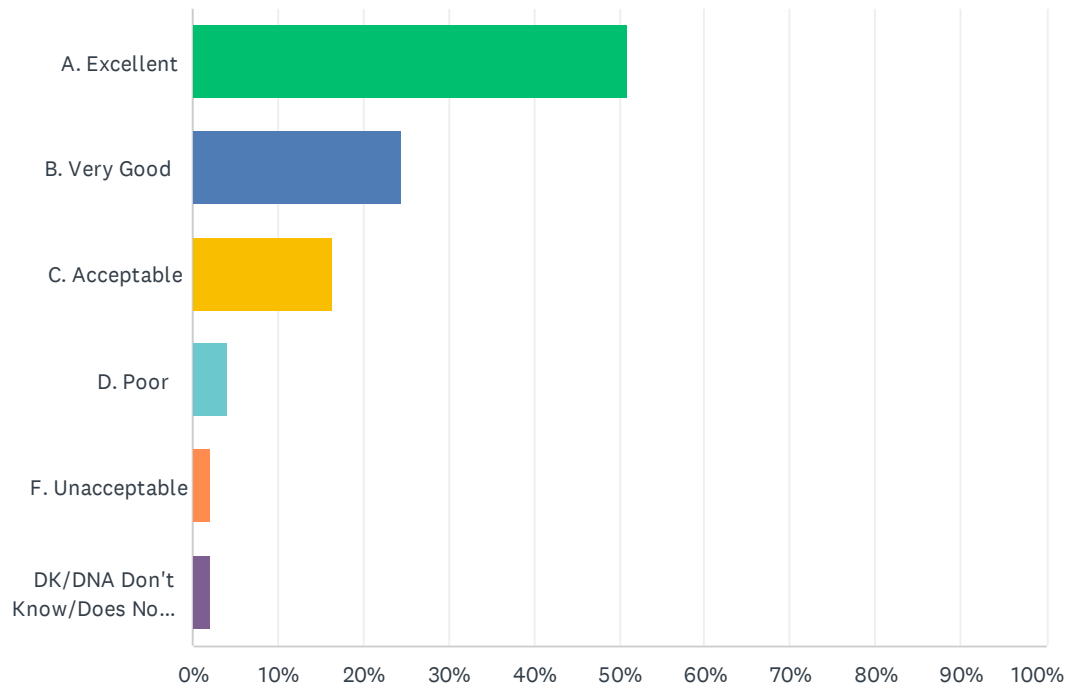
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	65.31%	32
B. Very Good	18.37%	9
C. Acceptable	14.29%	7
D. Poor	0.00%	0
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	2.04%	1
TOTAL		49

## Q6 Treats all people with dignity and respect

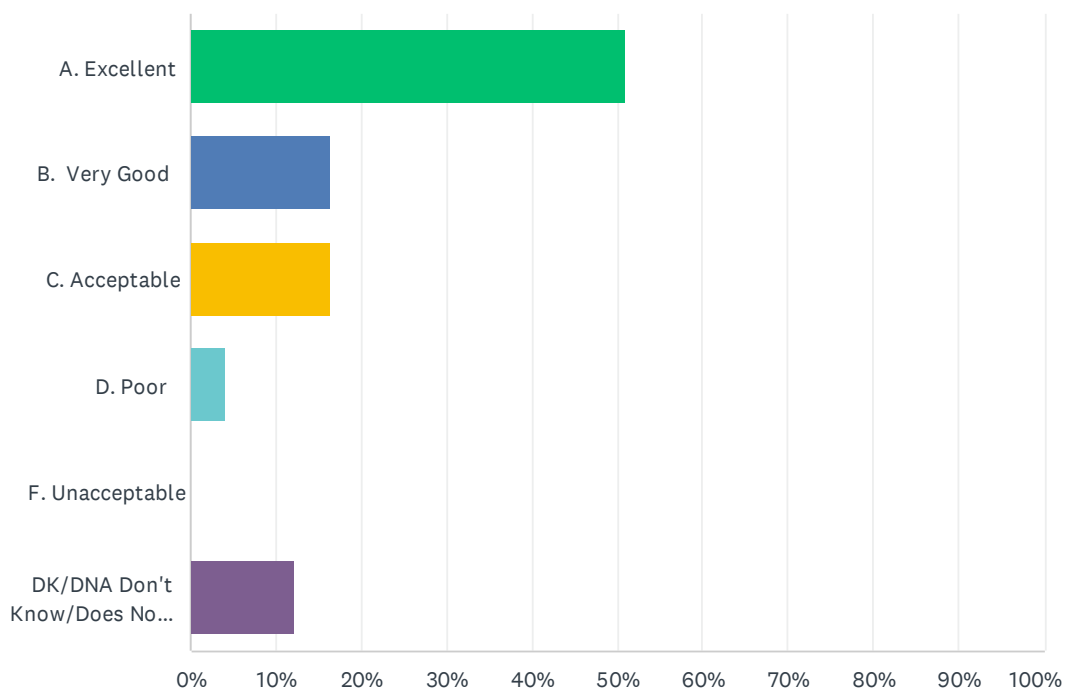
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	51.02%	25
B. Very Good	24.49%	12
C. Acceptable	16.33%	8
D. Poor	4.08%	2
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	2.04%	1
TOTAL		49

## Q7 Willingness to make difficult or unpopular decisions

Answered: 49 Skipped: 0

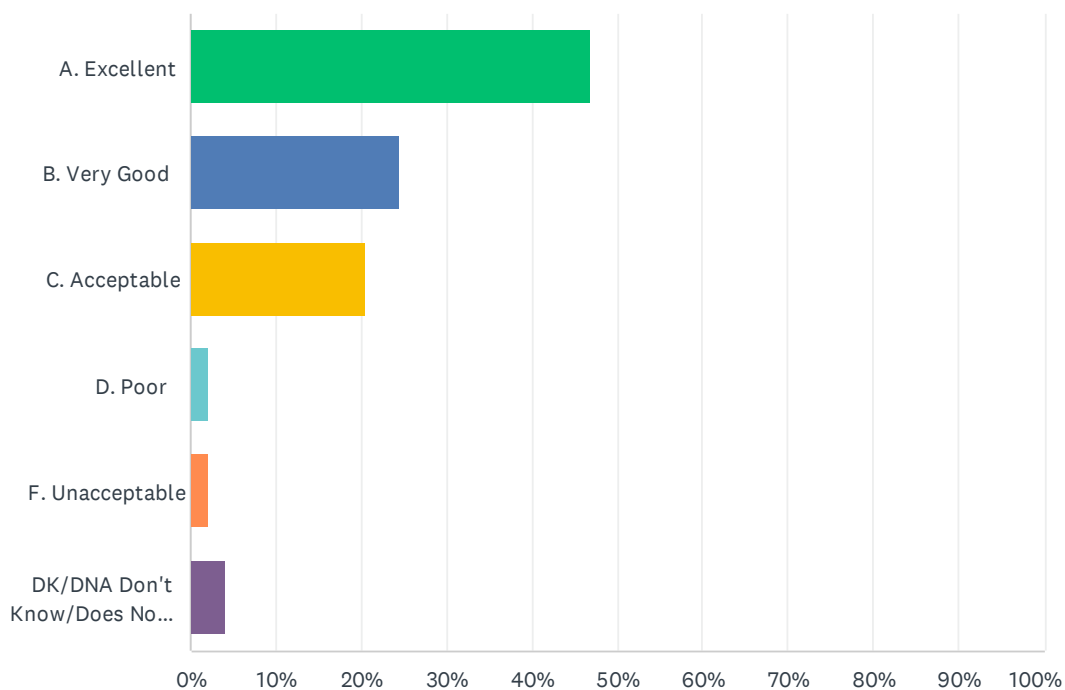


ANSWER CHOICES	RESPONSES	
A. Excellent	51.02%	25
B. Very Good	16.33%	8
C. Acceptable	16.33%	8
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	12.24%	6
TOTAL		49



## Q8 Acts fairly by giving people individual consideration

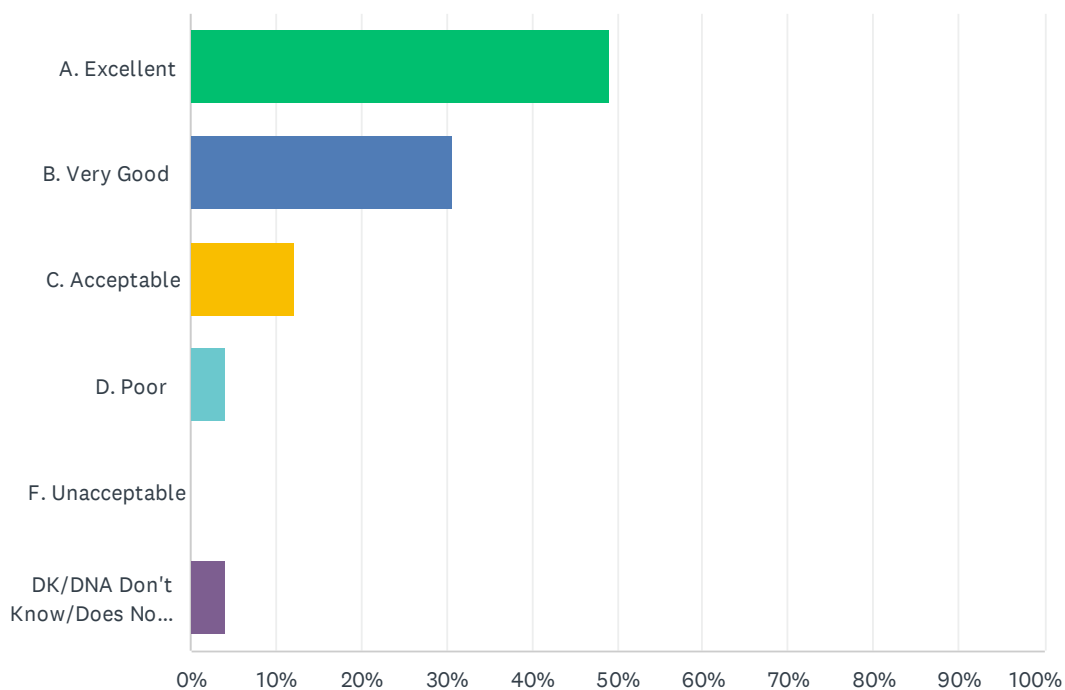
Answered: 49   Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	24.49%	12
C. Acceptable	20.41%	10
D. Poor	2.04%	1
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	4.08%	2
<b>TOTAL</b>		<b>49</b>

## Q9 Considers both sides of an argument before rendering a decision

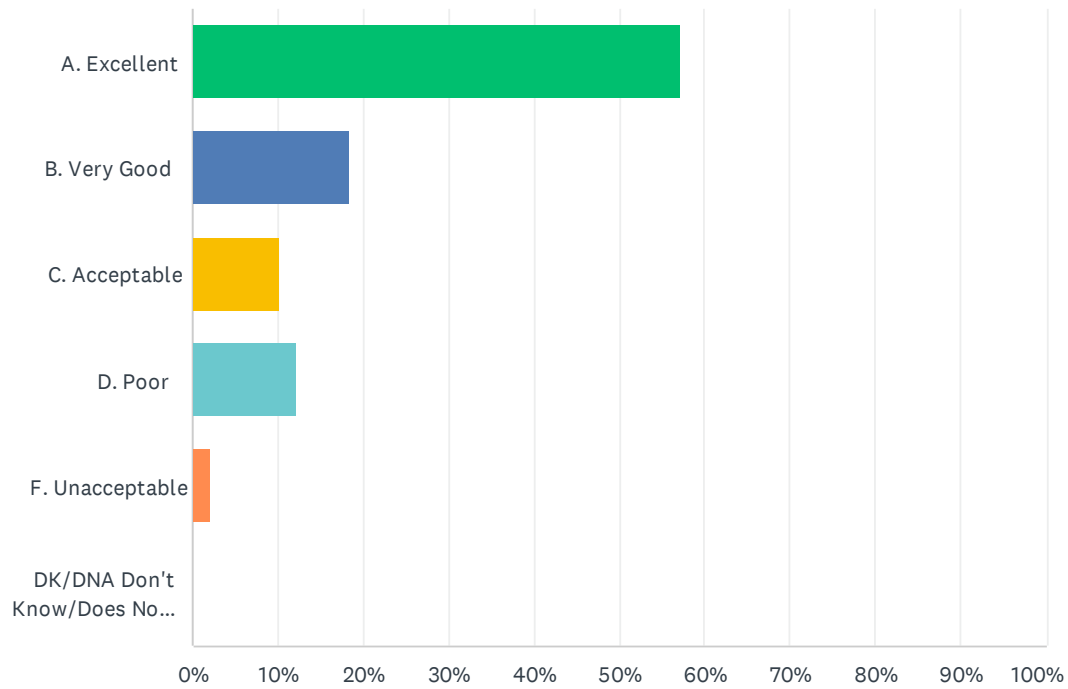
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	48.98%	24
B. Very Good	30.61%	15
C. Acceptable	12.24%	6
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	4.08%	2
TOTAL		49

## Q10 Presents a neutral presence on the bench

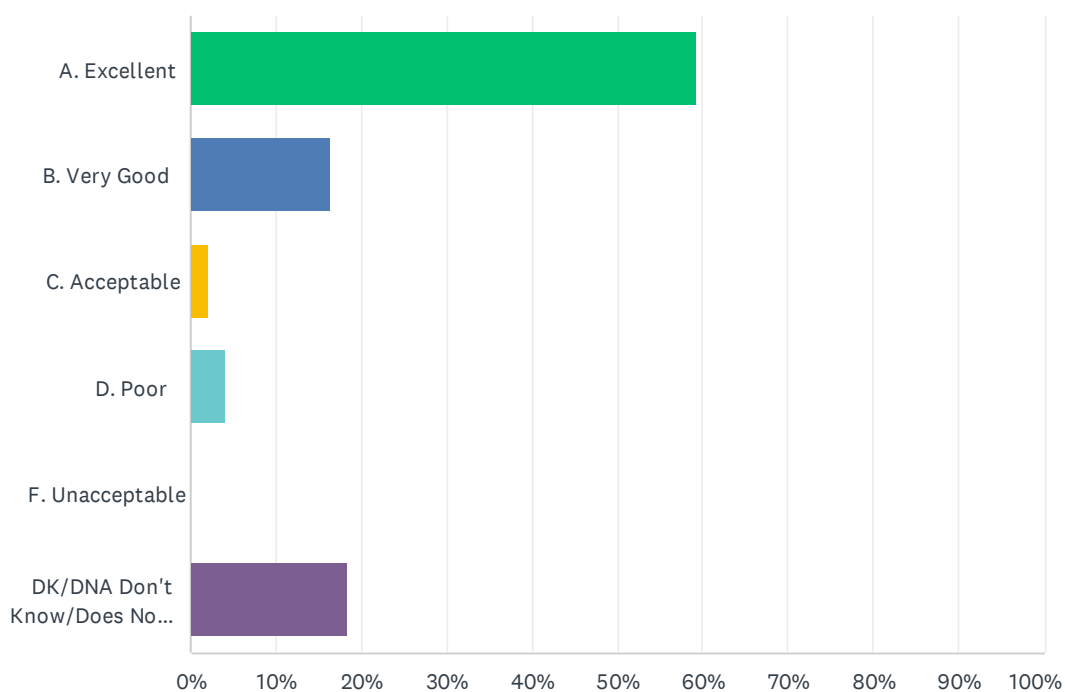
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	57.14%	28
B. Very Good	18.37%	9
C. Acceptable	10.20%	5
D. Poor	12.24%	6
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
TOTAL		49

## Q11 Refrains from inappropriate ex parte communication

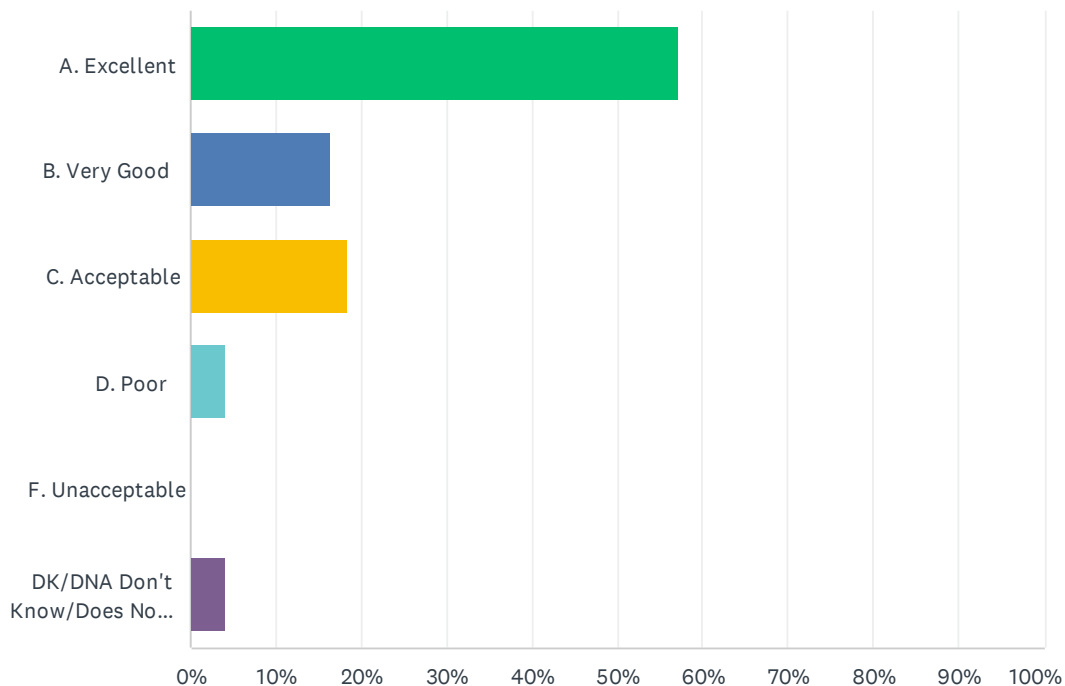
Answered: 49   Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	59.18%	29
B. Very Good	16.33%	8
C. Acceptable	2.04%	1
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	18.37%	9
TOTAL		49

## Q12 Bases decisions on the law and facts without regard to the identity of the parties or counsel

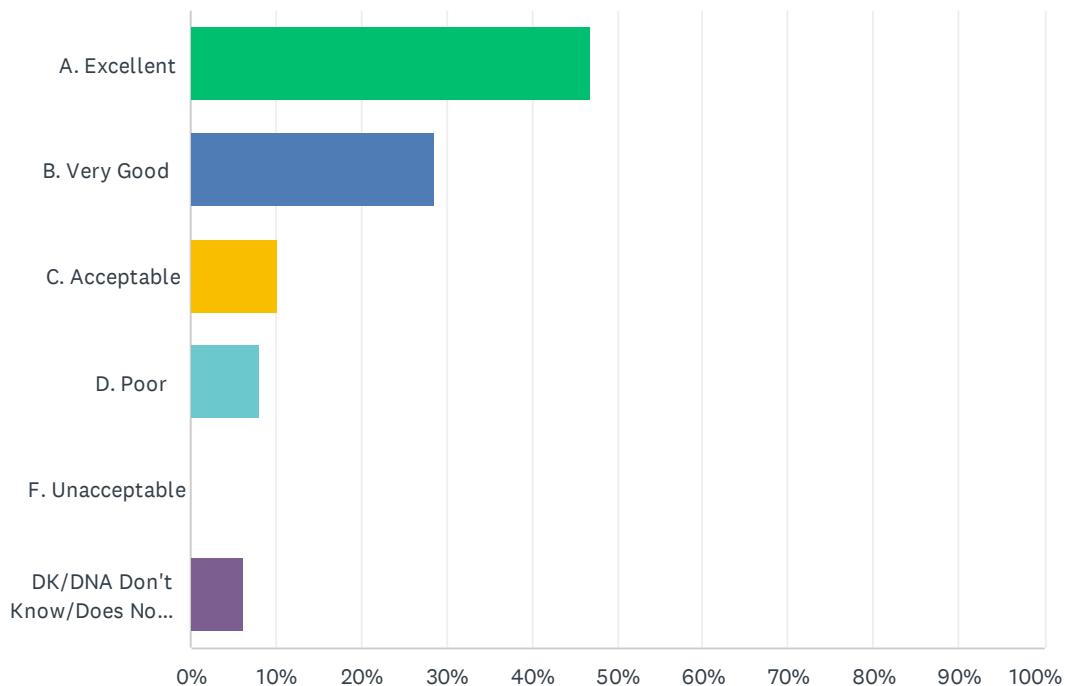
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	57.14%	28
B. Very Good	16.33%	8
C. Acceptable	18.37%	9
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	4.08%	2
TOTAL		49

## Q13 Keeps an open mind and considering all relevant issues in making decisions

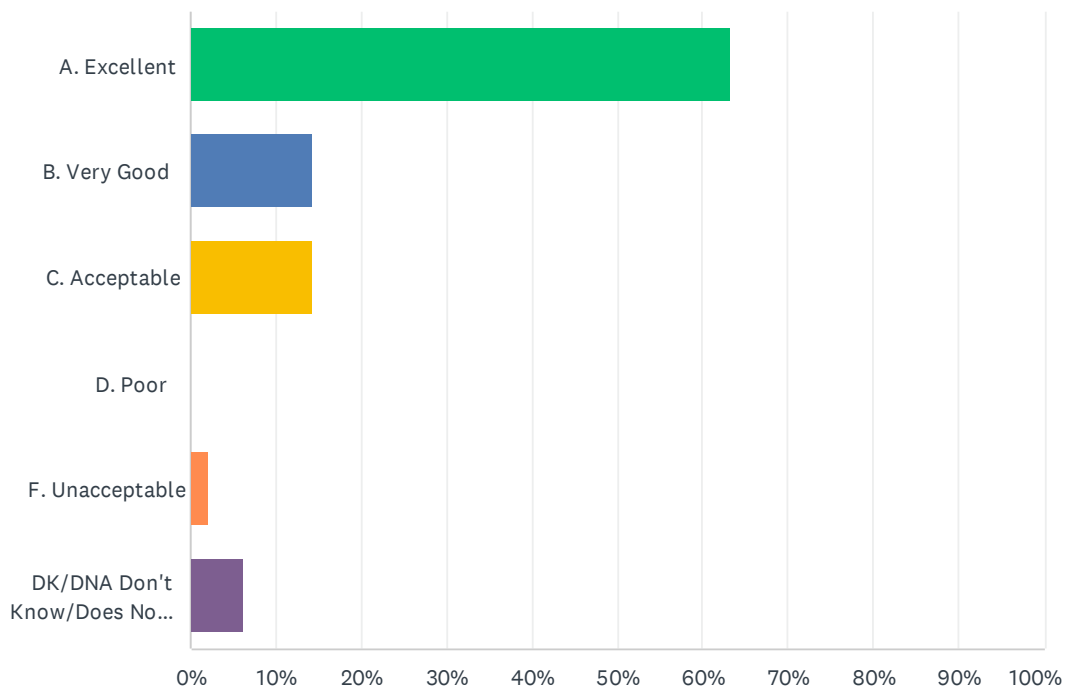
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	28.57%	14
C. Acceptable	10.20%	5
D. Poor	8.16%	4
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	6.12%	3
TOTAL		49

## Q14 Acts without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status

Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	63.27%	31
B. Very Good	14.29%	7
C. Acceptable	14.29%	7
D. Poor	0.00%	0
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	6.12%	3
TOTAL		49

**Q15 If you believe the magistrate acts with favor or disfavor to anyone based upon personal characteristics, such as those listed above, please list the characteristic(s) giving rise to your belief**

