

CHAPTER 3
GUAM RETIREMENT FUND
BOARD OF TRUSTEES

Article 1

Regulations Concerning Claims to Obtain Service Credits

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§3101. General Provisions. (1) Authority. The Board of Trustees is authorized by 4 GCA §8142, to establish rules and regulations to implement the provisions of Chapter 8 of Title 4 of the Guam Code Annotated. In addition, PL 20-4 explicitly authorizes the Retirement Fund Board of Trustees to establish rules and regulations regarding installment payments under conditions specified by 4 GCA §8113.1, §8130 and §8136.

(2) Purpose. To prescribe the policies, procedures and rules relative to service claims for the uniform implementation of Chapter 8, 4 GCA, as amended.

(3) Applicability. These rules and regulations are applicable to all service claims inclusive of claims received by the Fund on and after April 10, 1989. These rules and regulations are designed to codify the existing practices and procedures of the Fund as well as to systematize the application of newer provisions of law. In most cases, the requirements and computation methods have been in use since the inception of the Fund. However, where there is any substantial conflict between these rules and regulations and past practice of the Fund, these rules shall prevail until such time as a declaratory ruling pursuant to (5) may be issued by the Board.

(4) Adoption, Amendment, or Repeal of Rules.

(a) **Petition.** Any interested person may petition the Board for the adoption, amendment, or repeal of any rule of the system. The petition shall be submitted in duplicate and delivered to the Director of the system.

(b) **Form and Content of Petition.** The petition need not be in any special form but it shall contain:

(1) The petitioner's name, social security number, address, including zip code, and telephone number;

(2) A statement of the nature of the petitioner's interest;

(3) An explicit statement of the reasons in support of the proposed rule, amendment, or repeal;

(4) A draft of the substance of the proposed rule or amendment or repeal and a designation of any existing rules affected by the petition;

(5) A statement of anticipated economic impact of the proposed change; and,

(6) The signature of the petitioner.

Any petition which does not conform to the foregoing requirements may be rejected by the Board.

(c) **Consideration of Petition.** Within sixty (60) days after the receipt of the petition, the Board shall either deny the petition, stating in writing, its reasons for the denial, or initiate proceedings for the adoption, amendment, or repeal of the rule in accordance with the Administrative Adjudication Law (AAL).

(5) **Declaratory Ruling.**

(a) **Petition.** Any interested person may petition the system for a declaratory order as to the applicability of any statutory provision administered by the system or of any rule or order of the system.

(b) **Form and Content of Petition.** The petition shall be

submitted in duplicate to the Director. It need not be in any special form but it shall contain:

- (1) The petitioner's name, social security number, address, including zip code, and telephone number;
- (2) A statement of the nature of the petitioner's interest, including reasons for the submission of the petition;
- (3) A designation of the specific statutory provision, rule, or order in question;
- (4) A complete statement of the relevant facts;
- (5) A statement of the interpretation given the statutory provision, rule, or order by the petitioner;
- (6) A memorandum containing the reasons, including any legal authorities, in support of the interpretation of the petitioner; and
- (7) The petitioner's signature.

Any petition which does not conform to the foregoing requirements may be rejected by the system. The rejection shall be in writing and shall state the reasons therefore.

(c) **Non-Issuance of Declaratory Order.** The Board may for good cause refuse to issue a declaratory order. Without limiting the generality of the foregoing, the Board may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve an existing situation or one which may reasonably be expected to occur in the near future;
- (2) The petitioner's interest is not of the type which confers sufficient standing to maintain an action in a court of law;
- (3) The issuance of the declaratory order may adversely affect the interest of the Territory, the system, or any of the officers or employees in any litigation which is pending or may reasonably be expected to arise; or
- (4) The petition requests a ruling on a statutory

provision not administered by the system or the matter is not otherwise within the jurisdiction of the system.

(d) **Consideration and Disposition of Petition.** The Board shall, within ninety (90) days of the submission of a petition, either deny the petition, stating the reasons therefore or issue a declaratory ruling. Upon disposition of the petition, the Director shall promptly notify the petitioner of the Board's ruling and of the petitioner's right to appeal the ruling to the Superior Court of Guam.

(e) **Applicability of Orders.** Orders disposing of petitions shall be applicable only to the fact situation alleged in the petition or as set forth in the order. They shall not be applicable to different fact situations or where additional facts not considered in the order exist.

(6) **Severability.** If any part or section of these regulations is declared to be invalid by a court of law or administrative tribunal for any reason, the rest of these regulations shall not be affected thereby and shall remain valid and enforceable.

§3102. Glossary. (1) **General.** Words and phrases used herein shall have the meaning contained in 4 GCA §8104, and as may be further clarified below, except where, as clearly indicated by context, the normal meaning may be construed.

(2) **Definitions.** The following words and phrases are defined to mean:

(a) *Fund or System* means the Government of Guam Retirement Fund.

(b) *Board* means the Board of Trustees of the Fund.

(c) *Director* means the Director of the Fund.

(d) *Member.* In general usage, a member is any person who is an employee of the Government of Guam and who is a proper Fund member. In certain circumstances, categories of membership are referred to by law. These include:

(1) *Current Member or Member* is any member who is currently employed by the Government of Guam and is currently contributing to the Fund as required under 4 GCA §8136. A current member may be vested or non-vested, depending on his total credited Government of Guam service at any given time.

(2) *Inactive Member* is any former member who has terminated his employment with the Government of Guam, is no longer contributing to the Fund as required under 4 GCA §8136, but did not withdraw his contributions in accordance with § 8130. An inactive member may be vested or non-vested.

(3) *Prior Member* is any member who has terminated his employment with the Government of Guam, is no longer contributing and had withdrawn his contributions under §8130.

(e) *Regular interest* means such rate as shall be fixed by the Board, provided that for the first five (5) years of operation of the Fund the rate shall be three percent (3%) per annum, compounded annually. Regular interest shall be at 4.5% from January 1, 1973. Regular interest may be adjusted by the Board in accordance to the Administrative Adjudication Law.

(f) *Retiree* means any person currently in receipt of a regular or disability benefit from the Government of Guam Retirement Fund.

(1) *Regular Retiree* means a person whose benefit is based on total service credit and his average annual salary as prescribed under 4 GCA §8119, §8120, or §8120.1. A regular retiree may further be classified as a Service, Optional (reduced), or Age retiree.

(2) *Disability Retiree* means a person whose benefit is based on a fixed percentage rate as prescribed under 4 GCA §8125.

(g) *Vesting or Vested Status* shall mean the attainment by a member of the minimum requirement for entitlement to a deferred pension benefit. Persons who joined the Fund prior to October 1, 1981 are required to accumulate at least three (3) years of credited government of Guam service to attain vested status. The minimum requirement for a person who joined the Fund after October 1, 1981 is five (5) years. Government of Guam services for this purpose include contributing membership services as computed in accordance to 4 GCA §8114 for which contributions have not been withdrawn and properly credited excluded services.

