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DIV. 1 - DEPARTMENT OF ADMINISTRATION

CHAPTER 3
GUAM RETIREMENT FUND BOARD OF TRUSTEES

- Article 1. Regulations Concerning Claims to Obtain Service Credits.
- Article 2. [Reserved.]
- Article 3. Regulations Concerning the Right to Annuity.
- Article 4. Regulations Concerning the Election of Trustees.

ARTICLE 1
REGULATIONS CONCERNING CLAIMS TO OBTAIN
SERVICE CREDITS

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2022 NOTE: Numbering of subsections has been retained to avoid confusion.

§ 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.

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(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

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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;

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(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.

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(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.

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(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.

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(2) Notes Inviolate. 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

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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.

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(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.
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.

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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
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(2) Date of last deduction (#1-14) + (26pp's x 5yrs x 14 days)=	94-6-11
(3) Refund Date	<u>83-6-01</u>
(4) Elapsed Time (#2 - #3)=	11-0-10
(5) Interest Factor	1.6228
(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:

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(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

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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:

- | | |
|--|------------|
| (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 |

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(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 (#a8 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,

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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

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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

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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

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(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

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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

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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
- (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

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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

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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-Days
 - (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

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(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

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(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.

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(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.

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(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

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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

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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.

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(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.

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(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.

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(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.

2022 NOTE: Signature page included in past publications will no longer be included in the future.

ARTICLE 2
[Reserved.]

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ARTICLE 3
REGULATIONS CONCERNING THE RIGHT TO ANNUITY

SOURCE: Adopted by *Mina 'Bente Kuáttro Na Liheslaturan Guáhan*
Resolution No. 461 (COR), Dec. 3, 1998).

- § 3301. General Provisions.
- § 3302. Definitions.
- § 3303. Right to Annuity.
- § 3304. Assignment and Alienation of Benefit Payments.
- § 3305. Procedures for Processing Full Benefit Payments by Check.
- § 3306. Procedures for Processing Full and Partial Benefit Payment via Electronic Funds Transfer.
- § 3307. Directions for Financial Institutions.
- § 3308. Death or Legal Incapacity of a Recipient.
- § 3309. Child Support and Domestic Relations Orders.
- § 3310. Procedures Prior to Receipt of Child Support or Domestic Relations Orders.
- § 3311. Processing Court Orders or Instruments Purporting to Be Qualified Domestic Relations Orders.
- § 3312. Determining Whether an Order is a Qualified Domestic Relations Order.
- § 3313. Special Rules for Former Spouses.
- § 3314. Procedures for Period During Which QDRO Determination is Being Made.
- § 3315. Notification of QDRO Determination.
- § 3316. Processing Child Support Orders.

§ 3301. General Provisions.

(a) Authority. Public Law No. 24-193:3 states that Board of Trustees shall establish rules and regulations to implement the provisions of 4 GCA § 8166 to the extent necessary to protect the interests of the members and beneficiaries of the Retirement Fund.

(b) Purpose. The purpose of these regulations is to implement the provisions of 4 GCA § 8166 relative to benefit payments made to persons other than a retired member or beneficiary, consistent with the Legislature's intent to protect

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members and beneficiaries against involuntary alienation of their right to Retirement Fund benefits. These regulations address benefit payments to payees other than members or beneficiaries, for purposes of child or spousal support, the division of marital property pursuant to divorce, or for direct deposits or payments to third parties. For purposes of implementing such payments to others, the Internal Revenue Code (IRC), applicable to Guam under the Guam Territorial Income Tax Code, and the Code's regulations involving the assignment and alienation of benefits and the exceptions thereto. Offer guidance to achieve these goals. See e.g., IRC Reg. § 1.401(a)-13. These regulations are designed to encourage recipients to authorize the direct deposit of their benefit payments into their financial institution account via electronic funds transfer. It is further intended that partial benefit payment to third parties are authorized solely for the convenience of retirees and beneficiaries, and shall be limited to recurring payments for important regular debts such as residential mortgage loan payments. See Governor's May 6, 1998 cover letter to Public Law No. 24-193.

