

**TITLE 4 – GOVERNMENT EMPLOYEES**

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TITLE 4 – GENERALLY -CHAPTER 01 – ADMINISTRATION & GENERAL PROVISIONS

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**4.0101 Applicability-Position categories.**

This title applies to all career service positions and employees. The territorial personnel system is composed of career service positions and excepted positions.

*History: Rule 10-81, eff 29 Jul 81, § 1.1.*

**4.0102 Administration.**

The director is responsible to the Governor for exercising leadership in and for the administration all aspects of public personnel management covered in this title, in accordance with appropriate ASG and U.S. statutes and rules. The director shall develop and promulgate rules, standards, and procedures designed to promote the efficiency of the territorial service and to serve the needs of its people. The director shall maintain a system of periodic review to determine that all rules relating to his assigned responsibilities are being carried out. Whenever such review reveals failure on the part of any individual or department to comply with established policies, the director will take such action as may be considered appropriate.

*History: Rule 10-81, eff 29 Jul 81, § 1.2.*

**4.0103 Agency head responsibilities Delegation.**

- (a) Personnel administration is a line function in government, each agency head being responsible for carrying out the basic personnel development and management requirements of his own organization, regardless of size or number of employees, included in this responsibility are:
  - (1) cooperation with the office of manpower resources;
  - (2) prompt notification to OMR of personnel actions;
  - (3) active, concerned leadership in assisting employees to carry out individual development plans;

(4) prompt and accurate action in all hiring of new employees, promotions, transfers, and disciplinary actions in conformance with this title.

(b) The training and technical aspects of personnel administration may be delegated to supervisors, trainers, and personnel officers, but the basic responsibility for overall administration in each agency remains at the top.

*History: Rule 10-81, eff 29 Jul 81, § 1.3.*

**4.0104 Investigative Authority.**

The director may make investigations as necessary to enforce Title 7 A.S.C.A., et seq. and other pertinent portions of law and the rules governing employment. This may include investigations into the qualifications and suitability of applicants for positions.

*History: Rule 10-81, eff 29 Jul 81, § 1.4.*

**4.0105 Enforcement Authority.**

Whenever the director finds that any person has been appointed to, or is holding or performing the duties of, a position in violation of any of the laws and rules administered by the director, the director is authorized after giving due notice and opportunity for explanation, to certify the facts to the department with specific instructions for corrective action. Whenever the director issues such specific instructions for corrective actions, the department head concerned shall comply with the director's orders and make a report thereon to the director. If the department head fails to do so, the director shall certify the facts to the ASG treasurer, with a copy to the department concerned, and thereafter no payment shall be made of salary or wages according to the employee in question. Whenever the director finds that any officer or employee has violated the laws and rules administered by the director, he shall take legal action to secure compliance or other appropriate response under the law. Whenever the director finds that procedures have not been followed, he may directly instruct the agency to take corrective action.

*History: Rule 10-81, eff 29 Jul 81, § 1.5.*

**4.0106 Discrimination Prohibited.**

There shall be no discrimination in employment against any person on the basis of race, religious beliefs, political beliefs, color, age, sex, national

origin, marital status, or physical and mental handicap, except for bona fide occupational or legal requirements.

*History: Rule 10-81, eff 29 Jul 81, § 1.6.*

**4.0107 Gender.**

Words used in the masculine gender in this title, except for 7.13, include the feminine and neuter.

*History: Rule 10-81, eff 29 Jul 81, § 1.7.*

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[End of Title 4 – Chapter 1]

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TITLE 4 - CHAPTER 02 – DEFINITIONS

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**4.0201 Applicability of Definitions.**

The definitions set out in this chapter apply throughout this title, except 4.13, unless the context clearly indicates another meaning.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0202 Abandonment of Position.**

“Abandonment of position” means failure of an employee to report for duty or to return from leave for 5 or more consecutive work days.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0203 Accrued Leave.**

“Accrued leave” means leave earned by an employee during the current calendar year that is unused at any given time during that calendar year.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0204 Accumulated Leave.**

“Accumulated leave” means unused leave remaining to the credit of an employee at the beginning of a new calendar year.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0205 Acting appointment.**

“Acting appointment” means a temporary appointment made to a supervisory or managerial position.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0206 Administration.**

“Administration” means that activity of management which fulfills or carries out the objectives, or goals, for which the organization or project is established. It includes that phase of management that lays down and directs policies and procedures by which resources, human and otherwise can best be used to attain established goals, for which it demands that there be continuous unification of data, facts, and opinions collected from varied sources, and through which there must be channeled a free flow of information, suggestions, ideas, and plans to and from all levels-up and down, as well as across.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0207 Administrative Authority.**

Administrative authority, applicable only to the judiciary, means the official or officials with primary administrative responsibility, as delegated by the Chief Justice.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0208 Administrative Leave.**

Repealed by Rule 5-87 § 3.

**4.0209 Agency.**

“Agency” means an office, department, or other separate unit or division, however designated, of ASG. It includes any unit of government established by law or the Chief Executive, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0210 Annual leave.**

“Annual leave” means authorized absence from duty with pay to allow employees a vacation period for rest and relaxation and to provide time off for personal and emergency purposes. The use of annual leave must be officially authorized prior to being taken.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0211 Appeal.**

“Appeal” means response by an individual to action taken against him. The right of appeal extends to such actions as classification decisions, disciplinary actions, actions of alleged discrimination, and such other actions as provided for in this title.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0212 Appointing Authority.**

“Appointing authority” means the person lawfully authorized to make appointments. The appointing authority for the Executive Branch of the ASG is the director of manpower resources. The appointing authority for the High Court is the Chief Justice.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0213 Apprenticeship.**

“Apprenticeship” means a comprehensive program for training the learner toward a specialized trade or craft under the full responsibility of the employer and

on a long-term basis. It includes thorough instruction in the principles and practices of the particular trade or craft as well as in academic and related subjects.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0214 Areas of Training.**

“Areas of training” is a term used to include the training activities for certain classes of positions, such as clerical, skilled trades, and professional, and for programs of training such as orientation, supervision, and safety.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0215 ASG.**

“ASG” means American Samoa Government, as does “the government”.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0216 Assembled Examination.**

“Assembled examination” means an examination for which applicants are required to assemble or be physically present at an appointed time and place.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0217 Basic Salary Rate.**

“Basic salary rate” means the dollar amount of the step of the salary range to which the employee is entitled, before any deduction, and exclusive of additional compensation of any kind.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0218 Basic Training.**

“Basic training”, as part of induction, means the fundamental or essential training required for a position.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0219 Board.**

“Board” means the personnel advisory board, which hears and investigates all appeals resulting from employee actions.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0220 Bumping.**

“Bumping” means the replacement of an incumbent subject to reduction-in-force by another employee who has greater seniority.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0221 Career Service.**

“Career service” means that system of personnel administration based on merit principles which provides for the attraction, selection, and retention of the best qualified of our citizens for permanent employment in the state government service. Entry is normally through competitive examination, and formalized channels of advancement and training are provided. Career service covers all employees of the government not in excepted status.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0222 Certificate of Eligibles.**

“Certificate of eligibles” means the official document through which eligibles are referred for employment consideration.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0223 Certification.**

“Certification” means the process by which the names of qualified eligibles are referred.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0224 Class.**

“Class” means the identification of a position or a group of positions sufficiently similar in duties so that the same requirements of training, experience, or skill and the same title, examination, and salary range may be applied.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0225 Compensatory Time.**

“Compensatory time” means time off in lieu of cash payment for over-time.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0226 Competitive Personnel Action.**

“Competitive personnel action” means a type of personnel action which can be effected only if applicable competitive procedures; i.e., those governing advertising and examining, have taken place.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0227 Conference Leadership.**

“Conference leadership” means the art of planning, leading, guiding, and directing a conference.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0228 Conflict of Interest.**

“Conflict of interest” means a situation in which an employee’s private interests, usually of an economic nature, conflict or raise a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or apparent.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0229 Contagious Disease.**

“Contagious disease” means a disease requiring isolation of the patient, quarantine, or restriction of movement, as prescribed by Wealth authorities.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0230 Contract Specialist.**

“Contract specialist” means a person who has entered into an agreement with the government or High Court to perform specified duties and responsibilities for a specific period of time, who is not in the ASG civil service.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0231 Cooperative Education Plan.**

“Cooperative education plan” means training in which trainees alternate between periods of formal instruction in educational institutions and guided learning on the job through work experience related to the formal instruction.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0232 Course of Study.**

“Course of study” means a training plan having a series of instructional units which have been developed to accomplish a specific training objective.

*History: Rule 10-81, eff 29 Jul 81, § (part).*

**4.0233 Demotion.**

“Demotion” means change of an employee from a position in 1 class to a position in another class having a lower salary range.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0234 Department.**

“Department” means an entity of the Executive Branch headed by a director nominated by the Governor and confirmed by the Fono. This term includes departments, offices, and agencies.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0235 Desirable Qualifications.**

“Desirable qualifications” means the levels of education and/or experience deemed desirable or preferable for admission to the examination in lieu of or above and beyond fixed minimum qualifications.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0236 Detail.**

“Detail” means the temporary assignment of an employee to a different position for a specified period with the employee returning to his regular duties at the end of the detail. Technically, a position is not “filled” by a detail, as the employee continues to hold the position from which he is detailed.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0237 Director**

“Director” means the director of the office of manpower resources.

*History: Rule 10-8 1, eff 29 Jul 81, § 2.0 (part).*

**4.0238 Disabled Veteran.**

“Disabled veteran” means an individual who has served on active duty in the Armed Forces of the United States, and has established the present existence of a service connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans’ Administration or a military department of the United States.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0239 Dismissal.**

“Dismissal” means the termination of employment of a permanent employee for cause or of a probationary employee as specified in this title.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0240 Education.**

“Education” means the formal impartation or acquisition of knowledge, skill, or discipline of mind.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0241 Educational Counseling.**

“Educational counseling” means the act of conferring with a person for the purpose of aiding him in making choices and adjustments relating to schools, course, curriculum, and study.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0242 Elevation.**

“Elevation” means restoration of an employee to the higher classification, with permanent status, which he had prior to having been granted a voluntary demotion.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0243 Eligible.**

“Eligible” means an applicant whose name is on a register of persons who have qualified for a particular class of positions.

*History: Rule 10-8 1, eff 29 Jul 81, § 2.0 (part).*

**4.0244 Emergency Appointment.**

“Emergency appointment” means an appointment to a position pending the establishment of a register for that class or for emergency reasons, not to exceed 30 calendar days unless extended as provided by this title.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0245 Employee**

“Employee” means any individual employed in the service of the government under the appointing authority of the director.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0246 Employee Development.**

“Employee development” means all planned, supervised experience, training, and/or education that enhances the individual’s usefulness as an employee, and promotes their worklife growth.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0247 Employee Relations.**

“Employee relations” means the contacts and relationships between management and the employees in an organization.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0248 Excepted Service.**

“Excepted service” means elective positions; district, county, and village officials; department heads, officers, and members of an Territorial board, commission, or other territorial agency whose appointments are made by the Governor or are required by law to be confirmed by one or both houses of the Fono; Justices and judges of the Judicial Branch; staff members of the two chambers of the Fono with the exception of the legislative reference bureau; and employees serving under contracts.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0249 Executive Development.**

“Executive development” means a plan for the creation of career executives through the systematic development of outstanding employees.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0250 Executive Ungraded Positions.**

“Executive ungraded positions” means those positions of cabinet rank within the Executive Branch and special or executive advisors to the Governor.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0251 First-line Supervision.**

“First-line supervision” means that level of supervision directly over the rank-and-file or nonsupervisory employees and forming the starting point upward for the direct line of authority and communications to top management.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0252 Follow-up Training.**

“Follow-up training” means attention given to employees after initial training to ensure and facilitate their application of new skills and information.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0253 Full biweekly Pay Period.**

“Full biweekly pay period” means as follows:

An employee shall be considered, for leave purposes, to have been employed for a full biweekly pay period if he has been in a pay status, or a combination of pay status and non-pay status, during all of the days within such period, exclusive of holidays and all nonwork days established by the Governor.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0254 Full-time Employment.**

“Full-time employment” means regularly scheduled employment requiring an average of 40 hours of work per week. However, for certification from a register, work between 32 and 40 hours per week shall be considered full time.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0255 Grievance.**

“Grievance” means an employee’s expressed feeling of dissatisfaction with aspects of his working conditions and working relationships which are outside of his control. A grievance is not an appeal.

*History: Rule 10-31, eff 29 Jul 81, § 2.0 (part).*

**4.0256 Holidays.**

“Holidays” means days set aside to celebrate a religious, state, or other event for which government employees receive time off with pay. Holidays are established by law or are designated by the Governor.

*History: Rule 10-81, eff 29 Jul 81, § 2.0(part).*

**4.0257 Human Relations.**

“Human relations” means the integration of manpower into an effective operational system. Effective conduct of human relations is based upon good communications, which is transmitting an idea so as to make it understood and motivating the recipient to take the right action. The will to do things is generated by people and without this no productive operation is possible.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0258 Human Relations Training.**

“Human relations training” means the development of those techniques, habits, skills, and attitudes that will enable individuals to supervise and work effectively with others.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0259 Incentive Awards.**

“Incentive awards” means recognition for employees who demonstrate exceptional resourcefulness of skills or perform exceptional acts.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*



**4.0260 Induction Training.**

“Induction training” means in-service training to familiarize an employee with a new assignment, including policies, procedures, and other matters affecting conditions of work and safety precautions, performance standards, and other details.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0261 In-service Training.**

“In-service training” means training provided by an agency or organization for its employees in order to, increase their effectiveness in their present assignments, or to prepare for future assignments using the, resources and facilities within the agency and/or within the jurisdiction of the territorial government. The term “staff development” is also used.

*History: Rule 10-8 1, eff 29 Jul 81, § 2.0 (part).*

**4.0262 Institute.**

“Institute” is sometimes applied to full-time training programs ranging in duration from a few days to several weeks, utilizing various training methods, and dealing with a limited or specific subject.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0263 Internship.**

“Internship” means a position or assignment that gives an employee planned work experience as a part of a training program, which emphasizes the application of theories, principles, and techniques to operating situations.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0264 Intervening Salary Steps.**

“Intervening salary step:” means all increment steps in a salary range except the lowest and highest.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0265 Job Analysis.**

“Job analysis” means:

- (1) the process of breaking down a position, duty, or task into component parts including what is done, how it is done, and skills and knowledge needed. The technique is used in many phases of management, such as training, placement, classification, and work simplification;

- (2) the resulting statement of information;

- (3) in personnel administration, a complete analysis of all of the job positions in an establishment for the put-pose of learning their requirements in terms of ability, and their relationships to each other and to the establishment. It may be, for example, the basis for a program of job evaluation.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0266 Job Code.**

“Job code” means an eight-digit code designating a class in terms of its excepted or nonexcepted status, salary structure to ‘which assigned, grade level, and job family.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0267 Job Cost.**

“Job cost” means the cost arrived at by method of cost accounting which collects charges for material, labor, and allocated overhead in the production of a specific order or a finished unit or units.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0268 Job Evaluation.**

“Job evaluation” means a comprehensive termination of the relative worth and importance of all the jobs and positions in an establishment. A typical procedure involves the assignment of values to various job skills and characteristics, and a totaling of these values for each job on the basis of a job analysis. A job-evaluation program may be for the purpose of setting wage scales, for determining promotion requirements, for establishing incentives, etc.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0269 Job Family.**

“Job family”, means a group of related series of classes of positions such as clerical, personnel, engineering, or education, etc.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0270 Job Rotation.**

“Job rotation”, means the procedure of moving workers systematically from their jobs to related jobs as a means of broadening their experience and developing versatility, sometimes called “cross-training”.

*History: Rule 10-8 1, eff 29 Jul 81, § 2.0 (part).*

**4.0271      Job Standard.**

“Job standard” means the level of performance of a given job taken as a basis of comparison.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0272      Journeyman.**

“Journeyman” means an individual who has served a formal apprenticeship or has gained substantially equivalent experience over a period of years, during which time he has acquired a comprehensive knowledge and high degree of skill in one or more of the recognized trades.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0273      Leave Without Pay.**

“Leave without pay” means authorized absence from duty without compensation, exclusive of suspension or absence without leave (AWOL).

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0274      Leave with Pay.**

“Leave with pay” means authorized absence from duty with compensation.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0275      Leave Year.**

“Leave year” means the period beginning with the first day of the first complete pay period in any calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year,

*History: Rule 10-81, Eff 29 Jul 81, § 2.0 (part).*

**4.0276      Lecture.**

“Lecture” means a method of teaching in which the instructor gives an oral presentation of subject matter, with little or no participation by trainees.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0277      Line.**

“Line”, in a private or public business organization, means the chain of direct command and operational responsibility, as distinguished from “staff”.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0278      Line Responsibility.**

“Line responsibility” means the ultimate responsibility for effective and efficient performance. This responsibility includes the following functions; making executive decisions, planning, supervising, and testing operations, conducting inspections, maintaining discipline, and training of employees.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0279      Management.**

“Management” refers to the processes of planning, direction, and control. One managerial function is that of planning, of establishing group or team policies, objectives and programs for the future. A second is organizing the assignment of specialized responsibilities to various departments and levels throughout the entire work team, thus facilitating cooperation and the effective utilization of human and other resources. A third function is usually described as control. Guides and indicators be created to facilitate a continuing check on operations. Through these controls, managers see that what is being done corresponds to objectives and assignments.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0280      Manpower.**

“Manpower” means the number of men and women available for productive employment.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0281      Maternity Leave.**

“Maternity leave” means approved absence because of incapacitation related to pregnancy and confinement. It is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay, in the order given.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0282      Medical Certificate.**

“Medical certificate” means a written statement; signed by a registered practicing physician or other practitioner; certifying to the incapacitation, examination, treatment, or the period of disability of an employee while he was undergoing professional treatment.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0283 Minimum Qualifications.**

“Minimum qualifications” means the training, experience, and other qualifications established for a given class and required of an applicant for admission to the examination for that class.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0284 Mockup.**

“Mockup” means a working model, usually natural size, which illustrates the assembly and operation of a mechanical device and assists in understanding the physical principles involved in its operation.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0285 Morale.**

“Morale” is not a single concept; rather, it is a shorthand expression covering a number of factors such as recognition, credit, security, sense of belonging, opportunity, etc., that may together produce a particular atmosphere among the employees in an organization. Is closely interrelated with a number of incentives which management uses for the employees.

*History: Rule 10-51, eff 29 Jul 81, § 2.0 (part).*

**4.0286 Motion Study.**

“Motion study” means the study of body motions used in performing an operation, with thought toward improving the operation by eliminating unnecessary motions and simplifying the necessary motions, so that maximum efficiency is realized.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0287 Motivation.**

“Motivation” is applied to an inner urge that moves a person to action, and also to a contemplated result, the desire for which moves the person.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0288 Noncompetitive Personnel Action.**

“Noncompetitive personnel action” means a type of personnel action which does not require a qualified employee to formally compete with others in order for the personnel action to be effected.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0289 Nonstandard workweek.**

“Nonstandard workweek” means irregular or indeterminate hours worked by employees, the nature of whose duties commonly or frequently preclude successful job completion in standard workweeks over a prolonged period.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0290 Off-site Training.**

“Off-site training” means in-service training given to an employee outside their actual work area; for example, classroom training.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0291 On-the-job Training.**

“On-the-job training” means in-service training given to an employee within the work area while doing productive work.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0292 Orientation Training.**

“Orientation training”, as part of induction, means in-service training designed to assist workers to adapt themselves as quickly as possible to their job environment, to acquire satisfactory attitudes, and to become familiar with the organization in which they work.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0293 Out-service Training.**

“Out-service training” means training provided by an agency for its employees in order to increase their effectiveness in their present assignments, or to prepare for future assignments, using resources and facilities outside of the jurisdiction of the ASG.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0294 Overtime.**

“Overtime” means work performed in excess of 40 hours per week for employees with a regular workweek. Exceptions: For firefighters, it is work in excess of an average of 60 hours per week or 240 hours in 28 days; for hospital employees, it is work performed in excess of 8 hours per day.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0295 Part-time Employment.**

“Part-time employment” means work of regularly less than 40 hours per week. However, for certification from registers, work of less than 32 hours per week shall be considered as part time.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0296 Pay Adjustment.**

“Pay adjustment” means a change in the rate of compensation due to revision of the salary schedules of ASG or for reasons not covered elsewhere.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0297 Performance Rating.**

“Performance rating” means the formal process of evaluating some or all of the individuals who make up the work team and perform the work, in respect to the quality and quantity of the work performed by them. In some cases, it is often called employee merit, service, or efficiency rating.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0298 Performance Standard.**

“Performance standard” means the measure of the performance necessary to meet the needs of the operational system.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0299 Periodic Increment Date.**

“Periodic increment date” means the date established in accordance with the merit system rule on which an employee is entitled to the next salary step increment within his range as stated in the compensation plan.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0300 Permanent Employee.**

“Permanent employee” means an employee appointed in a career service position who has successfully completed a probationary period.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0301 Personnel Management.**

“Personnel management” means:

(A) the utilization of human resources by management for the accomplishment of the objective of the organization;

(B) the branch of business management concerned with the administration and direction of all of the relations between an organization and its employees including the recruiting of new employees, training, testing, promoting, and supervising employees, etc, as well as the administration of all personnel relations.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0302 Position.**

“Position” means a group of duties and responsibilities. A position may be filled or vacant, full time or part time, temporary or permanent. Positions are in the career service or are excepted.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0303 Position Description.**

“Position description”, means a written description of each group of duties and responsibilities constituting a position.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0304 Post -Training.**

“Post-training” means training given after entering a governmental job. The training given before the entering is called preemployment training.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0305 Pre-assignment Training.**

“Pre-assignment training” means in-service training given before an employee is assigned to a specific job.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0306 Preemployment Training.**

“Preemployment training” means the training given to employees prior to coming into service.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0307 Preference Eligible.**

“Preference eligible” means a U.S. citizen or a U.S. national of American Samoa ancestry who is a veteran as defined in this chapter; a disabled veteran as defined in this chapter; or the unremarried widow of a veteran.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0308 Premium Payment.**

“Premium payment” means wage payment over and above the basic salary rate for extraordinary conditions of employment, such as overtime and special tours of duty.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0309 Probationary Period.**

“Probationary period” means the trial period of employment following certification and appointment to, or reemployment in, any position in the career service, including promotional positions.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0310 Program.**

“Program” means: (1) a plan or scheme of administrative action designed for the accomplishment of a definite objective which is specific as to time-phasing of the work to be done and the means allocated for its accomplishment; (2) for budget and accounting purposes, a complete plan of work or effort to accomplish a stated objective.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0311 Promotion.**

“Promotion” means a change of an employee from a position in one class to a position in a class having a higher salary range.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0312 Public Administration.**

“Public administration” means the activities of government to accomplish public goals.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0313 Rating.**

“Rating” means the act of classifying according to grade, class, rank, or other unit of measuring or evaluation.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0314 Reassignment.**

“Reassignment” means movement of an employee from one position to another position the same class or grade or from one position to another position in a different class at the same grade.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0315 Reduction-in-force.**

“Reduction-in-force” means a separation from service because of a lack of funds and/or work and/or reorganization and without cause on the part of the employee.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0316 Reduction in Salary.**

“Reduction in salary” means placement of an employee’s salary at a lower step at the same or lower grade as a result of a disciplinary action.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0317 Refresher Training.**

“Refresher training” means training for employees who lack up-to-date information, habits, or skills in an occupation in which they have been previously trained.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0318 Register.**

“Register”, means a list of eligible names established for employment or reemployment in a class.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0319 Reinstatement.**

“Reinstatement” means appointment of an employee who has previously successfully completed his probationary period.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0320 Related Training.**

“Related training”, means instruction which is related to the job and provides knowledge and information concerning theoretical and technical aspects of the job, such as properties of materials used, applied science, mathematics, drawing.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0321 Remedial Training.**

“Remedial training” means training given to employees for the purpose of correcting specific weaknesses in work performance.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0322      Resignation.**

“Resignation” means a voluntary separation from employment.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0323      Resources.**

“Resources” is a term often used by management to describe these productive factors: labor, capital, and machinery. It includes personnel who do the work, and funds, equipment, and materials with which to work. The apportionment of available resources is a responsibility of the head of the organization.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0324      Retraining.**

“Retraining” means training given an employee to bring him up to date on new developments, techniques, or procedures in his present job.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0325      Reversion.**

“Reversion” means voluntary or involuntary movement of an employee during a six-month trial service period to the lower class which he held prior to his last promotion.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0326      Salary Range.**

“Salary range” means a sequence of minimum, intervening, and maximum dollar amounts assigned to a specific class.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0327      Screening Committee.**

“Screening committee” consists of three ASG or judiciary employees or any combination thereof, who have been appointed by the director to objectively review applications for classes of positions classified at grade 9 and above for which no comprehensive written, oral, or performance examination exists. Members evaluate the experience and training recorded on an application against the minimum qualifications officially established for the class and rank the applicants in the order of best qualified.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0328      Selecting Authority.**

“Selecting authority” means the authority to select individuals for positions selecting authority differs from appointing authority in that the former can select individuals for employment but not offer them a position. The offer must come from the appointing authority in order to be official.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0329      Selective Certification.**

“Selective certification” means the certification of eligibles possessing the special qualifications required for a specific position.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0330      Seminar.**

“Seminar” means an advanced study group with selected members, each of whom investigates some aspects of a subject and reports thereon to the group, the members of which then discuss and evaluate the findings.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0331      Sick Leave.**

“Sick leave” means absence from duty because of illness or other disability or exposure to contagious disease.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0332      Skill Training.**

“Skill training” means development of a facile and well-integrated performance, usually associated with mechanical and motor responses, such as those used in typing, glassblowing, and swimming.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0333      Standard Workday.**

“Standard workday” means an assigned eight-hour work period.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0334      Standard Workweek.**

“Standard workweek” means 40 hours divided into five regular assigned eight-hour days within a seven-day period.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0335      Supervisor.**

“Supervisor means any individual having substantial responsibility requiring the exercise of independent judgment who, on behalf of management, regularly participates in the performance of all or most of the following functions over at least three employees: promote, transfer, suspend, discharge or adjudicate grievances of other employees.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0336      Suspension.**

“Suspension” means an enforced absence without pay for disciplinary purposes.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0337      Temporary Employment.**

“Temporary employment” means employment during the absence of a permanent employee on leave or for work done at a workload peak and normally lasting for less than six months but not exceeding one year.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0338      Termination.**

“Termination” means separation from employment for reasons beyond the control of the employee.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0339      Training Aids.**

“Training aids”, means any material or device which facilitates learning, such as movies, slides, posters, booklets, viewgraphs, audio-visual aids, etc.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0340      Training Committee.**

“Training committee” means a committee authorized to consider training problems and devise solutions, develop training policies, promote their acceptance, and advise management in the execution of those policies.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0341      Training Plan.**

“Training plan” means a method or scheme for obtaining a certain specific training objective, and containing the following information:

- (1) Objective of the training;
- (2) Who will be trained;

- (3) Name of instructor;
- (4) Schedule of meetings, etc.;
- (5) Outline of material to be presented;
- (6) A plan for evaluating the effectiveness of the training.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0342      Training Policy.**

“Training policy” means a statement defining the objectives and the responsibilities for training, the relation between training staff and other staff and operating officials, and the general procedures for organizing, operating, and evaluating a training program.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0343      Training Timetable.**

“Training timetable” means a form which lists the various tasks in a given organization or unit, and shows for each employee the tasks:

- (1) which he can perform adequately;
- (2) in which he is not to be trained during the period under consideration; and
- (3) in which he is to be trained and the time by which this training is to be completed.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0344      Transfer.**

“Transfer” means movement of a permanent employee from a position in one agency to a similar position in another agency and shall be subject to whichever provision applies; e.g., promotion, reassignment, or demotion.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0345      Trial Service Period.**

“Trial service period” means a six-month trial period of employment of a permanent employee beginning with the effective date of a promotion or demotion.

*History: Rule 10-41, eff 29 Jul 81, § 2.0 (part).*

**4.0346      Tuition.**

“Tuition” means payment of appropriated funds to outside agents or agencies for instructional services; the fee charged by an instructor or school for

instruction. “Tuition” does not include fees collected for defrayment of other or incidental expenses, such as registration fees, laboratory fees, costs of books, or charge for space or utilities.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0347 Unassembled Examination.**

“Unassembled examination” means an examination in which the education, training, and experience of applicants is rated as set forth in their applications.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0348 Veteran.**

“Veteran” means an individual who has served on active duty in the Armed Forces of the United States for a period of not less than 180 consecutive days, other than for training, and who has been separated from the Armed Forces under honorable conditions.

*History: Rule 10-81, eff 29 Jul 81, § 2.0 (part).*

**4.0349 Work Simplification.**

“Work simplification” means a management technique for simplifying methods and procedures and eliminating waste of manpower, materials, equipment, and facilities. Process study, operation study, and layout study are phases of this subject.

*History: Rule 10-81 eff 29 Jul 81, § 2.0(part).*

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[End of Title 4 – Chapter 2]



TITLE 4 - CHAPTER 03 – RECRUITMENT & PLACEMENT

Sections:

- 4.0301 Requirements Generally-Nepotism-Effective dates.
- 4.0302 Administrative responsibilities
- 4.0303 Competitive-noncompetitive procedures applicability.
- 4.0304 Recruitment-Vacancy Notice-Evaluation announcement.
- 4.0305 Applications.
- 4.0306 Disqualification of refusal to examine applicant.
- 4.0307 Examination-Final rating.
- 4.0308 Veteran preference.
- 4.0309 Registers of eligible applicants.
- 4.0310 Certification of Eligibles.
- 4.0311 Appointment types.
- 4.0312 Reinstatement after separation.
- 4.0313 Promotion-Lateral Movement-Transfer-Detail -Demotion.
- 4.0314 Retired employee reemployment.

**4.0301 Requirements Generally-Nepotism-Effective dates.**

In filling vacancies within the career service of the ASG, it is the policy that:

- (1) appointments and promotions to all positions shall be made solely on the basis of merit, fitness, length and quality of previous service, and relative skills, knowledge, and ability as shown by examinations;
- (2) the same standards and methods shall be used in evaluating all candidates who are in competition for the same class of work;
- (3) permanent residents of American Samoa, or persons entitled to permanent residence as determined by the immigration law of American Samoa, shall be given first consideration for employment. This includes persons who meet the following criteria:
  - (A) The applicant was born in American Samoa;
  - (B) One of the parents of the applicant was born in American Samoa;

(C) The applicant is married to an American Samoan;

(D) The applicant was legally adopted by an American Samoan;

(E) The applicant has resided continuously in American Samoa for at least 10 years and has been approved by the immigration board.

Only when no permanent resident can be found who meets the minimum qualifications for employment establish for a particular class of work can another person be employed;

- (4) applicants who have been selected for positions in the career service must successfully pass a preemployment physical, examination before they can be appointed;
- (5) in all recruitment and placement activities, it is the policy of the government that two or more members of a family may be employed within the same office as long as one member does not officially and immediately supervise the other. This requirement not only is applied on the basis of facts as they exist as of the time of appointment but at any time while serving as an employee of the ASG or the Judiciary Branch;
- (6) the official effective date for all recruitment and placement actions, as well as other personnel actions, shall be established by the office of manpower resources except in the case of resignation, the date of which is established by the employee who is resigning. Effective dates are not made on a retroactive basis. The effective date for within-grade step increments is described under 4.0409. Effective dates for appointments can only be established after the prerequisite medical, police, and immigration clearances have been obtained by the department. Retroactive effective dates are only set when an administrative error has occurred or an appeals action results in retroactive corrective action.

*History: Rule 10-81, eff 10-81, eff 29 Jul 81, § 3.1.*

**4.0302 Administrative Responsibilities.**

The director has primary responsibility for establishing and administering procedures for ruling vacancies in compliance with appropriate federal and ASG rules. However, all employees and supervisors share responsibility for the successful operation of the system.

- (a) The director is responsible for:
  - (1) developing a merit system policy and procedural guides for filling positions;
  - (2) providing leadership and support for the merit system as it relates to all segments and activities of the government;
  - (3) assuring that managers and supervisors are aware of the objectives and requirements of this program;
  - (4) assuring that applicants or potential applicants are informed, at least annually, that they may file or refile employment application at the recruitment office.
- (b) Managers and supervisors are responsible for:
  - (1) providing active support to the objectives of the merit system and fully complying with the intent as well as the procedural requirements of the program;
  - (2) evaluating candidates fully and equitably to assure that each selection conforms to the objectives of an effective merit system;
  - (3) selecting from among the best-qualified candidates and releasing, within a reasonable time, their subordinate employees selected for promotion, transfer or reassignment;
  - (4) providing firm merit system support to employees and keeping themselves fully informed so as to be able to provide employees with information on the merit system and its operation;
  - (5) counseling employees on ways to improve promotion potential and assisting them in self-development activities;
- (6) participating with personnel officials in determining qualification requirements and evaluation methods for specific positions.
- (c) The recruitment and examination division is responsible for:
  - (1) developing and employing the procedures necessary for recruitment, examination, and certification;
  - (2) developing, in cooperation with managers and supervisors, qualification requirements and evaluation methods for specific positions;
  - (3) providing the necessary technical competence required to operate the merit system and publicize its operation;
  - (4) announcing examinations and for position vacancies as appropriate, rating applications establishing and maintaining lists of eligibles and issuing certificates of eligibles to selecting officials;
  - (5) maintaining the required documentation of all personnel actions covered by the plan;
  - (6) assuring that the requirements of the merit system have been met before taking personnel action on a position change.
- (d) Employees are responsible for:
  - (1) familiarizing themselves with the provisions of the merit system;
  - (2) personally applying for an announced vacancy in which they are interested and for which they meet qualifications standards, by submitting required, designated application material;
  - (3) demonstrating that they have the skills, abilities and personal qualifications necessary for the positions for which they seek consideration;
  - (4) Performing the duties of their current positions in a manner indicating they are ready for advancement.

*History: Rule 10-81, eff 29 Jul 81, 4 3.2.*

**4.0303**      **Competitive-noncompetitive procedures applicability. Vacancies can either be filled competitively or noncompetitively.**

- (a) Competitive procedures apply to the following types of actions:
- (1) Selection of a nongovernment employee to either a permanent or temporary appointment;
  - (2) Promotion of an employee in the career service except under circumstances specified under subsection (b) of this section;
  - (3) Reinstatement of a former ASG employee who has completed his probationary period in the career service, to a higher-grade position than the candidate's last position or to a position with known promotion potential;
  - (4) Selection of a government employee who is currently on an emergency appointment to a temporary or permanent position;
  - (5) Selection of an employee who is in a nonsupervisory position to a supervisory position;
- (b) Noncompetitive procedures apply to the following types of actions:
- (1) Promotions of an employee for which competitive procedures were used at an earlier date, such as:
    - (A) career promotion(s), reassignment, etc., made under training agreements approved by the office of manpower resources;
    - (B) career promotion(s) of employees up to the full performance level position in the career ladder;
    - (C) career promotion(s) of employees in an understudy position to the target position;
  - (2) Promotion(s) of incumbents to positions in the competitive service reconstituted in higher grades because of:

- (A) change in classification standards;
  - (B) error in the allocation of the original positions;
- (3) Repromotions of employees to positions or grades from which demoted without personal cause or to intermediate grades below the grades from which demoted;
  - (4) Conversions to a different pay system without change in duties and responsibilities;
  - (5) Reinstatement of a former ASG employee who has completed his probationary period in the career service to the same or similar class that he held previously in the government;
  - (6) Transfer of employment from one department to another department. If such transfer also involves promotion, promotion procedures apply.

*History: Rule 10-81, eff 29 Jul 81, § 3.3.*

**4.0304**      **Recruitment-Vacancy Notice-Evaluation Announcement.**

In filling vacancies competitively, all recruitment efforts shall be conducted publicly in a manner which will attract a sufficient number of qualified persons to meet the needs of the career service. Vacancy notice and/or examination announcements shall be advertised and posted publicly. They shall specify title and salary range of the class, information of the duties performed, applicable minimum or desirable qualifications, and type of examination. Open competitive recruitment shall be for at least 15 calendar days except that in the case of great need the director may cut the filing period to 5 days.

*History: Rule 10-81; eff 29 Jul 81 § 3.4.*

**4.0305**      **Applications.**

All applications shall be on a form prescribed by the office of manpower resources. The applicant's signature shall certify the truth of the stated information. Applications shall remain under acting consideration by OMR for one year from the date received.

- (a) No information shall be solicited or accepted which reveals religions or political affiliations of

the applicant. Information regarding the race or ethnic background of applicants shall be solicited only for use in an affirmative action minority employment program.

- (b) Applications filed with the office of manpower resources by the date specified in the vacancy notice or examination announcement will be considered.
- (c) Any person who willfully makes false statements concerning a material matter in any application for employment with the government may be fined in an amount not to exceed \$100, or imprisoned for not more than 6 months, or both.

*History: Rule 10-81, eff 29 Jul 81, § 3.5.*

**4.0306 Disqualification of, Refusal to Examine Applicant.**

Accepted standards of personnel practice will be followed in screening applicants.

Recruitment and examination staff may refuse to examine an applicant or, after examination, may disqualify such applicant or remove his name from a register or refuse to certify any person otherwise eligible on a register if:

- (1) he is found to lack any of the requirements established for the class;
- (2) he is so disabled as to be rendered unfit to perform the duties of the class;
- (3) he is addicted to the use of narcotics or the habitual excessive use of intoxicating beverages;
- (4) he has been convicted of any offense that would adversely affect the government and which would be grounds for disqualification from the position for which he is applying;
- (5) he has made a false statement of material fact in his application;
- (6) he has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other fitness as an employee;

- (7) he has used, or attempted to use, bribery to secure an advantage in the examination or appointment;
- (8) he has directly or indirectly obtained information regarding examinations to which he was not entitled;
- (9) he has taken part in the compilation, administration, or correction of the examination.

*History: Rule 10-81, eff 29 Jul 81, § 3.6.*

**4.0307 Examination-Final Rating.**

The director or his designated representative shall determine, by uniform standards, the appropriate examination for a register for a class and the tests or combination of tests and relative weights to be assigned, ensuring at all times that the examinations are job-related.

- (a) Examinations shall be practical in nature, job-related, and of such character as to determine the capacity of the applicant to perform the duties of the particular class of positions for which he is competing as well as his general background and related knowledge, and shall be rated objectively. A passing score will be established for each test included in the examination.
- (b) Whenever possible, standards for employment will give all due recognition to practical experience in the function and probable aptitude for learning while on the job, rather than relying in the main on formalized education and training.
- (c) Examinations shall normally consist of one or a combination of the following:
  - (1) A written test;
  - (2) A performance test;
  - (3) An oral test;
  - (4) An evaluation of experience and training.
- (d) Examinations shall be held at such times and places as are necessary to meet the requirements of the career service, provide economical administration, and be generally convenient for applicants.
- (e) Examination announcements shall specify the desirable or minimum requirements, the parts of

the examination, and the method of rating. Announcements shall be prominently posted by all appropriate agencies to ensure that the information is reasonably available to all.

- (f) A performance evaluation may be used to construct scores in promotional examinations, provided that the director determines such evaluations are practical and necessary to improve the effectiveness of the examination.
- (g) Each applicant shall receive notice of final rating. After receipt of the notice of rating, the applicant may request and receive information regarding his score on any part of the examination, or may give written authorization for his supervisor or agency head to obtain the information for him. The same information may, upon request, be furnished to the supervisor or agency head concerning a certified eligible.

*History: Rule 10-81, eff 29 Jul 81, § 3.7.*

**4.0308 *Veteran Preference.***

- (a) In open competitive examinations, eligible veterans shall receive preferential consideration as follows:
  - (1) Ten additional points to a disabled veteran. This preference shall be utilized in the open competitive examination only and not in any promotional examination;
  - (2) Five additional points to a veteran or the unremarried widow of a veteran. This preference shall be utilized in open competitive examination only and not in any promotional examination.
- (b) The names of preference eligibles shall be entered upon the appropriate registers ahead of others having the same score.
- (c) If the selecting authority passes over a preference eligible whose name appears on the certificate of eligibles forwarded to him and selects a nonpreference eligible, he shall file written reason therefor with the director for approval.
- (d) When 3 or more names of preference eligibles appear on a certificate of eligibles, the selecting

official may select only a preference eligible to fill the vacancy under consideration.

*History: Rule 10-81, eff 29 Jul 81, § 3.8.*

**4.0309 *Registers of Eligible Applicants.***

The following types of registers shall be established and maintained by the office of manpower resources:

- (a) Reduction-in-force Register.
  - (1) Composition: A reduction-in-force register will be prepared for each classification, listing the names of all employees who have permanent status and have been notified they are scheduled for reduction in force, or who held permanent status prior to separation due to a reduction-in-force, or who have accepted a voluntary demotion in a class in lieu of a reduction-in-force. The employee's name shall appear; for all classifications in which he held permanent status and where appropriate, the employee's geographic availability will be shown.
  - (2) Method of ranking. This register will be ranked according to seniority; those with the largest period of performance rated 4 or better on their final performance evaluation will be placed at the top of the list, the balance of the names placed in descending order. Those with performance evaluations showing ratings of less than 4 will be placed at the bottom of the list, regardless of years of service
  - (3) Life of register: An eligible's name will normally remain on this register for one year.
  - (4) Certification: Names from this list shall be certified first to the selecting authority before those from, any open or promotional register.
- (b) Promotional-Register.
  - (1) Composition: The promotion register will be established for a specific position in an agency and shall include the names of current, permanent employees and/or past permanent employees who have been

separated due to reduction-in-force within the last year who have received a passing final grade in the promotional examination and are eligible to be certified.

- (2) Method of ranking: This register shall be ranked according to final score from the highest to the lowest.
  - (3) Life of register: The life of the promotional register shall be until the position is filled.
- (c) Open Competitive Register.
- (1) Composition: The open competitive register will contain the names of all persons who have passed the appropriate examination for each class of work on an open basis.
  - (2) Method of ranking: This register shall be ranked by the final score, from highest to lowest.
  - (3) Life of register: The life of a register shall be one year or until replaced by a register established through a new examination.
  - (4) Eligibles may be removed from the register under the following circumstances:
    - (A) On evidence that the eligible cannot be located by the postal authorities or the village pulenu'u;
    - (B) On receipt of a statement from the eligible declining an appointment and stating position in that class;
    - (C) If 3 offers of a probationary appointment to the class for which the register was established have been declined by the eligible;
    - (D) If an eligible fails to reply to written inquiry as to availability after 5 days in addition to the time required to receive and return the inquiry;
    - (E) If an eligible accepts an appointment and fails to present himself for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

*History: Rule 10-81, eff 29 Jul 81, § 3.9.*

**4.0310 Certification of Eligibles.**

Requests for certification of eligibles to a position will be submitted by the selecting authority on form Per-35. Authorized position vacancies can only be filled from the list furnished by the office of manpower resources.

- (a) Upon receipt or a request for certification, the director shall cause to be prepared an eligible list consisting of:
  - (1) names of eligible applicants from the reduction-in-force list, if any. The selection must be made from this list if one exists;
  - (2) names of eligibles from the pertinent open or promotional list. No more than 5 names will be certified, except in case where candidates below the fifth rank have the same numerical score as the person named as number 5, in this instance, additional names will be certified to the extent there are eligibles with that same score.
- (b) Reports of actions taken on certified eligibles by the selecting authority shall be given in writing to the director within 10 working days following certification unless the director has specifically granted an extended time. Fair consideration must be given to all certified names. One of the following actions must be taken:
  - (1) Appointment of one of the certified candidates;
  - (2) Request for additional names to replace names of eligibles who:
    - (A) fail to reply within four days of notice to appear for consideration;
    - (B) are not satisfactory for valid and pertinent reasons directly connected with the position as determined by the director from a written report by the selecting authority.
  - (3) Cancellation of the request.

*History: Rule 10-81, eff 29 Jul 81, § 3.9.*

**4.0311 Appointment Types.**

(a) Career Service Appointments. Career service appointments are always made through open competitive civil service examination procedures to fill permanent, regularly budgeted positions from the open or promotional registers. They always require a probationary period of one-year, satisfactory completion of which is requisite for permanent status in the position.

(b) Temporary Appointments.

(1) When there is work of a temporary nature, at the completion of which the services or an additional employee will not be required, the director may authorize a temporary appointment for a period not in excess of one year.

(2) Such appointment shall be made from a register of eligibles, if eligibles are available. The selection of an eligible from the register shall not affect the retention of the eligibles on the eligible list and he shall continue to be considered for probational appointment, should an appropriate vacancy occur.

(3) Service under a temporary appointment is not creditable for permanent status.

(c) Emergency Appointments.

(1) When an emergency occurs requiring the immediate service of a person or persons, the department head may request that an emergency appointment be made.

(2) Justification for the emergency must be submitted to and approved by the director prior to any personnel action.

(3) An emergency appointment of an American Samoan national may not be made to exceed 30 days unless the appointment is extended by the director up to a maximum of an additional 30 days, based on agency justification of the continuing state of emergency.

(4) Service under an emergency appointment shall not constitute a part of the employee's probationary period.

(5) If a person other than American Samoan national is to be appointed, immigration clearance must be secured prior to entrance on duty, but police and medical clearances may be furnished during the 30-day emergency period.

(d) Disaster Emergency Appointment. In the case of a disaster, departments are authorized to make direct, emergency appointments without any clearance, for a period not to exceed ten working days.