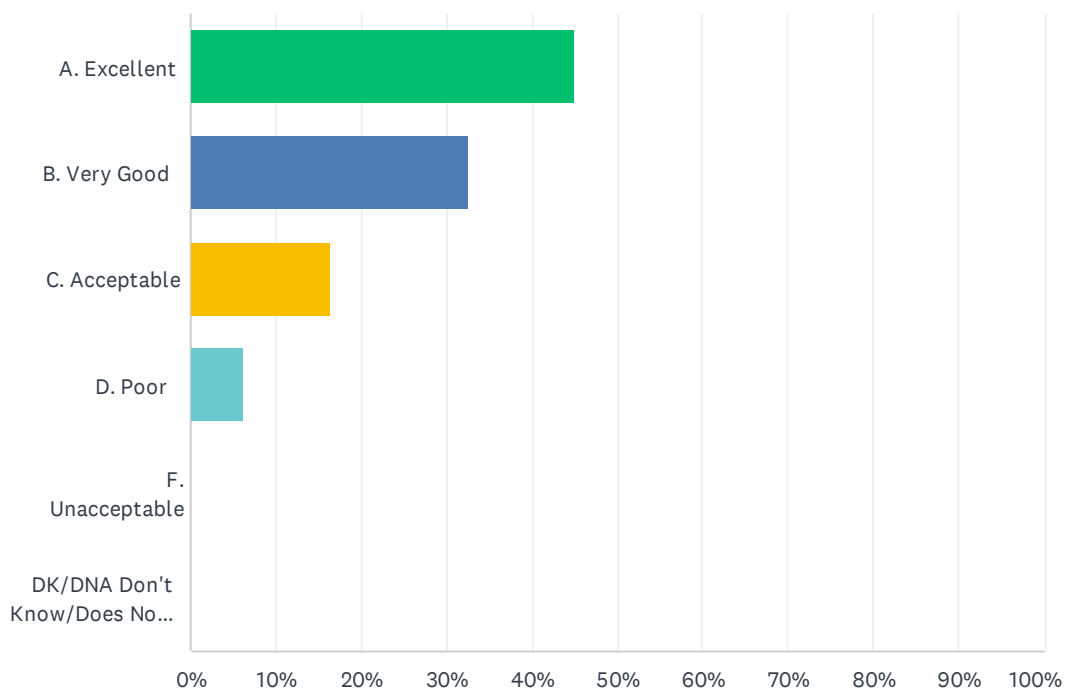
Answered: 2   Skipped: 47

#	RESPONSES	DATE
1	I have no basis to form an opinion on this.	5/5/2022 10:54 AM
2	MJ treats individual parties harshly when addressing them in court during initial appearances in criminal (as if the individual party is a criminal); Does not afford the parties or their counsel with respect or with compassion in both criminal and/or civil matters. Does not have a good understanding of uncontested domestic custody matters.	4/28/2022 10:23 AM



## Q16 Uses clear and logical oral communication while in court

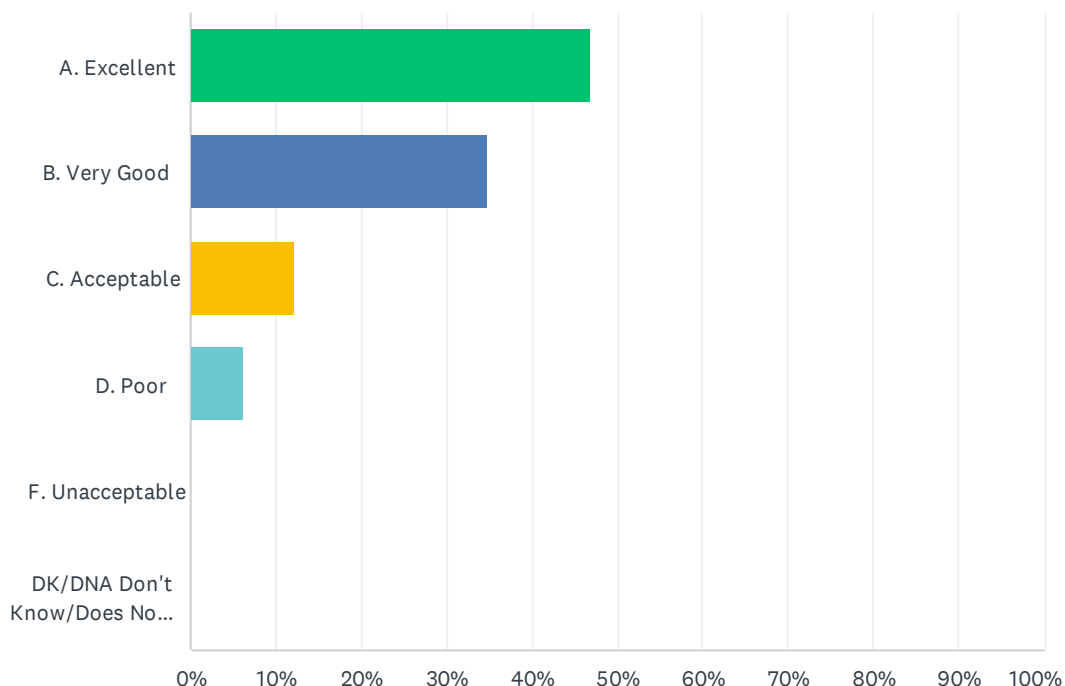
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	44.90%	22
B. Very Good	32.65%	16
C. Acceptable	16.33%	8
D. Poor	6.12%	3
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>49</b>

## Q17 Uses plain English and understandable language when speaking to litigants and witnesses

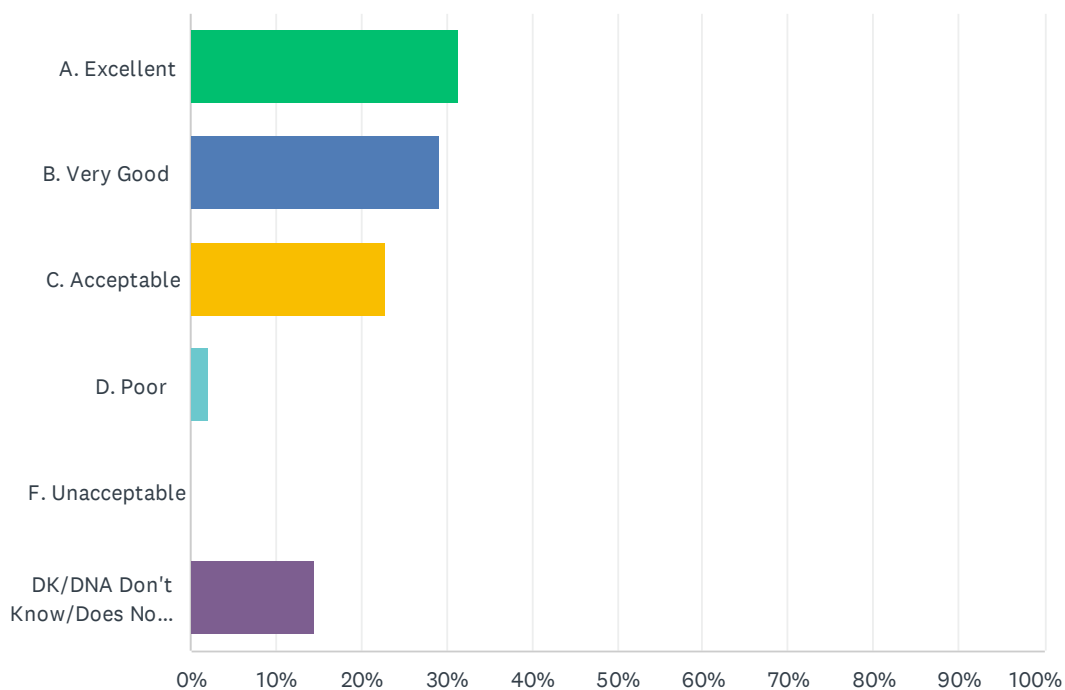
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	34.69%	17
C. Acceptable	12.24%	6
D. Poor	6.12%	3
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>49</b>

## Q18 Prepares clear and logical written decisions and orders

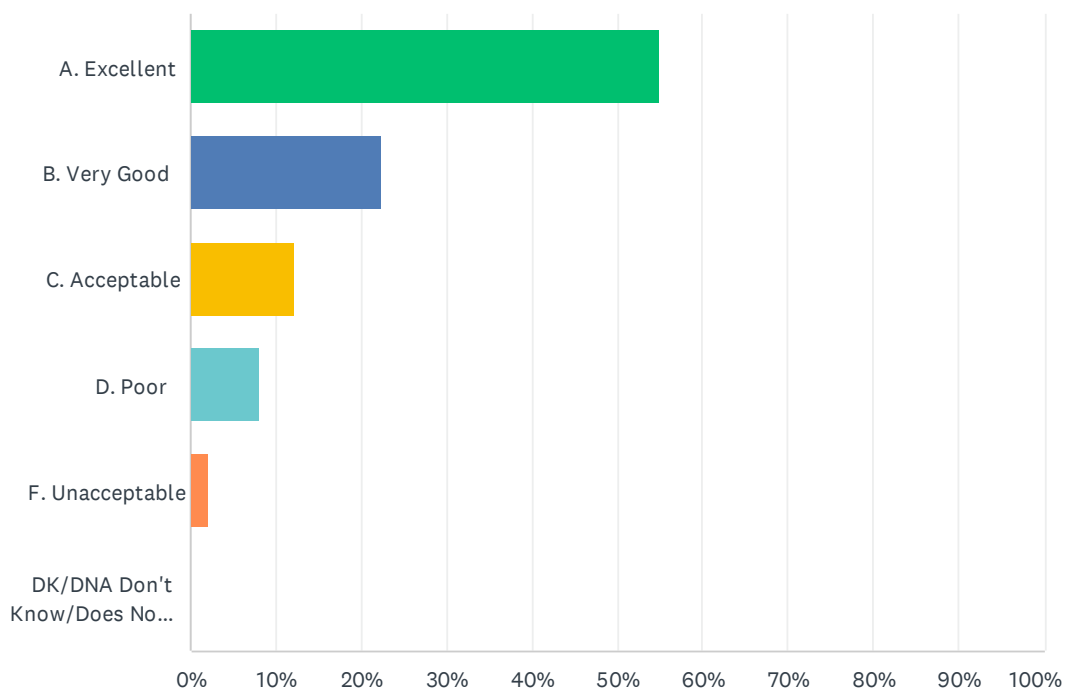
Answered: 48 Skipped: 1



ANSWER CHOICES	RESPONSES	
A. Excellent	31.25%	15
B. Very Good	29.17%	14
C. Acceptable	22.92%	11
D. Poor	2.08%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	14.58%	7
TOTAL		48

## Q19 Acts in a dignified manner

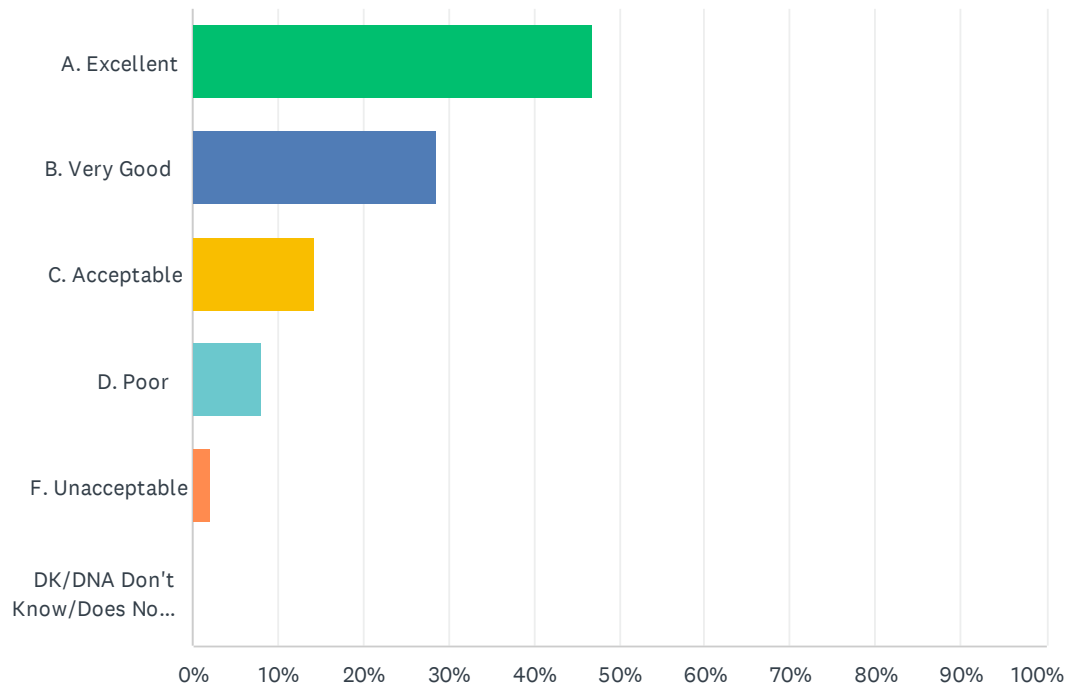
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	55.10%	27
B. Very Good	22.45%	11
C. Acceptable	12.24%	6
D. Poor	8.16%	4
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
TOTAL		49

## Q20 Treats people with courtesy

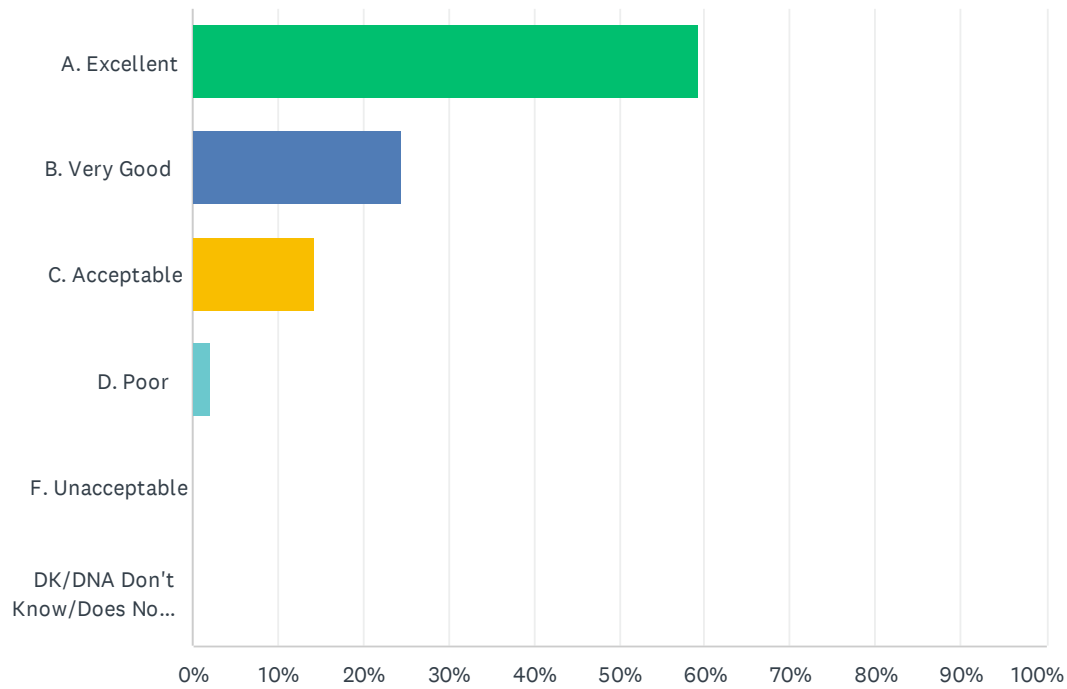
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	28.57%	14
C. Acceptable	14.29%	7
D. Poor	8.16%	4
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>49</b>

## Q21 Is attentive to proceedings

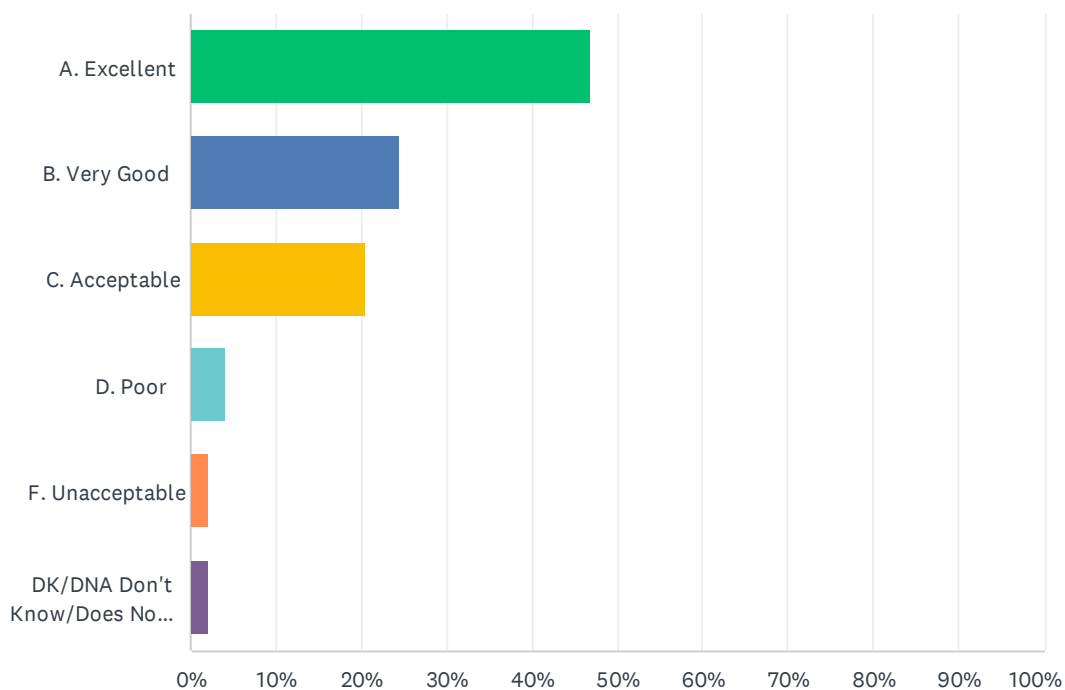
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	59.18%	29
B. Very Good	24.49%	12
C. Acceptable	14.29%	7
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>49</b>

## Q22 Acts with patience and self-control

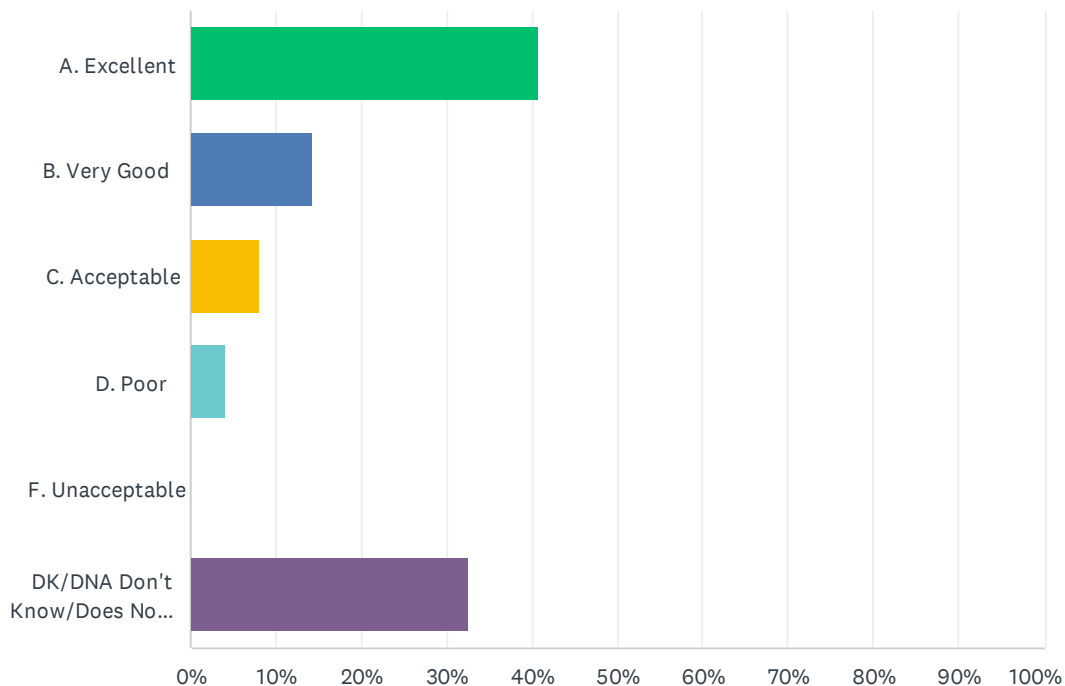
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	24.49%	12
C. Acceptable	20.41%	10
D. Poor	4.08%	2
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	2.04%	1
<b>TOTAL</b>		<b>49</b>

## Q23 When working with pro se litigants and litigation does so fairly and effectively

Answered: 49 Skipped: 0

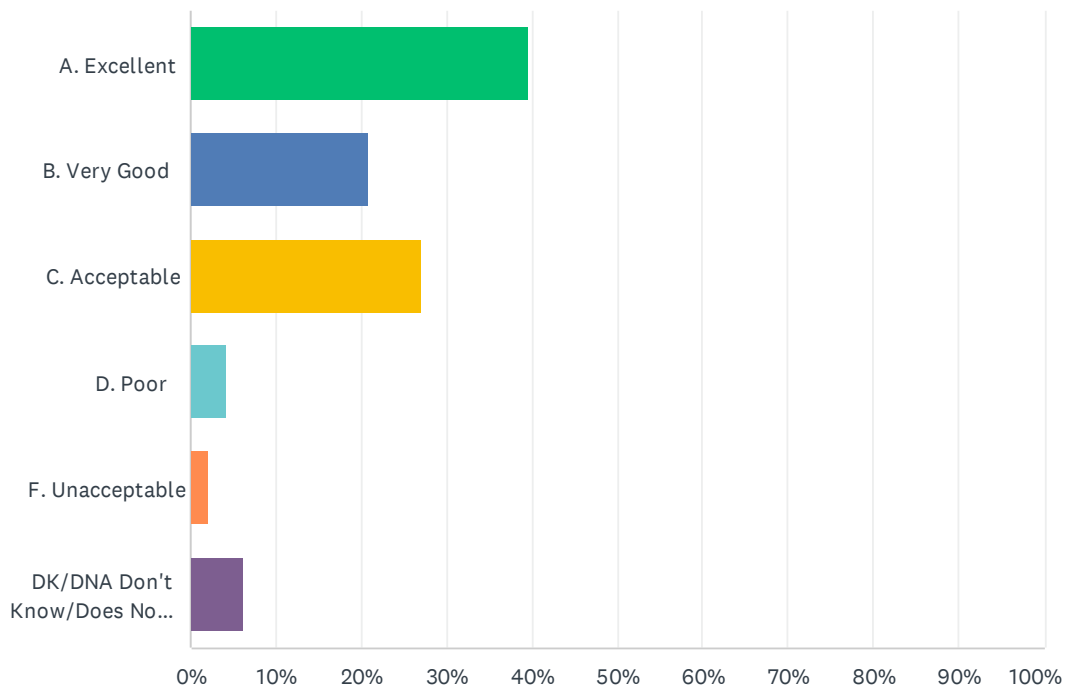


ANSWER CHOICES	RESPONSES	
A. Excellent	40.82%	20
B. Very Good	14.29%	7
C. Acceptable	8.16%	4
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	32.65%	16
TOTAL		49



## Q24 Has appropriate levels of empathy with the parties involved in proceeding

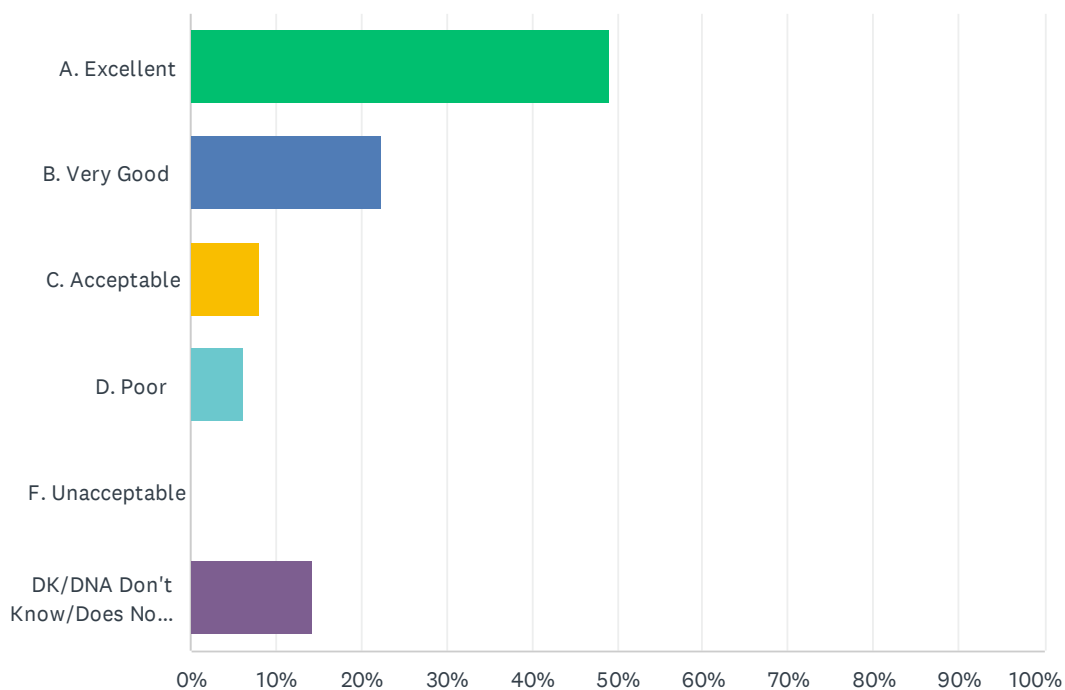
Answered: 48 Skipped: 1



ANSWER CHOICES	RESPONSES	
A. Excellent	39.58%	19
B. Very Good	20.83%	10
C. Acceptable	27.08%	13
D. Poor	4.17%	2
F. Unacceptable	2.08%	1
DK/DNA Don't Know/Does Not Apply	6.25%	3
TOTAL		48

