

FILED

SUPREME COURT OF GUAM

2013 MAY 13 AM 11: 53

ADMINISTRATIVE RULE NO. 13-003  
REGARDING TIME STANDARDS IN CASES PENDING BEFORE  
THE SUPERIOR COURT OF GUAM

**A. Introduction**

AR06-001 was adopted on September 15, 2006 regarding both "under advisement" and "case age" time standards pursuant to 48 USC 1424-1(a)(4) and (6), and as mandated by Title 7 GCA 4101(e) (as repealed and re-enacted by Public Law 28-137:1). AR06-001, absent its exhibits, is attached hereto as Exhibit "A."

AR06-001 is a valuable tool in the Judiciary of Guam's ("JOG") continuing efforts to improve the efficient functioning of the trial courts as well as reporting of statistical information to the public regarding the performance of trial court judicial officers. The time standards in AR06-001 have been in place now for more than six years. This court believes it is timely to revisit, restate, and amend where appropriate the time standards as described in detail below for the reasons explained herein. This Administrative Rule shall be in effect as of September 1, 2013. Cases already in existence as of that date shall remain subject to the AR06-001 case age time standards, except those cases which are reassigned to a new judge after that date.

**B. Amended Case Age Time Standards**

The National Center for State Courts ("NCSC") assisted the JOG in its development of the AR06-001 time standards. In August 2011, the NCSC adopted updated model case age time standards. The NCSC's updated standards take into account the ever-tightening financial constraints on courts as well as the increasing public desire to have court matters resolved promptly. The changes to the case age time standards as adopted herein come as a result of thorough review and consideration of the issues relevant to case age time standards, and are in the best interests of efficiency within the trial courts and of the proper administration of justice. While the various case age time standards are aspirational goals, each trial court judge shall diligently strive to meet them, consistent with their obligations pursuant to Canon 3B(8) of the Model Code of Judicial Conduct.

Most significantly, the new case age time standards herein generally adopt a tiered structure for the major case-types, similar to the methodology found in the NCSC's updated time standards. The tiered concept recognizes that a significant proportion of cases within each case type are typically concluded with little court involvement and a second pool of cases is concluded with moderate court involvement. The remaining cases require significant court involvement, including proceedings such as possible trial. The NCSC utilizes a three-tiered system of 75%-90%-98% regarding the three pools of cases. The case age time standards herein which utilize a three tiered system instead adopt a 50%-75%-98% three-tiered system. The new system will be monitored closely after its implementation, and altered in the future by this court if appropriate, including the possible adoption of the NCSC's 75%-90%-98% three-tiered methodology if such appear appropriate for our trial courts.

As explained by the NCSC in its model case age time standards, this court similarly believes that a methodology employing a top tier of 98% is reasonable. As explained by the NCSC, and adopted by this court:

*A 98 percent level is used rather than 100 percent in recognition that there will be a very*

*small number of cases that will require more time to resolve, e.g., . . . murder cases and highly complex, multi-party civil cases that require a trial. Even these cases, however, should be monitored closely to ensure that they proceed to disposition without unnecessary delay.*

National Center for State Courts Model Time Standards for State Courts, August 2011 (*Introduction* at 4).

Each matter's age shall begin on the date the case is first filed with the court. There will be no delay in starting the case age clock during the initial stages of a case, nor will the case age clock be started anew when a case is reassigned to a new judge. When a judge is assigned or reassigned on or after September 1, 2013, the judge will be provided the greater of 180 days or the remainder of that case's case age time standard time as described below to conclude the case.

A matter will not age with regards to the applicable time standard when the assigned judge does not have the power and authority to move the case forward. Such situations include, but are not limited to, the following: Referrals to some form of Alternative Dispute Resolution; a "stay" being put in place for such reasons as a portion of a case being on interlocutory appeal or while a case is subject to a writ; an order of diversion has been entered; or a bench warrant has been issued and remains outstanding. In addition, if a party lodges an objection to the assigned judge's competency pursuant to Title 7 GCA § 6107 and the assigned judge denies the objection in a timely filed answer the case shall not age against the assigned judge while the assigned judge's possible disqualification remains pending before some other judge as required by Section 6107.

For each major case type, the amended case age time standards are stated below.<sup>1</sup> Also provided, for illustrative purposes, are the AR06-001 case age time standards and the August 2011 NCSC model time standards. Regardless whether a particular case technically fits within the case age time standards adopted herein, each judge must diligently handle all matters assigned to him or her pursuant to Canon 3 of the Model Code of Judicial Conduct.