*History: Rule 10-81, eff 29 Jul 81. § 3.11.*

**4.0312 Reinstatement After Separation.**

(a) Any person who has satisfactorily completed a probationary period in the career service and who has separated therefrom may be reinstated to a position with the same or similar duties to those he previously performed, provided his reemployment is not prohibited by rules or laws relating to the reemployment of employees separated for cause or who have abandoned their positions.

(b) Reinstatement to the same class of work or grade previously held is noncompetitive.

*History: Rule 10-81, eff 29 Jul 81, § 3.12.*

**4.0313 Promotion-Lateral Movement-Transfer-Detail-Demotion.**

The following types of in-service placement exist within the career service:

(a) Promotion.

(1) No employee shall be certified from a promotional register until he has gained permanent status: however, a probationary employee may be admitted to a promotional examination if the announcement for the position vacancy has an established closing date and if the employee has served three months of his probationary period. Employees who have not completed their original probationary period, if selected, must serve a new probationary period. Employees who are otherwise qualified will be admitted to promotional examinations if they are within 2 months of the experience required by the minimum qualifications and

are assigned to a position which provides qualifying experience.

- (2) A permanent employee who is promoted and who fails to satisfactorily complete the probationary period shall be given 15 calendar days written notice no earlier than 90 days after assuming the position. A copy of this notice must be sent to the director, who will notify the employee of the date he will automatically revert to his former classification. If there are no vacancies in that class, he is placed on the reduction-in-force register. An employee who is reverted does not have the right of appeal. If an employee is unable to be placed into another position at the end of a total of 180 days, he shall be terminated.
- (3) An employee who is promoted within the same pay schedule shall be given an increase in compensation which is equivalent to 2 salary steps on the grade level of the position from which promoted. If the increase of 2 steps results in a salary rate falling between 2 steps of the new grade, the employee shall be given the higher of the 2 steps.

(b) Lateral Movement.

- (1) Reassignment: movement of a permanent employee from one position to another in the same or another class within the same agency with the prior approval of the director.
- (2) Transfer: movement of a permanent employee from one position to another in the same or another class between agencies with the prior approval of the director. If a transfer includes a promotion, the rules governing promotion apply. A transfer is always made in connection with a:

- (A) reassignment;
- (B) demotion; or
- (C) promotion.

All lateral movements of personnel must be approved by the director or, in the case of the Judicial Branch, the Chief Justice.

(c) Detail.

- (1) Details are intended only for meeting temporary needs of the agency's or another agency's work program when necessary services cannot be obtained by other more desirable or practical means. Interagency details are particularly appropriate for temporary service in the performance of official government functions such as providing disaster assistance preparation for Flag Day, or election services.
- (2) Detailing employees to other kinds of positions immediately after competitive appointment tends to compromise the competitive principle and so is not permitted. Except for an emergency detail of 30 calendar days or less, an employee may not be detailed for at least 3 months after the initial appointment.
- (3) Agencies are responsible for keeping details within the shortest practicable time limits and for making a continuing effort to secure necessary services through use of appropriate personnel actions.
- (4) Details for 30 calendar days or more shall be reported on form 303 and maintained as a permanent record in official personnel folders. Details of less than 30 calendar days need not be official documented on form 303, but should be recorded in department records.
- (5) All details to higher grade positions will be confined to a maximum period of 120 days unless approved by the director, or in the case of the Judicial Branch, the Chief Justice. If management fails to initiate a form 303 to terminate the detail at the end of the stated period the office of manpower resources shall initiate the action.
- (6) Detail appointments shall be from among those employees who are interested and available to accept such appointments when there are no individuals available who meet



the minimum requirements. Primary consideration should, however, be given to eligibles on the agency promotional register for the class or for a related class as determined by the director and the agency.

- (7) An employee who accepts a detail for 30 calendar days or more to a higher graded position shall be paid according to the rule regarding promotion. An employee accepting a detail for less than 30 calendar days shall retain his current salary.
- (8) An employee shall not achieve permanent status in the position to which he has been detailed and upon termination of the detail shall be returned to his former position.

(d) Demotion.

- (1) Demotion may be disciplinary or nondisciplinary, voluntary or nonvoluntary.
- (2) An employee who is demoted may not receive pay at a higher rate than he received before the demotion.

*History: Rule 10-81, eff 29 Jul 81, § 3.13; and Rule 13-84, eff 19 Dec 84, § 1; and Rule 5-87, eff 27 Apr 87, § 1.*

**4.0314 Retired Employees Reemployment.**

An employee who has retired may be reemployed under this chapter but his annuity shall be suspended during the period of his reemployment under this chapter.

*History: Rule 10-81, eff 29 Jul 81, § 3.14.*

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[End of Title 4 – Chapter 3]

TITLE 4 - CHAPTER 04 – CLASSIFICATION AND PAY

Sections:

- 4.0401 Establishment of system.
- 4.0402 Position descriptions.
- 4.0403 Wage schedule applicability and bases.
- 4.0404 Position classification system.
- 4.0405 Effective date of actions.
- 4.0406 Administrative review.
- 4.0407 Pay schedules.
- 4.0408 Pay schedule placement.
- 4.0409 Step-increment increases for length of service-Pay schedule structure.
- 4.0410 Overtime-Compensatory time.
- 4.0411 Hazard pay.
- 4.0412 Shift differential.
- 4.0413 Special housing/subsistence allowance-Generally.
- 4.0414 Special housing/subsistence allowance-Capital improvement projects.

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**4.0401 Establishment of System.**

In keeping with the American Samoa Code Annotated, the director shall develop and maintain a territory-wide classification and pay system based on objective, consistent, and timely classification of all positions within the Executive and Judicial Branches, of ASG and the legislative reference bureau, and shall apply reasonable and consistent assignment of positions to pay grades so as to compensate employees in equitable relationship to each other and to contribute to the attraction and retention of public employees. The system so established or any portion thereof may be extended to noncivil service positions as required by law or for the good of the service.

*History: Rule 10-81, eff 29 Jul 81, § 4.1.*

**4.0402 Position Descriptions.**

- (a) Each agency shall maintain current position descriptions covering each career service and excepted position authorized to the agency. Each supervisor is responsible for reviewing the descriptions once each year for accuracy.
- (b) When duties of positions change, the supervisor must prepare a new position description to reflect the change.
- (c) One copy of each position description shall be furnished to the office of manpower resources.

*History: Rule 10-81, eff 29 Jul 81, § 4.2.*

**4.0403 Wage Schedule Applicability and Bases.**

The classification and compensation plan of the territory shall provide for three separate segments:

- (a) The educational schedule, which applies to the department of education/community college classification and compensation plan for teachers, counselors and principals, which is based on “equal pay for equal qualifications”.
- (b) The general schedule (GS), which applies to the balance of the “white collar” positions and which is based on “equal pay for substantially equal work”.
- (c) The wage grade schedule (WG) which applies to all “blue collar” jobs and which is also based on “equal pay for substantially equal work”.

*History: Rule 10-81, eff 29 Jul 81, § 4.3*

**4.0404 Position Classification System.**

The director shall develop and maintain a position classification system which shall provide for the placement of each position into an appropriate class. This includes:

- (1) the establishment of written class specifications which describe each of the various classes within the classification plan in terms of the nature, variety, and level of duties and responsibilities, and the minimum qualifications required to perform adequately;
- (2) the establishment, revision, or abolition of classes in order to maintain the plan on a current basis;
- (3) the establishment of official class titles;
- (4) the changing of any position from one class to another class whenever warranted by significant change in position duties and responsibilities or class definition, or to correct an error;
- (5) the auditing of positions in order to ascertain that current positions are correctly classified.

*History: Rule 10-81, eff 29 Jul 81. § 4.4.*

**4.0405      Effective Date of Actions.**

- (a) The effective date of an initial classification action shall be the date action is officially taken by the office of manpower resources to classify the position.
- (b) The effective date of any subsequent classification action shall be the beginning of the pay period immediately following the date of notice of action, except that the date may be adjusted by the director in the event an incumbent fails to meet the qualification of the class, for budgetary reasons, or for other good cause.
- (c) The effective date of a classification action when a classification and/or compensation survey is initiated by the director shall be the date action is officially taken, or such other date as the director deems practicable.

*History: Rule 10-81, eff 29 Jul 81, § 4.5.*

**4.0406      Administrative Review.**

An administrative review may be requested by an employee or his designated representative or by the department head within 20 days after the effective date of the classification or reclassification action.

- (a) The request for administrative review must be in writing and shall contain the specific reason(s) for disagreement with the classification action of the director, and shall state the action requested and the reason the requested action is deemed more appropriate.
- (b) A request for administrative review must be received no later than 10 days of the date the notice of classification is sent to the department.
- (c) The director shall take appropriate action to review the classification and shall notify the department of the final decision.

*History: Rule 10-81, eff 29 Jul 81, § 4.6.*

**4.0407      Pay Schedules.**

*History: Repealed in its entirety. Rule 001-2021; eff 1 July 21.*

**4.0408      Pay Schedule Placement.**

- (a) Initial Appointment.

- (1) All initial appointments shall be made at the first step of the appropriate pay range of each of the 3 salary schedules except that, in the event that recruitment of an employee is not practicable at the first step, the director may, after appropriate notice and advertising, recruit at any step within the pay range which will attract qualified candidates.
- (2) Requests for payment above the minimum may be made by agency heads prior to or at the time of appointment but in any event must be made no later than 60 days after the appointment date. Requests received after date of appointment, if granted, will not be granted retroactively.
- (b) Reassignment. An employee who is reassigned shall receive the same rate of compensation as he presently receives, except that in case of a reassignment from 1 salary schedule to another salary schedule, the pay rules governing initial appointment shall apply.
- (c) Reinstatement.
  - (1) When an employee is reinstated within a year of his separation from government service, he may be paid at any rate within the pay range which does not exceed his highest previous rate of pay, provided that where such rate falls between 2 steps of the grade to which reinstated, he may be paid at the higher step.
  - (2) The rules governing initial appointment shall apply only when an employee eligible for reinstatement has been separated for at least 1 year from government service.
- (d) Returning Veteran. An employee who meets the requirements for reemployment as specified in the Veteran's Preference Act of 1944, as amended, and who is reemployed in his former position, shall have his rate of pay set at the step he would have received had his service with the government continued. If reemployed in a different position, the pay rule governing initial appointment shall apply.

*History: Rule 10-81, eff 29 Jul 81, § 4.8.*

**4.0409 Step-Increment Increases for Length of Service-Pay Schedule Structure.**

- (a) Every employee is entitled to an annual step-increment increase at the beginning of the pay period immediately following his service year preceding such increase.
- (b) A service year is 52 weeks of continuous service in present grade and step, which shall include credit for leave without pay:
  - (1) To pursue a course of instruction approved by the director which is related to the employee's area of work;
  - (2) To recuperate from an injury for which workers' compensation weekly payments are made;
  - (3) For military service when so provided by territorial or federal law; and
  - (4) For any other authorized purpose but for no more than 10 workdays.
- (c) The compensation of an employee denied an increment because of substandard performance in his job in the service year preceding may subsequently be increased as of the date his performance has been brought up to standard and has so continued for a 3-month period. His increment anniversary date will be adjusted accordingly.
- (d) Ninety days prior, to each employee's step-increment due date, a notice will be sent to the employee, his department head, and immediate supervisor. This notice will call for the submission of an annual employee performance evaluation, which must be completed and returned to the office of manpower resources.
  - (1) If the performance evaluation is satisfactory or better, the employee will receive a step increment.
  - (2) If the performance evaluation is unsatisfactory, a written justification on same must be submitted to manpower resources 60 days prior to the date the increment is due. If the justification is approved, the computer center will be notified not to effect the increment.

(3) If no performance evaluation is received, no increment will be processed.

(e) When the date of promotion and the periodic step-increment date coincide, the periodic increment shall be made prior to the promotional increase.

*History: Rule 10-81, eff 29 Jul 81, § 4.9; and Rule 4-84, eff 30 Apr 84. § 1.*

**4.0410 Overtime-Compensatory Time.**

- (a) Applicability. This section applies to all career service employees and certain contract employees whose contracts permit overtime or compensatory time, with the following exceptions:
  - (1) Department of education and community college;
  - (2) Employees in second or third jobs.
- (b) General Provisions.
  - (1) Every employee is entitled to receive cash pay or time off in lieu of cash for overtime work, as provided in this section.
  - (2) Each workweek shall stand-alone; "averaging" of hours over 2 or more weeks is not permitted. This paragraph does not apply to firefighters.
  - (3) Workweeks shall be 40 hours in a fixed and regularly recurring period of 168 hours, in 7 consecutive 24-hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of the day. Once the beginning time of any employee's workweek is established, it shall remain fixed until changed. A change intended or designed to evade the overtime requirement is prohibited.
  - (4) Overtime compensation policies shall not be waived by any agreement between a government supervisor and an employee.
- (c) Cash Pay for Overtime. Employees in grades GS 1-11 and WB 1-16 are eligible to be compensated in cash for overtime at the rate of 1 1/2 times their regular rate of pay for all hours worked in excess of 8 per day or 40 per week.

Firefighters shall receive overtime cash pay for hours worked in excess of 40 per week. The agency director may authorize compensatory leave in lieu of cash upon mutual agreement with the employee. This leave will be authorized at the rate of 1 1/2 hours of leave per overtime hour worked.

- (d) Higher Grades. Employees in grades GS 12 and WB 17 or above, or whose grade is XX, are not eligible for cash pay for overtime work.

They be compensated for work beyond 8 hours per day or 40 hours per week on an hour-for-hour basis.

- (e) Hours Worked. “Hours worked”, in general, includes all the time an employee is required to be on duty or on the government premises or at a prescribed workplace and all time during which he is “suffered or permitted to work”.

- (f) Training and Meetings. Attendance at lectures, meetings, training programs, and similar activities will not be counted as hours worked beyond the scheduled workday or workweek. If attendance is outside the employee’s regular working hours and is required by the agency director, overtime or compensatory time may be awarded if otherwise applicable.

- (g) Semiannual Payoff. Compensatory time earned should be taken, within 60 days of the pay period in which it was earned. Departments are responsible for monitoring the accumulation of compensatory time. Any balance of compensatory time in excess of 120 hours will be paid, to the employee at his regular time rate during the last pay period of June and December of each year.

- (h) Separation. Employees leaving ASG employment shall be compensated in cash for accumulated, documented overtime by the agency from which separated.

- (1) In the event of death of an employee, his accumulated overtime shall be paid to appropriate persons provided by this title.
- (2) If a function or program, together with assigned employees, is transferred from one

to another agency, all accumulated overtime shall also be transferred.

- (i) Records. Each agency is responsible for keeping appropriate records of hours worked and leave earned, used, accrued, etc. of its employees.
- (j) Student Workers. Whenever it is necessary to employ student workers as learners at wages lower than the minimum wage to prevent curtailment of opportunities for employment in a specified institution, such as a community college or whenever a “student learner” is employed at wages lower than the minimum, an application for a special certificate authorizing the employment of such student workers as learners at subminimum wage rates may be filed through the office of manpower resources to the U.S. Department of Labor. Without such certificate the minimum wage must be paid.

*History: Rule 10-81, eff 29 Jul 81, § 4.10.*

**4.0411 Hazard Pay.**

- (a) It is recognized that some positions at times involved intrinsically hazardous working conditions, justifying “hazard pay”. “Hazard pay” is pay additional to the normal hourly pay for the position, payable to employees while actually engaged in the hazardous activities. Upon the recommendation of a department head, the director may grant hazard pay differentials to employees who are temporarily exposed to unusually hazardous working conditions and where the following conditions are met:

- (1) The exposure of unusually hazardous working conditions is temporary;
- (2) The degree of hazard is severe, or most severe.

- (b) Hazard pay has been authorized as follows:

- (1) Divers diving in depths not exceeding 39 feet, \$2 per hour of diving time;
- (2) Divers diving in depths of more than 39 feet but not exceeding 59 feet, \$3 per hour of diving time;
- (3) Divers diving at depths of more than 59 feet, \$5 per hour of diving time;

- (4) Utility linemen working on utility poles 45 feet high or higher, \$0.50 per hour of time on such poles;
  - (5) Utility linemen working “hot” lines, regardless of height, \$0.75 per hour of time on “hot” lines;
  - (6) Utility linemen are entitled to receive pay for both high-pole and “hot” line work for each hour of work under such conditions;
  - (7) All personnel assigned to duty at sea outside the harbor entrance, \$0.15 per hour of time of duty at sea outside the harbor entrance;
  - (8) Employees required to work in underground sewers, clean water storage tanks, reservoirs, climb or scale heights in excess of 20 feet, install or repair mains, valves, etc. while wet from water other than natural causes, \$0.50 per hour of time engaged in such activities;
  - (9) In computing hours spent at work calling for “hazard pay”, fractional hours shall accrue in quarter-hour segments.
- (a) Any government employee whose permanent duty station is outside of and who is assigned temporarily, to a permanently established position in either the Manu’a Islands or Swains Island will receive a housing/subsistence allowance of \$200 per month if government housing is not available or \$100 per month if government housing is available, payable on a daily pro rata basis.
  - (b) Any government employee whose permanent duty station is outside of and who is assigned temporarily to a permanently established position in the Islands of Tutuila and Aunu’u will receive a housing/subsistence allowance of \$150 per month if government housing is not available, or \$75 per month if government housing is available payable on a daily pro rata basis.

*History: Rule 1-82, eff 8 Mar 82, § 2, and Rule 11-48, eff 6 Oct 88, § 1.*

**4.0414      Special Housing/Subsistence Allowance-Capital Improvement Projects.**

Any government employee whose permanent duty station is outside of and who is assigned temporarily to perform actual construction duties in connection with a capital improvement project carried on directly by the Department of Public Works in the Manu’a Islands or Swains Island will receive a housing/subsistence allowance of \$100 per week, payable on daily pro rata basis.

*History: Rule 11-48, eff 6 Oct 88, § 2.*

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[End of Title 4 – Chapter 4]

*History: Rule 10-81, eff 29 Jul 81, § 4.11; and Rule 13-84, eff 19 Dec 84, § 2.*

**4.0412      Shift Differential.**

- (a) Each department which has responsibilities requiring work around the clock will set up 3 shifts; the normal morning to afternoon is known as the “day shift”; the shift beginning in the afternoon into the evening is known as the “swing shift”; and the late night to morning shift being known as the “graveyard shift”.
- (b) Employees regularly scheduled to the “swing shift” receive an additional \$0.15 per hour for each hour of work on that shift.
- (c) Employees regularly scheduled to the “graveyard shift” receive an additional \$0.25 per hour for each hour worked on that shift

*History: Rule 10-81, eff 29 Jul 81, § 4.12, and Rule 10-82, eff 29 Nov. 82, § 3(1).*

**4.0413      Special Housing/Subsistence Allowance-Generally.**

TITLE 4 - CHAPTER 05 – HOURS, LEAVES AND ABSENCES

Sections:

- 4.0501 Purpose.
- 4.0502 Administrative Responsibilities.
- 4.0503 Holidays-Designated-Proclamation.
- 4.0504 Holidays-Day Observed.
- 4.0505 Annual Leave-Charges to Leave.
- 4.0506 Sick Leave.
- 4.0507 Leave Without Pay.
- 4.0508 Political Leave.
- 4.0509 Maternity Leave.
- 4.0510 Military Leave.
- 4.0511 Excused Absence.
- 4.0512 Repealed.
- 4.0513 Unauthorized Absence.
- 4.0514 Repealed.

**4.0501 Purpose.**

It is recognized that maximum efficiency on the job can be obtained only by permitting employees to have time off with pay for purposes of rest, recreation, and to meet personal and family needs. It is also considered essential to the maintenance of a stable, satisfied, and productive workforce for employees to be compensated to a reasonable extent during periods of involuntary absence from duty due to physical incapacity. Deserving employees, whose retention is of demonstrated value, should be guaranteed job security when it is necessary for them to be in a nonduty status, based on legitimate reasons, for periods longer than permitted under rules governing authorized absence with pay.

*History: Rule 10-81, eff 29 Jul 81, § 5.1.*

**4.0502 Administrative Responsibilities.**

- (a) The department of administrative services is responsible for the maintenance of employee leave records and furnishing advice relative to all leave records matters.
- (b) The office of manpower resources is responsible for all policy matters pertaining to leave and absence from duty.
- (c) Agency heads and supervisors are responsible for day-to-day administration of the leave policy.

*History: Rule 10-81, eff 29 Jul 81, § 5.2.*

**4.0503 Holidays-Designated-Proclamation.**

- (a) The following public holidays are designated by statute and are paid holidays for government employees:
  - (1) New Year’s Day, 1 Jan;
  - (2) Washington’s Birthday, 3rd Monday in February;
  - (3) Good Friday, Friday before Easter;
  - (4) Flag Day, 17 Apr;
  - (5) Memorial Day, Last Monday in May;
  - (6) Independence Day, 4 Jul;
  - (7) Labor Day, 1st Monday in September;
  - (8) Columbus Day, 2nd Monday in October;
  - (9) Veteran’s Day, 4th Monday in October;
  - (10) Thanksgiving Day, 4th Thursday in November;
  - (11) Christmas Day, 25 Dec.
- (b) Other holidays may be established by Governor’s proclamation.

*History: Rule 10-81, eff 29 Jul 81, § 5.3.*

**4.0504 Holidays-Day Observed.**

Holidays shall be observed as provided below:

- (a) For employees with workdays of Monday through Friday, if a holiday falls on:
  - (1) Saturday it is observed on the Friday preceding the holiday;
  - (2) Sunday it is observed on the Monday following the holiday;
  - (3) workday it is observed on that workday.
- (b) For employees with workdays other than Monday through Friday, if a holiday falls on a:
  - (1) day off it is observed on the first workday after the day off;
  - (2) workday it is observed on that workday.

*History: Rule 10-81, eff 29 Jul 81, § 5.4.*

**4.0505 Annual Leave-Charges to Leave.**

(a) **Accrual.** To earn leave an employee must be employed during a full biweekly pay period. He is considered to have been employed for a full pay period if he is in a pay status of an agency on all days falling within the pay period exclusive of holidays and non-workdays.

(b) **Earning Rates.**

(1) **Full-time employees:**

(A) Employees with less than 3 years of creditable service earn 4 hours or workday of annual leave for each biweekly pay period.

(B) Employees with 3 but less than 15 years of creditable service earn 6 hours or workday of annual leave for each full biweekly pay period except for the last full pay period of the calendar year, for which they earn 10 hours of annual leave.

(C) Employees with 15 or more years of service earn 8 hours or 1 workday of annual leave for each full biweekly pay period.

(2) **Part-time employees:**

(A) Employees with less than 3 years of creditable service earn 1 hour of annual leave for each 20 hours in a pay status.

(B) Employees with 3 but less than 15 years of creditable service earn 1 hour of annual leave for each 13 hours in a pay status.

(C) Employees with 15 or more years of creditable service earn 1 hour of annual leave for each 10 hours in a pay status.

(3) **Fractional pay periods:** If employment is continuous, leave is credited on a pro rata basis for those days during a fractional pay period for which an employee is being paid. The following table may be used to determine the amount of pro-rated leave credit:

Biweekly Pay Period	Workdays	Hourly Accrual Rate		
		Category 4 *	Category 6	Category 8
1	1	1	1	1
2	1	1	1	2
3	1	2	2	2
4	2	2	2	3
5	2	3	3	4
6	2	4	4	5
7	3	4	4	6
8	3	5	5	6
9	3	5	5	7
10	4	6	6	8

\* This column may be applied for sick leave purpose.

(c) **Maximum Accumulation.** Accumulation of unused accrued annual leave may not exceed a total of 60 days at the beginning of the first complete pay period of each leave year.

Excess leave beyond the 60 days is forfeited except as follows:

(1) Nothing in this section shall be construed to prohibit the taking or require the forfeiture of any annual leave which is validly granted and the taking of which begins on or before the last working day of the current leave year, notwithstanding that the recording of the current accrued annual leave for the current leave year on the last day thereof might result in an accumulation of more than 60 days including the working days of the annual leave so granted and then being taken. The period of such annual leave shall be regarded as if it had been entirely taken prior to the last day of such leave year.

(2) Nothing in this section shall be construed to require the forfeiture of any annual leave when employee terminates on or before the last working day of the leave year, notwithstanding the fact that the recording of current accrued annual leave for such year on the last day may result in an accumulation of more than 60 days.

(d) **Leave Charges.**

(1) **Leave days:** Both annual and sick leave are charged to an employee's account only for absence on regular workdays; i.e., days on which he would otherwise work and receive pay during his regular tour of duty. Leave is



not charged for absence on holidays or other nonwork days.

- (2) Minimum charge: One hour is the minimum charge for either annual or sick leave. After 1 hour, additional charges may be made in multiples of 1/2 hour. Absence on separate days are not combined.

(e) When Taken.

- (1) Annual leave is provided and used for 2 general purposes, which are:

(A) to allow every employee an annual vacation period of extended leave for rest and recreation; and

(B) to provide periods of time off for personal and emergency purposes. These absences involve such matters as death in a family, religious observances, attendance at conferences or conventions, securing a driver's permit, or other personal business which can be disposed of only during the time in which the employee would ordinarily be working.

- (2) Annual leave provided by law is a benefit and accrues automatically. However, each department is responsible for administering the annual leave system for their employees and must issue instructions concerning the granting of annual leave. Guidelines for each department are as follows:

(A) The approval of short periods of leave should generally be the responsibility of immediate supervisors, who best know whether the leave requested is compatible with his workload.

(B) Requests for extensive periods of annual leave may be recommended for approval by the immediate supervisors but should generally require approval at a higher organizational level.

(C) Decisions as to the granting of leave will generally be made in the light of the needs of the service rather than

solely upon the desires of the employee.

- (D) Supervisors should ensure that annual leave is scheduled for use so as to prevent any unintended loss of leave at the end of the leave year.

(E) Annual leave must be requested and approved prior to its taking. Failure to secure prior approval may result in a charge to leave without pay and may result in disciplinary action against the offending employee.

(f) In lieu of Sick Leave. Approved absence, otherwise chargeable to sick leave, may be charged to annual leave when sickness exceeds accumulated sick leave hours.

(g) Advances. It is not permissible for an employee to be granted annual leave in advance of its having been earned.

(h) Lump-sum Payments.

(1) Entitlement: An employee who has annual leave to his credit and who is separated from his employment with the ASG is entitled to payment of accumulated, accrued annual leave in a lump sum.

(2) Computation of payment: Lump-sum leave payments are equal to the compensation that he would have received had he remained in the employ of the ASG until the expiration of the period of annual leave paid. Included are pay for holidays falling within that period to which the employee would have been entitled. The employee does not, however, earn leave during the period represented by the lump-sum payment. Except for purposes of taxation, the lump sum is not regarded as salary or compensation.

*History: Rule 10-81, eff 29 Jul 81, § 5.5.*

**4.0506 Sick Leave.**

Sick leave is for use when an employee is physically incapacitated to do his job, or for such related reasons as exposure to a contagious disease that would endanger the health of coworkers, presence of

contagious disease in an employee's immediate family which requires his personal care, or for dental, optical, or medical examination or treatment.

(a) Earning Rates.

(1) Full-time employees: Employees earn sick leave at the rate of 4 hours or 1/2 workday for each full biweekly pay period. Sick leave is earned from the first pay period of employment.

(2) Part-time employees. These employees earn sick leave at the rate described under the category 4 column of the Pro Rata Table codified in 4.0505(b)(3).

(b) Maximum Accumulation. Unused sick leave is accumulated without limit.

(c) Granting. Sick leave is a right, provided the requirements of this subsection are met. Government officials have the authority and responsibility to determine that the nature of the employee's illness was such as to incapacitate him for his job and that other reasons for which sick leave is granted are valid. It is mandatory that an employee furnish documentary evidence in the form of a medical certificate for periods of sick leave in excess of 3 consecutive workdays. However, management may require that the employee furnish such certificate for sick leave involving any length of time. The employee who becomes ill is responsible for notifying his supervisor as soon as possible. Required medical certificates shall be submitted together with leave request forms and time sheets as specified by the above reference.

(d) Advances. An employee may draw upon anticipated sick leave credits if current credits become exhausted. The request shall be made to the director, Office of Manpower Resources, through the agency head, within these requirements and limitations:

(1) The advance will be made based upon anticipated accrual of credits up to 30 leave days. If the employee has a planned termination date which will affect the accrual, the number of days which can be advanced will be reduced accordingly.

(2) The advance, will not be authorized automatically. The following factors will be considered prior to approval:

(A) Has the employee been wise and careful in their use of leave in the past?

(B) Does the doctor show the employee will be able to return to work in a reasonable time?

(C) Are the best interests of the government and the employee served through this action?

(D) What are the special circumstances which warrant continuing this person's pay on the chance they will return to work and earn the sick leave credit? Length of service, performance record, essential nature of services, and circumstances beyond their control should be cited. (Pregnancy cases do not generally qualify.)

*History: Rule 10-81, eff 29 Jul 81, § 5.6.*

**4.0507 Leave Without Pay.**

Leave without pay is a temporary absence from duty in nonpay status granted upon the employee's request and at the discretion of management. The permissive nature of leave without pay distinguishes it from absence without leave (AWOL), which is a nonpay status resulting from a period of absence for which the employee did not obtain advance authorization or for which his request for leave has been denied. It shall be the practice of the ASG to grant leave without pay only when it will be of mutual benefit and interest to the government and to the employee. Leave without pay shall not be granted for the purpose of an employee participating in private employment.

(a) Administrative Discretion. The granting of leave without pay is a matter of administrative discretion. Employees cannot demand that they be granted leave without pay as a matter of right.

(1) Government departments must assure that each such request is of such value to the government or the serious needs of the employee as to offset costs and administrative inconveniences of the position of the employee being frozen and

remaining vacant while the employee is on leave without pay.

- (2) Extended leave without pay beyond 30 days may not be approved unless there is assurance that the employee will return to duty and that at least I of the following benefits will result:

- (A) Improved work performance and ability;
- (B) Protection or improvement of employee's health;
- (C) Retention of a desirable employee; and
- (D) Furtherance of a program of interest to the government.

- (b) Extended Leave Without Pay. Extended leave without pay requires the prior approval of the director as the Governor's representative or, in the case of the Judicial Branch, the Chief Justice, when properly justified by the department submitting such request. Extended leave without pay will be granted in the following circumstances:

- (1) Attendance at a recognized institution of higher learning or a technical school, pursuing a course of instruction which is related to the employee's field of work;
- (2) Travel and/or research which will impart knowledge, skills, and/or abilities required in the employee's work;
- (3) Extended illness with a positive prognosis, or family or personal problems, an end of which can reasonably be predicted;
- (4) To work for another government on a loan basis, where there is no agreement under the Inter-governmental Personnel Act. The request for the services of the employee must be made through the Governor's office, in writing;
- (5) To serve a required period of military service beyond the 15 days which are authorized for pay purposes. The military duty must be for periods of time not to exceed 1 year and must be categorically

mandated, as in the basic training period required for a recruit in the Armed Forces reserves. Leave cannot be granted for voluntary extensions or reenlistments:

- (6) To protect employee status and benefits when an employee is injured and his case is being adjudicated or he is receiving benefits under worker's compensation.

*History: Rule 10-81, eff 29 Jul 81, § 5.7.*

**4.0508 Political Leave.**

Leave without pay shall be freely granted to any government employee for the purpose of campaigning as a candidate for public office in American Samoa for a period beginning 30 days before and ending 10 days after the date set for election.

*History: Rule 10-81, eff 29 Jul 81, § 5.8.*

**4.0509 Maternity Leave.**

Maternity leave, a period of approved absence for incapacitation related to pregnancy and confinement, is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay in the order given.

- (a) Employees are required to request maternity leave substantially in advance of their intended absence so that staffing adjustments may be made.
- (b) Periods of maternity leave shall be based on individual medical determination. A medical certification must be submitted showing expected date of confinement. Maternity leave maybe granted for a period of six weeks prior and six weeks subsequent to birth.

*History: Rule 10-81, eff 29 Jul 81, § 5.9.*

**4.0510 Military Leave.**

- (a) General Provisions. A full-time employee who serves under an appointment without time limitation and who is a member of a reserve component of the Armed Forces of the United States, the U.S. Public Health Service, or the National Guard is entitled to leave of absence for annual military training without charge to annual leave, or loss of pay or service credit, for not more than 15 workdays in any calendar year. The

reserve components of the Armed Forces include the reserves of the Army, Navy, Air Force, Coast Guard, and Marine Corps, etc. The National Guard includes the National Guard of the Army and of the Air Force. Application for military leave shall be accompanied by appropriate military orders.

- (b) **Maximum.** Military leave is limited to a maximum of 15 workdays during each year, regardless of number of training periods in a year and whether taken intermittently, a day at a time, or all at 1 time.
- (c) **Use of Annual Leave.** Absence which is not chargeable to military leave can be charged to annual leave. Therefore, employees who are called to duty for a period longer than the 15-day period chargeable to military leave can use annual leave for the additional absence.
- (d) **Contract Employees.** Contract employees who are members of the Armed Forces reserve components shall be granted military leave in accordance with the provisions of this section.

*History: Rule 10-81, eff 29 Jul 81, § 5.30.*

**4.0511      Excused Absence.**

- (a) Excused absence is absence from duty, duly authorized by the employee's agency director, without charge to annual leave or loss of pay or Service credit, under the circumstances described below:
  - (1) To take an employment examination for a position currently occupied or 1 to which the employee may be promoted or reassigned, not to exceed 3 hours;
  - (2) To take a physical examination required to determine continued employability;
  - (3) To obtain treatment for an injury sustained in the performance of duty. The employee may be excused for the balance of the day on which the injury occurred;
  - (4) To be unavoidably or necessarily absent from duty for less than 1 hour or for being tardy;
  - (5) To donate blood to the American Red Cross in American Samoa or in emergencies to

individuals from the time necessary for such donations not to exceed 4 hours, provided that the employee does not receive pay for blood:

- (6) To participate in emergency rescue or protective work at the request of local or territorial officials;
- (7) To participate in federally recognized civil defense programs for a reasonable length of time up to 40 hours in a calendar year;
- (8) To vote and register. An employee who desires to vote or register in an election or in a referendum on a civic matter in his community may be granted time off without loss in pay or service credit or charge to leave as follows:
  - (A) The employee may be allowed 2 hours of excused absence at the beginning or end of the workday.
  - (B) An employee may be excused for such additional time as may be needed to enable him to vote, depending upon the circumstances in his individual case, but not to exceed a full day. Time off in excess of 1 day shall be charged to annual leave or, if annual leave is exhausted, to leave without pay.
  - (C) An employee who votes in a jurisdiction which requires registration in person may be granted time off to register substantially on the same basis as for voting except that no such time shall be granted if registration can be accomplished on a non-workday and the place of registration is within reasonable 1-day, round-trip travel distance of the employee's place of residence;
- (9) To serve as witness or juror when summoned involuntarily by the court, provided he returns to duty immediately upon release by the court. However, if the employee's appearance in court is in his own interest, either as appellant, defendant, or witness, leave of absence with pay, without pay, or compensatory time off must

be documented. An employee called as a court witness in his official capacity, whether on behalf of the government or of a private party, is in an official-duty status;

- (10) When working conditions or extenuating circumstances exist beyond the control of management, not to exceed a maximum grant of 4 hours. Excused absence in this category should normally not exceed 4 hours. However, it may be extended for the duration of the conditions or circumstances such as when inclement weather prevents reporting to work.

*History: Rule 10-81, eff 29 Jul 81, § 5.11; and Rule 5-87, eff 27 Apr 87, § 2.*

**4.0512 Administrative Leave.**

Repealed by Rule 5-87, § 3.

**4.0513 Unauthorized Absence.**

Unauthorized absence shall be treated as absence without pay and may be grounds for disciplinary action.

*History: Rule 10-4 eff 29 Jul 81, § 5.13.*

**4.0514 Workers' Compensation Recipients.**

- (a) Earning of Credits. An officer or employee who is absent from work because of injuries/illnesses incurred within the scope of his employment and who is receiving workers' compensation wage-loss replacement benefits, such as temporary total disability and temporary partial disability payments, shall continue to earn vacation and sick leave credits as though he was not absent but performing the duties of his regular employment.
- (b) Use of Credits.
  - (1) An employee with accrued sick leave credits who is absent from work and who is receiving workers' compensation wage loss replacement benefits shall be entitled to receive an additional amount, charged to sick leave, which would bring his total payment to a sum equal to the employee's regular salary.
  - (2) In the event the employee does not have any accrued sick leave credits, he may elect to use accrued annual leave credits to bring his

total payment to a sum equal to the employee's regular salary.

- (3) An employee is entitled to use the sick and annual leave credits earned during the period of absence from work.

*History: Rule 10-81, eff 29 Jul 81, § 5.14.*

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[End of Title 4 – Chapter 5]

TITLE 4 - CHAPTER 06 – INCENTIVE AND TENURE AWARDS

Sections:

- 4.0601 Purpose of Incentive Awards.
- 4.0602 Budgeting-Incentive Awards Committee-Award-Approval Authority.
- 4.0603 Suggestions Award.
- 4.0604 Superior Performance Award.
- 4.0605 Special Act or Service Award.
- 4.0606 Group Award.
- 4.0607 Tenure Award.

**4.0601 Purpose of Incentive Awards.**

It is the policy of ASG to provide a method which affords recognition of exceptional skills, resourcefulness, or exceptional acts of employees. The purpose of the incentive awards program therefore, is to provide a device by which recognition may be afforded an employee or a group of employees who make suggestions which, when adopted, will save time and/or materials for the government, thus reducing costs, and to provide recognition of employees who perform special acts or services in the public interest which reflect favorably on the image and reputation of the ASG.

*History: Rule 10-81, eff 29 Jul 81, § 6.1.*

**4.0602 Budgeting-Incentive Awards Committee-Award-Approval Authority.**

- (a) It is the responsibility of the director of the planning and budget office to budget annually a specified fund for payments of cash awards under the program.
- (b) It is the responsibility of a representative committee, known as the incentive awards committee and consisting of at least 3 but not more than 5 members appointed by the Governor, to serve on a rotating basis to:
  - (1) investigate and evaluate contributions for improving government program operations, as well as other incentive award proposals, and to recommend their approval or disapproval to higher authority on the basis of a simple majority opinion;
  - (2) encourage supervisors and their subordinates to participate in improving the

efficiency and economy of government operations.

- (c) It is the responsibility of the chairman of the incentive awards committee, who is a member of the office manpower resources staff, to:
  - (1) receive and review proposals and nominations for clarity and merit, prior to acceptance by the incentive awards committee for evaluation and subsequent authorized action:
  - (2) develop ways and means of stimulating interest and participation in the incentive awards program on the part of both employees and management.
- (d) Authority for final approval of all cash awards shall rest with the Governor, provided the director, office of planning and budget, certifies that funds are available for payment of awards. The Governor may delegate this authority to a key member of his immediate staff.

*History: Rule 10-81, eff 29 Jul 81, § 6.2.*

**4.0603 Suggestions Award.**

An employee is eligible to be considered for a cash award by presenting to the chairman of the incentive awards committee, in writing, his suggestion for improvement of government operations.

*History: Rule 10-81, eff 29 Jul 81, § 6.3(a).*

**4.0604 Superior Performance Award.**

A cash award may be made when a career service employee's or contract specialist's performance over a 6-month period substantially surpasses the normal requirements of his position or he performs a special assignment in above average manner without adversely affecting his regular work, provided he is nominated in writing, within 6 months of the period of performance in question, by an appropriate supervisor, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head or the employee's department.

*History: Rule 10-81, eff 29 Jul 81, § 6.3(b).*

**4.0605 Special Act or Service Award.**

A special act or service may be contributed during an emergency, in connection with a special program or

activity, or by creative efforts important to administration, science, or research and characterized as a nonrecurring situation; Any employee is eligible to be considered for a special act or service cash award, provided he meets the criteria described in this section and he is nominated not more than 6 months after the completion of the special act or services concerned, in writing, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head of the employee's department.

*History: Rule 10-81, eff 29 Jul 81, § 6.3(c).*

**4.0606      Group Awards.**

When a contribution has been made by more than one employee or by a group of employees, all who have contributed, including supervisors, may share equally or proportionately in the group cash award however, the total amount of the award is as if made to an individual. Where individual shares of such group cash awards appear inappropriate, the incentive awards committee shall determine the amount of the award.

*History: Rule 10-81, eff 29 Jul 81, § 6.3(d).*

**4.0607      Tenure Award.**

Effective on and after 6 Jan 80, employees who are awarded service certificates will also receive a tenure award in cash as follows:

- (1) Twenty-year certificate, \$500;
- (2) Thirty-year certificate, \$750;
- (3) Forty-year certificate, \$1,000;
- (4) Retirement certificate, \$100.

*History: Rule 10-81, eff 29 Jul 81, § 6.3(e); and Rule 10-82, eff 29 Nov 82, § 3(2).*

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[End of Title 4 – Chapter 6]

TITLE 4 - CHAPTER 07 – CONDUCT

Sections:

- 4.0701 Responsibility and department-Off-the-job conduct.
- 4.0702 Misconduct.
- 4.0703 Subordination to authority.
- 4.0704 Selling or soliciting.
- 4.0705 Outside business activity.
- 4.0706 Community and professional activities.
- 4.0707 Government property.
- 4.0708 Gifts.
- 4.0709 Information.
- 4.0710 Revolutionary organizations.
- 4.0711 Political affiliation.
- 4.0712 Political activity.
- 4.0713 Financial responsibility.
- 4.0714 Contracts with employees.
- 4.0715 Financial interests.
- 4.0716 Prompt filing of proper federal and territorial tax returns-Prompt payment of taxes due.

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**4.0701 Responsibility and Department-Off-The-Job Conduct.**

It is the policy of the ASG to urge its career service employees and contract specialists to cultivate those personal qualities which characterize a good employee's loyalty to the United States Government and the ASG: a sense of responsibility for the public trust and a standard of personal deportment which is a credit to the individual himself and to the service. Off-the-job conduct is of concern to the government if it reflects adversely upon the dignity, integrity, and prestige of the governmental service.

*History: Rule 10-81, eff 29 Jul 81, § 7.1.*

**4.0702 Misconduct.**

Any criminal, dishonest, immoral, or any other conduct on the part of an employee which would adversely affect the government will be cause for his removal from employment. Gambling or the use of alcoholic beverages by employees in public buildings, construction sites, or offices administered by the government will not be tolerated.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(a).*

**4.0703 Subordination to Authority.**

An employee is required to carry out the announced policies and programs of the ASG. While policies

related to his work are under consideration, he may- and is expected to express his opinions and points of view, but once a decision has been rendered by those in authority, he will be expected unreservedly to assure the success of programs which it is his responsibility to effectuate. If he fails to carry out any lawful rule, order, or policy or deliberately refuses to obey the proper requests of his superiors who have responsibility for his performance, he is subject to appropriate disciplinary action.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(b).*

**4.0704 Selling or Soliciting.**

Employees and other persons are prohibited from selling or soliciting for personal gain within a government building occupied or used by the government without proper permission. This prohibition does not apply to:

- (1) authorized and installed business activities; e.g., employee cafeterias, etc.;
- (2) solicitation for other approved purposes; and
- (3) token solicitations for floral remembrances, retirement gifts, and for similar purposes.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(c).*

**4.0705 Outside business activity.**

An employee shall not engage in any business activity or work either in the capacity of employee or otherwise, which prevents an employee from devoting his primary interests, talents, and energies to the accomplishment of his work for the government or tends to create a conflict between the private interest of an employee and his official responsibilities. The employee must notify his department head of his outside work or activity. If the department head finds there is a conflict of interest, the employee must choose between his government job and his private job.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(d).*

**4.0706 Community and Professional Activities.**

Employees are encouraged to participate in activities of professional societies and of civic organizations whose purpose and objectives are not inconsistent with those of the ASG.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(e).*



**4.0707 Government Property.**

Employees shall be held accountable for government property entrusted to them for their official use. It is their responsibility to protect and conserve government property, including motor vehicles and other self-propelled equipment, and to use it economically and for official purposes only. The following rules apply to all government-owned or government-leased motor vehicles and other self-propelled equipment:

- (a) All government vehicles or equipment are to be used for official business only.
- (b) No government vehicle shall be issued to any employee of the government who does not have a valid government official driving permit, and no other self-propelled equipment shall be issued to any person other than a qualified operator of the equipment.
- (c) No passengers or riders are to be transported unless they are on official government business or are employees of the government.
- (d) A valid government official driving permit must be in the driver's possession at all times while operating a government vehicle.
- (e) All accidents and traffic citations must be reported by the driver or operator to his or her immediate supervisor within 24 hours after the accident or citation.
- (f) Any department permitting an employee without a valid government official driving permit to drive a government vehicle shall be held responsible for any damage or liability incurred as a result of an accident in which such employee is involved.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(0).*

**4.0708 Gifts.**

An employee shall not accept from or bestow upon any person or organization with which he deals officially anything of economic value, such as a gift, loan, or gratuitous service. No employee shall solicit or make a contribution for a gift for an official superior nor accept such a gift, except as specifically authorized by law or as cited under 4.0704(3). Except as specifically authorized by law, employees are not authorized to accept from private sources on behalf of

the United States Government or of the ASG voluntary donations or cash contributions for travel expenses or the furnishing of services in kind, such as hotel accommodations, meals, and travel accommodations. This exception does not apply to approved scholarship grants, etc., which the government has approved and supervises.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(g).*

**4.0709 Information.**

It is the policy of the government to accord the public free access to information about its activities. Employees should confine statements made in their official capacity to factual matters, and statements on policies and programs should be limited to those policies and programs presently in effect. If an employee is requested to give information outside the scope of his authority, he should refer the request through the immediate supervisor to his agency head. Inquiries from the press, radio, or TV should be referred to the department head or the public relations officer of the department.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(h).*

**4.0710 Revolutionary Organizations.**

An employee may not knowingly advocate the overthrow of our constitutional form of government through membership in any organization which asserts the right to militate against the United States or ASG.

