

OFFICE OF THE GOVERNOR
GOVERNMENT OF GUAM
AGANA, GUAM

EXECUTIVE ORDER NO. 84-33

STATEMENT OF POLICY AND ORDER REGARDING THE ROLE OF THE
CIVIL SERVICE COMMISSION IN ADVERSE ACTION APPEALS

WHEREAS, Article 4, Title 4, Guam Code Annotated established the Civil Service Commission, and provide that it have certain duties, powers and responsibilities; and

WHEREAS, included therein is the duty to hear appeals from adverse actions taken to suspend, demote or dismiss any employee from the classified service, if such right of appeal to the Commission is established in the personnel rules governing the employee; and

WHEREAS, the underlying policy governing employment in the Government of Guam as stated in Chapter 4, Title 4, Guam Code Annotated and the Rules and Regulations promulgated by my administration is that such employment shall be based solely upon merit and that no person employed in the classified service shall be removed except for such cause as will promote the efficiency of the service; and

WHEREAS, the laws and rules and regulations of Guam clearly and fully protect a classified employee from arbitrary, capricious or unjust action by the government; and

WHEREAS, these same laws and rules recognize, however, that certain minimum standards of job performance and conduct are expected of all government employees and that a failure or refusal of an employee to meet those standards may constitute a just substantial cause for adverse action, including termination of employment; and

WHEREAS, upon the hearing of any adverse action appeal, the burden of proof is upon the government to show that the action of the branch, department, agency or instrumentality was correct; and

WHEREAS, the Civil Service Commission has the authority, under the above laws and regulations to sustain, modify or revoke the action taken by the government against an employee; and

WHEREAS, recent decisions of the Civil Service Commission to modify governmental management decisions have been made on the sole ground that the Commission members believed the management action was "inappropriate"; and

WHEREAS, more definitive standards for revocation or modification of management actions are needed for the guidance of department and agency heads and to promote the efficiency of Government of Guam service; and

WHEREAS, the Civil Service Commission has a duty and responsibility not only to protect classified employees from arbitrary or excessive disciplinary actions, but also, on balance, to sustain management action, including dismissal of an employee, when that action has been in full compliance with the laws and the government has met its burden of proof; and

WHEREAS, we who are in the service of the Government of Guam must recognize and appreciate that we have a solemn obligation to the People of Guam to provide the highest quality and most efficient service that we can deliver for them, and the effective discharge of that obligation will, at times require employee disciplinary action to be taken and upheld;

NOW, THEREFORE, I, RICARDO J. BORDALLO, Governor of Guam, by virtue of the authority vested in me by the Organic Act, do hereby order as follows:

1. The Civil Service Commission shall immediately review its procedural rules adopted pursuant to Section 4402, Title 4, Guam Code Annotated, with particular attention given to the development and statement of the rationale and standards under which orders of suspension, demotion or dismissal may be sustained, modified or revoked.

2. The Attorney General also shall immediately review said rules and submit his recommendations for amendments thereto to the Governor.

3. The Director of the Department of Administration, in coordination with the Attorney General, shall review the Adverse Actions Rules and Regulations promulgated under Executive Order No. 83-25 to determine whether any changes in said rules are necessary and submit his recommendations to the Governor.

Signed and promulgated at Agana, Guam, this 31st day of December, 1984.



RICARDO J. BORDALLO
Governor of Guam