## **CRIMINAL CASES<sup>2</sup>**

### **Criminal Felony [CF]**

#### **New JOG Time Standard**

**75% concluded within 270 days (9 months)**

**98% concluded within 365 days (12 months)**

#### **Current AR06-001 JOG Time Standard**

**100% concluded within 365 days (12 months)**

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<sup>1</sup> To the extent statutory requirements may exist in Guam law necessitating longer or shorter case age time periods, the statutory time periods shall control over the administrative time standards articulated here.

<sup>2</sup> Regarding criminal cases, the term "concluded" is intended to include sentencing, acquittal, dismissal or other action effectively ending the adjudicatory and dispositional phases of a case.

NCSC Model Time Standard

75% concluded within 90 days (3 months)  
90% concluded within 180 days (6 months)  
98% concluded within 365 days (12 months)

Criminal Misdemeanor [CM]

New JOG Time Standard

**50% concluded within 180 days (6 months)**  
**75% concluded within 270 days (9 months)**  
**98% concluded within 365 days (12 months)**

Current AR06-001 JOG Time Standard

50% concluded within 180 days (6 months)  
100% concluded within 365 days (12 months)

NCSC Model Time Standard

75% concluded within 60 days (2 months)  
90% concluded within 90 days (3 months)  
98% concluded within 180 days (6 months)

**NON-CRIMINAL CASES<sup>3</sup>**

General Civil [Such as CV, SP, LR, etc.]

New JOG Time Standard

**50% concluded within 270 days (9 months)**  
**75% concluded within 365 days (12 months)**  
**98% concluded within 540 days (18 months)**

Current AR06-001 JOG Time Standard

75% concluded within 365 days (12 months)  
100% concluded within 540 days (18 months)

NCSC Model Time Standard

75% concluded within 180 days (6 months)  
90% concluded within 365 days (12 months)  
98% concluded within 540 days (18 months)

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<sup>3</sup> In civil cases, the term "concluded" is intended to include entry of judgment, dismissal or other action effectively ending the adjudicatory phase of a case. It does not include motions for a new trial, proceedings to enforce judgment, appeal, or other post-adjudicatory matters.

Domestic [DM]<sup>4</sup>

New JOG Time Standard

**50% concluded within 270 days (9 months)**  
**75% concluded within 365 days (12 months)**  
**98% concluded within 540 days (18 months)**

Current AR06-001 JOG Time Standard

100% uncontested concluded within 30 days (1 month)  
90% contested concluded within 270 days (9 months)  
100% contested concluded within 450 days (15 months)

NCSC Model Time Standard

75% concluded within 120 days (4 months)  
90% concluded within 180 days (6 months)  
98% concluded within 365 days (12 months)

Termination of Parental Rights

New JOG Time Standard

**75% concluded within 180 days ( 6 months)**  
**98% concluded within 270 days ( 9 months)**

Current AR06-001 JOG Time Standard

None specified.

NCSC Model Time Standard

90% concluded within 120 days after the filing of a termination petition (4 months)  
98% concluded within 180 days after the filing of a termination petition (6 months)

Administration of Estates [PR]<sup>5</sup>

New JOG Time Standard

**50% concluded within 365 days (12 months)**  
**75% concluded within 540 days (18 months)**  
**98% concluded within 720 days (24 months)**

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<sup>4</sup> Similar to the NCSC's handling of DM cases, uncontested and contested domestic cases are no longer divided into two separate categories, although it is presumed that uncontested DM cases will most often be concluded expeditiously. Further, for domestic proceedings, the term "concluded" is intended to include entry of the final divorce decree. It is not intended to include post-decree proceedings concerning child support, custody, visitation, or adjustment of alimony.

<sup>5</sup> For estate administration proceedings, the term "concluded" is intended to include the rendition of a final decree of distribution.

**Current AR06-001 JOG Time Standard**

None specific to this topic. This category was instead included within the "General Civil-Type Cases" time standard category.

**NCSC Model Time Standard**

75% concluded within 365 days (12 months)  
90% concluded within 540 days (18 months)  
98% concluded within 720 days (24 months)

**Guardianship of Adults**

**New JOG Time Standard**

**75% concluded within 90 days (3 months)**  
**98% concluded within 180 days (6 months)**

**Current AR06-001 JOG Time Standard**

None specified.

