



CSC RESOLUTION NO. 87-004
(Superseded by CSC Resolution No. 89-004)

**BE IT RESOLVED BY THE CIVIL SERVICE COMMISSION BOARD
GOVERNMENT OF GUAM**

WHEREAS, 4 GCA §4402 vests the Civil Service Commission with authority to adopt rules to govern its procedures; and

WHEREAS, there is a need to establish motion procedures for adverse action proceedings; and

WHEREAS, after soliciting comments from various sources, the Commission, in conjunction with the Attorney General's Office, has prepared rules governing motion procedures for adverse action appeals; now, therefore, be it

RESOLVED, that the Civil Service Commission hereby duly adopt the attached document entitled: "ADVERSE ACTION APPEAL MOTION PROCEDURES".

DULY AND REGULARLY ADOPTED ON THE ^{1st} ~~29th~~ DAY OF ^{OCTOBER} ~~SEPTEMBER~~, 1987.



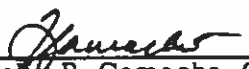
Maria S. Connelley, Chairperson



Willis S. Cannon, Vice-Chairperson

Edward P. Mendiola, Commissioner

Eduardo F. Dela Pena, Commissioner



Felix P. Camacho, Commissioner



John D. Ishmael, Commissioner

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ADVERSE ACTION APPEALS

MOTION PROCEDURES

DEFINITIONS

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1. "Moving Party": refers to the party or parties filing a motion including the attorneys or representatives of the party or parties.
 2. "File": refers to the filing of a motion and or required materials with the Civil Service Commission during office hours.
 3. "Days": as used in these procedures, refers to calendar days, unless otherwise specified.
 4. "Opposing Party": refers to the party or parties opposing the motion, including the attorneys or representatives of the party or parties.
 5. "Dismissal With Prejudice": involves a final decision of the Civil Service Commission dismissing an adverse action or adverse action appeal and barring a re-adjudication of the appeal or re-execution of the adverse action by management.

RULE I: MOTION CALENDAR

1. The Civil Service Commission (Commission) shall maintain a motion calendar for adverse action appeals for the purpose of dealing with preliminary procedural issues or questions of law raised by a party which must be decided or addressed prior to hearing the merits of an appeal.
2. Oral arguments in support of a motion, if required to be heard, shall be heard separately and prior to hearing the

1 merits of an appeal. Either the parties or their attorneys
2 or representatives may present the oral arguments. The
3 Commission may, at its discretion, rule on a motion without
4 argument.

- 5 3. The Commission may at any time raise issues not raised
6 by motion which in its judgment must be decided or addressed
7 prior to hearing the merits of an appeal. In this event,
8 the matter shall be heard separately from the merits of
9 the appeal. Parties shall be afforded ten (10) days to
10 submit a written response before the matter is set for
11 hearing.

12 **RULE II: FILING OF MOTIONS**

- 13 1. A moving party shall file a motion anytime after an appeal
14 has been filed but not later than thirty (30) days before
15 the original date set for hearing the merits of the appeal.
16 2. A motion shall be supported, where appropriate, or when
17 required by the Commission, by affidavit, memorandum of
18 authority, or stipulation of the parties, or other supporting
19 documents. The motion shall include a request for, or
20 waiver of, oral argument.

21 **RULE III: NOTIFICATION OF THE PARTIES**

- 22 1. A party filing a motion with the Commission shall provide
23 the opposing party with a copy of the motion and accompanying
24 materials no later than the next working day after the
25 motion has been filed.
26 2. An opposing party shall be allowed ten (10) days from the
27 date of receipt of the motion to file an answer to the
28 motion with the Commission. The opposing party shall provide

1 a copy of the answer to the moving party no later than
2 the next working day after the answer has been filed.
3 The moving party shall have three (3) working days to file
4 a reply with the Commission.

5 3. If the Commission desires to hear oral argument on any
6 motion, it shall set the matter for hearing upon ten (10)
7 days notice to the parties.

8 **RULE IV: MOTIONS**

9 The Commission will entertain the following Motions:

10 1. **Motion To Postpone Hearing.** The motion shall set forth
11 the factual basis for the motion and may be accompanied
12 by signed stipulation of the parties. Postponements based
13 on illnesses, emergencies, or stipulations may be granted
14 without hearing at the discretion of the Chairperson or
15 the Executive Director.

16 2. **Motion To Dismiss Adverse Action Appeal or Adverse Action.**
17 (With or without prejudice.) The grounds for the motion
18 may be in regard to jurisdiction, untimely filing of the
19 appeal, the statute of limitation, or procedural defects.
20 (Procedural defects relate to the procedures for taking
21 adverse actions.) The legal and factual basis supporting
22 the motion must be sufficiently set forth in the motion.
23 A motion to dismiss may also be made upon stipulation of
24 the parties. The signed stipulation of the parties shall
25 be attached with the motion.

26 3. **Motion To Allow Hearing In The Absence of Appellant.** This
27 motion is based on CSC 200 of the CSC Adverse Action Hearing
28 Procedures. The motion shall set forth the factual basis

1 for the motion and may be accompanied by signed stipulation
2 of the parties. In its discretion, the Commission may
3 require affidavits in support of the motion.

4 4. **Other Motions.** The Commission may entertain other motions
5 which it believes must be decided or addressed prior to
6 hearing the merits of an appeal.

7 **RULE V: TIMELY FILING**

8 1. Unless good cause is shown, documents which are not filed
9 on time shall be disregarded by the Commission.

10 **RULE VI: COPIES**

11 1. Parties shall submit to the Commission ten (10) copies
12 of all documents filed.

13 **RULE VII: PARTIES NOT REPRESENTED BY ATTORNEYS**

14 1. The Commission reserves the power to limit or adjust the
15 application of these rules at anytime to a party not
16 represented by attorneys whenever it is clear to the
17 Commission that there is a genuine misunderstanding of
18 a rule or rules which would operate unfairly to the party
19 if strictly applied.

20 **EFFECTIVE DATE**

21 These rules shall be effective twenty (20) days after adoption
22 by the Civil Service Commission and shall apply to all appeals
23 filed on or after the effective date.

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25 Date of Adoption: October 1, 1987
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