(c) **Applicability.** These regulations are applicable to all domestic relations orders and requests for direct deposits or third party payments, whether initiated by the member, former spouse, beneficiary, or third party, and received by the Retirement Fund on and after August 1, 1998. These regulations are designed to codify the existing practices and procedures of the Retirement Fund as well as to systematize the application of newer provisions of law.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 3302. 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) **Account** means the account at the financial institution specified by a recipient into which benefits payments under this Article may be deposited. These terms

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also include an account on which the financial institutions has, after execution of an enrollment, made changes to the account number of the type of account as authorized by § 3306(g).

(b) Alternate payee means the person whose right to receive or be assigned all or a portion of the benefit payable to a retired member has been created and recognized in a domestic relations order.

(c) Beneficiary means the surviving spouse or the surviving minor or disabled child of a member, who is authorized to receive survivor benefits under the Defined Benefit Plan.

(d) Direct Deposit means payment(s) to a financial institution via electronic funds transfer to an account in which the recipient is included as an account holder, for the full amount of the recipient's net benefit. Partial payments of less than the full amount of the recipient's net benefit shall not be considered a "direct deposit" within the meaning of this Article.

(e) Financial institution means any bank, savings bank, savings and loan association or similar institution, or Federal or State, chartered credit union;

(f) Member means any government of Guam employee included in the membership of the Government of Guam Retirement Fund (Defined Benefit Plan).

(g) Net benefit means the Retirement Fund benefit payment remaining due to a recipient after all authorized deductions, including, but not limited to, child or spousal support, payments authorized under a qualified domestic relations order, or government-sponsored insurance premium payments, have been made.

(h) Participant means a member (active, inactive, or retired) of the Retirement Fund whose retirement benefits are the subject of a domestic relations order concerning child or spousal support, or the division of marital property pursuant to divorce.

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(i) Recipient means a member or beneficiary who is authorized to receive benefit payments from the Retirement Fund.

(j) Third party means the employer or the account holder at a financial institution authorized by a recipient to receive less than the full amount of a net benefit payment from the Retirement Fund.

§ 3303. Right to Annuity.

The right to a retirement, disability annuity, survivor's annuity or benefit, death benefit or any other benefit under the provisions hereof, or refund, by whatever name called, is personal with the recipient thereof and the assignment or alienation of such benefit, refund, or any part thereof, shall be void, except as herein provided.

§ 3304. Assignment and Alienation of Benefit Payments.

(a) “Assignment” and “alienation” include:

(1) any arrangement providing for the payment to the employer of Retirement Fund benefits which otherwise would be due the member; and

(2) any direct or indirect arrangement, whether revocable or irrevocable, whereby a party acquires from a member or beneficiary a right or interest enforceable against the Retirement Fund in, or to, all or any part of a Retirement Fund benefit payment which is, or may become, payable to a member or beneficiary.

(b) “Assignment” and “alienation” do not include:

(1) any arrangement for the direct deposit of benefit payments to an account in a bank, savings and loan association or credit union, provided such arrangement is not part of an arrangement constituting an assignment or transfer. For example, such an arrangement could provide for the direct deposit of the member’s or beneficiary’s benefit payments to a bank account held by the member or beneficiary and the member’s or beneficiary’s spouse as joint tenants; or

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(2) an arrangement whereby a member or beneficiary directs the Retirement Fund to pay a portion of his or her benefit payments to a third party, which is limited to the member's or beneficiary's employer, bank, savings and loan association or credit union, provided that

(A) it is revocable at any time by the member or beneficiary; and

(B) the third party files a written acknowledgment with the Director of the Retirement Fund, no later than ninety (90) days after the arrangement is entered into, which states that the third party has no enforceable right in, or to, any benefit payment or portion thereof, except to the extent of payments actually received pursuant to the terms of the arrangement. A blanket written acknowledgment for all members and beneficiaries who are covered under the arrangement with the third party is sufficient.

§ 3305. Procedures for Processing Full Benefit Payments by Check.

(a) Recipients may request that they receive the full amount of their net benefit payment by check drawn to their order, by executing a payment authorization form prepared by the Retirement Fund. Checks issued pursuant to this subsection may be picked up at the Retirement Fund or mailed to the recipient at the address designated by the recipient.

(b) In lieu of being paid by check drawn to the order of a recipient, the recipient may request to be paid by a check drawn in favor of a financial institution, for credit to the recipient's account, provided that:

(1) the check is for the full amount of net benefit due to the recipient;

(2) the request is made by executing a payment authorization form prepared by the Retirement Fund, which form indicates the name and address of the desired financial institution, the title of the account at the financial institution, which title shall include the name of the recipient; and

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(3) the financial institution selected by the recipient is unable to receive direct deposits via electronic funds transfer, as provided in section 3306.

