



TERRITORY OF GUAM  
OFFICE OF THE GOVERNOR  
AGAÑA, GUAM 96910  
U. S. A.  
EXECUTIVE ORDER NO. 97-31

**RELATIVE TO ADOPTING THE POLICY GRANTING  
ON-THE-JOB INJURY FOR UNCLASSIFIED EMPLOYEES.**

WHEREAS, §4105 of Title 4, Guam Code Annotated, provides that the Director of Administration shall adopt personnel rules and regulations for line departments and agencies, to be approved by the Civil Service Commission and promulgated by Executive Order of the Governor; and

WHEREAS, the new rules and regulations, which were signed and promulgated on October 1, 1996 and took effect on April 2, 1997; and

WHEREAS, the Department of Administration has requested that Rule 8.300, On-the-Job Injury policy, be revised for clarity, uniformity, consistency, and fairness; and

WHEREAS, the Civil Service Commission approved the revised policy (Attachment A) on October 23, 1997;

NOW, THEREFORE, I, CARL T. C. GUTIERREZ, Governor of Guam, by virtue of the authority vested in me by the Organic Act do order:

1. The Revised Rule 8.300 "ON-THE-JOB-INJURY" (Attachment A) is hereby approved and adopted as part of the Department of Administration's Personnel Rules and Regulations effective April 2, 1997.
2. All autonomous departments and agencies are required to conform their personnel rules and regulations regarding on-the-job injury to DOA Rule 8.300, through the rulemaking process set forth in §4105 of Title 4, Guam Code Annotated.

SIGNED AND PROMULGATED at Agana, Guam this 24th day of October, 1997.

CARL T. C. GUTIERREZ  
Governor of Guam

COUNTERSIGNED:

MADELEINE Z. BORDALLO  
Lieutenant Governor of Guam

## ATTACHMENT A

### 8.300 ON-THE-JOB INJURY

#### 8.301 Policy

It is the policy of the government of Guam that all government employees be provided with safe working conditions. This On-the-Job-Injury policy is intended as an employee benefit separate and apart from worker's compensation law (22 GCA §§9101, et seq.). Unless otherwise provided by statute or the Civil Service Commission, the On-the-Job-Injury policy shall control in the event of conflict with other rules or policies.

#### 8.302 Definitions

- A. **Classified employee** - a probationary or permanent status employee occupying a classified position.
- B. **Day** - a calendar day unless otherwise specified.
- C. **Death** - death resulting from an on-the-job injury.
- D. **Disability** - physical or mental incapacity due to an on-the-job injury which prevents the employee from performing the essential functions of the employee's regular position or other temporary duties.
- E. **Essential functions** - those that an employee must be able to perform in the employee's regular position, with or without reasonable accommodation.
- F. **Lateral position** - a position with substantially comparable minimum qualifications or equivalent pay grade as the employee's regular position.
- G. **Management official** - official with supervisory or management responsibilities.
- H. **On-the-job injury** - injury or death arising out of and in the course of employment, including an accidental

injury or injury caused by the willful act of a third person directed against an employee because of his or her employment, and such occupational disease or infection as arises naturally out of such employment, or, as naturally or unavoidably results from such accidental injury.

- I. Personal leave** - annual or sick leave or compensatory time off.
- J. Physician** - a person licensed to practice medicine in the United States or its territories or in other medical licensing jurisdictions recognized by the American Medical Association and other practitioners of the healing arts recognized by the Worker's Compensation Commission.
- K. Public Employment** - employment by a department, agency, or instrumentality of the government of Guam.
- L. Reasonable accommodation** - a modification or adjustment to the employee's regular position, the work environment, or the way things are usually done that enables the employee to perform the essential functions of his or her regular position.
- M. Regular position** - the position for which the employee was hired.
- N. Temporary duties** - specific duties of limited duration assigned to the employee during the work-injury period in lieu of the regular duties of the employee.
- O. Unclassified employee** - an employee occupying an unclassified position or one employed on a temporary or limited term status.
- P. Work-Injury Leave** - leave with pay granted by the appointing authority under the provisions of Rule 8.300.

**8.303**      **Coverage**

A.    A classified or an unclassified employee who suffers an on-the-job injury will be eligible for work-injury leave for up to Sixty (60) days without charge to personal leave, beginning the day of the injury, provided:

1.    The employee is unable to perform the essential functions of the employee's regular position, or temporary duties, during the Sixty (60) day period, or portions thereof, as certified to by the employee's physician. If the appointing authority disputes in good faith the certification from the employee's physician, the appointing authority, shall refer the case to the Worker's Compensation Commission for further medical evaluation to include any necessary tests or testing such as laboratory tests or radiological, sonographic, and computerized axial tomography, and magnetic resonance imagery evaluation. The decision of the Worker's Compensation Commission shall be final. The Department of Administration with the approval of the Civil Service Commission, shall identify the essential functions of the employee's position for the purpose of this section.
2.    The injury results in the death of the employee. In this event, the employee's designated beneficiary or beneficiaries, or if there are none, the estate of the employee, shall be entitled to a lump sum payment for the entire Sixty (60) day work-injury period, or, that portion of the work-injury period that the employee would have been entitled to had the employee survived.

