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(Superseded by CSC Resolution No. 89-004)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".

1st OCTOBER


Maria S. Connelley, Chairperson

Willis S. Cannon, Vice-Chairperson

Edward P. Mendiola, Commissioner

Eduardo F. Dela Pena, Commissioner

Frank P. Camacho, Commissioner

John D. Ishmael, Commissioner
ADVERSE ACTION APPEALS

MOTION PROCEDURES

DEFINITIONS

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

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

RULE II: FILING OF MOTIONS

1. A moving party shall file a motion anytime after an appeal has been filed but not later than thirty (30) days before the original date set for hearing the merits of the appeal.

2. A motion shall be supported, where appropriate, or when required by the Commission, by affidavit, memorandum of authority, or stipulation of the parties, or other supporting documents. The motion shall include a request for, or waiver of, oral argument.

RULE III: NOTIFICATION OF THE PARTIES

1. A party filing a motion with the Commission shall provide the opposing party with a copy of the motion and accompanying materials no later than the next working day after the motion has been filed.

2. An opposing party shall be allowed ten (10) days from the date of receipt of the motion to file an answer to the motion with the Commission. The opposing party shall provide
a copy of the answer to the moving party no later than
the next working day after the answer has been filed.
The moving party shall have three (3) working days to file
a reply with the Commission.

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

RULE IV: MOTIONS

The Commission will entertain the following Motions:

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

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

3. Motion To Allow Hearing In The Absence of Appellant. This
motion is based on CSC 200 of the CSC Adverse Action Hearing
Procedures. The motion shall set forth the factual basis
for the motion and may be accompanied by signed stipulation
of the parties. In its discretion, the Commission may
require affidavits in support of the motion.

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

RULE V: TIMELY FILING

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

RULE VI: COPIES

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

RULE VII: PARTIES NOT REPRESENTED BY ATTORNEYS

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

EFFECTIVE DATE

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

Date of Adoption: October 1, 1987