## Q25 Promotes public understanding of and confidence in the courts

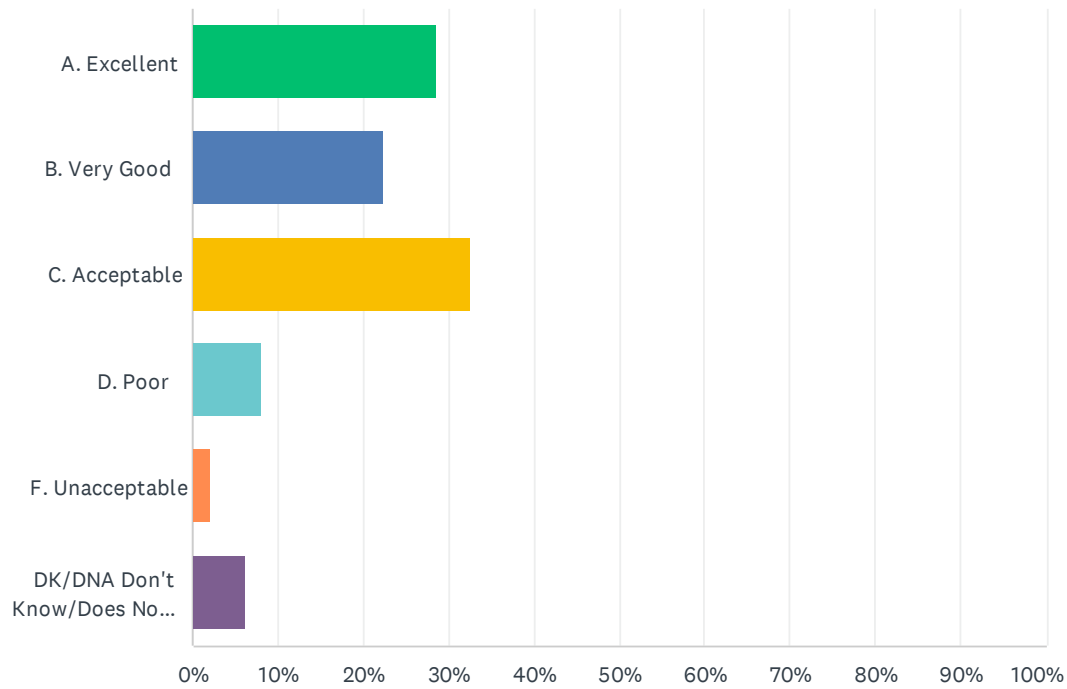
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	48.98%	24
B. Very Good	22.45%	11
C. Acceptable	8.16%	4
D. Poor	6.12%	3
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	14.29%	7
<b>TOTAL</b>		<b>49</b>

## Q26 Is punctual for court

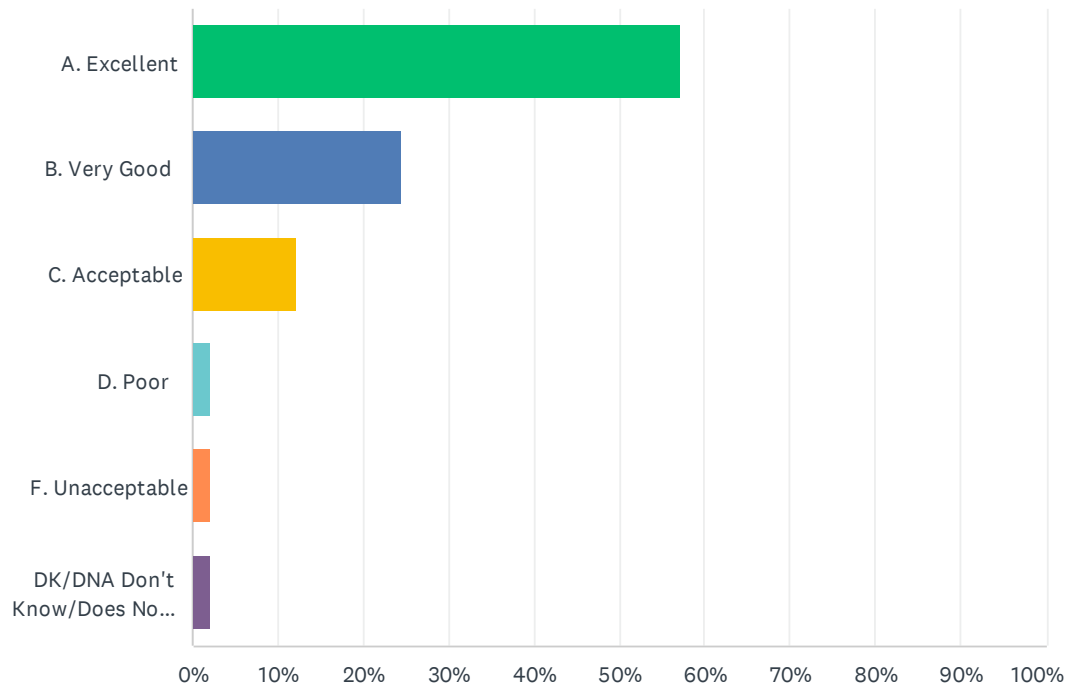
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	28.57%	14
B. Very Good	22.45%	11
C. Acceptable	32.65%	16
D. Poor	8.16%	4
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	6.12%	3
TOTAL		49

## Q27 Is prepared for court

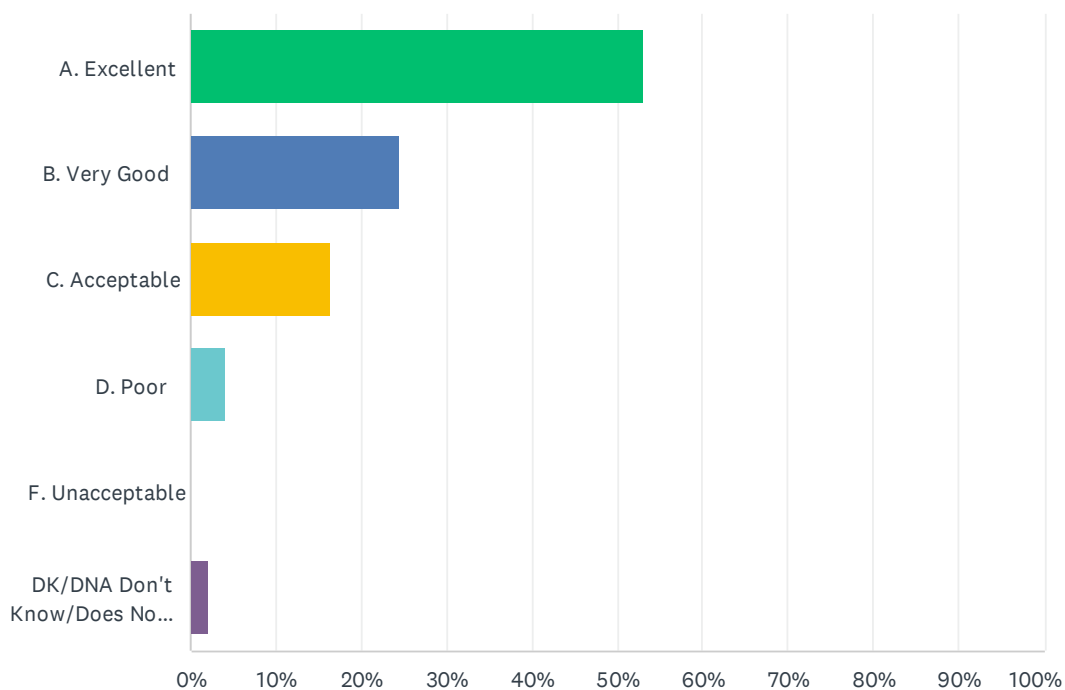
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	57.14%	28
B. Very Good	24.49%	12
C. Acceptable	12.24%	6
D. Poor	2.04%	1
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	2.04%	1
TOTAL		49

## Q28 Maintains control over the courtroom

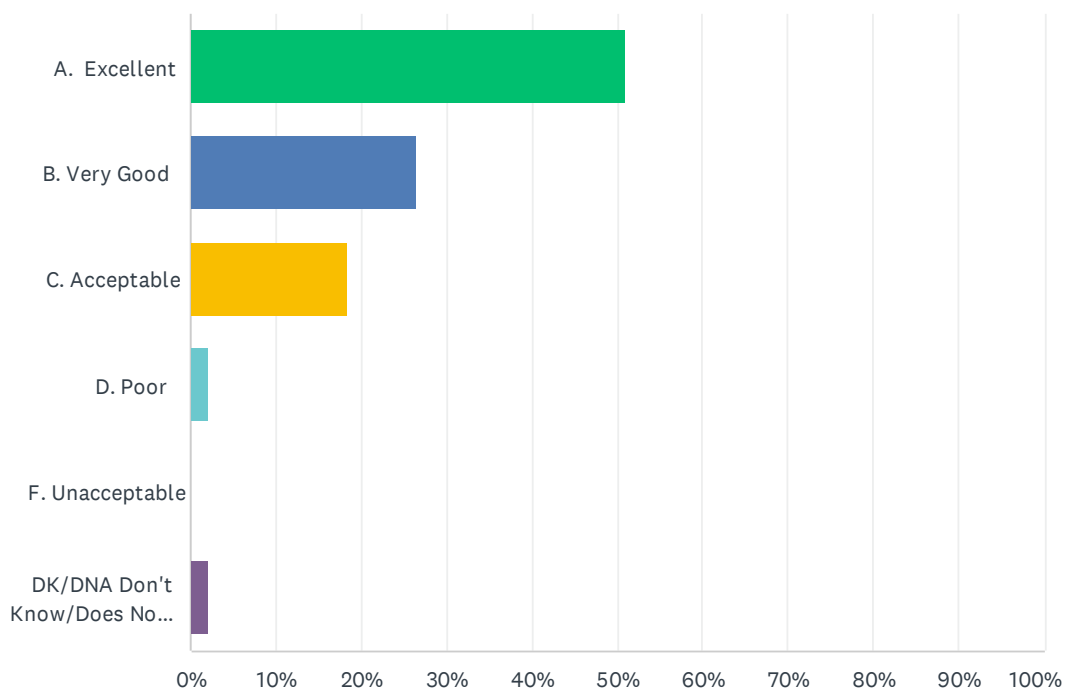
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	53.06%	26
B. Very Good	24.49%	12
C. Acceptable	16.33%	8
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	2.04%	1
TOTAL		49

## Q29 Appropriately enforces court rules, orders, and deadlines

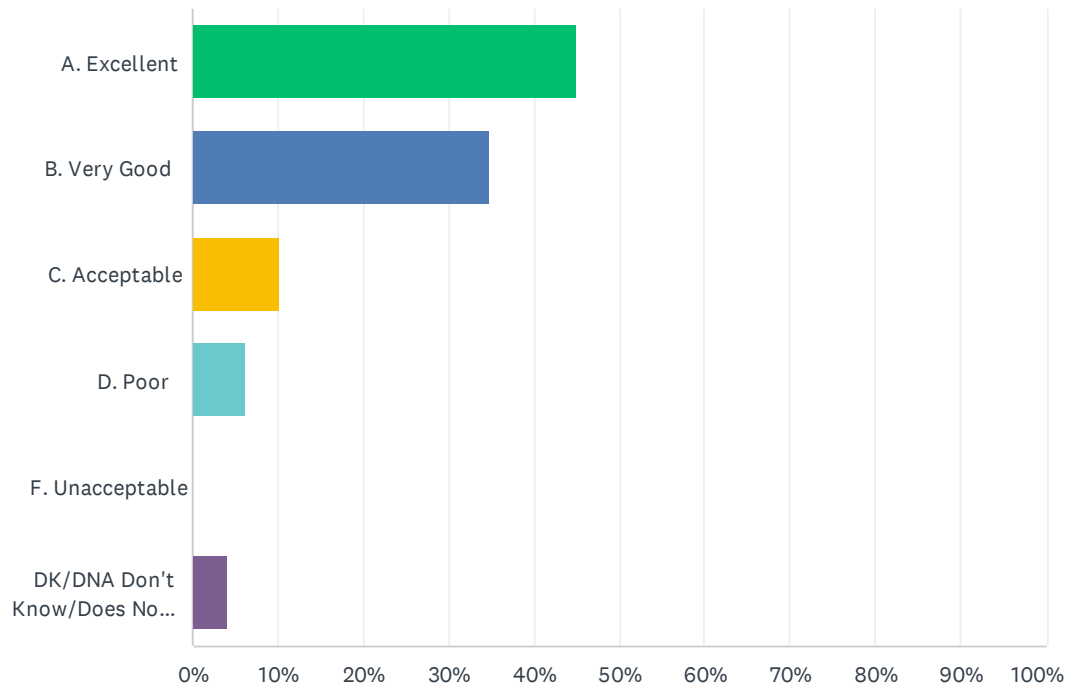
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	51.02%	25
B. Very Good	26.53%	13
C. Acceptable	18.37%	9
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	2.04%	1
TOTAL		49

## Q30 Makes decisions and rulings in a prompt, timely manner

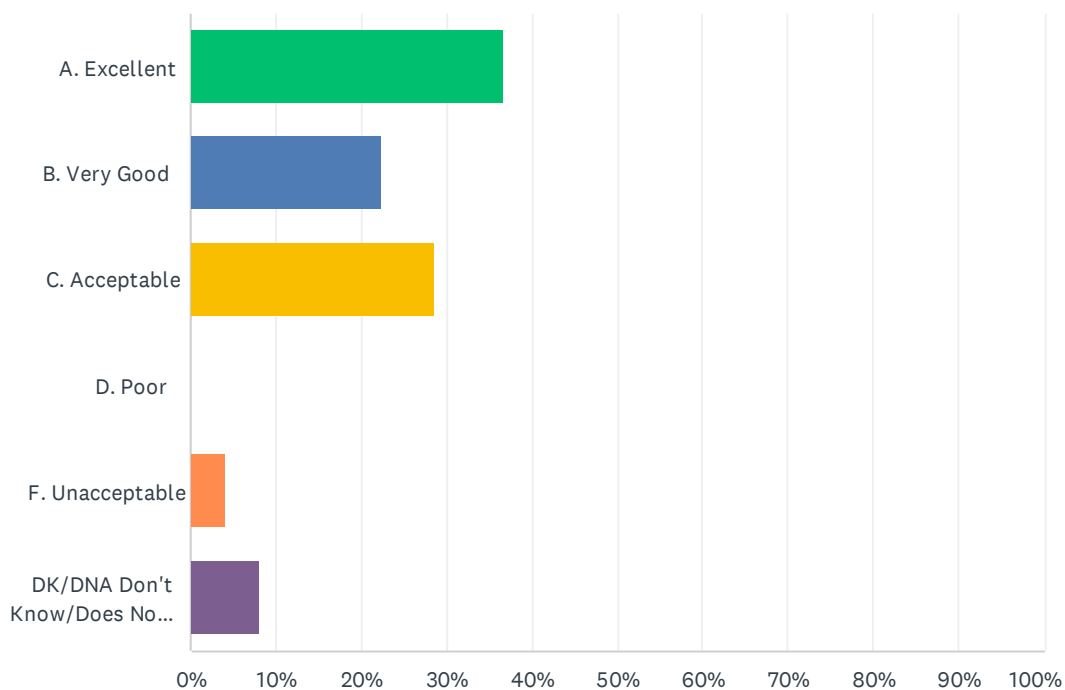
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	44.90%	22
B. Very Good	34.69%	17
C. Acceptable	10.20%	5
D. Poor	6.12%	3
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	4.08%	2
TOTAL		49

## Q31 Manages the court's calendar efficiently

Answered: 49 Skipped: 0

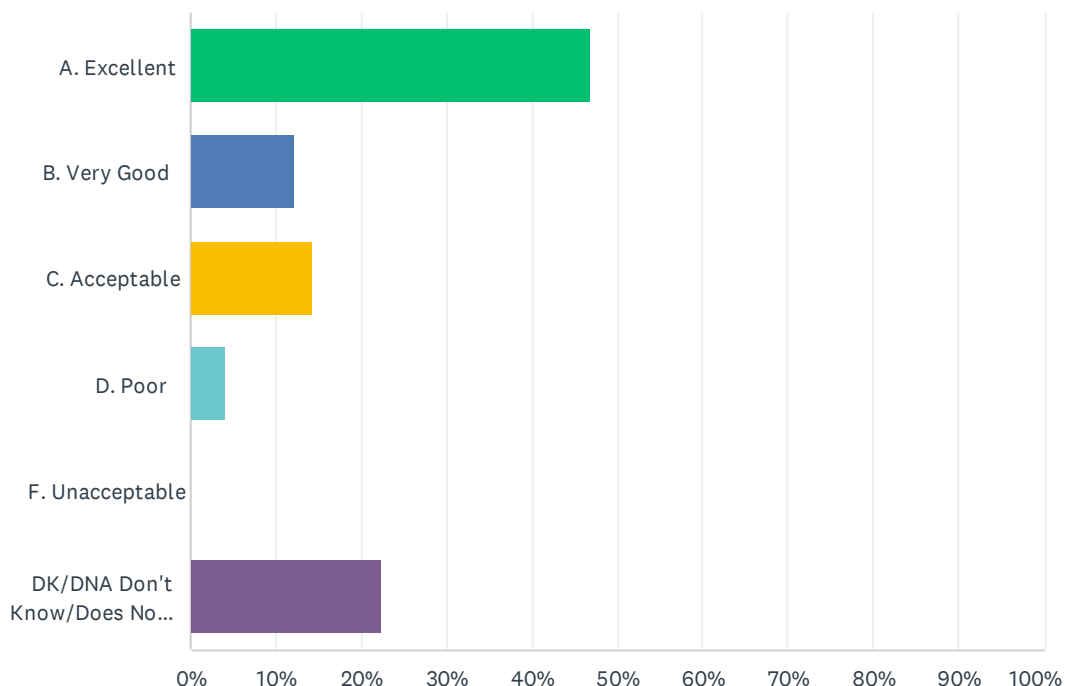


ANSWER CHOICES	RESPONSES	
A. Excellent	36.73%	18
B. Very Good	22.45%	11
C. Acceptable	28.57%	14
D. Poor	0.00%	0
F. Unacceptable	4.08%	2
DK/DNA Don't Know/Does Not Apply	8.16%	4
TOTAL		49



## Q32 Demonstrates appropriate innovation in the use of technology to improve the administration of justice

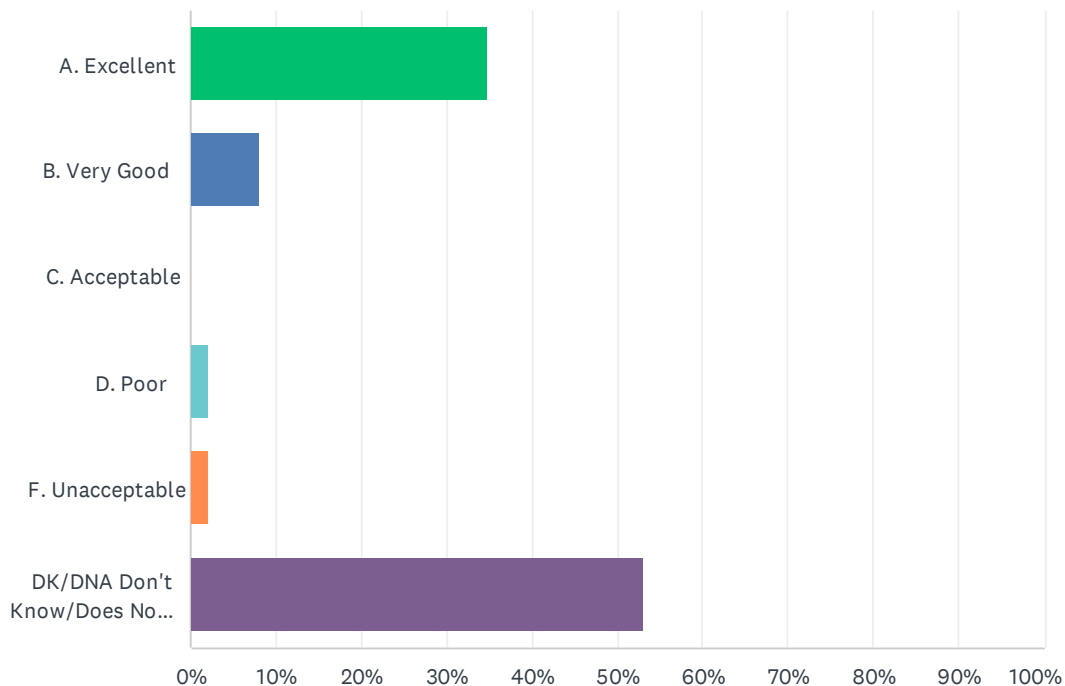
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	46.94%	23
B. Very Good	12.24%	6
C. Acceptable	14.29%	7
D. Poor	4.08%	2
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	22.45%	11
TOTAL		49

## Q33 Fosters a productive work environment with other judges, magistrates and court staff

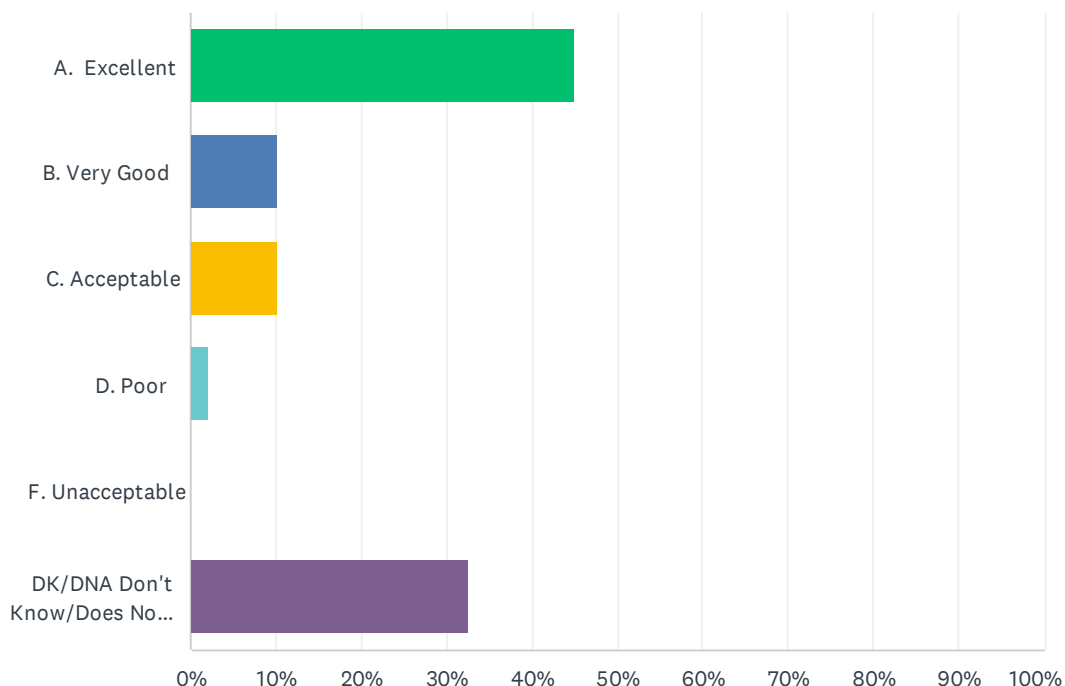
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	34.69%	17
B. Very Good	8.16%	4
C. Acceptable	0.00%	0
D. Poor	2.04%	1
F. Unacceptable	2.04%	1
DK/DNA Don't Know/Does Not Apply	53.06%	26
TOTAL		49