(h) *Survivor* means the surviving spouse of a person who dies while:

- (1) in receipt of a retiree or disability benefit; or,
- (2) while in service and is a current vested member.

(3) **Gender.** The use of the male gender such as he, his and him shall include the feminine gender unless the context clearly denotes otherwise.

§3103. Installment Payment Agreements. (1) **Promissory Notes.** Any installment payment agreement, as may be authorized by these rules and regulations, shall be evidenced by a promissory note. Each promissory note shall:

- (a) stipulate the extension of allowable service credits upon the satisfaction of the terms and conditions of the note, and
- (b) allow for the payment of an initial cash deposit at the outset of the note which shall reduce the principal amount of the note, and
- (c) provide for a refund of payments to date less a ten percent (10%) penalty upon breach or cancellation of any such note.

The form and content of such note shall be provided by the Director of the Fund and be patterned after notes in common use by the Fund prior to these rules. Administration of the notes shall generally be in a manner that is conducive to completion of the note and attainment of allowable credits for the benefit of the member.

(2) **Notes Inviolable.** Properly initiated payroll deductions or promissory notes which are not in arrears and are in compliance to appropriate eligibility criteria are not subject to unilateral cancellation or amendment, except in the case of correction or technical adjustment in conformance to appropriate rules or law.

(3) **Bilateral Amendment of Note.** An existing promissory note may be amended upon written request of a member and approval by a duly authorized representative of the Fund or vice versa. Form GGRF 9489(a), "Promissory Note Addendum Request", has been developed for this purpose. Such amendments must be fully in conformance to existing rules and/or laws, as may be amended, and will be effective only when properly received and approved by the Fund.

(4) **Periodic Reviews.** During the term of any payment

arrangement inclusive of promissory notes, the Fund is authorized to review each member's account to ensure adherence to the agreed payroll deduction plan. Where a member's account is found not to be in agreement with the authorized plan, the Fund shall have the right to demand payment within 30 days from date of written notification to bring the account to its proper balance. Failure by the member to comply with a written demand for payment under the terms and conditions of the promissory note shall be deemed as a breach of such note and may result in forfeiture of the service claim.

(5) **Note Implementation.** It shall be the member's responsibility to ensure implementation within 30 days of the promulgation of his note of the approved deductions by his respective payroll office. No credit shall be extended for administrative failure to instate an authorized deduction plan. Failure to notify the Fund and/or the member's payroll office may result in cancellation of the authorized payment agreement and forfeiture of credits.

(6) **Credit Restriction.** No credit shall be recognized for retirement purposes until full payment of the total amount due has been completed and all other applicable provisions under Chapter 8, 4 GCA, have been satisfied. No payroll deduction pursuant to a promissory note or payment for credit as authorized by these rules may be accepted after the retirement date of a member, except as is specifically authorized by the Board or statute.

(7) **Options Upon Death of Member.** In the event of a member's death prior to making full payment under the provisions of a promissory note, the following options shall be offered:

(a) Except for notes for credit under Chapter VII to obtain Retroactive Non-Base pay coverage, the annuity payable to the survivor may be reduced prorata in accordance with §3104(8), or

(b) The survivor may request and receive a full refund of all payments under the note and forfeit the credit sought therewith.

§3104. Redeposits. (1) **Applications.** Claimants to make redeposit of previously withdrawn contributions shall apply as follows:

(a) **Current Member.** Any current member as of April 10, 1989 who does not subsequently refund, may submit to the administrative offices of the Fund a claim to repay contributions withdrawn on such form as provided by the

Director. Such claim shall be deemed a request for interview pursuant to §3104(2) hereof.

(b) Prior, Inactive or Subsequently Refunded

Members. Any prior or inactive member as of April 10, 1989 or any member who refunds after April 10, 1989, who desires to obtain credit for refunded services shall, upon return to active membership status, claim to repay contributions withdrawn on such form as provided by the Director and either make full payment or installment arrangements within one hundred and eighty (180) days of his return to membership status or the effective date of these rules, whichever is later. Such redeposit shall be arranged in the same manner, and with the same installment options and restrictions, except as herein specified, as are applicable to current members and which are described by these rules and Retirement Law. A person who fails to initiate redeposit within the time limitation hereof, will be deemed to have waived his eligibility for repayment and to have forfeited service credits for which refund was received.

(2) Interviews and Processing. Interviews and processing will be scheduled on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(3) Payment Options. Upon receipt of a proper application, a computation of the refunded member contributions, including regular interest shall be prepared for the member. Regular interest shall be computed from the date of refund to the date of final payment. Upon request, a schedule of payment options pursuant to the specifications outlined in §3104(4) will be provided to the member. The member may make full payment or installment payments through payroll deduction. Such forms and authorizations as designated by the Director shall be completed by the member in order to commence any installment payment plan.

(4) Installment Payment Limitations and Restrictions. Depending on total redeposit(s) due, inclusive of regular interest, the maximum number of payroll deduction installments and term of payments shall be as follows, except that amounts due of \$200 or less may not be made through installment payments:

Pay Periods or	Amount Due	Maximum Term
	\$ 201 to 1,000	26 or 1 yr.
	1,001 to 3,000	52 or 2 yrs.

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3,001 to 5,000	78 or 3 yrs.
5,001 to 7,000	104 or 4 yrs.
7,001 to 9,000	130 or 5 yrs.
9,001 to 11,000	156 or 6 yrs.
11,001 or more	182 or 7 yrs.

Members whose annual pay is prorated over fewer than 26 pay periods per year shall have their payroll deduction adjusted to compensate for the shorter period.

Members who, due to financial inability, cannot afford the designated installment terms may present appropriate written justification and a proposed payment schedule to the Fund, which may be authorized by the Board or the Director if such authority is delegated by the Board.

(5) **Accreditation of Refunded Services.** Regardless of the method of payment, complete and full payment, including interest, must be accomplished prior to recognition of refunded services for retirement purposes, and the person must have worked for the government of Guam and been a member of the Fund for at least the minimum time required for vesting subsequent to the date of the service for which contributions were refunded.

(6) **Method for Computing Redeposits.** Upon proper request by a current member to repay contributions previously refunded, the amount of redeposit due shall be computed using the following methods:

(a) If the applicant refunded \$4,550 on 6/1/83 and wishes to make full payment on 7/1/89, the deposit is as follows:

(1) Payment Date	89-7-1
(2) Refund Date	83-6-1
(3) Elapsed time(#1 - #2)=	6-1-0
(4) Interest Factor	1.307083
(5) Refund Amount	\$4,550.00
(6) Redeposit Amount (#4 x #5)=	\$5,947.23

(b) If the member, who is on a 26 pay period per year payroll system, desires payroll deductions for a five year period commencing on PPE 7/1/89, the computation of the appropriate deduction amount is as follows:

(1) Date of first deduction	89-7-1
(2) Date of last deduction	
(#1-14) + (26pp's x 5yrs x 14das)=	94-6-11
(3) Refund Date	83-6-01
(4) Elapsed Time (#2 - #3)=	11-0-10
(5) Interest Factor	1.6228

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(6) Refund Amount	\$4,550.00
(7) Total Due (#4 x #5)=	\$7,383.74

NOTE: Compliance to installment limitations (§5.4 of this Chapter) should be verified at this point in the computation. If Total Due has a maximum term that exceeds the one assumed in step 2, steps 2 thru 6 must be redone using a shorter term.

