

**AMENDED
PUBLIC EMPLOYEE-MANAGEMENT
RELATIONS ACT OF GUAM
(PEMRA)**

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**A. PUBLIC EMPLOYEE-MANAGEMENT RELATIONS ACT Rules &
Regulations - APPENDIX I**

INSTRUCTIONS

This Manual contains provisions of the Government Code of Guam and regulations implementing the Public Employee Management Relations Act of Guam (PEMRA). It is divided by subject matter. Each subject includes the pertinent section(s) of the Code and/or Regulations for easier reference to both sources.

From time to time, amendments to the Code and the Regulations are made. The Manual is designed in such a way that pertinent pages could be deleted and replaced without affecting other sections and pages. Specific instructions will be provided when changes are made.

TITLE

A. CODE

4400. Title. This Act may be cited as the "Public Employee-Management Relations Act of Guam."

B. REGULATIONS

This regulation is known as: Department of Administration Public Employee-Management Relations Rules and Regulations (or short form as PEMRA Regulations).

NOTE: Unless otherwise specified, the term Code as used herein refers to the Government Code of Guam.

PURPOSE

A. CODE

B. REGULATIONS

ARTICLE I

Purpose

To recognize and define the role of public employee organizations and to promote effective, equitable, and uniform implementation within Government of Guam policies, rights, and responsibilities prescribed in Public Law 9-240, commonly called the "Public Employee-Management Relations Act of Guam."

POLICY

A. CODE

4401. Declaration of policy. The Legislature of the Territory of Guam declares that it is the policy and purpose of this Act, in the public interest, to promote orderly and constructive relationships between government and its public employees by providing an opportunity for effective participation by employees in the formulation and implementation of policies and procedures affecting conditions of their employment, subject to paramount requirements of law for conducting efficient and uninterrupted operations of government. Further, this policy shall be effected by (a) assuring all public employees of the right to form, join and assist any employee organization, or to refrain from such activity, (b) recognizing that legitimate employee organizations provide meaningful representation for public employees for purposes of consultation and negotiation with government management officials, (c) continuing the prohibition against strikes, acts, activities, and conduct, described in Chapter VI of Title V, and (d) establishing implementing rules and procedures to faithfully reflect the intent and purpose of this Act, without modification or compromise of the merit system as the basic personnel policy of the Government of Guam.

B. REGULATIONS

ARTICLE II

Policy

A. It is a policy of the Government of Guam that all employees, except those hereinafter specifically excluded or who shall be determined by the Governor, pursuant to the authority granted him by Public Law 9-240, to be excluded by virtue of the nature of their work, shall have the right to form, join and assist any employee organization, or to refrain from such activity, without interference, restraint, coercion or discrimination and without fear of penalty or reprisal.

B. It is a policy of the Government of Guam that no management official shall seek to influence any employee with respect to employee rights granted and guaranteed by Public Law 9-240.

C. It is a policy of the Government of Guam that designated management officials shall consult with representatives of recognized employee organizations, and should, as a matter of good employee relations, encourage such groups to express themselves concerning the development and implementation of personnel policies and programs affecting working conditions. This policy recognizes that effective communication between employee organizations and management develops respect and creates good will, that employees may express their collective views more freely through an employee organization than individually, and that discussion of mutual problems is of advantage to both employee and management.

EXCLUSION

A. CODE

4402. Exclusions. This Act shall not apply to any government department or to any office or entity in the Executive Branch, which is primarily performing investigative, intelligence, or security functions, if the Governor of Guam determines that the provisions of this Act cannot be applied, in whole or in part, in a manner consistent with security requirements and considerations.

B. REGULATIONS

ARTICLE III

Exclusions

A. These rules and regulations shall not apply to any department, office or entity in the Executive Branch which is primarily performing investigative, intelligence, or security functions, if the Governor of Guam determines that the provision of this rule cannot be applied, in whole or in part, in a manner consistent with security requirements and considerations.

B. Excluded are:

1. Personnel of the Department of Public Safety whose principal job is law enforcement.
2. Port Security Inspectors.
3. Alcoholic Beverage Control Inspectors.
4. Personnel under the Attorney General's office performing investigative work.
5. Personnel of the Department of Corrections whose principal job is prison security.
6. Fish and Game wardens.

C. EXCLUSION BY GOVERNOR

DEFINITIONS

A. CODE

4403. Definitions. As used in this Chapter: (a) "Government" means the Executive Branch of the government of Guam, including any political or organizational subdivision thereof, and any corporation, association, or authority wholly owned by the government of Guam.

(b) "Department" means the Department of Administration.