*History: Rule 10-81, Eff 29 Jul 81, § 7.2(i).*

**4.0711 Political Affiliation.**

No person in the Executive or Judicial Branch with authority to take or recommend a personnel action relative to a person in, or an eligible applicant for, a position in the government service may make inquiry concerning his political affiliation. All disclosures concerning political affiliation shall be ignored except membership in political parties or organizations constituted by law as a disqualification for government employment. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person in the Executive or Judicial Branch against or in favor of an employee in, or an eligible applicant for, a position in the career service because of his political affiliation.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(j).*

**4.0712 Political Activity.**

Employees shall not engage in unlawful political activities as defined in 7.0807 A.S.C.A. Where doubt exists as to the legality of certain activities, the employee shall request a ruling in writing from the director.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(k).*

**4.0713 Financial Responsibility.**

Employees of this government are expected to satisfy their financial commitments. Failure to meet ones obligations reflects adversely on one’s standing as a government employee.

*History: Rule 10-81, eff 29 Jul 81, § 7.2 (l).*

**4.0714 Contracts With Employees.**

Because contracts with its own employees are considered to be against public policy, such contracts are not permitted in the government except where it is clearly shown that the interests of the United States and ASG are the major consideration to be served thereby. The only announced exception to this policy concerns sales of certain types of surplus property to employees under competitive conditions as set forth by rules promulgated by the ASG.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(m).*

**4.0715 Financial Interests.**

Employees may not have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as employees, nor engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens.

*History: Rule 10-81, eff 29 Jul 81, § 7.2(n).*

**4.0716 Prompt Filing of Proper Federal and Territorial Tax Returns-Prompt Payment of Taxes Due.**

It is imperative that employees comply fully with all applicable requirements of government taxing authorities at all levels, federal, territorial, state and local. Employees shall:

- (1) file timely and properly all tax returns in keeping with the requirements of law, rule or ordinance;
- (2) pay timely any valid tax due.

Employees who fail to adhere to this requirement are subject to removal from government service or other disciplinary action.

*History: Rule 2-87, eff 1 Apr 87, § 1.*

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[End of Title 4 – Chapter 7]

TITLE 4 - CHAPTER 08 – TERMINATION,  
LAYOFF, & ADVERSE ACTIONS

Sections:

- 4.0801 Discipline policy generally-Scope of reasons for removal.
- 4.0802 Removal, suspension, demotion of career employees.
- 4.0803 Probational or trial employees.
- 4.0804 Involuntary reassignment.
- 4.0805 Absence without leave-Abandonment of position.
- 4.0806 Resignation.
- 4.0807 Other termination actions.
- 4.0808 Layoff-Reduction-in-force.

**4.0801 Discipline Policy Generally-Scope of Reasons for Removal.**

It is the policy of the ASG to ensure that employees whose performance of their duties or conduct are not satisfactory are removed from their position promptly, that those who are guilty of misconduct not sufficiently serious to justify removal be properly disciplined, that voluntary and involuntary separations be handled in an orderly manner, and that employees be protected against arbitrary or capricious action. Removal may be effected for any of the reasons but not limited to those, referred to in this title and in the A.S.C.A.

*History: Rule 10-81. eff 29 Jul 81, § 8.1.*

**4.0802 Removal, Suspension, Demotion of Career Employees.**

- (a) Employees in the career service, not serving probationary or trial periods and who are not serving under temporary appointments or contracts, shall not be removed, suspended, or involuntarily demoted except for such cause as will promote the efficiency and the good of government service.
- (b) Discrimination shall not be exercised in suspensions, removals, or demotions because of an employee's religious belief or affiliations, marital status except as may be required by this title, race, ethnic background, or political affiliation except as may be required by law, and his physical handicap unless he is unable to perform the duties of his position.

- (c) Like penalties shall be imposed for like offenses whenever removals, suspensions, or demotions are made or when other disciplinary actions are taken.
- (d) One of the following procedures shall be followed in cases of removal, suspension, and involuntary demotion:
  - (1) The employee shall be notified, in writing, of the charges against him, and of the corrective action proposed to be recommended to the director or, in the case of the Judicial Branch, the Chief Justice, to be taken against him.
  - (2) The notice shall set forth, specifically and in detail, the charges preferred against him.
  - (3) The employee shall be allowed 3 days for filing a written answer to such charges and for furnishing affidavits in support of his answer, or he may request and shall be given the opportunity to reply orally.
  - (4) If the employee answers the charges, his answer must be considered by the agency. Following consideration of the answer, the employee must be furnished with the agency's decision, in writing, as to the action to be recommended to the director or, in the case of the Judicial Branch, the Chief Justice.
  - (5) The agency shall forward to the director copies of the charges, answer, and reasons for recommended adverse action, all of which shall be made a part of the employee's official personnel file.
- (e) The employee shall be retained in an active-duty status during the period of notice of proposed action except as follows:
  - (1) The employee may be placed on annual leave when the agency head does not consider it advisable from an official standpoint to retain him in an active-duty status during the advance notice period.
  - (2) When the employee is not placed on annual leave and the circumstances are such that his retention in an active-duty status may

result in damage to government property, or may be detrimental to the interests of the government or injurious to the employee, his fellow workers, or the general public, he may be temporarily assigned duties in which these conditions will not exist, or be placed on excused absence, and is required to submit a reply to the charges within 24 hours. The employee may be placed on immediate suspension pending removal thereafter if requested of the director or, in the case of the Judicial Branch, the Chief Justice.

- (f) The director, if he considers the recommending official's request reasonable, shall advise the employee in writing of the removal action to take effect 30 calendar days from the date of the notice, the reasons therefor and that he may request a hearing before the board within 10 calendar days of the date he receives the notice.
- (g) If the employee does not appeal or if he appeals and the appeal is denied, his removal shall be processed finally in accordance with instructions applying within the office of manpower resources.

*History: Rule 10-81, eff 29 Jul 81, § 8.2.*

**4.0803 Probational or Trial Employees.**

Any employee serving a probationary or trial period shall be given a full and fair trial in the performance of the duties of the position to which appointed. Employees serving their original probationary period may be separated at any time during such period upon proper recommendation and 5 working days prior notice, without right of appeal.

- (a) Supervisors shall carefully observe the performance and conduct of employees who are serving the probationary period to determine whether the retention of such employee is in the best interests of the ASG.
- (b) Three months prior to the expiration of an employee's probationary period, the office of manpower resources shall request the agency head for a recommendation as to retention of the employee. If retention is not recommended, the agency head and the employee's immediate supervisor shall advise the director in writing.

Upon receipt of the written justification, the director shall, provided the stated reasons are valid and clearly set forth, proceed with the separation actions as follows:

- (1) Issue a written notice to the employee advising him that he will be separated as of a particular date, the reason(s), therefor, and that he has no right of appeal, except in cases of alleged discrimination because of sex, creed, color, or marital status. (See 4. II of this code.)
- (2) Section 4.0313(a)(2) governs separation of a career service employee serving a new trial period.

*History: Rule 10-81, eff 29 Jul 81, § 8.3.*

**4.0804 Involuntary Reassignment.**

- (a) An agency head may move any employee involuntarily from one position to another, which may or may not involve a change in class, without the right of appeal, provided no reduction in grade or rate of compensation is involved; the director's or, in the case of the Judicial Branch, the Chief Justice's concurrence is necessary.
- (b) An involuntary reassignment is considered an "administrative reassignment" with the best interests of the government as the primary objectives.
- (c) Failure of an employee to comply with an involuntary (administrative) reassignment shall result in his immediate separation.
- (d) Any employee so reassigned may grieve through his agency's grievance procedures.

*History: Rule 10-81, eff 29 Jul 81, § 8.4.*

**4.0805 Absence Without Leave-Abandonment of Position.**

When an employee fails to report for duty or to return from leave for 10 or more consecutive workdays, he may be considered to have abandoned his position. Care must be taken, however, before a final decision is made, that he has truly abandoned his position. The supervisor should make an effort to contact the employee to determine his intentions. If the employee intends in fact to resign, this should be the action

taken rather than to term the action abandonment of position, as future employment opportunity with the government may be affected. If the supervisor is unable to ascertain the employee's intention concerning his return to duty, processing of abandonment of position is proper and should be handled as follows:

- (a) Action by Operating Officials. The employee's agency head shall recommend to the director or, in the case of the Judicial Branch, the Chief Justice, with a request for personnel action form, that the employee be separated for abandonment of position. Under the "Remarks" section, list when (date) and what effort the supervisor (name) made to contact the employee, and the result of that effort.
- (b) Action by Director. Upon receipt of the request mentioned in subsection (a) of this section, the director shall proceed with the separation action in accordance with instructions applying within the office of manpower resources.

*History: Rule 10-81, eff 29 Jul 81, § 8.5.*

**4.0806 Resignation.**

An employee may resign at any time he wishes to do so, subject to the following conditions:

- (a) Notice. The employee must notify his department head, in writing, of his resignation at least 2 weeks prior to the date of his separation unless the department head waives such requirement.
- (b) Withdrawal. Once submitted, the resignation is binding upon the employee and it may be withdrawn only with the department head's consent.
- (c) In Lieu of Separation for Cause. An employee may resign with prejudice in lieu of removal or while issuance of charges leading to removal are pending. In such instances, the department head must indicate the abnormal nature of the resignation on the request for personnel action.
- (d) Rehire. An employee who resigns without prejudice is eligible for reinstatement at any time, assuming an opening exists and he has completed his probationary period. If he has not completed the probationary period or if, within

the 5 years preceding the date of his current application, he resigned from ASG in lieu of removal, he will compete through regular competitive channels and if selected shall serve a new probationary period.

*History: Rule 10-81, eff 29 Jul 81, § 8.6.*

**4.0807 Other Termination Actions.**

- (a) A person serving under a temporary appointment may be terminated at any time prior to the expiration of his temporary appointment, but must be terminated on the NTE (not-to-exceed) date unless approval has been granted by the director for extension of the appointment.
- (b) A noncareer employee who has failed to qualify for a probational or career service appointment to continue his employment may be terminated by his agency upon notification to his department that he has failed to qualify.
- (c) An excepted employee; i.e., district, county and village officials, gubernatorial appointees, and staff members of the Fono with the exception of the legislative reference bureaus may be terminated at any time upon proper notification to the director.
- (d) An employee who, during a leave of absence, accepts other employment which is contrary to the purpose for which leave was granted may be terminated.
- (e) An employee who fails to provide his department head with proper notice of his resignation may be terminated with prejudice.

*History: Rule 10-81, eff 29 Jul 81, § & 7.*

**4.0808 Layoff-Reduction-In-Force.**

- (a) When there is an impending layoff because of lack of funds, curtailment of work, or reorganization, the department head shall notify the director and the affected employee(s) in writing as soon as possible but at least 60 days in advance of the layoff unless cutoff of funds requires a shorter notice period, in which case such requirement must be stated in writing.
- (b) The provision of this section concerning placement rights are applicable to career service employees whose positions are to be abolished

and to a career service employee who will be displaced by another career service employee. The provisions of this section also apply to a career service employee who is displaced by a career service employee returning from military duty, furlough, or leave.

(c) The department head shall exhaust all possibilities in placing the employee within his department before a territory-wide reduction-in-force is effectuated.

(1) When there is no appropriate vacant position in which the career service employee may be placed, the department shall follow the order below in determining which employee shall be displaced:

(A) A noncareer service employee in the same class and pay range. When there is more than one such employee, layoff will be, first, of:

(I) an employee serving under emergency or temporary appointment;

(II) an employee serving a probational appointment,

(III) a career service employee who occupies a position in the same class and grade and has the least seniority based on the service computation date;

(B) A non-career service employee who occupies a position in another class at the same pay range, in accordance with divisions (A)(I), (II), and (III) of this subsection, provided the displacing employee - meets the minimum qualifications for such position:

(C) A non-career status employee who occupies a position in the same series, but a lower class and pay range in accordance with divisions (A)(I), (II), and (III) of this subsection;

(D) A noncareer status employee who occupies a position in a different series and lower class for which displacing

employee meets minimum qualifications in accordance with divisions (A)(I), (II), and (III) of this subsection.

(d) If the department head is unable to place the employee, he shall immediately notify the director, who will issue the 2-week notice of termination, place the employee on the reemployment register, and effect territory-wide RIF procedures.

*History: Rule 10-81, eff 29 Jul 81. § 8.8.*

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[End of Title 4 – Chapter 8]

TITLE 4 - CHAPTER 09 – APPEAL, GRIEVANCE,  
& ADMINISTRATIVE REVIEW

Sections:

- 4.0901 Appeal-Right of career employees.
- 4.0902 Appeal-Procedure.
- 4.0903 Grievances.
- 4.0904 Administrative review.

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**4.0901 Appeal-Right of Career Employees.**

Career employees may file appeals on matters concerning their suspension, involuntary demotion, or removal.

*History: Rule 10-81, eff 29 Jul 81, § 9.1.*

**4.0902 Appeal-Procedure.**

- (a) Form and Deadline. All appeals must be made in writing and state clearly the basis for appeal to the director and must be filed in the office of the director within 10 calendar days after the effective date of the action appealed, except in the case of reduction-in-force (see 4.0808). The appeal should also include the employee's request for a hearing if he desires and is entitled to one.
- (b) Scheduling Hearing. The director shall include the written appeal on the agenda of the board's next meeting. If the appeal involves a removal, suspension, or demotion, however, the director shall arrange an appeal hearing so as to effect a board decision within 30 days after appeal. However, the director may deny a hearing when a hearing is impractical by reason of unusual location or other extraordinary circumstances.
- (c) Hearing Procedures. Hearings before the board shall be conducted in accordance with the procedures promulgated by the board. Copies are available in the director's office.
- (d) Counsel and Openness. Attendance of other interested parties and/or counsel may be limited by the director if good order, justice, and fairness will be promoted.
- (e) Death of Appellant. A proper appeal filed before the death of the employee must be processed to completion and adjudicated. If appropriate, the board may provide for amendment of the employee's records to show retroactive

restoration and the employee's continuance on the rolls in an active-duty status to the date of death.

- (f) File Access. Prior to the hearing the entire appeal file shall be made available upon request to the employee and his representative except when a file contains medical records concerning a physical or mental condition of which a prudent physician would hesitate to inform the person concerned.
- (g) Notice of Hearing. All parties shall be served with notice at least 10 days before the date set for the hearing. The notice shall state the time and place of such hearing.
- (h) Depositions. A party who desires to take the deposition of any person in an oral examination shall give reasonable notice of not less than 3 days in writing to the board and all parties. The notice shall state the time and place of taking the deposition and the name and address of each person to be examined.
  - (1) The deposition officer shall be a person who is authorized to administer oaths by the laws of the territory of American Samoa.
  - (2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of the proceedings and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the director for filing. The party taking the deposition shall give prompt notice of its filing to all other parties.
- (i) Case Presentation and Testimony.
  - (1) The employee shall present his case first. Evidence may be either documentary or by affidavit. The employee must not use affidavits to exempt persons from cross-examination. The employee should not accept an affidavit in lieu of personal testimony from a witness who is present at the hearing.

- (2) All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys and witnesses before the court of American Samoa. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.
- (3) Witnesses shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony. Employees are in a duty status during the time they are made available as witnesses.
- (j) Conclusions. Within 30 days after the original notice, the board shall make and fully record in its permanent records findings of fact and reasons for the action taken and its order based thereon which shall be final, subject only to further action if the employee appeals the decision in court. At the same time the board shall send a copy of the findings and conclusions to the employee at his address as given at the hearing or to a representative designated by him.
- (k) Restoration of Rights. Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, annual leave accrual, and retirement.
- (1) Correction of Performance Evaluation. A correction of a performance evaluation shall not affect a certification or appointment which has already been made from the register.
- (m) Correction of Classification. Correction of a classification decision which results in a promotion or demotion shall be handled as stated in 4.0313. The board will determine the effective date of any such action.

*History: Rule 10-81, eff 29 Jul 81, § 9.2; and Rule 13-83, eff 11 Aug 83.*

**4.0903 Grievances.**

- (a) Filing. Grievances may be filed orally or in writing by any person, at any point of contact within government. If the grievance is misdirected (complaints about another

department) the grievant shall be properly directed. The following types of action are typical of those which may be grieved, but is not all-inclusive:

- (1) Performance evaluation;
  - (2) Leave (denial);
  - (3) Promotion;
  - (4) Letters of reprimand;
  - (5) Reassignment;
  - (6) Increment (denial);
  - (7) Hours of work;
  - (8) Discrimination or bias;
- (b) Procedure. All departments shall have a 3-part grievance procedure, as follows:
    - (1) Each grievance shall be placed in writing, and resolution attempted by the appropriate supervisor at the lowest level.
    - (2) Failing resolution, the grievance shall then be elevated to an uninvolved higher level in the department, and the grievant allowed to present testimony in his behalf in an informal hearing. This hearing shall be conducted in accordance with the procedures shown in the Personnel Operations Manual.
    - (3) If the recommendation of the hearing officer falls to satisfy the grievant, the case will be forwarded to the director for final decision. If the case is carried beyond this point by the grievant, it must be as an appeal to the board.
  - (c) Exception. In cases involving suspension, demotion, or dismissal of a career' service employee, no grievance is filed. Since only the director may serve written notice of such actions, the only appropriate and allowable employee response is an appeal to the board.

*History: Rule 10-81, eff 29 Jul 81, § 9.3.*

**4.0904 Administrative Review.**

The director has responsibility for the recruitment, examination and certification of eligibles, and for the



proper classification of positions to titles, grades and pay. Any person who believes his application to have been improperly evaluated and/or any employee who believes his position to have been improperly evaluated, may request in writing that the director review his case.

- (a) The request must indicate the person's basis for his belief that his application, or his position were improperly evaluated.
- (b) The request, to be acceptable, must be filed within 10 calendar days of the official notice to the employee.
- (c) The director shall review the case and notify the person, in writing, of the findings upon review.
- (d) If still dissatisfied, the person may file appeal, following the procedures outlined in 4.0902.

*History: Rule 10-81, eff 29 Jul 81. § 9.4.*

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[End of Title 4 – Chapter 9]

TITLE 4 - CHAPTER 10 – CONTRACT SPECIALISTS

Sections:

- 4.1001 When Hiring Permitted-Employment Agreement.
- 4.1002 Assignment-Recruitment- Selection.
- 4.1003 Compensation-Absence with Pay-Review and Reclassification.
- 4.1004 Transportation.
- 4.1005 Annual Leave-Sick Leave.
- 4.1006 Medical Benefits.
- 4.1007 Termination for Cause.
- 4.1008 Resignation-Termination Without Cause.
- 4.1009 Renewal of Contract.
- 4.1010 Employment After Term of Contract.
- 4.1011 Conduct-Reassignment-Career Service Eligibility-Self-Employment.
- 4.1012 Grievances-Striking Prohibited.
- 4.1013 Training.
- 4.1014 Work-Product Ownership-Discoveries and Documents.
- 4.1015 Dependents Defined-Family Status Reports.
- 4.1016 Immigration Status-Departure Upon Termination.

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**4.1001 When Hiring Permitted-Employment Agreement.**

When there are no qualified eligibles available for a given position, excepted appointments of qualified eligibles residing outside of American Samoa may be made by contract. The terms of a contract specialist’s employment are specified in the employment agreement he signs with the government.

*History: Rule 10-81. eff 29 Jul 81. § 10.1.*

**4.1002 Assignment-Recruitment-Selection.**

The following are rules concerning contract specialists which are not contained in the standard contracts, or which require amplification:

- (a) Assignment of Duties. While the contract specialist is designated to serve in the position for which he signs, the needs of the government will determine other assignments and specific designations.
- (b) Recruitment Policy.

- (1) Positions must be advertised locally prior to off-island, except that where the shortage of qualified eligibles is known in advance, recruitment may be performed simultaneously.
- (2) Off-island recruitment efforts conducted by department heads must be coordinated with the office of manpower resources.
- (c) Selection Policy. Selection for contract positions must be made solely based upon fitness and merit, without regard to race, color, sex, age, religion, national origin, or politics.
- (d) Medical Examination. All selectees and their accompanying dependents shall be required to provide evidence of good health as shown by preemployment physical examinations, the reports of which shall be evaluated by the director, department of health.
- (e) Verification of Qualifications. Acceptance by the director of verifications of the candidate’s claimed qualifications and references, and any reports of interviews of candidates and married candidate’s spouses, is required.

*History: Rule 10-81, eff 29 Jul 81, § 10.2.*

**4.1003 Compensation-Absence with Pay-Review and Reclassification.**

- (a) Compensation for positions filled by contract shall be in accordance with established ASG salary rates based on the salary rates of the career service. Base salaries shall be taken from the appropriate ASG salary schedule and the rules, concerning same. A contract specialist employee whose employment agreement is on a 10-month basis shall have his annual salary prorated over 12 months of each calendar year of employment.
- (b) Contract specialists are not entitled to overtime compensation.
- (c) Contract specialists may be granted absence from duty with pay on those holidays recognized by the federal government and/or the ASG.
- (d) If substantial changes are contemplated in the duties and responsibilities assigned to a contract specialist during the life of his agreement, the department involved may request a review of the

contract position and reclassification by the office of manpower resources.

- (1) If the change is to a vacant position which is not under the supervision of the employee's hiring agency then the hiring agency head will be made a party to the agreement and he will also sign the amendment form and personnel/payroll action request which authorizes the interagency position change.
- (2) If a change of position involves a change of grade and salary, then a lump sum accumulated leave payment will be made to the employee at the salary rate in effect at the conclusion of his unamended term of service. The employee will begin to accumulate annual leave at the adjusted salary rate, commencing with the effective date of the contract amendment.

- (e) During the tenure of the contract, the contract specialist shall receive step increments as detailed in 4.0409.

*History: Rule 10-81, eff 29 Jul 81, § 10.3.*

**4.1004 Transportation.**

(a) Entitlement at Hiring and Separation. The government will furnish transportation for the contract specialist and his dependents, his household goods and professional materials from his permanent residence to American Samoa. If the contract specialist has fully performed the terms and conditions of his agreement in a manner satisfactory to the government, the government will furnish transportation for the contract specialist, his dependents, his household goods and professional materials to his place of residence from American Samoa.

- (1) The contract specialist and his dependents are authorized economy, jet air travel accommodations between the point of hire and American Samoa. Unless specifically authorized on the travel authorization, additional cost for superior accommodations or excess baggage shall be borne by the contract specialist.

- (2) When a vacant contract specialist position is filled by a qualified nonresident candidate who is temporarily residing in American Samoa, no provision will be made by the government for his travel or shipment of household goods to the territory. The government will contract to return him and his dependents to his preagreed permanent residence at the satisfactory conclusion of his employment.
- (3) Non-government furnished transportation expenses (private yacht, aircraft) incurred by a contract specialist and his dependents by travel to American Samoa to report to duty may be reimbursed to him in amounts not to exceed that authorized for one-way, economy jet air fare as stipulated by ASG travel rules. The request for reimbursement must be supported by receipts or other evidence of payment.
- (4) The transportation expenses mentioned in his employment agreement shall constitute the measure of damages for a breach of his agreement by the contract specialist.

- (b) Remaining After Contract. If the contract specialist, with immigration approval, elects to remain in American Samoa upon completion of his contract, the government's obligation for return transportation and household shipment shall be forfeited.
- (c) Property Allowed and Prohibited. The weight allowance for the shipment of household effects is limited to that personal property essential to the comfort and convenience of the contract specialist and his dependents which may be transported legally in interstate commerce. It includes household furnishings, equipment and appliances, furniture, clothing, books, and similar property. Household effects do not include property which is for resale or disposal rather than for use by the contract specialist or members of his immediate family, nor does it include such items as motor vehicles, airplanes, trailers, boats, pets, livestock, cordwood, building materials, property belonging to persons other than the contract specialist and his immediate family, or any property intended for

use in conducting a business or other commercial enterprise.

- (1) The firearms laws in the United States differ from territorial legal restrictions. Weapons and ammunition of any kind are prohibited, including air guns, without prior licensing and registration.
- (2) The only domestic pets which may be brought into the territory are dogs and cats from the mainland U.S., Hawaii, Guam, Trust Territory of the Pacific Islands, Australia, and New Zealand. Animals from the mainland, Guam, and T.T.P.I. must be quarantined for 120 days in Hawaii. The extensive rules pertaining to this matter are available from the department of agriculture; some are codified at 24.03 of this code.
- (3) The importation, production, and use of hallucinogens and potentially harmful drugs are strictly prohibited and punishable by law.

(d) Cash Payment. In lieu of authorized weight allowances for overland and ocean shipments, cash payments in accordance with the following schedule will be made to contract employees for those shipments for the purpose of effecting savings to the government:

Family Size	Total Cash Payments		
	Estimated Weight Used for Calculations (pounds)	East of Mississippi	West of Mississippi
1	1,125	\$ 1,200	\$ 1000
2	1,810	\$ 2,000	\$ 1,600
3	2,030	\$ 2,100	\$ 1,700
4	2,250	\$ 2,300	\$ 1,900
5	2,360	\$ 2,400	\$ 2,100

Special arrangements will be separately negotiated for contract employees not residing in the U.S. Any portion of a cash payment from this schedule that is not applied to the cost of household/professional effects shipment inures to the benefit of the employee. Employees will be issued cash reimbursements from the schedule upon arrival in the territory. Any exception for newly hired employees resulting in the issuance of a letter of credit to the selected shipping

agency may be made only by the treasurer or higher authority.

- (1) Standard insurance coverage that is provided by the packer and shipper is based upon net weight only. If the contract specialist wishes to insure on the basis of value, he must acquire additional insurance at his own expense.
- (2) Customs rules applicable to the shipment of household effects must be observed for all travel. The contract specialist is responsible for compliance with the appropriate rules. Except for extenuating circumstances, he is liable for additional charges imposed by customs or port authorities.
- (e) Doctors and Dentists. Exceptions have been made to this policy for the department of health as a result of doctors and dentists having been placed in a worldwide shortage category by the Federal Civil Service Commission.
  - (1) A contract specialist physician or dentist is authorized a net weight allowance to be placed into and maintained as insured storage at government expense and an additional cash payment for 1,000 pounds of estimated weight from the schedule shown in subsection (d) of this section for professional materials. The maximum total of the estimated weight allowances, including that for storage, may not exceed 11,000 pounds. Government liability for stored material is limited to the storage handling, maintenance, and insurance charges only and not to loss or damage. The stated government liability will expire 30 days after the termination date of the contract specialist physician’s or dentist’s employment agreement.
- (f) Renewal Benefits. If the contract specialist’s employment agreement is renewed:
  - (1) a renewal bonus of \$1,000 will be paid for 2 years’ renewal on the first pay period following the effective date of the new contract.

(2) Round-trip, economy jet air transportation is authorized for himself and his dependents.

(A) A contract specialist who renews his contract may be authorized round-trip transportation to a point other than his original point of hire; however, the government will only pay up to as much as the cost of economy jet transportation directly to his original point of hire. The contract specialist is required to pay for any extra travel charges in excess of his allowance.

(B) If the contract specialist's selected travel routing is at less cost than that to the original point of hire, the contract specialist is not entitled to the difference.

(C) All travel purchased by the contract specialist with the travel authorization must be used on the same trip. For example, if a renewing contract specialist is authorized round-trip fare to San Francisco and decides to go only as far as Hawaii and return, he has exhausted all travel authorized by his travel authorization form. He may not, at some future date, use the difference in fare to obtain further travel.

(g) Completion-of-contract Entitlement. If the contract specialist satisfactorily fulfills the conditions of his employment agreement, he and his dependents are entitled to:

- (1) one-way, economy jet air transportation to his permanent residence;
- (2) unaccompanied air freight allowance if provided by the original, travel authorization;
- (3) ocean freight shipment allowance for household effects as provided by the original travel authorization;
- (4) additional ocean freight shipment allowance for professional materials as provided by original travel authorizations.

*History: Rule 10-41, eff 29 Jul 81, § 10.4.*

**4.1005 Annual Leave-Sick Leave.**

(a) A contract specialist whose employment agreement is on a 12-month basis shall accrue annual leave at the rate of 1 working day for each full biweekly pay period during the tenure of his agreement; regardless of the amount of time worked during each pay period, except for periods of leave without pay.

(1) Provided that he is fulfilling all of the terms and conditions of his agreement in a manner satisfactory to the government and, if the government determines that his services can be spared, he may be granted leave upon his request at any time.

(2) He may be administratively required by the government to take leave at any time.

(3) At the expiration of his agreement, the contract specialist will be paid in a lump sum for a maximum of 60 days of unused, accumulated annual leave, computed at the salary then in effect.

(4) Only if it is for the convenience of the government, the contract specialist may elect to apply accumulated annual leave in total or in part in lieu of lump sum payment to an equivalent number of days' absence immediately preceding and extending to the expiration date of his agreement. He will not, however, be entitled to accrue annual leave while on terminal leave.

(b) A contract specialist whose employment agreement is on a 10-month basis shall not accrue annual leave but shall not be required to work during the school vacation period as designated by the department of education and the community college.

(c) The contract specialist shall accrue sick leave with pay at the rate of 1-half day per full biweekly pay period and may be allowed such additional sick leave without pay as the government at its discretion may deem necessary.

*History: Rule 10-81, eff 29 Jul 81, § 10.5.*

**4.1006 Medical Benefits.**

(a) The contract specialist and his dependents will be entitled to medical and dental services in American Samoa to be furnished by the government. Such services may be subject to a nominal service charge to be paid by the contract specialist. Medical services shall be within the limits of the government's personnel, supplies, and facilities available from time to time in American Samoa. The contract specialist and his dependents will also be entitled to off-island medical care to the same extent furnished from time to time to American Samoans by the government; provided, that the contract specialist will be required to use and apply entitlement to hospital, medical and dental care benefits which he may have as a veteran of the armed forces or as a participant under any other program or insurance plan; and provided further that return travel of the discharged patient, or an authorized accompanying family member, will not be provided should it be determined, in the judgment of the director, department of health, that due to the health of the contract specialist or the dependent, the contract specialist should not remain in American Samoa, in which event the entitlements upon normal expiration of the term of service will be provided.

*History: Rule 10-81 eff 29 Jul 81, § 10.6; and Rule 14-83, eff 14 Aug 83, § 1.*

**4.1007 Termination for Cause.**

The government may discharge the contract specialist and terminate his employment agreement for cause, including dereliction or unsatisfactory performance of duty or misrepresentation or conviction of any criminal offense. Pending a hearing and final determination, the contract specialist may be suspended without pay or other benefits.

- (1) Removal shall be recommended to the director, office of manpower resources, by the employee's agency head in writing, supported by a written account of the circumstances and events underlying the recommendation.
- (2) Upon receipt of the written justification recommending the removal of an employee, the director shall give careful consideration to such recommendation and all background

information of record. In this connection, the director is expected to consult with the ASG official concerned.

- (3) The director, if he considers the recommendation to be reasonable, shall advise the employee in writing of:
  - (A) the charges brought against him;
  - (B) the fact and effective date of his suspension without pay.

*History: Rule 10-81, eff 29 Jul 81, § 10.7.*

**4.1008 Resignation-Termination Without Cause.**

- (a) If the health of the contract specialist or that of any of his dependents, through no fault of his own, becomes so impaired that, in the judgment of the director of health, he should not remain in American Samoa, he may resign and receive the full benefits accorded to a contract specialist whose employment agreement has been satisfactorily fulfilled. The government will not be liable for the return travel of the contract specialist, his dependents, household goods, and personal effects if his physical disability is a direct result at excessive and nonprescribed use of alcohol or harmful drugs.
- (b) If an unforeseen personal emergency should arise which requires the immediate presence of the contract specialist outside of American Samoa and such emergency is verified to the satisfaction of the government by the American Red Cross or other appropriate agency, the contract specialist may resign and be entitled to the full benefits to which he would have been entitled upon normal expiration of the term of service under his employment agreement.
- (c) Should the contract specialist breach his agreement by resignation from his employment with the government prior to the end of the contracted tenure (or during the first half of his term of service), he shall forfeit all rights to transportation for himself his dependents and their personal effects and household goods and shall be obligated to repay to the government such expenses as it may have incurred or paid to

him on this account in connection with his term of service.

Should the contract specialist's resignation from his obligations to his agreement occur after 1 year's contracted tenure (or during the second half at his term of service), he shall forfeit all rights to transportation for himself, his dependents, and his and their personal effects and household goods but shall not be obligated to repay to the government such expenses as it may have incurred or paid to him on this account in connection with his term of service.

- (d) Upon 30 days' notice to the employee, the government may terminate his employment agreement at the discretion of the government without recourse on the part of the employee. In the case of termination of employment as provided in this subsection, the employee shall be entitled to transportation, subsistence, and other benefits to which he would be entitled upon normal expiration of the term of service under his agreement.

*History: Rule 10-81, eff 29 Jul 81. § 10.8.*

**4.1009 Renewal of Contract.**

- (a) Contract renewal is the prerogative of the government and is based solely upon need and performance of a contract specialist as determined by the government and is contingent upon approval of the contract specialist's continued employment by the director.
- (b) A contract specialist must address his request for contract renewal in writing to the director, office of manpower resources not less than 90 calendar days prior to the expiration date of his current agreement.
- (c) Renewal of a contract for a 1-year period will be limited to 1 renewal unless prior approval is obtained in writing from the director, office of manpower resources.

*History: Rule 10-41, eff 29 Jul 81. § 10.9.*

**4.1010 Employment After Term of Contract.**

If employment of the contract specialist continues beyond the term of service specified in his agreement without the execution of a new agreement, such employment shall be deemed to be at will and may be

terminated by either party on reasonable notice to the other. All of the terms and conditions of his agreement, except those pertaining to termination for cause, shall continue in effect during such extended period of employment.

*History: Rule 10-81, eff 29 Jul 81. § 10.10.*

**4.1011 Conduct-Reassignment-Career Service Eligibility-Self-employment.**

- (a) Contract specialists are expected to conduct themselves both on and off-the-job as employees of ASG. Rules regarding outside work, conflict of interest, and political activities published in the A.S.C.A., and elsewhere in this title apply equally to contract employees.
- (b) A contract specialist is precluded by and for the duration of his contracted term of service from competing for other vacant positions with the ASG. He may, however, request reassignment to a vacant position and his request may be granted at the discretion of his agency head and the selecting authority when to do so is in the interest of the government.
- (c) At the expiration of a contract, every effort shall be made to fill the contract position in the career service. If a position which has been filled by contract can be filled within the career service, the incumbent of that position can compete for the position on a career service basis if he is entitled to permanent residency in American Samoa or if his/her spouse is entitled to permanent residency.
- (d) Contract specialists shall not engage in self-employment in American Samoa, either directly or indirectly, in any form whatsoever, during the terms of their agreements.

*History: Rule 10-81, eff 29 Jul 81, § 10.11.*

**4.1012 Grievances-Striking Prohibited.**

- (a) Contract specialist grievances shall be processed the same as those made by other employees. In case of an alleged violation of the contract specialist's agreement, his continued employment shall not be deemed a waiver by either party of his claim. The government consents to be sued on account of any matter of

dispute arising over his agreement but only in the High Court of American Samoa.

- (b) The contract specialist agrees by contract not to participate in any strike against the government or any of its agencies during his term of service.

*History: Rule 10-81, eff 29 Jul 81, § 10.12.*

**4.1013 Training.**

Nominations for the training of contract specialists shall be submitted by his immediate supervisor to the director of manpower resources who shall retain discretion for its approval or disapproval. No contract specialist shall be recommended for training to gain skills or knowledge which he might reasonably be expected to possess in order to have been selected for his position.

*History: Rule 10-81, eff 29 Jul 81, § 10.13.*

**4.1014 Work-Product Ownership-Discoveries and Documents.**

Any and all inventions, improvements, discoveries, documents, reports, memoranda, and data developed by the contract specialist relating to his position with the government will be the sole and absolute property of the government, and the government will be the sole and absolute owner of all patents, copyrights, or other rights in connection therewith.

*History: Rule 10-81, eff 29 Jul 81, §10.14.*

**4.1015 Dependents Defined-Family Status Reports.**

Dependents, as defined, shall be interpreted to mean the spouse and minor dependent children of the contract specialist, who are identified as such at the time his agreement is executed and who will reside with him at American Samoa for at least one year of the term of his agreement. It is the responsibility of the contract specialist to make known to the office of manpower resources changes in his family status as they occur.

*History: Rule 10-81, eff 29 Jul 81, § 10.15.*

**4.1016 Immigration Status-Departure Upon Termination.**

- (a) A contract specialist, by virtue of his employment with the government, obtains residency status within the territory for the duration of his agreement or term of service. In

the event of the termination of his agreement for any reason whatsoever, the contract specialist contractually agrees to depart from the territory within 30 days from the termination date.

- (b) Contract specialists who are not United States citizens must register annually as alien residents' with the immigration division of the department of legal affairs.

*History: Rule 10-81, eff 29 Jul 81, § 10.16.*

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[End of Title 4 – Chapter 1]



TITLE 4 - CHAPTER 11 – EQUAL OPPORTUNITY-AFFIRMATIVE ACTION

Sections:

- 4.1101 Policy Generally-American Samoan Preference.
- 4.1102 Affirmative Action Conformance to Federal Provisions.
- 4.1103 Enforcement Responsibility-Staff, Subcontractor, Contracting Agency Compliance.
- 4.1104 Compliance Officer.
- 4.1105 EEO coordinators-Publicity.
- 4.1106 Contract-Seeker Compliance-Third Parties-Monitoring.
- 4.1107 Grievances-Appeals.
- 4.1108 Equal Employment Opportunity Affirmative Action Plan.

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Appendix A

**4.1101 Policy Generally-American Samoan Preference.**

- (a) It is the policy of the ASG to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other non-merit consideration.
- (b) Pursuant to 7.0204(b) A.S.C.A., and as an integral, part of the equal employment opportunity policy, the government shall employ residents of American Samoa who are American Samoans or United States nationals, and shall employ other persons only when no American Samoans or United States nationals who meet the minimum qualifications for a particular class or work can be found. The Executive Branch initiates this policy in recognition that:
  - (1) it is necessary to identify and deal with discrimination and obstacles to equal employment opportunity, intended or unintended;
  - (2) well-conceived, planned, and realistic actions are necessary to provide for achieving true equality of opportunity;
  - (3) these actions must be aggressively pursued;

- (4) an effective periodic self-evaluation is needed to ascertain whether predetermined goals are being met; and
- (5) this evaluation will result in updating the action plan as necessary, to meet changing needs and to effectively resolve problems.

*History: Rule 10-81, eff 29 Jul 81, § 11.1.*

**4.1102 Affirmative Action Conformance to Federal Provisions.**

An affirmative action plan has been prepared for use by ASG in its efforts to provide equity in employment to women, minors, and other victims of discrimination. This EEO-AA plan is intended to conform to federal requirements of Title VI of the Civil Rights Act of 1964, § 808 of the Civil Rights Act of 1968, Executive Orders 11063, 11246, and 11375, § 109 of the HUD Act of 1974 and § 3 of the HUD Act of 1968.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(a).*

**4.1103 Enforcement Responsibility-Staff, Subcontractor, Contracting Agency Compliance.**

- (a) The responsibility and authority for the enforcement of this policy pertaining to the ASG Affirmative Action Plan and its goals are vested in the director, office of manpower resources, ASG, who will be responsible for the implementation, administration, and compliance of the EEO policies and AA plan, and will directly supervise the ASG EEO compliance officer.
- (b) All staff, subcontractors, and all contracting agencies utilizing federal funds administered by ASG are required to comply with this policy with reference to recruitment, hiring, training, and compensation.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(b).*

**4.1104 Compliance Officer.**

An EEO compliance officer (EEOCO) shall be appointed within the office of manpower resources and will have the responsibility of promoting, coordinating and monitoring this plan. The duties and responsibilities of the EEOCO are as follows:

- (a) Following the policy statement and Affirmative Action Plan, providing an effective procedure to communicate EEO procedures;
- (b) Acting as the focal point for all EEO activities, particularly in the development and implementation of the ASG Affirmative Action Plan;
- (c) Providing continuous assistance to management in collection and analysis of employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals. Following through on programs to assure set goals are accomplished on time;
- (d) Consulting with and advising all ASG agencies on matters pertaining to the administration of the EEO policies;
- (e) Working with schools, women’s groups, and organizations to encourage entrance of women into employment training programs, and assisting in development of new training resources for women;
- (f) Submitting to the director of manpower resources quarterly progress reports pertaining to the EEO program;
- (g) Assisting ASG administrators and contractors in preparing effective programs criteria, compiling and disseminating public information for the Governor and his department/agency heads, implementing equal-employment opportunity policies and open-occupancy statements, directing preparation of related correspondence including recommendations on EEO, investigating formal and informal complaints of alleged discrimination by parties to agreements and recommending procedures to ensure compliance with all ASG contract provisions which promote equal opportunity objectives, and attending pre-award and preoccupancy conferences;
- (h) implementing a system for receiving and investigating complaints and/or grievances of discrimination in accordance with EEO rules;
- (i) Investigating formal and informal complaints of alleged discrimination and contract noncompliance, and implementing procedures to resolve each case;
- (j) Participating in programs and conferences regarding fair and equal opportunity practices and assisting in servicing the Affirmative Action Plan.
- (k) Establishing and maintaining contact as the ASG primary working liaison and representative with the community and all public agencies’ contracting groups with regard to equal employment policies and opportunities;
- (l) Requiring that all affirmative action plans submitted by subcontractors or proposed subcontractors are in line with ASG’s affirmative action requirements for employment for American Samoan and United States nationals as mentioned in 4.1101.
- (m) Submitting to the director, manpower resources, reports on the progress of ASG in achieving established goals and making necessary recommendations for additional efforts in accomplishing goals of the affirmative action program.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(c).*

**4.1105 EEO Coordinators-Publicity.**

ASG’s EEO policy and Affirmative Action Plan will require an overall understanding of each department/agency head about his or her role in meeting ASG goals and objectives. Each department/agency head shall appoint an EEO coordinator. Every effort will be directed in educating ASG, contractor, and subcontractor personnel to clarify their understanding and responsibilities for carrying out EEO policy and the Affirmative Action Plan as a basic part of their jobs.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(d).*

**4.1106 Contract-Seeker Compliance-Third Parties-Monitoring.**

All nonfederal or non-federally assisted projects, contractors, subcontractors, developers, consultants, appraisers, and other technical specialists will be informed by ASG that anyone seeking a contract with ASG must undertake a program of equal employment opportunity. Any company or individual discriminating in his/her employment practices on the

basis of race, creed, color, religion, sex, or national origin will not be eligible for contracts with ASG. It will be the responsibility of the EEOCO to monitor these procedures and activities for compliance, and to undertake any necessary corrective measures. The actions and guidelines contained in this policy shall be applicable also to all third parties involved in the project.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(e).*

**4.1107 Grievances-Appeals.**

Grievances and appeals resulting from the implementation of this plan shall be handled in accordance with the procedures outlined in Chapter 09 of the ASG Personnel Administration Regulations.

*History: Rule 10-81, eff 29 Jul 81, § 11.2(1).*

**4.1108 Equal Employment Opportunity Affirmative Action Plan.**

- (a) The rule codified in this section is issued under the authority of Section 6 of Article IV of the Revised Constitution of American Samoa.
- (b) It is the policy of the ASO to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other nonmerit consideration.
- (c) This policy shall be implemented in accordance with the Equal Employment Opportunity Affirmative Action Plan, attached to this chapter as Appendix A and incorporated in full, by reference, herein.

*History: Rule 11-81 eff. Ord. 7-1980, eff 20 Nov 80, §§ 1,2,3.*

**APPENDIX A**

**EQUAL EMPLOYMENT OPPORTUNITY  
AFFIRMATIVE ACTION PLAN**

**POLICY STATEMENT**

It is the policy of the ASG to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other nonmerit consideration.

Pursuant to 7.0205(b) A.S.C.A., and as an integral part of the Equal Employment Opportunity policy, the government shall employ residents of American Samoa who are American Samoans or United States nationals, and shall employ other persons only when no American Samoans or United States nationals who meet the minimum qualifications for a particular class of work can be found.

The Executive Branch initiates this policy in recognition that:

- (1) it is necessary to identify and deal with discrimination and obstacles to equal employment opportunity, intended or unintended;
- (2) well-conceived, planned and realistic actions are necessary to provide for achieving true equality of opportunity;
- (3) these actions must be aggressively pursued;
- (4) an effective periodic self-evaluation is needed to ascertain whether pre-determined goals are being met, and
- (5) this evaluation will result in updating the action plan as necessary, to meet changing needs and to effectively resolve problems.

Peter T. Coleman Governor

**EQUAL EMPLOYMENT OPPORTUNITY  
AFFIRMATIVE ACTION PLAN**

This Equal Employment Opportunity Affirmative Action Plan is intended to conform to federal requirements of Title VI of the Civil Rights Act of 1964, Section 808 of the Civil Rights Act of 1968, Executive Orders 11063, 11246, and 11375; Section 109 of the HUB Act of 1974 and Section 3 of the HUD Act of 1968.