(8) Pay periods in Note Term	130
(9) Deduction Amount	
(#7 / # 8 [rounded down])=	\$ 56.79
(10) Note Total-Rounded (#8 x #9)=	\$7,382.70

(7) **Credit Life Insurance.** A member may secure credit life insurance on his life with the Fund designated as beneficiary for the balance of the redeposit(s) due. The Fund shall certify to the member's insurer all relative and pertinent data regarding the member's repayment plan. The insurer shall certify to the Fund evidence of the member's coverage or policy. Upon a member's death prior to completion of the repayment, the Fund shall request payment of the adjusted remaining balance from the insurer. (Note: In compliance to the vesting requirement mentioned in §3104(5), the amount received on such member's account may be refunded to the survivor or estate of the deceased member.)

(8) **Proration of Credit.** In the event of the member's death before the total refund is repaid without credit life insurance coverage, provided the vesting requirement of §3104(5) hereof is satisfied, the service and annuity to the surviving spouse shall be adjusted prorata, based on the payments made to the date of the member's death. The proration of service credit shall be calculated as follows:

(a) **Amount Due.** The total amount due shall be re-computed to adjust the interest to the date of death;

(b) **Proration Factor.** Compute the proration factor (a percentage) by dividing the total payments made by the member to the date of death by the adjusted total amount;

(c) **Prorated Service.** Calculate the prorated service credit by multiplying the years of service claimed by the proration factor and convert to years, months and days, in accordance with 4 GCA §8114.

(9) **Full Payment Acceptable.** Prior or inactive members who are not contributing members as of April 10, 1989, may

request to make full payment of refunded member contributions and interest, plus regular interest to date of full payment.

(10) **Installments Prohibited from Inactive and Prior Members.** Prior or inactive members may not opt to restore service credit through an installment plan. Upon return to current member status, such persons shall comply with the conditions of this Chapter with regard to payment options.

(11) **Recalculations of Previous Payments.** Any person who paid in full or has an ongoing promissory note under PL 19-19 for repayment of withdrawn contributions shall have their interest recomputed anew using regular interest. Recalculations of existing notes, in the absence of one of the below listed options, shall be unilateral due to the advantageous impact on all members caused by application of the provisions of P.L. 20-4.

(12) **Options to Finalize Repayment.** Members with an ongoing deduction agreement shall have the following options:

- (a) making full payment, or
- (b) reducing the amount of their withholding for the original term of their note, or
- (c) reducing the amount of their withholding based on such term as may be authorized by §3104(4) of this Chapter.

To exercise any of these options a member must request for interview as described by §3104(2) hereof and, pursuant to such interview, initiate a bilateral note addendum as described herein. Any member who does not elect one of these options shall have the original deduction amount continued, but for the reduced period as determined pursuant to §3104(11), above.

(13) **Basis and Method of Recomputation.** Data used to compute the member's original note or repayment agreement and any other relevant data shall be used in each recomputation. No interest shall be charged on amounts of initial cash deposits from date of such initial payment. Initial cash deposits include those sums paid directly to the Fund at the time the original promissory note is processed. The following examples are indicative of the application of these rules:

- (a) If the applicant refunded \$4,550 on 6/1/83 and on 2/18/89 made an initial deposit of \$2,000 with a 5 year promissory note agreement for the balance with deductions of \$77.12 commencing 3/11/89 and wishes to make full payment on 7/1/89, the recalculation would be as follows:

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(1)	Note Date	89-2-18
(2)	Refund Date	83-6-01
(3)	Elapsed time (#1 - #2) =	5-8-17
(4)	Interest Factor	1.2881
(5)	Refund Amount	\$4,550.00
(6)	Total Due @ 2/18 (#4 x #5) =	\$5,860.86
(7)	Initial Deposit	\$2,000.00
(8)	Balance @ 2/18 (#6 - #7) =	\$3,860.86
(9)	Payoff Date	89-7-01
(10)	Note Date	89-2-18
(11)	Elapsed time (#1 - #2) =	0-4-13
(12)	Interest Factor	1.0187
(13)	Balance @ 7/1 (#8 x #12) =	\$3,933.06
(14)	Deduction Credits (\$77.12 x 9) =	\$ 649.08
(15)	Final Payoff (#13 - #14) =	\$3,283.98

(b) If the member desires to reduce the deduction amount, commencing on PPE 7/15/89, over the remainder of the original note period, the computation of the appropriate deduction would start as shown in steps 1 thru 8 above and then proceed as follows:

(9)	Date of Final Deduction	94-2-19
(10)	Note Date	89-2-18
(11)	Elapsed Time (#9 - #10) =	5-0-01
(12)	Interest Factor	1.2461
(13)	Note Total @ 2/18 (#8 x #12) =	\$4,811.02
(14)	Deduction Credits (\$77.12 x 9) =	\$649.08
(15)	Adjusted Note Total (#13 - #14) =	\$4,161.94
(16)	Remaining Deductions (130 - 9) =	121
(17)	Deduction Amount (#15 / #16) =	\$34.39
(18)	Rounded Note Balance (#4 x #5) =	\$4,161.19

(14) **Overpayments.** Should a member be found to have made an overpayment, the member shall be reimbursed for the amount overpaid within 30 days of recalculation. A statement indicating full payment shall be provided to such member.

§3105. Education Credit. (1) **Eligibility.** Applicants for education credit must meet the following requirements before any deposit or payment arrangements can be made:

(a) **Application.** Duly completed application on GGRF 9189 must be received by the Fund by June 14, 1989, close of business. In lieu thereof, a statement of intention for education credit, duly time stamped or postmarked, may be accepted.

(b) **Status.** The applicant must be either a regular retiree, a current member, or an inactive member on April 10, 1989. The applicant must have joined the Fund by January 31, 1987, except that "Join the Fund" as modified in application by § 8130 as repealed and reenacted by PL 20-4, allows members who "joined the Fund" since January 31, 1987 to satisfy this

requirement if application for previously refunded service is made on or before June 14, 1989, and such payment or payment arrangement is made within ninety (90) days of the effective date of these rules.

(c) **Vesting.** The applicant must be vested on or before October 1, 1988, except that the refunded service of an applicant may satisfy this requirement if application for previously refunded service is made on or before June 14, 1989, and such payment or payment arrangement is made within ninety (90) days of the effective date of these rules.

(d) **College degrees.** Evidence or indication, in accord with §6.6 hereof, must be received for the claimed degree. Such claimed degree must have been earned on or before April 10, 1989. Degrees earned in part shall be ineligible for credit. Should all requirements for graduation be satisfied, but the degree is yet to be conferred on June 14, 1989, the claim is acceptable.

