

GOVERNMENT OF GUAM DEPARTMENTAL/AGENCY
PROCEDURE FOR LAYOFF, DEMOTION, OR SALARY REDUCTION
PURSUANT TO SECTION 13 OF PUBLIC LAW 17-5

GG-100

A. GROUNDS FOR LAYOFF:

A department/agency head may, acting in good faith, layoff an employee whenever it is necessary because of lack of work, or funds, or to promote efficiency, or in the interest of economy.

Department and agency heads shall exhaust all available alternatives in relocating or reassigning employees before a layoff is initiated.

B. DEFINITIONS:

1. Class or Class of Positions: Means the logical and reasonable grouping of duties and responsibilities with respect to the kind or subject matter of work, level of difficulty and responsibility, and qualification requirements of the work to warrant similar treatment in personnel and pay administration. (Examples: Clerk I, Clerk-Typist I, Planner IV, Painter II, Teacher IV, etc. are classes of positions.)
2. Demotion (Voluntary): Means the voluntary movement of an employee from a higher to a lower position with the same or lower salary in the same department/agency in order to retain employment when layoff from his/her position is forthcoming.
3. Government of Guam Employment Service: Means all employment service (with pay) in the Government of Guam.
4. Layoff: Means the involuntary termination of an employee for other than disciplinary reasons which does not reflect discredit on the service of the employee and includes a reduction-in-force for any of the reasons stated in GG-100 A.

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5. Performance Rating: Means the appraisal or evaluation of the work performance of an employee by each department/agency as required in their respective Personnel Rules and Regulations.
6. Position: Means the work, consisting of the duties, functions and responsibilities, assignable to an employee.
7. Reduction in Salary: Means the lowering of an employee's salary while continuing to occupy the same position in order to retain employment when layoff from his/her position is forthcoming and the action is voluntary on the part of the employee.
8. Transfer (Voluntary): Means the voluntary movement of an employee from one position to another in the same or to a different department/agency with the same pay range/wage level and salary and to the same position title or to another position (with the same pay range/wage level and salary) having substantially similar duties and responsibilities and qualification requirements in order to retain employment when layoff from his/her position is forthcoming.
9. Transfer and Demotion (Voluntary): Means the voluntary movement of an employee from a higher to a lower position and pay range/wage level with the same or lower salary in the same or to a different department/agency in order to retain employment when layoff from his/her position is forthcoming.
10. Transfer and Reduction in Salary (Voluntary): Means the voluntary movement of an employee from one position to another in the same or to a different department/agency while retaining the same pay range/wage level but to a lower pay step in the salary schedule in order to retain employment when layoff from his/her position is forthcoming.

11. Vacancy: Means an established, budgeted, and unencumbered position.

C. COVERAGE:

This procedure covers all departments, bureaus, agencies, commissions, or other instrumentalities, whether autonomous, semi-autonomous, or non-autonomous, in the Executive Branch of the Government of Guam.

GG-105

A. WRITTEN NOTICE:

Any employee, including casual or non-regular employee, in the classified service who is subject to layoff shall be given written notice of at least sixty (60) calendar days prior to effective date of layoff.

1. In situations where for the convenience of the Government it is necessary to terminate an employment without the giving of sixty (60) calendar day notice, the employee shall be retained in pay status until the notice period shall have run. This provision shall not apply to a person whose employment is terminated for cause. 4GCA §4202(b)(c).
2. In instances where an employee has been continued in pay status but has been relieved of duties, the employee shall not be given a lump sum payment for the period of notice to which entitled but shall, instead, be paid on a biweekly basis and such payment shall continue only so long as the employee certifies under oath that he has not obtained new employment. The obtaining of new employment during the notice period shall constitute a waiver by the employee to any further claim for the pay to which he would otherwise be entitled. 4GCA §4202(d).
3. An employee must immediately report to his/her department/agency head the effective date of his/her new employment obtained during the 60-calendar day notice period. A written certification from his/her new employer must be presented to the department/agency head,

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stating the effective date of his/her new employment.