The plan is in 3 parts: Background, Administration, and Action Steps. Charts giving current demographic and employment data and annual goals are attached in support of the plan.

**I. Background.**

The territory of American Samoa presents a unique and sometimes confusing problem for those who are concerned with administering equal employment opportunity (EEO) policy. Samoan people of any

nationality are counted as “minority” for all mainland U.S. purposes, yet in American Samoa they represent almost all of the permanent population. A group of 100 to 1000 “palagi’s” (non-Samoan whites, orientals, and others) cycles in and out on contract positions and in nongovernmental jobs.

Since “minority” employment problems extend locally, it is appropriate to provide employment preferences to Samoan residents and impose immigration controls on alien entry, residence and employment. Thus, in accordance with territorial statutory laws, applicants are not employed by the ASG unless resident American Samoans or United States nationals are unavailable and immigration clearance is granted.

There is no evidence of discrimination in other factors except for sex. Samoan culture has always barred men and women from certain occupations, though most of these restrictions were involved with traditional family and village activities which are rapidly changing in the face of economic and educational advancement.

The attached data shows non-Samoans (called “nonminority”) holding down most ASG jobs in the higher salary ranges. This results from the necessity for filling key jobs with contract employees when the pool of available Samoan talent is exhausted. These contracts are renewable every 2 years, and are readvertised prior to each contract period. Attempts by ASG to overcome this problem through scholarships and intensive recruitment have produced a steady decline in the number of nonminority hires; however, equity is still some years off.

This plan, therefore, deals initially only with inequities with regard to the employment opportunities for women, and the hiring of “minorities” in higher-paying positions.

When the 1980 census data, are available, the question of other employment inconsistencies will be reviewed.

## II. Administration.

A. Responsibility. The responsibility and authority for the enforcement of this policy pertaining to the Affirmative Action Plan and its goals are vested in the director, department of manpower resources, ASG, who will be responsible for the implementation,

administration, and compliance of the equal employment opportunity policies and Affirmative Action Plan.

All staff, subcontractors, and all contracting agencies utilizing federal funds administered by ASG are required to comply with this policy with reference to recruitment, hiring, training, and compensation.

B. Duties and Responsibilities of the Equal Employment Opportunity Compliance Officer. An equal employment opportunity compliance officer (EEOCO) shall be appointed within the department of manpower resources and will have the responsibility of promoting, coordinating and monitoring this plan.

The duties and responsibilities of the EEOCO are as follows:

1. Following the policy statement and Affirmative Action Plan provide an effective procedure to communicate EEO procedures;
2. Acting as the focal point for all EEO activities, particularly in the development and implementation of the ASG Affirmative Action Plan;
3. Providing continuous assistance to management in collection and analysis of employment data, identify problem areas, setting goals and timetables, and developing programs to achieve goals, and following through on programs to assure set goals are accomplished on time;
4. Consulting with and advising all ASG agencies on matters pertaining to the administration of the EEO policies;
5. Working with schools, women’s groups and organizations to encourage entrance of women into employment training programs, and assisting in development of new training resources for women;
6. Submitting to the director of manpower resources quarterly progress reports pertaining to the EEO Program;
7. Assisting ASG administrators and contractors in preparing effective programs criteria, compiling and disseminating public information for time Governor and his department/agency heads, implementing equal employment opportunity

policies and open occupancy statements, directing preparation of related correspondence including recommendations on EEO; investigating formal and informal complaints of alleged discrimination by parties to agreements n.,A --o d procedures to ensure compliance with all ASG contract provisions which promote equal opportunity objectives, and attending preaward and preoccupancy conferences;

8. Implementing a system for receiving and investigating complaints and/or grievances of discrimination in accordance with EEO regulations;
9. Investigating formal and informal complaints of alleged discrimination and contract noncompliance, and implementing procedures to resolve each case;
10. Participating in programs and conferences regarding fair and equal opportunity practices and assisting in servicing the Affirmative Action Plan;
11. Establishing and maintaining contact as the ASG primary working liaison and representative with the community and all public agencies' contracting groups, with regard to equal employment policies and opportunities;
12. Requiring that all affirmative action plans submitted by subcontractors or proposed subcontractors are in line with ASG's affirmative action requirements for employment for American Samoans and United States nationals as mentioned in the Policy Statement;
13. Submitting to the director, manpower resources, reports on the progress of ASG in achieving established goals and make necessary recommendations for additional efforts in accomplishing goals of the affirmative action program.

C. Dissemination of Equal Employment Opportunity Affirmative Action Policy. ASG's EEO policy and Affirmative Action Plan will require an overall understanding of each department/agency head about his or her role in meeting ASG goals and objectives. Each department/agency head shall appoint an EEO coordinator. Every effort will be directed in educating ASG, contractor, and

subcontractor personnel to clarify their understanding and responsibilities for carrying out EEO policy and the Affirmative Action Plan as a basic part of their jobs.

ASG will publicize the plan as follows:

1. Internally:
  - a. All staff members (directors, managers, supervisors, officials, administrators, professionals, technicians, office and clerical employees and other employees);
  - b. All territory employment and training council members.

Internal communication of policy statement and objective of the ASG-Affirmative Action Plan will be disseminated and publicized in the following manner:

Written communication from the Governor's Office;

ASG's policy manuals, handbooks, operating manuals and annual reports will include the EEO policy statement;

A copy of this written Affirmative Action Plan will be maintained by each department/ agency;

EEOCO shall conduct meetings with EEO Coordinators to inform them of existing and changing legislation in the equal employment opportunity field.

2. Externally:
  - a. Subcontracting agencies;
  - b. Community groups and women's organizations;
  - c. General public.

ASG recognizes the importance of keeping an open-line or communication between itself and community organizations, especially those which represent minorities, women, young people, the aged, handicapped individuals, and veterans. These are the organizations which reach many of the people for whom services are intended. ASG, contractors, and subcontractors shall use the following methods of external communications:

All employment announcements, help-wanted ads, and other advertising should include the statement “Equal Opportunity Employer” (male or female, M/F.)

Keep all contractors and subcontractors informed in writing of ASG’s current EEO policies.

Inform the educational institutions, community agencies, and community leaders of ASG’s EEO policies.

Notify general public through available news media and other sources of ASG’s EEO policies.

Disseminate policy statement to local community organizations and groups utilizing radio and television to inform the public of ASG’s policy and programs as well as a summary of key elements of the affirmative action program.

### III. Action Steps.

#### A. Determination of Inequities and Setting Goals.

##### 1. EEO data:

Periodically, the information systems office of ASG will provide to the EEOCO printouts of special reports which have been designed to be responsive to EEO needs. Those will include quarterly reports of employees in positions at various blue collar and white collar grade levels, broken down by sex and minority status, by department/agency. Once each year, a report will be made showing turnover and anticipated position vacancies. When available, the 1980 Census reports will be used for further determination of EEO inequities.

EEO/AA is a living program, and changes with new information or as the program succeeds in reaching its goals. The computer reports, continuously updated, are attached to and become a part of this plan.

##### 2. Goal setting:

As each computer printout is received and studied; specific goals will be made or changed to reflect realistic assessments of need and response. In most cases, the goals will be reflected in the far-right-hand column of the

“status of women and minorities” quarterly report.

#### B. Steps to overcome inequities recruitment:

Recognizing that upgrading, transfers, training, and recruitment efforts are the means by which the Affirmative Action Plan can be implemented with significant and immediate results, the recruiting and training staff of the office of manpower resources is to consider and utilize first all available minority applicants, as recognized by the statutory preference given to American Samoans and United States nationals. “American Samoans” are those persons defined or described in 41.502(b) and 41.0640 A.S.C.A. “Permanent residents” as defined or recognized by 41.0502(j), 41.0602, 41.0603, 41.0604, and 41.0616 A.S.C.A., have the same rights as American Samoans for this purpose. “United States Nationals” are defined in Section 1408 of Title 8 of the United States Code.

In addition, it shall also be the concern of all staff’ recruiters and personnel administrators to give special attention to recruitment of women in positions where, in the judgment of the director of manpower resources, there is a need to utilize and expand the female work-force. This policy is in accordance with the federal equal employment opportunity laws and the related federal Executive Order 11246, as amended by 11375.

#### C.

##### 1. Development of contracts;

- a. Attend community meetings to explain policy and objectives.
- b. Visit high schools, the American Samoa Community College and Skill Center at normal recruiting period and during these visits emphasis shall be placed on ASG as being an equal opportunity employer.
- c. Participate in local career days at all schools and the community college.
- d. Discuss ASG employment needs and policy with community organizations.
- e. Distribute letters to schools and organization expressing interest in referral

of qualified candidates for specific job opportunities.

2. Encouragement of job applicants:

a. Include on all recruitment advertising:

“Equal Employment Opportunity Employer. However, where positions can be filled locally, preference shall be given to American Samoans, United States Nationals and permanent residents of American Samoa.”

b. Post promotional opportunities and encourage the widest range of applicants within agency level, local education and community resources.

c. Publicize examples of minorities employed in nontraditional occupations.

d. Publicize Samoanization of workforce.

3. Selection:

Screening of applicants is the responsibility of the office of manpower resources through review of applications, testing and interviewing. The five top candidates are referred to hiring agency for interview. Final selection is the responsibility of the hiring department/agency lie ad.

4. Examinations:

The definition of examinations includes the process from review of applications to final determination of eligibility. While an evaluation of all tests used in selection is not feasible at the present time, the following actions shall be taken to avoid discrimination and to acquire pertinent statistics for use in any future evaluation:

a. Eliminate from the actual application form all questions which tend to be discriminatory such as reference to sex, marital status, except for that information which is necessary for the affirmative action program.

b. For written tests, keep a record of the success of minority group members in taking tests.

c. The office of manpower resources should notify the department/agency head if in its judgment the experience requirements or the tests are unnecessarily restricting in selection for employment or promotion or why they feel that the tests are not job related.

5. Counseling:

a. Provide career counseling to present and prospective employees and point out promotional opportunities, career ladders, and training opportunities and programs.

b. Counsel applicants on possible actions to improve their opportunity for future employment.

6. Appointment:

a. The hiring agency making final selection shall interview as objectively as possible all persons certified to them by the office of manpower resources of applicants not selected and to document reasons for nonselection.

Via the Secretary of Samoan affairs, department of local government, ASG, through the applicant’s village pulenu’u (village mayor) at his or her last known address, the nonselected applicant will be notified in writing of the decision and inform them of their right to request a hearing by the personnel advisory board if he or she feels that the nonselection was discriminatory.

b. Hearings will follow the format outlined in Part 385.82 of the ASG Personnel Administration Manual.

7. Lateral entry:

a. Develop guidelines for recognizing previous experience of new employees including a policy for employment at higher than the normal entrance salary.

b. Continue efforts to provide intra- and inter-department mobility through intragovernmental advertising.

8. Training:

It is the policy of ASG to provide job training and employment opportunities for all residents of the territory, particularly for the unemployed or underemployed persons, and to ensure that training and placement services will lead to maximum employment and self-sufficiency in the skills which are essential to a developing community.

- a. Encourage minority employees to participate in education and on-the-job training courses given by ASG, the American Samoa Community College, and the Skill Center.
- b. Encourage employees to take courses that are job-related. Especially encourage educational programs for the completion of high school courses and training in skilled trades.
- c. Select employees for in-service training on a nondiscriminatory basis.
- d. Organize additional training courses for upgrading the skills of employees.
- e. For future evaluation purposes, record the participation rates of minorities in training courses and their use of education leave and educational opportunities.
- f. Include information regarding the Affirmative Action Plan in all training and orientation programs at all levels, especially training sessions for supervisors.
- g. Encourage supervisors to utilize the orientation interview to describe the Affirmative Action Plan and career opportunities.

9. Career ladders and promotion:

- a. Post promotional opportunities and encourage the widest range of applicants, i.e., local education and community resources.
- b. On an individual basis, counsel employees on their probable career ladder.

- c. Annually rate employees on their promotional potential and provide career and training counseling.
- d. Consider restructuring jobs to provide promotional opportunity for semiskilled employees.
- e. Encourage departments/agency heads to notify the supervisors of minority and women staff members who have significant promotional potentials so that the supervisors can recommend they apply for vacancies at a higher level.

10. Specifics relative to third-party relationships:

- a. All nonfederal or nonfederally assisted projects-contractors, subcontractors, developers, consultants, appraisers, and other technical specialists-will be informed by ASG that anyone seeking a contract with ASG must undertake a program of equal employment opportunity. Any company or individual discriminating in his/her employment practices on the basis of race, creed, color, religion, sex, or national origin, will not be eligible for contracts with ASG. It will be the responsibility of the EEOCO to monitor these procedures and activities for compliance, and to undertake any necessary corrective measures. The actions and guidelines contained in this policy shall be applicable also to all third parties involved in the project.
- b. ASG's obligation under federal requirements shall be with reference to Title VI of the Civil Rights Act of 1964, § 808 of the Civil Rights Act of 1968; and Executive Orders 11063, 11246, 11375, and 11376 § 109 of the HUD Act of 1974, and § 3 of the HUD Act of 1968, and such other supplements to the basic Civil Rights Act and Housing Acts regarding equal employment opportunity.
- c. Review and monitor all contract developments to ensure achievement of equal employment opportunity, open occupancy, and public accommodation objectives; conduct on-site inspections, at



regular intervals, of employment, occupancy, and accommodation practices.

- d. The EEOCO will be responsible for reviewing the adequacy of the affirmative program submittals, the monitoring for compliance with the provisions in the program, and for undertaking all necessary corrective action.

11. In-house program:

Employment, promotion, demotion, or reassignment; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship; shall be done in accordance with the rules and regulations as prescribed in the ASG Personnel Administration Manual.

It is the purpose of the Personnel Administration Manual to establish a system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment conduct, movement, and separation of public officers and employees.

It is also the purpose of the Personnel Administration Manual to build a career service in ASG which will attract, select, and retain the best of our citizens on merit, free from coercive political influences, with incentives in the form of genuine opportunities for promotions in the service, which will eliminate unnecessary and inefficient employees, which will provide technically competent and loyal personnel to render such service according to the dictates of ethics and morality.

D. Evaluation and reporting:

1. Data shall be compiled for each department or agency every 3 months, indicating the number and percentages of employees in each department by sex, minority status and pay, as shown in A, Determination of inequities.
2. A summary and evaluation of the above data shall be prepared for distribution to the Governor, office of manpower resources, and the EEO.

3. The director of manpower resources shall report to departments and agencies if any problems are encountered and to propose recommendation on the implementation of this plan.

E. Grievances and appeals:

Grievances and appeals resulting from the implementation of this plan shall be handled in accordance with the procedures outlined in Part 385.8 of the ASG Personnel Administration Manual.

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[End of Title 4 – Chapter 11]

TITLE 4 - CHAPTER 12 – DEVELOPMENT AND TRAINING

Sections:

- 4.1201 Purpose.
- 4.1202 Manpower Resources Responsibility-Individual Responsibility.
- 4.1203 Governor’s Committee-Departmental Committees.
- 4.1204 Scope of Activities.
- 4.1205 Records-Reports-Expenditures.

**4.1201 Purpose.**

The ASG has an obligation to the citizens of the territory to utilize and develop the talents and abilities of each employee to the maximum extent. It is therefore necessary to establish and operate programs in order to:

- (1) improve public service;
- (2) increase efficiency and economy;
- (3) build and retain a work force of skilled and efficient employees;
- (4) install and use the best modern practices and techniques in the conduct of government business.

*History: Rule 10-81, eff 29 Jul 81, § 12.1.*

**4.1202 Manpower Resources Responsibility-Individual Responsibility.**

- (a) Director, office of manpower resources:
  - (1) is responsible for administering the ASG personnel program and for providing full support for and maintenance of the ASG employee development and training activities;
  - (2) will provide technical advice and assistance in the development of the departmental annual employee development and training plans.

These annual departmental plans will be reviewed and used as a basis for developing the government-wide employee development and training program;

- (3) will review departmental plans prior to the presentation of the annual budget and

develop his recommendation of training programs for inclusion in the development and training plan. Upon the Governor’s approval of the ASG training plan, the departmental training program shall be incorporated into the department’s annual budget.

- (b) Individual’s responsibility: Because training and development is an individual matter, one that must be accepted and recognized by the person concerned in order to be of any benefit, each employee is, therefore, responsible both to himself and the government service for his personal development and growth.

*History: Rule 10-81, eff 29 Jul 81, § 12.2.*

**4.1203 Governor’s Committee-Departmental Committees.**

- (a) The Governor’s employee development and training advisory committee will consist of representatives from each governmental agency and top state officials appointed by the Governor. The director, office of manpower resources will be the Governor’s representative and preside as chairperson. The committee will advise in the development of policies, procedures, and training programs and will provide a direct communication channel for departments to the office of manpower resources.
- (b) The departmental employee development and training committees will consist of appropriate representation within a department and would operate in a similar manner to the Governor’s employee development and training advisory committee except at the departmental level.

*History: Rule 10-81, eff 29 Jul 81, § 12.3.*

**4.1204 Scope of Activities.**

Agencies, in establishing their employee development and training plans, are to include but not be limited to the following:

- (a) Induction Training. Induction training consists of two phases:
  - (1) Orientation training: Orientation training will be given each new employee upon entry to give him an understanding of the

department, its policies, objectives, programs, functions, and organizational structure, basic laws affecting departmental operations, and the relationship of his job to the overall organization.

- (2) Basic job training: The immediate supervisor is responsible for providing to a new employee or an employee transferred into another job the basic knowledge of his job, including work standards, and to assist him in acquiring the skills, techniques, work habits, an attitude essential for satisfactory work performance.
- (b) Refresher Job Training. This training is provided to bring employees up to date on information in an occupation in which they had been previously trained and to brush up on skills that have become “rusty” through disuse or improper use.
  - (c) New Activities, Procedures, Laws, Policies.
    - (1) Whenever new activities or procedures in work methods are instituted, agencies will provide orientation to the activity or procedure and adequate instructions to employees in performing the new activity before effecting the changeover. Such orientation and instructions will be given to all employees involved, to effect the change with a minimum of work disruptions and to facilitate transition to the new setup from both the standpoint of management and the employees.
    - (2) Whenever changes to existing laws or whenever new laws, policies, and rules are made, agencies will provide the means for informing all management personnel, including supervisors and such other persons as are affected, of these changes.
  - (d) Management Development Activities (Supervisors).
    - (1) Basic supervisory training: Departments shall enroll all supervisors in the office of manpower resources basic supervisory training program within 6 months of their appointment. This program will cover the basic skills, knowledge, and attitudes necessary for the efficient performance of their managerial and operational responsibilities. Each newly appointed supervisor shall be enrolled in this basic supervisory program within 6 months of his appointment.
    - (2) Advanced supervisory training: A supervisory development activity of an advanced and continuing nature shall be established to further assist administrative and supervisory personnel in keeping up with new developments in management, supervisory, and human relations techniques.
- (e) Methods Improvement Activity (Work Simplification). This training is provided to assure a systematic plan for developing better operating methods through the cooperative efforts of management and employees in recognizing, stimulating, and using the common sense and imagination of all employees and supervisors to produce valuable ideas for effecting economy and developing better methods for getting work done in the easiest, simplest, and fastest way possible.
  - (f) Self-Development Activities. This training provides employees with the means for self-improvement in developing essential knowledge, skills, and attitudes, and individual potential for career service through voluntary participation in government-sponsored and agency-sponsored activities both within and without the government service.
  - (g) Special Purpose Activities. This training provides for meeting the needs imposed by technological improvements or employment displacement, changes in public service requirements, civil defense matters, legislation, or conditions, usually of a nonrecurring nature. Included in this category are:
    - (1) internship training activity, a formalized activity of related academic study and on-the-job instruction designed to develop outstanding individuals to meet the employment needs of the government and to upgrade the quality of public service through improved personnel effectiveness;

- (2) training agreements, which provide agencies with the means for obtaining qualified personnel to carry out the agency's mission when there are no other available resources through which these qualified personnel could be obtained. They are formal agreements between the office of manpower resources and a government agency whereby the OMR will accept certain agency-sponsored training as a means of supplementing the employee's present qualifications.
- (h) Out-service Training. This provision permits agencies to send their employees to nongovernment facilities for needed training which is not available within the government's jurisdiction and to pay all or any part of the expenses of such training. The training may be full time, part time, on duty or off duty, day or evening, or any necessary combination of these, provided the training is of primary benefit to the government service.

*History: Rule 10-81, eff 29 Jul 81, § 12.4.*

**4.1205 Records-Reports-Expenditures.**

- (a) Records.
  - (1) Basic records: Agencies will establish necessary records for employee development and training.
  - (2) Letters of completion: Departments will prepare, for documentation in official personnel jackets, letters of completion for individuals completing satisfactorily any approved employee development and training activity. The letter will include the following information:
    - (A) Title of course,
    - (B) Hours of training received;
    - (C) A brief outline of subject matter covered;
    - (D) Dates of attendance;
    - (E) Where and by whom sponsored if other than home department.
- (3) Training certificate: The office of manpower resources will issue training certificates to employees completing satisfactorily any endorsed employee development and training activity with 20 or more hours of instruction time. In order for the OMR to endorse such activities, agencies must advise the department of their employee development and training activities through submission of their employee development and training plans and of any additions or amendments to them.
- (b) Reporting Requirements. A system of reporting is necessary to give meaningful information which will assist management in assessing the past and in planning the future activities and to funnel in the necessary data from departmental units to the OMR, which is responsible for preparing a master employee development and training report for the Governor. Departments will submit consolidated semi-annual reports to the OMR by the tenth working day following the end of each semiannual period. The OMR will submit the government-wide semiannual employee development and training report to the Governor by the fifteenth working day following the end of each period.
- (c) Expenditures.
  - (1) For items in the annual departmental employee development and training plan requiring expenditure of funds for which appropriations have been included in the department's operating budget:
    - (A) In-service training: An invoice for expenditure of funds will be completed and processed according to the ASG standard operating procedure.
    - (B) Out-service training: An invoice for expenditure of funds will be completed and processed according to the ASG standard operating procedure.
  - (2) For items requiring departmental expenditure of funds above and beyond those covered in the operating budget:

- (a) In-service Training: Training using resources and facilities outside the agency but within the jurisdiction of the ASG and involving expenses for which funds have not been included in the departmental annual training budget will be submitted for prior approval to the director.
  - (b) Out-service Training: Training using resources and facilities outside of the jurisdiction of the ASG will be submitted for prior approval to the director.
- (3) Blanket approval for statewide expenditure of funds: In situations relating to specific employee development and training activities where the office of manpower resources has received blanket approval or authority from the Governor for the expenditure of funds, it will coordinate attendance at these activities.

*History: Rule 10-81, eff 29 Jul 81, § 12.5.*

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[End of Title 4 – Chapter 12]

TITLE 4 - CHAPTER 13 – TRAVEL

Sections:

- 4.1310 Per diem allowance-Intraterritorial  
Travel-Authority of provisions.
- 4.1311 Per diem allowance-Intraterritorial  
Travel-Rate-Limitation.

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**4.1310 Per Diem Allowance-Intraterritorial  
Travel-Authority of Provisions.**

The rule codified in this section and 4.1311 is adopted under the authority of 7.1002 A.S.C.A., and the delegation under 4.0131 A.S.C.A., of the rulemaking authority, vested in the director of manpower resources therein to the director of administrative services.

*History: Rule 18-80. eff 3 Sep 80, § 1.*

**4.1311 Per Diem Allowance-Intraterritorial  
Travel-Rate-Limitation.**

- (a) Effective 14 July 80 the per diem rate for travel on temporary official business away from a permanent duty station in the territory by an employee of the ASG between the island of Tutuila, the Manu'a group of islands and Swains Island is \$40 per day.
- (b) To be entitled to the full per diem, the employee must stay overnight and provide, with his travel expense report, a receipt evidencing that he stayed in a duly licensed accommodation facility. If such evidence is not presented or if the employee does not stay overnight, the employee is entitled to only 50% of the per diem rate.
- (c) This section is inapplicable to government employees whose temporary duty assignments are specifically covered by 4.0413 or 4.0414.

*History: Rule 18-80. eff 3 Sep 80, § 2; and Rule 11-8, eff 6 Oct 88, § 3.*

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[End of Title 4 – Chapter 13]

*AMERICAN SAMOA ADMINISTRATIVE CODE – 2024 EDITION*

TITLE 4 - CHAPTER 14 – TERRITORY OF AMERICAN SAMOA DEFERRED COMPENSATION PLAN

Sections:

- I. GENERAL PROVISIONS*
- 4.1401 Purpose.
- 4.1402 Definitions.
- 4.1403 Office of The Board.
- 4.1404 Appearances Before the Board.
- 4.1405 Public Records and Information.
  
- II. ADOPTION, AMENDMENT, OR REPEAL OF RULES*
- 4.1406 Petition.
- 4.1407 Form of Petition.
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- 4.1412 Disposition of Petition
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- IV. PLAN PROVISIONS*
- A. Enrollment*
- 4.1414 Eligibility Requirements.
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- B. Deferrals*
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- C. Investments*
- 4.1427 Investments of Deferred Amounts.
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- D. Accounts And Reports*
- 4.1430 Individual Accounts.
- 4.1431 Adjustments to Accounts.
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- E. Distribution Of Benefits*
- 4.1434 When Payable-Earliest and Latest Dates.
- 4.1435 Distribution Request Form-Filing Requirements.
- 4.1436 Normal Retirement Age Defined-Designation.
- 4.1437 Election to Commence Benefits.
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- 4.1440 Beneficiaries: Designation-Rights.
- 4.1441 Withholding of Taxes.
- 4.1442 Mailing of Payments.
- 4.1443 Request for Emergency Withdrawal-Form.
- 4.1444 Unforeseeable Emergency Defined.
- 4.1445 Limitations on Withdrawals.
- 4.1446 Payment-Board Approval.

- G. Board Review of Administrator’s Actions*
- 4.1447 Request for Board Review.
- 4.1448 Disposition of Request.

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*I. GENERAL PROVISIONS*

**4.1401 Purpose.**

Chapter 15. Title 7. Section 7.1502 A.S.C.A., authorizes the board of trustees of the Territory of American Samoa deferred compensation plan to establish the Territory of American Samoa deferred compensation plan. Chapter 14 Title 4, Administrative Rules, is adopted by the board to implement administration of the plan.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1402 Definitions.**

As used in this chapter unless the context clearly requires otherwise:

- (1) Administrator” means the company or persons engaged by the board to administer and maintain the plan under the direction of the board.

- (2) “Beneficiary” means a person designated by a participant, a participant’s estate or any person whose rights under the plan are derived as a result of the participants death.
- (3) “Board” means the board of trustees of the Territory of American Samoa deferred compensation plan created pursuant to 7.1502 A.S.C.A.
- (4) “Employee” means persons employed by the Government of American Samoa in all occupational classifications.
- (5) “Employer” means the Government of the Territory of American Samoa.
- (6) “Participant” means an employee who enters into a written agreement with the employer to defer compensation under the plan.
- (7) “Participation agreement” means the written agreement between an employee and employer to have compensation withheld each pay period and invested by the board.
- (8) “Plan” means the Territory of American Samoa deferred compensation plan established in accordance with 7.150 1 A.S.C.A., and. Section 457 of the Internal Revenue Code, 26 U.S.C. Section 457.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1403 Office of the Board.**

The office of the board is located at the Office of Manpower Resources, Utulei, American Samoa.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1404 Appearances Before the Board.**

A party to a proceeding before the board may appear in person or may be represented by or with counsel or other person chosen as a representative. The board at any time may require evidence of authority and qualification to act in a representative capacity.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1405 Public Records and Information.**

- (a) The term “public record,” as used in this chapter, shall be defined as in 4.1101, et seq., A.S.C.A.
- (b) All public records shall be available for inspection in the office of the board during

established office hours, in accordance with 4.1105 A.S.C.A.

- (c) Public records printed or reproduced by the board shall be made available to any person in accordance with 4.1105 A.S.C.A.

*History: Rule 11-87. eff 17 Jun 87.*

**II. ADOPTION, AMENDMENT, OR REPEAL OF RULES**

**4.1406 Petition.**

An interested person may petition the board for the adoption, amendment, or repeal of any rule of the board. The petition shall be submitted in duplicate and filed with the board:

*History: Rule 11-87. eff 17 Jun 87.*

**4.1407 Form of Petition.**

- (a) The petition need not be in any special form but shall contain:
  - (1) the petitioner’s name, address, 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, amendment, or repeal and the designation of any existing rules affected by the petition: and
  - (5) the signature of the petitioner.
- (b) A petition which does not conform to the foregoing requirements may be rejected by the board. The petitioner shall be notified in writing.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1408 Rulemaking.**

The board at any time, on its own initiative, may institute proceedings in accordance with 7.1503 A.S.C.A., for the adoption, amendment, or repeal of rules.

*History: Rule 11-87, eff 17 Jun 87*

**III. DECLARATORY RULING**



**4.1409      Petition.**

An interested person may petition the board for a declaratory order as to the applicability of any statutory provision administered by the board or any rule or order of the board. The petition shall be submitted in duplicate and filed with the board.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1410      Form of Petition.**

(a) The petition need not be in any special form but shall contain:

- (1) the petitioner’s name, address, zip code, and telephone number;
- (2) a statement of the nature of the petitioner’s interest;
- (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.

(b) A petition which does not conform to the foregoing requirements may be rejected by the board. The petitioner shall be notified in writing of the rejection.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1411      Non-issuance of Declaratory Order.**

The board, for good cause, may refuse to issue a declaratory order. Without limiting the general application of the foregoing, the board may so refuse where:

- (a) the question is speculative or purely hypothetical and does not involve an existing situation or a situation which may reasonably be expected to occur in the near future;
- (b) the petitioner’s interest is not of the type which confers sufficient standing to maintain an action in a court of law;

(c) the issuance of the declaratory order may adversely affect the interest of the Territory the board, or any officer or employee of the territory involving in pending litigation or litigation which may reasonably be expected to arise; or

(d) the petition requests a ruling on a statutory provision not administered by the board or the matter is not otherwise within the jurisdiction of the board.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1412      Disposition of Petition.**

Within a reasonable time after the submission of the petition, the board shall either deny the petition in writing, stating its reasons for the denial, or issue a declaratory ruling on the matters contained in the petition. Upon disposition of the petition, the board shall promptly notify the petitioner of the board’s ruling.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1413      Applicability of Orders.**

An order disposing of a petition shall be applicable only to the fact situation alleged in the petition or as set forth in the order. The order shall not be applicable to different fact situations or to situations where additional facts not considered in the order exists.

*History: Rule 11-47, eff 17 Jun 87.*

- IV.            *PLAN PROVISIONS*
- A.            *ENROLLMENT*

**4.1414      Eligibility Requirements.**

A person shall be eligible to enroll in the plan if the person is employed by the Government of the Territory of American Samoa as defined in 7.1403(f) A.S.C.A.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1415      Application for Enrollment.**

- (a) An application for enrollment shall be made on the participation agreement form prescribed by the board and shall be filed with the administrator.
- (b) An applicant for enrollment shall enter on the participation agreement form the following:

- (1) identifying information, including name, social security number, date of birth, home address, and home telephone number;
- (2) employment information, including employer, department, division, business telephone number, and annual salary;
- (3) designations allowed under the plan, including investment preference, amount of compensation to be deferred per pay period per investment product, normal retirement age, and beneficiary; and
- (4) signature to indicate that the applicant:
  - (A) agrees to the provisions of the plan, which are incorporated by reference;
  - (B) authorizes disclosure of any information necessary for administration of the plan; and
  - (C) certifies that the information furnished on the form is true and correct to the best of the applicant's knowledge and belief.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1416 Acceptance-Effective Date.**

- (a) The participation agreement shall be effective upon acceptance by the board and shall remain in effect unless it is modified by the participant.
- (b) The administrator shall give each participant a copy of the participation agreement which has been accepted by the board.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1417 Rejection-Notification.**

- (a) A participation agreement shall be rejected if:
  - (1) the participation agreement is incomplete;
  - (2) an entry in the participation agreement is inconsistent with the plan or this chapter; or
  - (3) the applicant does not meet the eligibility requirements.
- (b) If a participation agreement is rejected, the administrator shall promptly notify the applicant in writing of the rejection and the reason for the rejection.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1418 Changes in Participation Agreement.**

- (a) It shall be the responsibility of a participant to notify the administrator in writing of any change in an entry on the participation agreement.
- (b) Upon receipt of a notification of change, the administrator shall promptly inform the participant whether the change required:
  - (1) an amended participation agreement to be filed and accepted by the board or
  - (2) proof of documentation to substantiate the change.
- (c) The administrator shall make the change as soon as practicable following the receipt of a notification of change.
- (d) If a change would be inconsistent with the plan or this chapter, the administrator shall promptly notify the participant in writing that the change cannot be made and the reason why it cannot be made.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1419 Reenrollment.**

A former participant may again apply for enrollment in the plan by filing a participation agreement with the administrator.

*History: Rule 11-87, eff 17 Jun 87.*

**B. DEFERRALS**

**4.1420 Deferrals Allowed-Authorization-Commencement.**

- (a) Only compensation from an employer which has not yet been paid shall be deferred under the plan.
- (b) Upon receipt of a payroll authorization form signed by the participant, which designates the amount of compensation to be deferred, compensation shall be deferred each payroll date by the employer, provided there are sufficient funds to make the designated deferral. The authorization form shall be transmitted by the administrator to the territorial comptroller. (c) Deferrals shall commence as soon as practicable, but not earlier than the first day of the next

calendar month following the date on which the board accepts the participation agreement.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1421**      **Limitations on Amounts Deferred.**

- (a) The minimum amount of deferral per pay period shall be \$10 per investment product.
- (b) The maximum amount of deferral per taxable year of the participant shall be 33 1/3 percent of a participant's includable compensation (as defined in regulations governing Section 457 of the Internal Revenue Code, 26 U.S.C. § 457), but not more than \$7,500, except, as provided in 4.1422.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1422**      **Catch-up Provision.**

- (a) During 1 or more of a participant's last 3 taxable years ending before the participant attains normal retirement age, as defined in 4.1436, a participant may be eligible to defer compensation in excess of the limitation under 4.1421(b) as follows:
  - (1) the maximum amount of deferral for each taxable year of the catch-up period shall be the sum of the underutilized limitation under 4.1422(a)(2), but not more than \$15,000;
  - (2) the underutilized limitation shall be computed by adding:
    - (A) the maximum amount of deferral under 4.1421(b) for the taxable year; and
    - (B) the amount which a participant could have deferred but did not defer (which is the maximum amount under 4.1421(b) less any amount previously deferred) in prior taxable years which the participant was eligible to participate in the plan or another eligible plan (within the meaning of Section 457 of the Internal Revenue Code, 26 U.S.C. § 457): and
  - (3) a participant shall only be eligible to utilize the catch-up provision once, regardless of whether the participant fully utilizes the provision or rejoins the plan.

- (b) A participant shall not be eligible to utilize the catch-up provision under the plan if the participant has utilized a catch-up provision under another eligible plan.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1423**      **Reduction in Maximum Amounts Allowable.**

The, maximum amounts allowable under 4.1421(b) and 4.1422 shall be reduced in accordance with regulations governing Section 457 of the Internal Revenue Code, 26 U.S.C. § 457 if a participant is deferring or has deferred compensation under another eligible plan or annuity plan under Section 403(b) of the Internal Revenue Code, 26 U.S.C. § 403(b).

*History: Rule 11-87, eff 17 Jun 87.*

**4.1424**      **Responsibilities Regarding Maximum Amounts.**

- (a) It shall be the responsibility of a participant to furnish the administrator with all necessary information so that deferrals under the plan do not exceed the maximum amounts allowable under 4.1421(b), 4.1422, and 4.1423.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1425**      **Insufficient Funds-Suspension-Reinstatement.**

- (a) Whenever there are insufficient funds available to make the deferral designated in the participation agreement, the deferral shall not be made.
- (b) Deferrals shall automatically be suspended if there are insufficient funds available to make the designated deferral for 6 consecutive pay periods.
- (c) A participant whose deferrals have been suspended shall file a written request with the administrator to have deferrals reinstated on the same terms contained in the participation agreement prior to the suspension. However, if the desired reinstatement is to be on terms other than those contained in the participation agreement, a participant shall file an amended participation agreement, which shall be subject to acceptance by the board.

*History: Rule 11.87 eff 17 Jun 87.*

**4.1426 Deferrals Remain as Employer's**

**Assets.**

- (a) The amounts deferred under the plan by a participant, including income attributable to the investment of the amounts deferred, shall remain an asset of the participant's employer.
- (b) When a participant changes employment from one employer to another employer under the plan, the amounts deferred by the participant, including income attributable to the investment of the amounts deferred, shall become an asset of the new employer.
- (c) A participant's rights to the amounts deferred shall be limited to those provided in the plan and this chapter.

*History: Rule 11-87. eff 17 Jun 87.*

C. INVESTMENTS

**4.1427 Investments of Deferred Amounts.**

- (a) The amounts deferred under the plan shall be invested by the board in fixed annuities, variable annuities, life insurance, savings account or mutual funds, or any combination of the foregoing.
- (b) Contracts entered into between the board and the companies selected by the board to offer the investment products for the plan shall be binding upon the participants.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1428 Designation of Investment Preference.**

- (a) A participant shall designate a preference for the investment of amounts deferred from among the available investment products under the plan in the participation agreement.
- (b) A participant may change a designation of an investment preference with respect to prospective deferrals by filing an amended participation agreement, which shall be subject to acceptance by the board.
- (c) Investment of deferred amounts shall be made in accordance with the participants' designated preferences unless otherwise directed by the board for good cause, such as, circumstances which necessitate an immediate safeguarding of

deferred amounts. Whenever deferred amounts are not invested in accordance with this participants designation preferences, all affected participants shall be advised by the administrator in writing of the action taken by the board and the reason for the action.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1429 Transfer of Amounts Previously Deferred.**

A participant may submit a written request to the administrator to transfer amounts previously deferred under the plan from one investment product to another investment product available under the plan. However, the transfer shall only be allowed in accordance with the provisions of the contracts pertaining to the applicable investment products.

*History: Rule 11-87 eff 17 Jun 87.*

D. ACCOUNTS AND REPORTS

**4.1430 Individual Accounts.**

Individual deferred compensation accounts shall be established and maintained for each participant as necessary for record-keeping and reporting purposes.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1431 Adjustments to Accounts.**

Each individual account shall be credited with the amount of compensation deferred and shall be further adjusted by any increase or decrease resulting from investments, any direct-charge authorized in the applicable investment product contract, and any withdrawal or payment of benefits authorized by the board.

*History: Rule 11-47. eff 17 Jun 87.*

**4.1432 Reports on Accounts.**

Each participant shall be provided semiannually with a written report of any account maintained on behalf of the participant. The report shall be mailed to the participant's last home address on file with the administrator, unless otherwise requested in writing.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1433 Disclosure of Information.**

Information about a participant shall only be disclosed to the participant or a person authorized in

writing by the participant, unless otherwise authorized by law.

*History: Rule 11-87, eff 17 Jun 81.*

*E. DISTRIBUTION OF BENEFITS*

**4.1434 When payable-Earliest and latest dates.**

- (a) Benefits under the plan shall be paid or made available to the participant no earlier than:
  - (1) separation from service when an employee is no longer employed by an employer under the plan due to termination, retirement, or death; or
  - (2) the occurrence of an unforeseeable emergency as provided in 4.1443 to 4.1446.
- (b) Payment of benefits shall commence no later than 60 days after the close of the calendar year in which the participant separates from service or the participant attains or would have attained normal retirement age as defined in 4.1436, whichever is later.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1435 Distribution request form-Filing requirements.**

- (a) A completed distribution request form prescribed by the board shall be filed with the administrator upon separation from service. Additional information may be required by the board prior to approval of the request.
- (b) The following shall be entered on the form:
  - (1) identifying information, including name, social security number, date of birth, home address, and home telephone number;
  - (2) date of and reason for separation from service;
  - (3) whether the catch-up provision has been utilized;
  - (4) normal retirement age;
  - (5) payment option;
  - (6) commencement date of payments: and

- (7) signature authorizing proper withholding of taxes and certifying the information is true and correct to the best of the person's knowledge and belief.

- (c) The form shall be filed no later than 30 days after the close of the calendar year in which the separation from service occurs.
- (d) In the event a distribution request form is not filed within the prescribed time or is otherwise rendered ineffective by the plan or this chapter, benefits shall be paid in accordance with 4.1439.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1436 Normal Retirement Age Defined-Designation.**

- (a) Normal retirement age means any age, at the option of the participant that is within the range of ages:
  - (1) beginning no earlier than the earliest age at which the participant has the right to retire under the employees' retirement system and to receive immediate benefits without reduction; and
  - (2) ending not later than age 70 1/2. However, if a participant continues to work beyond the specified ages, normal retirement age shall not be later than the mandatory retirement age applicable to the participant or the date the participant separates from service with the employer.
- (b) The participant shall designate a normal retirement age on the participation agreement or distribution request forms. In the absence of a designation, normal retirement age shall be age 65.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1437 Election to Commence Benefits.**

- (a) Upon separation from service, but not later than 30 days after the close of the calendar year in which the participant separates from service, an irrevocable election may be made to have benefits commence at a fixed future time. The designation shall be made on a distribution request form and filed with the administrator.

- (b) In the absence of an election within the prescribed time, benefits shall be paid in accordance with 4.1439.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1438 Selection of Payment Options.**

- (a) The payment of benefits under the plan shall be made primarily for the benefit of the participant.
- (b) A method for payment of benefits shall be designated on the distribution request form from among the options available under the applicable investment product contracts, which may include:
  - (1) fixed payments over a period of time;
  - (2) annuity payments and
  - (3) lump sum payment.
- (c) The designation of the method for payment of benefits is irrevocable, unless modified at least 30 days prior to the date benefits are to commence.
- (d) In the absence of a designation within the prescribed time, benefits shall be paid in accordance with 4.1439.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1439 Failure to Select Distribution Options.**

- (a) In the event a distribution request form is not filed or an election to commence payments is not made in accordance with these rules, benefits shall be paid when the participant attains or would have attained normal retirement age, except as specified in 4.1438(b)(1).
- (b) In the event a method for payment of benefits is not designated in accordance with this chapter, benefits shall be paid as follows:
  - (1) for an account valued at less than \$5,000, immediately and in a lump sum; and
  - (2) for an account valued at \$5,000 or greater, in 5 equal annual installments.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1440 Beneficiaries; Designation-Rights.**

- (a) A participant shall designate on the participation agreement form a beneficiary or beneficiaries, who shall receive the participant's benefits in the event of the participant's death. In the event a beneficiary has not been designated or the designation is ineffective, the participant's estate shall become property of the participant's heirs.
- (b) Upon the participant's death, a beneficiary shall have all the rights of the participant, except as limited by regulations governing Section 457 of the Internal Revenue Code, 26 U.S.C. § 457.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1441 Withholding of Taxes.**

All payments under the plan shall be subject to applicable tax withholding requirements.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1442 Mailing of Payments.**

Payments shall be mailed to the last home address on file with the administrator, unless otherwise requested in writing.

*History: Rule 11-87. eff 17 Jun 87.*

**F. UNFORESEEABLE EMERGENCY**

**4.1443 Request for Emergency Withdrawal-Form.**

- (a) If a participant incurs an unforeseeable emergency as defined in 4.1444, the participant may apply for an emergency withdrawal by filing with the administrator a completed emergency withdrawal request form prescribed by the board, attaching evidence in support of the request. Additional evidence may be required by the board as necessary to dispose of the request.
- (b) A participant requesting an emergency withdrawal shall enter on the form the following:
  - (1) identifying information, including name, home address, employing department, and work telephone number;
  - (2) list of participant's assets;
  - (3) specification of unforeseeable emergency;
  - (4) detail of costs incurred or to be incurred;

- (5) whether the withdrawal results from an emergency affecting someone other than participant and, if so, whether that person is the participant’s dependent;
- (6) amounts not payable by other sources;
- (7) amounts necessary to satisfy the emergency; and
- (8) signature authorizing proper withholding of taxes and certifying the information is true and correct to the best of the participant’s knowledge and belief.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1444 Unforeseeable Emergency Defined.**

An unforeseeable emergency means severe financial hardship to a participant resulting from a sudden and unexpected illness or accident of the participant or of the participant’s dependent (as defined in Section 152(a) of the Internal Revenue Code, 26 U.S.C. § 152(a) loss of the participant’s property due to casualty, or similar extraordinary circumstances beyond the participant’s control.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1445 Limitations on Withdrawals.**

An emergency withdrawal shall only be approved by the board to the extent that:

- (a) it is reasonably needed to satisfy the emergency; and
- (b) severe financial hardship cannot be relieved by:
  - (1) reimbursement or compensation from sources other than an emergency withdrawal under the plan;
  - (2) cessation of deferrals under the .plan; and
  - (3) liquidation of the participant’s assets, to the extent that the liquidation of assets would not in itself cause severe financial hardship.

*History: Rule 11-87. eff 17 Jun 87.*

**4.1446 Payment-Board Approval.**

- (a) Only emergency withdrawals which have been approved by the board shall be made under the plan.

- (b) Payments shall be made as directed by the board and shall include amounts which are required to be withheld for income tax purposes.
- (c) If an emergency withdrawal is not approved by the board, the administrator shall promptly notify the participant in writing of the disapproval and the reasons for the disapproval.