(2) **Ineligible Applicants.** Persons not meeting one or more of the eligibility criteria shall be advised of their ineligibility for education credit.

(3) **Interviews and Processing.** Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed. Such interviews and processing shall be completed within ninety (90) days of the effective date of these rules. This processing period may be extended by formal resolution of the Board.

(4) **Payment Options.** Upon receipt of a proper application, a computation of the education credit deposit shall be prepared for the member. The member may make full payment of such amount without interest on or before the processing deadline date. Upon request, a schedule installment payments through payroll deduction shall be provided with regular interest which shall be computed from the note date to the date of final payment. The term of any such promissory note shall not exceed five (5) years. Such forms and authorizations as designated by the Director shall be completed by the member in order to commence any installment payment plan.

(5) **Credit Standard.** The following general guides are established for determination of allowable service credit for education claims:

(a) **Undergraduate and graduate degrees.** An Associate Degree earned on the basis of classroom instruction is equivalent to 1 year, 9 months of service credit. A Bachelor's Degree is equivalent to 3 years, 9 months of service credit. Post Graduate Degrees vary as to minimum requirements, but may be credited at 1 year, 9 months for a Masters Degree and 1 year, 9 months for a Doctorate Degree, which may be adjusted by the Board pursuant to written request by the applicant on the basis of required credit hours of classroom instruction as documentation in accordance to §2105(6) hereof. When the highest degree claimed requires the attainment of a lower degree, 3 months shall be added for each successive degree after the first earned in order to account for the summer period(s), except when the applicant chooses to separate the degrees so that the respective deposit computation factors will produce a lessor deposit.

(b) **Multiple degrees.** When two or more degrees of the same level (e.g., masters degrees in both physics and English) but in different disciplines or fields are earned, the member has a choice as to which degree may be credited. In no event can credits exceed the normal time determined for the highest degree earned by an applicant.

(c) **Classroom instruction.** Only that portion of any degree which is earned on the basis of classroom experience shall be creditable, as verified by transcript(s) and other official documentation. Classroom experience includes traditional coursework and research or thesis preparation required for the earned degree. It does not include time spent on post-graduate work nor work associated to attaining licensure or professional certification. The normal time for degrees earned in part with non-classroom activities shall be reduced on a pro-rata basis as per §3105(7)(d) of this Chapter.

(6) **Documentation and Certification.** Several general types of supporting documents are required to finalize and certify creditability of any education credit claim. These categories and the acceptable and/or required documents are as follows:

(a) **Diplomas and Transcripts:**

(1) Certified transcript(s) indicating all coursework leading to the degree(s) earned inclusive of completion of degree requirements and graduation date, or

(2) Certified letter from registrar indicating date of graduation and hours of classroom instruction.

(b) Accreditation or Recognition of School(s):

(1) If U.S. institution graduate:

(A) Appearance of school's name and appropriate indication of status for period of time during which degree was conferred in official publications of the federal Department of Education, ACE (American Council on Education) or COPA (Council on Post Secondary Accreditation) or those associations publicly recognized by the federal DOE to perform accrediting activities, and

(B) A statement from DOE or UOG or affirmation duly certified listing that the school is recognized.

(2) If foreign country graduate:

(A) Certified letter from an authorized official of the institution or appropriate indication on published listing of the Ministry of Education in the foreign country, and

(B) Confirmation by appropriate indication of membership of the respective institution in publications of the International Association of Universities, e.g., International Handbook of Universities, World List of Universities, or

(C) Appropriate appearance of the institution in official publication of the United Nations (UNESCO), or

(D) A statement or certified listing from DOE, UOG or GCC indicating the institution is recognized.

(3) Any graduate: If the applicant fails to meet any of the requirements set forth in §3105(6)(b)(1) or (2) above, the applicant shall be deemed to have graduated from an accredited institution upon receipt and approval by the Fund of forms to be provided by the Director that the earned degree had been:

(A) Recognized by the Government of Guam for teaching or professional licensing, or

(B) Used as the basis for current employment by the Government of Guam, its agencies or instrumentalities, or

(C) Used as the basis for promotion by the department or agency of the Government of Guam which hired the employee.

(c) Normal time for post graduate degree(s) claimed.

Each individual desiring to substantiate normal time to earn any claimed degree that is different from that indicated in §3105(5), above, shall submit or satisfy the following:

(1) Statement from institution indicating minimum credit hours of classroom instruction and the minimum or normal time that a full-time student would require to satisfy the requirements for the degree(s) earned, or

(2) If degree and credit claimed is comparable to other documented claims, no additional document is required, i.e., if more than 2 persons claim credit for the same degree(s) from the same school(s) during the same time period, certifications from any one applicant shall be equally applicable to others in the same circumstances.

(d) Education supported by government. Each individual obtaining any part of their degree(s) during a period of employment with the government of Guam shall submit the following:

(1) Statement from their government of Guam employer(s) as to whether or not the employer(s) subsidized their tuition and/or other educational expenses and, whether or not the employee received paid educational leave for any part of the claimed period of education.

(2) In addition the Fund shall secure a statement from the Division of Training and Development of the Department of Administration and the University of Guam, based on official listing of education credit applicants who claim degrees during any part of their employment, as to any degree or portion thereof which was paid by the government of Guam. Government programs which shall result in reduction of claimed education credit include the Special Extension Program (SEP), the Junior Executive Training (JET) program, Reserve Officer Training Corps (ROTC), Teacher

Training and Merit Award scholarships, and other such programs, scholarships and loans by whatever name.

(7) Procedures for Computing Deposits for Education Credit. On determining that an applicant is eligible for credit, the deposits shall be computed under the following methods:

(a) Degree(s) Earned While Not Employed. If the applicant acquired his degree(s) before employment with the government of Guam, the salary and contribution rates when employment began after the date of graduation will be the basis for calculating the deposit. If the applicant's initial salary is less than \$15,000, the actual salary shall be \$15,000.
Example:

Joe Cruz earned a BA degree from UOG on May 10, 1975. He began employment on October 9, 1975 at a salary of \$8,424 per annum, and contribution rates of 6.5% employee and 9.104% employer. The normal time and classroom instruction for his degree is 3 years and 9 months. The deposit is calculated as follows:

- (1) Allowable Credit in Years 3.75
- (2) Salary \$15,000.00
- (3) Total salary for period (#1 x #2) = \$56,250.00
- (4) Employee contribution (Rate x #3) = 6.5%
\$3,656.25
- (5) Employer contribution (Rate x #3) = 9.104%
\$5,121.00
- (6) Total principal due (#4 + #5) = \$8,777.25

If Mr. Cruz desires a 5 year promissory note which is entered into on 7/1/89 and which provides for deductions commencing on 7/15/89, the computation would proceed as follows:

- (7) Date of Final Deduction 94-06-25
- (8) Note Date 89-07-01
- (9) Elapsed Time (#9 - #10) = 4-11-24
- (10) Interest Factor 1.2461

2 GAR - ADMINISTRATION
DIV. 1 - DEPARTMENT OF ADMINISTRATION

(11) Note Balance (#10 x #6)=\$10,937.33

(12) Pay periods in Note Term (5 x 26)=130

(13) Deduction Amt. (#11 / # 12 [round down])
=\$84.13

(14) Note Total-Rounded (#12 x #13)=\$10,936.90

The above computation is also applicable if the applicant terminates membership and earns a degree creditable under this Chapter. The salary and contribution rates in effect upon return to work shall apply in such circumstances.