## Q34 Acts to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system

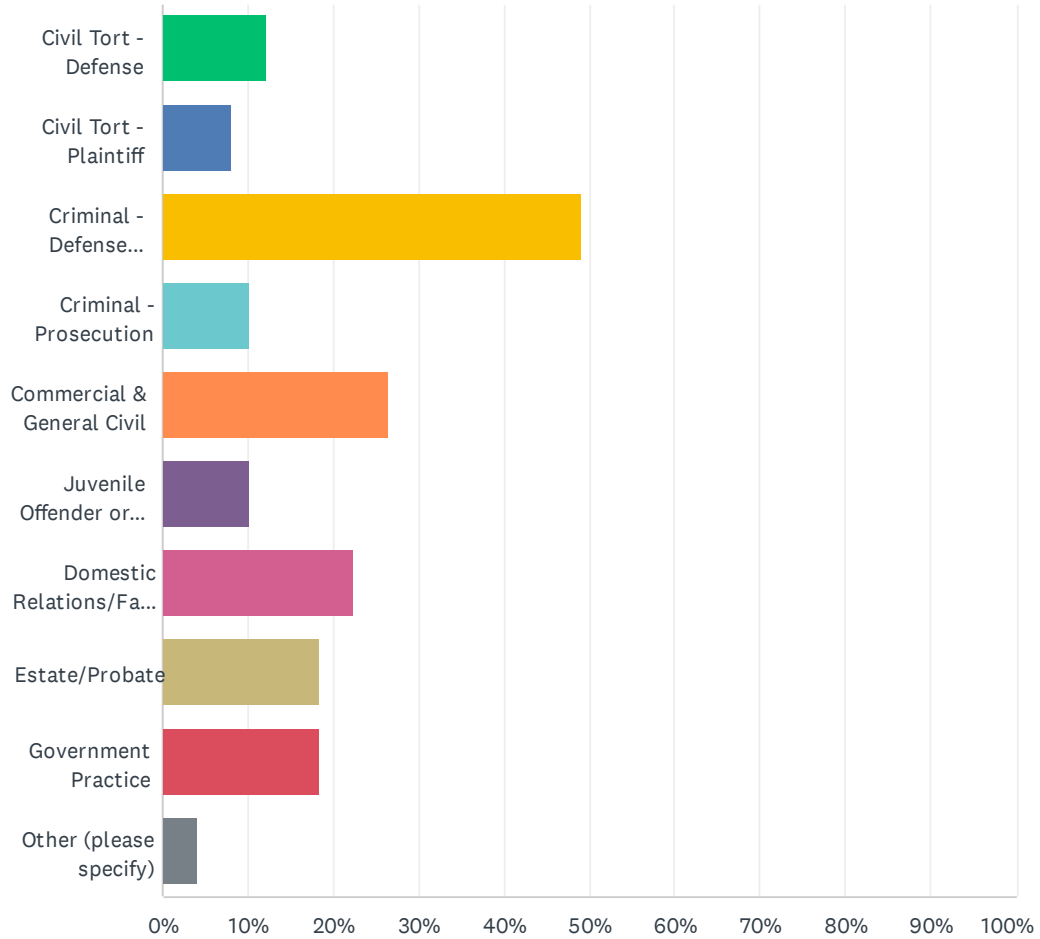
Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	44.90%	22
B. Very Good	10.20%	5
C. Acceptable	10.20%	5
D. Poor	2.04%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	32.65%	16
TOTAL		49

### Q35 Which of the following areas of law best describe your practice? (select up to 2 items)

Answered: 49 Skipped: 0



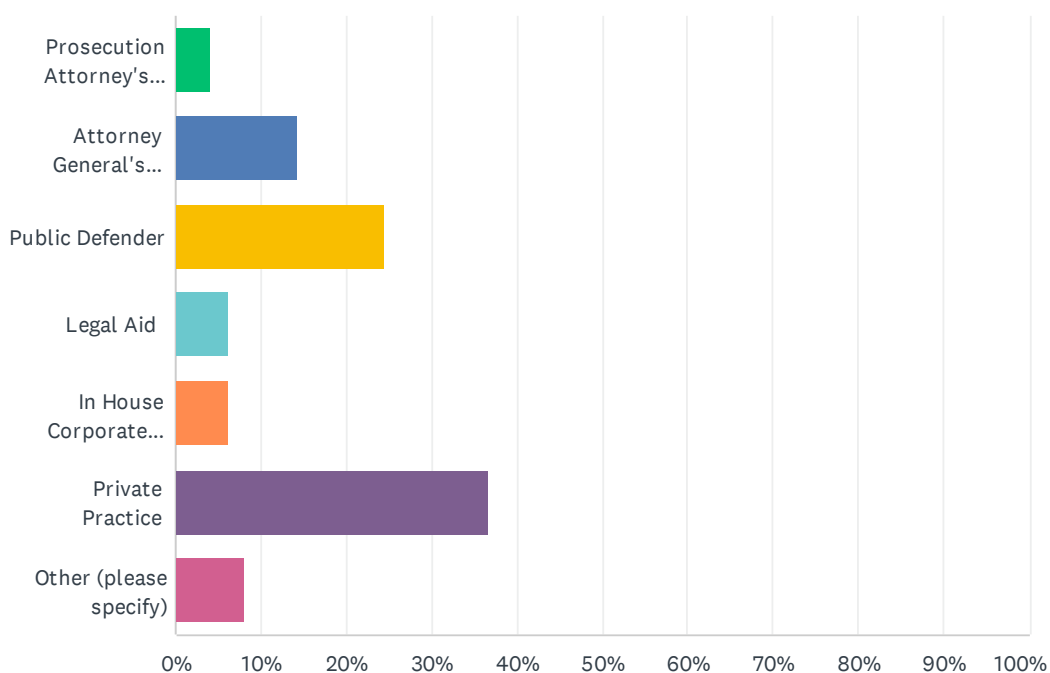
# Judicial Performance Evaluation (Attorney Evaluation) - Magistrate Jonathan R. Quan

ANSWER CHOICES	RESPONSES
Civil Tort - Defense	12.24% 6
Civil Tort - Plaintiff	8.16% 4
Criminal - Defense Attorney	48.98% 24
Criminal - Prosecution	10.20% 5
Commercial & General Civil	26.53% 13
Juvenile Offender or Dependency	10.20% 5
Domestic Relations/Family Law	22.45% 11
Estate/Probate	18.37% 9
Government Practice	18.37% 9
Other (please specify)	4.08% 2
Total Respondents: 49	

#	OTHER (PLEASE SPECIFY)	DATE
1	Collection	4/25/2022 11:06 PM
2	general civil/family law	4/19/2022 2:33 PM

## Q36 Which of the following best describes your work setting?

Answered: 49 Skipped: 0

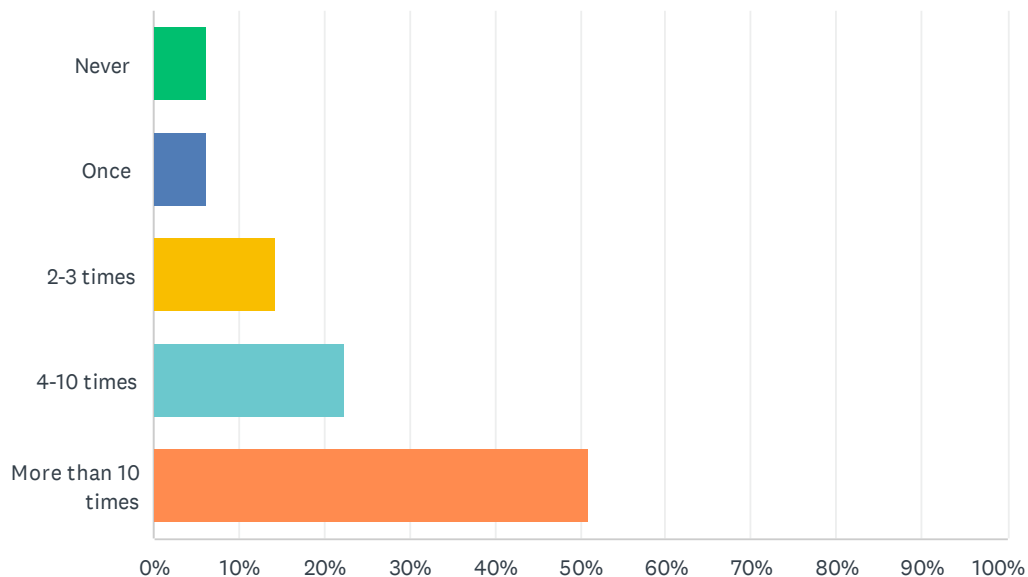


ANSWER CHOICES	RESPONSES	
Prosecution Attorney's Office	4.08%	2
Attorney General's Office	14.29%	7
Public Defender	24.49%	12
Legal Aid	6.12%	3
In House Corporate Counsel	6.12%	3
Private Practice	36.73%	18
Other (please specify)	8.16%	4
TOTAL		49

#	OTHER (PLEASE SPECIFY)	DATE
1	Pro bono	5/6/2022 9:41 AM
2	Government	5/4/2022 5:07 PM
3	defense	4/27/2022 11:31 AM
4	other	4/20/2022 9:55 AM

## Q37 How many times have you appeared for a virtual or in-person hearing in Magistrate Quan's court over the past year?

Answered: 49 Skipped: 0



ANSWER CHOICES	RESPONSES	
Never	6.12%	3
Once	6.12%	3
2-3 times	14.29%	7
4-10 times	22.45%	11
More than 10 times	51.02%	25
TOTAL		49

**Q38 Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below.**

Answered: 18 Skipped: 31

#	RESPONSES	DATE
1	Magistrate Quan is highly qualified for the position and his conduct is beyond reproach. He should be retained and considered for the next opening for Superior Court Judge.	5/6/2022 9:32 AM
2	Magistrate Quan knows the law and knows the rules. He gets easily irritated, and upset when things don't get in a timely manner. For our Chuukese clients, he speaks in Chuukese to them. I don't think he should do that. He also has a way of talking down to our indigent clients. He is very respectful of the attorneys and court staff, interpreters. His staff usually tells us if we will be late for zoom hearings, which is appreciated.	5/4/2022 4:28 PM
3	Judge Quan's rulings are faithful to the law. His knowledge of criminal law is impressive. His output w/r to hearings held is prodigious, contributing the efficiency of the court and the administration of justice.	5/2/2022 12:56 PM
4	Magistrate Judge Quan is an admirable addition to the Guam Judiciary.	4/29/2022 5:20 PM
5	Good judge. Knowledgeable in the law and with a practical approach to decision making and resolving cases.	4/29/2022 5:05 PM
6	Overall, he appears to be disorganized. Dealing with him can be very frustrating.	4/28/2022 2:45 PM
7	MJ needs to improve his approach as a judicial officer when addressing the parties and attorneys. MJ lacks patience and raises his voice in a shouting manner when speaking to a party or counsel and clearly needs to improve his ability to deal with the parties in a respectful and cordial manner. MJ does not have a good understanding on uncontested domestic custody matters and needs great improvement in this area.	4/28/2022 10:23 AM
8	Imposes multiple restrictions on defendants, such as bail, third party custodian, and electronic monitoring all at once. Given the difficulty of meeting even one requirement, these multiple requirements act as a barrier to release and an injustice to most criminal defendants who are of little means. There is no rational basis for conditions such as these double or triple requirements in that they do not ensure the safety of persons or the community. Release conditions are much too strict, requiring defendants to spend more time than is fair on pre-trial matters. Often bases decisions of release on defendant's forgetting to attend a hearing rather than safety of the community.	4/27/2022 11:31 AM
9	Has made the effort to learn and use some Chuukese words and phrases, which I think my Chuukese clients appearing before him appreciate, as an effort towards mutual respect.	4/26/2022 2:31 PM
10	He has been a fine magistrate and should be reappointed	4/25/2022 11:06 PM
11	I like the way that he yells at people who need to be yelled at so I don't have to.	4/25/2022 4:08 PM
12	Magistrate Quan is doing a good job for the Judiciary of Guam. He listens to the parties and makes appropriate legal decisions. The only area he should improve just involve time management. His hearings last longer than any of his contemporaries For instance, it's not uncommon for Magistrate hearings to begin at 3:00 and end at 6:00 or later. These are important hearings but should not take this much time.	4/25/2022 11:34 AM
13	Too slow. Repeats everything, which turns a 4 minute hearing into 20. Constantly late and runs late into the night. Everyone has to be on EM. Tries to sound tough. Makes comments about the old prosecution days. Keeps prosecutors on training wheels instead of demanding more. Slow to process paperwork.	4/20/2022 9:55 AM
14	I highly respect the job and the office of Judge Quan. I hope he can continue in a judicial capacity.	4/20/2022 9:44 AM



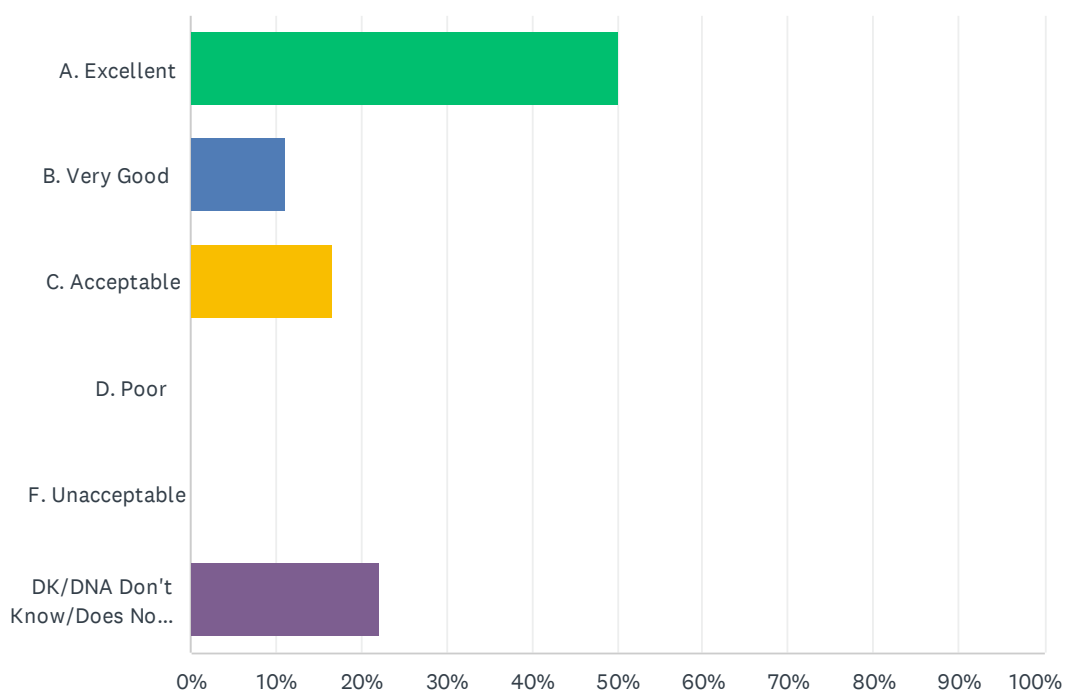
## Judicial Performance Evaluation (Attorney Evaluation) - Magistrate Jonathan R. Quan

15	Mag. Quan sometimes speaks to criminal defendants in Chuukese. While probably well intentioned, it is not appropriate as not everyone speaks Chuukese and this is not an official language of the court.	4/19/2022 2:54 PM
16	My clients and I of course don't always win in front of Magistrate Quan, but I feel they get heard and no decision is made until after both sides have had and made argument. I feel that my clients have always been treated fairly and with dignity.	4/19/2022 2:33 PM
17	Magistrate Quan has performed as a magistrate should, professionally and competently. He treats all parties and attys. fairly w/ a good judicial temperament. He is a credit to the Judiciary of Guam.	4/19/2022 2:31 PM
18	Firm but fair decision maker.	4/19/2022 2:25 PM

# **Court Patron Evaluation Summary**

## Q1 Avoided impropriety and the appearance of impropriety

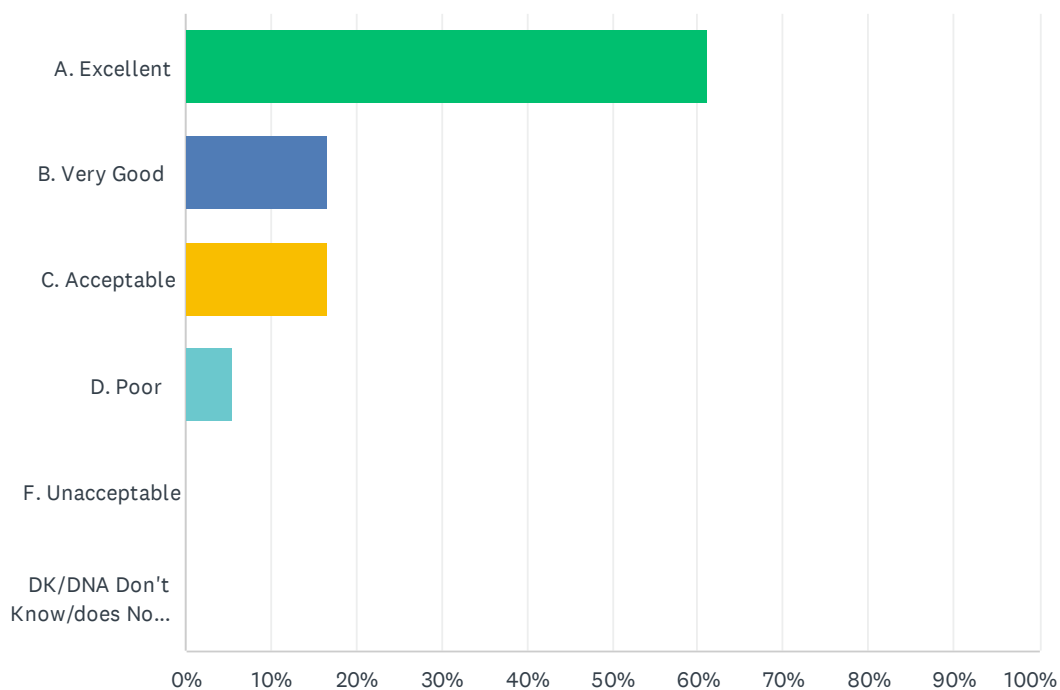
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	50.00%	9
B. Very Good	11.11%	2
C. Acceptable	16.67%	3
D. Poor	0.00%	0
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	22.22%	4
<b>TOTAL</b>		<b>18</b>

## Q2 Treated all people with dignity and respect

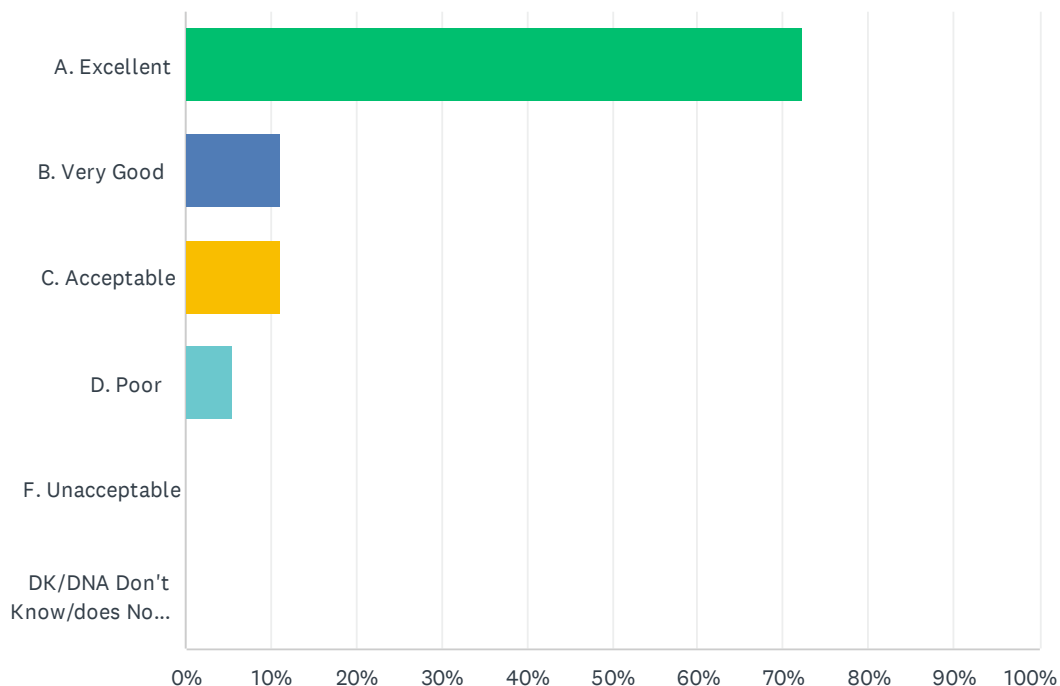
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	61.11%	11
B. Very Good	16.67%	3
C. Acceptable	16.67%	3
D. Poor	5.56%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/does Not Apply	0.00%	0
<b>TOTAL</b>		<b>18</b>

### Q3 Acted without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status

Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very Good	11.11%	2
C. Acceptable	11.11%	2
D. Poor	5.56%	1
F. Unacceptable	0.00%	0
DK/DNA Don't Know/does Not Apply	0.00%	0
TOTAL		18

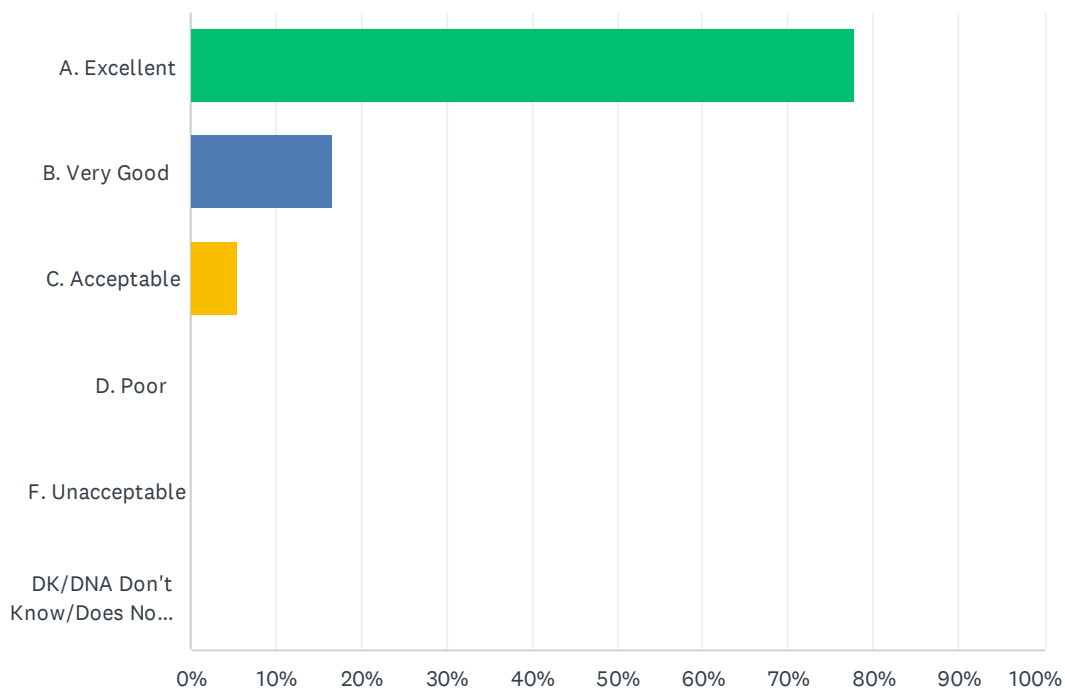
Q4 If you believe the Magistrate acted with favor or disfavor to anyone based upon personal characteristics such as those listed above, please list the characteristic(s) (if any) giving rise to your belief

Answered: 1   Skipped: 17

#	RESPONSES	DATE
1	Poor	5/11/2022 9:29 AM

## Q5 Used clear and logical oral communication when speaking to lawyers, witnesses, and litigants while in court

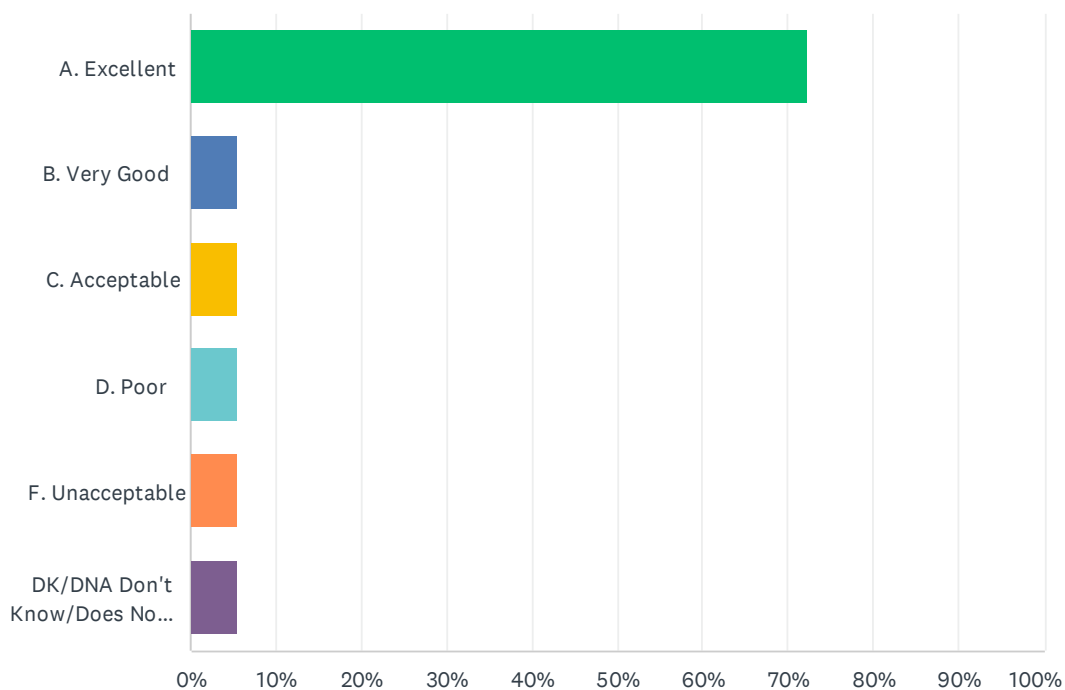
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	77.78%	14
B. Very Good	16.67%	3
C. Acceptable	5.56%	1
D. Poor	0.00%	0
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>18</b>

