

DIVISION 3

GUAM EMPLOYMENT RELATIONS BOARD

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- 16 Employment Practices - Unlawful
 Discrimination

CHAPTER 15 EMPLOYMENT RELATIONS

NOTE: Rule-making authority cited for Guam Employment Relations Board, 22 GCA §5110.

Public Law 9-254 added Title LIX consisting of §§55000-55052 to the Government Code. These sections were later renumbered to §§56000-56052 by the Editor of the Government Code, which can be found in 22 GCA Chapter 5.

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§15100. Adoption of Rules. These Rules and Regulations are adopted to aid the Guam Employment Relations Board and interested persons in proceedings under Public Law 9-254, Chapters 1, 3 and 4.

§15101. Purpose. The intent of Public Law 9-254 is to promote peace in labor relations. Nothing in these Rules and Regulations shall be construed to prevent the Board from using its best efforts to adjust any dispute arising between employees and employers.

§15102. Definitions. Any terms used herein are defined in 22 GCA §5101 of the Act and have the meaning therein set forth.

§15103. Combined Proceedings Allowed. Proceedings under several sections of the Act may be combined.

§51104. Board: Powers. When by these Rules, an act is required or allowed to be done at or within a specified time, the Board for cause shown may at any time in its discretion:

(a) Order the period extended if request therefor is made before the expiration of the period originally prescribed or as extended by previous order; or

(b) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

§15105. Complaint. A complaint that a person has engaged or is engaging in an unfair labor practice may be submitted by any party in interest. Such complaint shall be in writing upon a form provided by the Board. The original and four (4) copies of the complaint shall be signed and filed with the Board, the original being sworn to before any person authorized to administer oaths or acknowledgments. Any such complaint may be withdrawn prior to the hearing, at the hearings or at any time prior to the issuance of an order based thereon, upon motion, with the consent of the Board.

§15106. Same: Content. The complaint shall include:

(a) The full name and address of the person making the complaint, hereinafter referred to as the complainant;

(b) The full name and address of the person against whom the complaint is made, hereinafter referred to as the respondent;

(c) If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit;

(d) A clear and concise statement of the facts constituting the alleged unfair labor practice or practices, including the time and place of occurrence of particular acts and the names of persons involved;

(e) The section(s) and subsection(s) of the Act which are alleged to have been violated.

§15107. Same: Hearing Notice. On the filing of a complaint, the Board shall immediately serve on the respondent a copy thereof and a notice of the time and place of hearing, which hearing shall be not less than ten (10) nor more than forty (40) days after the filing of such complaint or amendment thereof. Service may be by personal delivery or by mail. If the Board has reasonable cause to believe that the respondent is a member of or represented by a labor union, then service upon an officer of such union shall be deemed to be service upon the respondent.

§15108. Answer. (a) Each respondent may within ten (10) days from the service of the complaint, file an answer thereto. An original and four (4) copies of the answer shall be filed with the Board. Immediately upon the filing of an answer, the respondent shall serve a copy thereof on each of the other parties. An answer of a party represented by counsel shall be signed by at least one (1) attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his name and state his address.

(b) The answer when one is filed shall contain a short and plain statement of the facts and/or the law which constitute a defense. When an answer is filed the respondent shall specifically admit, deny or explain each of the facts alleged in the complaint unless the respondent is without knowledge, in which case he shall so state, such statement operating as a denial. Any allegation in the complaint not specifically denied or explained in an answer, unless it is stated in an answer that the respondent is without knowledge, may be deemed to be admitted to be true, and may be so found by the Board. For cause shown, the Board may waive any requirement of this Rule, upon application prior to or at the beginning of a hearing.

§15109. Failure to Appear at Hearing. If any party or person, after being served with the notice of hearing, fails or neglects to appear at the time and at the place designated in the notice, the Board may apply to a judge of the Superior Court and such party or person shall be ordered to appear before the Board as provided for in 22 GCA §5108(b).

NOTE: Editor's Comment: Public Law 12-85 changed "Island Court" to "Superior Court." Hence, all reference in this text made to "Island Court" have been changed accordingly. **§15110. Amendments.** Any party may amend his pleading prior to the hearing, at the

hearing or at any time prior to the issuance of an order based thereon, upon motion, with the consent of the Board.