**NCSC Model Time Standard**

98% concluded within 90 days (3 months)

**Juvenile Delinquency [JD]<sup>6</sup>**

**New JOG Time Standard**

**Youth in Detention**

**50% concluded within 45 days (1 ½ months)**  
**75% concluded within 90 days (3 months)**  
**98% concluded within 120 days (4 months)**

**Youth Not in Detention**

**50% concluded within 60 days (2 months)**  
**75% concluded within 120 days (4 months)**  
**98% concluded within 210 days (7 months)**

**Current AR06-001 JOG Time Standard**

**Juvenile Drug Court or Restorative Justice**

100% concluded within 450 days (15 months)  
100% concluded within 270 days (9 months)

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<sup>6</sup>For juvenile delinquency cases, the term "concluded" is intended to include issuance of a dispositional order, acquittal, dismissal or other action effectively ending the adjudicatory and dispositional phases of a delinquency case. It does not include post-dispositional motions, appeals, review hearings, probation revocation hearings, or other post-dispositional matters.

Non-Juvenile Drug Court or Restorative Justice

80% concluded within 45 days (1 ½ months)

100% concluded within 120 days (4 months)

NCSC Model Time Standard

Youth in Detention

75% concluded within 30 days (1 month)

90% concluded within 45 days (1 ½ months)

98% concluded within 90 days (3 months)

Youth Not in Detention

75% concluded within 60 days (2 months)

90% concluded within 90 days (3 months)

98% concluded within 150 days (5 months)

Contested Traffic

New JOG Time Standard

**50% concluded within 60 days (2 months)**

**75% concluded within 90 days (3 months)**

**98% concluded within 120 days (4 months)**

Current AR06-001 JOG Time Standard

None specified.

NCSC Model Time Standard

75% concluded within 30 days (1 month)

90% concluded within 60 days (2 months)

98% concluded within 90 days (3 months)

Habeas Corpus and Similar Post-Criminal Conviction Proceedings

New JOG Time Standard

**98% concluded within 180 days (6 months)**

Current AR06-001 JOG Time Standard

None specified.

NCSC Model Time Standard

98% concluded within 180 days (6 months)

Post Judgment Motions

**New JOG Time Standard**

**98% concluded within 180 days (6 months)**

**Current AR06-001 JOG Time Standard**

None specified.

**NCSC Model Time Standard**

**98% concluded within 180 days (6 months)**

Summary Matters [Small Claims ("SD"), etc.]

**New JOG Time Standard**

**50% concluded within 60 days (2 months)**

**75% concluded within 90 days (3 months)**

**98% concluded within 180 days (6 months)**

**Current AR06-001 JOG Time Standard**

None specified.

**NCSC Model Time Standard**

**75% concluded within 60 days (2 months)**

**90% concluded within 90 days (3 months)**

**98% concluded within 180 days (6 months)**

Protective Orders

**New JOG Time Standard**

**90% concluded within 10 days of granting of temporary order of protection (MR 2.1.3(B))**

**98% concluded within 45 days of granting of temporary order of protection**

**Current AR06-001 JOG Time Standard**

None specified.

**NCSC Model Time Standard**

**90% concluded within 10 days**

**98% concluded within 30 days (1 month)**

**C. Under Advisement Time Standards**

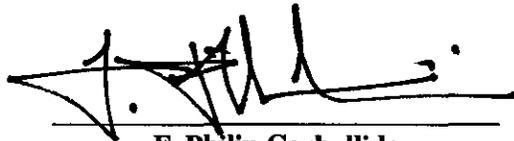
The under advisement time standards articulated in AR06-001 have proven themselves reasonable and of great value in the trial court's efforts to efficiently move cases towards conclusion. Therefore there is no need to amend those time standards, which require a judge to issue a decision within ninety (90) days of a motions being taken under advisement, and within one hundred and twenty (120) days of any other matter being taken under advisement.

Notwithstanding the 90 & 120-day time standards, when a party files an objection to the assigned judge's competency pursuant to Title 7 GCA § 6107 and the assigned judge states in a timely filed answer that they do not consent or admit to the disqualification, and the matter is randomly assigned to a disinterested judge on or after September 1, 2013, that judge shall issue a written decision on the disqualification within thirty (30) days of being assigned the matter.

**D. Criminal Trial Scheduling Orders**

In criminal felony and misdemeanor cases, a criminal trial scheduling order shall be issued by the assigned judge within ninety (90) days of the case being filed setting the trial date as well as other relevant dates and such scheduling order or portions thereof shall not be vacated or changed without good cause determined by the assigned judge and described on the record orally or in writing. If a criminal case is assigned to a judge more than thirty (30) days after the case is filed, notwithstanding the standard ninety-day deadline described herein, the judge shall issue a criminal trial scheduling order within ninety (90) days of the date on which the case was assigned to them.