(b) Degree(s) Earned During Employment. If the applicant acquired his degree while employed, the greater of the average of his initial salary and the salary received after obtaining degree, or \$15,000, and contribution rates in effect at the date degree obtained will be the basis for calculating the deposits, as shown in the following example:

John Santos worked for Revenue & Tax full-time from January 1967 to present (April 10, 1989). He entered UOG on September 1967 and graduated with a BA degree on June 1986. His initial salary was \$14,204, after graduation it was \$21,062. Retirement contribution rates at that time were 7.5% employee and 12.106% employer. The normal time and classroom instruction for his degree is 3 years and 9 months. The deposit is calculated as follows:

(1) Normal Credit in Years 3.75

(2) Beginning salary \$14,204.00

(3) Salary after graduation 21,062.00

(4) Average((#2 x #3) / 2)=17,633.00

(5) Total salary for period (#1 x #4)=\$66,123.75

(6) Employee contribution (Rate x #3) = 7.5%
\$4,959.28

(7) Employer contribution (Rate x #3) =
12.106%\$8,004.94

(8) Total principal due (#6 + #7) =\$12,964.22

The computation of interest over the term of a promissory note and the appropriate deduction amount for this deposit is the same as shown above, starting at §6.7(a)(7).

(c) Series of Degrees Before and/or During Employment. Generally the salary and contribution rates in effect at the date of the highest degree is the basis for education deposits. When a series of degrees leading to the highest creditable degree is being calculated, the salary and contribution rate on the graduation date for each degree may, at the applicant's option, be the basis for the deposits. Upon such option by the applicant, the normal time for each creditable degree in the series shall not be exceeded, but all other computation methods shown remain applicable.

(d) Exclusion of Subsidized Portion of Degree(s). If part of the education claimed was subsidized by the government, the subsidized portion will be disallowed. The following computation technique is also applicable when a portion of any degree is not creditable due to having been earned on the basis of non-classroom activity:

Mary Perez started working for the Department of Public Health and Social Services in June 1968. In September 1970, she enrolled as a part-time student at UOG. In 1978, after completing 100 credit hours of her undergraduate requirements, she applied for and was granted education assistance by the Department of Administration to complete the remainder of her requirements for a BA in Sociology. The remaining credit hours totalled 24 units. During her last year at UOG, PH&SS continued paying her full salary. Her salary at employment was \$12,076 and at graduation was \$15,050. Her contribution rates were 6.5% employee and 10.104% employer. Since part of the education was subsidized, only the unsubsidized portion is allowed for the service credit. Her service credit and deposit is computed as follows:

(1) Normal Credit in Years 3.75

(2) Normal Credit Hrs. to Earn Degree 124

(3) Subsidized Credit Hrs. 24

(4) Allowable Credit Hrs. (#2 - #3) = 100

(5) Conversion of Credit Hrs. to Yrs-Mos-Das

(A) Yrs. (Integer ((#4 / #2) x #1)) = 3.2042 03-00-

00

(B) Mos. (Integer ((#4A - 4A[int]) x 12)
=0.2903 00-00-00

(C) Das. (Integer ((#4A - 4B[int]) x 30) =8.7097
00-00-08

(D) Allowable Credit-Rounded (A + B + C) =03-
00- 15

(6) Allowable Credit in Years 3.024

(7) Salary \$15,000.00

(8) Total salary for period (#6 x #7) =\$45,360.00

(9) Employee contribution (Rate x #8) = 6.5%
\$2,948.40

(10) Employer contribution (Rate x #8) = 10.104%
\$4,583.17

(11) Total principal due (#9 + #10) =\$7,531.57

The computation of interest over the term of a promissory note and the appropriate deduction amount for this deposit is the same as shown above, starting at §6.7(a)(7).

(8) Recalculations of Previous Deposit Amounts. Any person who paid in full or has an ongoing promissory note under PL 19-19 or P.L. 18-46 to obtain education credit shall have the interest portion of their education deposit recomputed anew using regular interest which shall be computed from the note date to the date of final payment. Any other adjustment of an existing note shall not be unilateral because of the possibility of an increased deposit upon application of the provisions of P.L. 20-4.

(9) Options to Finalize Education Deposit. Members with an ongoing deduction agreement shall have the following options:

(a) making full payment of the adjusted total due, or

(b) reducing the amount of withholding for the original term of the note based on the reduced interest, or

(c) reducing the original note term with appropriate

adjustment to the amount of withholding.

To exercise any of these options a member must request for interview as described by §3105(3) hereof, except that the time restriction therein shall not be applicable and, pursuant to such interview, initiate a bilateral note addendum as described herein. Any member who does not elect one of these options shall have the original deduction amount continued, but for the reduced period as determined pursuant to §3105(8), above.

(10) **Overpayments.** Should a member be found to have made an overpayment, the member shall be reimbursed for the amount overpaid within 30 days of recalculation. A statement indicating full payment shall be provided to such member.

§3106. Retroactive Non-Base Pay. (1) Eligibility.

(a) Must be a current member as of April 10, 1989;

(b) Must have the non-base pay inclusion option based on a previous or current election of such option;

(c) Must submit an application form to the Retirement Fund or respective personnel section indicating intent to pay back for prior non-base pay credit no later than June 14, 1989.

(2) **Application and Deadline.** All current members who opt to change their previously submitted option have until June 14, 1989 to submit the appropriate Non- Base Pay Withholding Option form. To claim retroactive non-base pay, the member must indicate the retroactive date, however, such coverage must not be earlier than October 1, 1983. Full payment or a payroll deduction of the required deposit amount must be arranged by the member at the offices of the Fund within ninety (90) days of the effective date of these rules. Failure to make such arrangements shall be deemed a waiver and forfeiture of the right to obtain such credit.

(3) **Data Requirement.** In order to compute the amount payable, the member must provide the Fund payment documentation for all non-base pay earned during their retro pay period claimed. Acceptable documents are:

(a) Actual payroll earnings record clearly showing total gross pay, retirement (Social Security or Retirement Fund) deductions if any, and the pay period such pay was earned.

(b) Certification of such earnings clearly showing the data provided in item a above by the authorized employing agency head.

(c) W-2 statement(s) for such period subject to averaging procedures by Fund staff.