4. An employee who continues to receive layoff payments from the Government after becoming newly employed, shall reimburse the Government for all payments received from the effective date of his/her new employment to the expiration date of the 60-calendar day notice period.

GG-110 A. ORDER OF LAYOFF:

The order of layoff shall be determined by each department/agency head in accordance with the following formula, and shall be applied on a department-wide or agency-wide basis:

1. The department/agency head shall determine where in his/her department/agency the layoff shall occur.
2. The department/agency head shall determine the position class(es) (e.g. Clerk-Typist I, II, and III) and the number of positions to be eliminated.
3. Affected employees of the department/agency occupying the same position class(es) shall be released in the following order:
 - a. First - Part-time, short term or seasonal.
 - b. Second - Provisional
 - c. Third - Temporary or limited-term
 - d. Fourth - Probationary (initial)
4. If additional layoffs are necessary, all employees not covered under GG-110-A-3 shall be subject to layoff based on the following procedures:
 - a. A combination of performance rating and seniority based on actual GovGuam employment service will be utilized in determining the order of layoff. For example, if a department/agency head decides to layoff a Clerk-Typist

III, then the performance rating and seniority of service shall be based on the total actual Government of Guam employment service, including services held by the employee in other position(s) within the Government of Guam.

- (1) One (1) point shall be allowed for each complete month of actual GovGuam employment service.
 - (2) Two (2) points shall be allowed for each satisfactory annual performance rating on the present position held.
 - (3) Four (4) points shall be given for each outstanding performance rating on the present position held.
 - (4) One (1) point shall be allowed for each satisfactory annual performance rating on all prior position(s) held.
 - (5) Two (2) points shall be allowed for each outstanding annual performance rating on all prior position(s) held.
- b. Should a tie score occur in determining who shall be retained, the total points shall be broken in the following manner:
- (1) The employees' length of service in the class to which the employees have rights shall be awarded one (1) point for each month of service in the class.
 - (2) If a tie still exists, the employee with the earliest date of employment with GovGuam shall be retained.

GG-115 A. LAYOFF RECORDS:

Each department/agency head shall maintain records of layoff computations and each notice

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of layoff, a copy of which shall be furnished each employee who has been identified for layoff and the Civil Service Commission. (Refer to Layoff List Forms).

A copy of the departmental/agency layoff list shall be posted on the department's/agency's official bulletin board accessible to employees.

GG-120 A. TRANSFER

In lieu of layoff, an employee may elect to transfer to another comparable vacant position in the same or to a different department/agency for which he/she is qualified with the same or lower salary, provided that the salary shall not be greater than the maximum step of any pay schedule and provided funds are available.

GG-125 A. REDUCTION IN SALARY/DEMOTION:

In lieu of layoff, an employee may elect reduction in salary and/or demotion to a lower vacant position class for which he/she is qualified, provided funds are available. Employees voluntarily demoted and/or reduced in salary shall retain promotion rights to their former position or salary for a period of two (2) calendar years conditioned upon availability of funds. After two (2) calendar years, subject employee may be given priority consideration upon applying and meeting the current minimum qualification requirements of the position.

When an employee is offered his/her promotion rights during the two-year calendar period, he/she is entitled to no further promotion rights if he/she accepts an offer, rejects an offer, or fails to reply to an offer within five (5) working days following receipt of offer. An acceptance or reply communicated through the postal system will be deemed timely if postmarked within the five (5) day period (it is recommended that the acceptance or reply be sent through certified mail) and if received within five (5) calendar days of the postmarked date.

GG-130

A. RIGHTS TO OTHER POSITIONS:

If there are no vacant positions available to permit a transfer or voluntary demotion under GG-120 and 125, or if an employee refuses transfer or demotion, the employee shall have the right to displace (bump) another employee in the same or lower class series with less retention points, as calculated under GG-110 A-4. (For example, a Clerk III may bump a Clerk III, Clerk II, or Clerk I with lesser retention points). A bumped (displaced) employee may then resort to GG-120, 125, and 130 to determine his/her layoff status.