## Q6 Clearly explained court procedures

Answered: 18   Skipped: 0

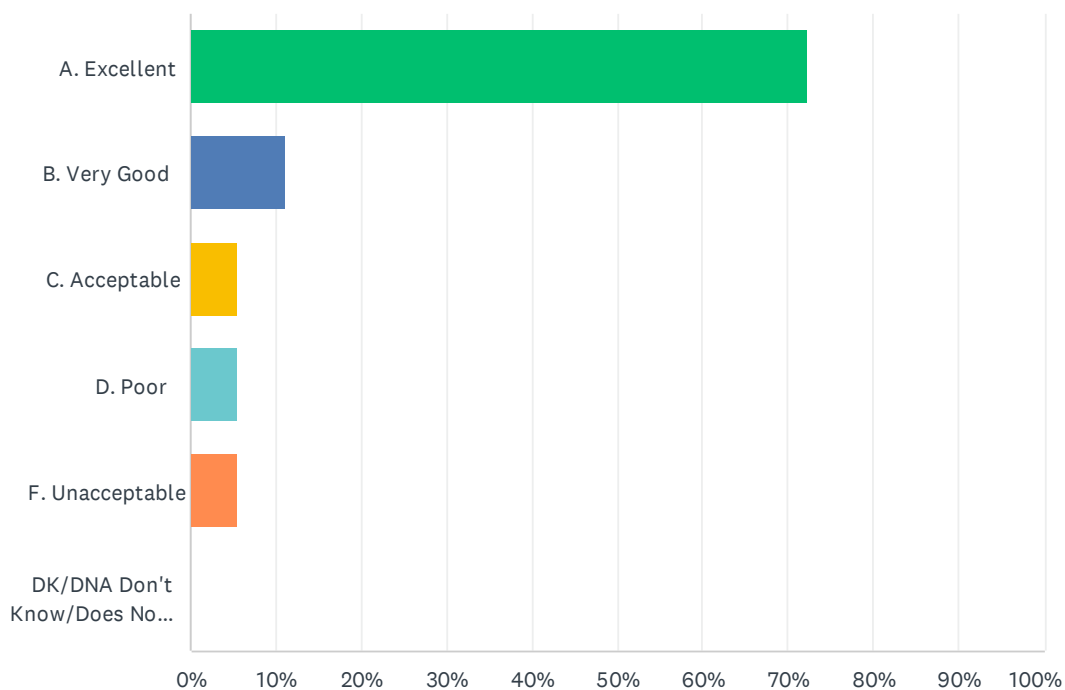


ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very Good	5.56%	1
C. Acceptable	5.56%	1
D. Poor	5.56%	1
F. Unacceptable	5.56%	1
DK/DNA Don't Know/Does Not Apply	5.56%	1
<b>TOTAL</b>		<b>18</b>



## Q7 Acted in a dignified manner

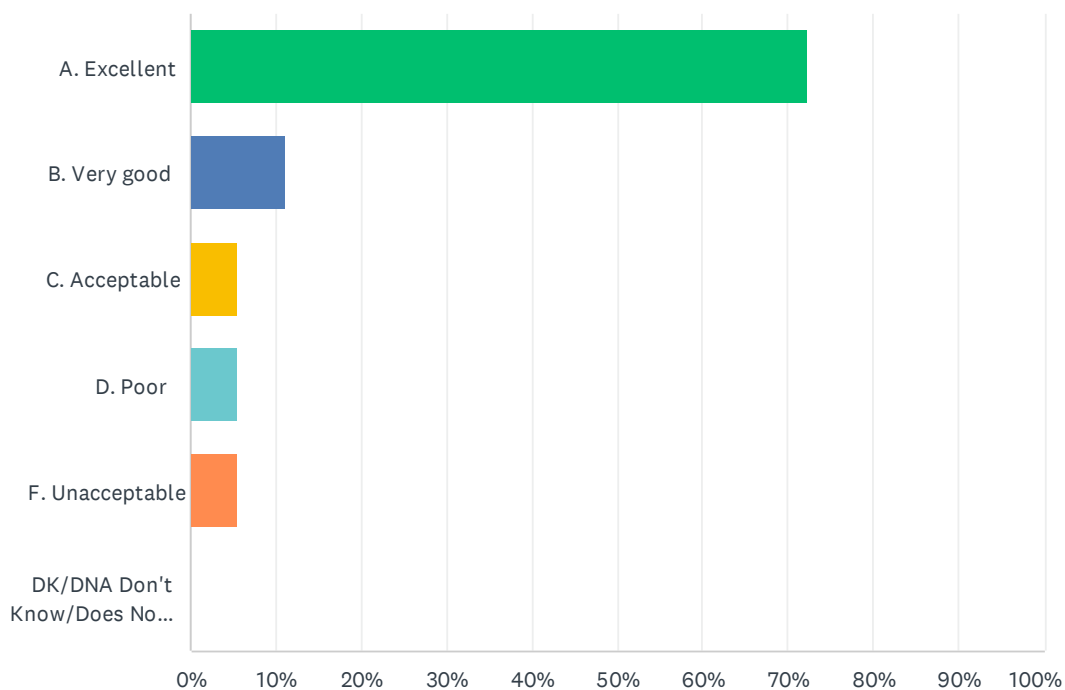
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very Good	11.11%	2
C. Acceptable	5.56%	1
D. Poor	5.56%	1
F. Unacceptable	5.56%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
TOTAL		18

## Q8 Treated the attorneys, litigants and witnesses with courtesy

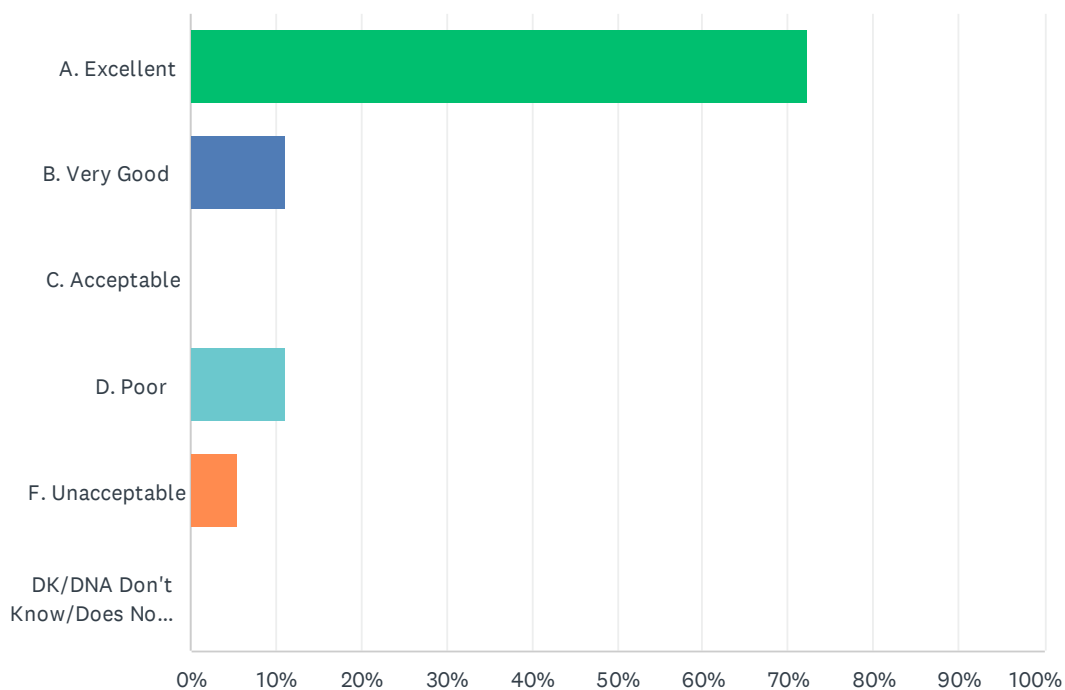
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very good	11.11%	2
C. Acceptable	5.56%	1
D. Poor	5.56%	1
F. Unacceptable	5.56%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>18</b>

## Q9 Acted with patience and self-control

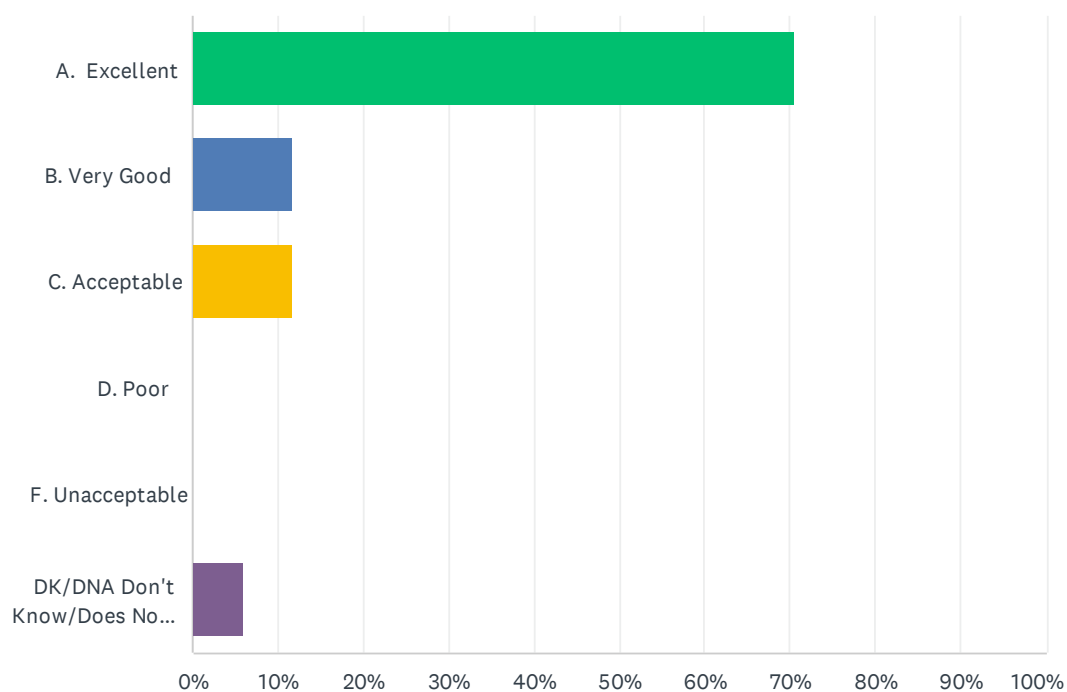
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very Good	11.11%	2
C. Acceptable	0.00%	0
D. Poor	11.11%	2
F. Unacceptable	5.56%	1
DK/DNA Don't Know/Does Not Apply	0.00%	0
<b>TOTAL</b>		<b>18</b>

## Q10 Maintained control over the courtroom and proceedings

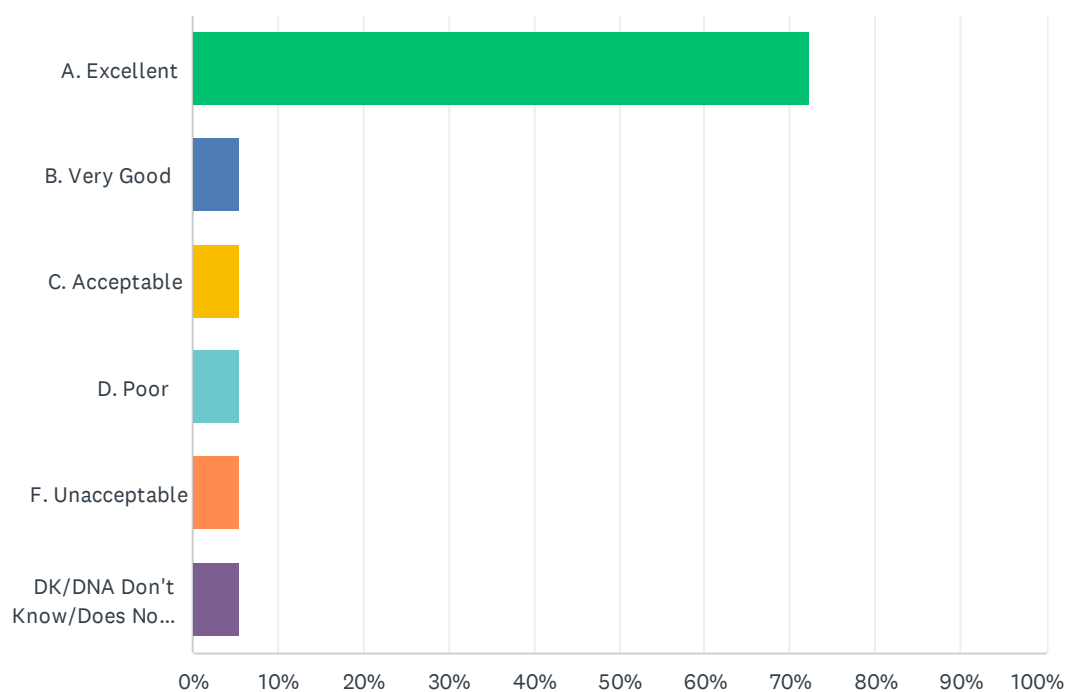
Answered: 17   Skipped: 1



ANSWER CHOICES	RESPONSES	
A. Excellent	70.59%	12
B. Very Good	11.76%	2
C. Acceptable	11.76%	2
D. Poor	0.00%	0
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	5.88%	1
<b>TOTAL</b>		<b>17</b>

## Q11 Appropriately enforced court rules, orders, and time limits

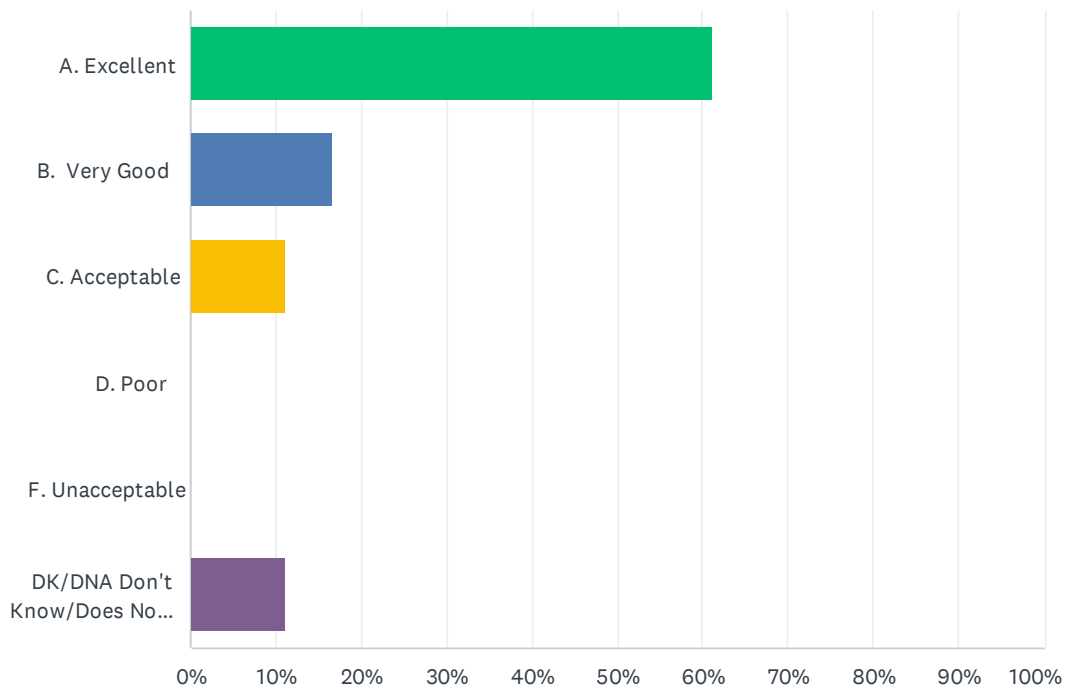
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	72.22%	13
B. Very Good	5.56%	1
C. Acceptable	5.56%	1
D. Poor	5.56%	1
F. Unacceptable	5.56%	1
DK/DNA Don't Know/Does Not Apply	5.56%	1
<b>TOTAL</b>		<b>18</b>

## Q12 Acted to ensure that disabilities and linguistic and cultural differences did not limit access to the justice system

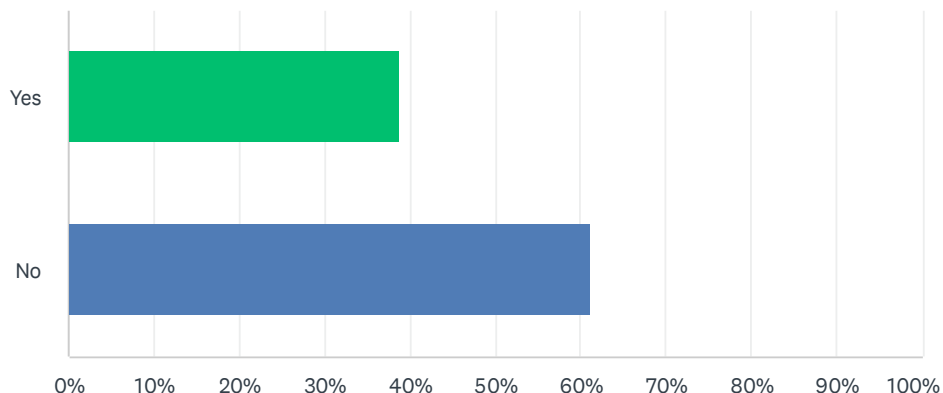
Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	61.11%	11
B. Very Good	16.67%	3
C. Acceptable	11.11%	2
D. Poor	0.00%	0
F. Unacceptable	0.00%	0
DK/DNA Don't Know/Does Not Apply	11.11%	2
TOTAL		18

## Q13 Do you feel that your interaction with the Magistrate could have been improved?

Answered: 18 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	38.89% 7
No	61.11% 11
TOTAL	18

#	IF SO, HOW?	DATE
1	The decision that he made was appreciated and much feeling better to me.	5/11/2022 9:34 AM
2	He never think about other people needs.	5/11/2022 9:29 AM
3	He didn't really provide time or opportunity for me to speak on my behalf.	5/11/2022 9:26 AM
4	Given more time to explain myself.	5/11/2022 9:24 AM

**Q14 Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below.**

Answered: 11 Skipped: 7

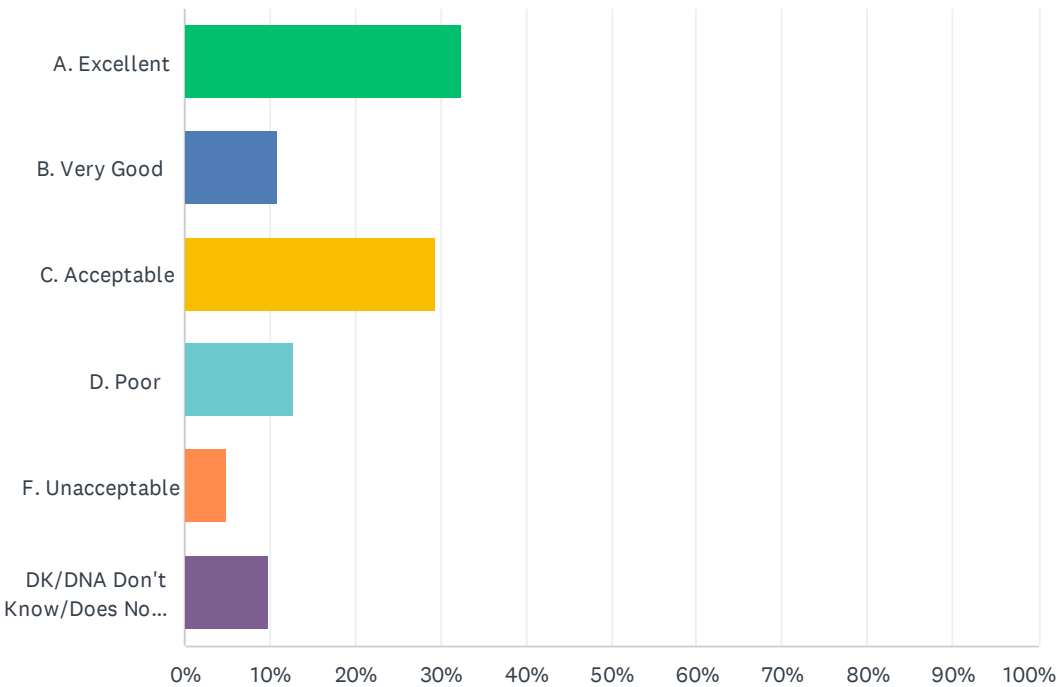
#	RESPONSES	DATE
1	Excellent judge, very professional and courteous.	5/11/2022 9:43 AM
2	Just need to be aware of the changes that these companies are charging to us the opponents because I think that's too much and fast.	5/11/2022 9:34 AM
3	Don't need to be as harsh when you first meet people.	5/11/2022 9:24 AM
4	None at this time.	5/11/2022 9:20 AM
5	Excellence in his job performance.	5/11/2022 9:19 AM
6	The Judge provided a safe, well-operated court hearing with efficiency, clarity, and respect. I truly felt honored to speak with him. Please thank him for me.	4/26/2022 3:06 PM
7	I found Judge Quan to be firm yet fair. He was straight forward and had a sense of humor.	4/24/2022 12:45 PM
8	Quan is an excellent Judge.	4/22/2022 8:49 AM
9	The only problem that I have is that the hearing should start on time. We are given a 10:00 A.M. hearing but the hearing will start 20mins later or half an hour later. For the number of years that I have been doing small claims I have not encounter this. Just with Judge Quan. That is what need to be improve.	4/22/2022 8:25 AM
10	JUDGE QUAN DISPLAYS THE UTMOST RESPECT FOR PLAINTIFFS AND DEFENDANTS ALONG WITH THE EMPLOYEES OF THE COURT. HE IS VERY THOROUGH AND INFORMATIVE DURING HIS HEARINGS. JUDGE QUAN PROVIDES REASONABLE ORDERS AND TREATS EVERYONE FAIRLY.	4/22/2022 8:18 AM
11	Based off the hearings that I have attended, Magistrate Jonathan R. Quan remained professional and fair. He communicated well to both Plaintiff and Defendant.	4/22/2022 7:57 AM



# **Court Staff Evaluation Summary**

## Q1 Avoids impropriety and the appearance of impropriety

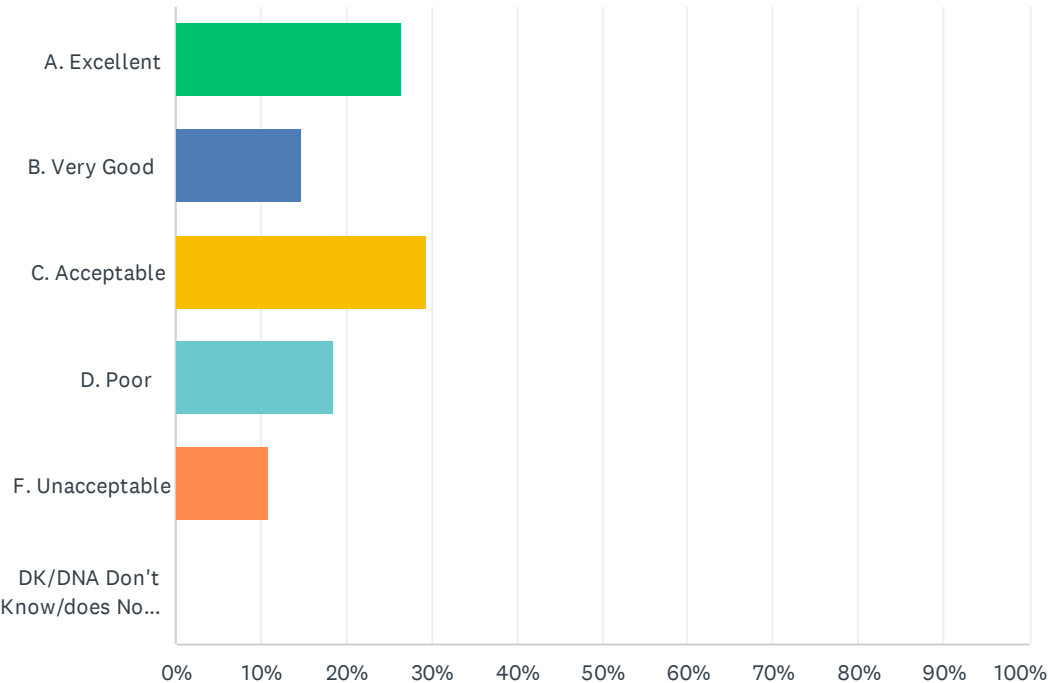
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	32.35%	33
B. Very Good	10.78%	11
C. Acceptable	29.41%	30
D. Poor	12.75%	13
F. Unacceptable	4.90%	5
DK/DNA Don't Know/Does Not Apply	9.80%	10
TOTAL		102