(4) **Interviews and Processing.** Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(5) **Payment Options.** Upon receipt of a proper application, a computation of the member contributions, including regular interest shall be prepared for the member. Upon request, a schedule of payment options to implement a payroll deduction plan not to exceed four (4) years will be provided to the member. The member must make full payment or installment payments through payroll deduction within ninety days of the effective date of these rules. Such forms and authorizations as designated by the Director shall be completed by the member in order to commence any installment payment plan.

(6) **Computation of Member Deposit.** Member's deposits shall be computed in accordance with established policy governing computation of excluded service.

(a) Gross earnings shall be applied to the pay period in which it was earned.

(b) Regular interest shall be computed from each pay period ending to date of payment.

(c) Computing steps a and b for all such pay earned will give the total amount due and payable by the member.

(7) **Computation of Employer Share.** The employer's share is computed in the same manner as the member's share, including regular interest. In order to protect the integrity of the Fund, the amount so derived shall be submitted to the Legislature for appropriation to cover the employer's share.

(8) Service Credit Option at Retirement.

(a) **Eligibility.** At the date of his retirement, a member who made payment(s) for retroactive lump sum annual leave pay shall have the option to convert such retroactive lump sum annual leave for service credit in accordance with Section 8116 4 GCA.

(b) **Deposit required.** The member shall pay 7.5% on

the gross lump sum annual leave payment(s) received including regular interest from the date of such payment(s) to the date of his retirement.

§3107. Subsequent Military Credit. (1) Eligible Persons.

Current members of the Fund as of August 22, 1988 and new members who properly apply and or document their U.S. military services are eligible to apply for this credit. For the purposes of this Chapter, former and inactive members of the Fund as of August 22, 1988 shall be treated as new members upon their subsequent return to membership status.

(2) Ineligible Persons.

(a) Retirees;

(b) Persons with dishonorable discharge from the Armed Forces.

(c) Persons whose claimed services were not active duty with the Army, Navy, Air Force, Marine Corps or the Coast Guard of the United States.

(3) Application, Deadline and Forfeiture.

(a) Employees on the August 22, 1988 effective date of P.L. 19-19 shall have 180 days to apply for retirement credit for military service or lose their eligibility and be deemed to have waived their rights to such eligibility. Such employees must have completed GGRF 9288, Subsequent Military Credit application or submitted a DD-214 or other evidence of military service to the Fund on or before February 18, 1989.

(b) New members after the effective date of such Act have 60 days after commencement of employment to submit a GGRF 9288, Subsequent Military Credit Application, and a DD-214, or be deemed to have waived such right to credit.

(4) Interviews and Processing. Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(5) Payment Options. A current member may make full payment of the required deposit amount for military credit. A member who wishes to repay on an installment basis shall be governed by the provisions set forth under §3104(4), however, the

maximum term shall not exceed 5 years.

(6) Procedures for Calculating Deposits for Military Service.

(a) The salary base for computing a military deposit shall be the average base military salary of the applicant at the beginning and ending of the period of credit sought.

(b) If the applicant was employed prior to and subsequent to military service and met the conditions for credit without having to pay in, the deposit shall be a liability of the employer. The deposit shall be computed on the average military salary times the sum of the employee and employer contribution rates in effect during the period of credit being sought. Maximum allowable credit is five years.

(c) If the applicant was employed prior to military service, but did not meet the conditions of reemployment, five years of military service credit is allowable, however, the employee must pay both the employee and employer contributions. The deposit is computed as in §3107(6)(b), above.

(d) If the applicant was not employed by the government upon entering the Armed Forces, a maximum of three years of credit is allowable. The deposit is computed at two times the appropriate member's contribution rate based on the period of credit sought to be obtained and the average salary paid the employee by the Armed Forces.

§3108. Excluded Service. (1) Eligibility and Application.

An applicant for excluded service credit must be a current member and claim such services on a form provided by the Director.

Excluded services are those services rendered by an employee of the Government of Guam in any occupational classification for which no contributions were withheld because the employee had rejected or had been deemed ineligible for membership.

(2) **Ineligible Claims.** Government of Guam services that were properly subject to Social Security contributions shall not be the basis for excluded service credit. Non-documented claims shall also not be credited. These include claims for which no primary documentation as per §3108(3) of this Chapter can support the claim.

(3) **Interviews and Processing.** Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of

their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(4) **Supporting Documents.** All personnel actions issued during the excluded period claimed together with all W-2's or other primary evidence of pay earned. All W-2's being submitted must be signed by an appropriate authority of the dept/agency preparing the W-2's in question. The Fund maintains original pay cards for most government of Guam employees between 1956 and 1967. For any year when the pay card of an applicant is available, a W-2 statement will not be required.

(5) **Payment Options.** Upon satisfying the basic requirements for excluded service credit, a schedule of payment options shall be provided the member. The member may elect to make full payment or installment payments under provisions of §5.4 of Chapter V of these rules.

(6) **Deposit Computations for Excluded Service.** The pay period gross pay times the contribution rate applicable for each period being claimed, plus regular interest from the date that the retirement contribution would have been made to date of actual payment in full. In general, such computation shall reflect the contributions that would have been withheld had the employee been a member of the Fund, plus appropriate interest.

§3109. Educational Training. (1) **Eligibility.** An applicant for education training credit must submit and meet the following requirements before processing of this claim.

(a) **Application.** Submission to the Fund of a duly completed application on such form as may be provided by the Director.

(b) **Status.** An applicant must be a current member of the fund on the date of application for such credit and one who joined the Fund on or before May 31, 1989.

(c) **Separation Documentation.** Evidence from the respective department or agency that the employee terminated employment or was on approved leave without pay during the claimed period for the specific purpose of furthering his education. Commencement of training must be within 90 days of separation or termination and the return to employment must be within 2 years of completion of studies.

(d) **Training Documentation.** Primary evidence or certified documentation from the applicant's department or

agency of the educational pursuit of the applicant. Such evidence shall at least provide the nature of the training received, the beginning and ending dates of the training, including any interruptions, and other information that may be deemed necessary to determine eligibility.

(2) **Allowable Training.** Traditional coursework at any duly accredited institution of higher learning, formal research, and such other special courses of training that may be authorized by the Board upon request of the applicant.

(3) **Ineligible Applicants.** Persons not meeting one or more of the eligibility criteria shall be advised of their ineligibility for educational training.

(4) **Interviews and Processing.** Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(5) **Payment Options.** Upon satisfying the basic requirements for educational training credit, a schedule of payment options shall be provided the member. The member may elect to make full payment or installment payments under provisions of §3104(4) of these rules.

(6) **Deposit Computation for Educational Training.** Deposits for educational training generally are reflective of the pay and contributions that would have been received and paid by the member had he continued in employment rather than gone on training. Increments and across-the-board pay raises that would have been received shall be factored into the pay calculation. The computations are performed the same as for excluded service as described in §3108(6), hereof.

§3110. Subsequent Civil Service. (1) **Eligibility and Application.** A current member who joined the Fund on or before May 31, 1989, and who terminates membership in the Retirement Fund of the United States, renounces benefits therefrom, and receives a refund of his contributions therefrom, may claim credit for subsequent civil service. Application shall be on such form as may be provided by the Director of the Fund.