§ 3306. Procedures for Processing Full and Partial Benefit Payments via Electronic Funds Transfer.

(a) For purposes of implementing direct deposits or partial third party payments to financial institutions via electronic funds transfer (EFT), the recipient shall execute an EFT payment authorization in a form prepared by the Retirement Fund. The EFT payment authorization shall indicate the desired financial institution and account information. In the case of direct deposits of the full amount of the recipient's net benefit, the title of the account so designated shall include the name of the recipient. In the case of third party payments of less than the full amount of the recipient's net benefit, the form shall indicate the name of the third party account holder(s) whose account will receive the partial benefit payment.

(b) In executing an EFT authorization, the recipient: (1) shall agree to the provisions of this Article; and (2) shall authorize the termination of an inconsistent previously executed EFT payment authorization or inconsistent payment instruction.

(c) For purposes of third party benefit payments of amount less than the full amount of the recipient's net benefit, the recipient shall file, in addition to the EFT payment authorization, a written acknowledgment executed by the third party with the Director of the Retirement Fund. The acknowledgment form shall state that the third party has no enforceable right in, or to, any benefit payment or portion thereof (except to the extent of the payments actually received pursuant to the terms of the arrangement). A blanket written acknowledgment for all recipients who are covered under the arrangement with the third party is sufficient. No partial benefit payments to third parties shall be effective prior to the filing of the written acknowledgment described herein.

(d) Once an EFT payment authorization has been effected, it shall remain in effect until it is terminated by one of the following events:

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(1) A written request from the recipient to the Director of the Retirement Fund to terminate the EFT payment authorization;

(2) A change in the title of an account which removes or adds the name of a recipient, or alters the interest of the recipient or third party account holder;

(3) The death or legal incapacity of a recipient;

(4) The closing of the account;

(5) The closing of a financial institution, whether voluntarily or involuntarily, without successor; or

(6) A written request from the financial institution to the Director of the Retirement Fund, provided that request is supported by evidence of notice to the recipient as provided in § 3307(c).

(e) Upon the occurrence of any of the foregoing events in subsection (d) (1)-(4), except the death of the recipient, the recipient shall execute a new EFT payment authorization before further payments may be credited to that account.

(f) A recipient who wishes to change the account or the financial institution to which payment is directed shall execute a new EFT payment authorization.

(g) A financial institution may change the account numbers or, at the request of the recipient, the type of the recipient's account without executing a new EFT payment authorization, provided no change is made to the title of the account or the interest of the recipient or beneficiary in the account. These changes shall be communicated to the Director of the Retirement Fund.

(h) For purposes of this Article, the Board of Trustees and the Director of the Retirement Fund shall have the discretion to select the third party account holders eligible to receive third party payments in amounts less than the full amount of net benefit payments via EFT payment authorization. The Board of Trustees and Director of the Retirement Fund also shall have the discretion to limit the number of third party payments to be effectuated per

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recipient, and/or to assess reasonable fees for the delivery of such services for the convenience of the recipient. These determinations shall be made in light of the legislative purposes stated in Public Law No. 24-193.

§ 3307. Directions for Financial Institutions.

(a) A financial institution's execution of actions required of it in connection with an EFT payment authorization shall constitute its agreement to the terms of this Article with respect to each payment received by it pursuant to the authorization. Regardless of whether it has executed an authorization, a financial institution's acceptance and handling of a payment issued pursuant to this Article shall constitute its agreement to the provisions of this Article.

(b) A financial institution in executing an EFT payment authorization shall be responsible for:

(1) the completeness and accuracy of the data provided by it with respect to the authorization, and

(2) verifying that the account number entered by the recipient corresponds to an account bearing the name of the recipient.

(c) A financial institution wishing to terminate an EFT payment authorization shall do so by giving written notice sent to the recipient. A copy of said notice, with evidence of written notice to the recipient, shall be provided to the Director of the Retirement Fund. The termination shall become effective thirty (30) days after the financial institution has sent the copy of the notice to the Director of the Retirement Fund. However, terminations for reasons of fraud shall become effective as soon as reasonably possible.