(c) "Director" means the Director, Department of Administration.

(d) "employee organization" means any lawful association, labor organization, federation, council, or brotherhood, or any trade, craft, or industrial union, made up in whole or in part of employees of the government of Guam and having as a primary purpose the improvement of working conditions among government employees, but such term shall not include any organization (1) which asserts the right to strike against the government, or to assist, participate, or conduct any such strike, or (2) which advocates the overthrow of the constitutional form of government in the United States or the government of Guam, or (3) which discriminates with regard to the terms or conditions of membership because of race, color, creed or national origin.

(e) "exclusive recognition" means recognition of a qualified employee organization by the government as the sole representative of an appropriate unit of public employees for purposes of consultation and negotiation with management officials.

(f) "organization representative" means any representative of an employee organization, whether an employee or nonemployee of the government, who is designated to deal with government officials in behalf of the employee organization.

(g) "public employees" means any persons employed in graded and ungraded positions of the classified service of the government.

(h) "dispute" means a disagreement between management officials and employee organizations concerning the appropriateness of a unit, or the right of an employee organization to exclusive recognition.

(i) "grievance" means an employee's expressed feeling of dissatisfaction with aspects of his working conditions and working relationships which are outside his control, including appeals from adverse disciplinary actions not covered by paramount law or regulations.

B. REGULATIONS

ARTICLE IV

Definition

A. As used in these rules and regulations:

1. "Government" means the Executive Branch of the Government of Guam, including any political or organizational subdivision thereof, and any corporation, association, or authority wholly owned by the Government of Guam.

B. REGULATIONS, continued (DEFINITIONS)

2. "Department" means the Department of Administration.
 3. "Director" means the Director, Department of Administration.
 4. "Department head" means a director of a Government of Guam department or agency of the Executive Branch and such term shall include the chief officer of the governing boards of the autonomous and semi-autonomous agencies of the Government of Guam, including, but not necessarily limited to:
 - a. Chairman, Board of Regents, University of Guam.
 - b. Chairman, Board of Education.
 - c. Chairman, Guam Economic Development Authority.
 - d. Chairman, Guam Power Authority.
 - e. Chairman, Board of Trustees, Guam Memorial Hospital.
 - f. Chairman, Guam Housing and Urban Renewal Authority.
 - g. Chairman, Guam Housing Corporation.
 5. "Exclusive recognition" means recognition of a qualified employee organization by the Government of Guam as the sole representative of an appropriate unit of public employees for purposes of consultation and negotiation with designated management officials.
 6. "Organization representative" means any representative of an employee organization, whether an employee or nonemployee of the Government of Guam, who is designated to deal with Government of Guam officials in behalf of the employee organization.
 7. "Public employee" means any person employed in graded and ungraded positions of the classified service of the Government of Guam.
 8. "Dispute" means a disagreement between management officials and an employee organization or organizations or between employee organizations concerning the appropriateness of a unit, or the right of an employee organization to exclusive recognition.
 9. "Grievance" means an employee's expressed feeling of dissatisfaction with working conditions and working relationship which are outside his control, including an appeal from adverse disciplinary action not covered by paramount law or regulation.
 10. "Emergency" is a condition of public calamity, resulting from fire, flood, typhoon or like disaster, or through some unusual occurrence not reasonably subject to anticipation.
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RIGHT OF ORGANIZATION

A. CODE

4404. Right of organization. Public employees shall have the right to form, join, assist, and participate in the management of employee organizations of their own choice, and to act as organization representative, or to refrain from any such activity, without interference, restraint, coercion or discrimination, and without fear of penalty or reprisal; Provided that, employees shall not participate in the management of an organization, or act as an organization representative, where such activity would result in a conflict of interest or otherwise be incompatible with law or with the employee's official duties.

B. REGULATIONS

RIGHT OF REPRESENTATION

A. CODE

4405. Right of representation. Public employees shall have the right to be represented by employee organizations when exclusive recognition has been granted to such organizations for purposes of consultations and negotiations with government management officials concerning terms and conditions of their employment not otherwise fixed by law and in the settlement of grievances and disputes.

In the absence of exclusive recognition, management officials shall consult with otherwise qualified employee organizations when requested, or on their own initiative, regarding the formulation and implementation of personnel policies and practices and matters affecting working conditions which are of concern to the organizations' membership.

B. REGULATIONS

ARTICLE V

Right of Representation

A. Advisory groups or councils of employees established in a Government department pursuant to regulations of a particular Government component are not employee organization for purpose of this rule. No such group or council will be organized for employees in any unit in which an employee organization has been accorded exclusive recognition, nor continued for employees in any unit in which an employee organization has been accorded exclusive recognition.