Adopted this 13<sup>th</sup> day of May, 2013.



**F. Philip Carbullido**  
Chief Justice of Guam



**Robert J. Torres**  
Associate Justice



**Katherine A. Maraman**  
Associate Justice

EXHIBIT A

SUPREME COURT OF GUAM

ADMINISTRATIVE RULE NO. 06-001

REGARDING CASE MANAGEMENT & DISPOSITION WITHIN THE  
SUPERIOR COURT OF GUAM PURSUANT TO PUBLIC LAW 28-137:1

A. Introduction

Pursuant to 48 USC §§ 1424-1(a)(4) and (6), and as mandated by Title 7 GCA § 4101(e) (as repealed and re-enacted by Public Law 28-137:1), the Supreme Court of Guam hereby promulgates this Administrative Rule regarding Case Management and Disposition within the Superior Court of Guam.<sup>1</sup>

The purpose of this Rule is to provide both a procedural framework for the efficient dispatch of the Superior Court's business as well as a system of data collection, management and reporting regarding each individual Judge as well as the trial court as a whole.

B. Relevant Law and Existing Rules

The Court notes that prior to the passage of PL 27-137 on July 7, 2006, 7 GCA 4101(e) read, as provided in PL 27-31, as follows:

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<sup>1</sup> Title 7 GCA § 4101(e) now reads as follows:

“(e) Enactment of Rules on Case Management and Disposition. The Supreme Court shall enact rules governing the efficient dispatch of the Superior Court's business, including the following:

- (1) time frames and deadlines for matters taken under submission to provide speedy and efficient disposition of cases;
- (2) compilation of data and statistics regarding the court and each judge's performance and publication of the same on the Supreme Court website. Said compilation shall include, but not be limited to, the number of motions filed in cases pending before each judge, the number of motions and trials to the court which each judge has had under submission more than sixty (60) days, and the number of motions and trials to the court each judge has had under submission more than one hundred twenty (120) days prompt and equitable assignment and distribution of cases and workload and time off among the judges;
- (3) assignment, management, distribution, processing, scheduling and disposition of cases in the Superior Court;
- (4) whether a referee or hearing officer may hear a case; and
- (5) any other matters which affect the prompt, fair and just disposition of cases in the Superior Court.”

“(e) Effective November 1, 2003, for cases assigned after that date, a Judge of a court of record may not receive the salary for the judicial office held by the Judge while any cause before the Judge remains pending and undetermined for one hundred eighty (180) days after it has been submitted for decision.”

The result of PL 28-137:1 has been to replace the PL 27-31 language with the language of the new 4101(e) which is quoted in its entirety in footnote 1 herein.

**C. Section 4101(e)'s Requirements**

**Section 4101(e)(1):**

Section 4101(e)(1) requires that rules be enacted regarding “time frames and deadlines for matters taken under submission to provide speedy and efficient disposition of cases.” It is hereby adopted that the following deadlines shall apply to all matters taken under advisement:

1. a decision on a motion must be issued within 90 days; and
2. a decision on any other matter must be issued within 120 days.

The progress of each case for each judge shall be posted by the Clerk of Court on the Judiciary of Guam website and updated regularly as immediately set forth below.

**Section 4101(e)(2):**

Section 4101(e)(2) provides for the enactment of rules regarding the compilation of data and statistics regarding the Superior Court and each judge's performance and publication of the same on the Supreme Court website. In furtherance of this section, the Clerk of the Superior Court working with the Administrative Officer of the Courts and the MIS Division, shall cause the timely compilation of data and statistics containing detailed information about the caseload of the judges of the Superior Court. The data and statistics shall be published on the Judiciary of Guam website not later than 45 days from the effective date of this Administrative Rule. The judges, their chamber clerks and staff shall fully cooperate with the Clerk of Court and his team as well as the MIS Division regarding the timely collection, organization and regular updating of such data and statistics for inclusion on the Judiciary of Guam website.

Section 4101(e)(2) also includes language regarding equitable assignment and distribution of cases and workload, which is addressed below in the Section 4101(e)(3) discussion.

Section 4101(e)(2) further requires that time off among the judges be organized in a manner that maximizes the efficiency with which the Superior Court dispatches its business. Accordingly, all judges of the Superior Court other than the Presiding Judge shall obtain the prior written approval of the Presiding Judge regarding time they plan to be absent from the bench when such time is in excess of two consecutive work days. The Presiding Judge shall obtain the prior written approval of the Chief Justice of the Supreme Court regarding time he plans to be absent from the bench when such time is in excess of two consecutive work days. However, upon a showing of reasonable justification warranted by specific circumstances, written approval may be secured subsequent to a period of absence. Any judge who might be absent from the bench without approval as required herein will not receive their salary during the period of such absence.