§15111. Motions by Parties. All motions made previous to or subsequent to a hearing shall be filed in writing with the Board and shall state briefly the grounds for such motion and the relief applied for. The original and four (4) copies shall be signed by the moving party and a copy thereof served immediately upon each of the other parties. Motions made at a hearing may be stated orally and shall be included in the stenographic report of the hearing.

§15112. Ruling or Order. Any ruling or order announced outside of a hearing shall be in writing and a copy thereof shall be served upon each of the parties. Rulings and orders announced at a hearing may be stated orally, and shall be included in the stenographic report of the hearing.

§15113. Intervention. Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record stating the grounds upon which such person claims an interest. An original and four (4) copies of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof upon each of the parties. The Board shall rule upon all such motions and may by order permit intervention in person, or by counsel or other representative, to such extent and upon such terms as it may deem proper.

§15114. Witnesses. Witnesses shall be examined orally under oath or upon affirmation, except that for good cause shown after the issuance of complaint, their testimony may be permitted to be taken by deposition under oath or upon affirmation in the manner prescribed by law.

§15115. Subpoenas: Application for. A party may make written application for subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondents or documents, in their possession or under their control. An application for a subpoena requiring the production of evidence will not be granted unless the evidence is described with sufficient particularity to enable it to be identified by the producer. An application for a subpoena whether ad testificandum or duces tecum prior to a hearing shall be made to the Board. An application during

a hearing shall be made orally to the person conducting the hearing. Upon such application the Board or the person to whom the application is made shall forthwith issue the subpoena.

§15116. Same: Revocation. Any person, served with a subpoena, whether ad testificandum or duces tecum, if he does not intend to comply with the subpoena, shall, within five (5) days after the date of service of the subpoena upon him, petition in writing to revoke the subpoena. All petitions to revoke subpoenas shall be filed with the Board. Notice of the filing of petitions to revoke shall be promptly given by the Board to the party at whose request the subpoena was issued. The Board shall revoke the subpoena if in its opinion the evidence whose production is required does not relate to any matter in the complaint or in question in the proceedings or the subpoena does not described with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is other invalid. The Board shall make a simple statement of procedural or other grounds for the filing on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

§15117. Same: Failure to Comply. Upon the failure of any person to comply with a subpoena issued upon the request of a private party, the hearings officer shall, in the name of the Board but on relation of such private party, institute proceedings in the Superior Court for the enforcement thereof, unless in the judgment of the Board the enforcement of such subpoena would be inconsistent with law and with the policies of the Act. The Board shall not be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court.

§15118. Witness Fees. Witnesses summoned by the Board shall be paid the same fees and mileage allowances that are paid witnesses in the Superior Court, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the Superior Courts. Witness fees and mileage allowances shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

§15119. Hearings. A hearing for the purpose of taking evidence upon a complaint shall be conducted by a hearings officer designated by the Board, unless the Board or any member thereof presides. At any time the Board may designate a hearings officer to take the place of another hearings officer previously designated, the person conducting the hearing shall inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice as set forth in the complaint or amended complaint. Such hearings may be adjourned from time to time in the discretion of the person conducting the hearings and held at such places as he shall designate. Such hearings shall be public unless otherwise ordered by the Board.

§15120. Same: Officers. It shall be the duty of the hearings officer to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice as set forth in the complaint or amended complaint. The hearings officer shall have authority, with respect to cases assigned to him, subject to the Rules and Regulations of the Board and within its powers, to:

- (a) Administer oaths and affirmations;
- (b) Grant applications for subpoenas;
- (c) Rule upon petitions to revoke subpoenas;
- (d) Rule upon offers of proof and receive relevant evidence;
- (e) Cause depositions to be taken whenever the ends of justice would be served thereby;
- (f) Conduct and regulate the course of the hearing and, if appropriate or necessary, to exclude persons, including counsel, from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;
- (g) Hold conferences for the settlement or simplification of the issues by consent of the parties;
- (h) Dispose of procedural requests or similar matters, including all motions referred to the hearings officer by the Board; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of the Intermediate Report and Recommended Order;
- (i) Call, examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(j) Make and file an Intermediate Report and Recommended Order;

(k) Take any other action necessary under the foregoing and authorized by the Rules of the Board, and perform such other functions as may be delegated by the Board to him from time to time.