B. Nothing in this rule or in any agreement entered into under its provisions shall restrict the Government or its officials in situations of emergency from taking any action necessary to carry out the Government's missions.

C. A department head or his designee will, upon the specific request of an employee organization granted exclusive recognition, negotiate a written agreement which contains as a minimum the following:

1. Identification of the specific unit for which exclusive recognition is granted.
2. A statement of the mutual rights and obligations of the employee organization and management and its designated representatives under the provisions of the Public Employee-Management Relations Act of Guam.
3. Clauses specifying policies and working conditions in the employee unit which have been agreed to by the employee organization and the department head or his designee, which policies and working conditions shall be limited to matters over which the department head exercises discretion.

B. REGULATIONS, Continued (RIGHT OF REPRESENTATION)

D. Such written agreement as may be negotiated by and between an employee organization and a department head of his designee shall not take effect until approved by the Governor. A copy of each agreement approved by the Governor shall be filed with the Civil Service Commission, Department of Labor and Department of Administration.

QUALIFICATION OF EMPLOYEE ORGANIZATION

A. CODE

4406. Qualifications of employee organizations. As a prerequisite for securing and retaining exclusive recognition under the provisions of this Act, an employee organization must subscribe to the following standards, either by adoption by the organization itself or by the national, international, or federation of organizations with which it affiliates:

(a) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements;

(b) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members;

(c) the maintenance of fiscal integrity in the conduct of organization internal affairs;

(d) the maintenance of democratic procedures and practices within the organization to provide fair and equal treatment of individual members.

B. REGULATIONS

APPROPRIATE UNITS

A. CODE

4407. Appropriate employee units. For purposes of exclusive recognition requested by qualified employee organizations, appropriate units of employees shall be established by government management officials on any reasonable basis, such as departmental, functional, craft, or other basis, which will assure a clear and identifiable community of interest in employment conditions among the employees involved. No unit shall be established which includes government managerial officers, supervisors, or personnel workers in other than clerical positions, nor a unit which includes both professional employees and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit.

B. REGULATIONS

ARTICLE VI

Employee Units

A. For purpose of exclusive recognition requested by qualified employee organizations, appropriate units of employees shall be established by the Director on any reasonable basis, such as departmental, functional, craft, or other basis which will assure a clear and identifiable community of interest in employment conditions among the employees involved.

B. No unit shall be established which includes government managerial officers, supervisors or personnel workers in other than clerical positions, nor a unit which includes both professional employees and non-professional employees unless a majority of such professional employees and a majority of such non-professional employees vote to combine into one unit. The Director shall determine if an employee position is professional or not.

C. Eligible employees for purpose of establishing an appropriate unit for exclusive recognition are those remaining in the unit after the required exclusions have been made.

D. Determination as to the existence of a clear and identifiable community of interest sufficient to warrant recognition of the employees concerned as an appropriate unit is necessarily a flexible one which must be made in light of specific circumstances. In making such determination, factors such as supervision, skills, duties, working conditions, place of work, organizational structure, similarity of skills, distinctiveness of functions performed, and the existence of integrated work processes will be considered.

B. REGULATIONS, continued (APPROPRIATE UNIT)

1. In determining the organizational scope of a unit, consideration shall be given to the common employment interest of the employees in an organization unit.
2. Crafts units normally will consist of a homogeneous group of skilled journeymen, craftsmen and their apprentices or helpers. Among factors to be considered in determining the appropriateness of a craft unit are separate supervision and the inclusion of all such craftsmen working in the installation. Either single crafts comprised of workers with basically the same training or multi-craft units, or councils in which there are a variety of crafts involved, may be established.
3. Employees with dissimilar skills may have a community of interest as parts of a homogeneous group, such as employees engaged in maintenance and/or production, which may form the basis for an appropriate unit.
4. Although functionally distinct organizational units may exist, the presence of an integrated work process may make a large single unit more appropriate for recognition than a number of separate units.
5. An employee organization may request informal and preliminary discussion concerning the appropriateness of a proposed employee unit with the department or agency head before such proposal is submitted in writing.
6. A unit may be established on any reasonable basis which will promote effective dealings and efficiency solely on the basis of the extent to which employees in the proposed unit have organized.

E. An employee organization which meets the qualifying requirements of Public Law 9-240 may petition the Director or the appropriate management official of an autonomous or semi-autonomous agency for recognition as exclusive bargaining agent for an employee unit which it has proposed as appropriate.