Section 4101(e)(3):

Section 4101(e)(3) requires that this court enact rules addressing the “assignment, management, distribution, processing, scheduling and disposition of cases in the Superior Court.” Specific time standards regarding the efficient disposition of cases are addressed with specificity below. Administrative Rule 05-01, entitled “Regarding Superior Court of Guam Case Assignments,” adopted by the Court on January 14, 2005, a copy of which is attached hereto as Exhibit A, has been instrumental in facilitating the fair and equitable assignment, management, distribution and processing of cases filed in the Superior Court of Guam. Administrative Rule 05-01, shall remain as a component of the present Administrative Rule, together with any future amendments or changes the Court may make to that Rule.

In ongoing efforts to improve the operations of the Judiciary, the National Center for State Courts (“NCSC”) was consulted and commissioned to provide assistance in this area and produced for the Judiciary its November 2005 Final Technical Assistance Report on Caseflow, Time Standards, and Efficiency of Personnel Assignments. A copy of that Report is attached hereto as Exhibit B. The time standards recommended by the NCSC have been reviewed and approved by the Superior Court judges as reasonably achievable standards which the Superior Court bench should aspire to attain. Those standards, which are hereby adopted as the Official Superior Court Time Standards, are as follows:<sup>2</sup>

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<sup>2</sup> The running of the applicable time standards herein shall be tolled during the pendency of diversion if a diversion order is issued in a criminal case or during the pendency of an alternative dispute resolution referral if a case has been referred for alternative dispute resolution.

Criminal Felony Cases:	100% concluded within 12 months. <sup>3</sup>
Criminal Misdemeanor Cases:	50% concluded within 6 months; 100% within 12 months.
Civil Cases:	75% concluded within 12 months; 100% within 18 months. <sup>4</sup>
Domestic Cases:	100% of uncontested cases concluded within 30 days. <sup>5</sup> 90% of contested cases concluded within 9 months; 100% of contested cases concluded within 15 months.
Juvenile Delinquency Cases:	80% concluded within 45 days, not including referral to drug court or restorative justice program; <sup>6</sup> 100% concluded within 120 days, not including referral to drug court or restorative justice program; 100% of drug court cases concluded within 15 months; 100% of restorative justice program cases concluded within 9 months.

The progress of each case for each judge shall be posted by the Clerk of Court on the Judiciary of Guam website and updated regularly.

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<sup>3</sup> Regarding criminal cases, the term "concluded" is intended to include sentencing, acquittal, dismissal or other action effectively ending the adjudicatory and dispositional phases of a case. It does not include post-conviction motions, appeals probation revocation hearings, or other post-dispositional matters.

<sup>4</sup>In civil cases, the term "concluded" is intended to include entry of judgment, dismissal or other action effectively ending the adjudicatory phase of a case. It does not include motions for a new trial, proceedings to enforce judgment, appeal, or other post-adjudicatory matters.

<sup>5</sup> For domestic proceedings, the term "concluded" is intended to include entry of the final divorce decree. It is not intended to include post-decree proceedings concerning child support, custody, visitation, or adjustment of alimony.

<sup>6</sup> For juvenile delinquency cases, the term "concluded" is intended to include issuance of a dispositional order, acquittal, dismissal or other action effectively ending the adjudicatory and dispositional phases of a delinquency case. It does not include post-dispositional motions, appeals, review hearings, probation revocation hearings, or other post-dispositional matters.

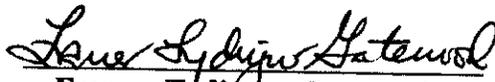
Remaining Sections of 4101(e):

Section 4101(e)(4), in regards to whether a referee or hearings officer may hear a case, and Section 4101(e)(5), in regards to any other matters which affect the prompt, fair and just disposition of cases in the Superior Court, will be addressed in a later Administrative Rule.

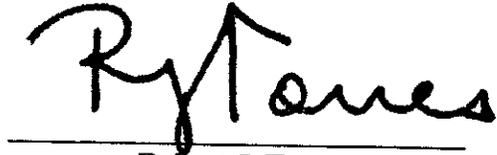
Adopted this 15th day of September, 2006.



**F. Philip Carbullido**  
Chief Justice of Guam



**Frances Tydingco-Gatewood**  
Associate Justice



**Robert J. Torres**  
Associate Justice