*History: Rule 11-87. eff 17 Jun 87.*

**G. BOARD REVIEW OF ADMINISTRATOR’S ACTIONS**

**4.1447 Request for Board Review.**

- (a) A board review may be requested by an employee regarding an action taken by the administrator, as it applies to the employee, which the employee believes is inconsistent with the plan or this chapter. The employee shall make reasonable efforts to resolve the disagreement with the administrator prior to requesting a board review.
- (b) All requests for board review shall be in writing and shall state the efforts taken to resolve the disagreement with the administrator, the specific reason why the action taken by the administrator is inconsistent with the plan or this chapter, the action requested, and the reason why the requested action is proper.
- (c) Requests for board review shall be filed within 30 calendar days of the date of the action taken by the administrator.

*History: Rule 11-87, eff 17 Jun 87.*

**4.1448 Disposition of Request.**

An employee’s request for a board review may be disposed of with or without an appearance before the board. The employee shall be promptly notified by the board in writing of the results of its review.

*History: Rule 11-87, eff 17 Jun 87.*

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[End of Title 4 – Chapter 14]

TITLE 4 - CHAPTER 20 – ADMINISTRATION & GENERAL PROVISIONS

Sections:

- 4.2001 Applicability-Position Categories.
- 4.2002 Administration.
- 4.2003 Agency Head Responsibilities-Delegation.
- 4.2004 Investigative Authority.
- 4.2005 Enforcement Authority.
- 4.2006 Discrimination Prohibited.

**4.2001 Applicability-Position Categories.**

These regulations apply to all career service positions and employees. The ASPA personnel system is composed of career service positions and contract specialists. The objectives of the ASPA system of personnel administration are consistent with those of the ASG system, as described in 7.0201 A.S.C.A.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2002 Administration.**

The Executive Director is responsible to the ASPA Board of Directors and the Governor for exercising leadership in and for the administration of all aspects of ASPA personnel management covered in these regulations. in accordance with appropriate ASPA, ASG and U.S., statutes and rules. The Director shall develop and promulgate rules, standards, and procedures designed to promote the efficiency of the agency service and to serve the needs of ASPA. The Director shall maintain a system of periodic review to determine that all rules relating to 'his or her assigned responsibilities are being carried out. Whenever such review reveals failure on the part of any individual or department to comply with established policies, the Director will take such action as may be considered appropriate.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2003 Agency Head Responsibilities-Delegation.**

(a) The Executive Director is responsible for carrying out the basic personnel development and management requirements of ASPA. Included in this responsibility are:

- (1) Cooperation with the ASG Office of Manpower Resources as necessary and appropriate:

- (2) Prompt notification to the Office of Manpower Resources of personnel actions to aid the Office of Manpower Resources in recordkeeping:

- (3) Active, concerned leadership in assisting employees to carry out individual development plans:

- (4) Prompt and accurate action in all hiring of new employees, promotions, transfers and disciplinary actions in conformance with these regulations:

- (5) Ensuring that ASPA personnel practices comply with these regulations as well as territorial statutes governing public personnel administration:

- (6) Ensuring that ASPA positions are filled by suitable and qualified applicants.

- (b) The training and technical aspects of personnel administration may be delegated to supervisors, trainers, and personnel officers, but the basic responsibility for overall personnel administration at ASPA remains with the Executive Director.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2004 Investigative Authority.**

The Executive Director may cause investigations to be made as necessary to enforce Title 7 A.S.C.A., et seq. and other pertinent portions of law and the rules governing employment. This may include investigations into the qualifications and suitability of applicants for positions.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2005 Enforcement Authority.**

Whenever an investigation indicates that any person has been appointed to, or is holding or performing the duties of, a position in violation of any of the laws and rules governing employment, the Executive Director is authorized, after giving due notice and opportunity for explanation, to certify the facts to the ASG treasurer, and thereafter no payment shall be made of salary or wages accruing to the employee in question.

*History: Rule 11-84, eff 19 Dec 84, (part).*



**4.2006      Discrimination Prohibited.**

There shall be no discrimination in employment against any person on the basis of race, religious beliefs, color, age, sex, national origin, marital status, or physical and mental handicap, except for bona fide occupational or legal requirements.

*History: Rule 11-84. eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 20]

TITLE 4 - CHAPTER 21 – DEFINITIONS

Sections:

- 4.2101 Applicability of definitions.
- 4.2102 Abandonment of position.
- 4.2103 Accrued leave.
- 4.2104 Accumulated leave.
- 4.2105 Acting appointment.
- 4.2106 Repealed.
- 4.2107 Agency.
- 4.2108 Annual leave.
- 4.2109 Appeal.
- 4.2110 Appointing authority.
- 4.2111 Apprenticeship.
- 4.2112 Areas of training.
- 4.2113 ASG.
- 4.2114 Assembled examination.
- 4.2115 ASPA.
- 4.2116 Basic salary rate.
- 4.2117 Basic Training.
- 4.2118 Board.
- 4.2119 Bumping.
- 4.2120 Career Service.
- 4.2121 Certificate of Eligibles.
- 4.2122 Certification.
- 4.2123 Chairman of The Board.
- 4.2124 Class.
- 4.2125 Compensatory Time.
- 4.2126 Competitive Personnel Action.
- 4.2127 Conference Leadership.
- 4.2128 Conflict of Interest.
- 4.2129 Contagious Disease.
- 4.2130 Contract Specialist.
- 4.2131 Cooperative Education Plan.
- 4.2132 Course of Study.
- 4.2133 Demotion.
- 4.2134 Department.
- 4.2135 Desirable Qualifications.
- 4.2136 Detail.
- 4.2137 Director.
- 4.2138 Disabled Veteran.
- 4.21124 Screening Committee.
- 4.21125 Selecting Authority.
- 4.21126 Selective Certification.
- 4.21127 Seminar.
- 4.21128 Sick Leave.
- 4.21129 Skill Training.
- 4.21130 Standard Workday.
- 4.21131 Standard Workweek.
- 4.21132 Supervisor.

- 4.21133 Suspension.
- 4.21134 Temporary Employment.
- 4.21135 Termination.
- 4.21136 Training Aids.
- 4.21137 Training Committee.
- 4.21138 Training Plan.
- 4.21139 Training Policy.
- 4.21140 Training Timetable.
- 4.21141 Transfer.
- 4.21142 Trial Service Period.
- 4.21143 Tuition.
- 4.21144 Unassembled Examination.
- 4.21145 Veteran.
- 4.21146 Work Simplification.

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**4.2101 Applicability of Definitions.**

The definitions, set out in this chapter apply throughout these regulations, unless the context clearly indicates another meaning.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2102 Abandonment of Position.**

“Abandonment of position” means failure of an employee to report for duty or to return from leave for five or more consecutive work days.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2103 Accrued Leave.**

“Accrued leave” means leave earned by an employee during the current calendar year that is unused at any given time during that calendar year.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2104 Accumulated Leave.**

“Accumulated leave” means unused leave remaining to the credit of an employee at the beginning of a new calendar year.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2105 Acting Appointment.**

“Acting appointment” means a temporary appointment made to a supervisory or managerial position.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2106 Administrative Leave.**

Repealed by Rule 7-87 § 3.

**4.2107 Agency.**

“Agency” refers to ASPA.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2108 Annual Leave.**

“Annual leave” means authorized absence from duty with pay to allow employees a vacation period for rest and relaxation and to provide time off for personal and emergency purposes. The use of annual leave must be officially authorized prior to being taken.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2109 Appeal.**

“Appeal” means a response by an individual to action taken against him or her. The right of appeal extends to such actions as classification decisions, disciplinary actions, actions of alleged discrimination, and such other actions as provided for in these regulations.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2110 Appointing Authority.**

“Appointing authority” means the person lawfully authorized to make appointments. The appointing authority for ASPA is the Executive Director.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2111 Apprenticeship.**

“Apprenticeship” means a comprehensive program for training the learner toward a specialized trade or craft under the full responsibility of the employer and on a long-term basis. It includes thorough instruction in the principles and practices of the particular trade or craft as well as in academic and related subjects.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2112 Areas of Training.**

“Areas of training” is a term used to include the training activities for certain classes of positions, such as clerical, skilled trades, and professional. and for programs of training such as orientation, supervision, and safety.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2113 ASG.**

“ASG” means the American Samoa Government, as does “the government”.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2114 ASPA.**

“ASPA” means the American Samoa Power Authority, as does “the agency”.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2115 Assembled Examination.**

“Assembled examination” means an examination for which applicants are required to assemble or be physically present at an tip-pointed time and place.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2116 Basic Salary Rate.**

“Basic salary rate” means the dollar amount of the step of the salary range to which the employee is entitled, before any deduction, and exclusive of additional compensation of any kind.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2117 Basic Training.**

“Basic training”, as part of induction, means the fundamental or essential training required for a position.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2118 Board.**

“Board” means the Board of Directors of the American Samoa Power Authority.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2119 Bumping.**

“Bumping” means the replacement of an incumbent subject to reduction-in-force by another employee who has greater seniority.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2120 Career Service.**

“Career service” means that system of personnel administration based on merit principles which provides for the attraction, selection, and retention of the best-qualified persons for permanent employment. Entry is normally through competitive examination, and formalized channels of advancement and training are provided. Career service covers all employees of ASPA except contract specialists.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2121 Certificate of Eligibles.**

“Certificate of eligibles” means the official document from which eligibles are considered for employment.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2122 Certification.**

“Certification” means the process by which the names of qualified eligibles are determined.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2123 Chairman of The Board.**

“Chairman of the Board” refers to the Chairman of the Board of Directors of ASPA.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2124 Class.**

“Class” means the identification of a position or a group of positions sufficiently similar in duties so that the same requirements of training, experience, or skill and the same title, examination, and salary range may be applied.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2125 Compensatory Time.**

“Compensatory time” means time off in lieu of cash payment for over-time.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2126 Competitive Personnel Action.**

“Competitive personnel action” means a type of personnel action which can be effected only if applicable competitive procedures, i.e., those governing advertising and examining, have taken place.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2127 Conference Leadership.**

“Conference leadership” means the art of planning, leading, guiding, and directing a conference.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2128 Conflict Of Interest.**

“Conflict of interest” means a situation in which an employee’s private interests, usually of an economic nature, conflict, or raise a reasonable question of conflict, with his or her public duties and responsibilities. The potential conflict is of concern whether it is real or apparent.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2129 Contagious Disease.**

“Contagious disease” means a disease requiring isolation of the patient, quarantine, or restriction of movement, as prescribed by health authorities.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2130 Contract Specialist.**

“Contract specialist” means a person who has entered into an agreement with ASPA to perform specified duties and responsibilities for a specific period of time, who is not in the ASPA career service.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2131 Cooperative Education Plan.**

“Cooperative education plan” means training in which trainees alternate between periods of formal instruction in educational institutions and guided learning on the job through work experience related to the formal instruction.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2132 Course Of Study.**

“Course of study” means a training plan having a series of instructional units which have been developed to accomplish a specific training objective.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2133 Demotion.**

“Demotion” means change of an employee from a position in one class to a position in another class having a lower salary range.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2134 Department.**

“Department” means a division of ASPA headed by a manager appointed by the Executive Director.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2135 Desirable Qualifications.**

“Desirable qualifications” means the levels of education and/or experience deemed desirable or preferable for admission to the examination in lieu of or above and beyond fixed minimum qualifications.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2136 Detail.**

“Detail” means the temporary assignment of an employee to a different position for a specified period with the employee returning to his or her regular duties at the end of the detail. Technically, a position is not “filled” by a detail, as the employee continues to hold the position from which detailed.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2137 Director.**

“Director” means the Executive Director of ASPA.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2138 Disabled Veteran.**

“Disabled veteran” means an individual who has served; active duty in the armed forces of the United States, and has established the present-existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans’ Administration or a military department of the United States.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2139 Dismissal.**

“Dismissal” means the termination of employment of a permanent employee for cause of or of a probationary employee as specified in this article.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2140 Education.**

“Education” means the formal impartation or acquisition of knowledge, skill, or discipline of mind.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2141 Educational Counseling.**

“Educational counseling” means the act of conferring with a person for the purpose of aiding him or her in making choices and adjustments relating to schools, course, curriculum, and study.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2142 Elevation.**

“Elevation” means restoration of an employee to the higher classification, with permanent status, which he or she had prior to having been granted a voluntary demotion.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2143 Eligible.**

“Eligible” means an applicant whose name is on a register of persons who have qualified for a particular class of positions.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2144 Emergency Appointment.**

“Emergency appointment” means an appointment to a position pending the establishment of a register for that class or for emergency reasons, not to exceed 30 calendar days unless extended as provided by these regulations.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2145 Employee.**

“Employee” means any individual employed by ASPA under the authority of the Executive Director.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2146 Employee Development.**

“Employee development” means all planned, supervised experience, training, and/or education that enhances the individual’s usefulness as an employee, and promotes his or her work-life growth.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2147 Employee Relations.**

“Employee relations” means the contacts and relationships between management and the employees in an organization.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2148 Executive Development.**

“Executive development” means a plan for the creation of career executives through the systematic development of outstanding employees.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2149 First-Line Supervision.**

“First-line supervision” means that level of supervision directly over the rank-and-file or nonsupervisory employees and forming the starting point upward for the direct line of authority and communications to top management.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2150 Followup Training.**

“Followup training” means attention given to employees after initial training to ensure and facilitate their application of new skills and information.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2151 Full Biweekly Pay Period.**

“Full biweekly pay period” means as follows:

An employee shall be considered, for leave purposes, to have been employed for a full biweekly pay period if he or she has been in a pay status, or a combination of pay status and nonpay status, during all of the days within such period, exclusive of holidays and all non-work days established by the Governor.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2152 Full-Time Employment.**

“Full-time employment” means regularly scheduled employment requiring an average of 40 hours of work per week. However, for certification from a register, work between 32 and 40 hours per week shall be considered full time.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2153 Grievance.**

“Grievance” means an employee’s expressed feeling of dissatisfaction with aspects of his or her working conditions and working relationships which are outside his or her control. A grievance is not an appeal.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2154 Holidays.**

“Holidays” means days set aside to celebrate a religious, state, or other event for which ASPA employees receive time off with pay. Holidays are established by law or are designated by the Governor.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2155 Human Relations.**

“Human relations” means the integration of manpower into an effective operational system. Effective conduct of human relations is based upon good communications, which is transmitting an idea so as to make it understood and motivating the recipient to take the right action. The will to do things is generated by people and without this no productive operation is possible.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2156 Human Relations Training.**

“Human relations training” means the development of those techniques, habits, skills, and attitudes that will enable individuals to supervise and work effectively with others.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2157 Incentive Awards.**

“Incentive awards” means recognition for employees who demonstrate exceptional resourcefulness of skills or perform exceptional acts.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2158 Induction Training.**

“Induction training” means inservice training to familiarize an employee with a new assignment, including policies, procedures and other matters affecting conditions of work and safety precautions, performance standards, and other details.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2159 In-Service Training.**

“In-service training” means training provided by ASPA for its employees in order to increase their effectiveness in present assignments or to prepare for future assignments using the resources and facilities within the agency and/or within the jurisdiction of the territorial government. The term “staff development” is also used.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2160 Institute.**

“Institute” is sometimes applied to full-time training programs ranging in duration from a few days to several weeks, utilizing various training methods, and dealing with a limited or specific subject.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2161 Internship.**

“Internship” means a position or assignment that gives an employee planned work experience as part of a training program, which emphasizes the application of theories, principles, and techniques to operating situations.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2162      Intervening Salary Steps.**

“Intervening salary steps” means all increment steps in a salary range except the lowest and highest.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2163      Job Analysis.**

“Job analysis” means:

- (1) The process of breaking down a position, duty, or task into component parts including what is done, how it is done, and skills and knowledge needed. The technique is used in many phases of management, such as training, placement, classification, and work simplification;
- (2) The resulting statement of information;
- (3) In personnel administration, a complete analysis of all of the job positions in an establishment for the purpose of learning their requirements in terms of ability, and their relationships to each other and to the establishment. It may be, for example, the basis for a program of job evaluation.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2164      Job Code.**

“Job code” means an eight-digit code designating a class in terms of its status, salary structure to which assigned, grade level, and job family.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2165      Job Cost.**

“Job cost” means the cost arrived at by method of cost accounting which collects charges for material, labor and allocated overhead in the production of a specific order or a finished unit or units,

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2166      Job Evaluation.**

“Job evaluation” means a comprehensive determination of the relative worth and importance of all the jobs and positions in an establishment. A typical procedure involves the assignment of values to various job skills and characteristics, and a totaling of these values for each job on the basis of a job analysis. A job evaluation program may be for the purpose of setting wage scales, for determining promotion requirements, for establishing incentives, etc.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2167      Job Family.**

“Job family” means a group of related series of classes of positions such as clerical, personnel, engineering, or education, etc.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2168      Job Rotation.**

“Job rotation” means the procedure of moving workers systematically from their jobs to related jobs as a means of broadening their experience and developing versatility, sometimes called “cross-training”.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2169      Job Standard.**

“Job standard” means the level of performance of a given job taken as a basis of comparison.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2170      Journeyman.**

“Journeyman” means an individual who has served a formal apprenticeship or has gained substantially equivalent experience over a period of-years, during which time he or she has acquired a comprehensive knowledge and high degree of skill in one or more of the recognized trades.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2171      Leave Without Pay.**

“Leave without pay” means authorized absence from duty without compensation, exclusive of suspension or absence without leave (AWOL).

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2172      Leave With Pay.**

“Leave with pay” means authorized absence from duty with compensation.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2173      Leave Year.**

“Leave year” means the period beginning with the first day of the first complete pay period in any calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2174 Lecture.**

“Lecture” means a method of teaching in which the instructor gives an oral presentation of subject matter, with little or no participation by trainees.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2175 Line.**

“Line”, in a private or public business organization, means the chain of direct command and operational responsibility, as distinguished from “staff”.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2176 Line Responsibility.**

“Line responsibility” means the ultimate responsibility for effective and efficient performance.

This responsibility includes the following functions: making executive decisions; planning, supervising, and testing operations; conducting inspections; maintaining discipline and training employees.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2177 Management.**

“Management” refers to the processes of planning, direction, and control. One managerial function is that of planning, of establishing group or team policies, objectives and programs for the future. A second is organizing the assignment of specialized responsibilities to various departments and levels throughout the entire work team, thus facilitating cooperation and the effective utilization of human and other resources. A third function is usually described as control. Guides and indicators are created to facilitate a continuing check on operations. Through these controls, managers see that what is being done corresponds to objectives and assignments.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2178 Manpower.**

“Manpower” means the number of men and women available for productive employment.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2179 Maternity Leave.**

“Maternity leave” means approved absence because of incapacitation related to pregnancy and confinement. It is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay, in the order given.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2180 Medical Certificate.**

“Medical certificate” means a written statement, signed by a registered practicing physician or other practitioner, certifying to the incapacitation, examination, treatment, or the period of disability of an employee while he or she was undergoing professional treatment.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2181 Minimum Qualifications.**

“Minimum qualifications” means the training, experience and other qualifications established for a given class and required of an applicant for admission to the examination for that class.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2182 Morale.**

“Morale” is not a single concept; rather, it is a shorthand expression covering a number of factors such as recognition, credit, security, sense of belonging, opportunity, etc., that may together produce a particular atmosphere among the employees in an organization. It is closely interrelated with a number of incentives which management uses for the employees.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2183 Motion Study.**

“Motion study” means the study of body motions used in performing an operation, with thought toward improving the operation by eliminating unnecessary motions and simplifying the necessary motions, so that maximum efficiency is realized.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2184 Motivation.**

“Motivation” is applied to an inner urge that moves a person to action, and also to a contemplated result, the desire for which moves the person.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2185 Noncompetitive Personnel Action.**

“Noncompetitive personnel action” means a type of personnel action which does not require a qualified employee to formally compete with others in order for the personnel action to be effected.



*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2186 Nonstandard Workweek.**

“Nonstandard workweek” means irregular or indeterminate hours worked by employees, the nature of whose duties commonly or frequently preclude successful job completion in standard work weeks over a prolonged period.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2187 Off-Site Training.**

“Off-site training” means in-service training given to an employee outside their actual work area; for example, classroom training.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2188 On-The-Job Training.**

“On-the-job training” means in service training given to an employee within the work area while doing productive work.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2189 Orientation Training.**

“Orientation training”, as part of induction, means in-service training designed to assist workers to adapt themselves as quickly as possible to their job environment, to acquire satisfactory attitudes, and to become familiar with the organization in which they work.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2190 Out-Service Training.**

“Out-service training” means training provided by an agency for its employees in order to increase their effectiveness in their present assignments, or to prepare for future assignments, using resources and facilities outside of ASPA or the jurisdiction of the ASG.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2191 Overtime.**

“Overtime” means work performed in excess of 40 hours per week for employees with a regular workweek.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2192 Part-Time Employment.**

“Part-time employment” means work of regularly less than 40 hours per week. However, for certification from registers, work of less than 32 hours per week shall be considered as parttime.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2193 Pay Adjustment.**

“Pay adjustment” means a change in the rate of compensation due to revision of the salary schedules of ASPA or for reasons not covered elsewhere.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2194 Performance Rating.**

“Performance rating” means the formal process of evaluating some or all of the individuals who make up the work team and perform the work, in respect to the quality and quantity of the work performed by them. In some cases, it is called employee merit, service, or efficiency rating.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2195 Performance Standard.**

“Performance standard” means the measure of the performance necessary to meet the needs of the operational system.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2196 Periodic Increment Date.**

“Periodic increment date” means the date established in accordance with the merit system rule on which an employee is entitled to the next salary step increment within his or her range as stated in the compensation plan.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2197 Permanent Employee.**

“Permanent employee” means an employee appointed in a career service position who has successfully completed a probationary period:

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2198 Personnel Management.**

“Personnel management,” means:

- (A) the utilization of human resources by management for the accomplishment of the objective of the organization;

(B) the branch of business management concerned with the administration and direction of all of the relations between an organization and its employees including the recruiting of new employees, training, testing, promoting, and supervising employees, etc., as well as the administration of all personnel relations.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21199 Position.**

“Position” means a group of duties and responsibilities. A position may be filled or vacant, full time or part time, temporary or permanent. Positions are in the career service.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21100 Position Description.**

“Position description” means a written description of each group of duties and responsibilities constituting a position.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21101 Post-Training.**

“Post-training” means training given after entering a position. The training given before entering is called preemployment training.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21102 Preassignment Training.**

“Preassignment training” means in-service training given before an employee is assigned to a specific job.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21103 Preemployment Training.**

“Preemployment training” means the training given to employees prior to coming into service.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21104 Preference Eligible.**

“Preference eligible” means a U.S. citizen or a U.S. national of American Samoan ancestry who is a veteran as defined in these regulations; a disabled veteran as defined in these regulations; or the unmarried widow of a veteran.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21105 Premium Payment.**

“Premium payment” means wage payment over and above the basic salary rate for extraordinary conditions of employment, such as overtime and special tours of duty.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21106 Probationary Period.**

“Probationary period” means the trial period of employment following certification and appointment to, or reemployment in, any position in the career service, including promotional positions.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21107 Program.**

“Program” means:

- (1) A plan or scheme of administrative action designed for the accomplishment of a definite objective which is specific as to time-phasing of the work to be done and the means allocated for its accomplishment:
- (2) For budget and accounting purposes a complete plan of work or effort to accomplish a stated object.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21108 Promotion.**

“Promotion” means a change of an employee from a position in one class to a position in a class having a higher salary range.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21109 Public Administration.**

“Public administration” means the activities of government to accomplish public goals.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21110 Rating.**

“Rating” means the act of classifying according to grade, class, rank, or other unit of measuring or evaluation.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21111 Reassignment.**

“Reassignment” means movement of an employee from one position to another position in the same

class or grade or from one position to another position in a different class at the same grade.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21112 Reduction-In-Force.**

“Reduction-in-force” means a separation from service because of a lack of funds and/or work and/or reorganization and without cause on the part of the employee,

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21113 Reduction In Salary.**

“Reduction in salary” means place of an employee’s salary at a lower step at the same or lower grade as a result of a disciplinary action.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21114 Refresher Training.**

“Refresher training” means training for employees who lack up-to-date information, habits, or skills in an occupation in which they have been previously trained.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21115 Register.**

“Register” means a list of eligible names established for employment or reemployment in a class.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21116 Reinstatement.**

“Reinstatement” means appointment of an employee who has previously successfully completed his or her probationary period.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21117 Related Training.**

“Related training” means instruction which is related to the job and provides knowledge and information concerning theoretical and technical aspects of the job, such as properties of materials used, applied science, mathematics, and drawing.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21118 Remedial Training.**

“Remedial training” means training given to employees for the purpose of correcting specific weaknesses in work performance.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21119 Resignation.**

“Resignation” means a voluntary separation from employment.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21120 Resources.**

“Resources” is a term often used by management to describe these productive factors: labor, capital, and machinery. It includes personnel who do the work, and funds, equipment, and materials with which to work. The apportionment of available resources is a responsibility of the head of the organization.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21121 Retraining.**

“Retraining” means training given an employee to bring him or her up to date on new developments, techniques, or procedures in his or her present job.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21122 Reversion.**

“Reversion” means voluntary or involuntary movement of an employee during a six-month trial service period to the lower class which he or she held prior to his or her last promotion.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21123 Salary Range.**

“Salary range” means a sequence of minimum, intervening, and maximum dollar amounts assigned to a specific class.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21124 Screening Committee.**

“Screening committee” consists of three ASPA or ASG employees or any combination thereof, who have been appointed by the Executive Director to objectively review applications for classes of positions classified at grade 9 and above for which no comprehensive written, oral, or performance examination exists. Members evaluate the experience and training recorded on an application against the minimum qualifications officially established for the class and rank the applicants in the order of best qualified.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.21125 Selecting Authority.**

“Selecting authority” means the authority to select individuals for positions. Selecting authority differs from appointing authority in that the former can select individuals for employment but not offer them a position. The offer must come from the appointing authority in order to be official.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21126 Selective Certification.**

“Selective certification” means the certification of eligibles possessing the special qualifications required for a specific position.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21127 Seminar.**

“Seminar” means an advanced study group with selected members, each of whom investigates some aspects of a subject and reports thereon to the group, the members of which then discuss and evaluate the findings.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21128 Sick Leave.**

“Sick leave” means absence from duty because of illness or other disability or exposure to contagious disease.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21129 Skill Training.**

“Skill training” means development of a facile and well-integrated performance, usually associated with mechanical and motor responses, such as those used in typing, glassblowing, and swimming.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21130 Standard Workday.**

“Standard workday” means an assigned eight-hour work-period.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21131 Standard Workweek.**

“Standard workweek” means 40 hours divided into five regular assigned eight-hour days within a seven-day period.

*History; Rule 11-84, eff 19 Dec 84, (part).*

**4.21132 Supervisor.**

“Supervisor” means any individual having substantial responsibility requiring the exercise of independent judgment who, on behalf of management, regularly participates in the performance of all or most of the following functions over at least three employees: promote, transfer, suspend, discharge, or adjudicate grievances of other employees.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21133 Suspension.**

“Suspension” means an enforced absence without pay for disciplinary purposes.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21134 Temporary Employment.**

“Temporary employment” means employment during the absence of a permanent employee on leave or for work done at a work load peak and normally lasting for less than six months but not exceeding one year.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21135 Termination.**

“Termination” means separation from employment for reasons beyond the control of the employee.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21136 Training Aids.**

“Training aids” means any material or device which facilitates learning, such as movies, slides, posters, booklets, videographs, audio-visual aids, etc.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21137 Training Committee.**

“Training committee” means a committee authorized to consider training problems and devise solutions, develop training policies, promote their acceptance, and advise management in the execution of those policies.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21138 Training Plan.**

“Training plan” means a method or scheme for obtaining a certain specific training objective, and containing the following information:

- (1) Objective of the training;
- (2) Who will be trained;

- (3) Name of instructor;
- (4) Schedule of meetings, etc.
- (5) Outline of material to be presented;
- (6) A plan for evaluating the effectiveness of the training.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.21139 Training Policy.**

“Training policy” means a statement defining the objectives and the responsibilities for training; the relation between training staff and other staff and operating officials, and the general procedures for organizing, operating, and evaluating a training program.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21140 Training Timetable.**

“Training timetable” means a form which lists the various tasks in a given organization or unit, and shows for each employee the tasks:

- (1) Which he or she can perform adequately;
- (2) In which he or she is not to be trained during the period under consideration; and
- (3) In which he or she is to be trained and the time by which this training is to be completed.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21141 Transfer.**

“Transfer” means movement of a permanent employee from a position in ASPA to a similar position in another agency of the American Samoa Government, or from a position in one department of ASPA to a similar position in another department, and shall be subject to whichever provision applies; e.g., promotion, reassignment, or demotion.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21142 Trial Service Period.**

“Trial service period” means a six-month trial period of employment of a permanent employee beginning with the effective date of a promotion or demotion.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21143 Tuition.**

“Tuition” means payment of appropriated funds to outside agents or agencies for instructional services; the fee charged by an instructor or school for instruction. “Tuition” does not include fees collected for defrayment of other or incidental expenses, such as registration fees, laboratory fees, costs of books, or charge for space or utilities.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21144 Unassembled Examination.**

“Unassembled examination” means an examination in which the education, training, and experience of applicants is rated as set forth in their applications.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.21145 Veteran.**

“Veteran” means an individual who has served on active duty in the Armed Forces of the United States for a period of not less than 180 consecutive days, other than for training, and who has been separated from the Armed Forces under honorable conditions.

*History: Rule 11-84, Eff 19 Dec 34, (part).*

**4.21146 Work Simplification.**

“Work simplification” means a management technique for simplifying methods and procedures and eliminating waste of manpower, materials, equipment, and facilities. Process study, operation study, and layout study are phases of this subject.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 21]

TITLE 4 - CHAPTER 22 – RECRUITMENT & PLACEMENT

Sections:

- 4.2201 Requirements Generally-Nepotism-Effective Dates.
- 4.2202 Administrative Responsibilities.
- 4.2203 Competitive-Noncompetitive Procedures Applicability.
- 4.2204 Recruitment-Vacancy Notice-Evaluation Announcement.
- 4.2205 Applications.
- 4.2206 Disqualification Of, Refusal to Examine Applicant.
- 4.2207 Examination-Final Rating.
- 4.2208 Veteran Preference.
- 4.2209 Registers of Eligible Applicants.
- 4.2210 Certification of Eligibles.
- 4.2211 Appointment Types.
- 4.2212 Reinstatement After Separation.
- 4.2213 Promotion-Lateral Movement-Transfer-Detail-Demotion.
- 4.2214 Retired Employees Reemployment.

**4.2201 Requirements Generally-Nepotism-Effective Dates.**

In filling vacancies within the career service, ASPA will adhere to the policy guidelines set for in 7.0204—7.02 14 ASCA. It is ASPA’s policy that:

- (1) Appointments and promotions to all positions shall be made solely on the basis of merit, fitness, length and quality of previous service, and relative skills, knowledge, and ability as shown by examinations;
- (2) The same standards and methods shall be used in evaluating all candidates who are in competition for the same class of work;
- (3) Permanent residents of American Samoa, or persons entitled to permanent residence as determined by the immigration law of American Samoa, shall be given first consideration for employment. This includes persons who meet the following criteria:
  - (A) The applicant was born in American Samoa;
  - (B) One of the parents of the applicant was born in American Samoa;

- (C) The applicant is married to an American Samoan;
- (D) The applicant was legally adopted by an American Samoan;
- (E) The applicant has resided continuously in American Samoa for at least 10 years and has been approved by the immigration board.

Only when no permanent resident can be found who meets the minimum qualifications for employment established for a particular class of work can another person be employed;

- (4) Applicants who A. have been selected for positions in the career service must successfully pass a preemployment physical examination before they can be appointed;
- (5) In all recruitment and placement activities, it is the policy of ASPA that 2 or more members of a family may be employed within the same office as long as one member does not officially and immediately supervise the other. This requirement not only is applied on the basis of facts as they exist as of the time of appointment but at any time while serving as an employee of ASPA;
- (6) The official effective date for all recruitment and placement actions, as well as other personnel actions shall be established by the Executive Director of ASPA except in the case of resignation, the date of which is established by the employee who is resigning. Effective dates are not made on a retroactive basis. The effective date for within grade step increments is described in the section of these regulations on classification and pay. Effective dates for appointments can only be established after the prerequisite medical, police, and immigration clearances have been obtained by ASPA. Retroactive effective dates are only set when an administrative error has occurred or an appeals action results in retroactive corrective action.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2202 Administrative Responsibilities.**

The Executive Director has primary responsibility for establishing and administering procedures for filling vacancies in compliance with appropriate federal and ASPA rules. However, all employees and supervisors share responsibility for the successful operation of the system.

- (a) The Executive Director is responsible for:
  - (1) Implementing a merit system policy and procedural guides for filling positions;
  - (2) Providing leadership and support for the merit system as it relates to all segments and activities of ASPA;
  - (3) Assuring that managers and supervisors are aware of the objectives and requirements of this program;
  - (4) Assuring that applicants or potential applicants are informed, at least annually, that they may file or refile employment applications with ASPA.
- (b) Managers and supervisors are responsible for:
  - (1) Providing active support to the objectives of the merit system and fully complying with the intent as well as the procedural requirements of the program;
  - (2) Evaluating candidates fully and equitably to assure that each selection conforms to the objectives of an effective merit system;
  - (3) Selecting from among the best-qualified candidates and releasing, within a reasonable time, their subordinate employees selected for promotion, transfer or reassignment;
  - (4) Providing firm merit system support to employees and keeping themselves fully informed so as to be able to provide employees with information on the merit system and its operation;
  - (5) Counseling employees on ways to improve promotion potential and assisting them in self-development activities;

- (6) Participating with personnel officials in determining qualification requirements and evaluation methods for specific positions.
- (c) ASPA’s personnel function is responsible for:
    - (1) Developing and employing the procedures necessary for recruitment, examination, and certification;
    - (2) Developing, in cooperation with directors, managers and supervisors, qualification requirements and evaluation methods for specific positions;
    - (3) Providing the necessary technical competence required to operate the merit system and publicize its operation;
    - (4) Announcing examinations and/or position vacancies as appropriate, rating applications, establishing and maintaining lists of eligible and issuing lists of eligibles to selecting officials;
    - (5) Maintaining the required documentation of all personnel actions covered by the plan;
    - (6) Assuring that the requirements of the merit system have been met before taking personnel action on a position change.

ASPA may work with the ASG Office of Manpower Resources or contract for expert assistance in fulfilling these responsibilities.

- (d) Employees are responsible for:
  - (1) Familiarizing themselves with the provisions of the merit system;
  - (2) Personally applying for announced vacancies in which they are interested, and for which they meet qualification standards, by submitting required, designated application material;
  - (3) Demonstrating that they have the skills, abilities, and personal qualifications necessary for the positions for which they seek consideration;

- (4) Performing the duties of their, current positions in a manner indicating they are ready for advancement.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2203      Competitive-Non-Competitive Procedures Applicability.**

Vacancies can either be filled competitively or noncompetitively.

- (a) Competitive procedures apply to the following types of actions:

- (1) Selection of an applicant not employed by ASPA for either a permanent or temporary appointment;
- (2) Promotion of an employee in the career service, except under circumstances specified under subsection (b) of this section;
- (3) Reinstatement of a former ASPA employee who has completed his or her probationary period in the career service, to a higher grade position than the candidate's last position or to a position with known promotion potential;
- (4) Selection of an ASPA employee who is currently on an emergency appointment for a temporary or permanent position;
- (5) Selection of an employee who is in a nonsupervisory position to fill a supervisory position.

- (b) Noncompetitive procedures apply to the following types of actions:

- (1) Promotions of an employee for which competitive procedures were used at an earlier date, such as:
  - (A) Career promotion(s), reassignment, etc., made under training agreements;
  - (B) Career promotion(s) of employees up to the full performance level position in the career ladder;
  - (C) Career promotion(s) of employees in an understudy position to the target position;

- (2) Promotion(s) of incumbents to positions in the competitive service reconstituted in higher grades because of: -

- (A) Change in classification standards;
- (B) Error in the allocation -of the original position;

- (3) Repromotions of employees to positions or grades from which demoted without personal cause or to intermediate grades below the grades from which demoted:

- (4) Conversions to a different pay system without change in duties and responsibilities;

- (5) Reinstatement of a former ASPA employee who has completed the probationary period in the career service to the same or similar class held previously in the agency;

- (6) Transfer of employment from one department to another department. If such transfer also involves promotion, promotion procedures apply.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2204      Recruitment-Vacancy Notice-Evaluation Announcement.**

In filling vacancies competitively, all recruitment efforts shall be conducted publicly in a manner which will attract a sufficient number of qualified persons to meet the needs of ASPA. Position action requests will be completed for all new positions or changes to existing positions. These are prepared by ASPA and approved by the Executive Director. Vacancy notices and/or examination announcements shall then be advertised and posted publicly. They shall specify title and salary range of the class, information on the duties performed, applicable minimum or desirable qualifications, and type of examination. Open competitive recruitment shall be for at least 15 calendar days except that in the case of great need the Executive Director may reduce the filing period to five days.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2205      Applications.**

All applications shall be on a form prescribed by the Executive Director. The applicant's signature shall



certify the truth of the stated information. Applications shall remain under active consideration by ASPA for one year from the date received.

- (a) No information shall be solicited or accepted which reveals religious or political affiliations of the applicant information regarding the race or ethnic background of applicants shall be solicited only for use in an affirmative action minority employment program.
- (b) Applications filed with ASPA by the date specified in the vacancy notice or examination announcement will be considered.
- (c) Any person who willfully makes false statements concerning a material matter in any application for employment with ASPA may be fined in an amount not to exceed \$100, or imprisoned for not more than 6 months, or both.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2206 Disqualification of Refusal To Examine Applicant.**

- (a) Accepted standards of personnel practice will be followed in screening applicants. An interview form will be filled out for all applicants interviewed by ASPA by either the department head or other appropriate interviewer. The form is routed to the Executive Director at the completion of the interview for use in the selection process. ASPA may refuse to examine an applicant or, after- examination, may disqualify such applicant or remove his or her name from a register or refuse to certify any person otherwise eligible on a register if the applicant:
  - (1) Is found to lack any of the requirements established for the class;
  - (2) Is so disabled as to be rendered unfit to perform the duties of the class;
  - (3) Is addicted to the use of narcotics or the habitual excessive use of intoxicating beverages;
  - (4) Has been convicted of any offense that would adversely affect ASPA and which would be grounds for disqualification from the position for which he or she is applying;

- (5) Has made a false statement of material fact in his or her application;
- (6) Has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other lack of fitness as an employee;
- (7) Has used, or attempted to use, bribery to secure an advantage in the examination or appointment;
- (8) Has directly or indirectly obtained information regarding examinations to which he or she was not entitled;
- (9) Has taken part in the compilation, administration or correction of the examination.

*History: Rule 11-84. eff 19 Dec 84, (part).*

**4.2207 Examination-Final Rating**

The Executive Director or his or her designated representative shall determine, by uniform standards, the appropriate examination for a register for a class and the tests or combination of tests and relative weights to be assigned, ensuring at all times that the examinations are job-related.

- (a) Examinations shall be practical in nature, job related, and of such character as to determine the capacity of the applicant to perform the duties of the particular class of positions for which he or she is competing as well as his or her general background and related knowledge shall be rated objectively. A passing score will be established for each test included in the examination.
- (b) Whenever possible, standards for employment will give all due recognition to practical experience in the function and probable aptitude for learning while on the job, rather than relying in the main on formalized education and training.
- (c) Examinations shall normally consist of one or a combination of the following:
  - (1) A written test;
  - (2) A performance test;
  - (3) An oral test;

- (4) An evaluation of experience and training.
  - (d) Examinations shall be held at such times and places as are necessary to meet the requirements of the career service, provide economical administration, and be generally convenient for applicants.
  - (e) Examination announcements shall specify the desirable or minimum requirements, the parts of the examinations, and the method of rating announcements shall be prominently posted to ensure that the information is reasonably available to all.
  - (f) A performance evaluation may be used to construct scores in promotional examinations, provided that the Executive Director determines such evaluations are practical and necessary to improve the effectiveness of the examination.
  - (g) Each applicant shall receive notice of Final rating. After receipt of the notice of rating, the applicant may request and receive information regarding his or her score on any part of the examination, or may give written authorization for his or her supervisor or department head to obtain the information for him or her. The same information may upon request be furnished to the supervisor or department head concerning a certified eligible.
- (c) If the selecting authority passes over a preference eligible whose name appears on the certificate of eligibles forwarded to him or her and selects a nonpreference eligible, he or she shall file written reason there for with the Executive Director.
  - (d) When 3 or more names of preference eligibles appear on a certificate of eligibles, the selecting official may select only a preference eligible to fill the vacancy under consideration.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2209 Registers of Eligible Applicants.**

The following types of registers shall be established and maintained by ASPA:

- (a) Reduction-in-force Register.
  - (1) Composition. A reduction-in-force register will be prepared for each classification, listing the names of all employees who have permanent status and have been notified that they are scheduled for reduction-in-force, or who held permanent status prior to separation due to a reduction-in-force, or who have accepted a voluntary demotion in a class in lieu of a reduction-in-force. The employee's name shall appear for all classifications in which he or she held permanent status and, where appropriate, the employee's geographic availability will be shown.
  - (2) Method of Ranking. This register will be ranked according to seniority; those with the longest period of performance rated four or better on their final performance evaluation will be placed at the top of the list, the balance of the names placed in descending order. Those with performance evaluations showing ratings of less than four will be placed at the bottom of the list, regardless of years of service.
  - (3) Life of Register. An eligible's name will normally remain on this register for one year.
  - (4) Certification. Names from this list shall be certified first to the selecting authority

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2208 Veteran Preference.**

- (a) In open competitive examinations, eligible veterans shall receive preferential consideration as follows:
  - (1) Ten additional points to a disabled veteran. This preference shall be utilized in the open competitive examination only and not in any promotional examination;
  - (2) Five additional points to a veteran or the unmarried widow of a veteran. This preference shall be utilized in open competitive examination only and not in any promotional examination. (b) The names of preference eligibles shall be entered upon the appropriate registers ahead of others having the same score.

before those from any open or promotional register.

(b) Promotional Register.

- (1) Composition. The promotional register will be established for a specific position in the agency and shall include the names of current, permanent employees and/or past permanent employees who have been separated due to reduction-in-force within the last year who have received a passing final grade in the promotional examination and are eligible to be certified.
- (2) Method of Ranking. This register shall be ranked according to final score from the highest to the lowest.
- (3) Life of Register. The life of the promotional register shall be until the position is filled.

(c) Open Competitive Register.

- (1) Composition. The open competitive register will contain the names of all persons who have passed the appropriate examination for each class of work on an open basis.
- (2) Method of Ranking. This register shall be ranked by the final score, from highest to lowest.
- (3) Life of Register. The life of a register shall be one year or until replaced by a register established through a new examination.
- (4) Eligibles may be removed from the register under the following circumstances:
  - (A) On evidence that the eligible cannot be located by the postal authorities or the village pulenu'u;
  - (B) On receipt of a statement from the eligible declining an appointment and stating that he or she no longer desires consideration for a position in that class;
  - (C) If 3 offers of a probationary appointment to the class for which the register was established have been declined by the eligible;

(D) If an eligible fails to reply to a written inquiry as to availability after 5 days in addition to the time required to receive and return the inquiry;

(E) If an eligible accepts an appointment and fails to present himself or herself for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

*History: Rule 11-84. eff 19 Dec 84, (part).*

**4.2210 Certification of Eligibles.**

Authorized position vacancies can only be filled from the list of eligible applicants.

(a) Upon identifying the need to fill a position, the Executive Director shall cause to be prepared an eligible list consisting of:

- (1) Names of eligible applicants from the reduction-in-force list, if any. The selection must be made from this list if one exists;
- (2) Names of eligibles from the pertinent open or promotional list. No more than 5 names will be considered, except where candidates below the fifth rank have the same numerical score as the person named as number five; in this instance, additional names will be included to the extent there are eligibles with that same score.

(b) Fair consideration must be given to all eligible names. One of the following actions will be taken:

- (1) Appointment of one of the eligible candidates;
- (2) Consideration of additional names in place of eligibles who:
  - (A) Fail to reply within 4 days of notice to appear for consideration;
  - (B) Are not satisfactory for valid and pertinent reasons directly connected with the position;

(3) Decision not to fill the position.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2211 Appointment Types.**

(a) Career Service Appointments. Career service appointments are always made through open competitive civil service examination procedures to fill permanent, regularly budgeted positions from the open or promotional registers. They always require a probationary period of one-year, satisfactory completion of which is a requisite for permanent status in the position.

(b) Temporary Appointments.

(1) When there is work of a temporary nature, at the completion of which the services of an additional employee will not be required, the Executive Director in authorize a temporary appointment for a period not in excess of one year.

(2) Such appointment shall be made from a register of eligibles, if eligibles are available. The selection of an eligible from the register shall not affect the retention of the eligibles on the eligible list and he or she shall continue to be considered for probational appointment, should an appropriate vacancy occur.

(3) Service under a temporary appointment is not creditable for permanent status.

(c) Emergency Appointments.

(1) When an emergency occurs requiring the immediate service of a person or persons, the Executive Director may make an emergency appointment.

(2) Justification of the emergency must be submitted to and approved by the Governor.