F. After receipt of a petition for recognition as exclusive bargaining agent, the Director shall cause to be published in a newspaper of general circulation in the Territory of Guam for a minimum of two (2) times, seven (7) days apart, a notice of the petition. Notice of the petition shall also be posted on the bulletin board of the department or agency involved.

G. Within thirty (30) days, exclusive of Saturdays, Sundays and legal holidays, after receipt of said petition, the Director shall either certify the unit as acceptable or furnish, in writing, to the petitioning organization reasons for rejection of said petition. A notice of the Director's certification or non-certification shall also be published at least once in a newspaper of general circulation in the Territory of Guam.

B. REGULATIONS, continued (APPROPRIATE UNIT)

H. An employee organization which made a proposal for recognition as an exclusive bargaining agent or an employee organization which filed written objection or opinion to the initial petition may appeal the decision concerning the appropriateness of the unit. An appeal shall be filed no later than fifteen (15) calendar days after the decision has been announced and shall be addressed to the Governor. It shall state in writing the reason for disagreeing with the unit determination and shall be accompanied by correspondence records or other documents relied upon by the objecting organization. The Governor shall render a decision on an appeal and communicate it in writing to the employee organization within thirty (30) calendar days after the appeal is filed. A notice of the Governor's decision shall also be published at least once in a newspaper of general circulation in the Territory of Guam.

I. An employee organization which has filed a petition under Article VII (C) and fails to obtain the necessary majority may withdraw the petition but may not file a similar petition within six (6) months after the Director's determination.

EXCLUSIVE RECOGNITION

A. CODE

4408. Exclusive recognition or employee organizations. Government management officials shall recognize a qualified employee organization as the exclusive representative of public employees in an appropriate employee unit when determination is made that the organization has a membership of not less than ten percent (10%) of the total number of employees in the unit, and has been designated as their exclusive representative by a majority of the unit employees, except that such recognition shall not preclude:

(a) any public employee, regardless of employee organization membership, from consulting with appropriate government officials on matters of personal concern to such employee, or from choosing his own representative in a grievance or appellate procedure; and

(b) consultations between government officials and other lawful special interest groups or associations, on policies or matters of concern to public employee members of such groups, provided that, such consultations shall not result in actions inconsistent with the recognition of an exclusive representative in an employee unit or adverse to the interests of other employees in such units.

B. REGULATIONS

ARTICLE VII

Exclusive Recognition

A. The Governor shall have sole power to grant to an employee organization recognition as the exclusive bargaining agent for an appropriate employee unit.

B. An employee organization which desires exclusive recognition in an employee unit it proposes as appropriate must address a petition to the Director or the appropriate management officials of an autonomous or semi-autonomous agency. Such petition shall be accompanied by evidence that the petitioning employee organization has:

1. Majority membership in the unit; or
2. A minimum of at least 10 percent membership and a sufficient number of authorization cards to indicate at least 50 percent of the eligible employees in the unit desire the petitioning organization to be the exclusive bargaining agent; or
3. A total of at least 20 percent membership within the unit to justify an election.

B. REGULATIONS, continued (EXCLUSIVE RECOGNITION)

C. Final determination of majority status is the responsibility of the Director. An election shall not be held if otherwise satisfactory evidence exists that a majority of the eligible employees in an appropriate unit either belong to the employee organization seeking exclusive bargaining recognition or have indicated in writing that they desire to be represented by the organization.

D. Authorization cards submitted by an employee organization shall be valid only when signed within one (1) year from the date of filing by eligible employees of the unit under consideration. The one-year time limit on authorization cards shall cease to run during any proceeding under this rule. Authorization cards may be used only for representation purposes.

ELECTIONS

A. CODE

B. REGULATIONS

ARTICLE VIII

Elections

A. The Director shall order and conduct a secret ballot election to determine what, if any, employee organization shall be granted recognition as exclusive bargaining agent for an appropriate unit when:

1. A valid petition is filed by one or more employee organizations pursuant to Article VII B 3, provided, however, that no employee organization may file an initial petition for recognition more often than once every twelve (12) months.
2. A valid petition is filed pursuant to Article VII B challenging the right of an employee organization currently recognized as exclusive bargaining agent to continue in that status, provided, however, that no such petition shall be entertained during the first twelve (12) months of the employee organization's status as exclusive bargaining agent.
3. The Director determines that because of conflicting claims made by employee organization seeking recognition as exclusive bargaining agent under Article VII B 1, an election would be a fair way to resolve the conflict.
4. A valid petition is filed at any time during the period of recognition by at least 20% of the employees in the bargaining unit questioning the majority status of the exclusive bargaining agent.

