

***PERSONNEL  
MANUAL***

***HUMAN RESOURCES OFFICE  
AMERICAN SAMOA COMMUNITY COLLEGE  
MAPUSAGA, AMERICAN SAMOA***

***October 1997***



AESE P.F. SUNIA  
GOVERNOR

TOGIOLA T.A. TULAFONO  
LT. GOVERNOR

OFFICE OF THE GOVERNOR  
PAGO PAGO, AMERICAN SAMOA

Serial: 01

January 6, 1998

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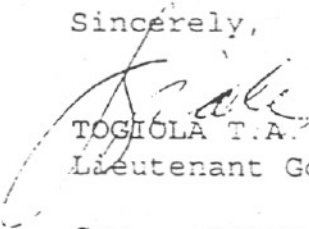
Dear Ms Ryan:

This will acknowledge receipt in my office of the Personnel Manual for the ASCC sent from your office for filing in the Lieutenant Governor's office. The manual is accepted and shall be duly filed in accordance with Section 4.1008, American Samoa Code Annotated.

If you have any further questions please call Mr. Henry Kappel in the Governor's office.

Happy New Year.

Sincerely,

  
TOGIOLA T.A. TULAFONO  
Lieutenant Governor

Cc: Henry Kappel, Esq.

*Handwritten notes:*  
rec'd  
1/7/98  
T.A. Tulafono

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4.2001      **Applicability - Position categories.**

These regulations apply to all career service positions and employees. The ASCC personnel system is composed of career service positions and contract specialists. The objectives of the ASCC system of personnel administration are consistent with those of the ASG system, as described in 7.0201 ASCA.

History: Rule 11-84, eff 19 Dec 84, (part).

4.2002      **Administration.**

The President is responsible to the Board of Higher Education and the Governor for exercising leadership in and for the administration of all aspects of ASCC personnel management covered in these regulations, in accordance with appropriate ASCC, ASG and U.S. statutes and rules, standards, and procedures designed to promote the efficiency of the agency service and to serve the needs of ASCC. The President shall maintain a system of periodic review to determine that all rules relating to his or her assigned responsibilities are being carried out. Whenever such review reveals failure on the part of any individual or department to comply with established policies, the President will take such action as may be considered appropriate.

History: Rule 11-84, eff 19 Dec 84. (part).

4.2003      **Agency head responsibilities - Delegation.**

(a) The President is responsible for carrying out the basic personnel development and management requirements of ASCC. Included in this responsibility are:

Cooperation with the ASG Office of Human Resources as necessary and appropriate:

Active, concerned leadership in assisting employees to carry out individual development plans:

Prompt and accurate action in all hiring of new employees, promotions, transfers and disciplinary actions in conformance with these regulations:

Ensuring that ASCC personnel practices comply with these regulations as well as territorial statutes governing public personnel administration:

(5) Ensuring that ASCC positions are filled by suitable and qualified applicants.

The training and technical aspects of personnel administration may be delegated to supervisors, trainers, and personnel officers, but the basic responsibility for overall personnel administration at ASCC remains with the President.

History: Rule 11-84, eff 19 Dec 84, (part)

4.2004      **Investigative authority.**

The President may cause investigations to be made as necessary to enforce Title 7 ASCA et seq. and other pertinent portions of law and the rules governing employment. This may include investigations into the qualifications and suitability of applicants for positions.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2005 Enforcement authority.**

Whenever an investigation indicates that any person has been appointed to, or is holding, or performing the duties of, a position in violation of any of the laws and rules governing employment, the President is authorized, after giving due notice and opportunity for explanation, to certify the facts to the ASCC Chief Financial Officer, and thereafter no payment shall be made of salary or wages accruing to the employee in question.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2006 Discrimination prohibited.**

There shall be no discrimination in employment against any person on the basis of race, religious beliefs, color, age, sex, national origin, marital status, or physical and mental handicap, except for bona fide occupational or legal requirements.

History: Rule 11-84, eff 19 Dec 84, (part).

## Chapter 02

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**4.2101 Applicability of definitions.**

The definitions set out in this chapter apply throughout these regulations, unless the context clearly indicates another meaning.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2103 Accrued leave.**

"Accrued leave" means leave earned by an employee during the current calendar year that is unused at any given time during that calendar year.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2104 Accumulated leave.**

"Accumulated leave" means unused leave remaining to the credit of an employee at the beginning of a new calendar year.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2105 Acting appointment.**

"Acting appointment" means a temporary appointment made to a supervisory or managerial position.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2106 Administrative leave.**

Repealed by Rule 7-87 - 3

**4.2107 Agency**

"Agency" refers to ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2108 Annual leave.**

"Annual leave" means authorized absence from duty with pay to allow employees a vacation period for rest and relaxation and to provide time off for personal and emergency purposes. The use of annual leave must be officially authorized prior to being taken.



History: Rule 11-84, eff 19 Dec 84, (part).

**4.2109 Appeal.**

"Appeal" means a response by an individual to action taken against him or her. The right of appeal extends to such actions as classification decisions, disciplinary actions, actions of alleged discrimination, and such other actions as provided for in these regulations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2110 Appointing authority.**

"Appointing authority" means the person lawfully authorized to make appointments. The appointing authority for ASCC is the President.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2111 Apprenticeship.**

"Apprenticeship" means a comprehensive program for training the learner toward a specialized trade or craft under the full responsibility of the employer and on a long-term basis. It includes thorough instruction in the principles and practices of the particular trade or craft as well as in academic and related subjects.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2112 Areas of training.**

"Areas of training" is a term used to include the training activities for certain classes of positions, such as clerical, skilled trades, and professional, and for programs of training such as orientation, supervision, and safety.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2113 ASG.**

"ASG" means the American Samoa Government, as does "the government".

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2114 ASCC.**

"ASCC" means the American Samoa Community College, as does "the agency".

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2115 Assembled examination.**

"Assembled examination" means an examination for which applicants are required to assemble or be physically present at an appointed time and place.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2116 Basic salary rate.**

"Basic salary rate" means the dollar amount of the step of the salary range to which the employee is entitled, before any deduction, and exclusive of additional compensation of any kind.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2117 Basic training.**

"Basic training", as part of induction, means the fundamental or essential training required for a position.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2118 Board.**

"Board" means the Board of Higher Education of the American Samoa Community College.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2119 Bumping.**

"Bumping" means the replacement of an incumbent subject to reduction-in-force by another employee who has greater seniority.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2120 Career service.**

"Career service" means that system of personnel administration based on merit principles which provides for the attraction, selection, and retention of the best-qualified persons for permanent employment. Entry is normally through competitive examination, and formalized channels of advancement and training are provided. Career service covers all employees of ASCC except contract specialists.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2121 Certificate of eligibles.**

"Certificate of eligibles" means the official document from which eligibles are considered for employment.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2122 Certification.**

"Certification" means the process by which the names of qualified eligibles are determined.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2123 Chairman of the Board.**

"Chairman of the Board" refers to the Chairman of the Board of Higher Education of ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2124 Class.**

"Class" means the identification of a position or a group of positions sufficiently similar in duties so that the same requirements of training, experience, or skill and the same title, examination, and salary range may be applied.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2125 Compensatory time.**

"Compensatory time" means time off in lieu of cash payment for over-time.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2126 Competitive personnel action.**

"Competitive personnel action" means a type of personnel action which can be effected only if applicable competitive procedures, i.e., those governing advertising and examining, have taken place.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2127 Conference leadership.**

"Conference leadership" means the art of planning, leading, guiding, and directing a conference.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2128 Conflict of interest.**

"Conflict of interest" means a situation in which an employee's private interests, usually of an economic nature, conflict, or raise a reasonable question of conflict, with his or her public duties and responsibilities. The potential conflict is of concern whether it is real or apparent.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2129 Contagious disease.**

"Contagious disease" means a disease requiring isolation of the patient, quarantine, or restriction of movement, as prescribed by health authorities.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2130 Contract specialist.**

"Contract specialist" means a person who has entered into an agreement with ASCC to perform specified duties and responsibilities for a specific period of time, who is not in the ASCC career service.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2131 Cooperative education plan.**

"Cooperative education plan" means training in which trainees alternate between periods of formal instruction in educational institutions and guided learning on the job through work experience related to the formal instruction.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2132 Course of study.**

"Course of study" means a training plan having a series of instructional units which have been developed to accomplish a specific training objective.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2133 Demotion.**

"Demotion" means change of an employee from a position in one class to a position in another class having a lower salary range.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2134 Department.**

"Department" means a division of ASCC headed by a manager appointed by the President.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2135 Desirable qualifications.**

"Desirable qualifications" means the levels of education and/or experience deemed desirable or preferable for admission to the examination in lieu of or above and beyond fixed minimum qualifications.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2136 Detail.**

"Detail" means the temporary assignment of an employee to a different position for a specified period with the employee returning to his or her regular duties at the end of the detail. Technically, a position is not "filled" by a detail, as the employee continues to hold the position from which detailed.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2137 Director.**

"Director" means the President of ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2138 Disabled veteran.**

"Disabled veteran" means an individual who has served on active duty in the armed forces of the United States, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans' Administration or a military department of the United States.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2139 Dismissal.**

"Dismissal" means the termination of employment of a permanent employee for cause or of a probationary employee as specified in this article.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2140 Education.**

"Education" means the formal impartation or acquisition of knowledge, skill, or discipline of mind.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2141 Educational counseling.**

"Educational counseling" means the act of conferring with a person for the purpose of aiding him or her in making choices and adjustments relating to schools, course, curriculum, and study.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2142 Elevation.**

"Elevation" means restoration of an employee to the higher classification, with permanent status, which he or she had prior to having been granted a voluntary demotion.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2143 Eligible.**

"Eligible" means an applicant whose name is on a register of persons who have qualified for a particular class of positions.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2144 Emergency appointment.**

"Emergency appointment" means an appointment to a position pending the establishment of a register for that class or for emergency reasons, not to exceed 30 calendar days unless extended as provided by these regulations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2145 Employee.**

"Employee" means any individual employed by ASCC under the authority of the President.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2146 Employee development.**

"Employee development" means all planned, supervised experience, training, and/or education that enhances the individual's usefulness as an employee, and promotes his or her work-life growth.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2147 Employee relations.**

"Employee relations" means the contacts and relationships between management and he employees in an organization.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2148 Executive development.**

"Executive development" means a plan for the creation of career executives through the systematic development of outstanding employees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2149 First-line supervision.**

"First-line supervision" means that level of supervision directly over the rank-and-file or non-supervisory employees and forming the starting point upward for the direct line of authority and communications to top management.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2150 Follow up training.**

"Follow up training" means attention given to employees after initial training to ensure and facilitate their application of new skills and information.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2151 Full biweekly pay period.**