Q2 Treats court personnel with dignity and respect

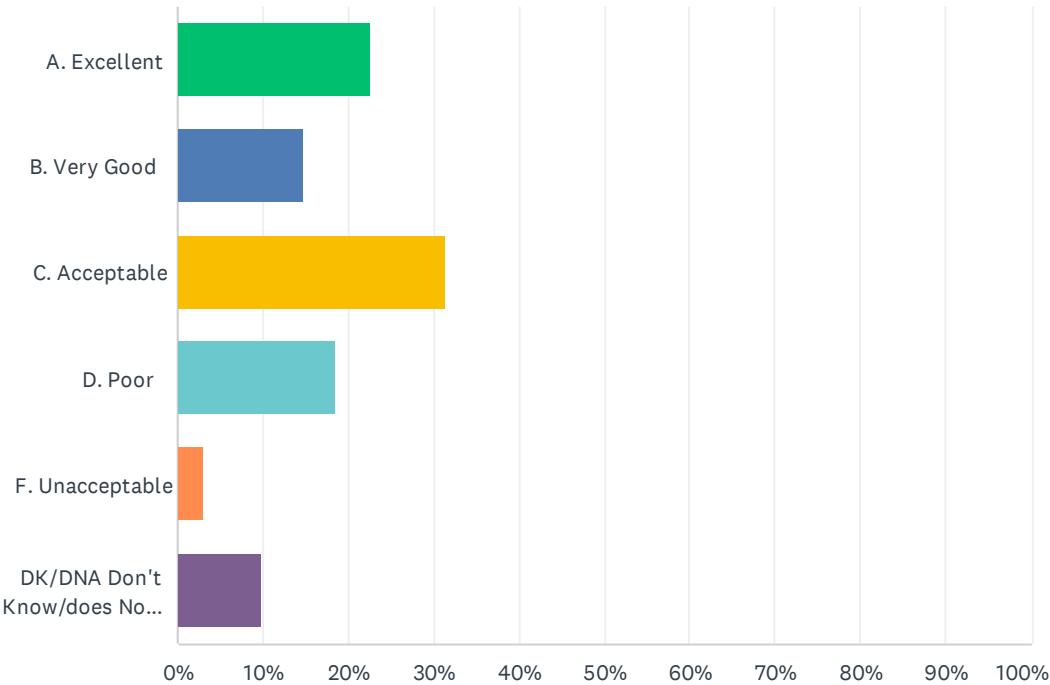
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	26.47%	27
B. Very Good	14.71%	15
C. Acceptable	29.41%	30
D. Poor	18.63%	19
F. Unacceptable	10.78%	11
DK/DNA Don't Know/does Not Apply	0.00%	0
TOTAL		102

Q3 Treats litigants with dignity and respect

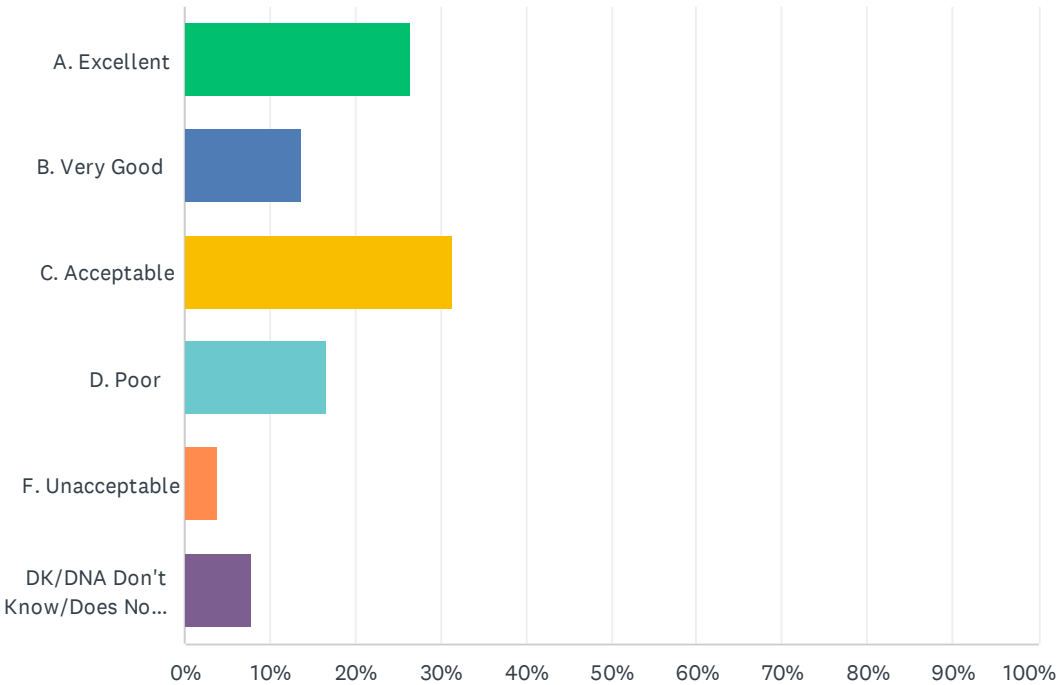
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	22.55%	23
B. Very Good	14.71%	15
C. Acceptable	31.37%	32
D. Poor	18.63%	19
F. Unacceptable	2.94%	3
DK/DNA Don't Know/does Not Apply	9.80%	10
TOTAL		102

## Q4 Willingness to make difficult or unpopular decisions

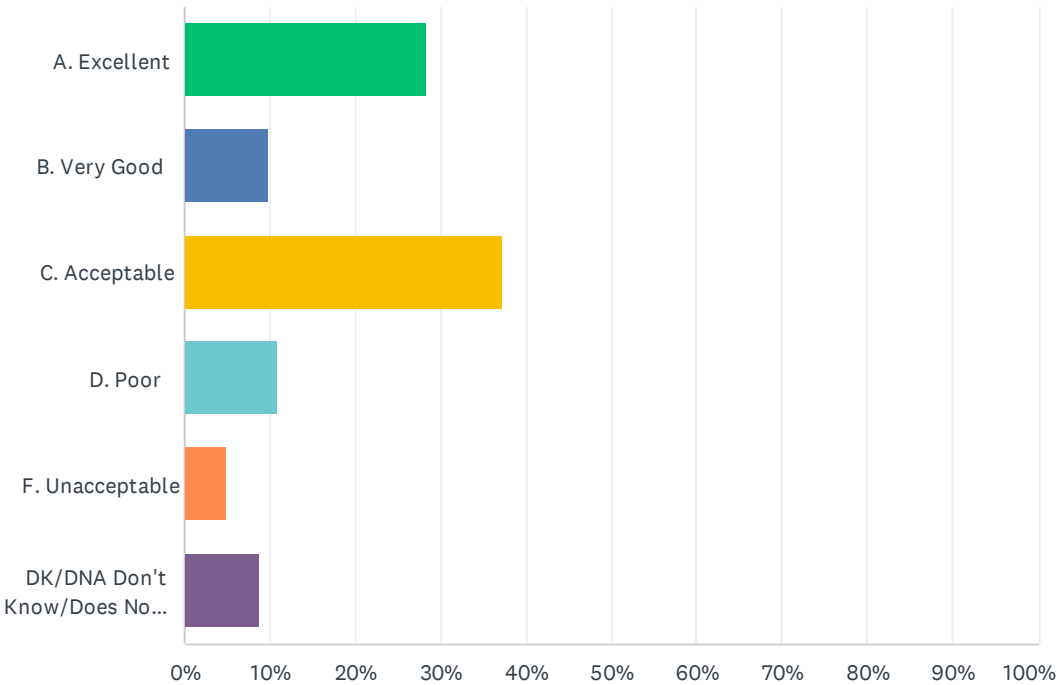
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	26.47%	27
B. Very Good	13.73%	14
C. Acceptable	31.37%	32
D. Poor	16.67%	17
F. Unacceptable	3.92%	4
DK/DNA Don't Know/Does Not Apply	7.84%	8
TOTAL		102

## Q5 Acts fairly by giving people individual consideration

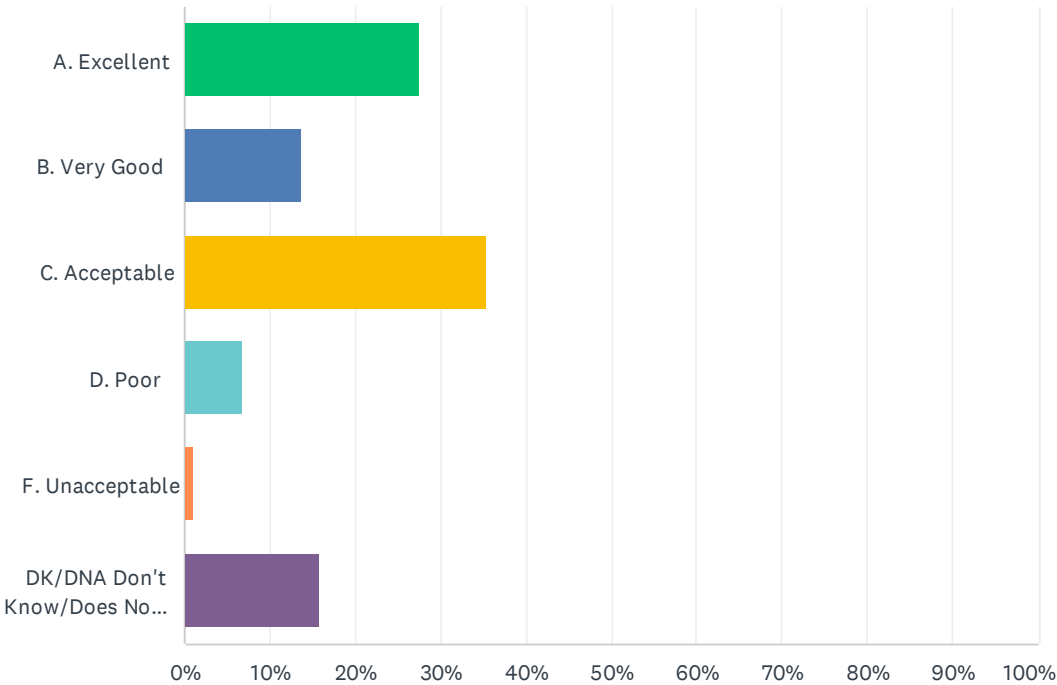
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	28.43%	29
B. Very Good	9.80%	10
C. Acceptable	37.25%	38
D. Poor	10.78%	11
F. Unacceptable	4.90%	5
DK/DNA Don't Know/Does Not Apply	8.82%	9
TOTAL		102

Q6 Considers both sides of an argument before rendering a decision

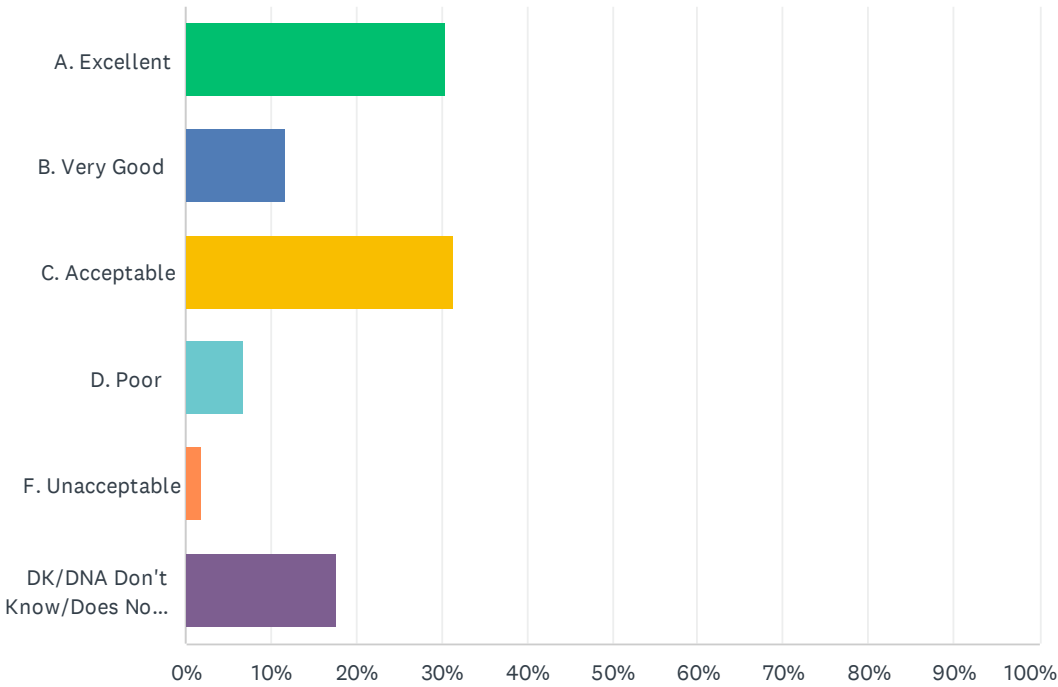
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	27.45%	28
B. Very Good	13.73%	14
C. Acceptable	35.29%	36
D. Poor	6.86%	7
F. Unacceptable	0.98%	1
DK/DNA Don't Know/Does Not Apply	15.69%	16
TOTAL		102

Q7 Bases decisions on the law and facts without regard to the identity of the parties or counsel

Answered: 102 Skipped: 0

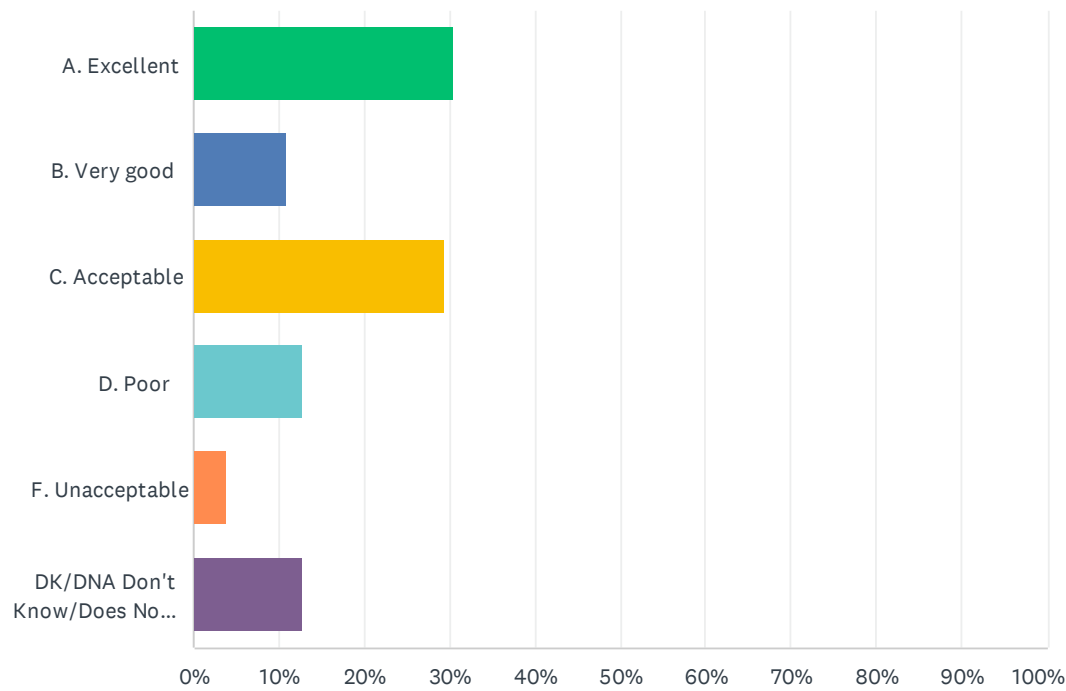


ANSWER CHOICES	RESPONSES	
A. Excellent	30.39%	31
B. Very Good	11.76%	12
C. Acceptable	31.37%	32
D. Poor	6.86%	7
F. Unacceptable	1.96%	2
DK/DNA Don't Know/Does Not Apply	17.65%	18
TOTAL		102



Q8 Keeps an open mind and considers all relevant issues in making decisions

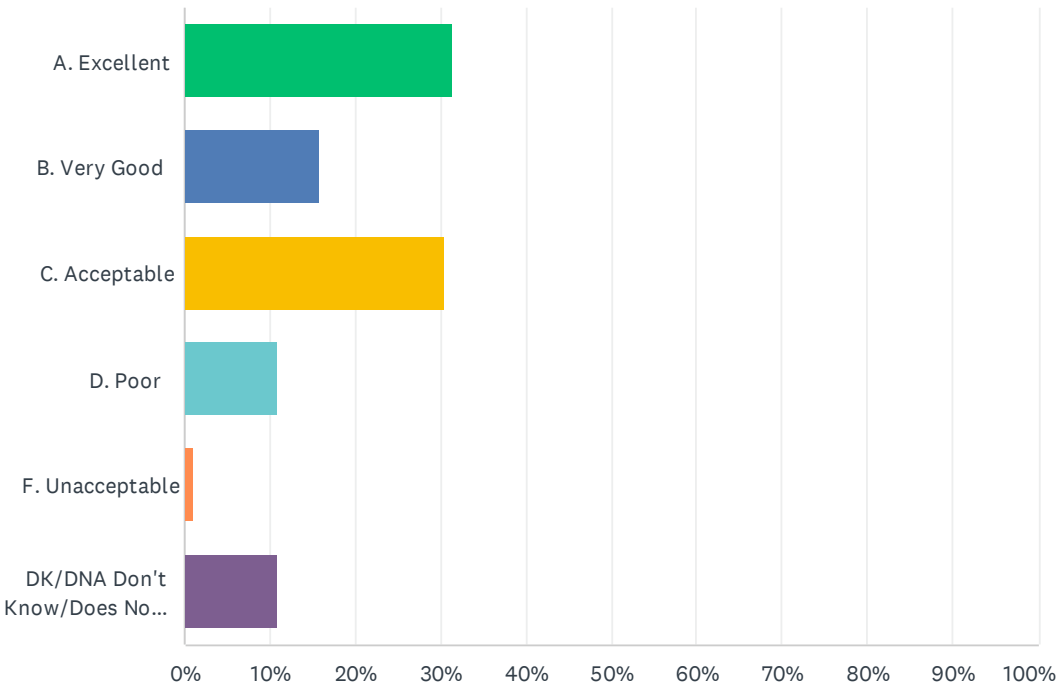
Answered: 102 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	30.39%	31
B. Very good	10.78%	11
C. Acceptable	29.41%	30
D. Poor	12.75%	13
F. Unacceptable	3.92%	4
DK/DNA Don't Know/Does Not Apply	12.75%	13
TOTAL		102

Q9 Acts without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status

Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	31.37%	32
B. Very Good	15.69%	16
C. Acceptable	30.39%	31
D. Poor	10.78%	11
F. Unacceptable	0.98%	1
DK/DNA Don't Know/Does Not Apply	10.78%	11
TOTAL		102

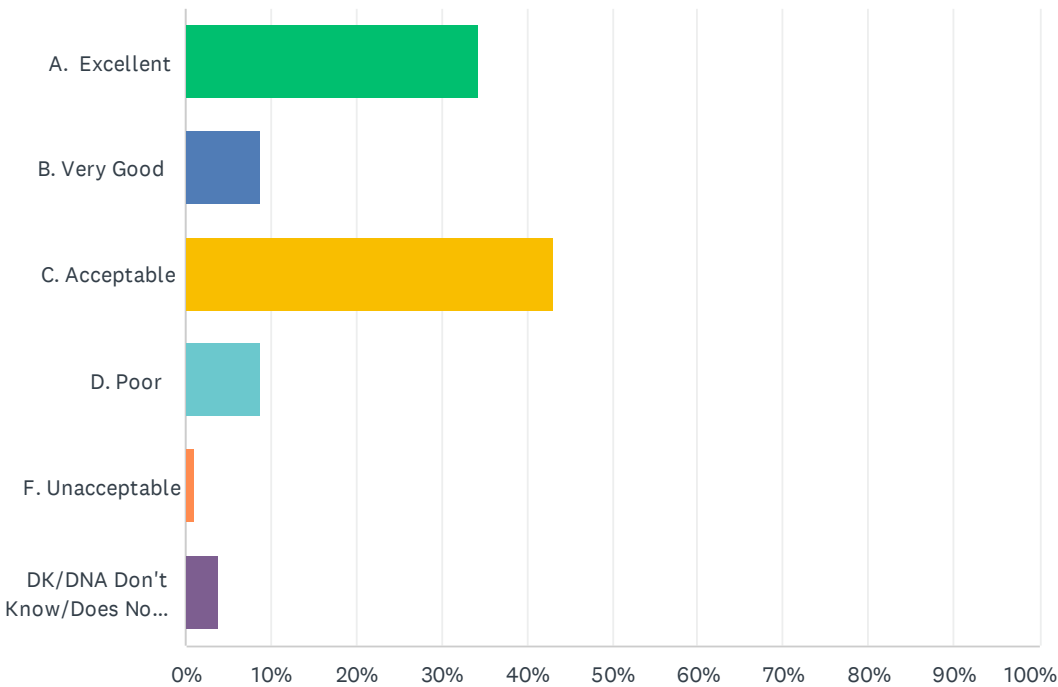
**Q10 If you believe the Magistrate acts with favor or disfavor to anyone based upon personal characteristics such as those listed above, please list the characteristic(s) (if any) giving rise to your belief**

Answered: 3    Skipped: 99

#	RESPONSES	DATE
1	I personally witnessed Magistrate Quan scold an elderly patron who came into court in-person for her hearing. She explained that she did not appear at the prior hearing because her counsel did not inform her. He continued to scold her about having 2 feet and being able to drive, hitch a ride, and ride a scooter into court. She was unable to defend herself because she was humiliated in front of 30 other court patrons. She began to cry as the Judge continually belittled her. After her case, a military defendant was heard next. He addressed him as "soldier" and continued to do so as the case went forward. When asked what his reason for not appearing at the prior hearing, he stated his reason, then the Judge just informed him to make all further hearings henceforth. Showing favoritism towards a military defendant as opposed to a civilian defendant.	4/19/2022 11:08 AM
2	Speaks poorly about certain employees which is unacceptable for a man in his position; Made me feel uncomfortable at a point that I cried to a co-worker.	4/19/2022 10:03 AM
3	I personally think he has to change his tone of voice and that facial expression when conducting magistrate hearings. I really think it's inappropriate and unprofessional mannerism.	4/19/2022 9:16 AM

## Q11 Uses clear and logical oral communication in court

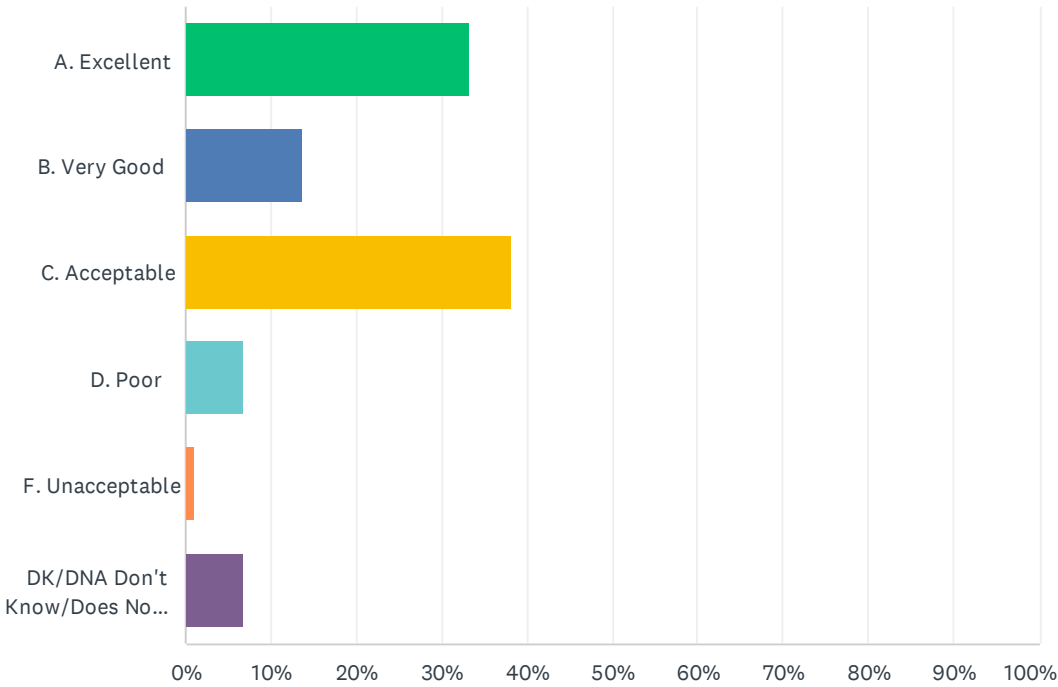
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	34.31%	35
B. Very Good	8.82%	9
C. Acceptable	43.14%	44
D. Poor	8.82%	9
F. Unacceptable	0.98%	1
DK/DNA Don't Know/Does Not Apply	3.92%	4
TOTAL		102

Q12 Uses plain English and understandable language when speaking to litigants and witnesses