B. Upon determining that an election is necessary, the Director shall:

1. Order an election held within a reasonable period of time.
2. Cause to be published in a newspaper of general circulation within the Territory of Guam a notice of the election. Such notice shall appear at least once a week for three (3) consecutive weeks before the election is held. Such notice shall identify the appropriate unit which shall be the subject of the election and contain a sample ballot showing the election options that shall be available to the employee. Such notice shall state the time, date and place where the balloting shall be conducted. Copies of such notice shall also be posted on the bulletin boards of the department or agency involved.

B. REGULATIONS, continued (ELECTIONS)

3. Prepare a list of eligible voters based upon current employee records. No supervisory personnel shall be permitted to vote, nor shall supervisory personnel be included in calculating the total number of persons within the appropriate unit. Such list of eligible voters shall be provided at least seven (7) calendar days prior to the election to each employee organization which shall be represented on the ballot. Such list of eligible voters shall be posted on the bulletin boards of the department or agency involved.
4. Prepare a ballot which shall indicate the election options that shall be available to the eligible voters. A block will be provided on each ballot for any employee to indicate that he does not wish to be represented by any employee organization listed.
5. Take such other actions as the Director determines necessary for the conduct of the election.

C. Upon receiving notification that an election shall be held and in which it shall be involved, an employee organization may:

1. Submit to the Director in writing not less than seventy-two (72) hours before the election a list of persons who shall be authorized to represent the employee organization as poll watchers during the election. No employee organization shall have more than two (2) persons at a time on duty at a given polling place. If an employee organization fails to submit a list of authorized poll watchers, the Director may, in his discretion, permit the employee organization to have one (1) poll watcher present at each polling place.
2. Challenge at any time before or at the election the eligibility of any person the Director has declared to be or omitted as an eligible voter.
 - a. In the case of a challenge made at least twenty-four (24) hours before an election, the Director shall issue a written opinion answering the challenge. A copy of the opinion shall be delivered to each employee organization which shall be represented on the ballot, and additional copies shall be posted on the bulletin boards of the department or agency involved.
 - b. In the case of a challenge made after the twenty-four (24) hours deadline provided for in Article VIII C ia, the individual whose right to vote has been denied by the Director or challenged by an employee organization shall be permitted to vote, provided, however, that his ballot shall be sealed in a special envelope and held by the Director until he shall issue a written opinion answering the challenge.

B. REGULATIONS, continued (ELECTIONS)

D. The procedural guide in Appendix I of these Rules and Regulations shall apply to all elections conducted pursuant to Public Law 9-240.

E. No election shall be necessary when a proper petition is filed, after the first year of exclusive recognition, by a majority of the employees in the bargaining unit requesting the Governor's withdrawal of exclusive recognition previously granted an employee organization. After receipt of such petition, the Director shall investigate the matter and make appropriate recommendations to the Governor.

ARTICLE IX

Certification of Election Results, Notification of Exclusive Recognition and Appeal of Election Results

- A. Immediately upon the conclusion of an election, the Director shall:
1. Cause a tally of the election results to be made. Each employee organization which was represented on the ballot shall be permitted by the Director to have no more than four (4) representatives present to observe the tally. Such representatives shall not, however, be permitted to assist in the making of the tally in any way.
 2. After the tally required in Article IX A i has been made, certify the election results in writing to the Governor and to each employee organization which was represented on the ballot. Such certification shall also be published at least once in a newspaper of general circulation in the Territory of Guam and be posted on the bulletin boards of the department or agency involved.
 - a. If the certified election results indicate an employee organization received a majority of the votes cast, the Governor shall:
 - (1) Notify the employee organization in writing that it has been granted exclusive recognition and identify the unit for which it has been granted.
 - b. If the certified election results indicate no employee organization received a majority of the votes cast and at least two (2) employee organizations were seeking recognition as exclusive bargaining agent, then the Director shall conduct a run-off election after eliminating any ballot choice which received less than 15 percent of the total vote cast.
 - c. If the certified election results indicate that in an election in which the ballot choices were limited to only one employee organization or no organization, and the employee organization failed to obtain a majority, the results shall be conclusive, unless the employee organization shall have some valid matter for appeal, and the Director shall take no further action after certifying the election results as provided in Article IX A2.

B. REGULATIONS, continued (ELECTIONS)

B. In the event an employee organization challenges the certified election results, it may file its objections in writing with the Governor. The Governor shall, within thirty (30) calendar days, issue a written opinion stating his decision on the appeal. In the event he sustains the appeal, he may order that the challenged election be held void and that a new election be held.