If a transfer, demotion, or bumping is unavailable, the employee will be subject to layoff.

Qualifications shall be determined pursuant to qualification standards established for the class of position in question. Employees have the right to examine the order of layoffs established to determine where he or she falls with respect to the layoff.

GG-135

A. LAYOFF REINSTATEMENT LIST:

Permanent and probationary employees subjected to layoff shall be placed on the department's/agency's Layoff Reinstatement List for the position class involved in the layoff for a period of two (2) calendar years and may be reinstated by the department/agency initiating the layoff. The names of permanent and probationary employees who have been released or voluntarily demoted who have served at least three months of consecutive satisfactory service shall be placed on the Layoff Reinstatement List for the class of position at the time of layoff in reverse order of layoff. Each person on such a list shall retain eligibility for appointment therefrom for a period of two (2) calendar years from the date of his/her layoff. A permanent employee who had been released and is being reinstated in the same department/agency shall have permanent status restored. Probational employees who are on the Layoff Reinstatement List and are

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reinstated shall be given full credit for the probational time already served.

Departmental Layoff Reinstatement List established as a result of a layoff shall take priority over the normal reemployment or employment eligibility lists. Employees reinstated to the same class of position held at the time of layoff shall be paid at the rate to which he/she is entitled had he/she remained in service, but that no credit shall be given toward progressive salary step increases within any pay schedule.

When an employee is offered his/her reinstatement rights during the two-year calendar period, his/her name shall be removed from the Layoff Reinstatement List if he/she accepts a reinstatement, rejects a reinstatement, or fails to reply to an offer of reinstatement within five (5) working days following receipt of offer. An acceptance or reply communicated through the postal system will be deemed timely if postmarked within the five (5) day period (it is recommended that the acceptance or reply be sent through certified mail) and if received within five (5) calendar days of the postmarked date.

GG-140

A. APPEAL:

An employee who is given a written notice of layoff or who is released pursuant to a layoff has twenty (20) calendar days to appeal to the Civil Service Commission from the date of receipt of the notice of layoff or the date released (if no notice was given) when he/she believes that his/her department/agency incorrectly applied the layoff procedure or when the action of the department or agency head was not taken in good faith. The appeal must be accompanied with documentation to substantiate the allegations.

EMPLOYEE RATING FOR LAYOFF PURPOSES

NAME OF EMPLOYEE: _____ DEPT/AGENCY: _____

PAYROLL NUMBER (NOT SS#): _____

POSITION TITLE: _____ DIV/SECTION: _____

I. GOVGUAM EMPLOYMENT SERVICE

Rating points for service shall be indicated by giving one (1) point for each complete month of service.

A. Employment Date(s):

	<u>Department/Agency</u>	<u>Date</u>		<u>Total Number Months</u>
		<u>From</u>	<u>To</u>	
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

B. Total Number of Service: _____

C. Total Number of Service Points: _____

II. PERFORMANCE RATING

A. Rating points for performance shall be given as follows:

1. Two (2) points shall be given for each satisfactory performance rating on the present position held.
2. Four (4) points shall be given for each outstanding performance rating on the present position held.
3. One (1) point shall be given for each satisfactory performance rating on all prior position(s) held.
4. Two (2) points shall be given for each outstanding performance rating on all prior position(s) held.