(3) An emergency appointment of an American Samoan national may not be made to exceed 30 days unless the appointment is extended by the Governor up to a maximum of an additional 30 days, based on agency justification of the continuing state of emergency.

(4) Service under an emergency appointment shall not constitute a part of the employee's probationary period.

(5) If a person other than an American Samoan national is to be appointed, immigration clearance must be secured prior to entrance on duty, but police and medical clearances may be furnished during the 30-day emergency period.

(d) Disaster Emergency Appointment. In the case of a disaster, the Executive Director is authorized to make direct, emergency appointments without any clearance, for a period not to exceed ten working days.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2212 Reinstatement After Separation.**

(a) Any person who has satisfactorily completed a probationary period in the career employee service and who has separated therefrom, may be reinstated to a position with the same or similar duties of those he or she previously performed, provided his or her reemployment is not prohibited by rules or laws relating to the reemployment of employees separated for cause or who have abandoned their positions.

(b) Reinstatement to the same class of work or grade previously held is noncompetitive.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2213 Promotion-Lateral Movement-Transfer-Detail-Demotion.**

The following types of in-service placement exist within the career service:

(a) Promotion.

(1) No employee shall be eligible to be hired from a promotional register until he or she has gained permanent status; however, a probationary employee may be admitted to a promotional examination if the announcement for the position vacancy has an established closing date and if the employee has served three months of his or her probationary period. Employees who have not completed their original probationary period, if selected, must serve a new probationary period. Employees who are otherwise qualified will be admitted to promotional examinations if they are within two months of the experience required by

the minimum qualifications and are assigned to a position which provides qualifying experience.

- (2) A permanent employee who is promoted and who fails to satisfactorily complete the probationary period shall be given fifteen calendar days written notice no earlier than ninety days after assuming the position. The Executive Director will notify the employee of the date he or she will automatically revert to his or her former classification. If there are no vacancies in that class, he or she is placed on the reduction-in-force register. An employee who is reverted does not have the right of appeal. If an employee is unable to be placed into another position at the end of a total of 180 days, the employee shall be terminated:

(b) Lateral Movement.

- (1) Reassignment: Reassignment is the movement of a permanent employee from one position to another in the same or another class within ASPA with the prior approval of the Executive Director. If a reassignment includes a promotion, the rules governing promotion apply.

(c) Detail.

- (1) Details are intended only for meeting temporary needs of the agency's or another government agency's work program when necessary, services cannot be obtained by other, more desirable or practical means. Interagency details are particularly appropriate for temporary service in the performance of official government functions such as providing disaster assistance, preparation for Flag Day, or election services.
- (2) Detailing employees to other kinds of positions immediately after competitive appointment tends to compromise the competitive principle and is not permitted. Except for an emergency detail of 30 calendar days or less, an employee may not be detailed for at least 3 months after the initial appointment.

- (3) ASPA management is responsible for keeping details within the shortest practicable time limits and for making a continuing effort to secure necessary services through use of appropriate personnel actions.

- (4) Details for 30 calendar days or more shall be recorded on the prescribed form and maintained as a permanent record in official personnel folders. Details of less than 30 calendar days need not be officially documented, but should be recorded in department records.

- (5) All details to higher grade positions will be confined to a maximum period of 120 days unless approved by the Executive Director.

- (6) Detail appointments shall be from among those employees who are interested and available to accept such appointments when there are no individuals available who meet the minimum requirements. Primary consideration should, however, be given to eligibles on the agency promotional register for the class or for a related class as determined by the Executive Director.

- (7) An employee who accepts a detail for 30 calendar days or more to a higher graded position shall be paid according to the rule regarding promotion. An employee accepting a detail for less than 30 calendar days shall retain his or her current salary.

- (8) An employee shall not achieve permanent status in the position to which he or she has been detailed and upon termination of the detail shall be returned to his or her former position.

(d) Demotion.

- (1) Demotion may be disciplinary or nondisciplinary, voluntary or nonvoluntary.
- (2) An employee who is demoted may not receive pay at a higher rate than he or she received before demotion.

*History: Rule 11-84, eff 19 Dec 84. (part); and Rule 6-87, eff 14 May 84, 1.*

**4.2214 Retired Employees Reemployment.**

An employee who has retired may be reemployed under this chapter but his or her annuity shall be suspended during the period of reemployment under these regulations.

*History: Rule 11-84. eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 22]

TITLE 4 - CHAPTER 23 – CLASSIFICATION & PAY

Sections:

- 4.2301 Establishment of system.
- 4.2302 Position descriptions.
- 4.2303 Wage schedule applicability and bases.
- 4.2304 Position classification system.
- 4.2305 Effective date of actions.
- 4.2306 Administrative review.
- 4.2307 Pay schedules.
- 4.2308 Step-increment increases for length of service-Pay schedule structure.
- 4.2309 Overtime-Compensatory time.
- 4.2310 Hazard pay.
- 4.2311 Shift differential.

**4.2301 Establishment of System.**

In keeping with the objectives of the American Samoa Code Annotated. The Executive Director shall develop and maintain an agency wide classification and pay system based on objective, consistent, and timely classification of all positions within the agency and shall apply reasonable and consistent assignment of positions to pay grades so as to compensate employees in equitable relationships to each other and to contribute to the attraction and retention of employees. The system so established or any portion thereof may be extended to noncivil service positions as required by law or for the good of the agency.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2302 Position Descriptions.**

- (a) ASPA shall maintain current position descriptions covering each career service position authorized in the agency. Each supervisor is responsible for reviewing the descriptions once each year for accuracy. Descriptions for all ASPA positions are included in Section 111 of this manual.
- (b) When duties of positions change, the supervisor must prepare a new position description to reflect the change. ASPA will use the applicable ASG form.
- (c) One copy of each position description shall be furnished to the Executive Director and to the Office or Manpower Resources.

*History: Rule 11-84. eff 19 Dec, 84. (part).*

**4.2303 Wage Schedule Applicability and Bases.**

The classification and compensation plan of the agency shall provide for two separate segments:

- (a) The general schedule (GS) which applies to the “white collar” Positions and which is based on “equal pay for substantially equal work”.
- (b) The wage grade schedule (WG), which applies to all “blue collar” jobs and which is also based on equal pay for substantially equal work”.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2304 Position Classification System.**

The Executive Director shall develop and maintain a position classification system which shall provide for the placement of each position into an appropriate class. This includes:

- (1) The establishment of written class specifications which describe each of the various classes within the classification plan in terms of the nature, variety, and level of duties and responsibilities, and the minimum qualifications required to perform adequately;
- (2) The establishment, revision, or abolition of classes in order to maintain the plan on a current basis;
- (3) The establishment of official class titles;
- (4) The changing of any position from one class to another class whenever warranted by significant change in position duties and responsibilities or class definition, or to correct an error;
- (5) The auditing of positions in order, to ascertain that current positions are correctly classified.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2305 Effective Date of Actions.**

- (a) The effective date of an initial classification action shall be the date action is officially taken to classify the position.
- (b) The effective date of any subsequent classification action shall be the beginning of the pay period immediately following the date of notice of action, except that the date may be adjusted by the Executive Director in the event

an incumbent fails to meet the qualification of the class, for budgetary reasons, or for other good cause.

- (c) The effective date of a classification action when a classification and/or compensation survey is initiated by the Executive Director shall be the date action is officially taken, or such other date as the Executive Director deems practicable.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2306      Administrative Review.**

An administrative review may be requested by an employee or designated representative or by the department head within 20 days after the effective date of the classification or reclassification action.

- (a) The request for administrative review must be in writing and shall contain the specific reason(s) for disagreement with the classification action of the Executive Director, and shall state the action requested and the reason the requested action is deemed more appropriate. (b) A request for administrative review must be received no later than ten days from the date of the notice of classification.
- (c) The Executive Director shall take appropriate action to review the classification and shall notify the department of the final decision.

*History: Rule 13-84, eff 19 Dec 84. (part).*

**4.2307      Pay Schedules.**

- (a) The white collar pay schedule shall be known as the general pay schedule and shall be as follows (effective January 7, 1980; revised July 1,1981):

[SEE NEXT PAGE FOR PAY SCHEDULE]



*AMERICAN SAMOA ADMINISTRATIVE CODE – 2024 EDITION*

ASAC § 4.2307(a) - White Collar Pay Schedule										
Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
GS-18								30,684	31,984	33,284
GS-17					26,916	28,086	29,256	30,426	31,596	32,766
GS-16			23,405	24,575	25,745	26,915	28,085	29,255	30,425	31,595
GS-15	20,177	21,217	22,257	23,297	24,337	25,377	26,417	27,457	28,497	29,537
GS-14	17,245	18,155	19,065	19,975	20,885	21,795	22,705	23,615	24,525	25,435
GS-13	14,739	15,519	16,299	17,079	17,859	18,639	19,419	20,199	20,979	21,759
GS-12	12,597	13,247	13,897	14,457	15,197	15,847	16,497	17,147	17,797	18,447
GS-11	10,767	11,417	12,067	12,717	13,367	14,017	14,667	15,377	15,967	16,617
GS-10	8,282	9,802	10,322	10,842	11,362	11,882	12,402	12,922	13,441	13,962
GS-9	8,071	8,591	9,111	9,631	10,151	10,671	11,191	11,711	12,231	12,751
GS-8	7,018	7,538	8,058	8,578	9,098	9,618	10,138	10,658	11,178	11,698
GS-7	6,156	6,546	6,936	7,326	7,716	8,106	8,496	8,886	9,276	9,666
GS-6	5,400	5,790	6,180	6,570	6,960	7,350	7,740	8,130	8,520	8,910
GS-5	4,779	5,169	5,559	5,949	6,339	6,729	7,119	7,509	7,899	8,289
GS-4	4,267	4,527	4,787	5,047	5,307	5,567	5,827	6,087	6,347	6,607
GS-3	3,827	4,087	4,347	4,607	4,867	5,127	5,387	5,647	5,907	6,167
GS-2	3,708	3,968	4,228	4,488	4,748	5,008	5,268	5,528	5,788	
GS-1	3,640	3,900	4,160	4,420	4,680	4,940	5,200	5,460		

- (b) The blue collar pay schedule shall be known as the wage grade schedule and shall be as follows (effective October 19, 1978; revised July 1, 1981):

[SEE NEXT PAGE FOR PAY SCHEDULE]

*AMERICAN SAMOA ADMINISTRATIVE CODE – 2024 EDITION*

ASAC § 42307(b) – Blue Collar Pay Schedule													
Grade	I. WG	1	2	3	4	5	6	7	8	9	10	11	12
20		6.10	6.41	6.73	7.07	7.42	7.79	8.18	8.59	9.02	9.47	9.94	10.44
19		5.75	6.04	6.34	6.66	6.99	7.34	7.71	8.10	8.51	8.94	9.39	9.86
18		5.40	5.67	5.95	6.25	6.56	6.89	7.23	7.59	7.97	8.37	8.79	9.23
17		5.05	5.30	5.57	5.85	6.14	6.45	6.77	7.11	7.47	7.84	8.23	8.64
16		4.70	4.94	5.19	5.45	5.72	6.01	6.31	6.63	6.96	7.31	7.68	8.06
15		4.40	4.62	4.85	5.09	5.34	5.61	5.89	6.18	6.49	6.81	7.15	7.51
14		4.10	4.31	4.53	4.76	5.00	5.25	5.51	5.79	6.08	6.38	6.70	7.04
13		3.80	3.99	4.19	4.40	4.62	4.85	5.09	5.34	5.61	5.89	6.18	6.49
12		3.50	3.68	3.86	4.05	4.25	4.46	4.68	4.91	5.16	5.42	5.69	5.97
11		3.25	3.41	3.58	3.76	3.95	4.15	4.36	4.58	4.81	5.05	5.30	5.57
10		3.00	3.15	3.31	3.48	3.65	3.83	4.02	4.22	4.43	4.65	4.88	5.12
09		2.75	2.89	3.03	3.18	3.34	3.51	3.69	3.87	4.06	4.26	4.47	4.69
08		2.50	2.63	2.76	2.90	3.05	3.20	3.36	3.53	3.71	3.90	4.10	4.31
07		2.30	2.42	2.54	2.67	2.80	2.94	3.09	3.24	3.40	3.57	3.75	3.94
06		2.10	2.21	2.32	2.44	2.56	2.69	2.82	2.96	3.11	3.27	3.43	3.60
05		2.00	2.10	2.21	2.32	2.44	2.56	2.69	2.82	2.96	3.11	3.27	
04		1.88	1.97	2.07	2.17	2.28	2.39	2.51	2.64	2.77	2.91		
03		1.80	1.85	1.94	2.04	2.14	2.25	2.36	2.48	2.60	2.73		
02		1.74	1.83	1.92	2.02	2.12	2.23	2.34	2.46	2.58			
01		1.70	1.79	1.88	1.97	2.07	2.17	2.28	2.39.				

- (c) The teachers, counselors and principals pay schedule shall be known as the educational salary schedule and shall be as follows (effective 7 Jan 80; revised 1 Jul 1981):

[SEE NEXT PAGE FOR PAY SCHEDULE]

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ASAC § 4.2307(c) – Educators Pay Schedule										
Grade	1	2	3	4	5	6	7	8	9	10
ES-20			16,153	16,933	17,713	18,493	19,273	20,053	20,833	21,613
ES-19	15,384	16,164	16,944	17,724	18,504	19,284	20,064	20,844	21,624	22,404
ES-18	14,651	15,431	16,211	16,991	17,771	18,551	19,331	20,111	20,891	21,671
ES-17	13,822	14,602	15,382	16,162	16,942	17,722	18,502	19,282	20,062	20,842
ES-16	13,040	13,820	14,600	15,380	16,160	16,940	17,720	18,500	19,280	20,060
ES-15	12,074	12,724	13,374	14,024	14,674	15,324	15,974	16,624	17,274	17,924
ES-14	11,180	11,830	12,480	13,130	13,780	14,430	15,080	15,730	16,380	17,030
ES-13	10,352	11,002	11,652	12,302	12,952	13,602	14,252	14,902	15,552	16,202
ES-12	9,585	10,235	10,885	11,535	12,185	12,835	13,485	14,135	14,785	15,435
ES-11	8,335	8,855	9,375	9,895	10,415	10,935	11,455	11,975	12,495	13,015
ES-10	7,718	8,238	8,758	9,278	9,798	10,318	10,838	11,358	11,878	12,398
ES-09	7,146	7,666	8,186	8,706	9,226	9,746	10,266	10,786	11,306	11,826
ES-08	6,617	7,137	7,657	8,177	8,697	9,217	9,737	10,257	10,777	11,297
ES-07	6,127	6,647	7,167	7,687	8,207	8,727	9,247	9,767	10,287	10,807
ES-06	5,328	5,718	6,108	6,498	6,885	7,278	7,668	8,058	8,448	8,838
ES-05	4,933	5,323	5,713	6,103	6,493	6,883	7,273	7,663	8,053	8,443
ES-04	4,568	4,828	5,088	5,348	5,608	5,868	6,128	6,388	6,648	6,908
ES-03	4,153	4,413	4,673	4,933	5,193	5,453	5,713	5,973	6,233	6,493
ES-02	3,775	4,035	4,295	4,555	4,815	5,075	5,335	5,595	5,855	6,115
ES-01	3,692	3,952	4,212	4,472	4,732	4,992	5,252	5,512	5,772	

Pay schedule placement.

(a) Initial Appointment.

(1) All initial appointments shall be made at the first step of the appropriate pay range of each of the two salary schedules except that, in the event that recruitment of an employee is not practicable at the first step, the Executive Director may, after appropriate notice and advertising, recruit at any step within the pay range which will attract qualified candidates.

(2) Requests for payment above the minimum may be made by department heads prior to or at the time of appointment but in any event must be made no later than 60 days after the appointment date. Requests received after date of appointment, if granted, will not be granted retroactively.

(b) Reassignment. An employee who is reassigned shall receive the same rate of compensation as he or she presently receives, except that in case of a reassignment from one salary schedule to another salary schedule, the pay rates governing initial appointment shall apply.

(c) Reinstatement.

(1) When an employee is reinstated within a year of separation from ASPA or government service, he or she may be paid at any rate within the pay range which does not exceed his or her highest previous rate of pay, provided that where such rate falls between two steps of the grade to which reinstated, he or she may be paid at the higher step.

(2) The rules governing initial appointment shall apply only when an employee eligible for reinstatement has been separated for at least one year from ASPA or government service.

(d) Returning Veteran. An employee who meet the requirements for reemployment as specified in the Veteran's Preference Act of 1-44, as amended, and who is reemployed in his or her former position, shall have his or her rate of pay set at the step he or she would have received and

his or her service with ASPA or the government continued. If reemployed in a different position, the pay rule governing initial appointment shall apply.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2308 Step-Increment Increases for Length of Service-Pay Schedule Structure.**

(a) Every employee is entitled to an annual step-increment increase at the beginning of the pay period immediately following his or her service year preceding such increase.

(b) A service year is 52 weeks of continuous service in his or her present grade and step, which shall include credit for leave without pay:

(1) To pursue a course of instruction approved by the Executive Director which is related to the employee's area of work;

(2) To recuperate from an injury for which workers' compensation weekly payments are made;

(3) For military service when so provided by territorial or federal law; and

(4) For any other authorized purpose, but for no more than 10 workdays.

(c) The compensation for an employee, denied an increment because of substandard performance in his or her job in the service year preceding, may subsequently be increased as of the date his or her performance has been brought up to standard and has so continued for a 3-month period. His or her increment anniversary date will be adjusted accordingly.

(d) Ninety days prior to each employee's step-increment due date, a notice will be sent to the employee, his or her department head, and immediate supervisor. This notice will call for the submission of an annual employee performance evaluation, which must be completed and returned to the Executive Director and the Office of Manpower Resources for record keeping. ASPA will use the Government of American Samoa Employee Performance Evaluation Form.

- (1) If the performance evaluation is satisfactory or better, the employee will receive a step increment.
- (2) If the performance evaluation is unsatisfactory, a written note must be submitted to the Office of Manpower Resources 60 days prior to the date the increment is due. Payroll will be notified not to effect the increment.
- (3) If no performance evaluation is received, no increment will be processed.
- (e) When the date of promotion and the periodic step-increment date coincide, the periodic increment shall be made prior to the promotional increase.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2309 Overtime-Compensatory Time.**

- (a) Applicability. This section applies to all career service employees and certain contract employees whose contracts permit overtime or compensatory time, with the exception of employees in second or third jobs.
- (b) General Provisions.
  - (1) Every employee is entitled to receive cash pay or time off in lieu of cash for overtime work, as provided in these regulations.
  - (2) Each workweek shall stand alone; “averaging” of hours over 2 or more weeks is not permitted.
  - (3) Workweeks shall be 40 hours in a Fixed and regularly recurring period of 168 hours, in 7 consecutive 24-hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of the day. Once the beginning time of any employee’s workweek is established, it shall remain fixed until changed. A change intended or designed to evade the overtime requirement is prohibited.
  - (4) Overtime compensation policies shall not be waived by any agreement between a supervisor and an employee.
- (5) Overtime must be requested and approved in advance. Overtime authorization requests are prepared by the department supervisor and must be approved by the Executive Director. (c) Cash Pay for Overtime. Employees in grades GS 1-11 and WB 1-16 are eligible to be compensated in cash for overtime at the rate of 144 times their regular rate of pay for all hours worked in excess of 8 per day or 40 per week. The Executive Director may authorize compensatory leave in lieu of cash, upon mutual agreement with the employee. This leave will be authorized at the rate of 1/2 hours of leave per overtime hour worked.
- (d) Higher Grades. Employees in grades GS 12 and WB 17 or above or whose grade is XX are not eligible for cash pay for overtime work. They may be compensated for work beyond 8 hours per day or 40 hours per week on an hour-for-hour basis.
- (e) Hours Worked. “Hours worked”, in general, includes all the time an employee is required to be on duty or on the government premises or at a prescribed workplace and all time during which he or she is “suffered or permitted to work”.
- (f) Training and Meetings. Attendance at lectures, meetings, training programs, and similar activities will not be counted as hours worked beyond the scheduled workday or workweek. If attendance is outside the employee’s regular working hours and is required by the Executive Director, overtime or compensatory time may be awarded if otherwise applicable.
- (g) Semiannual Payoff. Compensatory time earned should be taken within 60 days of the pay period in which it was earned. Departments are responsible for monitoring the accumulation of compensatory time. Any balance of compensatory time in excess of 120 hours will be paid to the employee at his or her regular time rate during the last pay period of June and December of each year.
- (h) Separation. Employees leaving ASPA employment shall be compensated in cash for accumulated, documented overtime by the agency.
- (i) In the event of death of an employee, his or her accumulated overtime shall be paid to

appropriate persons provided by these regulations.

- (j) Records. ASPA is responsible for keeping appropriate records of hours worked and leave earned, used accrued etc. of its employees.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2310 Hazard Pay.**

(a) It is recognized that some positions at times involve intrinsically hazardous working conditions, justifying "hazard pay". "Hazard pay" is pay additional to the normal hourly pay for the position. payable to employees while actually engaged in the hazardous activities. Upon the recommendation of a department head, the Executive Director may grant hazard pay differentials to employees who are temporarily exposed to unusually hazardous working" conditions and where the following conditions are met:

- (1) The exposure of unusually hazardous working conditions is temporary:
- (2) The degree of hazard is severe, or most severe.

(b) Hazard pay has been authorized as follows:

- (1) Utility linemen working on utility poles 45 feet high or higher, \$0.50 per hour of time on such poles:
- (2) Utility linemen working "hot" lines, regardless of height, \$0.75 per hour of time on "hot" lines:
- (3) Utility linemen are entitled to receive pay for both high-pole and "hot" line work for each hour of work under such conditions:
- (4) In computing hours spent at work calling for hazard pay", fractional hours shall accrue in quarter-hour segments.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2311 Shift Differential.**

(a) Each department which has responsibilities requiring work around the clock will set up 3 shifts; the normal morning to afternoon is known as the "day shift": the shift beginning in the

afternoon into the evening is known as the "swing shift": and the late night to morning shift is known as the "graveyard shift".

- (b) Employees regularly scheduled to the "swing shift" receive an additional \$.15 per hour for each hour of work on that shift.
- (c) Employees regularly scheduled to the "graveyard shift" receive an additional \$.25 per hour for each hour worked on that shift.
- (d) The shift differential is given only when the employee actually works on either the swing shift or the graveyard shift. If, for any reason, an employee assigned to either the swing or graveyard shift fails to work that shift, taking either annual or sick leave, he or she does not receive the extra \$. 15 or \$. 25 for that shift.
- (e) On the other hand, if an employee employed on any shift is forced to work 2 shifts in one day. the employee should not receive the extra shift differential but must be paid the overtime of time and a half.

For example,

- (1) an employee, regularly scheduled to work the day shift who is required to continue work on the swing shift because of the absence of the regularly scheduled swine shift employee, is entitled to I-V2 times his or her regular day shift pay.
- (2) An employee regularly scheduled to work the swing shift who is forced to continue to work on the graveyard shift because an employee failed to show up, is entitled to I-V2 times his or her swing shift rate.
- (3) An employee, regularly scheduled to work the graveyard shift who continues to work the day shift because an employee failed to show up is entitled to I-A times his or her graveyard shift rate.

*History: Rule 11-84. eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 23]



TITLE 4 - CHAPTER 24 – HOURS, LEAVES & ABSENCES

Sections:

- 4.2401 Purpose.
- 4.2402 Administrative responsibilities.
- 4.2403 Holidays-Designated-Proclamation.
- 4.2404 Holidays-Day observed.
- 4.2405 Annual leave-Charges to leave.
- 4.2406 Sick leave.
- 4.2407 Leave without pay.
- 4.2408 Political leave.
- 4.2409 Maternity leave.
- 4.2410 Military leave.
- 4.2411 Excused absence.
- 4.2412 Repealed.
- 4.2413 Unauthorized absence.
- 4.2414 Workers' compensation recipients.

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**4.2401 Purpose.**

It is recognized that maximum efficiency on the job can be obtained only by permitting employees to have time off with pay for purposes of rest, recreation, and to meet personal and family needs. It is also considered essential to the maintenance of a stable, satisfied, and productive workforce for employees to be compensated to a reasonable extent during periods of involuntary absence from duty due to physical incapacity. Deserving employees, whose retention is of demonstrated value, should be guaranteed job security when it is necessary for them to be in a nonduty status, based on legitimate reasons, for periods longer than permitted under rules governing authorized absence with pay.

ASPA's leave policies are in accordance with 7.12 ASCA (see Appendix I).

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2402 Administrative Responsibilities.**

- (a) The department of administrative services of the American Samoa Government is responsible for the maintenance of employee leave records and furnishing advance relative to all leave records matters.
- (b) The Executive Director is responsible for all policy matters pertaining to leave and absence from duty.

- (c) Agency department heads and supervisors are responsible for day-to-day administration of the leave policy.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2403 Holidays—Designated-Proclamation.**

- (a) The following public holidays are designated by statute and are paid holidays for agency employees:
  - (1) New Year's Day. January 1:
  - (2) Washington's Birthday, the third Monday in February:
  - (3) Good Friday. the Friday before Easter:
  - (4) Flag Day. April 17:
  - (5) Memorial Day. last Monday in May:
  - (6) Independence Day, July 4:
  - (7) Manu'a Islands Cession Day. July 16;
  - (8) Labor Day, the first Monday in September:
  - (9) Columbus Day, the second Monday in October:
  - (10) Veteran's Day, the fourth Monday in October;
  - (11) Thanksgiving Day, the fourth Thursday in November:
  - (12) Christmas Day, December 25.
- (b) Other holidays may be established by Governor's proclamation.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2404 Holidays-Days Observed.**

Holidays shall be observed as provided below:

- (a) For employees with workdays on Monday through Friday, if a holiday falls on:
  - (1) Saturday, it is observed on the Friday preceding the holiday;
  - (2) Sunday, it is observed on the Monday following the holiday;
  - (3) Workday, it is observed on that workday.

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(b) For employees with workdays other than Monday through Friday, if a holiday falls on a:

- (1) Day off, it is observed on the first workday after the day off;
- (2) Workday, it is observed on that workday.

History: Rule 11-84. eff 19 Dec 84. (part).

**4.2405 Annual Leave-Charges to Leave.**

(a) Annual. To earn leave an employee must be employed during a full biweekly pay period. He or she is considered to have been employed for a full pay period if he or she is in a pay status of an agency on all days falling within the pay period exclusive of holidays and non- workdays.

(b) Earning Rates.

- (1) Full-time employees:
  - (A) Employees with less than 3 years of creditable service earn 4 hours or ~/z workday of annual leave for each biweekly pay period.
  - (B) Employees with 3 but less than 15 years of creditable service earn 6 hours or 3/4 workday of annual leave for each full biweekly pay period except for the last full pay period of the calendar year, for which they earn 10 hours of annual leave.
  - (C) Employees with 15 or more years of service earn 8 hours or one workday of annual leave for each full biweekly pay period.
- (2) Part-time employees:
  - (A) Employees with less than 3 years of creditable service earn one hour of annual leave for each 20 hours in a pay status.
  - (B) Employees with 3 but less than 15 years of creditable service earn one hour of annual leave for each 13 hours in a pay status.
- (3) Fractional pay periods: If employment is continuous, leave is credited on a pro rata basis for those days during a fractional pay

period for which an employee is being paid. The following table may be used to determine the amount of pro-rated leave credit:

PRO RATA TABLE			
Biweekly Pay Period Workdays	Category 4*	Category 6	Category 8
1	1	1	1
2	1	1	1
3	2	1	2
4	3	2	2
5	4	2	3
6	5	2	4
7	6	3	4
8	6	3	5
9	7	3	5
10	4	6	8

\*This column may be applied for sick leave purposes.

(c) Maximum Accumulation. Accumulation of unused accrued annual leave may not exceed a total of 60 days at the beginning of the First complete pay period of each leave year. Excess leave beyond the 60 days is forfeited except as follows:

- (1) Nothing in this section shall be construed to prohibit the taking or require the forfeiture of any annual leave which is validly granted and the taking of which begins on or before the last working day of the current leave year, notwithstanding that the recording of the current accrued annual leave for the current leave year on the last day thereof might result in an accumulation of more than 60 days including the working days of the annual leave so granted and then being taken. The period of such annual leave shall be regarded as if it had been entirely taken prior to the last day of such leave year.
- (2) Nothing in this section shall be construed to require the forfeiture of any annual leave when an employee terminates on or before the last working day of the leave year, notwithstanding the fact that the recording of current accrued annual leave for such year on the last day may result in an accumulation of more than 60 days.

(d) Leave Charges.

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- (1) Leave Days. Both annual and sick leave are charged to an employee's account only for absence on regular workdays; i.e., days on which he or she would otherwise work and receive pay during his or her regular tour of duty. Leave is not charged for absence on holidays or other nonwork days.
  - (2) Minimum Charge. One hour is the minimum charge for either annual or sick leave. After one hour, additional charges may be made in multiples of 1/2 hour. Absence on separate days are not combined.
- (e) When taken.
- (1) Annual leave is provided and used for two general purposes, which are:
    - (A) To allow every employee an annual vacation period of extended leave for rest and recreation; and
    - (B) To provide periods of time off for personal and emergency purposes. These absences involve such matters as death in a family, religious observances, attendance at conferences or conventions, securing a driver's permit, or other personal business which can be disposed of only during the time in which the employee would ordinarily be working.
  - (2) Annual leave provided by law is a benefit and accrues automatically. ASPA is responsible for administering the annual leave system and issues instructions concerning the granting of annual leave. Guidelines are as follows:
    - (A) The approval of short periods of leave should generally be the responsibility of immediate supervisors, who best know whether the leave requested is compatible with the workload.
    - (B) Requests for extensive periods of annual leave may be recommended for approval by the immediate supervisors but require approval at a higher organization level.
- (C) Decisions as to the granting of leave will generally be made in the light of the needs of the agency rather than solely the desires of the employee.
  - (D) Supervisors should ensure that annual leave is scheduled for use so as to prevent any unintended loss of leave at the end of the leave year.
  - (E) Annual leave must be requested and approved prior to its taking. Failure to secure prior approval may result in a charge to leave without pay and may result in disciplinary action against the offending employee. The ASG form for application for leave must be completed and submitted 3 days before an employee may take leave.
  - (F) In Lieu of Sick Leave. Approved absence, otherwise chargeable to sick leave, may be charged to annual leave when sickness exceeds accumulated sick leave hours.
  - (G) Advances. It is not permissible for an employee to be granted annual leave in advance of its having been earned.
  - (H) Lump-sum Payments.
    - (1) Entitlement. An employee who has annual leave to his or her credit and who is separated from employment with ASPA is entitled to payment of accumulated, accrued annual leave in a lump sum.
    - (2) Computation of Payment. Lump-sum leave payments are equal to the compensation that he or she would have received had he or she remained in the employ of ASPA until the expiration of the period of annual leave paid. Included is pay for holidays falling within that period to which the employee would have been entitled. The employee does not, however, earn leave during the period represented by the lump-sum payment. Except, for purposes of taxation, the lump sum is not regarded as salary or compensation.

*History: Rule 11-84. eff 19 Dec 84, (part).*

**4.2406 Sick Leave.**

Sick leave is for use when an employee is physically incapacitated to do his or her job, or for such related reasons as exposure to a contagious disease that would endanger the health of coworkers, presence of contagious disease in an employee's immediate family which requires his or her personal care, or for dental, optical, or medical examination or treatment.

(a) Earning Rates.

- (1) Full-time Employee. Employees earn sick leave at the rate of 4 hours or 4 work day for each full biweekly pay period. Sick leave is earned from the first pay period of employment.
- (2) Part-time Employees. These employees earn sick leave at the rate described under the category 4 column of the pro rata table in this chapter.

(b) Maximum Accumulation. Unused sick leave is accumulated without limit.

(c) Granting. Sick leave is a right, provided the requirements of this subsection are met.

ASPA officials have the authority and responsibility to determine that the nature of the employee's illness was such as to incapacitate him or her for his or her job and that other reasons for which sick leave is granted are valid. It is mandatory that an employee furnish documentary evidence in the form of a medical certificate for periods of sick leave in excess of 3 consecutive workdays. However, management may require that the employee furnish such certificate for sick leave involving any length of time. The employee who becomes ill is responsible for notifying his or her supervisor as soon as possible. Required medical certificates shall be submitted together with leave request forms and time sheets as specified by the above reference.

(d) Advances. An employee may draw upon anticipated sick leave credits if current credits become exhausted. The request shall be made to the Executive Director within these requirements and limitations:

- (1) The advance will be made based upon anticipated accrual of credits up to 30 leave days. If the employee has a planned termination date which will affect the accrual, the number of days which can be advanced will be reduced accordingly.
- (2) The advance will not be authorized automatically. The following factors will be considered prior to approval:
  - (A) Has the employee been wise and careful in the use of leave in the past?
  - (B) Does the doctor show the employee will be able to return to work in a reasonable time?
  - (C) Are the best interests of the agency and the employee served through this action?
  - (D) What are these special circumstances which warrant continuing this person's pay on the chance he or she will return to work and earn the sick leave credit? Length of service, performance record, essential nature of services, and circumstances beyond their control should be cited (pregnancy cases do not generally qualify).

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2407 Leave Without Pay.**

Leave without pay is a temporary absence from duty in nonpay status granted upon the employee's request and at the discretion of management. The permissive nature of leave without pay distinguishes it from absence without leave (AWOL), which is a nonpay status resulting from a period of absence for which the employee did not obtain advance authorization or for which his or her request for leave has been denied. It shall be the practice of ASPA to grant leave without pay only when it will be of mutual benefit and interest to the agency and to the employee. Leave without pay shall not be granted for the purpose of an employee participating in private employ-sent.

- (a) Administrative Discretion. The granting of leave without pay is a matter of administrative discretion. Employees cannot demand that they be granted leave without pay as a matter of right.

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- (1) ASPA departments must assure that each request is of such value to the agency, or the serious needs of the employee as to offset costs and administrative inconveniences of the position of the employee being frozen and remaining vacant while the employee is on leave without pay.
- (2) Extended leave without pay beyond 30 days may not be approved unless there is assurance that the employee will return to duty and that at least one of the following benefits will result:
  - (A) Improved work performance and ability;
  - (B) Protection or improvement of employee's health;
  - (C) Retention of a desirable employee; and
  - (D) Furtherance of a program of interest to the agency.
- (b) Extended Leave Without Pay. Extended leave without pay requires the prior approval of the Executive Director when properly justified by the department submitting such request. Extended leave without pay will be granted in the following circumstances:
  - (1) Attendance at a recognized institution of higher learning or a technical school, pursuing a course of instruction which is related to the employee's field of work;
  - (2) Travel and/or research which will impart knowledge, skills, and/or abilities required in the employee's work
  - (3) Extended illness with a positive prognosis, or family or personal problems, an end of which can reasonably be predicted;
  - (4) To work for another agency of ASG or another government on a loan basis, where there is no agreement under the Inter-governmental Personnel Act. The request for the services of the employee must be made through the Governor's office, in writing.
  - (5) To; serve a required period of military service beyond the 15 days which are authorized for pay purposes. The military duty must be for periods of time not to exceed one year and must be categorically mandated, as in the basic training period required for a recruit in the Armed Forces reserves. Leave cannot be granted for voluntary extensions or reenlistment;
  - (6) To protect employee status and benefits when an employee is injured and his or her case is being adjudicated or he or she is receiving benefits under worker's compensation.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2408 Political Leave.**

Leave without pay shall be freely granted to any government employee for the purpose of campaigning as a candidate for public office in American Samoa for a period beginning 30 days before and ending 10 days after the date set for election.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2409 Maternity Leave.**

Maternity leave, a period of approved absence for incapacitation related to pregnancy and confinement, is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay, in the order given.

- (a) Employees are required to request maternity leave substantially in advance of their intended absence so that staffing adjustments may be made.
- (b) Periods of maternity leave shall be based on individual medical determination. A medical certification must be submitted showing expected date of confinement. Maternity leave may be granted for a period of 6 weeks prior and 6 weeks subsequent to birth.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2410 Military Leave.**

- (a) General Provisions. A full-time employee who serves under an appointment without time limitation and who is a member of a reserve

component of the Armed Forces of the United States, the U.S. Public Health Service, or the National Guard is entitled to leave of absence for annual military training without charge to annual leave, or loss of pay or service credit, for not more than 15 workdays in any calendar year. The reserve components of the Armed Forces include the reserves of the Army, Navy, Air Force, Coast Guard, and Marine Corps, etc., The National Guard includes the National Guard of the Army and of the Air Force. Application for military leave shall be accompanied by appropriate military orders.

- (b) **Maximum.** Military leave is limited to a maximum of 15 workdays during each year, regardless of number of training periods in a year, and whether taken intermittently, a day at a time, or all at one time.
- (c) **Use of Annual Leave.** Absence which is not chargeable to military leave can be charged to annual leave. Therefore, employees who are called to duty for a period longer than the 15-day period chargeable to military leave can use annual leave for the additional absence.
- (d) **Contract Employees.** Contract employees who are members of the Armed Forces reserve components shall, be granted military leave in accordance with the provisions of this section.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2411 Excused Absence.**

- (a) Excused absence is absence from duty duly authorized by the Executive Director. without charge to annual leave or loss of pay or service credit, under the circumstances described below:
  - (1) To take an employment examination for a position currently occupied or one to which the employee may be promoted or reassigned. not to exceed 3 hours;
  - (2) To take a physical examination required to determine continued employability;
  - (3) To obtain treatment for an injury sustained in the performance of duty. The employee may be excused for the balance of the day on which the injury occurred;

- (4) To be unavoidably or necessarily absent from duty for less than one hour or for being tardy;
- (5) To donate blood to the American Red Cross in American Samoa or in emergencies to individuals from the time necessary for such donations, not to exceed 4 hours, provided that the employee does not receive pay for blood;
- (6) To participate in emergency rescue or protective work at the request of local or territorial officials;
- (7) To participate in federally recognized civil defense programs for a reasonable length of time up to 40 hours in a calendar year;
- (8) To vote and register. An employee who desires to vote or register in an election or in a referendum on a civic matter in his or her community may be granted time off without loss in pay or service credit or charge to leave as follows:
  - (A) The employee may be allowed 2 hours of excused absence at the beginning or end of the workday.
  - (B) An employee may be excused for such additional time as may be needed to enable him or her to vote, depending upon the circumstances in the individual case, but not to exceed a full day. Time off in excess of one day shall be charged to annual leave or if annual leave is exhausted, to leave without pay.
  - (C) An employee who votes in a jurisdiction which requires registration in person may be granted time off to register substantially on the same basis as for voting except that no such time shall be granted if registration can be accomplished on a non-workday and the place of registration is within a reasonable one-day, roundtrip travel distance of the employee's place of residence;

(9) To serve as witness or juror when summoned involuntarily by the court, provided he or she returns to duty immediately upon release by the court. However, if the employee's appearance in court is in his or her own interest, either as appellant, defendant, or witness, leave of absence with pay, without pay, or compensatory time off must be documented. An employee called as a court witness in his or her official capacity, whether on behalf of the government or of a private party, is in an official-duty status;

(10) When working conditions or extenuating circumstances exist beyond the control of management, not to exceed a maximum grant of 4 hours. Excused absence in this category should normally not exceed 4 hours. However, it may be extended for the duration the conditions or circumstances such as when inclement weather prevents reporting to work.

*History: Rule 11-84, eff 19 Dec 84, (part); and Rule 6-87. Eff 14 May 87, § 1.*

**4.2412 Administrative Leave.**

Repealed by Rule 6-87 § 3.

**4.2413 Unauthorized Absence.**

Unauthorized absence shall be treated as absence without pay and may be grounds for disciplinary action.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2414 Workers' Compensation Recipients.**

(a) Earning of Credits. An officer or employee who is absent from work because of injuries/illnesses incurred within the scope of his or her employment and who is receiving workers' compensation wage loss replacement benefits such as temporary total disability and temporary partial disability payments, shall continue to earn vacation and sick leave credits as though he or she was not absent but performing the duties of his or her regular employment.

(b) Use of Credits.

(1) An employee with accrued sick leave credits who is absent from work and who is

receiving workers' compensation wage loss replacement benefits shall be entitled to receive an additional amount, charged to sick leave, which would bring his or her total payment to a sum equal to the employee's regular salary.

(2) In the event the employee does not have any accrued sick leave credits, he or she may elect to use accrued annual leave credits to bring his or her total payment to a sum equal to the employee's regular salary.

(3) An employee is entitled to use the sick and annual leave credits earned during the period of absence from work.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 24]

TITLE 4 - CHAPTER 25 – RETIREMENT  
BENEFITS

Sections

4.2501 ASPA employees eligible to receive  
retirement benefits.

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**4.2501 ASPA Employees Eligible to Receive  
Retirement Benefits.**

All employees of ASPA are eligible to receive retirement benefits through the ASG Employee Retirement Plan, according to provisions of the Plan as specified by Chapter 7.14 A.S.C.A.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 25]



TITLE 4 - CHAPTER 26 – INCENTIVE & TENURE AWARDS

Sections:

- 4.2601 Purpose of incentive awards.
- 4.2602 Budgeting-Incentive awards committee-Award-approval authority.
- 4.2603 Suggestions award.
- 4.2604 Superior performance award.
- 4.2605 Special act or service award.
- 4.2606 Group awards.
- 4.2607 Tenure award.
- 4.2608 Operator of the month award.

**4.2601 Purpose of Incentive Awards.**

It is the policy of ASPA to provide a method which affords recognition of exceptional skills, resourcefulness, or exceptional acts of employees. The purpose of the incentive awards program, therefore, is to provide a device by which recognition may be afforded an employee or a group of employees who make suggestions which, when adopted, will save time and/or materials for the agency, thus reducing costs, and to provide recognition of employees who perform special acts or services in the public interest which reflect favorably on the image and reputation of the agency.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2602 Budgeting-Incentive Awards Committee-Award-Approval Authority.**

- (a) It is the responsibility of the business finance manager, after consultation with department heads and the Executive Director, to budgets annually a specified fund for payments of cash awards under the program.
- (b) It is the responsibility of a representative committee, known as the incentive awards committee and consisting of at least 3 but not more than 5 members appointed by the Executive Director, to serve on a rotating basis to:
  - (1) Investigate and evaluate contributions for improving ASPA operations, as well as other incentive award proposals, and to recommend their approval or disapproval to the Executive Director on the basis of a simple majority opinion;

- (2) Encourage supervisors and their subordinates to participate in improving the efficiency and economy of ASPA operations.
- (c) It is the responsibility of the chairman of the incentive awards committee, who is a member of the ASPA management staff, to:
  - (1) Receive and review proposals and nominations for clarity and merit, prior to acceptance by the incentive awards committee for evaluation and subsequent authorized action;
  - (2) Develop ways and means of stimulating interest and participation in the incentive awards program on the part of both employees and management.
- (d) Authority for final approval of all cash awards shall rest with the Executive Director.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2603 Suggestions Award.**

An employee is eligible to be considered for a cash award by presenting to the chairman of the incentive awards committee, in writing, his or her suggestions for improvement of ASPA operations.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2604 Superior Performance Award.**

A cash award may be made when a career service employee's or contract specialist's performance over a 6-month period substantially surpasses the normal requirements of his or her position or he or she performs a special assignment in above average manner without adversely affecting his or her regular work, provided he or she is nominated in writing, within 6 months of the period of performance in question, by an appropriate supervisor, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head of the employee's department.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2605 Special Act or Service Award.**

A special act or service may be contributed during an emergency, in connection with a special program or activity, or by creative efforts important to

administration, science, or research and characterized as a nonrecurring situation. Any employee is eligible to be considered for a special act or service cash award, provided he or she meets the criteria described in this section and he or she nominated not more than 6 months after the completion of the special act or services concerned, in writing, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head of the employee's department.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2606      Group Awards.**

When a contribution has been made by more than one employee or by a group of employees, all who have contributed, including supervisors, may share equally or proportionately in the group cash award; however, the total amount of the award is as if made to an individual. Where individual shares of such group cash awards appear inappropriate, the incentive awards committee shall determine the amount of the award.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2607      Tenure Award.**

Effective on and after January 6, 1980, employees who are awarded service certificates will also receive a tenure award in cash as follows:

- (1) Twenty-year certificate, \$500
- (2) Thirty-year certificate, 5750;
- (3) Forty-year certificate, \$1,000;
- (4) Retirement certificate, \$100.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2608      Operator of The Month Award.**

The ASPA Advisory Committee, consisting of all managers and supervisors, recognizes an operator each month as Operator of the Month. The Advisory Committee uses two forms to evaluate operators, a daily report and a weekly inspection report.

*History: Rule 11-84. eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 26]

TITLE 4 - CHAPTER 27 – CONDUCT

Sections:

- 4.2701 Responsibility and deportment-off-the-job conduct.
- 4.2702 Misconduct.
- 4.2703 Subordination to authority.
- 4.2704 Selling or soliciting.
- 4.2705 Outside business activity.
- 4.2706 Community and professional activities.
  
- 4.2707 ASPA property.
- 4.2708 Gifts.
- 4.2709 Information.
- 4.2710 Revolutionary organizations.
- 4.2711 Political affiliation.
- 4.2712 Political activity.
- 4.2713 Financial responsibility.
- 4.2714 Contracts with employees.
- 4.2715 Financial interests.