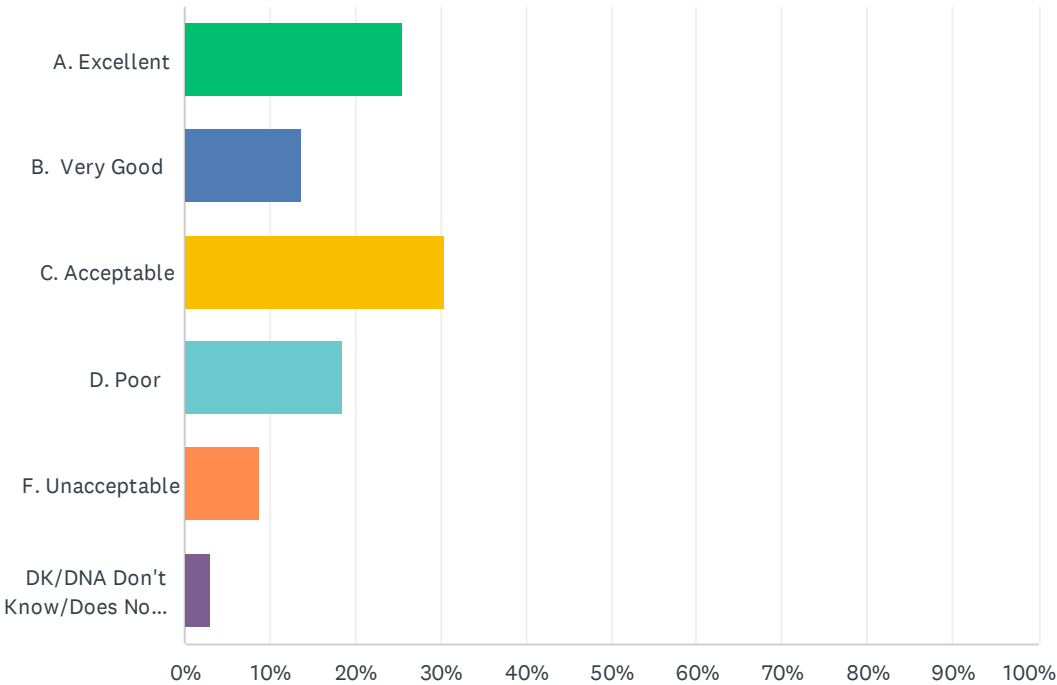
Answered: 102 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	33.33%	34
B. Very Good	13.73%	14
C. Acceptable	38.24%	39
D. Poor	6.86%	7
F. Unacceptable	0.98%	1
DK/DNA Don't Know/Does Not Apply	6.86%	7
TOTAL		102

Q13 Acts in a dignified manner

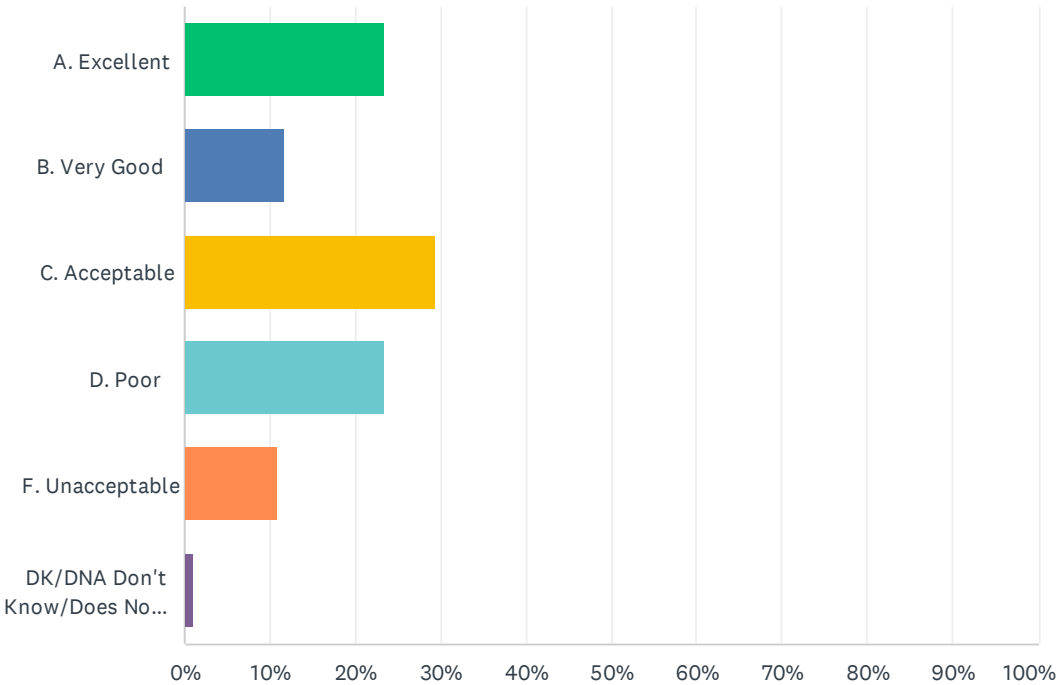
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	25.49%	26
B. Very Good	13.73%	14
C. Acceptable	30.39%	31
D. Poor	18.63%	19
F. Unacceptable	8.82%	9
DK/DNA Don't Know/Does Not Apply	2.94%	3
TOTAL		102

Q14 Acts with patience and self-control

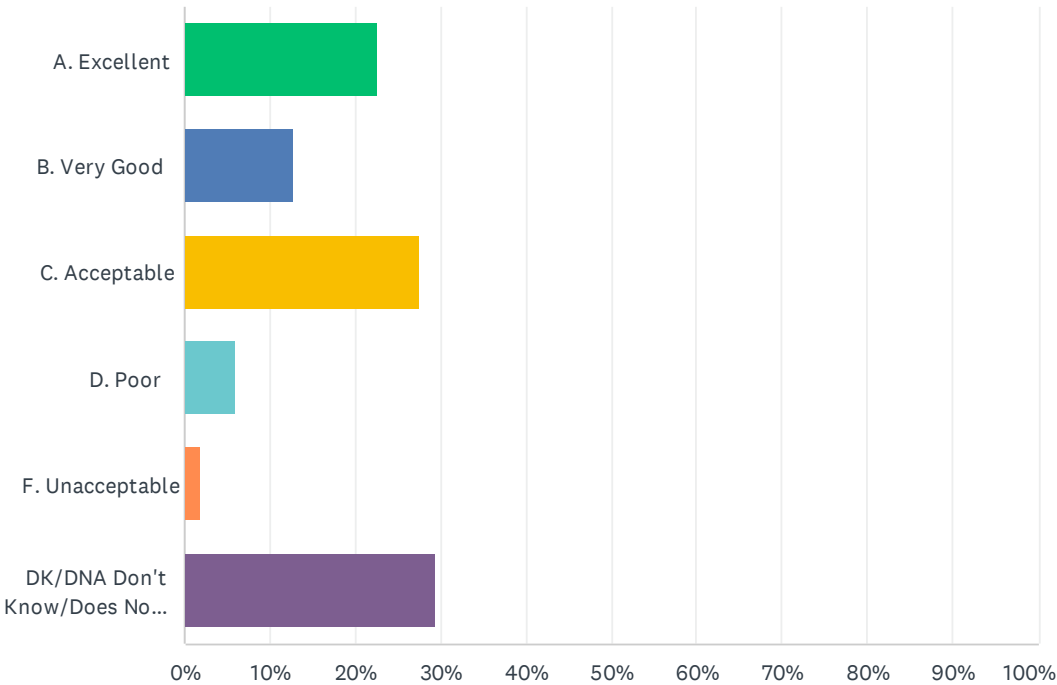
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	23.53%	24
B. Very Good	11.76%	12
C. Acceptable	29.41%	30
D. Poor	23.53%	24
F. Unacceptable	10.78%	11
DK/DNA Don't Know/Does Not Apply	0.98%	1
TOTAL		102

Q15 Works with pro se litigants and litigation fairly and effectively

Answered: 102 Skipped: 0

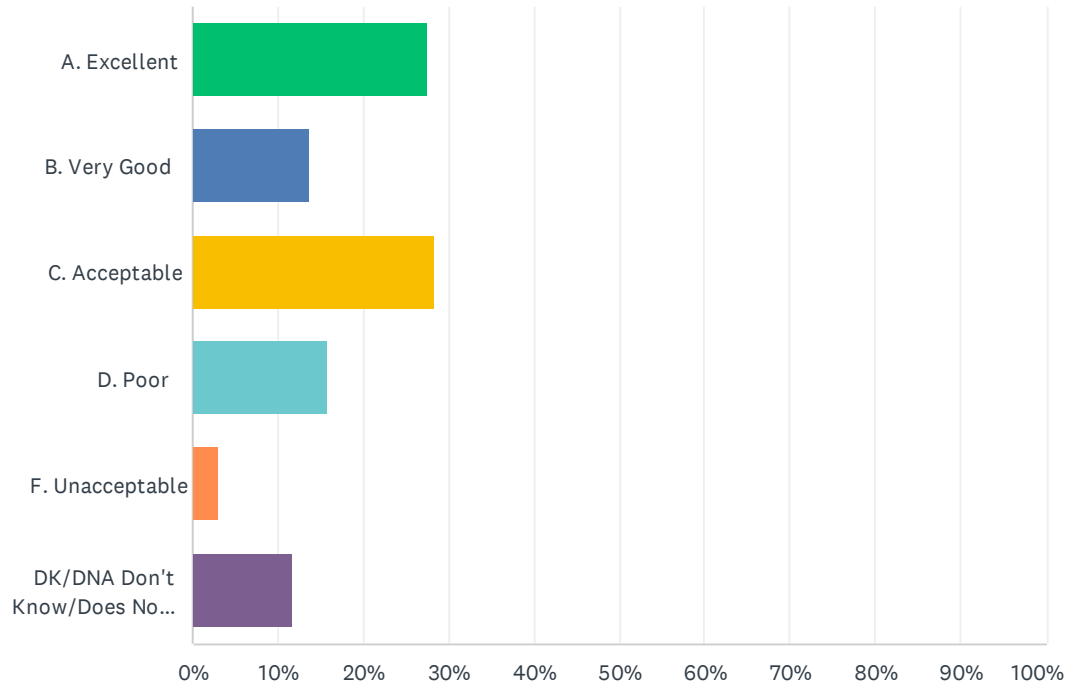


ANSWER CHOICES	RESPONSES	
A. Excellent	22.55%	23
B. Very Good	12.75%	13
C. Acceptable	27.45%	28
D. Poor	5.88%	6
F. Unacceptable	1.96%	2
DK/DNA Don't Know/Does Not Apply	29.41%	30
TOTAL		102



## Q16 Promotes public understanding of and confidence in the courts through conduct on the bench

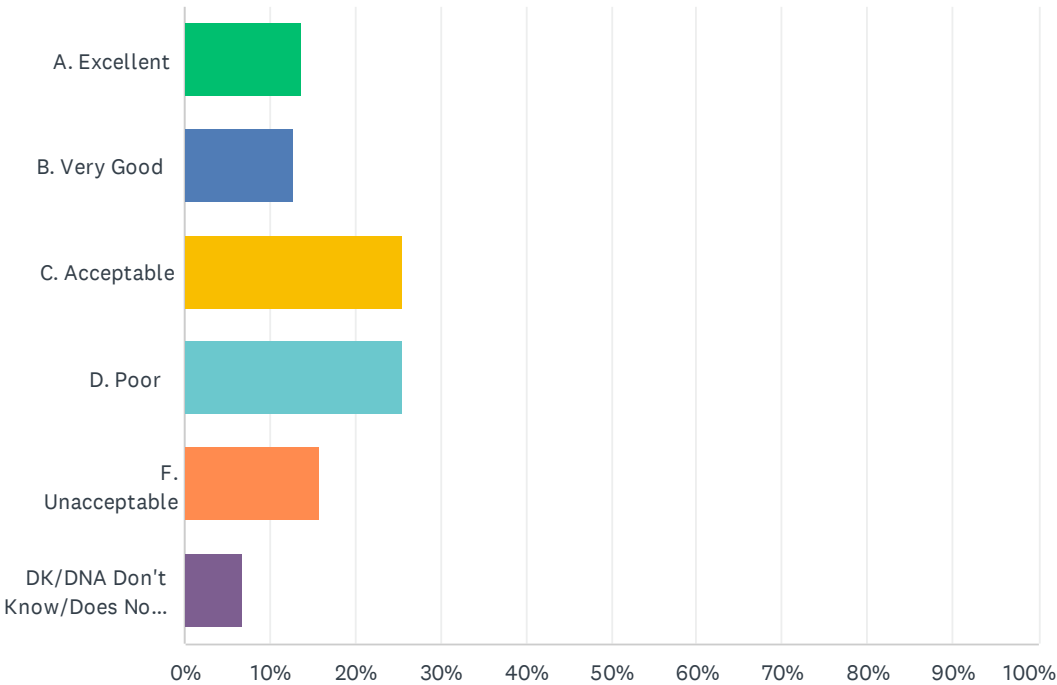
Answered: 102 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	27.45%	28
B. Very Good	13.73%	14
C. Acceptable	28.43%	29
D. Poor	15.69%	16
F. Unacceptable	2.94%	3
DK/DNA Don't Know/Does Not Apply	11.76%	12
<b>TOTAL</b>		<b>102</b>

Q17 Is punctual and prepared for court

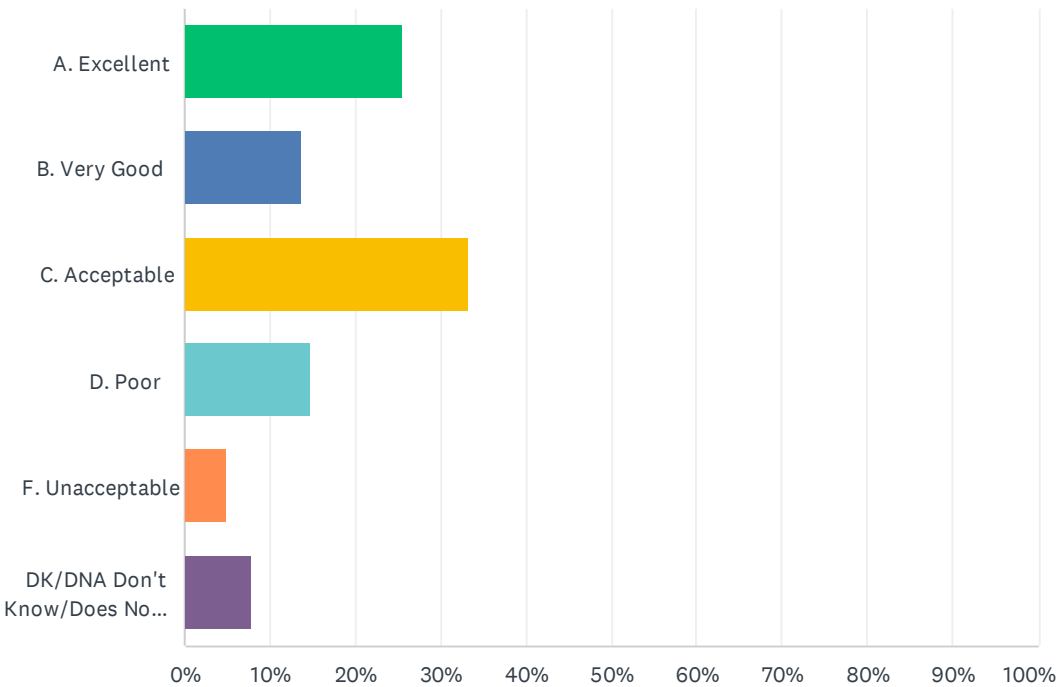
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	13.73%	14
B. Very Good	12.75%	13
C. Acceptable	25.49%	26
D. Poor	25.49%	26
F. Unacceptable	15.69%	16
DK/DNA Don't Know/Does Not Apply	6.86%	7
TOTAL		102

Q18 Maintains control over the courtroom, including courtroom personnel

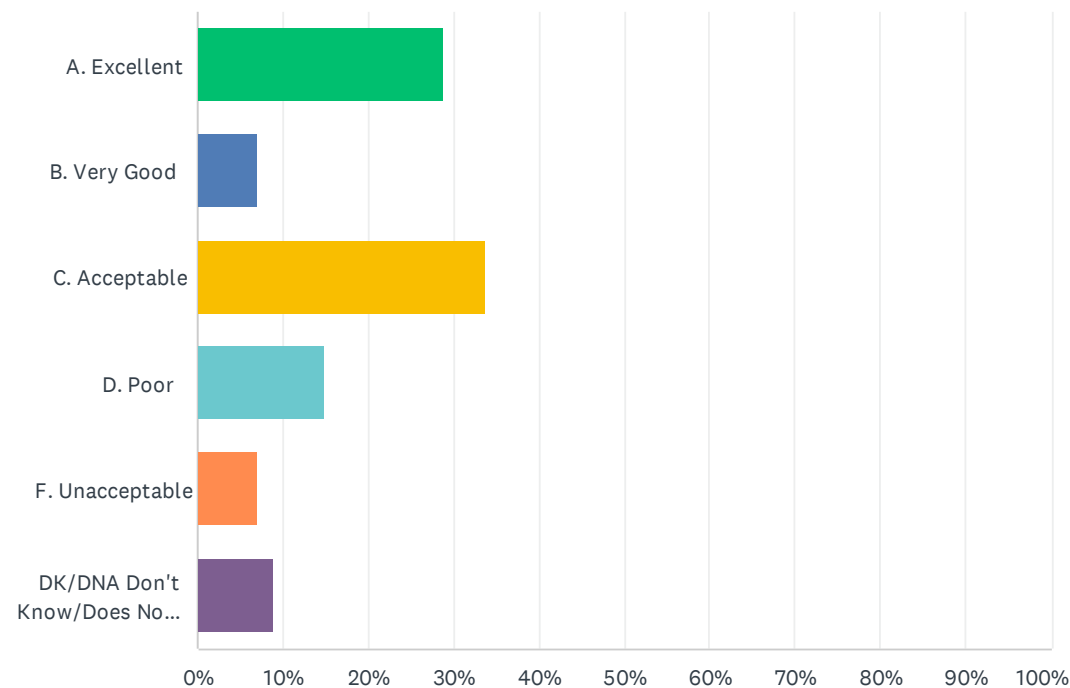
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	25.49%	26
B. Very Good	13.73%	14
C. Acceptable	33.33%	34
D. Poor	14.71%	15
F. Unacceptable	4.90%	5
DK/DNA Don't Know/Does Not Apply	7.84%	8
TOTAL		102

## Q19 Appropriately enforces court rules, orders, and deadlines

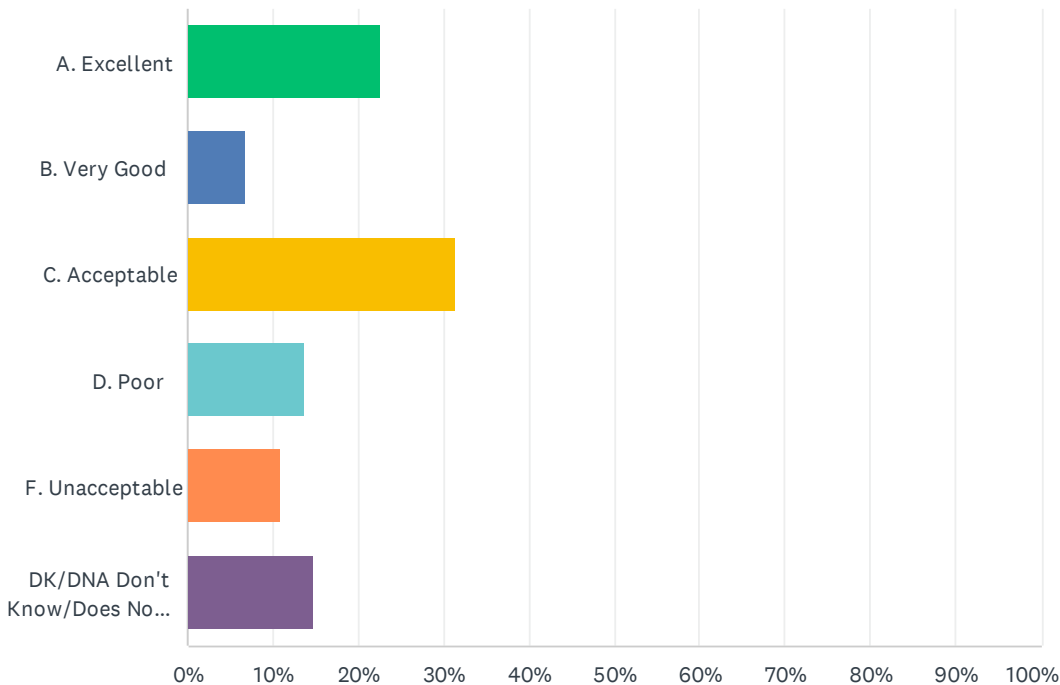
Answered: 101    Skipped: 1



ANSWER CHOICES	RESPONSES	
A. Excellent	28.71%	29
B. Very Good	6.93%	7
C. Acceptable	33.66%	34
D. Poor	14.85%	15
F. Unacceptable	6.93%	7
DK/DNA Don't Know/Does Not Apply	8.91%	9
TOTAL		101

## Q20 Makes decisions and rulings in a prompt, timely manner

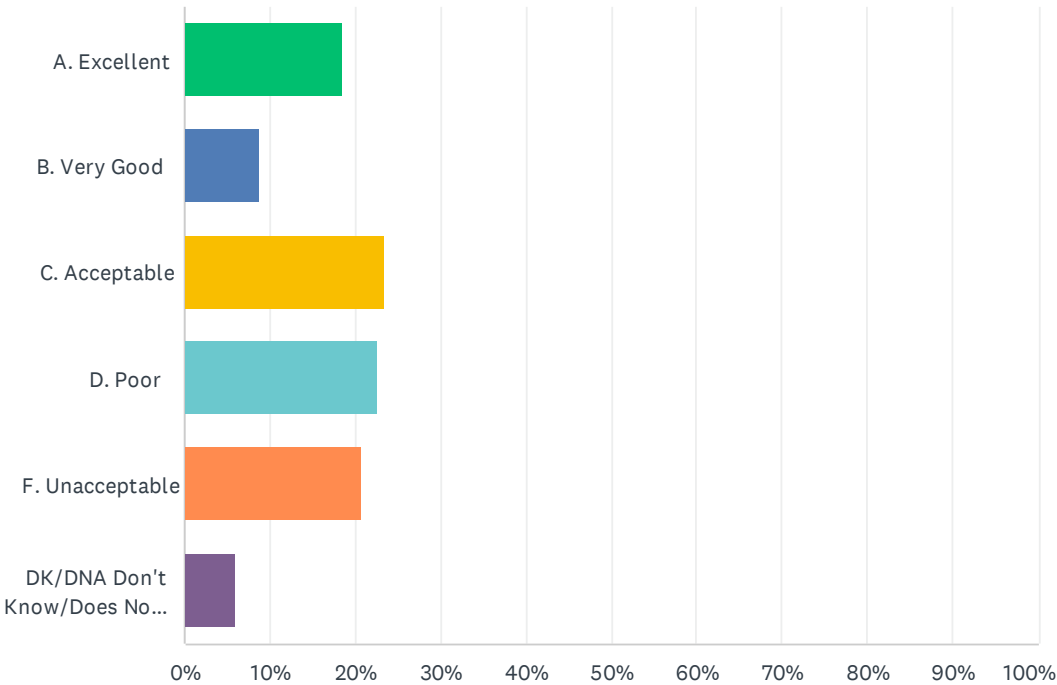
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	22.55%	23
B. Very Good	6.86%	7
C. Acceptable	31.37%	32
D. Poor	13.73%	14
F. Unacceptable	10.78%	11
DK/DNA Don't Know/Does Not Apply	14.71%	15
TOTAL		102