B.    If an employee is able to perform at least the essential functions of his or her position or undertake temporary assignments as provided in Rule 8.303A(1), but requires follow-up medical treatment for injuries, the employee

shall be allowed work-injury leave for this purpose. The administration of this provision shall be closely coordinated with the Worker's Compensation Commission.

- C. An employee who is absent from work due to a work-injury and has completed a minimum of Fifty Percent (50%) of the performance rating period will be evaluated on his performance for that period. The employee will be entitled to a salary increment upon receiving a satisfactory rating.
- D. The employee on work-injury leave will continue to accrue annual and sick leave as provided in 4 GCA §4108 and §4109.
- E. Employment insurance benefits will continue pursuant to contract provisions in effect for the group life and health insurance program.
- F. Work-injury leave will not be allowed if the death or injury of the employee was self inflicted or the result of the employee's use of illegal drugs, intoxication, recklessness, gross negligence, criminal conduct, or the result of disciplinary action against the employee.
- G. To prevent dual compensation, work-injury leave will not be allowed if the employee is receiving worker's compensation.

#### **8.304 Responsibilities**

- A. An employee's responsibilities include:
  - 1. Immediately reporting the injury to the employee's supervisor. If the supervisor is not available, the employee shall report the injury to any available management official within the department or agency.
  - 2. Pursuing a worker's compensation claim in an expedient and timely fashion prior to the expiration

of the approved work-injury leave period or converting to other leave status at the end of the leave period.

3. Acting in good faith in pursuing work-injury claims. Any employee who engages in fraud, misrepresentation, or abuse, shall be subject to discipline, prosecution, and be required to provide restitution for all monies and benefits received under Rule 8.300.

**B. Management's responsibilities include:**

1. Completing all work-injury reports, including the supervisor's portion of the worker's compensation form, to be distributed as follows:
  - (a) The original to the Worker's Compensation Commission.
  - (b) One copy to the employee, the employee's department or agency, the Guam Occupational Safety and Health Administration, and to the Department of Administration, Division of Personnel Management, (DOA DOPM) for placement in the employee's personnel jacket.
2. The supervisor or management official who receives the employee's report must take immediate and expedient action to provide necessary medical treatment and prepare and submit an injury report to the appointing authority and other parties specified in Rule 8.304B1.
3. In cases requiring immediate treatment, medical assistance shall be sought for the employee at the nearest available medical facility. If the employee is not ambulatory, or otherwise should not be moved without medical intervention, an ambulance shall be called to transport the employee. The supervisor, or designee, or if unavailable, any

management official, shall accompany the injured employee to the medical facility for medical treatment as may be determined by the treating physician. Prompt notification of the employee's immediate family shall be made by the supervisor, division head, deputy, or appointing authority.

4. Notifying DOA DOPM if the employee is absent from work without authorization after the expiration of the approved work-injury leave period.
5. Immediately notifying the Worker's Compensation Commission that an employee is on work-injury leave status for the approved period.
6. Placing the employee on personal leave status pursuant to the provisions of these rules after the expiration of the approved work-injury leave period. The type of personal leave to be taken is at the employee's option.
7. Obtaining from the employee per Rule 8.303A1, a doctor's certification of the employee's capacity to perform the essential functions of the employee's regular position, along with any specified mental/physical restrictions (e.g., no lifting over 20 pounds, no prolonged walking, standing, bending, stooping, no climbing of ladders, etc.), and recommendations of the physician as to other temporary duties which may be assigned without aggravating the existing condition.
8. Acting in good faith.
9. Complying with all applicable rules and regulations.

### **8.305 Employment Status**

- A. A classified employee, who as a result of an on-the-job injury becomes disabled and is unable to perform the essential functions of his or her regular position within

Six (6) months after the date of injury may, if eligible, retire from the government of Guam.

- B. If the classified employee is ineligible or declines to retire, the appointing authority may allow the employee to exhaust personal leave; otherwise, the employee shall be placed in lateral or lower vacant position to which the employee qualifies, or be downgraded to a position needed by the department or agency for which the employee qualifies, at the discretion of the appointing authority. If the employee assumes the lateral position, the employee shall maintain his or her current salary. If the employee is downgraded or placed in a lower position, the employee shall maintain the current salary for One (1) year. If there is no vacant position to which the employee qualifies, or the appointing authority determines that a downgrade is not proper, the appointing authority shall exercise expedient and good faith efforts to place the employee in a position in which he or she qualifies in another department or agency. If placement is unsuccessful, the appointing authority shall immediately notify the employee in writing that the employee will be terminated within Sixty (60) days from the receipt of the notice by the employee. The notice shall include the employee's right to appeal under Rule 8.306. If the employee is unavailable for personal service, service may be made by certified mail to the last known address, provided management has made reasonable good faith efforts to personally serve the employee. In cases of service by mail, the Sixty (60) days begin to run on the date of the mailing.

### **8.306 Appeal**

- A. A classified employee who is terminated in accordance with Rule 8.305B may appeal the termination to the Civil Service Commission (CSC) within Twenty (20) days from the effective date of the termination in accordance with CSC appeals procedures. The Commission may uphold the termination or take whatever action or remedies it deems appropriate. The Commission's decision is final, but



subject to judicial review within Thirty (30) days after the losing party receives the Commission's written decision.