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B. Rating Periods:

	<u>Department/Agency</u>	<u>Rating From</u>	<u>Period To</u>	<u>Rating*</u>	<u>Points</u>
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____

*NOTE: Indicate "S" for satisfactory rating and "O" for outstanding rating

C. Total Performance Rating Points: _____

III. TOTAL POINTS

- A. GovGuam Employment Service Points: _____
- B. Performance Rating Points: _____
- C. Total Layoff Points (A + B): _____

Prepared By: _____

Position Title: _____

Date: _____

APPROVED:

Department/Agency Head

DATE: _____

cc: Employee
Civil Service Commission

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LIST OF EMPLOYEES AND RATINGS IN THE ORDER OF LAYOFF (LOWEST POINTS FIRST):

DEPARTMENT/AGENCY: _____

CLASS OF POSITION: _____

	<u>NAME</u>	<u>PAYROLL NUMBER (NOT SS#)</u>	<u>TOTAL LAYOFF POINTS</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

APPROVED:

DEPARTMENT/AGENCY HEAD

DATE: _____

cc: Employee
Civil Service Commission
Department/Agency Bulletin Board



CIVIL SERVICE COMMISSION
GOVERNMENT OF GUAM
AGANA, GUAM 96910

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MAY 11 1984

Memorandum

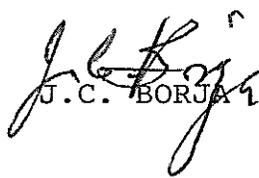
To: The Governor
From: Executive Director, Civil Service Commission
Subject: Executive Order to Promulgate Layoff Procedure

Transmitted herewith is an Executive Order for the Governor's signature that is necessary in order to approve and promulgate the layoff, demotion or salary reduction procedure.

The Commission Board approved the procedure at its meeting on May 10, 1984. This procedure is an attachment to the Executive Order for promulgation and distribution and becomes effective upon signing of the Executive Order.

For your information (not for distribution) attached also is a copy of the Attorney General's legal opinion relative to exclusion of this procedure from the Administrative Adjudication Law which is self-explanatory.

Your favorable consideration is appreciated.


J.C. BORJA

Attachments



CIVIL SERVICE COMMISSION

MAY 11 1984

Memorandum

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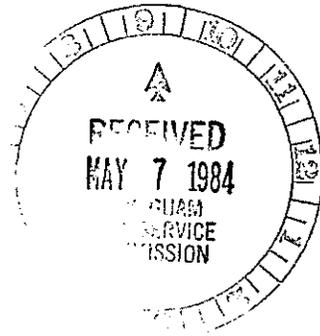
Your favorable consideration is appreciated.


J.C. BORJA

Attachments



GOVERNMENT OF GUAM
AGANA, GUAM 96910



April 30, 1984

Memorandum

Ref: CSC 84-0809

To: Executive Director, Civil Service Commission

From: Attorney General 

Subject: Adoption of Layoff Procedures Under
Section 13, Public Law 17-5

This office is in receipt of your memorandum of April 23, 1984, in which you requested information on the following:

REQUEST: Whether the adoption of layoff procedures by the Civil Service Commission pursuant to Section 8 of Public Law 17-5 is subject to the Administrative Adjudication Law.

ANSWER: No.

DISCUSSION:

As your Memorandum correctly notes, the adoption of rules of the Civil Service Commission is not subject to the Administrative Adjudication Law. 4 G.C.A., Ch. 4, section 4409 provides:

Neither the rules of the Civil Service Commission, nor any procedures prescribed thereunder are subject to the Administrative Adjudication Law, unless the contrary is expressly required by a law other than the Administrative Adjudication Law.

The authority of the Civil Service Commission to adopt layoff procedures, set forth in section 13 of P.L. 17-5, contains no express requirement contrary to the above exclusion, stating in pertinent part:

***There shall be no reduction in force by any government of Guam department, bureau or agency *** until such time as the particular department, bureau or agency implements a layoff, demotion or salary reduction procedure, which among other considerations adopted by the Civil Service Commission shall be based upon employee efficiency and seniority. ***.

It follows that layoff procedures adopted by the Civil Service Commission are not subject to the Administrative Adjudication Law and would become effective when an Executive Order promulgating such procedures is signed by the Governor.

OFFICE OF THE ATTORNEY GENERAL

By: 
DONALD L. PAILLETTE
Assistant Attorney General