(2) **Documentation.** All documents relevant to the applicant's employment and retirement coverage with the U.S. Civil Service shall be requested therefrom under applicant's signature.

(3) **Ineligible Applicants.** Persons not meeting one or more of the eligibility criteria shall be advised of their ineligibility for civil service credit.

(4) **Interviews and Processing.** Interviews and processing will be scheduled based on the date of application or on a first come first serve basis. Applicants will be contacted and informed of their interview dates. Failure to appear on the appointed date and time will cause a re-scheduling of the appointment after all normally scheduled interviews are completed.

(5) **Payment Options.** Upon satisfying the basic requirements for subsequent civil service credit, a schedule of payment options shall be provided the member. The member may elect to make full payment or installment payments under provisions of §3104(4) of these rules.

(6) **Deposit Computation for Subsequent Civil Service.** Upon receipt of the requested documents clearly indicating that the applicant had terminated his membership and had received a full refund of his accumulated contributions therefrom, the deposit to the Fund shall include:

(a) Two times the total refund amount paid by the federal fund to the applicant, or two times such computed amount which represents the contributions to the federal fund during the last 5 years of his employment, plus

(b) Regular interest from the date of termination to the date of payment.

REGULATIONS CONCERNING CLAIMS

TO OBTAIN SERVICE CREDITS

SIGNATURE PAGE

A.B. GUTIERREZ

Director, Retirement Fund

ANITA A. SUKOLA

Chairperson, Retirement Fund

Date: _____

Date: _____

J.U. TORRES

Legal Counsel, Retirement Fund

Date: _____

Article 4

Regulations Concerning the Election of Trustees

SOURCE: Added by P.L. 27-43:4 as Rules, not law.

§3401. General Provisions (a) **Authority.** The Board of Trustees is authorized to establish rules and regulations to implement the provisions of 4 GCA §§8138 through 8138.4, pursuant to 4 GCA §8138.5.

(b) **Purpose.** To implement the provisions of 4 GCA §§8138 through 8138.4, as amended, relative to the election of members to serve on the Board of Trustees, and to provide procedures for the nomination and election of Active Members and Retirees to serve on the Board of Trustees.

(c) **Applicability.** These rules and regulations are applicable to initial and subsequent elections described in 4 GCA §8138.1 through §8138.4.

§3402. Definitions. Words and phrases, wherever used in this Article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) *Fund* means the Government of Guam Retirement Fund Defined Benefit Plan as defined in 4 GCA §8104(a).

(b) *Retirement System* means the Government of Guam Defined Contribution Retirement System as defined in 4 GCA §8201(a).

(c) *Board* means the Board of Trustees of the Fund and the Retirement System.

(d) *Trustee* means a member of the Board who has responsibility for the operation of the Fund and the administration of the Retirement System, and is charged with fiduciary duties in regard to management of the Fund and the Retirement System.

(e) *Member* means any government of Guam employee included in the membership of the Fund or the Retirement System, and includes:

(1) Active Member means an employee of the government of Guam who is employed and has been employed for at least five (5) years by the government of Guam, and is either (A) a member of the Fund as described in 4 GCA §§8105 and 8106, and contributes to the Fund in accordance with 4 GCA §8136; or (B) a member of the Retirement System as described in 4 GCA §§8201(m) and 8206.1, and who contributes to the Retirement System in accordance with 4 GCA §8208.

(2) Inactive Member means (A) any member who has not refunded contributions to the Fund pursuant to 4 GCA §8130, but is not contributing to the Fund in accordance with 4 GCA §8136, or (B) any member who is not contributing to the Retirement System in accordance with 4 GCA §8208, but has not elected to receive a distribution of the member's vested account balances pursuant to 4 GCA §8211(d). Inactive members are not eligible to run as candidates in an election of trustees to the Board of Trustees, but are eligible to vote for Elected Active Members in elections under this Article, regardless of where they are domiciled.

(3) *Retiree* means any member who is currently in receipt of a retirement annuity from the Fund or the Retirement System. To be eligible for nomination and election as an Elected Retiree, a Retiree must be domiciled in Guam. Retirees who are not domiciled in Guam remain eligible to vote for Elected Retirees. A Retiree who is currently employed by, or under contract with, the government of Guam shall be eligible for a position as an Elected Retiree, but shall not be eligible to vote for, or be nominated for a position as an Active Member.

(f) *Candidate* means a person who has been certified by the Fund as eligible to run for a position on the Board and is (1) an Active Member of the Fund or Retirement System who has at least five (5) years total service credit as a member of the Fund or Retirement System at the time the member submits a self-nomination to the Board as provided by §3408(a); and/or (2) a Retiree who is domiciled in Guam.

(g) *Total Service Credit* means a Fund member's prior service, membership service, and military service as defined in 4 GCA §8104(h), and subject to the limitations of 4 GCA §8130(a), or a Retirement System member's years of employment as defined in 4 GCA §8201(e).

(h) *Interim Member* means a member chosen because of a vacancy in Offices 1 through 4, under the terms of the remedy contained in 4 GCA, §8138.4(b). The Interim Member must meet all required qualifications for the specific Office to which they are appointed.

§3403. Initial Election. An initial election shall be conducted by the Guam Election Commission in accordance with 4 GCA §8138.1, no later than February 1, 2004.

§3404. Subsequent Elections. Subsequent elections shall be held in accordance with 4 GCA §8138.1 through §8138.4.

§3405. Term of Office. Each Board member elected or duly appointed shall serve a five (5) year term of office in accordance with 4 GCA §8138.2, except that a member who fills a

vacancy may serve only the remainder of their predecessor's five (5) year term and may serve a shorter term, as provided in 4 GCA §8138.4 (b).

§3406. Vacancy on Board. Vacancies shall be filled in accordance with 4 GCA §8138.4.

§3407. Notice of Election. (a) **Requirement of Notice.** Except in the case of a runoff election, at least sixty (60) days prior to an election, the Fund shall give notice of an election. Such notice shall be given by publication in a local newspaper of daily general circulation and by publication in an official publication of the Fund.

(b) **Contents of Notice.** The Notice shall contain the following information:

- (1) The purpose of the election;
- (2) The term of the office for which the election will be held;
- (3) The procedure and the deadline for submission of nominations to the Board as provided by §3408;
- (4) The date(s) and times set by the Guam Election Commission for the election;
- (5) The location or locations where voting will take place; and
- (6) The procedure for requesting an absentee ballot from the Guam Election Commission.

§3408. Qualifications of Candidates and Trustees. (a) **Submission of Candidate Statements and Nominating Petitions.** Upon Notice being provided pursuant to §3407, a prospective Candidate seeking election shall submit a Candidate Statement and a Nomination Petition in the form provided by the Board. Said Nomination Petition shall be signed by no less than one hundred fifty (150) persons who are eligible to vote as members or retirees of the Fund or Retirement System. A prospective Candidate shall indicate on the Candidate Statement whether he/she seeks Office as an Active Member or a Retiree. If the prospective Candidate seeks nomination as a Retiree, the prospective Candidate shall certify that he/she is domiciled in Guam.