Q21 Manages the court's calendar efficiently

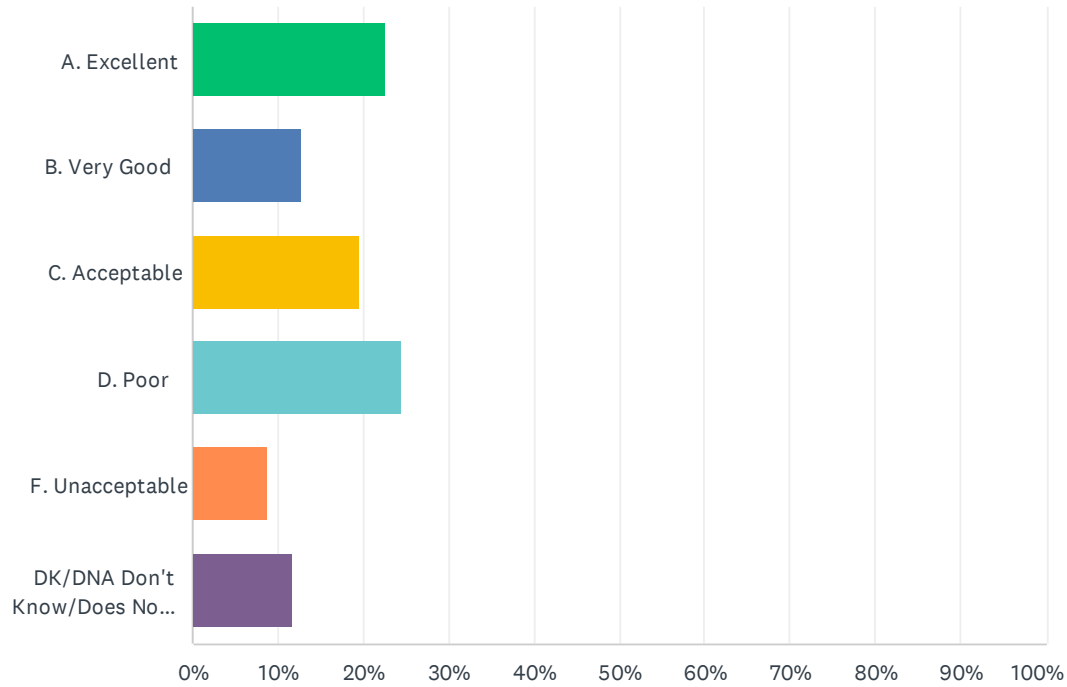
Answered: 102    Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	18.63%	19
B. Very Good	8.82%	9
C. Acceptable	23.53%	24
D. Poor	22.55%	23
F. Unacceptable	20.59%	21
DK/DNA Don't Know/Does Not Apply	5.88%	6
TOTAL		102

## Q22 Fosters a productive work environment with other judges, magistrates, and court staff

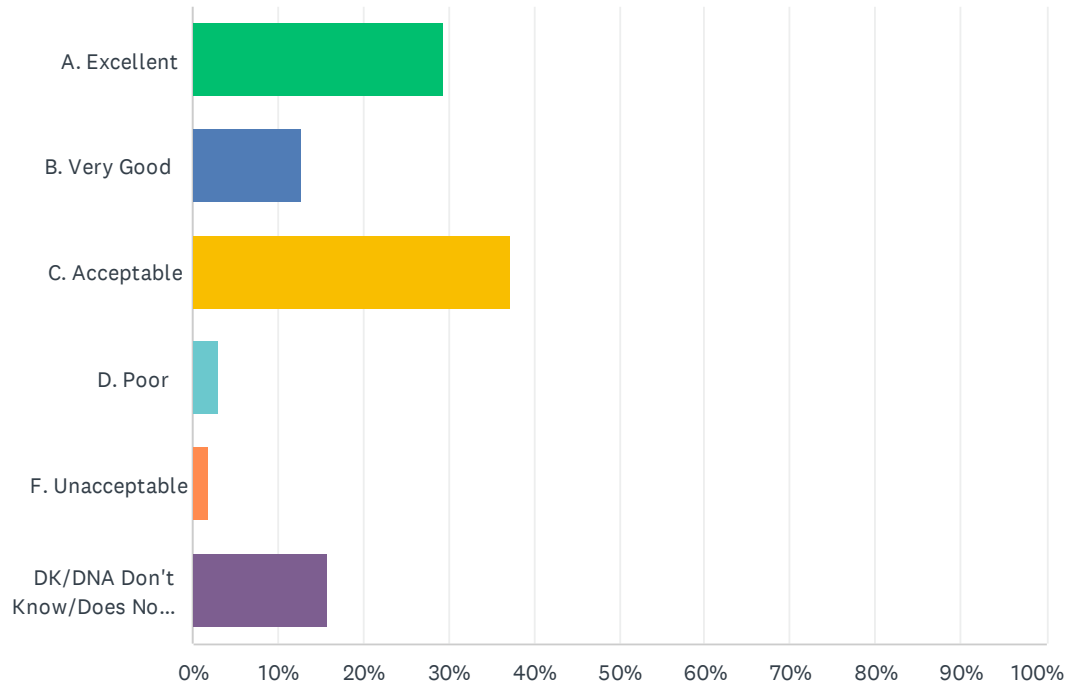
Answered: 102 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	22.55%	23
B. Very Good	12.75%	13
C. Acceptable	19.61%	20
D. Poor	24.51%	25
F. Unacceptable	8.82%	9
DK/DNA Don't Know/Does Not Apply	11.76%	12
TOTAL		102

## Q23 Acts to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system

Answered: 102 Skipped: 0



ANSWER CHOICES	RESPONSES	
A. Excellent	29.41%	30
B. Very Good	12.75%	13
C. Acceptable	37.25%	38
D. Poor	2.94%	3
F. Unacceptable	1.96%	2
DK/DNA Don't Know/Does Not Apply	15.69%	16
<b>TOTAL</b>		<b>102</b>



## Q24 Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire or the magistrate's performance on the bench in the space below

Answered: 30   Skipped: 72

#	RESPONSES	DATE
1	Magistrate Judge to start on time for magistrate hearings; mixes up civil and criminal procedures. Treat staff with respect. His Marshal should not be giving administrative, clerical, etc. advise to anyone. He needs to remain his security personnel only.	4/29/2022 5:41 PM
2	Magistrate Judge Quan effectively and expeditiously moves magistrates cases with an in-depth knowledge of individual constitutional rights of the presumption of innocence, and the application of bail/no bail when making decisions for release or confinement. Magistrate Quan took the lead in providing guidance with EM program and has been extremely instrumental in the implementation, application, and its overall success.	4/26/2022 12:49 PM
3	Needs to start Magistrates on time and so documents come out from chambers on time.	4/26/2022 12:36 PM
4	Takes too many breaks, starts court late, puts himself on a pedestal.	4/26/2022 9:13 AM
5	Excellent overall. Happy to have worked with MJ Quan. Looking forward to the next term.	4/26/2022 8:43 AM
6	Understandably, courtroom procedure is the most important of all but I believe that following up with the Chamber Clerk and his Chambers Team ensures his orders are being processed in a timely manner is also important to ensure that his DNO are being distributed as policy dictates. Receiving a DNO 2-3 hours later after the case is heard, especially for a magistrate hearing is unacceptable. My thought is that he also immerse himself into his administrative side to have a checks and balance within his team.	4/25/2022 1:33 PM
7	JRQ runs the EM program like it is his own, with no regard for the safety of the officers who enforce it (Probation & Marshals). He has total control over the EM Unit under the Probation Office. The deputy assigned to provide his personal security does everything aside from that. The deputy is more of a clerical employee than a law enforcement officer because of the tasks JRQ gives him.	4/25/2022 11:08 AM
8	Sends staff out to rush the processing of court files/documents. It appears that his chambers or himself is always unsatisfied with the work of the clerks within the clerk's office.	4/25/2022 11:02 AM
9	Magistrate Quan has constantly shown compassion, understanding and provides direction which greatly reflects that of a true leader. If an unpopular decision needs to be made, he will follow through with said decision. His qualities as a leader and mentor are exemplary and his willingness to bring out the best with all who work alongside him is unmatched.	4/25/2022 10:49 AM
10	Time management is very poor. It can't be everyone fault the he consistently stays after 500pm. Processing staff are subjected to late nights as the norm. Given the number of years doing this he has yet to dial his process in and calendar management.	4/25/2022 10:38 AM
11	N/A	4/25/2022 10:35 AM
12	Having to accept the challenges of attending hearings via zoom is not for everyone. Especially for those who are not computer savy. I've attended a few hearings via zoom. Judge Quan's demeanor, comments and tone is enough to scare the patrons away. His appearance while not speaking is unprofessional in the way he presents himself especially as he sits there looking angry or annoyed.	4/25/2022 10:33 AM
13	Magistrate Judge Quan need to understand the time manner when the AG's and Probation submit their prospective documents for filing. He will literally send out his Bailiff or Chamber Clerk out to ask wheres the Magistrate. He's gives attitude. its not the clerks fault cause they are just waiting for the AG's to submit either earlier or before the hearing start. It doesn't give enough time for clerks to do their procedure in opening the magistrate. Magistrate Quan hears magistrate at 3pm. During Magistrate or After Magistrate it comes out after hour 5pm to	4/24/2022 4:00 PM

## Judicial Performance Evaluation (Court Staff) - Magistrate Jonathan R. Quan

processes the magistrate. it should comes out to the prospective time for the team to processes. When the bailiff sends out the magistrate to be process in a few minute later they will ask if the judge is clear. how could the clerks answer that question when the bailiff just gave the files of magistrate just a while ago. etc.

14	Magistrate Judge Quan needs more control of his calendar and needs to finish with proceedings on a timely manner. Very unacceptable should the staff & clerk's office needs to work beyond time because Magistrate Judge Quan is still on the bench. This on a daily basis.	4/22/2022 9:49 AM
15	Magistrate Judge Quan needs to find ways to keep his Magistrate Hearings shorter. A lot of unnecessary information is said throughout the Hearings. He needs to keep it less theatrical and straight to the Point. More of how Judge Tolentino conducted his Magistrate Hearings in the past. I also think the process it takes to request for a Warrant for Electronic Monitoring Probationers is unacceptable. The whole process it takes to request for a warrant, especially if there are victims involved is not fair for the victim and not fair to the Officers conducting the Warrant of Arrest. Officers are afraid to attend his Magistrate Hearings because they fear the pressure he puts on them in Court. It is almost as if the officer is the one in trouble and not the client. Return of Warrants should be directed at the defendant and not the Probation Officer. Ultimately, it is that Probationer that has been missing and at fault for the warrant being issued for them. There is a lot of pressure he puts on Officers covering his hearings, even in front of the Media he needs to know how not to embarrass Probation Officers.	4/21/2022 10:37 AM
16	Questions with responses other than DK/DNA Don't Know/Does Not Apply were from a manager's perspective.	4/20/2022 12:17 PM
17	It takes too long for documents to come out after the magistrate hearings, causing the processing clerks to stay later into the evening	4/20/2022 8:12 AM
18	Magistrate Judge needs to allow the interpreter to interpret cases before him. Not attempt to translate what is being said in the Chuukese Language for example. That is the Court Interpreters job. He also treats Magistrate Hearings as if these cases are scheduled for trial. These hearings should be done in specific time frame 5-10 minutes per case. If he asks questions or concerns about other cases he should utilize his Chamber Clerk for assistance. Lastly, start these hearings on time otherwise, reschedule the hearing if parties are not available. He constantly calls for numerous recesses which causes tremendous delay of the courts time as well as parties involved. He should also treat everyone with the same respect we all give him.	4/19/2022 4:48 PM
19	Magistrate Judge Quan at most times has no appreciation for the Clerks in the clerks office and shows impatience without taking the time to understand the process and work flow of the clerks office.	4/19/2022 3:09 PM
20	Time management	4/19/2022 1:45 PM
21	Many people may say that Magistrate Judge Jonathan R. Quan is a bit excessive when he is on the bench, however I disagree. What he does and says whether he is talking to attorneys, defendants, or probation officers serves a purpose. He has high expectations of all court officers and expects an answer whenever he poses a question, whether it is simple question or not. Other individuals may claim that he is "scripted" as he conducts various types of hearings, however, this too serves a purpose. An experienced court officer will know what to say, when to say, and how to say information in his courtroom. He constantly reminds all participants that everything we say is recorded. I can recall an incident when I first started, that I made the mistake of conveying information incorrectly to which Judge Quan sternly corrected me. At the time it may have seemed harsh, however, his correction has helped me become more comfortable not only in his courtroom but in the courtrooms of other Judges as well. Additionally, his "theatrics" and performance when speaking to defendants, whether he is setting conditions of release or admonishing them, may sound intimidating, but again this serves a purpose. In my experience he remains unbiased to any and all defendants that appear before him. I do not see him give special treatment to defendant's regardless of their gender, age, ethnic or financial backgrounds, or education. It is my understanding that he is one of the few Judges, if not the only Judge, that will wake up at 2am in the morning to sign a warrant for law enforcement officers. He understands the need and importance of signing such documents in the early morning hours and on weekends so that the people of Guam can sleep a little safer. Additionally, I give him credit for attempting to learn and to use the respective languages for defendant's in his courtroom. I do not see any other Judges trying to connect with the Defendants in this manner. Although he may need more practice, I believe everyone appreciates his attempts to do so. In conclusion, I believe Magistrate Judge Jonathan R. Quan	4/19/2022 12:46 PM

## Judicial Performance Evaluation (Court Staff) - Magistrate Jonathan R. Quan

should continue to be a part of the Judiciary of Guam and serve the People of Guam to the best of his abilities.

22	Magistrate Jonathan R Quan is one of the most distinguished Judges I have ever experienced in the Judiciary Of Guam. Magistrate Quan performs his duties and responsibilities in the Courtroom unlike any other Judge while still abiding by the full extent of the Justice System and procedures. He is a Judge that goes above and beyond ensuring that the Justice System maintains its order and effectiveness in the island of Guam. Understanding how Magistrate Quan runs his courtroom, I believe that his Standard Operating Procedures in the Courtroom instills more discipline to the attendees ensuring order and better outcomes for the patrons before him. He provides Excellency and Professionalism in and out of the Courtroom by performing all of the above to the highest standards.	4/19/2022 12:26 PM
23	Time management with cases needs improvement. Takes too many breaks and hearings continue late into the evening frequently.	4/19/2022 11:31 AM
24	Magistrate Quan does not show tact, professionalism, and compassion towards staff and court patrons. I have witnessed him treat almost every defendant as if they had done something personal to him or his family by scolding them and making remarks that you would tell your young child that you are raising. I feel as if he uses his position in the military to project his status on everyone who isn't in his same position title. When Judge Quan is assigned criminal matters for the month (Magistrate's, Return of Warrants, Ex Parte Bail), staff would constantly stay back 3 to 5 hours past their duty times. I personally have stayed back til almost 10:00 pm because he would not sign the documents for the clerks to process. He would finish all hearings, then go back to his office to eat and/ or chat with his staff before finishing signing the documents for us to process. When I personally requested for the documents, and was informed that he still had them. I spoke to him directly asking if could sign and we will be the clerks to verify, he informed me he will have his staff to bring it out when it was complete. We waited for one hour for one document to be prepared, and signed. When I inquired with his chamber staff, they informed me they were also waiting. Magistrate Quan has no consideration for the staff outside his chambers and how it affects them and their personal situations. Once he signs the documents, he leaves the building without regard for anyone else. I personally wish for him not to be reappointed as Magistrate Judge or any affiliation with the court.	4/19/2022 11:08 AM
25	The Honorable Jonathan Quan has been a pleasure to work with. He is diligent, fair and impartial in his work product. He deliberates and distributes justice in accordance with time AND standards.	4/19/2022 11:05 AM
26	Judge Quan takes unnecessary breaks in Magistrate hearings. In most occasions he exceeds his hearing time beyond 5 pm weekdays and on weekends.	4/19/2022 10:55 AM
27	No further comment. Not a commendable person.	4/19/2022 10:03 AM
28	My indications above say it clearly.	4/19/2022 9:16 AM
29	Judge Quan is a good judge.	4/19/2022 9:09 AM
30	Judge Quan needs to stop speaking in Chuukese when an official Court Translator is present. Like one judge stated, "He needs to knock that off." And at times, he is extremely unprofessional on the bench with his temperament and conduct that is unbecoming of a judge.	4/19/2022 9:09 AM

# **Magistrate Self-Assessment**

## JUDICIAL PERFORMANCE EVALUATION

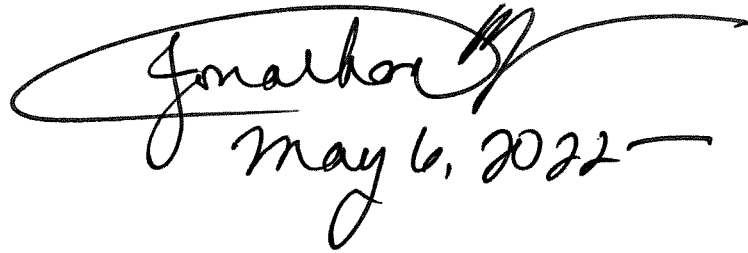
### Self-Evaluation Questionnaire for Magistrate Judge

This self-evaluation questionnaire is designed to help you evaluate your strengths and potential weaknesses in your performance on the bench. While its primary use is as a self-assessment tool, it may also be used as a basis for judicial education curriculum development and as a means to improve the quality of the judiciary and the justice system as a whole.

The assessment should take 10 to 15 minutes to complete.

For each of the statements on pages 2 and 3, mark the box that best represents your own perspective on the topic. On pages 4 and 5 you will be asked to comment briefly on how improvement of your performance can best be supported. On the final page you may provide any additional comments related to issues raised in the questionnaire.

Thank you for your participation and effort in this important endeavor.

  
May 6, 2022

## JUDICIAL PERFORMANCE EVALUATION

### Self-Evaluation Questionnaire for Magistrate Judge

Please complete the following questionnaire based on your perception about your job performance during the past year. Please answer Does Not Apply ("DNA") for any items which do not pertain to your court assignment or activities during the past year.

	Strongly Agree	Agree	Disagree	Strongly Disagree	DNA
<b><u>Section 1. Legal Ability</u></b>					
a. I am confident in my legal reasoning ability.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. I am confident in my knowledge of substantive law in the areas in which I hear cases.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. I am confident in my knowledge of rules of procedure and evidence.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. I keep current with developments in substantive law and state and local rules of procedure and evidence.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b><u>Section 2 Integrity and Impartiality</u></b>					
a. I avoid impropriety and the appearance of impropriety.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. I treat all people with dignity and respect.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. I am willing to make and have made difficult or unpopular decisions.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. I act fairly by giving people individual consideration.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. I consider both sides of an argument before rendering a decision.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. I appear and act neutrally on the bench.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. I refrain from inappropriate <i>ex parte</i> communication.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. I base decisions on the law and facts without regard to the identity of the parties or counsel.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. I keep an open mind and consider all relevant evidence in making rulings, reserving a final decision until the parties have made final arguments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Strongly Agree	Agree	Disagree	Strongly Disagree	DNA
j. I act without favor or disfavor toward anyone, including but not limited to favor or disfavor based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. I recuse myself from matters when necessary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Section 3 Communication**

a. I use clear and logical oral communication while in court.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. I use plain English and understandable language when speaking to jurors, litigants, and witnesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. I prepare clear and logical written decisions.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. I patiently repeat information until litigants understand what is being asked of them.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Section 4 Professionalism and Temperament**

a. I act in a dignified manner in performing my duties, both on and off the bench.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. I treat all people with courtesy.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. I am attentive to proceedings.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. I act with patience and self-control throughout the day.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. I work with <i>pro se</i> litigants and litigation fairly and effectively.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. I have appropriate levels of empathy with the parties involved in proceeding.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. I promote public understanding of and confidence in the courts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### **Section 5 Administrative Capacity**

a. I am punctual for court.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. I am prepared for court.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. I maintain control over the courtroom.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. I appropriately enforce court rules, orders, and deadlines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Strongly Agree	Agree	Disagree	Strongly Disagree	DNA
e. I make decisions and rulings in a prompt, timely manner.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. I manage the court's calendar efficiently.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. I demonstrate appropriate innovation in using technology to improve the administration of justice.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. I foster a productive work environment with other judges, magistrates and court staff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. I act to ensure that disabilities and linguistic and cultural differences do not limit access to the justice system.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## **Section 6**

For the next several questions, please reflect upon your answers to the questions in Sections 1 through 5. (Feel free to attach additional sheets of paper as needed).

- a. For those items which you answered Disagree or Strongly Disagree, what specific steps or actions do you believe you can take to improve your performance in each area?

On Section 3 Communication, paragraph (d) "I patiently repeat information until litigants understand what is being asked of them." I indicated "Disagree." I need to simplify the language I use in Court, especially when dealing with Pro-Se Litigants. I also need to take a breath (when I note that litigants don't understand) and remind myself that the ultimate goal / objective is service to the public rather than speed and efficiency (i.e. me trying to "get through" the voluminous docket).

On Section 5 Administrative Capacity, paragraph (a) "I am punctual for court." I indicated "Disagree." I need to stop excessively preparing and reviewing prior to hearings. I have to become more comfortable with going on the bench with less "prior understanding." I also need to work on controlling the scheduling of hearings to provide a little more time in between certain types of hearings.



B For each of these items, what can be done by others (i.e. staff, fellow judges, judicial education providers, attorneys, law makers, etc.) to facilitate you improving in these areas?

On Section 3 Communication, paragraph (d) "I patiently repeat information until litigants understand what is being asked of them." I indicated "Disagree." My Chamber Staff and C&M can provide a "pre-briefing" to Pro-Se Litigants (in particular) as to the stages of the case and what the Court will be expecting from the parties when the hearing occurs. This can be done orally, but probably is better provided in writing (perhaps when action is commenced). If provided in writing to the parties at the commencement of the action, right before the hearing, my Chamber Staff can then instruct the parties to review the relevant page / paragraph and be prepared for the type of hearing and what is going to be asked of them during the hearing.

On Section 5 Administrative Capacity, paragraph (a) "I am punctual for court." I indicated "Disagree." Not much can be done by others to assist in this regard.

1.) The number of Arraignments that are put on my calendar on any given day are controlled by the Office of the Attorney General and the Ex Parte Judge (when they take the Grand Jury return). 2.) The number of Magistrates (which are mandated to occur at 3:00 p.m. and occur after In-Custody Arraignments) are completely controlled by the Office of the Attorney General and the Guam Police Department. The greatest number of Magistrates I have had to handle in a single day is EIGHTEEN (18). 3.) The number of Returns of Warrant that I handle per day are controlled by the Guam Police Department and the Judiciary of Guam Marshals' Division (depending on the number of Defendants with warrants they pick up on any given day).

In summary, for example, what # 1.) through 3.) will cause is Arraignments will encroach onto Magistrate Hearing time (i.e. 3:00 p.m.). A large number of Magistrates will then push back Returns of Warrant Hearings. This causes the entire afternoon calendar to be an hour to an hour and half late. All of these (# 1.) through 3.) I cannot schedule or control. I can increase the speed in which I handle each hearing, but that would significantly negatively affect Section 3 Communication, paragraph (d).

### **Comments**

Please provide any additional comments, clarifications, or details related to either the items raised in this questionnaire in the space below. You may use the back of this page or add additional pages if needed.

During my time here at the Judiciary, I have handled numerous additional special projects as requested by the Chief Justice and the Presiding Judge.

1.) **Special Project** (assigned by Chief Justice Maraman and Presiding Judge Alberto Lamorena III): **Electronic Monitoring Program (August 7, 2019)**. The program had a set of guidelines drafted by Judge (Ret.) Anita A. Sukola and her committee. I was assigned to create functioning procedures and actually implement the Electronic Monitoring Program. After two months of

work (meeting twice a week), the Electronic Monitoring Program became functional on August 7, 2019. The maximum number of Defendants on EM has been fifty-eight (58). A Defendant in pre-trial incarceration at the Department of Corrections incurs a cost of \$127 per day. A Defendant on Electronic Monitoring costs \$8 per day. I continue to maintain control and responsibility of the EM Program until it is taken off “pilot program” status (which is anticipated to be in August 2022).

2.) **Special Project** (assigned by the Chief Justice F. Phillip Carbullido) – “Defendant Intake Process” investigation / fact-finding (March 6, 2020). Due to inquiries by the Guam Legislature, the Chief Justice directed me to commence informal investigation / fact-finding as to how a Defendant is processed through the criminal justice system (from arrest, booking, initial confinement, First Appearance then Arraignment). Particular attention was paid as to how / why a Defendant’s name changes (i.e. Aliases) through the process and how to minimize the effects of such aliases. The power point presentation was provided to the Chief Justice at a formal meeting on or about March 6, 2020 for approval for presentation to the Speaker of the Guam Legislature a few weeks later.

3.) **Special Project** (assigned by the Chief Justice) – “Warrant Process” investigation / fact-finding (March 3, 2021). Due to inquiries by the Guam Legislature, the Chief Justice directed me to commence informal investigation / fact-finding as to how a Warrant of Arrest is generated and makes its way through the entire court, police and department of corrections process. Particular attention was paid as to how/why a warrant can be vacated. After presentation of my findings and preparation of the power point, I was tasked by the Chief Justice to present the information to the Guam Legislature in a public oversight hearing. My presentation took approximately 30 minutes and the power point I created (showing my findings) was displayed.

4.) **JUDGE PRO-TEMPORE** (February 19, 2020 to July 24, 2020 / Seat Vacated by Judge Michael J. Bordallo).

5.) **JUDGE PRO-TEMPORE** (March 26, 2021 to September 10, 2021 / Seat Vacated by Judge Anita A. Sukola).

6.) **TRIANGLE COMBATIVES** (“Tri-Com”) Training (“Introductory Weapons (Baton, Knife & Tactical Flashlight) Training) for the last three Volunteer Deputy Marshal Reserve (“VDMR”) training cycles.

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In closing, I want to thank the Committee for this opportunity to provide my input. Whether I am retained or not, it has been an honor to serve the Citizens of Guam.

Respectfully,

A handwritten signature in black ink, appearing to read "Jonathan", with a large, sweeping flourish extending to the right.