"Full biweekly pay period" means as follows: An employee shall be considered, for leave purposes, to have been employed for a full biweekly pay period if he or she has been in a pay status, or a combination of pay status and non pay status, during all of the days within such period, exclusive of holidays and all non-work days established by the Governor.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2152 Full-time employment.**

"Full-time employment" means regularly scheduled employment requiring an average of 40 hours of work per week. However, for certification from a register, work between 32 and 40 hours per week shall be considered full time.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2153 Grievance.**

"Grievance" means an employee's expressed feeling of dissatisfaction with aspects of his or her working conditions and working relationships which are outside his or her control. A grievance is not an appeal.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2154 Holidays.**

"Holidays" means days set aside to celebrate a religious, state, or other event for which ASCC employees receive time off with pay. Holidays are established by law or are designated by the Governor.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2155 Human relations.**

"Human relations" means the integration of manpower into an effective operational system. Effective conduct of human relations is based upon good communications, which is transmitting an idea so as to make it understood and motivating to recipient to take the right action. The will to do things is generated by people and without this no productive operation is possible.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2156 Human relations training.**

"Human relations training" means the development of those techniques, habits skills, and attitudes that will enable individuals to supervise and work effectively with others.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2157 Incentive awards.**

"Incentive awards" means recognition for employees who demonstrate exceptional resourcefulness of skills or perform exceptional acts.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2158 Induction training.**

"Induction training" means in service training to familiarize an employee with a new assignment, including policies, procedures and other matters affecting conditions of work and safety precautions, performance standards, and other details.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2159 In-service training.**

"In-service training" means training provided by ASCC for its employees in order to increase their effectiveness in present assignments or to prepare for future assignments using the resources and facilities within the agency and/or within the jurisdiction of the territorial government. The term "staff development" is also used.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2160 Institute.**

"Institute" is sometimes applied to full-time training programs ranging in duration from a few days to several weeks, utilizing various training methods, and dealing with a limited or specific subject.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2161 Internship.**

"Internship" means a position or assignment that gives an employee planned work experience as part of a training program, which emphasizes the application of theories, principles, and techniques to operating situations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2162 Intervening salary steps.**

"Intervening salary steps" means all increment steps in a salary range except the lowest and highest.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2163 Job analysis.**

"Job analysis" means:

The process of breaking down a position, duty, or task into component parts including what is done, how it is done, and skills and knowledge needed. The technique is used in many phases of management, such as training, placement, classification, and work simplification: (2)

The resulting statement of information:

In personnel administration, a complete analysis of all of the job positions in an establishment for the purpose of learning their requirements in terms of ability, and their relationships to each other and to the establishment. It may be, for example, the basis for a program of job evaluation.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2164 Job Code.**

"Job code" means an eight-digit code designating a class in terms of its status, salary structure to which assigned, grade level, and job family.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2165 Job cost.**

"Job cost" means the cost arrived at by method of cost accounting which collects charges for material, labor and allocated overhead in the production of a specific order or a finish unit or units.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2166 Job evaluation.**

"Job evaluation" means a comprehensive determination of the relative worth and importance of all the jobs and positions in an establishment. A typical procedure involves the assignment of values to various job skills and characteristics, and a totaling of these values for each job on the basis of a job analysis. A job evaluation program may be for the purpose of setting wage scales, for determining promotion requirements, for establishing incentives, etc.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2167 Job family.**

"Job family" means a group of related series of classes of positions such as clerical, personnel, engineering, or education, etc.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2168 Job rotation.**

"Job rotation" means the procedure of moving workers systematically from their jobs to related jobs as a means of broadening their experience and developing versatility, sometimes called "cross-training".



History: Rule 11-84, eff 19 Dec 84, (part).

**4.2169 Job standard.**

"Job standard" means the level of performance of a given job taken as a basis of comparison.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2170 Journeyman.**

"Journeyman" means an individual who has served a formal apprenticeship or has gained substantially equivalent experience over a period of years, during which time he or she has acquired a comprehensive knowledge and high degree of skill in one or more of the recognized trades.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2171 Leave without pay.**

"Leave without pay" means authorized absence from duty without compensation, exclusive of suspension or absence without leave (AWOL).

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2172 Leave with pay.**

"Leave with pay" means authorized absence from duty with compensation.

History: rule 11-84, eff 19 Dec 84, (part).

**4.2173 Leave year.**

"Leave year" means the period beginning with the first day of the first complete pay period in any calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2174 Lecture.**

"Lecture" means a method of teaching in which the instructor gives an oral presentation of subject matter, with little or no participation by trainees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2175 Line.**

"Line", in a private or public business organization, means the chain of direct command and operational responsibility, as distinguished from "staff".

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2176 Line responsibility.**

"Line responsibility" means the ultimate responsibility for effective and efficient performance. This responsibility includes the following functions: making executive decisions; planning, supervising, and testing operations; conducting inspections; maintaining discipline and training employees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2177 Management.**

"Management" refers to the processes of planning, direction, and control. One managerial function is that of planning, of establishing group or team policies, objectives and programs for the future. A second is organizing the assignment of specialized responsibilities to various departments and levels throughout the entire work team, thus facilitating cooperation and the effective utilization of human and other resources. A third function is usually described as control. Guides and indicators are created to facilitate a continuing check on operations. Through these controls, managers see that what is being done corresponds to objectives and assignments.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2178 Manpower.**

"Manpower" means the number of men and women available for productive employment.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2179 Maternity leave.**

"Maternity leave" means approved absence because of incapacitation related to pregnancy and confinement. It is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay, in the order given.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2180 Medical certificate.**

"Medical certificate" means a written statement, signed by a registered practicing physician or other practitioner, certifying to the incapacitation, examination, treatment, or the period of disability of an employee while he or she was undergoing professional treatment.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2181 Minimum qualifications.**

"Minimum qualifications" means the training, experience and other qualifications established for a given class and required of an applicant for admission to the examination for that class.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2182 Morale.**

"Morale" is not a single concept; rather, it is a shorthand expression covering a number of factors such as recognition, credit, security, sense of belonging, opportunity, etc., that may together produce a particular atmosphere among the employees in an organization. It is closely interrelated with a number of incentives which management uses for the employees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2183 Motion study.**

"Motion study" means the study of body motions used in performing an operation, with thought toward improving the operation by eliminating unnecessary motions and simplifying the necessary motions, so that maximum efficiency is realized.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2184 Motivation.**

"Motivation" is applied to an inner urge that moves a person to action, and also to a contemplated result, the desire for which moves the person.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2185 Noncompetitive personnel action.**

"Noncompetitive personnel action" means a type of personnel action which does not require a qualified employee to formally compete with others in order for the personnel action to be effected.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2186 Nonstandard workweek.**

"Nonstandard workweek" means irregular or indeterminate hours worked by employees, the nature of whose duties commonly or frequently preclude successful job completion in standard workweeks over a prolonged period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2187 Off-site training.**

"Off-site training" means in-service training given to an employee outside their actual work area; for example, classroom training.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2188 On-the-job training.**

"On-the-job training" means in-service training given to an employee within the work area while doing productive work.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2189 Orientation training.**

"Orientation training", as part of induction, means in-service training designed to assist workers to adapt themselves as quickly as possible to their job environment, to acquire satisfactory attitudes, and to become familiar with the organization in which they work.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2190 Out-service training.**

"Out-service training" means training provided by an agency for its employees in order to increase their effectiveness in their present assignments, or to prepare for future assignments, using resources and facilities outside of ASCC or the jurisdiction of the ASG.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2191 Overtime.**

"Overtime" means work performed in excess of 40 hours per week for employees with a regular workweek.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2192 Part-time employment.**

"Part-time employment" means work of regularly less than 40 hours per week. However, for certification from registers, work of less than 32 hours per week shall be considered as part-time.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2193 Pay adjustment.**

"Pay adjustment" means a change in the rate of compensation due to revision of the salary schedules of ASCC or for reasons not covered elsewhere.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2194 Performance rating.**

"Performance rating" means the formal process of evaluating some or all of the individuals who make up the work team and perform the work, in respect to the quality and quantity of the work performed by them. In some cases, it is called employee merit, service, or efficiency rating.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2195 Performance standard.**

"Performance standard" means the measure of the performance necessary to meet the needs of the operational system.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2196 Periodic increment date.**

"Periodic increment date" means the date established in accordance with the merit system rule on which an employee is entitled to the next salary step increment within his or her range as stated in the compensation plan.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2197 Permanent employee.**

"Permanent employee" means an employee appointed in a career service position who has successfully completed a probationary period.

**History:** Rule 11-84, eff 19 Dec 84, (part).

**4.2198 Personnel management.**

"Personnel management" means:  
the utilization of human resources by management for the accomplishment of the objective of the organization:

the branch of business management concerned with the administration and direction of all of the relations between an organization and its employees including the recruiting of new employees, training, testing, promoting, and supervising employees, etc., as well as the administration of all personnel relations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2199 Position.**

"Position" means a group of duties and responsibilities. A position may be filled or vacant, full time or part time, temporary or permanent, or positions on the career service ladder.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21100 Position description.**

"Position description" means a written description of each group of duties and responsibilities constituting a position.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21101 Post-training.**

"Post-training" means training given after entering a position. The training given before entering is called pre-employment training.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21102 Reassignment training.**

"Reassignment training" means in-service training given before an employee is assigned to a specific job.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21103 Pre-employment training.**

"Pre-employment training" means the training given to employees prior to coming into service.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21104 Preference eligible.**

"Preference eligible" means a U.S. citizen or a U.S. national of American Samoan ancestry who is a veteran as defined in these regulations; a disabled veteran as defined in these regulations; or the remarried widow(er) of a veteran.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21105 Premium payment.**

"Premium payment" means wage payment over and above the basic salary rate for extraordinary conditions of employment, such as overtime and special tours of duty.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21106 Probationary period.**

"Probationary period" means the trial period of employment following certification and appointment to, or reemployment in, any position in the career service, including promotional positions.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.21107 Program.**

"Program" means:

A plan or scheme of administrative action designed for the accomplishment of a definite objective which is specific as to time phasing of the work to be done and the means allocated for its accomplishment:

For budget and accounting purposes, a complete plan of work or effort to accomplish a stated object.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.21108 Promotion.**

"Promotion" means a change of an employee from a position in one class to a position in a class having a higher salary range.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.21109 Public administration.**

"Public administration" means the activities of government to accomplish public goals.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.21110 Rating.**

"Rating" means the act of classifying according to grade, class, rank, or other unit of measuring or evaluation.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **Pay schedule placement.**

##### **(a) Initial Appointment.**

All initial appointments shall be made at the first step of the appropriate pay range of each of the two salary schedules except that, in the event that recruitment of an employee is not practicable at the first step, the President may, after appropriate notice and advertising, recruit at any step within the pay range which will attract qualified candidates.