§15121. Same: Same: Unavailability. In the event the hearings officer designated to conduct the hearing becomes unavailable to the Board after the hearing has been concluded and before the filing of his Intermediate Report, the Board may transfer the case to itself for purposes of further hearing or issuance of an Intermediate Report or both on the record as made or may designate another hearings officer for such purposes.

§15122. Same: Same: Withdrawal. A hearings officer may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the hearings officer, at any time following his designation and before filing of his Intermediate Report, to withdraw on grounds of personal bias or prejudice, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If in the opinion of the hearings officer, such affidavit if filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the hearings officer does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, setting the grounds for his ruling, and shall proceed with the hearing or, if the hearing has closed shall proceed with the issuance of his Intermediate Report.

§15123. Same: Rights of Parties. Any party shall have the right to appear at such hearing in person, by counsel or by other duly authorized representative; to call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence.

§15124. Same: Stipulations of Fact. At any such hearing stipulations of fact may be introduced in evidence with respect to any issue.

§15125. Same: Objections. Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and shall be included in the record. No

such objection shall be deemed waived by further participation in the hearing.

§15126. Same Evidence. In such hearing, the Board or the hearings officer shall not be bound by technical rules of evidence. However, no hearsay evidence shall be admitted or considered; and all irrelevant, immaterial or unduly repetitious evidence shall be excluded. Rules or privilege recognized by law shall be given effect. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided, that upon request, parties shall be given an opportunity to compare the copy with the original.

§15127. Same: Facts. The Board or the hearings officer may take notice of judicially recognizable facts. In addition, it may take notice of generally recognized technical or scientific facts within its specialized knowledge; but parties shall be afforded an opportunity to contest the facts so noticed.

§15128. Same: Exclusions. Contemptuous conduct at any hearing before a hearings officer or the Board shall be ground for exclusion from the hearing. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the person conducting the hearing, be ground for striking all testimony previously given by such witness on related matters.

§15129. Same: Findings and Conclusions. Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall not be included in the stenographic report of the hearing, unless so directed by the person conducting the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the person conducting the hearing who may fix a reasonable time for such filing. Copies of said brief or proposed findings and conclusions shall then be served upon all other parties.

§15130. Intermediate Reports and Recommended Orders. After the final hearing, the hearings officer or any member of the Board conducting the hearing shall promptly make and file an Intermediate Report and Recommended Order incorporating findings of fact upon all the issues involved in the controversy and the determination of the rights of the parties; but the final

decision shall be made by the Board. No matters outside the record shall be considered in making the Intermediate Report, except as provided herein.

§15131. Same: Interlocutory Order. Pending the final determination of such controversy, the hearings officer or any member of the Board conducting the hearing may, after hearing, make interlocutory order which may be enforced as the same manner as final orders.

§15132. Same: Contents. The Intermediate Report shall contain findings of fact, conclusions and the reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record. The Recommended Order shall contain the recommended disposition of the case which may be either to dismiss the complaint or to require the person complained of to cease and desist from the unfair labor practices found to have been committed, suspend his rights, immunities, privileges or remedies granted or afforded by the Act for not more than one (1) year, and require him to take such affirmative action as will effectuate the policies of the Act. Including reinstatement of employees with or without pay as may be deemed proper. Any Recommended Order shall further require such person to make reports from time to time showing the extent to which he has complained with the order.

§15133. Same: Not Public Information. No member of the Board, or its designated hearings officer who renders an Intermediate Report on a contested case shall consult any person on any issues of fact except upon notice and opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law.

§15134. Same: Filing. The hearings officer or any member of the Board conducting the hearing shall file the original of the Intermediate Report and Recommended Order with the Board and cause a copy thereof to be served upon each of the parties. Service of the Intermediate Report shall be complete upon mailing.