(d) A financial institution receiving an EFT payment authorization instruction shall make the amount of the payment available for withdrawal not later than the opening of business on the payment date. "Payment date" in this section means the date specified in the payment instruction, on which the funds specified in the payment instruction are to be available for withdrawal from the recipient's account. If the payment date is not a business day

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for the financial institution receiving a payment, then the next succeeding business day shall be deemed to be the payment date. “Available” in this section means accessible through any means of access provided by a financial institution to its customers for the recipients’ type of account, for example, automated teller machines owned by the financial institution, or automatic transfers from the recipient’s account. If the payments or any related information received by the financial institution from the initiating financial institution do not balance; are incomplete; are clearly erroneous on their face; or are incapable of being processed, the financial institution, after assuring itself that neither it nor any of its agents are responsible, shall immediately notify the initiating financial institution designated by the Retirement Fund in order that it may deliver corrected information to the financial institution.

(e) A financial institution receiving a payment under this part shall credit the amount of the payment to the account specified in the payment instruction. If the financial institution is unable to credit the amount of the payment to the account indicated in the payment instruction because, for example, such an account does not exist on its books, or because in processing the payment it has reason to believe the account indicated in the payment instruction is not the account designated by the recipient, it shall either:

- (1) Return the payment to the initiating financial institution designated by the Retirement Fund with a statement identifying the reason therefor; or
- (2) Credit the amount of the payment to the account designated by the recipient.

(f) A financial institution shall immediately return to the initiating financial institution any payment received by the financial institution:

- (1) After termination of the EFT payment authorization pursuant to § 3306(d) and before the execution of a new EFT payment authorization;
- (2) After termination of the EFT payment authorization pursuant to § 3306(d) has become effective;

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(3) After the financial institution learns of the death or legal incapacity of the recipient, regardless of whether or not notice has been received from the Retirement Fund: or

(4) After the closing of the recipient's account.

(g) If any change in account numbers is made by a financial institution, the financial institution shall be liable to the recipient for any lost or late payment caused by the financial institution's actions in processing the change.

§ 3308. Death or Legal Incapacity of a Recipient.

(a) A financial institution shall be liable to the Retirement Fund for the total amount of all benefit payments received after the death or legal incapacity of a recipient. However, a financial institution may limit its liability if the financial institution did not have knowledge of the death or legal incapacity at the time of the deposit or withdrawal of any of the benefit payments made after the death or legal incapacity, and if it fulfills the requirements of this section.

(b) If limitation of liability is available to a financial institution under this Article, the amount of its liability shall be:

(1) an amount equal to the amount in the recipient's account, plus

(2) an amount equal to the benefit payments received by the financial institution within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary.

(c) Although a financial institution shall be liable for an amount equal to the amount in the recipient's account, plus the amount of benefit payments received within 45 days after the death or legal incapacity of the recipient, this Article does not authorize or direct a financial institution to debit the account of any customer, living or deceased, including that of the recipient for the financial institution's liability to the Retirement Fund under this pan. The amount in the recipient's account is only a measure of the financial institution's liability. Nothing in this part shall be construed to affect any right a financial institution may

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have under Guam law or the financial institution's contract with a customer to recover from the customer's account an amount returned to the Retirement Fund in compliance with this Article.

(d) A financial institution shall be deemed to have knowledge of the death or legal incapacity of the recipient when it is brought to the attention of a financial institution employee who handles benefits payments, or when it would have been brought to that person's attention if the financial institution had exercised due diligence. The financial institution will be considered to have exercised due diligence only if it maintains procedures under which, once it learns of the death of a depositor, it determines whether its deceased depositor is a recipient of benefit payments under this Article, and immediately communicates such information to the appropriate employees, and it complies with such procedures. This obligation does not impose a duty on a financial institution to learn of the deaths of its customers by searching obituaries or any other means, unless it does so for purposes other than its participation in the payment system governed by this Article.

§ 3309. Child Support and Domestic Relations Orders.