Requests for payment above the minimum may be made by department heads prior to or at the time of appointment but in any event must be made no later than 60 days after the appointment, if granted, will not be granted retroactively.

Reassignment. An employee who is reassigned shall receive the same rate of compensation as he or she presently receives, except that in case of a reassignment from one salary schedule to another salary schedule, the pay rates governing initial appointment shall apply.

##### **(c) Reinstatement.**

When an employee is reinstated within a year of separation from ASCC or government service, he or she may be paid at any rate within the pay range which does not exceed his or her highest previous rate of pay, provided that where such rate falls between two steps of the grade to which reinstated, he or she may be paid at the higher step.

The rules governing initial appointment shall apply only when an employee eligible reinstatement has been separated for at least one year from ASCC or government service.

**Returning Veteran.** An employee who meets the requirements of reemployment as specified in the Veteran's Preference Act of 1944, as amended, and who is re-employed in his or her former position, shall have his or her rate of pay set at the step he or she would have received and his or her service with ASCC or the government continued. If re-employed in a different position, the pay rule governing initial appointment shall apply.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21111 Reassignment.**

"Reassignment" means movement of an employee from one position to another position in the same class or grade or from one position to another position in a different class at the same grade.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21112 Reduction-in-force.**

"Reduction-in-force" means a separation from service because of a lack of funds and/or work and/or reorganization and without cause on the part of the employee.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21113 Reduction in salary.**

"Reduction in salary" means placement of an employee's salary at a lower step at the same or lower grade as a result of a disciplinary action.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21114 Refresher training.**

"Refresher training" means training for employees who lack up-to-date information, habits, or skills in an occupation in which they have been previously trained.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21115 Register.**

"Register" means a list of eligible names established for employment or reemployment in a class.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21116 Reinstatement.**

"Reinstatement" means appointment of an employee who has previously successfully completed his or her probationary period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21117 Related training.**

"Related training" means instruction which is related to the job and provides knowledge and information concerning theoretical and technical aspects of the job, such as properties of materials used, applied science, mathematics, and drawing.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21118 Remedial training.**

"Remedial training" means training given to employees for the purpose of correcting specific weaknesses in work performance.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21119 Resignation.**

"Resignation" means a voluntary separation from employment.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21120 Resources.**

"Resources" is a term often used by management to described these productive factors; labor, capital, and machinery. It includes personnel who do the work, and funds, equipment, and materials with which to work. The apportionment of available resources is a responsibility of the president.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21121 Retraining.**

"Retraining" means training given an employee to bring him or her up to date on new developments, techniques, or procedures in his or her present job.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21122 Reversion.**

"Reversion" means voluntary or involuntary movement of an employee during a six-month trial service period to the lower class which he or she held prior to his or her last promotion.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21123 Salary range.**

"Salary range" means a sequence of minimum, intervening, and maximum dollar amounts assigned to a specific class.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21124 Screening committee.**

"Screening committee" consists of three ASCC employees, who have been appointed by the President to objectively review applications for classes of positions classified at grade 9 and above for which no comprehensive written, oral, or performance examination exists. Members evaluate the experience and training recorded on an application against the minimum qualifications officially established for the class and rank the applicants in the order of best qualified.

History: Rule 11-84, eff 19 Dec 84, (part).



**4.21125        Selecting authority.**

"Selecting authority" means the authority to select individuals for positions. Selecting authority differs from appointing authority in that the former can select individuals for employment but not offer them a position. The offer must come from the president in order to be official.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21126        Selective certification.**

"Selective certification" means the certification of eligibles possessing the special qualifications required for a specific position.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21127        Seminar.**

"Seminar" means an advanced study group with selected members, each of whom investigates some aspects of a subject and reports thereon to the group, the members of which then discuss and evaluate the findings.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21128        Sick leave.**

"Sick leave" means absence from duty because of illness or other disability or exposure to contagious disease.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21129        Skill training.**

"Skill training" means development of a facile and well integrated performance, usually associated with mechanical and motor responses, such as those used in typing, glass blowing, and swimming.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21130        Standard workday.**

"Standard workday" means an assigned eight-hour work period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21131        Standard workweek.**

"Standard workweek" means 40 hours divided into five regular assigned eight-hour days within a seven-day period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21132        Supervisor.**

"Supervisor" means any individual having substantial responsibility requiring the exercise of independent judgment who, on behalf of management, regularly participates in the performance of all or

most of the following functions over at least three employees: promote, transfer, suspend, discharge, or adjudicate grievances of other employees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21133          Suspension.**

"Suspension" means an enforced absence without pay for disciplinary purposes.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21134          Temporary employment.**

"Temporary employment" means employment during the absence of a permanent employee on leave or for work done at a workload peak and normally lasting for less than six months but not exceeding one year.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21135          Termination.**

"Termination" means separation from employment for reasons beyond the control of the employee.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21136          Training aids.**

"Training aids" means any material or device which facilitates learning, such as movies, slides, posters, booklets, view graphs, audio-visual aids, etc.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21137          Training committee.**

"Training committee" means a committee authorized to consider training problems and devise solutions, develop training policies, promote their acceptance, and advise management in the execution of those policies.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21138          Training Plan.**

"Training plan" means a method or scheme for obtaining a certain specific training objective, and containing the following information:

- (1) Objective of the training;
- (2) Who will be trained;
- (3) Name of instructor;
- (4) Schedule of meetings, etc.
- (5) Outline of material to be presented;
- (6) A plan for evaluating the effectiveness of the training.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21139          Training policy.**

"Training policy" means a statement defining the objectives and the responsibilities for training, the relation between training staff and other staff and operating officials, and the general procedures for organizing, operating, and evaluating a training program.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21140 Training timetable.**

"Training timetable" means a form which lists the various tasks in a given organization or unit, and shows for each employee the tasks:

- (1) Which he or she can perform adequately;
- (2) In which he or she is not to be trained during the period under consideration; and
- (3) In which he or she is to be trained and the time by which this training is to be completed.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21141 Transfer.**

"Transfer" means movement of a permanent employee from a position in ASCC to a similar position in another agency of the American Samoa Government, or from a position in one department of ASCC to a similar position in another department, and shall be subject to whichever provision applies: e.g., promotion, reassignment, or demotion.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21142 Trial service period.**

"Trial service period" means a six-month trial period of employment of a permanent employee beginning with the effective date of a promotion or demotion.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21143 Tuition.**

"Tuition" means payment of appropriated funds to outside agents or agencies for instructional services; the fee charged by an instructor or school for instruction. "Tuition" does not include fees collected for defrayment of other or incidental expenses, such as registration fees, laboratory fees, costs of books, or charge for space or utilities.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21144 Unassembled examination.**

"Unassembled examination" means an examination in which the education, training, and experience of applicants is rated as set forth in their applications.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21145 Veteran.**

"Veteran" means an individual who has served on active duty in the Armed Forces of the United States for a period of not less than 180 consecutive days, other than for training, and who has been separated from the Armed Forces under honorable conditions.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.21146 Work simplification.**

"Work simplification" means a management technique for simplifying methods and procedures and eliminating waste of manpower, materials, equipment, and facilities. Process study, operation study, and layout study are phases of this subject.

History: Rule 11-84, eff 19 Dec 84, (part).

**Chapter 03**

**RECRUITMENT AND PLACEMENT**

Sections:

- 4.2201 Requirements generally - Nepotism - Effective dates.
- 4.2202 Administrative responsibilities.
- 4.2203 Competitive - Noncompetitive procedures applicability.
- 4.2204 Recruitment - Vacancy notice - Evaluation announcement.
- 4.2205 Applications.
- 4.2206 Disqualification of, refusal to examine applicant.
- 4.2207 Examination - Final rating.
- 4.2208 Veteran preference.
- 4.2209 Registers of eligible applicants.
- 4.2210 Certification of eligibles.
- 4.2211 Appointment types.
- 4.2212 Reinstatement after separation.
- 4.2213 Promotion - Lateral movement - Transfer - Detail - Demotion.
- 4.2214 Retired employees reemployment.

**4.2201 Requirements generally - Nepotism - Effective dates.**

In filling vacancies within the career service, ASCC will adhere to the policy guidelines set for in 7.0204 - 7.0214 ASCA. It is ASCC's policy that:

- (1) Appointment and promotions to all positions shall be made solely on the basis of merit, fitness, length and quality of previous service, and relative skills, knowledge, and ability as shown by examinations;
- (2) The same standards and methods shall be used in evaluating all candidates who are in competition for the same class;
- (3) Permanent residents of American Samoa, or persons entitled to permanent residence as determined by the immigration law of American Samoa, shall be given first consideration for employment. This includes persons who meet the following criteria:
  - (A) The applicant was born in American Samoa;
  - (B) One of the parents of the applicant was born in American Samoa;
  - (C) The applicant is married to an American Samoan;
  - (D) The applicant was legally adopted by an American Samoan;
  - (E) The applicant has resided continuously in American Samoa for a least 20 years and has been approved by the immigration board.

Only when no permanent resident can be found who meets the minimum qualification for employment established for a particular class of work can another person be employed;

- (4) Applicants who have been selected for positions in the career service must successfully pass a pre-employment physical examination before they can be appointed;
- (5) In all recruitment and placement activities, it is the policy of ASCC that 2 or more members of a family may be employed within the same office as long as one member does not officially and immediately supervise the other. This requirement not only is applied on the basis of facts as they exist as of the time of appointment but at any time while serving as an employee of ASCC;
- (6) The official effective date for all recruitment and placement actions, as well as other personnel actions, shall be established by the President of ASCC except in the case of resignation, the date of which is established by the employee who is resigning. Effective dates are not made on a retroactive basis. The effective date for within-grade step increments is described in the section of these regulations on classification and pay. Effective dates for appointments can only be established after the prerequisite medical, police, immigration clearances have been obtained by ASCC. Retroactive effective dates are only set when an administrative error has occurred or an appeals action results in retroactive corrective action.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2202 Administrative responsibilities**

The President has primary responsibility for establishing and administering procedures for filling vacancies in compliance with appropriate federal and ASCC rules. However, all employees and supervisors share responsibility for the successful operation of the system.