§15135. Same: Exceptions To. (a) Within ten (10) days, or within such period as the Board may allow, from the date of service of the Intermediate Report, any party may file with the Board one (1) original and four (4) copies of a statement in writing setting forth exceptions to the Intermediate Report and Recommended Order or to any

other part of the record or proceedings (including rulings upon a motion of objections) together with one (1) original and four (4) copies of a brief or legal memorandum in support of said exceptions; and any party may, within the same period, file one (1) original and four (4) copies of a brief or legal memorandum in support of the Intermediate Report and Recommended Order. Copies of such exceptions and briefs or legal memoranda under authority of this Section shall be in writing and copies thereof shall be immediately served on each of the other parties. Requests for an extension must be received by the Board three (3) days prior to the due date.

(b) No matter not included in a statement of exceptions may thereafter be urged before the Board, or in any further proceeding.

(c) Should any party desire permission to argue orally before the Board request therefor must be made in writing to the Board simultaneously with the statement of any exceptions filed pursuant to the provisions of Paragraph (a) of this Section with a statement of service on all other parties furnished with such request. The Board shall notify the parties of the time and place of oral argument, if such permission is granted.

§15136. Board Decision. (a) In the event no statement of exceptions is filed as herein provided, the findings, conclusions and recommendations of the hearings officer or any member of the Board conducting the hearing as contained in his Intermediate Report and Recommended Order shall be adopted by the Board and become its findings, conclusions and order, and all objections and exceptions thereto shall be deemed waived for all purposes. However, the Board may, in its discretion, order such case close upon compliance.

(b) Upon the filing of a statement of exceptions and briefs, the Board may decide the matter forthwith upon the record, or after oral argument, or may reopen the record and receive further evidence, or may close the case upon compliance with the recommendations of the Recommended Order, or may make other disposition of the case.

§15137. Appeal of Board Decision. Within fifteen (15) days from the date of the final Decision and Order of the Board, any party aggrieved thereby may petition a judge of

the Superior Court for review of the same. The appeal shall be taken in accordance with 22 GCA §5108(f) through (i).

§15138. Appeal of Superior Court Decision. Any party may appeal from the decree of a Superior Court judge to the District Court. Such appeal shall be taken in the same manner and form as is provided in other cases of appeal to the District Court from a decision, judgment, order or decree of a judge of the Superior Court.

§15139. Determination of Collective Bargaining Unit: Petition. A petition for determination of a collective bargaining unit under 22 GCA §5103(b) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf, or by an employer in the case of jurisdictional disputes or in any case after a union has requested recognition.

§15140. Same: Notice of Hearing. The petition shall be prepared on a form furnished by the Board, and the original and four (4) copies thereof shall be signed and filed with the Board. If it appears to the Board or its designated hearings officer that the petition presents a question concerning the determination of a collective bargaining unit, any member of the Board or its designated hearings officer shall hold a hearing upon notice to all parties. The notice of hearing will be served upon the petitioner and upon any other interested parties, and shall include a copy of the petition, and shall set the time and place of such hearing.

§15141. Same: Hearing. At such hearing, the procedure shall be governed by the provisions of 17 GAR §15111-§15129 insofar as they are applicable. Any member of the Board conducting the hearing or its hearings officer shall make and file an Intermediate Report and Recommended Order regarding the appropriate bargaining unit and shall properly serve notice of such Intermediate Report to all parties involved.

§15142. Same: Board Decision. Upon the filing of the Intermediate Report by any member of the Board conducting the hearing or by its hearings officer, all subsequent proceedings shall be governed by the provisions of 17 GAR §15135 -§15138.

§15143. Election and Certification of Representatives: Petition. Any employee or group of employees or any individual or labor organization acting in their behalf, or any employer in the case of jurisdictional disputes or in

any case after a union has requested recognition, may petition the Board to determine a collective bargaining representative for all employees in a unit appropriate for such purpose. The petition shall be prepared on a form furnished by the Board, and the original and four (4) copies thereof shall be signed and filed with the Board. A petition for election may be withdrawn at any time prior to the election upon approval of the Board or its hearings officer.

§15244. Same: Same: Content. The petition shall include:

(a) The full name and address of the petitioner;

(b) The name and address of the employer, the general nature of his business, and the approximate number of his employees;

(c) A description of the bargaining unit claimed to be appropriate, the approximate number of employees constituting such unit;

(d) The name of any known persons or organization of employees in the alleged bargaining unit;

(e) A brief statement setting forth the nature of the question that has arisen concerning representation;

(f) An appropriate showing that thirty percent (30%) or more of the employees within a bargaining unit claimed to be appropriate have selected the collective bargaining representative to represent them;

(g) Any other relevant facts pertinent to the petition.