(a) Pursuant to 4 GCA § 8166, the assignment or alienation of the right to a retirement, disability annuity, survivor's annuity or benefit, death benefit or any other benefit, or refund, by whatever name called, shall not answer for debts contracted by the person receiving the same, and it is intended that the same shall not be attached by judicial proceeding, except court orders issued by the Superior Court of Guam:

(1) for prospective payments of prospective child support, which may also include, but are not limited to, wage assignments and writs of attachment which specifically order the Retirement Fund to pay some part of the member's benefits for ongoing support; and

(2) for the following property settlement orders pursuant to divorce:

(A) in divorces dividing community property interests but only in cases where the court finds that the

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parties were married for at least ten (10) years during which years the member worked for the government of Guam accumulating retirement benefits; and

(B) in the case of division of retirement benefits in a divorce, which specifically orders the Retirement Fund to pay some part of the member's benefits to the prior spouse;

(C) provided that, whenever the Superior Court orders the Retirement Fund to pay on behalf of an obligee, to a prior spouse, the maximum amount it may order is fifty percent (50%) of the obligee's benefits.

(b) Any such funds to be collected from the Retirement Fund pursuant to such court orders shall be payable to the obligee only at the time the funds would otherwise be released to the member.

§ 3310. Procedures Prior to Receipt of Child Support or Domestic Relation Orders.

(a) If the Retirement Fund receives notice that a court order is being sought with respect to amounts payable to a recipient, the Retirement Fund may suspend the payment of any amount (hereinafter in this section referred to as the "segregated amounts") otherwise payable to the recipient for up to sixty (60) days, provided that the Participant and each Alternate Payee are notified pursuant to the requirements of Section 3111(a).

(b) If, within the sixty (60) days described in subsection (a), the order described in subsection (a) is not issued, the Retirement Fund shall pay the segregated amounts (including any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

§ 3311. Processing Court Orders or Instruments Purporting to Be Qualified Domestic Relations Orders.

Upon receipt of an order or instrument purporting to be a qualified domestic relations order within the scope of 4 GCA § 8166, the following procedures shall be taken by the Retirement Fund:

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(a) The Retirement Fund shall send written notice of the receipt of the order, together with a copy of procedures for processing such orders, to each person named in the order (at the addresses specified in the order, if applicable).

(b) After determining in accordance with Section 3312 whether the order is a qualified domestic relations order, the Director of the Retirement Fund shall notify the Participant and each Alternate Payee of such determination.

(c) Each Alternate Payee shall be permitted to designate a representative to receive any notices concerning the order.

(d) All notices required by the procedures to be sent to the Participant and each Alternate Payee shall be sent to the addresses specified in the order, or if the order fails to provide an address, to the last address known to the Retirement Fund.

(e) The Retirement Fund may refer the order to legal counsel to render an opinion as to whether the order constitutes a “Qualified Domestic Relations Order” as described in 4 GCA § 8166.

(f) The Retirement Fund shall determine whether such order is a Qualified Domestic Relations Order and notify the Participant and each Alternate Payee of such determination no later than 18-months after the date on which the Retirement Fund receives the order purporting to be a Qualified Domestic Relations Order.

§ 3312. Determining Whether an Order is a Qualified Domestic Relations Order.

The Retirement Fund shall determine, based on the following requirements, whether an order is a Qualified Domestic Relations Order:

(a) The order must be a domestic relations order, that is, a judgment, decree, or order (including approval of a property settlement agreement), issued by the Superior Court of Guam, which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant, and

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which is made pursuant to Guam or state domestic relations law (including a community property law).

(b) The order must clearly create or recognize the existence of an Alternate Payee's right to receive, or assign to an alternate payee the right to receive, all or a portion of the benefit payable to a Participant, including child support, the division of retirement benefits or community property interests pursuant to divorce.

(c) In the case of orders dividing community property interest the parties shall have been married for at least ten (10) years during which the member worked for the government of Guam accumulating retirement benefits.

(d) In the case of a distribution to a former spouse pursuant to a Qualified Domestic Relations Order, amounts paid are includable in the gross income of the former spouse (subject to exception in the case of a tax-free rollover as described in Guam Territorial Income Tax Code Section 402(a)(5)) and not in the gross income of the Participant. For purposes of Guam Territorial Income Tax Code Sections 72 and 401(a)(1), the former spouse, and not the Participant, is treated as the distributee.

(e) In cases where payment is made pursuant to a court order authorized and in compliance with 5 GCA § 34132, as amended, which names a Participant's minor children as the alternate payee for the payment of child support, amounts paid pursuant to the order are includable in the gross income of the Participant rather than the payee. For purposes of Guam Territorial Income Tax Code Sections 72 and 402(a)(1), the Participant, and not the payee, is treated as the distributee of any distribution made pursuant to the order.