- (A) The President is responsible for:
  - (1) Implementing a merit system policy and procedural guides for filling positions;
  - (2) Providing leadership and support for the merit system as it relates to all segments and activities of ASCC;
  - (3) Assuring that managers and supervisors are aware of the objectives and requirements of this program;
  - (4) Assuring that applicants or potential applicants are informed, at least annually, that they may file or re-file employment applications with ASCC.
- (B) Managers and supervisors are responsible for:
  - (1) Providing active support to the objectives of the merit system and fully complying with the intent as well as the procedural requirements of the program;
  - (2) Evaluating candidates full and equitably to assure that each selection conforms to the objectives of an effective merit system.
  - (3) Selecting from among the best-qualified candidates and releasing, within a reasonable time, their subordinate employees selected for promotion, transfer or reassignment;
  - (4) Providing firm merit system support to employees and keeping themselves fully informed so as to be able to provide employees with information on the merit system and its operations;
  - (5) Counseling employees on ways to improve promotion potential and assisting them in self-development activities;
  - (6) Participating with personnel officials in determining qualification requirements and evaluation methods for specific positions.
- (C) ASCC's Human Resources Office is responsible for:
  - (1) Developing and employing the procedures necessary for recruitment, examination, and certification;

- (2) Developing, in cooperation with directors, deans, managers, and supervisors, qualification requirements and evaluation methods for specific positions;
- (3) Providing the necessary technical competence required to operate the merit system and publicize its operation;
- (4) Announcing examinations and/or position vacancies as appropriate, rating applications, establishing and maintaining lists of eligibles, and issuing lists of eligibles to selecting officials;
- (5) Maintaining the required documentation of all personnel actions covered by the plan;
- (6) Assuring that the requirements of the merit system have been met before taking personnel action on a position change.

(D) Employees are responsible for:

- (1) Familiarizing themselves with the provisions of the merit system;
- (2) Personally applying for announced vacancies in which they are interested, and for which they meet qualification standards, by submitting required, designated application material;
- (3) Demonstrating that they have the skills, abilities, and personal qualifications necessary for the positions for which they seek consideration;
- (4) Performing the duties of their current positions in a manner indicating they are ready for advancement.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2203 Competitive - Noncompetitive procedures applicability.**

**Vacancies can either be filled competitively or non-competitively.**

(A) Competitive procedures apply to the following types of actions:

- (1) Selection of an applicant not employed by ASCC for either a permanent or temporary appointment;
- (2) Promotion of an employee in the career service, except under circumstances specified under subsection (B) of this section;
- (3) Reinstatement of a former ASCC employee who has completed his or her probationary period in the career service, to a higher grade position than the candidate's last position or to a position with known promotion potential;
- (4) Selection of an ASCC employee who is currently on an emergency appointment for a temporary or permanent position;
- (5) Selection of an employee who is in a non-supervisory position to fill a supervisory position.

(B) Noncompetitive procedures apply to the following types of actions:

- (1) Promotion of an employee for which competitive procedures were used at an earlier date, such as:
  - (a) Career promotion, reassignment, etc., made under training agreements;
  - (b) Career promotion(s) of employees up to the full performance level position in the career ladder;
  - (c) Career promotion(s) of employees in an understudy position to the target position;
- (2) Promotion(s) of incumbents to positions in the competitive service reconstituted in higher grades because of:
  - (a) Change in classification standards;
  - (b) Error in the allocation of the original position;

- (3) Re-promotions of employees to positions or grades from which demoted without personal cause or to intermediate grades below the grades from which demoted;
- (4) Conversions to a different pay system without change in duties and responsibilities;
- (5) Reinstatement of a former ASCC employee who has completed the probationary period in the career service to the same or similar class held previously at ASCC;
- (6) Transfer of employment from one department to another department. If such transfer also involves promotion, promotion procedures apply.

History: Rule 11-84, eff 19 Dec 84, (part)

#### **4.2204 Recruitment - Vacancy notice - Evaluation announcement.**

In filling vacancies competitively, all recruitment efforts shall be conducted publicly in a manner which will attract a sufficient number of qualified persons to meet the needs of ASCC. Position action requests will be completed for all new positions or changes to existing positions. These are prepared by ASCC and approved by the President. Vacancy notices and/or examination announcements shall then be advertised and posted publicly. They shall specify title and salary range of the class, information on the duties performed, applicable minimum or desirable qualifications, and type of examination. Open competitive recruitment shall be for at least 15 calendar days except that in the case of great need, the President may reduce the filing period to five (5) days.

History: Rule 11-84, eff 19 Dec 84, (part)

#### **4.2205 Applications.**

All applications shall be on a form prescribed by the President. The applicant's signature shall certify the truth of the stated information. Applications shall remain under active consideration by ASCC for one year from the date received.

- (1) No information shall be solicited or accepted which reveals religious or political affiliations of the applicant. Information regarding the race or ethnic background of applicants shall be solicited only for use in an affirmative action minority employment program.
- (2) Applications filed with ASCC by the date specified in the vacancy notice or examination announcement will be considered.
- (3) Any person who willfully makes false statements concerning a material matter in any application for employment with ASCC may be fined in an amount not to exceed \$100, or imprisoned for not more than 6 months, or both.

History: Rule 11-84, eff 19 Dec 84, (part)

#### **4.2206 Disqualification of, refusal to examine applicant.**

(A) Accepted standards of personnel practice will be followed in screening applicants. An interview form will be filled out for all applicants interviewed by ASCC by either the department head or other participating interviewer. The form is routed to the President at the completion of the interview for use in the selection process. ASCC may refuse to examine an applicant or, after examination, may disqualify such applicant or remove his or her name from a register or refuse to certify any person otherwise eligible on a register if the applicant:

- (1) Is found to lack any of the requirements established for the class;
- (2) Is so disabled as to be rendered unfit to perform the duties of the class;
- (3) Is addicted to the use of narcotics or the habitual excessive use of intoxicating beverages;

- (4) Has been convicted of any offense that would adversely affect ASCC and which would be grounds for disqualification from the position for which he or she is applying;
- (5) Has made a false statement of material fact in his or her application;
- (6) Has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other lack of fitness as an employee;
- (7) Has used, or attempted to use, bribery to secure an advantage in the examination or appointment;
- (8) Has directly or indirectly obtained information regarding examinations to which he or she was not entitled;
- (9) Has taken part in the compilation, administration or correction of the examination.

History: Rule 11-84, eff 19 Dec 84, (part)

#### 4.2207 Examination - Final rating.

The President or his or her designated representative shall determine, by uniform standards, the appropriate examination for a register for a class and the tests or combination of tests and relative weights to be assigned, ensuring at all times that the examinations are job-related.

- (A) Examinations shall be practical in nature, job-related, and of such character as to determine the capacity of the applicant to perform the duties of the particular class of positions for which he or she is competing as well as his or her general background and related knowledge and shall be rated objectively. A passing score will be established for each test included in the examination.
- (B) Whenever possible, standards for employment will give all due recognition to practical experience in the function and probably aptitude for learning while on the job, rather than relying in the main on formalized education and training.
- (C) Examinations shall normally consist of one or a combination of the following:
  - (1) A written test;
  - (2) A performance test;
  - (3) an oral test;
  - (4) An evaluation of experience and training.
- (D) Examinations shall be held at such times and places as are necessary to meet the requirements of the career service, provide economical administration, and be generally convenient for applicants.
- (E) Examination announcements shall specify the desirable or minimum requirements, the parts of the examinations, and the method of rating. Announcements shall be prominently posted to ensure that the information is reasonably available to all.
- (F) A performance evaluation may be used to construct scores in promotional examinations, provided that the President determines such evaluations are practical and necessary to improve the effectiveness of the examination.
- (G) Each applicant shall receive notice of final rating. After receipt of the notice of rating, the applicant may request and receive information regarding his or her score on any part of the examination, or may give written authorization for his or her supervisor or department head to obtain the information for him or her. The same information may upon request be furnished to the supervisor or department head concerning a certified eligible.

History: Rule 11-84, eff 19 Dec 84, (part)

#### 4.2208 Veteran preference.



- (A) In open competitive examinations, eligible veterans shall receive preferential consideration as follow:
- (1) Ten additional points to a disabled veteran. This preference shall be utilized in the open competitive examination only and not in any promotional examination;
  - (2) Five additional points to a veteran or the unmarried widow(er) of a veteran. This preference shall be utilized in open competitive examination only and not in any promotional examination.
- (B) The names of preference eligibles shall be entered upon the appropriate registers ahead of others having the same score.
- (C) If the selecting authority passes over a preference eligible whose name appears on the certificate of eligibles forwarded to him or her, and selects a non-preference eligible, he or she shall file written reason thereof with the President.
- (D) When 3 or more names of preference eligibles appear on a certificate of eligibles, the selecting official may select only a preference eligible to fill the vacancy under consideration.

History: Rule 11-84, eff 19 Dec 84. (part)

#### 4.2209 Registers of eligible applicants.

The following types of registers shall be established and maintained by ASCC:

(A) Reduction-in-force Register.

- (1) **Composition.** A reduction-in-force register will be prepared for each classification, listing the names of all employees who have permanent status and have been notified that they are scheduled for reduction-in-force, or who held permanent status prior to separation due to a reduction-in-force, or who have accepted a voluntary demotion in a class in lieu of a reduction-in-force. The employee's name shall appear for all classifications in which he or she held permanent status and, where appropriate, the employee's geographic availability will be shown.
- (2) **Method of Ranking.** This register will be ranked according to seniority; those with the longest period of performance rated four or better on their final performance evaluation will be placed at the top of the list, the balance of the names placed in descending order. Those with performance evaluations showing ratings of less than four will be placed at the bottom of the list, regardless of years of service.
- (3) **Life of Register.** An eligible's name will normally remain on this register for one year.
- (4) **Certification.** Names from this list shall be certified first to the selecting authority before those from any open or promotional register.

(B) Promotional Register.

- (1) **Composition.** The promotional register will be established for a specific position in the agency and shall include the names of current, permanent employees and/or past permanent employees who have been separated due to reduction-in-force within the last year who have received a passing final grade in the promotional examination and eligible to be certified.
- (2) **Method of Ranking.** This register shall be ranked according to final score from the highest to the lowest.
- (3) **Life of Register.** The Life of the promotional register shall be until the position is filled.

(C) Open Competitive Register.

- (1) Composition. The open competitive register will contain the names of all persons who have passed the appropriate examination for each class of work on an open basis.
- (2) Method of Ranking. This register shall be ranked by the final score, from highest to lowest.
- (3) Life of Register. The life of a register shall be one year or until replaced by a register established through a new examination.
- (4) Eligibles may be removed from the register under the following circumstances:
  - (a) On evidence that the eligible cannot be located by the postal authorities or by the village pulenu'u;
  - (b) On receipt of a statement from the eligible declining an appointment and stating that he or she no longer desires consideration for a position in the class.
  - (c) If 3 offers of a probationary appointment to the class for which the register was established have been declined by the eligible;
  - (d) If an eligible fails to reply to a written inquiry as to availability after 5 days in addition to the time required to receive an return the inquiry;
  - (e) If an eligible accepts an appointment and fails to present himself or herself for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2210 Certification of eligibles.**

Authorized position vacancies can only be filled from the list of eligible applicants.