(b) **Deadline for Statements of Candidates.** For each election, the Board shall set a deadline for submission of Candidate Statements. Names of prospective Candidates whose Nomination Petitions are received subsequent to the deadline specified in the Notice provided under §3407(b) shall not be placed on the ballot for that election.

(c) **Certification of Qualifications of Candidate.** Upon receipt of a Candidate Statement and Nomination Petition, the Fund shall certify that the Candidate is qualified to run for the position on the Board that the Candidate seeks. If the Candidate is not qualified to run for a position on the Board, the Fund shall inform the Candidate of the reason for the disqualification prior to the date of the election. If a Candidate is certified by the Fund, then the Candidate's name shall be placed on the ballot. A Candidate shall be placed on a ballot only after certification from the Fund that the Candidate is qualified to run for election.

(d) **Retirement Fund Employees Disqualified from Candidacy and Office.** Employees of the Retirement Fund shall be ineligible for election or appointment to the Board of Trustees.

(e) **Convicted Felons Disqualified from Candidacy and Office.** A person convicted of a felony shall be ineligible for appointment to, election to, or service on, the Board of Trustees.

§3409. Ballots. (a) **Form of Ballot.** As soon as practicable after certification, the Guam Election Commission shall cause ballots to be prepared. The ballots may be separate for the election of Active Members and Retirees, respectively. Each ballot shall have printed thereon the name of each Candidate to which the respective ballot applies. The Guam Election Commission may, in its discretion, determine the ordering of names on the ballot alphabetically, at random, or in another neutral fashion.

(b) **Publication of Ballot.** The Guam Election Commission shall publish a sample ballot(s) in a local newspaper of daily general circulation one (1) week prior to the day of the election, and on the day of the election.

(c) **Voters List.** The Board of Trustees shall provide the Guam Election Commission with a list of voters who shall be Retirees or Active Members of the Retirement System, either the defined benefit or the defined contribution plan. Said list shall contain the names of all Members and Retirees of the Fund and the Retirement System who shall be eligible to vote in the election, and the respective categories in which they are eligible to vote. The list shall reflect the category in which each voter is allowed to vote, and is based on that person's status six (6) months before the date of the election. Such list shall be available for review at the Fund office at least two (2) weeks prior to the election. If notice is not given to the Board of Trustees at least one (1) week prior to an election, that a Member or Retiree is categorized incorrectly on the voters list, the category and eligibility of the voter as listed shall be conclusive for that election.

§3410. Conduct of Election. The Guam Election Commission shall be responsible for conducting the elections under 4 GCA §8138.1, including the disbursement, collection, and

counting or recounting of absentee ballots, but may engage an independent firm or company to assist in the election process.

§3411. Declaration of Result of Elections. Upon receipt of the results certified by the Guam Election Commission, or in an election in which a recount shall have been requested, the recount results certified by the Guam Election Commission, the Board shall declare elected the Candidate(s) receiving the highest number of votes for each Office up for election. In the event that there is a tie between two (2) or more Candidates for an open Office, the Board shall order a runoff election. The Board member holding the position prior to the election may remain in the position in accordance with 4 GCA §8138.2 pending the results of the runoff election.

§3412. Runoff Election. (a) **Declaration of Runoff Election.** Upon the Board determining that a runoff election is required, the Board shall order a runoff election to be held as soon as practicable, but no later than sixty (60) days following the announcement of the results of the election that precipitated the need for the runoff election, or in the case of a recount following an election, no later than sixty (60) days following the announcement of the results of the recount. Notice of a runoff election shall be given as soon as practicable in a daily newspaper of general circulation. In the event that there is a tie between two (2) or more Candidates for one (1) or two (2) open Offices, the Board shall order a runoff election consisting only of the Candidates who received the same number of votes requiring a runoff. Unless otherwise expressly provided herein, the procedures for an election shall apply to a runoff election.

(b). **Conduct of Runoff Election** The Guam Election Commission shall be responsible for conducting the runoff election, including the disbursement, collection, and counting of absentee ballots, and may, in its discretion, retain the services of an independent firm or company to oversee and implement the runoff elections.

§3413. Interim Member Election. (a) **Declaration of Interim Member Election.** Upon the Board determining that an Interim Member Election is required, the Board shall order an Interim Member Election to be held as soon as practicable, but at least ninety (90) days and no greater than one hundred twenty (120) days following the vacancy that precipitated the need for the Interim Member Election. Notice of an Interim Member Election shall be given as soon as practicable in a daily newspaper of general circulation. Unless otherwise expressly provided herein, the procedures for an election shall apply to an Interim Member Election except that the Interim Member Election shall be held only to fill a specific vacancy or vacancies.

(b) **Conduct of Interim Member Election.** The Guam Election Commission shall be responsible for conducting the

Interim Member Election, including the disbursement, collection, and counting of absentee ballots, and may, in its discretion, retain the services of an independent firm or company to oversee and implement the Interim Member Election.

§3414. Recount of Ballots. Any Candidate dissatisfied with the result of the count as to his election, may, within three (3) days of the official certification of the person or persons elected to the Board, request a recount of the ballots pertaining to his election by filing such a request in writing with the Guam Election Commission, which shall, as soon as practicable, conduct a recount of the ballots, provided the official total number of votes received by the requesting Candidate is within one percent (1%) of the total number of votes of the Candidate that received the highest number of votes for the office in which the challenge is being made.

§3415. Recall of Elected Members. (a) **Recall of Elected Retiree Members.** The Guam Election Commission shall hold a recall election of an elected Retiree Member within ninety (90) days of certification of a petition signed by not less than a number of Retirees equal to or greater than fifty percent (50%) of the Retirees who voted in the last election or by resolution of not less than two-thirds (2/3) of the voting membership of the Board of Trustees.

(b) **Recall of Elected Active Members.** The Guam Election Commission shall hold a recall election of an elected Active Member within ninety (90) days of certification of a petition signed by not less than the number of Active Members equal to or greater than fifty percent (50%) of the Active Members who voted in the last election or by resolution of not less than two-thirds (2/3) of the voting membership of the Board of Trustees.

(c) The time to gather signatures for such recall petition shall be the same as that for the Office of I Maga'lahi [the Governor].

(d) Vacancies shall be filled in a manner consistent with the provisions of this Chapter.

§3416. Adoption of Rules and Regulations Governing Elections. These rules and regulations shall be amended in accordance with the Rule-Making Procedures of the Administrative Adjudication Law, Title 5, Chapter 9, Article 3 of the Guam Code Annotated.

CHAPTER 4

GOVERNMENT HOUSING

(No rules filed.)

NOTE: Rule-making authority cited for formulation of regulations for those requiring emergency housing by the Director of Administration and the Department of Public Health & Social Services, 4 GCA §12107.