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**4.2701 Responsibility and Deportment-Off-The-Job Conduct.**

It is the policy of ASPA to urge its career service employees and contract specialists to cultivate those personal qualities which characterize a good employee's loyalty to ASPA: a sense of responsibility for the public trust and a standard of personal deportment which is a credit to the individuals themselves and to the service. Off-the-job conduct is a concern to ASPA if it reflects adversely upon the dignity, integrity, and prestige of the agency.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2702 Misconduct.**

Any criminal, dishonest, immoral, or any other conduct on the part of an employee which would adversely affect ASPA will be cause for his or her removal from employment.

Gambling or the use of alcoholic beverages by employees in ASPA buildings, construction sites, or offices will not be tolerated.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2703 Subordination to Authority.**

An employee is required to carry out the announced policies and programs of ASPA. While policies related to his or her work are under consideration, he or she may, and is expected to, express his or her

opinions and points of view, but once a decision has been rendered by those in authority, he or she will be expected unreservedly to assure the success of programs which it is his or her responsibility to effectuate. If he or she fails to carry out any lawful rule, order, or policy or deliberately refuses to obey the proper requests of his or her superiors who have responsibility for his or her performance, he or she is subject to appropriate disciplinary action.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2704 Selling or Soliciting.**

Employees and other persons are prohibited from selling or soliciting for personal gain within a building occupied or used by ASPA without proper permission. This prohibition does not apply to:

- (1) Authorized or installed business activities: e.g. employee cafeterias, etc.;
- (2) Solicitation for other approved purposes; and
- (3) Token solicitations for floral remembrances, retirement gifts, and for similar purposes.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2705 Outside Business Activity.**

An employee shall not engage in any business activity or work either in the capacity of employee or otherwise, which prevents an employee from devoting his or her primary interests, talents, and energies to the accomplishment of work for ASPA or tends to create a conflict between the private interest of an employee

and his or her official responsibilities. The employee must notify his or her department head of any outside work or activity. If the department head finds there is a conflict of interest the employee must choose between jobs.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2706 Community and Professional Activities.**

Employees are encouraged to participate in activities of professional societies and of civic organizations whose purpose and objectives are not inconsistent with those of ASPA.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2707 ASPA Property.**

(a) Employees shall be held accountable for ASPA property entrusted to them for their official use. It is their responsibility to protect and conserve ASPA property, including motor vehicles and other self-propelled equipment, and to use it economically and for official purposes only. The following rules apply to all ASPA-owned or ASPA-leased motor vehicles and other self-propelled equipment:

- (1) All ASPA vehicles or equipment are to be used for official business only.
- (2) No ASPA vehicles shall be issued to any employee of the agency who does not have a valid driving permit, and no other self-propelled equipment shall be issued to any person other than a qualified operator of the equipment.
- (3) No passengers or riders are to be transported unless they are on official ASPA business or are employees of AS PA.
- (4) A valid driving permit must be in the driver's possession at all times while operating an ASPA vehicle.
- (5) All accidents and traffic citations must be reported by the driver or operator to his or her immediate supervisor within 24 hours of the accident or citation.
- (6) Any department permitting an employee without a valid driving permit to drive an ASPA vehicle shall be held responsible for any damage or liability incurred as a result of an accident in which such employee is involved.
- (7) Employees using ASPA vehicles after hours must first fill out an after-hours usage request at the ASG motor pool. ASG will send a daily notice of authorized after-hours usage to the police department for surveillance purposes.

(b) The rules pertaining to motor vehicles and other self-propelled equipment are the established rules of the Executive Director.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2708 Gifts.**

An employee shall not accept from or bestow upon any person or organization with which he or she deals officially anything of economic value, such as a gift, loan, or gratuitous service. No employee shall solicit or make a contribution for a gift for an official superior nor accept such a gift, except as specifically authorized by law or as cited in this chapter of these regulations. Except as specifically authorized by law, employees are not authorized to accept from private sources on behalf of ASPA voluntary donations or cash contributions for travel expenses or the furnishing of services in kind, such as hotel accommodations, meals, and travel accommodations. This exception does not apply to approved scholarship grants, etc., which ASPA has approved and supervises.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2709 Information.**

It is the policy of ASPA to accord the public free access to certain information about its activities. Employees should confine statements made in their official capacity to factual matters, and statements on policies and programs should be limited to those policies and programs presently in effect. If an employee is requested to give information outside the scope of his or her authority, he or she should refer the request through the immediate supervisor to his or her department head. Inquiries from the press, radio, or TV should be referred to the department head or other top management.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2710 Revolutionary Organizations.**

An employee may riot knowingly advocate the overthrow of the constitutional form of government through membership in any organization which asserts the right to militate against the United States, ASG, or ASPA.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2711 Political Affiliation.**

No person with authority to take or recommend a personnel action relative to a person in, or an eligible applicant for, a position at ASPA may make inquiry concerning his or her political affiliation. All disclosures concerning political affiliation shall be ignored except membership in political parties or

organizations constituted by law as a disqualification for ASPA employment. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person against or in favor of an employee in, or an eligible applicant for, a position at ASPA because of his or her political affiliation.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2712 Political Activity.**

Employees shall not engage in unlawful political activities as defined in 7.0807 A.S.C.A., (see Appendix I). Where doubt exists as to the legality of certain activities, the employee shall request a ruling in writing from the Executive Director.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2713 Financial Responsibility.**

Employees of ASPA are expected to satisfy their financial commitments. Failure to meet one's obligations reflects adversely on one's standing as an ASPA employee.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2714 Contracts with Employees.**

Because contracts with its own employees are considered to be against public policy, such contracts are not permitted at ASPA except where it is clearly shown that the interests of ASPA are the major consideration to be served thereby. The only announced exception to this policy concerns sales of certain types of surplus property to employees - under competitive conditions as set forth by rules promulgated by the Executive Director.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2715 Financial Interests.**

Employees may not have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as employees, nor engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through- their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as other citizens.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 27]

TITLE 4 - CHAPTER 28 – TERMINATION,  
LAYOFF & ADVERSE ACTIONS

Sections

- 4.2801 Discipline policy generally-Scope of reasons for removal.
- 4.2802 Removal, suspension, demotion of career employees.
- 4.2803 Probational or trial employees.
- 4.2304 Involuntary reassignment.
- 4.2805 Absence without leave-Abandonment of position.
- 4.2806 Resignation.
- 4.2807 Other termination actions.
- 4.2808 Layoff-Reduction-in-force.
- 4.2809 Clearance for terminating employees.

**4.2801 Discipline Policy Generally-Scope of Reasons For Removal.**

It is the policy of ASPA to ensure that employees whose performance of their duties or conduct are not satisfactory are removed from their position promptly, that those who are guilty of misconduct not sufficiently serious to justify removal be properly disciplined, that voluntary and involuntary separations be handled in an orderly manner, and that employees be protected against arbitrary or capricious action. Removal may be effected for any of the reasons but not limited to those referred to in these regulations and in 7.0801 through 7.0807 A.S.C.A.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2802 Removal, Suspension, Demotion of Career Employees.**

- (a) Employees in the career service, not serving probationary or trial periods and who are not serving under temporary appointments or contracts, shall not be removed, suspended, or involuntarily demoted except for such cause as will promote the efficiency and the good of ASPA.
- (b) Discrimination shall not be exercised in suspensions, removals, or demotions because of an employee's religious belief or affiliations, marital status except as may be required by this title, race, ethnic background, or political affiliation except as may be required by law, and

physical handicap unless an individual is unable to perform the duties of the position.

- (c) Like penalties shall be imposed for like offenses whenever removals, suspensions, or demotions are made or when other disciplinary actions are taken.
- (d) One of the following procedures shall be followed in cases of removal, suspension, and involuntary demotion:
  - (1) The employee shall be notified, in writing, of the charges against him or her. and of the corrective action recommended to the Executive Director to be taken against him or her.
  - (2) The notice shall set forth, specifically and in detail, the charges preferred against the employee.
  - (3) The employee shall be allowed 3 days for filing a written answer to such charges and for furnishing affidavits in support of his or her answer, or the employee may request and shall be given the opportunity to reply orally.
  - (4) If the employee answers the charges, his or her answer must be considered by the agency. Following consideration of the answer, the employee must be furnished with the agency's decision, in writing, as to the action to be taken.
  - (5) The agency shall forward to the director of the Office of Manpower Resources copies of the charges, answer, and reasons for adverse action, all of which shall be made a part of the employee's official personnel file.
- (e) The employee shall be retained in an active duty status during the period of notice of proposed action except as follows:
  - (1) The employee may be placed on annual leave when the Executive Director does. not consider it advisable from an official standpoint to retain him or her in an active duty status during the advance notice period.

- (2) When the employee is not placed on annual leave and the circumstances are such that his or her retention in an active duty status may result in damage to ASPA property, or may be detrimental to the interests of ASPA or injurious to the employee, fellow workers, or the general public, he or she may be temporarily assigned duties in which these conditions will not exist, or be placed on excused absence, and be required to submit a reply to the charges within 24 hours. The employee may be placed on immediate suspension pending removal thereafter if appropriate in the opinion of the Executive Director.
- (f) The Executive Director shall advise the employee in writing of the removal action to take effect 30 calendar days from the date of the notice, the reasons therefor, and that he or she may request a hearing before the board within 10 calendar days of the date of receiving the notice. ASPA shall follow the general format of the ASG sample letter for employee notification of suspension or termination with revisions to reflect ASPA's personnel organization.
- (g) If the employee does not appeal or if he or she appeals and the appeal is denied, his or her removal shall be processed finally in accordance with instructions applying within ASPA. ASPA shall follow the guidelines set forth in the ASG personnel rules entitled "Conduct of Government Employees-Disciplinary Action."

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2803 Probational or Trial Employees.**

Any employee serving a probationary or trial period shall be given a full and fair trial in the performance of the duties of the position to which appointed. Employees serving their original probationary period may be separated at any time during such period upon proper recommendation and 5 working days prior notice, without right of appeal.

- (a) Supervisors shall, carefully observe the performance and conduct of employees who are serving the probationary period to determine whether the retention of such employee is in the best interests of ASPA.

- (b) Three months prior to the expiration of an employee's probationary period, the Executive Director shall determine whether the employee is to be retained. If the employee is not to be retained, the Executive Director and the employee's immediate supervisor shall advise the employee in writing. The Executive Director shall proceed with the separation action as follows:
- (1) Issue a written notice to the employee advising him or her that he or she will be separated as of a particular date, the reason(s) therefor, and that he or she has no right of appeal, except in cases of alleged discrimination because of sex, creed, color, or marital status.
- (2) The chapter of these regulations on recruitment and placement addresses separation of a career service employee serving a new trial period.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2804 Involuntary Reassignment.**

- (a) The Executive Director may move any employee involuntarily from one position to another, which may or may not involve a change in class, without the right of appeal, provided no reduction in grade or rate of compensation is involved.
- (b) An involuntary reassignment is considered an "administrative reassignment" with the best interests of the agency as the primary objective.
- (c) Failure of an employee to comply with an involuntary (administrative) reassignment shall result in immediate separation.
- (d) Any employee so reassigned may grieve through the agency's grievance procedures.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2805 Absence Without Leave-Abandonment of Position.**

When an employee fails to report for duty or to return from leave for ten or more consecutive workdays, he or she may be considered to have abandoned his or her position. Care must be taken, however, before a final decision is made, to ascertain that the employee

has truly abandoned the position. The supervisor should make an effort to contact the employee to determine his or her intentions. If the employee intends in fact to resign, this should be the action taken rather than to term the action abandonment of position, as future employment opportunity with ASPA or ASG may be affected. If the supervisor is unable to ascertain the employee's intention concerning return to duty, processing of abandonment of position is proper and should be handled as follows:

- (a) Action by Operating Officials. The employee's department head shall recommend to the Executive Director, using a position action request form, that the employee be separated for abandonment of position. Under the "Remarks" section, list when (date) and what effort the supervisor (name) made to contact the employee, and the results of that effort.
- (b) The Executive Director shall proceed with the separation action in accordance with these regulations.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2806 Resignation.**

An employee may resign at any time subject to the following conditions:

- (a) Notice. The employee must notify his or her department head, in writing, of his or her resignation at least 2 weeks prior to the date of separation unless the department head waives such requirement.
- (b) Withdrawal. Once submitted, the resignation is binding upon the employee and it may be withdrawn only with the department head's consent.
- (c) In lieu of separation for cause. An employee may resign with prejudice in lieu of removal or while issuance of charges leading to removal are pending. In such instances, the department head must indicate the abnormal nature of the resignation on the request for personnel action.
- (d) Rehire. An employee who resigns without prejudice is eligible for reinstatement at any time, assuming an opening exists and he or she has completed the probationary period. If the

employee has not completed the probationary period or if, within the five years preceding the date of his or her current application, he or she resigned from ASPA in lieu of removal, he or she will compete through regular competitive channels and if selected shall serve a new probationary period.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2807 Other Termination Actions.**

- (a) A person serving under a temporary appointment may be terminated at any time prior to the expiration of the temporary appointment, but must be terminated on the NTE (not-to-exceed) date unless approval has been granted by the Executive Director for extension of the appointment.
- (b) A noncareer employee who has failed to qualify for a probational or career service appointment to continue his or her employment may be terminated by the agency upon notification to his or her department that he or she has failed to qualify.
- (c) An employee who, during a leave of absence, accepts other employment which is contrary to the purpose for which leave is granted may be terminated.
- (d) An employee who fails to provide his or her department head with proper notice of his or her resignation may be terminated with prejudice.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.2808 Layoff-Reduction-In-Force.**

- (a) When there is an impending layoff because of lack of funds, curtailment of work, or reorganization, the department head shall notify the Executive Director and the affected employee(s) in writing as soon as possible but at least 60 days in advance of the layoff unless cutoff of funds requires a shorter notice period, in which case such requirement must be stated in writing.
- (b) The provision of this section concerning placement rights are applicable to career service employees whose positions are to be abolished and to a career service employee who will be displaced by another career service employee.



The provisions of this section also apply to a career service employee who is displaced by a career service employee returning from military duty, furlough, or leave.

(c) The Executive Director shall exhaust all possibilities in placing the employee within the agency before a reduction-in-force is effectuated.

(1) When there is no appropriate vacant position in which the career service employee may be placed, the agency shall follow the order below in determining which employee shall be displaced:

(A) A noncareer service employee in the same class and pay range. When there is more than one such employee, layoff will be, first, of:

(I) An employee serving under emergency or temporary appointment;

(II) An employee serving a probational appointment;

(III) A career service employee who occupies a position in the same class and grade and has the least seniority based on the service computation date;

(B) A noncareer service employee who occupies a position in another class at the same pay range, in accordance with divisions (A) (I), (II), and (III) of this subsection, provided the displacing employee meets the minimum qualifications for such position;

(C) A noncareer status employee who occupies a position in the same series, but a lower class and pay range in accordance with divisions (A) (I), (II), and (III) of this subsection;

(D) A noncareer status employee who occupies a position in a different series and lower class for which the displacing employee meets minimum qualifications in accordance with

divisions (A) (I), (II), and (III) of this subsection.

(d) If the Executive Director is unable to place the employee, he or she shall immediately notify the director of the Office of Manpower Resources, who will place the employee on ASG's reemployment register, and effect territory-wide RIF procedures. The Executive Director will issue the two-week notice of termination and place the employee on ASPA's reemployment register.

*History: Rule 1 1-84, eff 19 Dec 84. (part).*

**4.2809 Clearance for Terminating Employees.**

The standard ASG clearance form must be completed by all terminating employees and kept on file by ASPA.

*History: Rule 11-84. eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 28]

TITLE 4 - CHAPTER 29 – APPEAL, GRIEVANCE  
& ADMINISTRATIVE REVIEW

Sections:

- 4.2901 Appeal-Right of career employees.
- 4.2902 Appeal-Procedure.
- 4.2903 Grievances.
- 4.2904 Administrative review.

**4.2901 Appeal-Right of Career Employees.**

Career employees may file appeals on matters concerning their suspension, involuntary demotion, or removal.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.2902 Appeal-Procedure.**

- (a) Form and Deadline. All appeals must be made in writing and state clearly the basis for appeal to the chairman of the board and must be filed within 10 calendar days after the effective date of the action appealed, except in the case of a reduction-in-force. The appeal should also include the employee's request for a hearing if he or she desires and is entitled to one.
- (b) Scheduling Hearing. The written appeal shall be on the agenda of the board's next meeting. If the appeal involves a removal, suspension, or demotion, however, the appeal hearing shall be arranged so as to effect a board decision within 30 days after appeal. However, the chairman of the board may deny a hearing when a hearing is impractical by reason of unusual location or other extraordinary circumstances.
- (c) Hearing Procedures. Hearings before the board shall be conducted in accordance with the procedures promulgated by the board.
- (d) Counsel and Openness. Attendance of other interested parties and/or counsel may be limited by the chairman of the board of directors if good order, justice, and fairness will be promoted.
- (e) Death of Appellant. A proper appeal filed before the death of the employee must be processed to completion and adjudicated. If appropriate, the board may provide for amendment of the employee's records to show retroactive restoration and the employee's continuance on

the rolls in an active duty status to the date of death.

- (f) Adverse Action Appeal. If the decision is to take adverse action and the employee appeals this action, the appeal must then go to the director of the chairman of the board for a final decision at the administrative level.
- (g) File Access. Prior to the hearing the entire appeal file shall be made available upon request to the employee and his or her representative except when a file contains medical records concerning a physical or mental condition of which a prudent physician would hesitate to inform the person concerned.
- (h) Notice of Hearing. All parties shall be served with notice at least 10 days before the date set for the hearing. The notice shall state the time and place of such hearing.
- (i) Depositions. A party who desires to take the deposition of any person in an oral examination shall give reasonable notice of not less than 3 days in writing to the board and all parties. The notice shall state the time and place of taking the deposition and the name and address of each person to be examined.
  - (1) The deposition officer shall be a person who is authorized to administer oaths by the laws of the territory of American Samoa.
  - (2) The officer shall certify on the deposition that the witness was duly sworn by him -or her and that the deposition is a true record of the testimony given by the witness. 1-le or she shall then securely seal the - deposition in an envelope endorsed with the title of the proceedings and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the Chairman of the Board for filing. The party taking the deposition shall give prompt notice of its filing to all other parties.
- (j) Case Presentation and Testimony.
  - (1) The employee shall present his or her case first. Evidence may be either documentary or by affidavit. The employee must not use

affidavits to exempt persons from cross-examination. The employee should not accept an affidavit in lieu of personal testimony from a witness who is present at the hearing.

- (2) All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys and witnesses before the Court of American Samoa. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.
- (3) Witnesses shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony. Employees are in a duty status during the time they are made available as witnesses.
- (k) Conclusions. Within thirty days after the original notice, the board shall make and fully record in its permanent records findings of fact and reasons for the action taken and its order based thereon which shall be final, subject only to further action if the employee appeals the decision in court. At the same time the board shall send a copy of the findings and conclusions to the employee at his or her address as given at the hearing or to a representative designated by him or her.
- (1) Restoration of Rights. Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, annual leave accrual, and retirement.
- (m) Correction of Performance Evaluation. A correction of a performance evaluation shall not affect a certification or appointment which has already been made from the register.
- (n) Correction of Classification. Correction of a classification decision which results in a promotion or demotion shall be handled as stated in the chapter in these regulations on recruitment and placement, specifically the section on “Promotion-Lateral movement Transfer Detail-

Demotion.” The board will determine the effective date of any such action.

*History: Rule 11-34. eff 19 Dec 84 (part).*

**4.2903      Grievances.**

- (a) Filing. Grievances may be filed orally or in writing by any person, at any point of contact within ASPA. If the grievance is misdirected (complaints about another department) the grievant shall be properly directed. The following types of action are typical of those which may be grieved, but is not all inclusive;
  - (1) Performance evaluation;
  - (2) Leave (denial);
  - (3) Promotion;
  - (4) Letters of reprimand;
  - (5) Reassignment;
  - (6) Increment (denial);
  - (7) Hours of work;
  - (8) Discrimination or bias.
- (b) Procedure. ASPA shall have a three-part grievance procedure, as follows:
  - (1) Each grievance shall be placed in writing, and resolution attempted by the appropriate supervisor at the lowest level.
  - (2) Failing resolution, the grievance shall then be elevated to an uninvolved higher level in the agency and the grievant allowed to present testimony in his or her behalf in an informal hearing.
  - (3) If the recommendation of the informal hearing fails to satisfy the grievant, the case will be forwarded to the Executive Director for final decision. If the case is carried beyond this point by the grievant, it must be as an appeal to the board.
- (c) Exception. In cases involving suspension, demotion, or dismissal of a career service employee, no grievance is filed. The only appropriate and allowable employee response is an appeal to the board.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.2904      Administrative Review.**

The Executive Director has responsibility for the recruitment, examination and certification of eligibles, and for the proper classification of positions to titles, grades and pay. Any person who believes his or her application to have been improperly evaluated and/or any employee who believes his or her position to have been improperly evaluated, may request in writing that his or her case be reviewed.

- (a) The request must indicate the person's basis for the belief that the application or position was improperly evaluated.
- (b) The request, to be acceptable, must be filed within 10 calendar days of the official notice to the employee.
- (c) The Executive Director shall cause the case to be reviewed and notify the person, in writing, of the findings upon review.
- (d) If still dissatisfied, the person may file an appeal, following the procedures outlined in these regulations.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 29]

TITLE 4 - CHAPTER 30 – CONTRACT SPECIALISTS

Sections:

- 4.3001 When hiring permitted-Employment agreement.
- 4.3002 Temporary contract specialists.
- 4.3003 Assignment-Recruitment- Selection.
- 4.3004 Compensation-Absence with pay-Review and reclassification.
- 4.3005 Transportation.
- 4.3006 Annual leave-Sick leave.
- 4.3007 Medical benefits.
- 4.3008 Termination for cause.
- 4.3009 Resignation-Termination without cause.
- 4.3010 Renewal of contract.
- 4.3011 Employment after term of contract.
- 4.3012 Conduct-Reassignment-Career service eligibility- Self-Employment.
- 4.3013 Grievances-Striking prohibited.
- 4.3014 Training.
- 4.3015 Work-product ownership- Discoveries and documents.
- 4.3016 Dependents defined-Family status reports.
- 4.3017 Immigration status-Departure upon termination.

**4.3001 When Hiring Permitted-Employment Agreement.**

When there are no qualified eligibles available for a given position, excepted appointments of qualified eligibles residing outside of American Samoa may be made by contract. The termination of a contract specialist’s employment are specified in the employment agreement he or she signs with ASPA. ASPA’s Executive Director will send a letter to ASG requesting a contract. The contract is prepared by ASPA and approved by the Executive Director before being returned to the Office of Manpower resources. Recruitment is then performed by ASPA. ASPA may ask ASG to assist in recruitment. If the contract is modified subsequent to the Executive Director’s approval, an. ad Addendum is prepared by ASPA, approved by ASPA’s board of directors and forwarded to the Office of Manpower Resources for filing.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.3002 Temporary contract specialists.**

- (a) In addition to permanent contract specialists, ASPA will hire contract specialists to fill temporary positions or to work on temporary special projects. These temporary contract specialists are not entitled to career service status as defined by Chapter 7.13 ASCA (i.e., they do not accrue benefits or leave). All pay-merits to these employees are made through ASPA’s regular cash disbursements process and are not processed through the ASG payroll. The temporary contract specialists are subject to the same standards of conduct as any other ASPA employee.
- (b) A temporary service contract is prepared by ASPA. The contract is approved by the Executive Director and all employee records are maintained by ASPA. The contracts may be terminated upon 14 days written notice by either party.

*History: Rule 1 1-84. eff 11 Dec 84, (part).*

**4.3003 Assignment-Recruitment-Selection.**

The following are rules concerning contract specialists which are not contained in the standard contracts, or which require amplification:

- (a) Assignment of Duties. While the contract specialist is designated to serve in the position for which he or she signs, the needs of ASPA will determine other assignments and specific designations.
- (b) Recruitment Policy.
  - (1) Positions must be advertised locally prior to off-island, except that where the shortage of qualified eligibles is known in advance, recruitment may be performed simultaneously.
  - (2) ASPA may coordinate off-island recruitment efforts with the Office of Manpower Resources.
- (c) Selection Policy. Selection for contract positions must be made solely based upon fitness and merit, without regard to race, color, sex, age, religion, national origin, or politics.

- (d) Medical Examination. All selectees and their accompanying dependents shall be required to provide evidence of good health as shown by preemployment physical examinations, the reports of which shall be evaluated by the Director, Department of Health.
- (e) Verification of Qualifications. Acceptance by the Executive Director of verifications of the candidate's claimed qualifications and references, and any reports of interviews of candidates and married candidates' spouses, is required.

*History: Rule 11-84. eff 19 Dec 84, (part).*

**4.3004 Compensation-Absence with Pay-  
Review and Reclassification.**

- (a) Compensation for positions filled by contract shall be in accordance with established ASPA salary rates based on the salary rates of the career service. Base salaries shall be taken from the appropriate ASPA salary schedule and the rules concerning same.
- (b) Contract specialists are not entitled to overtime compensation.
- (c) Contract specialists may be granted absence from duty with pay on those holidays recognized by ASPA.
- (d) If substantial changes are contemplated in the duties and responsibilities assigned to a contract specialist during the life of his or her agreement, ASPA may review and reclassify the contract position.
  - (1) If the change is to a vacant position which is not under the supervision of ASPA then ASPA will be made a party to the agreement and he or she will also sign the amendment form and personnel/payroll action request which authorizes the position change.
  - (2) If a change of position involves a change of grade and salary, then a lump-sum accumulated-leave payment will be made to the employee at the salary rate in effect at the conclusion of his or her unamended term of service. The employee will begin to accumulate annual leave at the adjusted

salary rate, commencing with the effective date of the contract amendment.

- (e) During the tenure of the contract, the contract specialist shall receive step increments as detailed in the section of these regulations which addresses classification and pay.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.3005 Transportation.**

- (a) Entitlement at Hiring and Separation. ASPA will furnish transportation for the contract specialist and his or her dependents, his or her household goods and professional materials from his or her permanent residence to American Samoa. If the contract specialist has fully performed the terms and conditions for his or her agreement in a manner satisfactory to ASPA, ASPA will furnish transportation for the contract specialist, his or her dependents, his or her household goods and professional materials to his or her place of residence from American Samoa.
  - (1) The contract specialist and his or her dependents are authorized economy, jet air travel accommodations between the point of hire and American Samoa. Unless specifically authorized on the travel authorization, additional cost for superior accommodations or excess baggage shall be borne by the contract specialist.
  - (2) When a vacant contract specialist position is filled by a qualified nonresident candidate who is temporarily residing in American Samoa, no provision will be made by ASPA for his or her travel or shipment of household goods' to the territory. ASPA will contract to return him or her and any dependents to his or her preagreed permanent residence at the satisfactory conclusion of his or her employment.
  - (3) Non-ASPA furnished transportation expertises (private yacht, aircraft) incurred by a contract specialist and his or her dependents by travel to American Samoa to report to duty may be reimbursed to him or her in amounts not to exceed that authorized for one-way, economy jet air fare as stipulated by ASPA travel rules. The

request for reimbursement must be supported by receipts or other evidence of payment.

(4) The transportation expenses mentioned in his or her employment agreement shall constitute the measures of damages for a breach of his' or her agreement by the contract

(b) Remaining After Contract. If the contract specialist, with immigration approval, elects to remain in American Samoa upon completion of his or her contract, ASPA's obligation for return transportation and household shipment shall be forfeited.

(c) Property Allowed and Prohibited.

The weight allowance for the shipment of household effects is limited to that personal property essential to the comfort and convenience of the contract specialist and his or her dependents which may be transported legally in interstate commerce. It includes household furnishings, equipment and appliances, furniture, clothing, books, and similar property. Household effects do not include property which is for resale or disposal rather than for use by the contract specialist or members of his or her immediate family, nor does it include such items as motor vehicles, airplanes, trailers, boats, pets, livestock, cordwood, building materials, property intended for use in conducting a business or other commercial enterprise.

(1) The firearms laws in the United States differ from territorial legal restrictions. Weapons and ammunition of any kind are prohibited, including air guns, without prior licensing and registration.

(2) The only domestic pets which may be brought into the territory are dogs and cats from the mainland U.S., Hawaii, Guam, Trust Territory of the Pacific Islands, Australia, and New Zealand. Animals from the mainland, Guam and T.T.P.I. must be quarantined for 120 days in Hawaii. The extensive rules pertaining to this matter are available from the department of

agriculture: some are codified at Chapter 24.03 A.S.C.A.

(3) The importation, production, and use of hallucinogens and' potentially harmful drugs are strictly prohibited and punishable by law.

(d) Cash Payment. In lieu of authorized weight allowances for overland and ocean shipments, cash payments in accordance with the following schedule will be made to contract employees for those shipments for the purpose of effecting savings to ASPA.

Family Size	Estimated Weight Used for Calculations (pounds)	East of Mississippi	West of Mississippi
1	1,125	\$1,200	\$1,000
2	1,810	2,000	1,600
3	2,030	2,100	1,700
4	2,250	2,300	1,900
5	2,360	2,400	2,100

Special arrangements will be separately negotiated for contract employees not residing in the U.S. Any portion of a cash payment from this schedule that is not applied to the cost of household/professional effects shipment inures to the benefit of the employee. Employees will be issued cash reimbursements from the schedule upon arrival in the territory. Any exception for newly hired employees resulting in the issuance of a letter of credit to the selected shipping agency may be made only by the Executive Director.

(1) Standard insurance coverage that is provided by the packer and shipper is based upon net weight only. If the contract specialist wishes to insure on the basis of value, he or she must acquire additional insurance at his or her own expense.

(2) Customs rules applicable to the shipment of household effects must be observed for all travel. The contract specialist is responsible for compliance with the appropriate rules. Except for extenuating circumstances, he or she is liable for additional charges imposed by customs or port authorities.

(e) Renewal Benefits. If the contract specialist's employment agreement is renewed:

- (1) A renewal bonus of \$1,000 will be paid for two years' renewal on the first pay period following the effective date of the new contract.
- (2) Round-trip, economy jet air transportation is authorized for himself or herself and any dependents.
  - (A) A contract specialist who renews his or her contract may be authorized round-trip transportation to a point other than his original point of hire; however, ASPA will only pay up to as much as the cost of economy jet transportation directly to his or her original point of hire. The contract specialist is required to pay for any extra travel charges in excess of his or her allowance.
  - (B) If the contract specialist's selected travel routing is at less cost than that to the original point of hire, the contract specialist is not entitled to the difference.
  - (C) All travel purchased by the contract specialist with the travel authorization must be used on the same trip. For example, if a renewing contract specialist is authorized round-trip fare to San Francisco and decides to go only as far as Hawaii and return, he or she has exhausted all travel authorized by his or her travel authorization form. He or she may not, at some future date, use the difference in fare to obtain further travel.

(f) Completion-of-contract Entitlement. If the contract specialist satisfactorily fulfills the conditions of his or her employment agreement, he or she and any dependents are entitled to:

- (1) One-way, economy jet air transportation to his or her permanent residence;
- (2) Unaccompanied air freight allowances provided by the original travel authorization;

(3) Ocean freight shipment allowance for household effects as provided by the original travel authorization;

(4) Additional ocean freight shipment allowance for professional materials as provided by original travel authorizations.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3006 Annual leave -Sick leave.**

(a) A contract specialist whose employment agreement is on a 12-month basis shall accrue annual leave at the rate of one working day for each full biweekly pay period during the tenure of his or her agreement, regardless of the amount of time worked during each pay period, except for periods of leave without pay.

- (1) Provided that he or she is fulfilling all of the terms and conditions of his or her agreement in a manner satisfactory to ASPA and, if ASPA determines that his or her services can be spared, he or she may be granted leave upon his or her request at any time.
- (2) He or she may be administratively required by ASPA's take leave at any time.
- (3) At the expiration of his or her agreement, the contract specialist will be paid in a lump sum for a maximum of 60 days of unused, accumulated annual leave, computed at the salary then in effect.
- (4) Only if it is for the convenience of ASPA, the contract specialist may elect to apply accumulated annual leave in total or in part in lieu of lump sum payment to an equivalent number of days' absence immediately preceding and extending to the expiration date of his or her agreement. He or she will not, however, be entitled to accrue annual leave while on terminal leave.

(b) The contract specialist shall accrue sick leave with pay at the rate of one-half day per full biweekly pay period and may be allowed such additional sick leave without pay as ASPA at its discretion may deem necessary.



*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3007 Medical Benefits.**

(a) The contract specialist and his or her dependents will be entitled to medical and dental services in American Samoa to be furnished by ASG. Such services may be subject to a nominal service charge to be paid by the contract specialist. Medical services shall be within the limits of ASC's personnel, supplies, and facilities available from time to time in American Samoa. The contract specialist and his or her dependents will also be entitled to off-island medical care to the same extent furnished from time to time to American Samoans by ASG; provided that the contract specialist will be required to use and apply entitlement to hospital, medical and dental care benefits which he or she may have as a veteran of the armed forces or as a participant under any other program or insurance plan: and provided further that return travel of the discharged patient, or an authorized accompanying family member, will not be provided should it be determined, in the judgement of ASG's Director, Department of Health, that due to the health of the contract specialist or the dependent, the contract specialist should not remain in American Samoa, in which event the entitlements upon normal' expiration of the term of service will be provided.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3008 Termination for Cause.**

ASPA may discharge the contract specialist and terminate his or her employment agreement for cause, including dereliction or unsatisfactory performance of duty or misrepresentation or conviction of any criminal offense. Pending a hearing and final determination, the contract specialist may be suspended without pay or other benefits.

- (1) Removal shall be recommended to the Board of Directors by the Executive Director in writing, supported by a written account of the circumstances and events underlying the recommendation.
- (2) Upon receipt of the written justification recommending the removal of an employee, the

Board of Directors shall give careful consideration to such recommendation and all background information of record. In this connection, the Board of Directors is expected to consult with the ASPA employee concerned.

- (3) If the Board of Directors considers the recommendation to be reasonable, it shall advise the employee in writing of:
  - (A) The charges brought against him or her;
  - (B) The fact and effective date of his or her suspension without pay.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3009 Resignation-Termination Without Cause.**

- (a) If the health of the contract specialist or that of any dependents, through no fault of his or her own, becomes so impaired that, in the judgment of ASG's Director of Health, he or she should not remain in American Samoa, he or she may resign and receive full benefits according to a contract specialist whose employment agreement has been satisfactorily fulfilled. ASPA will not be liable for the return travel of the contract specialist, any dependents, household goods, and personal effects if the physical disability is a direct result of excessive and nonprescribed use of alcohol or harmful drugs.
- (b) If an unforeseen personal emergency should arise which requires the immediate presence of the contract specialist outside of American Samoa and such emergency is verified to the satisfaction of ASPA by the American Red Cross or other appropriate agency, the contract specialist may resign and be entitled to the full benefits to which he or she would have been entitled upon normal expiration of the term of service under his or her employment agreement.
- (c) Should the contract specialist breach his or her agreement by resignation from his or her employment with ASPA: prior to the end of the contracted tenure (or during the first half of his or her term of service), he or she shall forfeit all rights to transportation for himself or herself, any dependents, and their personal effects and

household goods and shall be obligated to repay to ASPA such expenses as ASPA may have incurred or paid to him or her on this account in connection with his or her term of service.

Should the contract specialist's resignation from his or her obligations to his or her agreement occur after one year's contracted tenure (or during the second half of his or her term of service), he or she shall forfeit all rights to transportation for himself or herself, any dependents, and their personal effects and household goods but shall not be obligated to repay to ASPA such expenses as ASPA may have incurred or paid to him or her on this account in connection with his or her term of service.

- (d) Upon 30 days' notice to the employee, ASPA may terminate his or her employment agreement at the discretion of ASPA without recourse on the part of the employee. In the case of termination of employment as provided in this subsection, the employee shall be entitled to transportation, subsistence, and other benefits to which he or she would be entitled upon normal expiration of the term of service under his or her agreement.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3010      Renewal of Contract.**

- (a) Contract renewal is the prerogative of ASPA and is based solely upon need and performance of a contract specialist as determined by ASPA and is contingent upon approval of the contract specialist's continued employment by the Board of Directors.
- (b) A contract specialist must address his or her request for contract renewal in writing to the Board of Directors not less than 90 calendar days prior to the expiration date of his or her present agreement.
- (c) Renewal of contract for a one-year period will be limited to one renewal unless prior approval is obtained in writing from the Board of Directors.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3011      Employment After Term Of Contract.**

If employment of the contract specialist continues beyond the term or service specified in his or her agreement without the execution of a new agreement, such employment shall be deemed to be at will and may be terminated by either party on reasonable notice to the other. All of the terms and conditions of his or her agreement, except those pertaining to termination for cause, shall continue in effect during such extended period of employment.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3012      Conduct-Reassignment-Career Service Eligibility-Self-Employment.**

- (a) Contract specialists are expected to conduct themselves both on and off the job as employees of ASPA. Rules regarding outside work, conflict of interest, and political activities published elsewhere in these regulations apply equally to contract employees.
- (b) A contract specialist is precluded by and for the duration of his or her contracted term of service from competing for other vacant positions within ASPA or ASG. He or she may, however, request reassignment to a vacant position and his or her request may be granted at the discretion of the Executive Director and the selecting authority when to do so is in the interest of ASPA.
- (c) At the expiration of a contract, every effort shall be made to fill the contract position in the career service. If a position which has been filled by contract can be filled within the career service, the incumbent of that position can compete for the position on a career service basis if he or she is entitled to permanent residency in American Samoa or if his or her spouse is entitled to permanent residency.
- (d) Contract specialists shall not engage in self-employment in American Samoa either directly or indirectly, in any form whatsoever, during the terms of their agreements. See Appendix 17.06 A.S.C.A.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3013      Grievances-Striking Prohibited.**

- (a) Contract specialist grievances shall be processed the same as those made by other employees. In

case of an alleged violation of the contract specialist's agreement, his or her continued employment shall not be deemed a waiver by either party of his or her claim. ASI5A consents to be sued on account of any matter of dispute arising over his or her agreement but only in the High Court of American Samoa.

- (b) The contract specialist agrees by contract not to participate in any strike against ASPA during his or her term of service.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3014 Training.**

Nominations for training of contract specialists shall be submitted to the Executive Director or the Board of Directors, who shall retain discretion for approval or disapproval. No contract specialist shall be recommended for training to gain skills or knowledge which he or she might reasonably be expected to possess in order to have been selected for his or her position.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3015 Work-Product Ownership-Discoveries and Documents.**

Any and all inventions, improvements, discoveries, documents, reports, memoranda, and data developed by the contract specialist relating to his or her position with ASPA will be the sole and absolute property of ASPA and ASPA will be the sole and absolute owner of all patents, copyrights, or other rights in connection therewith.

*History: Rule 11.84, eff 19 Dec 84. (part).*

**4.3016 Dependents Defined-Family Status Reports.**

Dependents, as defined, shall be interpreted to mean the spouse and minor dependent children of the contract specialist, who are identified as such at the time his or her agreement is executed and who will reside with him or her in American Samoa for at least one year of the term of his or her agreement. It is the responsibility of the contract specialist to make known to the Executive Director changes in his or her family status as they occur.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.3017 Immigration Status-Departure Upon Termination.**

- (a) A contract specialist, by virtue of his or her employment with ASPA, obtains residency status within the territory for the duration of his or her agreement or term of service. In the event of the termination of his or her agreement for any reason whatsoever, the contract specialist contractually agrees to depart from the territory within 30 days from the termination date.
- (b) Contract specialists who are not United States citizens must register annually as alien residents with the immigration division of the department of legal affairs of the ASG.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 30]

TITLE 4 - CHAPTER 31 – EQUAL OPPORTUNITY-AFFIRMATIVE ACTION

Sections:

- 4.3101 Policy generally-American Samoan preference.
- 4.3102 Affirmative action conformance to federal provisions.
- 4.3103 Enforcement Responsibility-Staff, Subcontract, or Contracting Agency Compliance.
- 4.3104 Compliance officer.
- 4.3105 EEO coordinators-Publicity.
- 4.3106 Contract-seeker compliance-Third Parties-Monitoring.
- 4.3107 Grievances-Appeals.
- 4.3108 Equal Employment Opportunity Affirmative Action Plan.

**4.3101 Policy Generally—American Samoan Preference.**

- (a) It is the policy of ASPA to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other nonmerit consideration.
- (b) Pursuant to 7.0204 (b) A.S.C.A., and as an integral part of the equal employment opportunity policy, ASPA shall employ residents of American Samoa who are American Samoans or United States nationals, and shall employ other persons only when no American Samoans or United States nationals who meet the minimum qualifications for a particular class of work can be found. This policy is initiated in recognition that:
  - (1) It is necessary to identify and deal with discrimination and obstacles to equal employment opportunity, intended or unintended;
  - (2) Well-conceived, planned, and realistic actions are necessary to provide for achieving true equality of opportunity;
  - (3) These actions must be aggressively pursued;

- (4) An effective periodic self-evaluation is needed to ascertain whether predetermined goals are being met; and
- (5) This evaluation will result in updating the action plan as necessary, to meet changing needs and to effectively resolve problems.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3102 Affirmative Action Conformance to Federal Provisions.**

An affirmative action plan has been prepared for use by ASG in its efforts to provide equity in employment to women, minors, and other victims of discrimination. ASPA will follow ASG’s affirmative action plan. This EEO-AA plan is intended to conform to federal requirements of Title VI of the Civil Rights Act of 1964, §808 of the Civil Rights Act of 1968, Executive Orders 11063, 11246, and 11375, §109 of the HUD Act of 1974 and §3 of the HUD Act of 1968.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3103 Enforcement Responsibility-Staff, Subcontract, or Contracting Agency Compliance.**

- (a) The responsibility and authority for the enforcement of this policy pertaining to the ASPA Affirmative Action Plan and its goals are vested in the Executive Director, who will be responsible for the implementation, administration, and compliance of the EEO policies and AA plan.
- (b) All ASPA staff, subcontractors, and contracting agencies are required to comply with this policy with reference to recruitment, hiring, training and compensation.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3104 Compliance Officer.**

The EEO compliance officer (EEOCO), appointed within the Office of Manpower Resources, will have the responsibility of promoting, coordinating and monitoring ASPA’s plan. The duties and responsibilities of the EEOCO as defined in the ASAC are as follows:

- (a) Following the policy statement and Affirmative Action Plan, providing an effective procedure to communicate EEO procedures;
- (b) Acting as the focal point of all EEO activities, particularly in the development and implementation of the Affirmative Action Plan;
- (c) Providing continuous assistance to management in collecting and analysis of employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals. Following through on programs to assure set goals are accomplished on time;
- (d) Consulting with and advising all appropriate ASPA staff on matters pertaining to the administration of the EEO policies;
- (e) Submitting to the director of the Office of Manpower Resources quarterly progress reports pertaining to ASG's and ASPA's EEO program;
- (f) Assisting ASG and ASPA administrators and contractors in preparing effective programs, criteria, compiling and disseminating public information for the Governor and his department/agency heads including the Executive Director of ASPA, implementing equal employment-opportunity policies and open occupancy statements, directing preparation of related correspondence including recommendations on EEO, investigating formal and informal complaints of alleged discrimination by parties to agreements and recommending procedures to ensure compliance with all ASG and ASPA contract provisions which promote equal opportunity objectives, and attending preaward and preoccupancy conferences;
- (g) Implementing a system for receiving and investigating complaints and/or grievances of discrimination in accordance with EEO rules;
- (h) Investigating formal and informal complaints of alleged discrimination and contract noncompliance, and implementing procedures to resolve each case;
- (i) Participating in programs and conferences regarding fair and equal opportunity practices and assisting in servicing the Affirmative Action Plan;
- (j) Establishing and maintaining contact as the ASG and ASPA primary working liaison and representative with the community and all ASG and ASPA contracting groups with regard to equal employment policies and opportunities;
- (k) Requiring that all affirmative action plans submitted by subcontractors or proposed subcontractors are in line with ASG's and ASPA's affirmative action requirements for employment for American Samoan and United States nationals.
- (1) Submitting to the director of the Office of Manpower Resources, reports on the progress of ASG and ASPA in achieving established goals and making necessary recommendations for additional efforts in accomplishing goals of the affirmative action program.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3105 EEO Coordinators-Publicity.**

ASPA's EEO policy and Affirmative Action Plan will require an overall understanding of each department head about his or her role in meeting ASPA goals and objectives. The Executive Director shall appoint an EEO coordinator. The EEO coordinator will direct every effort in educating ASPA, contractor, and subcontractor personnel to clarify their understanding and responsibilities for carrying out EEO policy and the affirmative Action Plan.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3106 Contract-Seeker Compliance-Third Parties-Monitoring.**

All nonfederal or nonfederally assisted projects, contractors, subcontractors, developers, consultants, appraisers, and other technical specialists will be informed by ASPA that anyone seeking a contract with ASPA must undertake a program of equal employment opportunity. Any company or individual discriminating in employment practices on the basis of race, creed, color, religion, sex, or national origin will not be eligible for contracts with ASPA. The EEOCO will monitor these procedures and activities for compliance, and to undertake any necessary corrective measures. The actions and guidelines

contained in this policy shall be applicable also to all third parties involved in the project.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.3107 Grievances-Appeals.**

Grievances and appeals resulting from the implementation of this plan shall be handled in accordance with the procedures outlined in the chapter of these regulations which addresses appeal grievance and administrative review.