- (A) Upon identifying the need to fill a position, the President shall cause to be prepared an eligible list consisting of:
  - (1) Names of eligible applicants from the reduction-in-force list, if any. The selection must be made from this list if one exists.
  - (2) Names of eligibles from the pertinent open or promotional list. No more than 5 names will be considered, except where candidates below the fifth rank have the same numerical score as the person named as number five; in this instance, additional names will be included to the extent there are eligibles with the same score.
- (B) Fair consideration must be given to all eligible names. One of the following actions will be taken:
  - (1) Appointment of one of the eligible candidates;
  - (2) Consideration of additional names in place of eligibles who:
    - (a) fail to reply within 4 days of notice to appear for consideration;
    - (b) are not satisfactory for valid or pertinent reasons directly connected with the position;
  - (3) Decision not to fill the position.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2211 Appointment types.**

- (A) Career Service Appointments. Career service appointments are always made through open competitive civil service examination procedures to fill permanent, regularly budgeted

positions from the open or promotional registers. They always require a probationary period of one year, satisfactory completion of which is a requisite for permanent status in the position.

**(B) Temporary Appointments.**

- (1) When there is work of a temporary nature, at the completion of which the services of an additional employee will not be required, the President may authorize a temporary appointment for a period not in excess of one year.
- (2) Such appointment shall be made from a register of eligibles, if eligibles are available. The selection of an eligible from the register shall not affect the retention of the eligibles on the eligible list and he or she shall continue to be considered for probational appointment, should an appropriate vacancy occur.
- (3) Service under a temporary appointment is not creditable for permanent status.

**(C) Emergency Appointments.**

- (1) When an emergency occurs requiring the immediate service of a person or persons, the President may make an emergency appointment.
- (2) Justification of the emergency must be submitted to and approved by the President.
- (3) An emergency appointment of an American Samoan national may not be made to exceed 30 days unless the appointment is extended by the President up to a maximum of an additional 30 days, based on agency justification of the continuing state emergency.
- (4) Service under an emergency appointment shall not constitute a part of the employee's probationary period.
- (5) If a person other than an American Samoan national is to be appointed, immigration clearance must be secured prior to entrance on duty, but police and medical clearances may be furnished during the 30-day emergency period.

**(D) Disaster Emergency Appointment.** In the case of a disaster, the President is authorized to make direct emergency appointments without any clearance, for a period not to exceed ten working days.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2212 Reinstatement after separation.**

- (A) Any person who has satisfactorily completed a probationary period in the career employee service and who has separated therefrom, may be reinstated to a position with the same or similar duties to those he or she previously performed, provided his or her reemployment is not prohibited by rules or laws relating to the reemployment of employees separated for cause or who have abandoned their positions.
- (B) Reinstatement to the same class of work or grade previously held is noncompetitive.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2213 Promotion - Lateral movement - Transfer - Detail - Demotion**

The following types of in-service placement exist within the career service:

**(A) Promotion.**

- (1) No employee shall be eligible to be hired from a promotional register until he or she has gained permanent status; however, a probationary employee may

be admitted to a promotional examination if the announcement for the position vacancy has an established closing date and if the employee has served three months of his or her probationary period. Employees who have not completed their original probationary period, if selected, must serve a new probationary period. Employees who are otherwise qualified will be admitted to promotional examinations if they are within two months of the experience required by the minimum qualifications and are assigned to a position which provides qualifying experience.

- (2) A permanent employee who is promoted and who fails to satisfactorily complete the probationary period shall be given fifteen (15) calendar days written notice no earlier than ninety (90) days after assuming the position. The President will notify the employee of the date he or she will automatically revert to his or her former classification. If there are no vacancies in that class, he or she is placed on the reduction-in-force register. An employee who is reverted does not have the right of appeal. If an employee is unable to be placed into another position at the end of a total of 180 days, the employee shall be terminated.

#### (B) Lateral Movement.

(1) Reassignment: Reassignment is the movement of a permanent employee from one position to another in the same or another class within ASCC with the prior approval of the President. If a reassignment includes a promotion, the rules governing promotion apply.

#### (C) Detail.

- (1) Details are intended only for meeting temporary needs of the agency's or another government agency's work program when necessary services cannot be obtained by other, more desirable or practical means. Interagency details are particularly appropriate for temporary service in the performance of official government functions such as providing disaster assistance, preparation for Flag Day, or election services.
- (2) Detailing employees to other kinds of positions immediately after competitive appointment tends to compromise the competitive principle and is not permitted. Except for an emergency detail of 30 calendar days or less, an employee may not be detailed for at least 3 months after the initial appointment.
- (3) ASCC management is responsible for keeping details within the shortest practicable time limits and for making a continuing effort to secure necessary services through use of appropriate personnel actions.
- (4) Details for 30 calendar days or more shall be recorded on the prescribed form and maintained as a permanent record in official personnel folders. Details of less than 30 calendar days need not be officially documented, but should be recorded in department records.
- (5) All details to higher grade positions will be confined to a maximum period of 120 days unless approved by the President.
- (6) Detail appointments shall be from among those employees who are interested and available to accept such appointments when there are no individuals available who meet the minimum requirements. Primary consideration should, however, be given to eligibles on the agency promotional register for the class or for a related class as determined by the President.
- (7) An employee who accepts a detail for 30 calendar days or more to a higher graded position shall be paid according to the rule regarding promotion. An employee accepting a detail for less than 30 calendar days shall retain his or her current salary.
- (8) An employee shall not achieve permanent status in the position to which he or she has been detailed and upon termination of the detail shall be returned to his or her former position.

- (1) Demotion may be disciplinary or non-disciplinary, voluntary or non-voluntary.
- (2) An employee who is demoted may not receive pay at a higher rate than he or she received before demotion.

History: Rule 11-84, eff 19 Dec 84, (part)

## Chapter 04

### CLASSIFICATION AND PAY

#### Sections:

- 4.2301 Establishment of system.
- 4.2302 Position descriptions.
- 4.2303 Wage schedule applicability and bases.
- 4.2304 Position classification system.
- 4.2305 Effective date of actions.
- 4.2306 Administrative review.
- 4.2307 Pay schedules.
- 4.2308 Step-increment increases for length of service - Pay schedule structure.
- 4.2309 Overtime - Compensatory time.
- 4.2310 Shift differential.

#### 4.2301 Establishment of system.

In keeping with the objectives of the American Samoa Code Annotated, the President shall develop and maintain an agency-wide classification and pay system based on objective, consistent, and timely classification of all positions within the agency and shall apply reasonable and consistent assignment of positions to pay grades so as to compensate employees in equitable relationships to each other and to contribute to the attraction and retention of employees. The system so established or any portion thereof may be extended to non-civil service positions as required by law or for the good of the agency.

History: Rule 11-84, eff 19 Dec 84, (part)

#### 4.2302 Position descriptions.

- (A) ASCC shall maintain current position descriptions covering each career service position authorized in the agency. Each supervisor is responsible for reviewing the descriptions for all ASCC positions.
- (B) When duties of positions change, the supervisor must prepare a new position description to reflect the change. ASCC will use the applicable ASG form.
- (C) One copy of each position description shall be furnished to the President and to the Human Resources Office..

#### 4.2303 Wage schedule applicability and bases.

The classification and compensation plan of ASCC shall provide for separate segments:

The general schedule (GS) which applies to the "white collar" positions and which is based on "equal pay for substantially equal work."

The teacher grade schedule (TS) which applies to teachers and which is also based on "equal pay for substantially equal work."

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2304** Position classification system.

The President shall develop and maintain a position classification system which shall provide for the placement of each position into an appropriate class. This includes:

- (1) The establishment of written class specifications which describe each of the various classes within the classification plan in terms of the nature, variety, and level of duties and responsibilities, and the minimum qualifications required to perform adequately;
- (2) The establishment, revision, or abolition of classes in order to maintain the plan on a current basis;
- (3) The establishment of official class titles;
- (4) The changing of any position from one class to another class whenever warranted by significant change in position duties and responsibilities or class definition, or to correct an error;
- (5) The auditing of positions in order to ascertain that current positions are correctly classified.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2305** Effective date of actions.

- (A) The effective date of an initial classification action shall be the date action is officially taken to classify the position.
- (B) The effective date of any subsequent classification action shall be the beginning of the pay period immediately following the date of notice of action, except that the date may be adjusted by the President in the event an incumbent fails to meet the qualification of the class, for budgetary reasons, or for other good cause.
- (C) The effective date of a classification action when a classification and/or compensation survey is initiated by the President shall be the date action is officially taken, or such other date as the President deems practicable.

History: Rule 11-84, eff 19 Dec 84, (part)

**4.2306** Administrative review.

As administrative review may be requested by an employee or designated representative or by the department head within 20 days after the effective date of the classification or reclassification action.

- (A) The request for administrative review must be in writing and shall contain the specific reason(s) for disagreement with the classification action of the President, and shall state the action requested and the reason the requested action is deemed more appropriate.
- (B) A request for administrative review must be received no later than ten days from the date of the notice of classification.

(C) The President shall take appropriate action to review the classification and shall notify the department of the final decision.

History: Rule 11-84, eff 19 Dec 84, (part)

4.2307 Pay schedules.

(A) The General Pay schedule (GS) shall be as follow (effective January 7, 1980; revised July 1, 1991):

GRADE	1	2	3	4	5	6	7	8	9	10
GS-18	32275	33575	34875	36175	37475	38775	40075	41375	42675	43975
GS-17	28664	29834	31004	32174	33344	34514	35684	36854	38024	39194
GS-16	25012	26052	27092	28132	29172	30212	31252	32292	33332	34372
GS-15	21715	22755	23795	24835	25875	26915	27955	28995	30035	31075
GS-14	18657	19567	20477	21387	22297	23207	24117	25027	25937	26847
GS-13	16000	16780	17560	18340	19120	19900	20680	21460	22240	23020
GS-12	13773	14423	15073	15723	16373	17023	17673	18323	18973	19623
GS-11	11869	12519	13169	13819	14469	15119	15769	16419	17069	17719
GS-10	10417	11067	11717	12367	13017	13667	14317	14967	15617	16267
GS-09	9317	9967	10617	11267	11917	12567	13217	13867	14517	15167
GS-08	8931	8911	94731	9951	10471	10991	11511	12031	12551	13071
GS-07	7626	8146	8666	9186	9706	10226	10746	11266	11786	12306
GS-06	6937	7457	7977	8497	9017	9537	10057	10577	11097	11617
GS-05	6367	6757	7147	7587	7927	8317	8707	9097	9487	9877

(B) The teacher pay schedule (TS) shall be as follow (effective September 04, 1997):

TS-09	29293	30107	30921	31734	32548	33362	34175	34989	35803	36617
TS-08	27666	28480	29293	30107	30921	31734	32548	33362	34175	34989
TS-07	26038	26852	27666	28480	29293	30107	30921	31734	32548	33362
TS-06	24411	25225	26038	26852	27666	28480	29293	30107	30921	31734
TS-05	22784	23597	24411	25225	26038	26852	27666	28480	29293	30107
TS-04	21156	21970	22784	23597	24411	25225	26038	26852	27666	28480
TS-03	19529	20343	21156	21970	22784	23597	24411	25225	26038	26852
TS-02	16274	17008	17901	18715	19529	20343	21156	21970	22784	23597
TS-01	14646	15460	16274	17088	17901	18715	19529	20343	21156	21970

(B) Pay schedule placement.