§15145. Same: Election. If it appears to the Board or its hearings officer that the petition presents a question concerning representation, a pre-election conference shall be held between the interested parties, and said parties may enter into a "Stipulation for Election," as prescribed by the Board. The Board or an agent of the Board shall thereupon conduct the election in accordance with such Stipulation. If no such Stipulation is consummated, the Board or its hearings officer may hold a hearing, in which event it will serve upon the petitioner and upon any other interested parties a copy of the petition and a notice of hearing upon the question of representation, at a time and place stated therein. All proceedings under this Section shall be governed by the provisions of 17 GAR §1511-§15138, insofar as they are applicable. If, upon completion

of such hearing, the Board concludes that a secret ballot shall be taken, it may direct that an election be conducted in the appropriate collective bargaining unit upon such terms as it may specify. The form of ballot to be used in any election shall be prepared as prescribed in 22 GCA §5103(c).

§15146. Same: Same: Result. The agent of the Board conducting an election shall make a report containing a tally of votes, serve a copy of such report upon each party in interest, and transmit a copy thereof to the Board. Any party to the proceeding who desires to file an objection to the conduct of the election shall do so within five (5) days after receipt of a copy of such report. Such objection shall be in writing and shall contain a brief statement of the facts upon which the objection is based. The original and four (4) copies of such objection shall be signed and filed with the Board, the original being sworn to. The objector shall serve a copy upon each of the other parties. If it appears to the Board or its hearings officer that any substantial question was raised thereby, the Board or its hearings officer may hold hearing upon due notice and shall decide such questions before proceeding to a final determination. The procedure on such a hearing shall be governed by the provisions of 17 GAR §15111-§15138.

§15147. Same: Certification of Representatives. Immediately following such election, the Board or its hearings officer shall make findings and shall certify the results of such election, and shall issue a copy of such certificate to the employer and each of the persons whose name appeared on the ballot, and so notify the parties.

§152148. Same: Protested Ballots. If a dispute arises in any election or referendum concerning the eligibility of a particular employee to vote therein, the ballot of such employee may be received under protest by the agent of the Board conducting the election. All such protested ballots shall be placed in individually marked envelopes. If such protested ballots are necessary to a final determination, the Board or its hearings officer may hold a hearing upon due notice, and shall decide the eligibility of the employees.

§15149. Same: Run-Off Election. The Board shall conduct a run-off election when an election in which the ballot provided for not less than three (3) choices (i.e., at least two (2) representatives and "none") results in no

choice receiving a majority of the valid ballots cast. Only one (1) run-off shall be held pursuant to this Section.

§15150. Same: Same: Voter Eligibility. Employees who were eligible to vote in the election and who are still in an eligible category on the date of the run-off election shall be eligible to vote in the run-off election.

§15151. Same: Same: Ballots. The ballot in the run-off election shall provide for a selection between the two (2) choices receiving the largest and second largest number of votes. Upon the conclusion of the run-off election, the provisions of 17 GAR §15146-§15148 shall govern, insofar as applicable.

§15152. All-Union Agreements: Authority to Enter Into. An employer may enter into an all-union agreement with the bargaining representative of his employees in a collective bargaining unit, unless the Board has certified that at least a majority of such employees have acted to rescind the authority of their bargaining representative to negotiate such all-union agreement within one (1) year preceding the date of such agreement.

§15153. Same: Petition to Rescind Authority. A petition to rescind the authority of a labor organization to make an all-union agreement requiring as a condition of employment membership in such labor organization may be filed by an employee or group of employees on behalf of thirty percent (30%) or more of the employees in a bargaining unit covered by such an agreement. One (1) original and four (4) copies of the petition shall be filed with the Board. The petition may be withdrawn only with the approval of the Board or its hearings officer.