C. If recognition of an employee organization as an exclusive bargaining agent is obtained by nonelective process, as provided for by Article VII C, the Governor shall notify the employee organization to be recognized in the same fashion as provided for in Article IX A2 a(1).

DURATION OF RECOGNITION

A. CODE

B. REGULATIONS

ARTICLE X

Duration of Recognition

A. Exclusive recognition granted to an employee organization shall continue for a minimum period of one (1) year without further proof of majority status, provided, however, the Director may request the Governor to withdraw recognition upon obtaining evidence that the employee organization has engaged in an unfair labor practice or violated the provisions of Public Law 9-240. The Governor shall have sole discretion to determine if exclusive recognition of an employee organization shall be withdrawn.

B. After the first year of exclusive recognition if no collective bargaining agreement has been negotiated, an employee organization's status as exclusive representative may be reviewed by the Director or challenged by another employee organization upon a showing that at least 20 percent of the unit desires a new determination. In such case an election shall be held as provided for in Article VIII.

C. If an agreement has been negotiated during the period of exclusive recognition, the employee organization's status as exclusive bargaining agent shall not be subject to challenge more than ninety (90) days nor less than sixty (60) days before the expiration date of the agreement then in force.

D. If reorganization or other changes in the organizational structure of the unit result in major changes in the composition of the unit for which exclusive recognition was granted, the Director or any employee organization may initiate action for reconsideration of the designation of majority representation or scope of the unit.

DISPUTES

A. CODE

4409. Settlement of disputes. Procedures for the settlement of disputes between management officials and employees organizations, or among employee organizations, concerning the appropriateness of employee units for exclusive recognition purposes or concerning the right of an employee organization to receive exclusive recognition, shall be issued by the Governor of Guam. Such procedures shall provide, as a final step in dispute settlements where necessary:

- (a) advisory arbitration by a qualified nongovernmental neutral party; and
- (b) acceptance or rejection of advisory arbitration decisions by the Governor or his designee;
and
- (c) the costs of arbitration to be shared equally between the government and the employee organizations involved.

B. REGULATIONS

UNFAIR LABOR PRACTICES

A. CODE

4410. Unfair labor practices. The provisions of this section apply to all government of Guam management officials and to all employee organizations accorded exclusive recognition to represent public employees under this Act.

(a) Management officials are prohibited from:

- (1) restraining, coercing, or interfering with the exercise of the rights assured to public employees by the terms of this Act;
- (2) dominating, sponsoring, controlling, or otherwise assisting employee organizations, except that routine services and facilities may be furnished impartially to such organization consistent with other provisions of this Act;
- (3) discriminating against public employees in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization;
- (4) disciplining or otherwise discriminating against any public employee for legitimate activities in representing an employee organization or participating in procedures implementing this Act;
- (5) refusing to grant exclusive recognition to a qualified employee organization for an appropriate public employee unit;
- (6) refusing to consult or negotiate with an employee organization accorded exclusive recognition on matters within the scope of this Act and implementing rules and regulations.

(b) Employee organizations are prohibited from:

- (1) restraining, coercing or interfering with the exercise of the rights assured to public employees by the terms of this Act;
- (2) attempting to cause management officials to coerce any public employee in the exercise of his rights under this Act;
- (3) disciplining or otherwise discriminating against any public employee member of the organization as reprisal for, or for the purpose of obstructing, discharge of the employee's official duties in the government service;

A. CODE, continued (UNFAIR LABOR PRACTICES)

- (4) engaging in, or inducing public employees to engage in any strike, work stoppage, slowdown, or picketing against the government;
- (5) discriminating against any public employee as to terms and conditions of membership because of race, color, creed, or national origin;
- (6) denying membership to any public employee in the exclusive recognition unit, except for failure to meet reasonable standards of the employee organization uniformly applied to all other members.

B. REGULATIONS

ARTICLE XI

Unfair Labor Practices

- A. It shall be unfair labor practice for the Director or any Government management official to:
1. Restrain, coerce, or interfere with the exercise of the rights assured to public employees by Public Law 9-240.
 2. Dominate, sponsor, control, or otherwise assist employee organizations except that routine services and facilities may be furnished impartially to such organizations consistent with other provisions of Public Law 9-240.
 3. Discriminate against public employees in regard to hiring, tenure or any term or condition of employment for the purpose of encouraging or discouraging membership in any employee organization.
 4. Discipline or otherwise discriminate against any public employee for legitimate activities in representing an employee organization or participating in procedures implementing Public Law 9-240.
 5. Refuse to grant exclusive recognition to a qualified employee organization for an appropriate public employee unit.
 6. Refuse to consult or negotiate with an employee organization granted exclusive recognition on matters within the scope of Public Law 9-240 and other applicable statutes.
- B. It shall be unfair labor practice for any public employee or employee organization to:

B. REGULATIONS, continued (UNFAIR LABOR PRACTICES)

1. Restrain, coerce, or interfere with the exercise of the rights assured to public employees by Public Law 9-240.
2. Attempt to cause management officials to coerce any public employee in the exercise of his rights under Public Law 9-240.
3. Discipline or otherwise discriminate against any public employee member of an employee organization as reprisal for, or for the purpose of obstructing, discharge of the employee's official duties in Government service.
4. Engage in or induce public employees to engage in any strike, work stoppage, slowdown or picketing against the Government.
5. Discriminate against any public employee as to terms and conditions of membership because of race, color, creed, religion or national origin.
6. Deny membership to any public employee in the exclusive recognition unit, except for failure to meet reasonable standards of the employee organization uniformly applied to all other members.

C. Any charge of an unfair labor practice shall be filed in writing with the Director and he shall take such action as he determines necessary to ascertain the truth of the allegation. Upon completion of his investigation, the Director shall forward his findings in writing to the Governor.

D. The Governor, upon determining that an unfair labor practice has occurred, may take such disciplinary action as is authorized by Public Law 9-240 and other applicable statutes.

MANAGEMENT RIGHTS AND RESPONSIBILITIES

A. CODE

4411. Management responsibilities. Government management officials shall retain the right and responsibility, in accordance with applicable law and regulations to (a) maintain efficient governmental operations and direct public employees, (b) hire, promote, transfer and assign employees to government positions, (c) suspend, demote, discharge, or take other disciplinary action against employees for just cause, (d) to determine the methods, organization, and assignment of personnel for the conduct of operations, including necessary actions in emergency situations.

B. REGULATIONS

EMPLOYEE ORGANIZATION (UNION) RIGHTS

A. CODE

4412. Employee organization responsibilities. An employee organization which has been recognized as exclusive representative of an appropriate public employee unit, under provisions of this Chapter, shall be responsible for representing the interests of all employees in the unit without discrimination and without regard to organization membership, and shall be entitled to:

(a) request conferences with government management officials concerning personnel policies and practices affecting working conditions of employees in the unit; and

(b) negotiate written agreements with appropriate government officials reflecting bilateral determination of specific terms and conditions of employment, subject to paramount law and regulations; and

(c) represent individual employees in grievance or appellate administrative procedures, with the consent of the employee involved, and to be represented and heard at any conference with an employee or his personal representative on grievances or other matters affecting employment conditions in the unit; and

(d) retain exclusive representation status as long as qualified under criteria of this Chapter, and for a period of not less than twelve (12) months from date of initial recognition without challenge by another employee organization; and

(e) receive payroll deductions for membership dues voluntarily allotted by public employee members, but not including initiation fees, special assessments, back dues, fines and similar charges against such employee members, subject to recovery of reasonable costs by the government from the employee organization for providing such service.

B. REGULATIONS

GRIEVANCES

A. CODE

4413. Grievances. Agreements negotiated under the terms of this Act between management officials and employee organizations which have been granted exclusive recognition in appropriate public employee units may contain procedures for consideration and final settlement of grievances, including advisory arbitration subject to approval of the appropriate management official, provided that:

(a) such procedures shall be the exclusive procedures available to public employees in the unit for settlement of individual or group grievances;

(b) the negotiated grievance procedures shall extend only to the interpretation or application of existing agreements or to government personnel policies and regulations and not to changes in government policies, and shall not extend to the settlement of disputes or allegations of unfair labor practices for which procedures are otherwise provided by law or regulation;

(c) advisory arbitration, if included in the procedures, shall be invoked only with the consent of the public employees involved and the exclusive employee organization representative, and arbitration expenses shall be shared equally between the government and the employee organization.

B. REGULATIONS

EXECUTIVE BRANCH AUTHORITY AND RESPONSIBILITY

A. CODE

1. Comprehensive Program

4414. Executive branch authority and responsibility. A comprehensive employee-management relations program, consistent with the policies in this Chapter, shall be under the direction and control of the Governor of Guam in accordance with the powers and duties vested in him by the Organic Act of Guam, and the Government Code of Guam, and shall be administered by the Director, Department of Administration, who shall have the powers and functions described in this Chapter, in addition to responsibilities heretofore or hereafter assigned to that Department.