(1) Initial Appointment.

- (a) All initial appointments shall be made at the first step of the appropriate pay range of each of the two salary schedules except that, in the event that recruitment of an employee is not practicable at the first step, the President may, after appropriate notice and advertising, recruit at any step within the pay range which will attract qualified candidates.
- (b) Requests for payment above the minimum may be made by department heads prior to or at the time of appointment but in any event must be made no later than 60 days after date of appointment date. Requests received after the date of appointment, if granted, will not be granted retroactively.

(2) Reassignment.

- (a) An employee who is reassigned shall receive the same rate of compensation as he or she presently receives, except that in case of a reassignment from:

one salary schedule to another salary schedule, the pay rates governing initial appointment shall apply.

(3) Reinstatement.

- (a) When an employee is reinstated within a year of separation from ASCC or government service, he or she may be paid at any rate within the pay range which does not exceed his or her highest previous rate of pay, provided that where such rate falls between two steps of the grade to which reinstated, he or she may be paid at the higher step.
- (b) The rules governing initial appointment shall apply only when an employee eligible for reinstatement has been separated for at least one year from ASCC or government service.
- (c) Returning Veteran. An employee who meets the requirements for reemployment as specified in the Veteran's Preference Act of 1944, as amended, and who is re-employed in his or her former position, shall have his or her rate of pay set at the step he or she would have received and his or her service with ASCC or the government continued. If re-employed in a different position, the pay governing initial appointment shall apply.

History: Rule 11-84, ef 19 Dec 84, (part).

**4.2308 Step-increment increases for length of service - Pay schedule structure.**

- (a) Every employee is entitled to an annual step-increment increase at the beginning of the pay period immediately following his or her ~~service year~~ preceding such increase.
- (b) A service year is 52 weeks of continuous service in his or her present grade and step, which shall include credit for leave without pay:
  - (1) To pursue a course of instruction approved by the President which is related to the employee's area of work;
  - (2) To recuperate from an injury for which workers' compensation weekly payments are made;
  - (3) For military service when so provided by territorial or federal law; and
  - (4) For any other authorized purpose but for no more than 10 workdays.
- (c) The compensation for an employee, denied an increment because of substandard performance in his or her job in the service year preceding, may subsequently be increased as of the date his or her performance has been brought up to standard and has so continued for a 3-month period. His or her increment anniversary date will be adjusted accordingly.
- (d) Ninety days prior to each employee's step-increment due date, a notice will be sent to the employee, his or her department head, and immediate supervisor. This notice will call for the submission of an annual employee performance evaluation, which must be completed and returned to the President and the Human Resources Office for record keeping. ASCC will use the ASG Employee Performance Evaluation Form.
  - (1) If the performance evaluation is satisfactory or better, the employee will receive a step-increment.
  - (2) If the performance evaluation is unsatisfactory, a written note must be submitted to the Human Resources Office 60 days prior to the date the increment is due. Payroll will be notified not to effect the increment.
  - (3) If no performance evaluation is received, no increment will be processed.
  - (4) When the date of promotion and the periodic step-increment date coincide, the periodic
  - (5) increment shall be made prior to the promotional increase.

History: Rule 11-84, eff 19 Dec 84, (part).



**4.2309****Overtime - Compensatory time.**

(A) **Applicability.** This section applies to all career service employees and certain contract employees whose contracts permit overtime or compensatory time, with the exception of employees in second or third jobs.

(B) **General Provisions.**

- (1) Every employee is entitled to receive cash pay or time off in lieu of cash for overtime work, as provided in these regulations.
- (2) Each workweek shall stand alone; "averaging" of hours over 2 or more weeks is not permitted.
- (3) Workweeks shall be 40 hours in a fixed and regularly recurring period of 168 hours, in 7 consecutive 24-hour periods. It need not coincide with the calendar week but may begin on any day and at any hour of the day. Once the beginning time of any employee's workweek is established, it shall remain fixed until changed. A change intended or designed to evade the overtime requirement is prohibited.
- (4) Overtime compensation policies shall not be waived by any agreement between a supervisor and an employee.
- (5) Overtime must be requested and approved in advance. Overtime authorization requests are prepared by the department supervisor and must be approved by the President.
- (6) **Cash Pay for Overtime.** Employees in grades GS 1-11 are eligible to be compensated in cash for overtime at the rate of 1-1/2 times their regular rate of pay for all hours worked in excess of 8 per day or 40 per week. The President may authorize compensatory leave in lieu of cash, upon mutual agreement with the employee. This leave will be authorized at the rate of 1-1/2 hours of leave per overtime hour worked.
- (7) **Higher Grades.** Employees in grades GS 12 above, or whose grade is XX are not eligible for cash pay for overtime work. They may be compensated for work beyond 8 hours per day or 40 hours per week on an hour-for-hour basis.
- (8) **Hours Worked.** "Hours worked", in general, includes all the time an employee is required to be on duty or on the government premises or at a prescribed workplace and all time during which he or she is "suffered or permitted to work".
- (9) **Training and Meetings.** Attendance at lectures, meetings, training programs, and similar activities will not be counted as hours worked beyond the scheduled workday or workweek. If attendance is outside the employee's regular working hours and is required by the President, overtime or compensatory time may be awarded if otherwise applicable.
- (10) **Semiannual Payoff.** Compensatory time earned should be taken within 60 days of the pay period in which it was earned. Departments are responsible for monitoring the accumulation of compensatory time. Any balance of compensatory time in excess of 120 hours will be paid to the employee at his or her regular time rate during the last pay period of June and December of each year.
- (11) **Separation.** Employees leaving ASCC employment shall be compensated in cash for accumulated, documented overtime by the agency.
- (12) In the event of death of an employee, his or her accumulated overtime shall be paid to appropriate persons provided by these regulations.
- (13) **Records.** ASCC is responsible for keeping appropriate records of hours worked and leave earned, used, accrued, etc, of its employees.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2310****Shift differential.**

- (A) Each department which has responsibilities requiring work around the clock will set up 3 shifts; the normal morning to afternoon is known as the "day shift"; the shift beginning in the

afternoon into the evening is known as the "swing shift"; and the late night to morning shift is known as the "graveyard shift".

- (B) Employees regularly scheduled to the "swing shift" receive an additional \$.15 per hour for each hour of work on that shift.
- (C) Employees regularly scheduled to the "graveyard shift" receive an additional \$.25 per hour for each hour worked on that shift.
- (D) The shift differential is given only when the employee actually works on either the swing shift or the graveyard shift. If, for any reason, an employee assigned to either the swing or graveyard shift fails to work that shift, taking either annual or sick leave, he or she does not receive the extra \$.15 or \$.25 for that shift.
- (E) On the other hand, if an employee employed on any shift is forced to work 2 shifts in one day, the employee should not receive the extra shift differential but must be paid the overtime of time and a half. For example, (1) an employee, regularly scheduled to work the day shift who is required to continue work on the swing shift because of absence of the regularly scheduled swing shift employee, is entitled to 1-1/2 times his or her regular day shift pay. (2) An employee regularly scheduled to work the swing shift who is forced to continue to work on the graveyard shift because an employee failed to show up, is entitled to 1-1/2 times his or her swing shift rate.
- (F) An employee, regularly scheduled to work the graveyard shift who continues to work the day shift because an employee failed to show up is entitled to 1-1/2 times his or her graveyard shift rate.

History: Rule 11-84, eff 19 Dec 84, (part).

## Chapter 05

### HOURS, LEAVES AND ABSENCES

#### Sections:

- 4.2401 Purpose.
- 4.2402 Administrative responsibilities.
- 4.2403 Holidays - Designated - Proclamation.
- 4.2404 Holidays - Day observed.
- 4.2405 Annual leave - Charges to leave.
- 4.2406 Sick leave.
- 4.2407 Leave without pay.
- 4.2408 Political leave.
- 4.2409 Maternity leave.
- 4.2410 Military leave.
- 4.2411 Excused absence.
- 4.2412 Repealed.
- 4.2413 Unauthorized absence.
- 4.2414 Workers' compensation recipients.

- 4.2401 Purpose.

It is recognized that maximum efficiency on the job can be obtained only by permitting employees to have time off with pay for purposes of rest, recreation, and to meet personal and family needs. It is also considered essential to the maintenance of a stable, satisfied, and productive work force for employees to be compensated to a reasonable extent during periods of involuntary absence from duty due to physical incapacity. Deserving employees, whose retention is of demonstrated value, should be guaranteed job security when it is necessary for them to be in a non duty status, based on legitimate reasons, for periods longer than permitted under rules governing authorized absence with pay.

ASCC's leave policies are in accordance with 7.12 ASCA (see Appendix 1).

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2402 Administrative Responsibilities.**

- (A) The Department of Administration of ASCC is responsible for the maintenance of employee leave records and furnishing advance relative to all leave records matters.
- (B) The President is responsible for all policy matters pertaining to leave and absence from duty.
- (C) Agency department heads and supervisors are responsible for day-to-day administration of the leave policy.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2403 Holidays - Designated - Proclamation.**

(A) The following public holidays are designated by statute and are paid holidays for agency employees:

- (1) New Year's Day, January 1;
- (2) Washington's Birthday, the third Monday in February;
- (3) Good Friday, the Friday before Easter;
- (4) Flag Day, April 17;
- (5) Memorial Day, last Monday in May;
- (6) Independence Day, July 4;
- (7) Manu'a Islands Cession Day, July 16;
- (8) Labor Day, the first Monday in September;
- (9) Columbus Day, the second Monday in October;
- (10) Veteran's Day, the second Tuesday in November;
- (11) Thanksgiving Day, the fourth Thursday in November;
- (12) Christmas Day, December 25;
- (13) Martin Luther King Day, 3<sup>rd</sup> Monday in January.

(B) Other holidays may be established by Governor's proclamation.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2404 Holidays - Days observed.**

Holidays shall be observed as provided below:

(a) For employees with workdays on Monday through Friday, if a holiday falls on:

- (1) Saturday, it is observed on the Friday preceding the holiday;
- (2) Sunday, it is observed on the Monday following the holiday;
- (3) Workday, it is observed on that workday.