*History: Rule 1-54. eff 19 Dec 84, (part).*

**4.3108 Equal Employment Opportunity  
Affirmative Action Plan.**

ASPA's policy, to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other nonmerit consideration, shall be implemented in accordance with the ASG Equal Employment Opportunity Affirmative Action Plan incorporated in full, by reference, herein.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 31]

TITLE 4 - CHAPTER 32 – DEVELOPMENT & TRAINING

Sections:

- 4.3201 Purpose.
- 4.3202 Management Responsibility-Individual Responsibility.
- 4.3203 Departmental Committees.
- 4.3204 Scope of Activities.
- 4.3205 Records-Reports-Expenditures.

**4.3201 Purpose.**

ASPA has an obligation to its employees to utilize and develop the talents and abilities of each employee to the maximum extent. It is therefore necessary to establish and operate programs in order to:

- (1) Improve public service;
- (2) Increase efficiency and economy;
- (3) Build and retain a work force of skilled and efficient employees;
- (4) Install and use the best modern practices and techniques in the conduct of government business.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.3202 Management Responsibility-Individual Responsibility.**

- (a) The Executive Director, ASPA, will develop an annual departmental training program and incorporate it into the department's annual budget. The Executive Director will advise the director, Office of Manpower Resources, of ASPA's annual departmental training program.
- (b) ASPA may request the director, Office of Manpower Resources, to provide technical advice and assistance in the development of the departmental annual employee development and training plans.
- (c) Individual's responsibility; because training and development is an individual matter, one that must be accepted and recognized by the person concerned in order to be of any benefit, each employee is, therefore, responsible both to himself or herself and to ASPA for his or her personal development and growth.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**4.3203 Departmental Committees.**

- (a) The ASPA employee development and training committee will consist of appropriate representation within the department and will advise in the development of policies, procedures, and training programs.

*History: Rule 11-84, eff 19 Dec 84, (part).*

**4.3204 Scope of Activities.**

ASPA, in establishing an employee development and training plan, will include, but not be limited to the following:

- (a) Induction Training. Induction training consists of two phases:

- (1) Orientation Training.

Orientation training will be given each new employee upon entry to give him or her an understanding of the department, its policies, objectives, programs, functions, and organizational structure, basic laws affecting departmental operations, and the relationship of his or her job to the overall organization. The standard employee orientation schedule form should be completed at the conclusion of employee orientation.

- (2) Basic Job Training. The immediate supervisor is responsible for providing to a new employee or an employee transferred into another job the basic knowledge of his or her job, including work standards, and to assist him or her in acquiring the skills, techniques, work habits, and attitudes essential for satisfactory work performance.

- (b) Refresher Job Training.

This training is provided to bring employees up to date on information in an occupation in which they had been previously trained and to brush up on skills that have become "rusty" through disuse or improper use.

- (c) New Activities, Procedures, Laws, Policies.

- (1) Whenever new activities or procedures in work methods are instituted, ASPA will provide orientation to the activity or procedure and adequate instructions to

employees in performing the new activity before effecting the changeover. Such orientation and instructions will be given to all employees involved, to effect the change with a minimum of work disruptions and to facilitate transition to the new setup from both the standpoint of management and ‘the employees.

- (2) Whenever changes to existing laws or whenever new laws, policies, and rules are made, ASPA will provide the means for informing all management personnel, including supervisors and such other persons as are affected, of these changes.

(d) Management Development Activities (Supervisors).

- (1) Basic Supervisory Training. ASPA shall enroll all supervisors in the Office of Manpower Resources basic supervisory training program within 6 months of their appointment. This program will cover the basic skills, knowledge, and attitudes necessary for the efficient performance of their managerial and operational responsibilities.

- (2) Advanced Supervisory Training. A supervisory development activity of an advanced and continuing nature shall be established to further assist administrative and supervisory personnel in keeping up with new developments in management, supervisory, and human relations techniques.

- (e) Methods Improvements Activity (Work Simplification). This training is provided to assure a systematic plan for developing better operating methods through the cooperative efforts of management and employees in recognizing, stimulating, and using the common sense and imagination of all employees and supervisors to produce valuable ideas for effecting economy and developing better methods for getting work done in the easiest, simplest, and fastest way possible.

- (f) Self-development Activities. This training provides employees with the means for self-

improvement in developing essential knowledge, skills, and attitudes, and individual potential for career service through voluntary participation in government-sponsored and agency sponsored activities both within and without the government service.

- (g) Special Purpose Activities. This training provides for meeting the needs imposed by technological improvements or employment displacement, changes in public services requirements, civil defense matters, legislation, or conditions, usually of a nonrecurring nature. Included in this category are:

- (1) Internship training activity, a formalized activity of related academic study and on-the-job instruction designed to develop outstanding individuals to meet the employment needs of ASPA and to upgrade the quality of ASPA service through improved personnel effectiveness;

- (2) Training agreements, which provide ASPA with the means for obtaining qualified personnel to carry out the agency’s mission when there are no other available resources through which these qualified personnel could be obtained. They are formal plans whereby ASPA or ASG training is used to supplement the employee’s percent qualifications.

- (h) Out-service Training. This provision permits ASPA to send employees to nonagency or nongovernment facilities for needed training which is not available within the government’s jurisdiction and to pay all or any part of the expenses of such training. The training may be full time, part time, on duty or off duty, day or evening, or any necessary combination of these, provided the training is of primary benefit to ASPA service.

*History: Rule 11-84 eff 19 Dec 84. (part.)*

**4.3205 Records-Reports-Expenditures.**

- (a) Records.

- (1) Basic Records. ASPA will establish necessary records for employee development and training.



- (2) Letters of Completion. ASPA will prepare for documentation in official personnel jackets, letters of completion for individuals completing satisfactorily any approved employee development and training activity. The letter will include the following information:
    - (A) Title of course;
    - (B) Hours of training received;
    - (C) A brief outline of subject matter covered;
    - (D) Dates of attendance;
    - (E) Where and by whom sponsored if other than ASPA.
  - (3) Training Certificate. The Office of Manpower Resources will issue training certificates to employees completing satisfactorily any endorsed employee development and training activity with 20 or more hours of instruction time. ASPA will advise the Office of Manpower Resources of employee development and training activities through submission of employee development and training plans and of any additions or amendments to them.
- (b) Report Requirements. A system of reporting is necessary to give meaningful information which will assist management in assessing the past and in planning the future activities and to funnel in the data from ASPA to the Office of Manpower Resources, which is responsible for preparing a master employee development and training report for the Governor. ASPA will submit a consolidated semiannual report to the Office of Manpower Resources by the tenth working day following the end of each semi-annual period.
  - (c) Expenditures.
    - (1) For items in the annual agency employee development and training plan requiring expenditure of funds for which appropriations have been included in the agency's operating budget:
      - (A) In-service Training. An invoice for expenditure of funds will be completed and processed according to the ASPA standard operating procedure.
      - (B) Out-service Training. An invoice for expenditure of funds will be completed and processed according to the ASPA standard operating procedure.
    - (2) For items requiring agency expenditures of funds above and beyond those covered in the operating budget:
      - (a) In-service Training. Training using resources and facilities outside the agency but within the jurisdiction of the ASG and involving expenses for which funds have not been included in the agency annual training budget will be submitted for prior approval to the Executive Director.
      - (b) Out-service Training. Training using resources and facilities outside of the jurisdiction of the ASC Will be submitted for prior approval to the Executive Director.
    - (3) ASPA will use as guidelines for training expenditures, Part VI of the American Samoa Government Employee Development and Manual Training.

*History: Rule 11-84, eff 19 Dec 84, (part).*

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[End of Title 4 – Chapter 32]

TITLE 4 - CHAPTER 33 – TRAVEL

Sections:

- 4.3301 Per diem allowance-Rates set by ASPA.  
4.3302 Per diem allowance-Intraterritorial travel-Rate.

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**4.3301 Per Diem Allowance-Rates Set By ASPA.**

For travel or temporary official business away from a permanent duty station in the territory, Asp's per diem rate shall be the same as that applicable to ASG employees.

*History: Rule 11-84, eff 19 Dec 84. (part).*

**4.3302 Per Diem Allowance-Intraterritorial Travel-Rate.**

- (a) Effective July 14, 1980, the per diem rate for travel on temporary official business away from a permanent duty station in the territory by an employee of ASPA between the island of Tutuila, the Manu'a group of islands and Swains Island is \$40 per day.
- (b) To be entitled to the full per diem, the employee must stay overnight and provide, with his or her travel expense report, a receipt evidencing that he or she stayed in a duly licensed accommodation facility. If such evidence is not presented or if the employee does not stay overnight, the employee is entitled to only 50% of the per diem rate.
- (c) Travel authorization must be submitted and approved by the Executive or Deputy Director prior to any ASPA related travel.

*History: Rule 11-84. eff 19 De 84. (part).*

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[End of Title 4 – Chapter 33]

TITLE 4 - CHAPTER 34 – EMPLOYEE SAFETY

Sections:

4.3401 Safety practices.

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**4.3401 Safety Practices.**

All ASPA employees should be familiar with and observe the safety rules of ASPA as set forth in Appendix A which appears at the end of this chapter.

*History: Rule 11-84. eff 19 Dec 84. (part).*

**FOREWARD**

The safety rules herein set forth are designed to provide the maximum amount of protection to life and property without unduly hampering the progress of work. They are designed primarily for your protection-the protection of your life and your job. As such they deserve your wholehearted support and observance. It is truly said that the best safety device is a safe man. Let us all try to be safe men and this goes equally for the Division and its supervisors as well as our physical workers. Every representative of the Division should be fully aware of his responsibility in carrying out the Division's share of this safety partnership.

These rules have been developed from our experience and the experience of others. They are intended to cover all of your various occupations but cannot be expected to cover every act committed in your daily work. But your thorough knowledge and every day practice of the rules will prepare you to meet more safely any new hazard that may arise. We expect to add to and to alter the rules from time to time as we find ways to improve.

Superintendents, foremen, sub-foremen, and others permanently or temporarily in charge, are required to maintain a strict observance of all safety rules. If a difference of view arises with regard to the meaning or application of these rules, or as to the means necessary to carry them out, the decision of the supervisory employee in authority on the job shall be taken and acted upon immediately. Subsequent appeal may be made through established channels.

All employees must be familiar with these rules and observe them. Under no circumstances will ignorance thereof excuse any violation. Employees who violate any rule, or knowingly permit such violations, shall be subjected to discipline or immediate dismissal, as

the circumstances may warrant. Employment by the Division constitutes acceptance of the above conditions. Every employee engaged in the construction, maintenance, or operation of the Division's facilities must be furnished with a copy of these Safety Rules, and shall be able at all times to prove his possession of same and his familiarity with the rules applicable to his work.

In addition to these rules, Division employees are subject to and governed by the rules, orders and standards issued by Governmental Authorities. Employees and particularly foremen and superintendents are advised to familiarize themselves herewith.

**ELECTRIC UTILITY DIVISION**

**SAFETY RULES**

**General Practices**

(These rules shall apply to all employees of the Division)

1. Foreman responsible for safety.

The superintendent, foreman, or other person directly in charge of any work will be held strictly responsible for the safety of his men and the public in the immediate vicinity. It shall be his duty to do all those things which can be done to safeguard his men and the public and he shall fully satisfy himself that all reasonable protection against accident has been provided.

2. Foreman responsible for discipline.

The superintendent, foreman, or other person directly in charge of any work will be held strictly responsible for the discipline of his men and for their observance of all safety and other rules.

He shall not allow practical joking, showing off, or horseplay during work hours or while on Division premises or in charge of Division property.

3. Starting work without orders.

Under no conditions shall any employee start work where a hazard exists until told to do so by the superintendent, foreman, or other person directly in charge.

4. Unsafe conditions.

Employees must immediately report to their nearest supervisor any defective or unsafe conditions. Employees must not undertake any work-which they are not qualified to perform safely. Unsafe practices and conditions will not be permitted. Hatchways, even if of a temporary nature, must be protected by guard rails and kick plates.

5. Reporting.

Employees must report all accidents promptly to their immediate superior. In case of injury to the employee, the immediate superior will be responsible for the employee's receiving proper medical attention. First aid kits are available throughout the Division.

6. Intoxicating liquor.

Employees must not use intoxicating liquor while on duty nor report for duty while under its influence.

7. Horseplay.

Practical jokes, scuffling, "horseplay" or the urging of persons to take chances will not be tolerated during working hours.

8. Fire equipment.

Employees shall acquaint themselves with the instructions of the Division covering prevention and suppression of fires and with the location, care, and handling of all firefighting equipment at or near their work area

9. Smoking.

Employees are to observe all "NO SMOKING" signs and must not smoke in the proximity of inflammable material or gases whether working on property occupied by the Division or on the premises of others. Always be sure that cigarette ashes are dead before emptying them into waste containers.

10. Hazardous practices.

Employees must exercise general care to prevent fires. They must:

- a. Never smoke in attics or basements.
- b. Never light a blow torch in an attic.
- c. Never use an open flame for illumination in an attic or basement.

- d. Never use an open flame torch in an oil storage plant.
- c. Always use proper soldering procedure while soldering in an attic or next to inflammable material.
- f. Have proper type of extinguishers available when handling torches.
- g. Remove inflammable material from premises as soon as possible.

11. Paint.

Partially used cans of paint in buildings and shops are to be kept in a metal locker when not in use.

12. Storage bins.

Storage bins shall at all times be kept clean and free from loose cardboard paper and excelsior.

Such material is to be kept in a covered metal bin.

13. Inflammable material.

Rags saturated with highly inflammable material are to be properly disposed of after each operation requiring their use. Buckets or other containers shall be properly marked when containing highly inflammable material.

14. Compressed air.

Compressed air shall be confined to the uses for which it was designed. "Horseplay" with compressed air or the cleaning of hair or clothes with it is prohibited.

15. Molten material.

- a. Extra precautions must be taken while handling molten material of any kind, especially compound and solder. Gloves and safety glasses are to be worn by anyone handling such material.
- b. The man above shall warn persons below before pouring or lowering any molten material or equipment.

16. Solder.

Do not put a cold or wet solder ladle into hot solder. Do not use a leaky soldering torch or blow pot. Use only white gasoline in torches.

17. Ladders amid scaffolds.

- a. All movable ladders and scaffolds are to be provided with effective means to prevent slipping or falling. Ladders are to be tied while in use.
- b. Employees shall never work from the top step of a ladder.
- c. Employees shall never use an unsafe ladder or scaffold.

All ladders and scaffolds are to be inspected periodically by supervisors for safe condition.

When possible, provision shall be made to prevent tools from falling from scaffold platforms.

18. Hand tools.

Employees must not use chisels with mushroomed heads, hammers with cracked or loose handles, or any other tool which is in bad repair or not fitted to the work in progress.

19. Arc welding.

An arc welder shall wear a hood when arc welding. The welding is to be shield where possible.

Helpers should wear protective glasses.

Welders working above others should take protective measures to prevent sparks from falling below.

Fire watch should be maintained below.

20. Walking under heavy loads.

Employees must not ride on or walk under a load of a crane or a finger lift.

21. Signals to crane operator.

Only the designated signalman shall give signals to a crane operator.

22. Buried structures.

Constant vigilance must be exercised in order to avoid damage to buried structures of all kinds. When a hard obstacle is struck, it shall be uncovered immediately to determine the nature of the obstruction and the steps necessary for safe excavation.

23. Excavated soil.

Excavated soil shall be so piled as to prevent backsliding. Special care shall be taken to place rocks or heavy material well away from the excavation.

24. Open trenches.

When needed, traffic bridges are to be placed across trenches so that a normal flow of traffic is permitted. Access to fire hydrants must be provided at all times.

25. Warning signs.

Warning signs, barriers, guards, “Men at Work” signs, and red lights at night are to be installed whenever temporary or permanent hazards exist due to moving machinery, exposed current carrying parts, open excavations, hazardous construction operations, removal of manhole covers, and the like.

26. Housekeeping.

- a. Employees shall exercise general care, orderliness, and “good housekeeping” when performing their work; employ safe methods of handling, transporting, and storing materials, supplies, and tools; and keep all walkways clear.
- b. Floors are to be kept clean and free from oil and grease. Each employee is responsible for “housekeeping” as to the equipment for which he is responsible and the immediate area in which he works.

27. Protruding nails.

- a. Nails shall not be left protruding from lumber, scaffolding or temporary structures.
- b. When uncrating merchandise and equipment, employees are to dispose immediately of loose boards having protruding nails.

SAFETY DEVICES

28. Safety equipment.

Safety devices, such as goggles, gas masks, machine guards, mats, shields, insulated platforms, switch stick and fuse tongs, grounding devices. “Men at Work” signs, rubber gloves and protector safety belts, and all other safety devices or materials as may be needed for the safety of the employees, are standard equipment and just be used as directed by the supervisors.

29. Clothing.

Clothing suited to the job shall be worn at all times. Loose or fagged clothing shall not be worn around rotating machinery. Shoes with thin soles or with holes in the soles shall not be worn.

30. Safety goggles.

a. Goggles must be worn when:

1. Using disc sanders;
2. Using surface grinders;
3. Using emery wheels;
4. Using power buffers;
5. Chipping metal;
6. Chipping concrete;
7. Drilling concrete, brick or plaster;
8. Scraping;
9. Welding or burning or helping welder or burner;
10. Pouring habbit;
11. Operating power ripaws;
12. Cleaning with solvents, acids, paint removers;
13. Painting with creosote;
14. Spraying metals;
15. Cleaning with air;
16. Sand blasting;
17. Shoveling or riding load of rubbish;
18. Working in area where dust, Vapor, flying chips, sparks, or hot metal are present.

b. Special care must be taken while removing goggles in order to prevent accumulated foreign matter entering the eyes.

31. Cloves.

Gloves suited to the particular job are to be worn.

32. Respirators.

A suitable respirator is to be used at all times while spray painting or working where injurious dust or vapor is present.

33. Hard hats.

Hard hats shall be worn by the members of all pole line crews while doing their normal work and by all other employees when working in an area where construction or maintenance crews are at work or when employees are working up on a pole or structure.

34. Rubber goods.

Rubber goods or gloves must never be stored among tools or hardware. They are to be put in a special place for rubber goods only.

LIFTING

35. Lifting method.

Employees are to use approved lifting methods at all times and must never attempt to lift more than they are capable of lifting safely.

36. Heavy lifting.

All, weights over 150 pounds which are to be lifted or transported are to be handled under the supervision of the foreman or working foreman.

37. Lifting from trucks.

Due care must be taken by truck drivers in the handling of heavy lifts. The foreman or working foreman is responsible for providing necessary help for loading and unloading.

POWER MACHINES

38. Machine operators.

Only assigned operators will operate power equipment and machinery.

39. Safeguards.

Employees must not remove or make ineffective any safeguard except under the supervision of the man in charge.

40. Grinding wheels.

Grinding wheel workrest shall be kept adjusted within a maximum distance of 1/8" from wheel.

Adjustments must not be made while the wheel is in motion. Only one man should use a grinding wheel at any one time.

41. Unattended machines.

Power machine motor switches must be left in the “OFF” position when not attended.

42. Repairs to machines.

The main switch must be tagged and locked open when making repairs on power machinery and equipment. Plugs should be pulled off all portable handpowered tools before adjusting them.

43. Grounding de-energized wires.

- a. Cables and bus work shall be grounded before any work is done or they shall be treated as hot.
- b. In grounding lines, employees must ground one end of ground wire before attaching ground wire to dead line.

44. Rubber blankets.

All adjacent line objects must be covered with approved rubber blankets or other insulating covering when working around and on high voltage wires or equipment.

45. Rubber gloves.

Rubber gloves must be worn whenever directed or where a hazard exists such as working on energized lines, cables, or equipment; stringing lines near energized lines: repairing fallen lines during storms and emergencies: working on lines or wires when the workman is solidly grounded on structure or ground.

46. Switching testing.

All switching, testing and changing of fuses on high voltage side must be performed in accordance with operating rules.

47. High or intermediate voltage spaces.

High or intermediate voltage galleries, vaults, or enclosures must not be entered without authorization by proper authority.

48. Instructions on hazards.

Before working on hot lines or in a substation, the man in charge is to instruct every man verbally as to

the nature of the work to be done and the special hazards connected with the job. He is to insist that all of his workmen are to keep clear of equipment until he personally gives clearance to work on this respective equipment.

49. Switches.

All switches must be locked open or blocked and tagged when working in a substation or on high voltage lines. The man in charge shall let all men know of the hazards and install barricades or danger signs around live equipment if necessary.

50. Artificial respiration.

All employees who work with electrical equipment of 120 volts or greater MUST know artificial resuscitation and be able to pass a practical test in its application.

Linemen must know pole top methods as well as methods used while victim is on the ground.

51. Service boxes.

Service boxes must be securely guarded when it is necessary to leave them open. Hot fuses or contacts shall be covered with some form of insulating blanket or sheet strong enough to prevent accidental shock.

52. Disconnect and oil switches.

- a. Before opening or closing disconnect switches in series with circuit breaker, make sure that the circuit breaker in that circuit is open.
- b. When working around oil switches or switch mechanism keep clear of the moving parts.

They may operate without warning.

53. Danger signs.

Equipment which has been rendered inoperative protected for work, and tagged with “Danger” sign must not be placed in service again or have the “Danger” sign removed unless authorized by the man protected.

54. Fuses.

- a. Employees shall not remove or replace fuses on low voltage service unless safety switch is open where such switch is provided.

- b. When link fuses are installed on open boxes, the workman must make sure that he is clear of all grounded objects.
- c. When placing fuses in hot circuits, the workman must protect his eyes.
- d. Approved equipment must be used when fuses are to be removed or replaced.

55. Potheads.

Potheads of any voltage must not be disconnected under load.

56. Unnecessary conversation.

When it is necessary to do any work on conductors or apparatus that are alive, no unnecessary conversation shall take place. 57. De-energized circuit check.

Employees shall always use approved equipment to check de-energized circuits before cutting into the cable.

58. Energized single and multiple conductor cable splices.

Single conductor cables may be cut or spliced if in each instance specific directions are given by the supervisor or foreman. The normal practice will be to de-energize all multiple conductor cables of any voltage before making splices. Multiple conductor splices will be made “hot” only when authorized by a supervisor.

59. Hot-line work.

- a. 4 KV and below: Any man doing hot-line work must personally see that all adjacent lines are covered with rubber before starting to work.
- b. 6 KV and above: Approved hot-line tools must be used while working on these lines. Lines of lower voltage must be properly protected by approved equipment when they are located in the working area.

60. Soldering electrical wires (inside wiring).

Before electrical wires are soldered, a test must be made with an approved tester to make sure the wire is dead.

61. Electrical repairs.

Unauthorized employees must not attempt to repair faulty electrical equipment. They shall report the condition to the man in charge.

62. Electrical circuits in working areas.

All employees are to know the location and the circuits controlled by all of the main switches in their immediate working area so that power may be immediately cut off in case of an electrical fire or if some person has become “frozen” to a live circuit and cannot let go.

63. Hand lines.

Employees must use only the hand lines when working between or over hot lines.

64. High voltage equipment work.

Work shall not be performed on any high voltage cable, switch, or device when energized except upon authorization of the supervisor and under the direction of the foreman.

65. Working alone.

Unless authorized, no workman shall work alone in any switchroom, transformer house, regulator room, manhole, or around open switches.

Standby Workmen. Only qualified employees or employees under continuous supervision or instruction of a qualified workman shall be assigned to work on lines or equipment energized in excess of 750 volts, and except in trouble work or emergencies involving hazards of life or property no such employee shall be assigned to work alone. During the time an employee is doing work on any energized parts of the line, the other employee shall act only as an observer, for the purpose of preventing an accident.

OVERHEAD LINE WORK

66. Street lighting.

Street lighting circuits shall always be treated as if they were alive. Street lighting circuits shall always be treated as if they were of maximum voltage existing on the poles.

67. Pole climbing.



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- a. Before climbing a pole the employee is to check safety belt, snaps, climbers and climber straps and make rubber glove test.
- b. The position of high voltage wires, the direction of the freed, and the climbing clearance are to be checked before climbing a pole.
- c. Employees are to check for poor conditions such as rotten poles, faulty insulation, and insufficient clearance before starting any work on a pole. Report any of the conditions immediately to the man in charge.

68. Pole work.

- a. Before climbing through and above primary lines, the employee must be sure that all primary lines are covered with rubber. While working on hot lines, the employee must be sure that the ground wire is protected.
- b. Unless absolutely necessary, only one lineman shall go up or down a pole at the same time.
- c. Small materials and tools are not to be thrown up or dropped. They shall be raised or lowered in a canvas bucket.

68a. Work from aerial basket.

- a. Only qualified, trained persons shall be permitted to operate this equipment.
- b. A body belt and safety strip or its equivalent shall be used while working from aerial basket.
- c. The maximum hot line voltage to be worked with rubber gloves, from an insulated aerial basket is 7.5 Kv Phase to ground when using Class 1115,000 volts rubber gloves. Protective equipment (line-hose, hoods, blankets, etc.) shall be used within the work area.
- d. The aerial basket shall not be brought into direct contact with energized conductors or equipment.
- e. Ground personnel shall not contact (touch) vehicle when basket is in proximity to energized lines.

69. De-energized power lines.

- a. All dead lines on poles among hot lines are to be considered hot at all times.

- b. Before work is started on de-energized (dead) high tension lines, the employees must receive proper clearance and test the line to be sure that it is dead before grounding.

70. Changing over cable.

When making cable changeovers, especially after guy wires, etc., have been removed, the employee must see that a questionable pole is braced in some way to prevent its falling.

71. Safety to public:

- a. Barricades must be placed so that all traffic will be compelled to pass safely, especially when molten solder, hot compound, paint, liquid materials, tools, or heavy objects are used during work on poles. "Men at Work" signs must be placed 200 feet away on each approach to the place where the work is being done. This is required by city and county ordinance.
- b. If possible, barricades are to be placed to route traffic to the windward side of the poles.

UNDERGROUND WORK

72. Ventilation of confined spaces.

All manholes, vaults, or continued spaces are to be ventilated with approved equipment before being entered. Precautions are to be taken to ascertain the presence of sewer or illuminating gas.

If gas is present, notify the supervisor or foreman immediately.

73. Manholes.

- a. Manhole covers must never be opened with the bare fingers. Use the hooks provided for the purpose or, in an emergency, some other safe means.
- b. Open manholes are to be continuously guarded against foot or vehicular traffic.
- c. One man shall remain on the surface at an open manhole unless traffic is securely blocked by the splicer's cart and tent frame or heavy barricade. Light pipe barricades alone will not be considered sufficient protection.

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- d. Workmen leaving a location temporarily are to replace covers on all holes subjected to traffic hazards, even for periods of a minute or so, or when out of sight of the manhole, or away from its immediate vicinity.
- e. Equipment using gasoline as fuel, such as lanterns, engines, must not be used at any time in unventilated manholes or other poorly ventilated places. Such equipment shall be placed at a safe distance from the hole, preferably on the leeward side.
- f. Solder pots, wiping metal pots, and compound kettles are to be lowered into manholes on approved equipment attached to hand lines:
- g. Rubbish is to be cleaned out of manholes or vaults periodically as the work progresses. A thorough cleanup must always be made at the end of each day's work.
- h. Material must never be lowered into man-holes without warning those below.

VEHICLES

74. Driving Division vehicles.

Division vehicles must be driven with due regard for the safety of pedestrians, of the driver himself, of other drivers, and of both Division and other property. An employee must not operate a Division vehicle which he believes unsafe until it has been checked by garage. Drivers must familiarize themselves with all local regulations and laws regarding the operation of motor vehicles and have city and county and Division driver's licenses. The observance of these laws and regulations is the individual responsibility of each driver. Operators are to be courteous at all times. Accidents are to be reported to the Division's garage immediately.

74a. Riding in Division vehicles.

Riders should be seated at all times while vehicle is in motion and should not attempt to leave the vehicle while it is in motion.

FIRST AID SUGGESTIONS

75. First aid kits.

- a. The Division provides first aid kits for temporary assistance in case of burns, scratches, wounds

and other injuries. All employees should familiarize themselves with the contents of these kits so that they can render assistance in all cases. The services of a doctor should be secured, however, unless the accident is of the very slightest nature.

- b. Each kit contains a tube of vaseline for dressing small burns and scalds, liquid soap for cleansing cuts and wounds, aromatic spirits of ammonia inhalants to be used in cases of fainting, electric shock or any other case where a stimulant is required or advisable, and sterile dressings and bandages.

76. Common injuries and their first aid treatment.

Careful judgment has to be consistently utilized with field conditions as to whether or not an ambulance should be called or a man transported to the doctor or hospital in a Division vehicle.

- a. Electrical or Heat Burns.

(1) Symptoms

1st degree	2nd degree	3rd degree
Pain	Pain	Pain
Shock	Shock	Shock
Redness	Blisters	Charring

(2) First Aid Care

- (a) Care for SHOCK
- (b) Prevent infection and relieve pain by using vaseline on minor burns only. For all severe or extensive burns a dry dressing is satisfactory.

(3) Cautions

- (a) Do not break blisters
- (b) Do not remove clothing or other material stuck to the burned area.

- b. Chemical Burns.

Flush a chemical burn with a large amount of water to remove the chemical completely, and then treat it as any other burn.

- c. Cuts, Wounds, etc.

(1) Types                      Dangers

Abrasions

Incised

Lacerated

Punctured

(2) First Aid Care

(a) Wounds with severe bleeding: Control serious bleeding (refer to section 76 d).

(b) Wounds in which bleeding is not severe:

Cleanse with liquid soap and water; apply sterile dressing and bandages; refer to DOCTOR.

d. Hemorrhage or Severe Bleeding.

(1) Direct pressure on wound. If the bleeding is not controlled, use digital pressure.

(2) Care for SHOCK

(3) Call a DOCTOR or ambulance

(4) Types of bleeding:

(a) Internal

Symptoms: restlessness, anxiety, thirst

Source: stomach-vomited up (coffee ground appearance) Lungs-coughed up (bright red and frothy) bowels-usually dark tarry stool

First Aid Care: Keep victim QUIET in a lying down position;

Keep victim WARM; give NO STIMULANTS, and Call a DOCTOR.

(b) External

First Aid Care: Control bleeding by direct pressure on wound; then if bleeding is not controlled, use digital pressure.

Care for SHOCK.

Call a DOCTOR and/or ambulance.

e. First Aid for Shock.

Keep patient lying down, preferably with his head lower than the rest of his body. Call a DOCTOR and/or ambulance.

f. Dislocations and Fractures.

(1) Do not attempt to put a joint or a fracture back into place.

(2) Hold the injured limb in the most comfortable position, using splints and bandages.

g. Eye Injuries.

(1) When the presence of a foreign body is suspected in the eye, the safest procedure is to put on an emergency eye patch and have an eye DOCTOR attend to it as soon as possible.

(2) It is not advisable to have a fellow worker remove the foreign body from the eye.

h. Back and Neck Injuries.

(1) Symptoms. If the patient is conscious, he may tell you what part of his body hurts and what happened to him. Pain in the neck or back may be the only symptoms. Always ask him whether he can move his feet and toes, hands and fingers.

Never lift an injured person without first asking whether he can move his feet or hands. If he cannot open and close his fingers readily or grasp your hands firmly, his neck is probably broken. If he can move his fingers but not his feet or toes, his back is probably broken. In either case, the spinal cord may be injured but may not be severed.

The History of the accident may help the first aider to decide what may be wrong.

Don't lift the patient's head even enough to give him a drink of water. Don't let him try to rise or sit up because the injury to the spinal cord may be made worse and permanent paralysis may result.

If the patient is unconscious and you suspect spinal injury, handle him as though his neck were broken. Shock is usually

severe. Steps must be taken to prevent shock and further injury to the spinal cord.

- (2) First Aid Treatment. If the patient with a broken neck must be moved, get a door or a wide board and place it beside the patient with the end at least four inches beyond the top of his head. The board should be at least 15 inches wide and 5 feet or more long.

If the patient is on his back, one person should kneel above his head and hold the head between both hands, steadying it so that the head, neck, and shoulders move as a unit with the body not bending. One or more persons may then grasp the patient's clothing at the shoulders and hips and carefully slide him sideways onto the board or door so that he stays face upwards, arms at sides, and his head, trunk, and extremities on the board.

The head must not be raised or the neck bent forward or sideways, but should be well padded at the sides to keep the face upward.

The arms should be folded over the chest and held firmly together by means of safety pins or bandages. Several straps or bandages should be placed around the patient and the board to hold him in place during transportation.

Don't put a pillow under his head, but sweaters, clothing, or improvised small sandbags can be put against the sides of his head to keep it from rolling from side to side during transportation. His face should be up. The board with the injured person on it may then be lifted onto a blanket or stretcher and carried by two or more bearers.

**REMEMBER:** Any injured person with acute pain in the back should be considered as having a fractured spine until it is proved untrue.

**REMEMBER:** The head must not be tilted forward, backward, or sideward under any Circumstances

77. Resuscitation (Electric Shock).

## GENERAL INSTRUCTIONS

(See procedures for mouth-to-mouth, arm-lift, back-pressure method, prone pressure method, and pole-top-double rock method of resuscitation at end of section)

These instructions must be followed even if the victim appears to be dead.

- a. Have someone phone the nearest doctor and the nearest ambulance.
- b. Free the victim from the circuit immediately. Use a dry stick, dry rope, dry coat or other nonconductor. The use of your own hands without protection is dangerous and may add another victim to the accident.
- c. Instantly attend to the victim's breathing.
- d. As soon as possible, feel with your fingers in the victim's mouth and throat and remove any foreign body (tobacco, false teeth, etc.). If the mouth is shut tightly, pay no more attention to it until later.
- e. Do not stop to loosen the victim's clothing, but **START RESUSCITATION IMMEDIATELY**. Every moment of delay is serious.
- f. As soon as this artificial respiration has been started and while it is being continued, an assistant should loosen any tight clothing about the victim's neck, chest or waist.
- g. A brief return of natural respiration is not a certain indication for stopping the resuscitation. Not infrequently the victim, after a temporary recovery or respiration, Stops breathing again. The victim must be watched and if natural breathing stops, artificial resuscitation should be resumed at once.
- i. In carrying out resuscitation it may be necessary to change the operator. This change must be made without losing the rhythm of respiration.
- j. Resuscitation should be carried on at the nearest possible point to where the victim received his injury.
- k. Should it be necessary, due to extreme weather conditions, etc., to remove the victim before he

is breathing normally, resuscitation should be continued during the time he is being carried.

1. Ask permission from the medical man in charge to continue resuscitation in ambulance. Send one or more division representatives in ambulance with the victim.
- m. To avoid strain on the heart when the victim revives, keep him lying down and do not allow him to stand or sit up.

#### MOUTH TO-MOUTH (MOUTH-TO-NOSE) METHOD OF ARTIFICIAL RESPIRATION

If there is foreign matter visible in the mouth, wipe it out quickly with your fingers or a cloth wrapped around your fingers.

1. Tilt, the head back so the chin is pointing upward. Pull or push the jaw into a jutting-out position.

These maneuvers should relieve obstruction of the airway by moving the base of the tongue away from the back of the throat.

2. Open your mouth wide and place it tightly over the victim's mouth. At the same time pinch the victim's nostrils shut or close the nostrils with your cheek. Or close the victim's mouth and place your mouth over the nose. mow into the victim's mouth or nose. (Air may be blown through the victim's teeth, even though they may be clenched.) The first blowing efforts should determine whether or not obstruction exists.
3. Remove your mouth, turn your head to the side, and listen for the return nish of air that indicates air exchange. Repeat the blowing effort.

For an adult, blow vigorously at the rate of about 12 breaths per minute. For a child, take relatively shallow breaths appropriate for the child's size, at the rate of about 20 per minute.

4. If you are not getting air exchange, recheck the head and jaw position. If you still do not get air exchange, quickly turn the victim on his side and administer several sharp blows between the shoulder blades in the hope of dislodging foreign matter.

Again sweep your fingers through the victim's mouth to remove foreign matter.

Those who do not wish to come in contact with the person may hold a cloth over the victim's mouth or nose and breathe through it. The cloth does not greatly affect the exchange of air.

#### ARTIFICIAL RESPIRATION

##### ARM-LIFT, BACK-PRESSURE METHOD.

LAY VICTIM IN PRONE POSITION, elbows bent, one hand on the other. Head on hands, face to one side. Kneel at victim's head on either or both knees.

PLACE HANDS: Fingers spread, thumbs touching, heels of hands just below a line between armpits.

APPLY PRESSURE: Rock forward slowly until arms are vertical. Keep elbows straight.

RELEASE PRESSURE: Rock back slowly. Grasp victim's arms just above elbows. Continue backward.

LIFT ARMS: Raise arms until tension is felt for maximum chest expansion. Lower arms to complete cycle.

REPEAT CYCLE 12 TIMES PER MINUTE.

##### POLE-TOP Resuscitation-DOUBLE ROCK METHOD.

Double-rock method of push-pull pole-top resuscitation.

1. Place hands for expiratory phase
2. Rock back during expiration
3. Raise hands for arm-lift phase during inspiration
4. Rock back during arm lift. (See instructions below)

#### INSTRUCTIONS

Clear victim from contact, keeping yourself from making contact through victim or line.

Start resuscitation-place victim astride your safety belt as for the standard pole-top method.

1. Put your arms around his waist and place both hands on his abdomen.

2. Compress abdomen with an upward motion while rocking backward with your shoulders and upper body. Release pressure and rock forward to the resting position.
3. Move your hands up over the victim's chest, bringing your arms upward and backward.
4. Lift victim's upper arms to a horizontal position. While doing this, rock backward a second time.

Release and rock forward to the resting position.

Repeat cycle 10 to 12 times per minute.

Lower victim to ground as soon as possible when help arrives. Do not keep him in a sitting position on the pole for more than 15 minutes.

If possible, don't stop resuscitation while victim is being lowered.

Continue resuscitation on ground.

**DON'T GIVE UP RESUSCITATION WHILE AWAITING ARRIVAL OF DOCTOR.**

#### SCHAFFER METHOD

Use Schaffer method when arm-lift, back-pressure method cannot be applied due to serious arm injury.

Lay victim on his stomach with one arm extended, the other bent at the elbow so that his face, turned outward, rests on his hand or forearm. Kneel, straddling the victim's thighs.

1. Place the palms of your hands on the small of his back, with little fingers just touching the lowest ribs.
2. With arms extended swing forward gradually, bringing weight of your body to bear upon victim. Take about two (2) seconds for this operation.
3. Immediately swing back to remove the pressure. After two (2) seconds) swing forward again. Repeat the entire procedure 12 to 15 times a minute. **DON'T GIVE UP.** Continue resuscitation while awaiting arrival of doctor.

*History: Rule 11-84, eff 19 Dec 84. (part).*

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[End of Title 4 – Chapter 34]

TITLE 4 - CHAPTER 35 – PERSONNEL  
MANAGEMENT INFORMATION SYSTEM

Sections:

4.3501 Provision of Data.

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**4.3501 Provision of Data.**

ASPA will provide personnel action data to the Office of Manpower Resources for entry into the ASG Automated Personnel Management Information System in accordance with:

- (a) The Personal Procedures Manual (Automated Personnel Management Information System) prepared by the Department of Manpower Resources, January, 1975, and revised May, 1977.
- (b) The portion of the ASG Procedures Manual, dated December 1, 1982, entitled “POSITIONS: New, Changes and Abolishment of.”

*History: Rule 11-84, eff 19 Dec 84, (part).*

**Ethics Policy and Regulations of the American Samoa Power Authority**

This Ethics Policy and Regulations of the American Samoa Power Authority, hereinafter referred to as “ASPA Ethics Policy”, shall apply to all employees, directors, officers and agents of ASPA. This policy includes full-time, part-time and contract employees, hereinafter referred to as “ASPA Employees”. The ASPA Ethics Policy establishes the responsibilities of all ASPA Employees, directors, officers and agents to exhibit ethical behavior and creates an ASPA Ethics Board to review requests for opinions and complaints.

**A. Authority of ASPA Ethics Board**

The ASPA Ethics Board may receive two different types of requests: (1) those for advice before an ASPA employee, director, officer or agent acts or engages in an activity that might present a conflict or may violate the ASPA Ethics Policy, and (2) complaints regarding current or past action(s) of an ASPA employee, director, officer or agent.

The ASPA Ethics Board also has authority to create subcommittees to investigate, hear and rule upon complaint, allegations, or information concerning violations of or potential violations of the ASPA Ethics Policy.

**B. Requests for Ethics Determination Before an Action Occurs**

An ASPA employee, director, officer or agent may request advice regarding potential ethics or conflicts of interest and may receive a ruling stating the appropriate course of action. Most requests for advice may be answerable over the telephone by the Manager of Human Resources (MHR). Any individual requesting such an opinion can, however, request that the opinion be provided in writing. Whether provided verbally or in written form, the MHR shall keep a log of all inquiries, issues presented and opinions provided. Those requests presenting complex facts or requiring considerable research, however, may require a written request stating the facts and an opinion from the ASPA Ethics Board. Further, any individual who is not satisfied with the opinion provided by the MHR is entitled to request that the issue be submitted to the Ethics Board. The MHR shall seek the advice of ASPA’s advisory opinion, edited to avoid disclosing the identities of the persons involved, shall be made available for public inspection by the MHR.

**C. Complaints of an Impending Action or Action that has Occurred**

Any ASPA employee, director, officer or agent or the public may request that a Potential ethics issue be investigated. A complaint may be made anonymously by mailing the complaint to ASPA’s Legal Counsel or by submission to the Executive Director, MHR, ASPA’s Legal Counsel, or Chairman of the Board. Any other form of complaint may be submitted orally or in writing to the Executive Director, MHR, ASPA’s Legal Counsel, or Chairman of the Board. All complaints received shall be forwarded to the Executive Director and the MHR.

Upon receiving any complaint for a violation of the ASPA Ethics Policy, the Executive Director and MHR shall notify the Chairman of the ASPA Ethics Board and ASPA Legal Counsel. The Executive Director and MHR shall investigate the facts and prepare recommendations for the ASPA Ethics Board. The facts and recommendations shall be reviewed by ASPA Legal Counsel.

Because ethics problems may be resolved by ASPA Management, the Chairman of the ASPA Ethics Board may elect to accept Management’s recommendations and suggested corrective actions or to have the cases reviewed by the ASPA Ethics Board. For cases that are referred to the ASPA Ethics Board, the Executive

Director and MHR shall prepare a complete finding of facts and recommendations, subject to review by ASPA’s Legal Counsel. The person whose actions are in question shall be given the opportunity to present his or her side of the issue to the ASPA Ethics Board.

All individuals involved in receiving, reviewing, recommending, and hearing any violation of the ASPA Ethics Policy are required to keep confidential all information obtained in an investigation. The only information that shall not remain confidential is that information contained in a rendered decision. Any potential criminal activity shall be immediately referred to Territorial or Federal officials or both.

Upon the receipt of any complaint or allegation of a violation of the ASPA Ethics Policy, the parties charged with investigation and recommendation of action shall forward their complete finding of facts and recommendation to the ASPA Ethics Board within thirty (30) days of the receipt of the complaint or allegation. If the investigating party requires more time, then a written request for more time shall be made to the ASPA Ethics Board. The ASPA Ethics Board shall have absolute discretion to grant or deny any extension of time.

The ASPA Ethics Board shall make a written determination of its decision to accept or deny ASPA Management’s finding of fact, recommendations and suggested corrective actions no later than fourteen (14) days from the date the finding of facts and recommendations were due. If the ASPA Ethics Board determines that it should review the matter, then the ASPA Ethics Board shall set a hearing date. The hearing date should be as soon as practical and in no event shall be more than thirty (30) days after the Ethics Board’s determination to review the matter. Any individuals and/or companies involved in the matter shall be given at least ten (10) days notice prior to the hearing date.

If an ASPA employee, director, officer or agent is found to have violated the ASPA Ethics Policy, then any action against that employee shall be pursued as required by law depending upon the individual’s classification as Career Service, Contract employee, at-will employee or otherwise.

#### D. Duties and Responsibilities of Staff to the ASPA Ethics Board

The MHR shall serve as the Staff Director to the ASPA Ethics Board and shall have the responsibility, duty, and power to investigate, hold meetings with employees,

present the case at the ASPA Ethics Board hearings, and make recommendations on requests from ASPA employees or members of the public. The MHR shall diligently and responsibly pursue review of any ethics issue complaint and shall make note and report to the ASPA Board of Directors, through the ASPA’s Legal Counsel, of any and all internal and external lobbying activities regarding an investigation. The MHR shall maintain a complete and comprehensive record of any and all discussions regarding an ethics investigation and shall avoid any potential conflicts of interest.

The Legal Counsel for ASPA shall be informed of all activities and shall have the power and duty to participate in any and all investigative activities on behalf of the ASPA Board of Directors.

### XIII. EMPLOYEE NOTICE

The Executive Director and the MHR shall require that all current ASPA employees, directors, officers and agents be given copies of the policy in both English and Samoan, and all ASPA employees, directors, officers and agents shall acknowledge receipt of and understanding of the ASPA Ethics Policy.

Every new ASPA employee, director, officer and agent shall be given copies of the policy in both English and Samoan, and shall acknowledge receipt and understanding of the ASPA Ethics Policy.

The MHR shall conduct an annual workshop for all ASPA employees, directors, officers and agents to review the ASPA Ethics Policy. All ASPA employees, directors, officers and agents shall acknowledge their participation in the annual workshop. The MHR shall post the ASPA Ethics Policy in appropriate places.

*History: Rule 02-04, eff. May 12, 2005.*

#### APPENDIX A

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## END OF TITLE 4 – GOVERNMENT EMPLOYEES