Such petition shall include:

- (a) The full name and address of the petitioner;
- (b) The name and address of the employer, the general nature of his business and the approximate number of his employees;
- (c) A description of the appropriate bargaining unit or the bargaining unit claimed to be appropriate and approximate number of employees within such unit;
- (d) The name and address of the labor organization whose authority it is desired to rescind;

(e) An appropriate showing that thirty percent (30%) or more of the employees within an appropriate unit desire to rescind the authority of the labor organization involved;

(f) Any other facts which the petitioner considers relevant to the petition.

§15154. Same: Same: Secret Ballot. Where a petition has been filed pursuant to 17 GAR §15153 and it appears to the Board or its hearings officer that the petitioner has made an appropriate showing that thirty percent (30%) or more of the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, the Board shall proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to make such an agreement with their employer. In any case in which it appears to the Board that the proceeding raises questions which cannot be decided without a hearing, it may issue and cause to be served on the parties a notice of hearing at a time and place fixed therein. The Board or its hearings officer shall fix the time and place of the election, eligibility requirements for voting and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the Board or its agreements, provisions may be made for final determination of all questions arising with respect to the balloting by the Board or its hearings officer.

§15155. Same: Same: Hearing. The method of conducting the hearing and the procedure following the hearing shall be governed, insofar as applicable by 17 GAR §15111-§15138.

§15156. Same: Same: Election. The method of conducting the balloting and the post-balloting procedures shall be governed by 17 GAR §15146-§15148.

§15157. Computation of Time and Certification of Documents. In computing any period of time prescribed or allowed by these Rules, the day of the act, event or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day, which is not a Saturday, Sunday nor a legal

holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

§15158. Secretary to the Board. The secretary to the Director of Labor shall serve as the secretary to the Board, and shall certify copies of all papers and documents which are a part of any of the files or records of the Board as may be necessary or desirable from time to time.

§15159. Declaratory Rulings: Petition. Any interested person may petition the Board for a declaratory ruling or order as to the applicability of the Act or the Rules of the Board. The original of the petition shall be filed with the Board and copies of the petition shall be immediately served upon all parties to the proceeding. Any party to the proceeding may within five (5) days after service thereof, respond to the petition.

§15160. Same: Intervention. Any person desiring to intervene shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition.

§15161. Same: Decision. The Board or its hearings officer shall thereupon proceed, upon the petition and responses, and submission of briefs, to make a determination. Such determination shall be made by a declaratory order, with like effect as in the case of other Decisions and Orders of the Board, and shall be immediately served upon the parties.

§15162. Board: Powers. Pursuant to the provisions of 22 GCA §5314(b) and (c), whenever a complaint is filed with the Board, the Board shall have power to petition any court of the Territory for appropriate temporary relief or restraining order.

§15163. Preliminary Investigation of Unfair Labor Practice: Authority. Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of 22 GCA §5106(e), (f), (g) and (h), the Board shall cause a preliminary investigation to be conducted forthwith and such preliminary investigation shall be given priority overall other cases except cases of like character.

§15164.. Same: Procedure. The preliminary investigation shall be conducted by the Board or by its hearings officer in such manner and at such places as

deemed suitable and appropriate under the circumstance with due regard for the purpose and intent of 22 GCA §5314(b) and (c). All proceedings conducted in the course of the preliminary investigation may be ex parte and the Board or its hearings officer may proceed without the presence of all parties concerned. The Board or the hearings officer shall, however, immediately give notice to all parties concerned regarding the preliminary investigation, and shall afford reasonable opportunity to all parties concerned to present all relevant and material facts pertinent to the inquiry.

§15165. Petition for Injunctive Relief. If, after such investigation, the Board or its hearings officer has reasonable cause to believe that the charges contained in the complaint are true, and that there exists probable cause for the issuance of injunctive relief by the courts, as provided by 22 GCA §5314, it shall petition any court of the Territory for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter, in accordance with and subject to the provisions of 22 GCA §5314(c).

§15166. Hearing. Whenever temporary relief or a restraining order pursuant to 22 GCA §5314(b) and (c) has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint over all other cases except cases of like character.

§15167. Board Decision. When upon hearing on a complaint concerning which the Board has procured temporary relief or a restraining order pursuant to 22 GCA §5314(b) and (c), the Board or its hearings officer dismisses the whole or part of such complaint, the Board shall forthwith suggest to the court which issued such temporary relief or restraining order the possible change in circumstances arising out of the findings and conclusions of the Board or its hearings officer.