(b) For employees with workdays other than Monday through Friday, if a holiday falls on a:

- (1) Day off, it is observed on the first workday after the day off;
- (2) Workday, it is observed on that workday.

History: Rule 11-84, eff 19 Dec 84, (part).

4.2405

Annual leave - Charges to leave.

(non-LwOP)

(A) Accrual.

To earn leave an employee must be employed during a full biweekly pay period. He or she is considered to have been employed for a full pay period if he or she is in a pay status of an agency on all days falling within the pay period exclusive of holidays and non-workdays.

(B) Earning Rates.

(1) Full-time employees:

- (a) Employees with less than 3 years of creditable service earn 4 hours or 1/2 workday of annual leave for each biweekly pay period.
- (b) Employees with 3 but less than 15 years of creditable service earn 6 hours or 3/4 workday of annual leave for each full biweekly pay period except for the last full pay period of the calendar year, for which they earn 10 hours of annual leave.
- (c) Employees with 15 or more years of service earn 8 hours or one workday of annual leave for each full biweekly pay period.

(2) Part-time employees:

- (a) Employees with less than 3 years of creditable service earn one hour of annual leave for each 20 hours in a pay status.
- (b) Employees with 3 but less than 15 years of creditable service earn one hour of annual leave for each 13 hours in a pay status.

- (3) Fractional pay periods: If employment is continuous, leave is credited on a pro rata basis for those days during a fractional pay period for which an employee is being paid. The following table may be used to determine the amount of pro rated leave credit:

PRO RATA TABLE

Biweekly Pay period Workdays	Category 4*	Category 6	Category 8
1	1	1	1
2	1	1	2
3	1	2	2
4	2	2	3
5	2	3	4
6	2	4	5
7	3	4	6
8	3	5	6
9	3	5	7
10	4	6	8

\*This column may be applied for sick leave purposes.

(4) Maximum Accumulation.

Accumulation of unused accrued leave may not exceed a total of 60 days at the beginning of the first complete pay period of each leave year. Excess leave beyond the 60 days is forfeited except as follows:

- (1) Nothing in this section shall be construed to prohibit the taking or require the forfeiture of any annual leave which is validly granted and the taking of which begins on or before the last working day of the current leave year, notwithstanding that the recording of the current accrued annual leave for the current leave year on the last day thereof might result in an accumulation of more than 60 days including the working days of the annual leave so granted and then being taken. The period of such annual leave shall be regarded as if it had been entirely taken prior to the last day of such leave year.
- (2) Nothing in this section shall be construed to require the forfeiture of any annual leave when an employee terminates on or before the last working day of the leave year, notwithstanding the fact that the recording of current accrued annual leave for such year on the last day may result in an accumulation of more than 60 days.

(D) Leave Charges.

(1) Leave Days.

Both annual and sick leave are charged to an employee's account only for absence on regular workdays; i.e., days on which he or she would otherwise work and receive pay during his or her regular tour of duty. Leave is not charged for absence on holidays or other non work days.

- (2) Minimum Charge. One hour is the minimum charge for either annual or sick leave. After one hour, additional charges may be made in multiples of 1/2 hour. Absence on separate days are not combined.

(E) When Taken.

- (1) Annual leave is provided and used for two general purposes, which are:

- (a) To allow every employee an annual vacation period of extended leave for rest and recreation;
- (b) and To provide periods of time off for personal and emergency purposes. These absences involve such matters as death in a family, religious observances, attendance at conferences or conventions, securing a driver's permit, or other personal business which can be disposed of only during the time in which the employee would ordinarily be working.

- (2) Annual leave provided by law is a benefit and accrues automatically. ASCC is responsible for administering the annual leave system and issues instructions concerning the granting of annual leave. Guidelines are as follows:

- (a) The approval of short periods of leave should generally be the responsibility of immediate supervisors, who best know whether the leave requested is compatible with the workload.
- (b) Requests for extensive periods of annual leave may be recommended for approval by the immediate supervisors but require approval at a higher organization level.
- (c) Decisions as to the granting of leave will generally be made in the light of the needs of the agency rather than solely the desires of the employee.
- (d) Supervisors should ensure that annual leave is scheduled for use so as to prevent any unintended loss of leave at the end of the leave year.
- (e) Annual leave must be requested and approved prior to its taking. Failure to secure prior approval may result in a charge to leave without pay and may result in disciplinary action against the offending employee. The ASG form for application for leave must

be completed and submitted 3 days before an employee may take leave.

- (f) In Lieu of Sick Leave. Approved absence, otherwise chargeable to sick leave, may be charged to annual leave when sickness exceeds accumulated sick leave hours.
- (g) Advances. It is not permissible for an employee to be granted annual leave in advance of its having been earned.
- (h) Lump-sum Payments.
  - (1) Entitlement. An employee who has annual leave to his or her credit and who is separated from employment with ASCC is entitled to payment of accumulated, accrued annual leave in a lump sum.
  - (2) Computation of Payment. Lump-sum leave payments are equal to the compensation that he or she would have received had he or she remained in the employment of ASCC until the expiration of the period of annual leave paid. Included is pay for holidays falling within that period to which the employee would have been entitled. The employee does not, however, earn leave during the period represented by the lump-sum payment. Except for purposes of taxation, the lump sum is not regarded as salary or compensation.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.2406 Sick leave.

Sick leave is for use when an employee is physically incapacitated to do his or her job, or for such related reasons as exposure to a contagious disease that would endanger the health of co-workers, presence of contagious disease in an employee's immediate family which requires his or her personal care, or for dental, optical, or medical examination or treatment.

##### (A) Earning Rates.

###### (1) Full-time Employee.

Employees earn sick leave at the rate of 4 hours or 1/2 workday for each full biweekly pay period. Sick leave is earned from the first pay period of employment.

###### (2) Part-time Employees.

These employees earn sick leave at the rate described under the category 4 column of the pro rata table in this chapter.

##### (B) Maximum Accumulation. Unused sick leave is accumulated without limit.

##### (C) Granting.

Sick leave is a right, provided the requirements of this subsection are met. ASCC officials have the authority and responsibility to determine that the nature of the employee's illness was such as to incapacitate him or her for his or her job and that other reasons for which sick leave is granted are valid. It is mandatory that an employee furnish documentary evidence in the form of a medical certificate for periods of sick leave in excess of 3 consecutive workdays. However, management may require that the employee furnish such certificate for sick leave involving any length of time. The employee who becomes ill is responsible for notifying his or her supervisor as soon as possible. Required medical certificates shall be submitted together with leave request forms and time sheets as specified by the above reference.

(D) Advances.

An employee may draw upon anticipated sick leave credits if current credits become exhausted. The request shall be made to the President within these requirements and limitations:

- (1) The advance will be made based upon anticipated accrual of credits up to 30 leave days. If the employee has a planned termination date which will affect the accrual, the number of days which can be advanced will be reduced accordingly.
- (2) The advance will not be authorized automatically. The following factors will be considered prior to approval:
  - (a) Has the employee been wise and careful in the use of leave in the past?
  - (b) Does the doctor show the employee will be able to return to work in a reasonable time?
  - (c) Are the best interests of the agency and the employee served through this action?
  - (d) What are these special circumstances which warrant continuing this person's pay on the chance he or she will return to work and earn the sick leave credit? Length of service, performance record, essential nature of services, and circumstances beyond their control should be cited (pregnancy cases do not generally qualify).

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2407 Leave without pay.**

Leave without pay is a temporary absence from duty in non pay status granted upon the employee's request and at the discretion of management. The permissive nature of leave without pay distinguishes it from absence without leave (AWOL), which is a non pay status resulting from a period of absence for which the employee did not obtain advance authorization or for which his or her request for leave has been denied. It shall be the practice of ASCC to grant leave without pay only when it will be of mutual benefit and interest to the agency and to the employee. Leave without pay shall not be granted for the purpose of an employee participating in private employment.

(A) Administrative Discretion.

The granting of leave without pay is a matter of administrative discretion. Employees cannot demand that they be granted leave without pay as a matter of right.

- (1) ASCC departments must assure that each request is of such value to the agency or the serious needs of the employee as to offset costs and administrative inconveniences of the position of the employee being frozen and remaining vacant while the employee is on leave without pay.
- (2) Extended leave without pay beyond 30 days may not be approved unless there is assurance that the employee will return to duty and that at least one of the following benefits will result:
  - (a) Improved work performance and ability;
  - (b) Protection or improvement of employee's health;
  - (c) Retention of a desirable employee; and
  - (d) Furtherance of a program of interest to the agency.

(B) Extended Leave Without Pay.

Extended leave without pay requires the prior approval of the President when properly justified by the department submitting such request. Extended leave without pay will be granted in the following circumstances:

- (1) Attendance at a recognized institution of higher learning or a technical school, pursuing a course of instruction which is related to the employee's field of work;
- (2) Travel and/or research which will impart knowledge, skills, and/or abilities required in the employee's work;
- (3) Extended illness with a positive prognosis, or family or personal problems, an end of which can reasonably be predicted;
- (4) To work for another agency of ASG or another government on a loan basis, where there is no agreement under the Inter-governmental Personnel Act. The request for the services of the employee must be made through the Governor's office, in writing.
- (5) To serve a required period of military service beyond the 15 days which are authorized for pay purposes. The military duty must be for periods of time not to exceed one year and must be categorically mandated, as in the basic training period required for a recruit in the Armed Forces reserves. Leave cannot be granted for voluntary extensions or re-enlistments;
- (6) To protect employee status and benefits when an employee is injured and his or her case is being adjudicated or he or she is receiving benefits under worker's compensation.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2408 Political leave.**

Leave without pay shall be freely granted to any government employee for the purpose of campaigning as a candidate for public office in American Samoa for a period beginning 30 days before and ending 10 days after the date set for election.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2409 Maternity leave.**

Maternity leave, a period of approved absence for incapacitation related to pregnancy and confinement, is chargeable to sick leave or any combination of sick leave, annual leave, and leave without pay, in the order given.

- (A) Employees are required to request maternity leave substantially in advance of their intended absence so that staffing adjustments may be made.
- (B) Periods of maternity leave shall be based on individual medical determination. A medical certification must be submitted showing expected date of confinement. Maternity leave may be granted for a period of 6 weeks prior and 6 weeks subsequent to birth.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2410 Military leave.**

**(A) General Provisions**

A full-time employee who serves under an appointment without time limitation and who is a member of a reserve component of the Armed Forces of the United States, the U.S. Public Health Service, or the National Guard is entitled to leave of absence for annual military training without charge to annual leave, or loss of pay or service credit, for not more than 15 workdays in any calendar year. The reserve components of the Armed Forces include the reserves of the Army, Navy, Air Force, Coast Guard, and Marine Corps etc. The National Guard includes the National Guard of the Army and of the Air Force. Application for military leave shall be accompanied by appropriate military orders.