2. Department of Administration

4415. Department of Administration. Effective no later than six (6) months following approval of this Act, the Director, Department of Administration, shall issue appropriate policies, rules and regulations, with the approval of the Governor of Guam, for the implementation of this Act, including:

(a) procedures for the determination of appropriate public employee units, and for the determination of exclusive recognition of employee organizations by current membership lists by valid signed authorization cards, dues deductions authorizations, or secret ballot elections if necessary;

(b) procedures to resolve disputes concerning public employee units and the exclusive recognition status of employee organizations;

(c) procedures for the negotiation of written agreements between government officials and exclusive representatives of public employees, with clarification of subjects within the scope of negotiations, in whole or in part;

(d) methods of resolving impasses in negotiations, with consideration of mediation and advisory arbitration procedures;

(e) procedures for voluntary authorizations by public employees for payroll deductions of membership dues allotted to employee organizations which have been granted exclusive recognition in an appropriate unit;

(f) procedures for determination of the merits of allegations of unfair labor practices by employee organizations or management officials;

(g) delegations of authority to heads of departments and agencies to assist in carrying out the objectives of the Act;

(h) terms and conditions for securing advisory services of competent mediators, arbitrators, or consultants for dispute settlement or other problem areas in employee-management relationships;

(i) provision for technical advice to departments and agencies on implementation of the employee-management relations program.

In the formulation of such policies, rules and regulations, the Director shall consult with and consider the view of identifiable interested employee organizations, and shall conduct such other inquiries as may be appropriate to assure orderly and equitable procedures.

The Director shall also develop programs for training of government management officials in their responsibilities for the employee-management relations objectives, and shall provide for continuous study and review of the effectiveness of the comprehensive program and implementing procedures with a view toward making recommendations for improvement.

SERVICES TO EMPLOYEE ORGANIZATION

A. CODE

4416. Services to employee organizations. Solicitation of memberships, collection of membership dues, or other internal organization business may be conducted only during nonduty hours of the employees involved. This does not preclude reasonable government services to employee organizations, such as provision for bulletin boards, and space for organization meetings on nonduty hours. Consultations and negotiations between government officials and employee organization representatives shall be conducted during regular duty hours of public employees involved, subject to reasonable rules concerning the duration of such meetings and the number of employees participating in consultations and negotiations. (Chapter VII, consisting of 4400-4416, added by Public Law 9-240, effective August 13, 1968.)

B. REGULATIONS

MISCELLANEOUS PROVISIONS

A. CODE

B. REGULATIONS

ARTICLE XII

Miscellaneous Provisions

A. It shall be the mutual responsibility of department heads or their designees and employee organization representatives to negotiate in good faith with the objective of reaching an agreement by diligent and serious exchange of information and views, and by avoiding unnecessarily protracted negotiations.

B. Should an impasse develop in negotiations, the dispute may be submitted to a third party, acceptable to both parties, for mediation.

C. Notwithstanding anything included in these rules and regulations, the parties may submit a dispute to non-binding arbitration. Such arbitration shall be conducted by a board of arbitration, which shall consist of one (1) member chosen by the employee organization, one (1) member chosen by the Director and the third to be chosen by the first two arbitrators. Each party shall pay the expense of its arbitrator and share all reasonable expenses of the third arbitrator. The decision of the board of arbitration shall be subject to the approval of the Governor.

D. Any member of an employee organization granted recognition as an exclusive bargaining agent may authorize the Director to make periodic payroll deductions for membership dues. The cost of making such deduction shall be a charge against such organization, provided, however, the same shall not exceed 2½ per cent of the amount deducted.

E. The Government shall keep records of meetings held between its management officials and employee organizations. Such records shall indicate the date of a meeting, the persons in attendance and the subject and nature of the discussion held. Where formal minutes are prepared, a draft shall be made available to the employee organization for review prior to final preparation. The formal minutes shall be a public record and a copy shall be furnished to the employee organization involved in such meeting.

F. The governing board of an autonomous or semi-autonomous agency of the Government may delegate authority to its department head to carry out the objectives of these rules and regulations.

G. If any of the above provisions shall at any time be held to be contrary to law by a court, or be repealed or be amended by law, such provision shall be void and inoperative. The remaining provisions shall continue in effect.

H. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time these rules and regulations take effect, are hereby saved and may be consummated according to the law in force when they were commenced. These rules and regulations shall not be construed to affect any action pending or begun before the effective date of this act. These rules and regulations do fully supercede and replace rules and regulations which were signed June 30, 1969, and rescinded before publication by memorandum of July 16, 1969.

Issued this 12th day of December, 1969, at Agana, Guam.

APPENDIX — LIST

Appendix I - Procedural Guide to Elections