§15168. Amendments to Rules: By Board. Any rule or regulation may be issued, amended or rescinded by the Board at any time in accordance with provision of Public Law 9-69.

§15169. Same: By Other Than Board. Any interested person may petition the Board in writing, for the issuance,

amendment or repeal of a rule or regulation. An original and four (4) copies of such petition shall be filed with the Board, and shall state the rule or regulation proposed to be issued, amended or repealed, together with a statement of grounds in support of such petition. Upon submission of such petition, the Board shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate hearing thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the detail, accompanied by a simple statement of the grounds unless the denial is self-explanatory.

NOTE: Filed with Legislative Secretary, December 23, 1975.

**APPENDIX A
GUAM EMPLOYMENT RELATIONS BOARD**

_____)	
_____)	
_____)	
COMPLAINANT,)	UNFAIR LABOR PRACTICE
vs.)	CASE NO. _____
_____)	
_____)	
_____)	
RESPONDENT,)	
_____)	

COMPLAINT

Comes now the Complainant above named and for this Complaint of unfair labor practice against the Respondent above named, alleges as follows:

I.

That the name and address of Complainant is:

II.

That the name and address of Respondent is:

III.

That the Complainant has filed with the Board the statement required by 22 GCA §5112. (Applicable to labor organizations only.)

IV.

That the Complainant above named has filed with the National Labor Relations Board or other governmental agencies

V.

That the Respondent above named has engaged in or is now engaging in unfair labor practices contrary to the provisions of Section(s) _____ of Public Law 9-238, in the following respects:

a similar Complaint on: (If not, leave blank)

(A clear and concise statement of the facts constituting the alleged unfair labor practice or practices, including the time and place of occurrence of particular acts and the names of persons involved.)

WHEREFORE, the Complainant above names requests that the Guam Employment Relations Board grant the following remedies:

DATED this ___ day of _____, 19 ____.

Complaint

By _____

Title

Phone No. _____

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_____, being first duly sworn on oath, deposes and says: That he is the Complainant in this action; that he has read the foregoing Complaint and knows the contents thereof, and that they are true to the best of his knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Notary Public

APPENDIX A -

APPENDIX B
GUAM EMPLOYMENT RELATIONS BOARD

_____))
_____)) PETITION FOR DETERMINATION
OF)
AND) COLLECTIVE BARGAINING UNIT
PETITIONER,) ELECTION OF COLLECTIVE BAR-
and) GAINING REPRESENTATIVE
_____))
_____))
_____)) CASE NO. _____
_____)

PETITION

Comes now the Petitioner above named and for this Petition for determination of collective bargaining unit and election of collective bargaining representative for certain employees of the Employer above named, alleges as follows:

I.

That the name and address of Petitioner is:

II.

That the name and address of the Employer is:

III.

That the general nature of the business of _____ is:

IV.

That the approximate total number of employees is:

V. That the description of the collective bargaining unit claimed to be appropriate is:

Included:

Excluded:

VI.

That the approximate number of employees within such unit or units is:

VII.

That the Petitioner above named has filed with the National Labor Relations Board or other governmental agencies a similar Petition on: (If not, leave blank)

VIII.

That the Petitioner above named has filed with the Board the statement required by 22 GCA §5112. (Applicable to labor organization only.)

IX.

That this Petition is supported by thirty percent (30%) or more of the employees in the collective bargaining unit claimed to be appropriate. (Attach authorization cards or other appropriate showing.)

X.

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The names of any known persons or organization of employees who claim to represent any of the employees in the alleged bargaining unit are:

XI.

That the nature of the question has arisen concerning representation is:

XII.

That other facts which the Petitioner above named considers relevant to the Petition are:

WHEREFORE, the Petitioner above named requests that the Guam Employment Relations Board:

- 1) Pursuant to 22 GCA §5103(b), determine the appropriate collective bargaining unit;
- 2) Pursuant to 22 GCA §51031(c), conduct an election among the employees of the Employer above named in the appropriate collective bargaining unit, and certify to the parties the representative that has been selected by the said employees as their collective bargaining representative.

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DATED this _____ day of _____.

Petitioner

By _____

Title

Phone No. _____

APPENDIX B -