(f) The order must state the name and last known mailing address of each Alternate Payee covered by the order.

(g) The order must clearly specify the amount or percentage of the Participant's benefits to be paid by the Retirement Fund to each Alternate Payee, or the manner in

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which such amount or percentage is to be determined, provided that the maximum amount that the former spouse may be entitled to receive pursuant to the order is 50% of the Participant's retirement benefit. If the Retirement Fund determines that the manner in which the payment is to be calculated pursuant to the court order is ambiguous, the Retirement Fund shall render a negative determination pursuant to section 3311(b).

(h) The order must specify the number of payments or the period to which the order applies. Payments to the Alternate Payee are payable to the Alternate Payee only at the same time that amounts would otherwise be released to the Participant.

(i) The order must correctly identify the Government of Guam Retirement Fund (also known as the Defined Benefit Plan) as the plan to which such order applies.

(j) The order may not require the Retirement Fund to provide any type or form of benefit, or any option, to the Alternate Payee which is not otherwise provided to the Participant.

(k) The order may not require the Retirement Fund to Provide increased benefits (determined on the basis of actuarial value) to the Alternate Payee which are not otherwise provided to the Participant.

(l) The order may not require the Retirement Fund to make payments of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another order previously determined to be a qualified domestic relations order with respect to the Participant.

§3313. Special Rules for Former Spouses.

(a) The order may provide that a former spouse shall be treated as the current spouse of a Participant for certain purposes such as qualifying for surviving spouse's benefits as provided in 4 GCA § 8134.

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(b) To the extent that a former spouse is treated as the current spouse of the Participant by reason of a QDRO, any current spouse shall not be treated as the current spouse.

(c) If the former spouse who is treated as the current spouse dies prior to the Participant's annuity starting date, then any actual current spouse of the Participant is treated as the current spouse, except as otherwise provided in a QDRO.

§ 3314. Procedures for Period During Which QDRO Determination is Being Made.

During any period in which the issue of whether a domestic relations order is a Qualified Domestic Relations Order is being determined (by the Retirement Fund or by a court of competent jurisdiction, or otherwise), the Director of the Retirement Fund shall separately account for the amounts (hereinafter in this section referred to as the "segregated amounts") that would have been payable to each Alternate Payee during such period if the order had been determined to be a Qualified Domestic Relations Order.

§ 3315. Notification of QDRO Determination.

(a) Upon determining that the order (as modified, if applicable) is a Qualified Domestic Relations Order, the Retirement Fund shall furnish a copy of such determination to Board of Trustees, the concerned Participant, and each Alternate Payee (or any representative designated by an Alternate Payee by notice to the Retirement Fund). The notice of determination shall state that the Retirement Fund will commence distribution of benefits, including any segregated amounts, if applicable, to each Alternate Payee in accordance with the order, or on a prospective basis, if applicable.

(b) If, within the 18-month period described in subsection (c), it is determined that the order is not a QDRO, or if the issue as to whether such order is a QDRO is not resolved, then the Director of the Retirement Fund shall notify the Board of Trustees, the concerned Participant, and each Alternate Payee in writing of such fact. The Board of Trustees of the Retirement Fund shall then authorize the distribution of segregated amounts (including

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interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

(c) For purposes of this section, the 18-month period described in this section is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order.

§ 3316. Processing Child Support Orders.

The Retirement Fund shall effect prospective payments of child support under court orders issued and in compliance with 5 GCA § 34132, as amended.

ARTICLE 4
REGULATIONS CONCERNING THE ELECTION OF TRUSTEES

- § 3401. General Provisions.
- § 3402. Definitions.
- § 3403. Initial Election.
- § 3404. Subsequent Elections.
- § 3405. Term of Office.
- § 3406. Vacancy on Board.
- § 3407. Notice of Election.
- § 3408. Qualifications of Candidates and Trustees.
- § 3409. Ballots.
- § 3410. Conduct of Election.
- § 3411. Declaration of Results of Elections.
- § 3412. Runoff Election.
- § 3413. Interim Member Election.
- § 3414. Recall of Elected Members.
- § 3415. Adoption of Rules and Regulations Governing Elections.

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.

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(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.

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(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

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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;

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(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.

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(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

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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.

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(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.

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(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.