- (B) Maximum Military leave is limited to a maximum of 15 workdays during each year, regardless of number of training periods in a year, and whether taken intermittently, a day at a time, or all at one time.
- (C) Use of Annual Leave.  
Absence which is not chargeable to military leave can be charged to annual leave. Therefore, employees who are called to duty for a period longer than the 15 day period chargeable to military leave can use annual leave for additional absence.
- (D) Contract Employees.  
Contract employees who are members of the Armed Forces reserve components shall be granted military leave in accordance with the provisions of this section.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2411 Excused absence.**

- (a) Excused absence is absence from duty authorized by the President, without charge to annual leave or loss of pay or service credit, under the circumstances described below:
  - (1) To take an employment examination for a position currently occupied or one to which the employee may be promoted or reassigned, not to exceed 3 hours;
  - (2) To take a physical examination required to determine continued employability;
  - (3) To obtain treatment for an injury sustained in the performance of duty. The employee may be excused for the balance of the day on which the injury occurred;
  - (4) To be unavoidably or necessarily absent from duty for less than one hour or for being tardy;
  - (5) To donate blood to the American Red Cross in American Samoa or in emergencies to individuals from the time necessary for such donations, not to exceed 4 hours, provided that employee does not receive pay for blood;
  - (6) To participate in emergency rescue or protective work at the request of local or territorial officials;
  - (7) To participate in federally recognized civil defense programs for a reasonable length of time up to 40 hours in a calendar year;
  - (8) To vote and register. An employee who desires to vote or register in an election or in a referendum on a civic matter in his or her community may be granted time off without loss in pay or service credit or charge to leave as follows:
    - (a) The employee may be allowed 2 hours of excused absence at the beginning or end of the workday.
    - (b) An employee may be excused for such additional time as may be needed to enable him or her to vote, depending upon the circumstances in the individual case, but not to exceed a full day. Time off in excess of one day shall be charged to annual leave or if annual leave is exhausted, to leave without pay.
    - (c) An employee who votes in a jurisdiction which requires registration in person may be granted time off to register substantially on the same basis as for voting except that no such time shall be granted if registration can be accomplished on a non workday and the place of registration is within a reasonable one-day, round trip travel distance of the employee's place of residence;
  - (9) To serve as witness or juror when summoned involuntarily by the court, provided he or she returns to duty immediately upon release by the court. However, if the employee's appearance in court is in his or her own interest, either as appellant, defendant, or witness, leave of absence with pay, without pay, or compensatory time off must be documented. An employee called as a court witness in his or her government or of a private party, is in an official-duty status;

- (10) When working conditions or extenuating circumstances exist beyond the control of management, not to exceed a maximum grant of 4 hours. Excused absence in this category should normally not exceed 4 hours. However, it may be extended for the duration the conditions or circumstances such as when inclement weather prevents reporting to work.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2412 Administrative leave.**

Repealed by Rule 6-87 - 3.

**4.2413 Unauthorized absence.**

Unauthorized absence shall be treated as absence without pay and may be grounds for disciplinary action.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2414 Workers' compensation recipients.**

(a) Earning of Credits.

An officer or employee who is absent from work because of injuries/illnesses incurred within the scope of his or her employment and who is receiving workers' compensation wage loss replacement benefits, such as temporary total disability and temporary partial disability payments, shall continue to earn vacation and sick leave credits as though he or she was not absent but performing the duties of his or her regular employment.

(b) Use of Credits.

- (1) An employee with accrued sick leave credits who is absent from work and who is receiving workers' compensation wage loss replacement benefits shall be entitled to receive an additional amount, charged to sick leave, which would bring his or her total payment to a sum equal to the employee's regular salary.
- (2) In the event the employee does not have any accrued sick leave credits, he or she may elect to use accrued annual leave credits to bring his or her total payment to a sum equal to the employee's regular salary.
- (3) An employee is entitled to use the sick and annual leave credits earned during the period of absence from work.

History: Rule 11-84, eff 19 Dec 84, (part).

## Chapter 06

### RETIREMENT BENEFITS

#### Sections:

**4.2501 ASCC employees eligible to receive retirement benefits.**

#### 4.2501 ASCC employees eligible to receive retirement benefits.

All employees of ASCC are eligible to receive retirement benefits through the ASG Employee Retirement Plan, according to provisions of the Plan as specified by Chapter 7.14 ASCA.

History: Rule 11-84, eff 19 Dec 84, (part).

### Chapter 07

#### INCENTIVE AND TENURE AWARDS

##### Sections:

- 4.2601 Purpose of incentive awards.
- 4.2602 Budgeting - Incentive awards committee - Award-approval authority.
- 4.2603 Suggestions award.
- 4.2604 Superior performance award.
- 4.2605 Special act or service award.
- 4.2606 Group awards.
- 4.2607 Tenure award.
- 4.2608 Operator of the month award.

##### 4.2601 Purpose of incentive awards.

It is the policy of ASCC to provide a method which affords recognition of exceptional skills, resourcefulness, or exceptional acts of employees. The purpose of the incentive awards program, therefore, is to provide a device by which recognition may be afforded an employee or a group of employees who make suggestions which, when adopted, will save time and/or materials for the agency, thus reducing costs, and to provide recognition of employees who perform special acts or services in the public interest which reflect favorably on the image and reputation of the agency.

History: Rule 11-84, eff 19 Dec 84, (part).

##### 4.2602 Budgeting - Incentive awards committee - Award-approval authority.

- (A) It is the responsibility of the business/finance manager, after consultation with department heads and the President, to budget annually a specified fund for payments of cash awards under the program.
- (B) It is the responsibility of a representative committee, known as the incentive awards committee and consisting of at least 3 but not more than 5 members appointed by the President, to serve on a rotating basis to:
  - (1) Investigate and evaluate contributions for improving ASCC operations, as well as other incentive award proposals, and to recommend their approval or disapproval to the President on the basis of a simple majority opinion;
  - (2) Encourage supervisors and their subordinates to participate in improving the efficiency and economy of ASCC operations.
- (C) It is the responsibility of the chairman of the incentive awards committee, who is a member of the ASCC management staff, to:
  - (1) Receive and review proposals and nominations for clarity and merit, prior to acceptance by the incentive awards committee for evaluation and subsequent authorized action;
  - (2) Develop ways and means of stimulating interest and participation in the incentive awards program on the part of both employees and management.

(D) Authority for final approval of all cash awards shall rest with the President..

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2603            Suggestions award.**

An employee is eligible to be considered for a cash award by presenting to the chairman of the incentive awards committee, in writing, his or her suggestions for improvement of ASCC operations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2604            Superior performance award.**

A cash award may be made when a career service employee's or contract specialist's performance over a 6-month period substantially surpasses the normal requirements of his or her position or he or she performs a special assignment in above average manner without adversely affecting his or her regular work, provided he or she is nominated in writing, within 6 months of the period of performance in question, by an appropriate supervisor, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head of the employee's department.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2605            Special act or service award.**

A special act or service may be contributed during an emergency, in connection with a special program or activity, or by creative efforts important to administration, science, or research and characterized as a non-recurring situation. Any employee is eligible to be considered for a special act or service cash award, provided he or she meets the criteria described in this section and he or she is nominated not more than 6 months after the completion of the special act or services concerned, in writing, and such nomination is endorsed and submitted to the chairman of the incentive awards committee by the head of the employee's department.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2606            Group awards.**

When a contribution has been made by more than one employee or by a group of employees, all who have contributed, including supervisors, may share equally or proportionately in the group cash award; however, the total amount of the award is as if made to an individual. Where individual shares of such group cash awards committee shall determine the amount of the award.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2607            Tenure award.**

Effective on and after January 6, 1980, employees who are awarded service certificates will also receive a tenure award in cash as follows:

- |                             |         |
|-----------------------------|---------|
| (1) Twenty-year certificate | \$500   |
| (2) Thirty-year certificate | \$750   |
| (3) Forty-year certificate  | \$1,000 |
| (4) Retirement certificate  | \$100   |

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2608 Operator of the month award.**

The ASCC Advisory Committee, consisting of all managers and supervisors, recognizes an employee each month as Employee of the Month. The Advisory Committee uses two forms to evaluate employees, a daily report and a weekly inspection report.

History: Rule 11-84, eff 19 Dec 84, (part).

**Chapter 08**

**CONDUCT**

**Sections:**

- 4.2701 Responsibility and deportment - Off-the-job conduct.**
- 4.2702 Misconduct.**
- 4.2703 Subordination to authority.**
- 4.2704 Selling or soliciting.**
- 4.2705 Outside business activity.**
- 4.2706 Community and professional activities.**
- 4.2707 ASCC property.**
- 4.2708 Gifts.**
- 4.2709 Information.**
- 4.2710 Revolutionary organizations.**
- 4.2711 Political affiliation.**
- 4.2712 Political affiliation.**
- 4.2713 Financial responsibility.**
- 4.2714 Contracts with employees.**
- 4.2715 Financial interests.**

**4.2701 Responsibility and Department - Off-the-job conduct.**

It is the policy of ASCC to urge its career service employees and contract specialists to cultivate those personal qualities which characterize a good employee's loyalty to ASCC: a sense of responsibility for the public trust and a standard of personal deportment which is a credit to the individuals themselves and to the service. Off-the-job conduct is a concern to ASCC if it reflects adversely upon the dignity, integrity, and prestige of the agency.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2702 Misconduct.**

Any criminal, dishonest, immoral, or any other conduct on the part of an employee which would adversely affect ASCC will be cause for his or her removal from employment. Gambling or the use of alcoholic beverages by employees in ASCC buildings, construction sites, or offices will not be tolerated.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2703 Subordination to authority.**

An employee is required to carry out the announced policies and programs of ASCC.

**4.2703 Subordination to authority.**

An employee is required to carry out the announced policies and programs of ASCC. While policies related to his or her work are under consideration, he or she may, and is expected to, express his or her opinions and points of view, but once a decision has been rendered by those in authority, he or she will be expected unreservedly to assure the success of programs which it is his or her responsibility to effectuate. If he or she fails to carry out any lawful rule, order, or policy or deliberately refuses to obey the proper requests of his or her superiors who have responsibility for his or her performance, he or she is subject to appropriate disciplinary action.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2704 Selling or soliciting.**

Employees and other persons are prohibited from selling or soliciting for personal gain within a building occupied or used by ASCC without proper permission. This prohibition does not apply to:

- (1) Authorized or installed business activities; e.g, employee cafeterias, etc.;
- (2) Solicitation for other approved purposes; and
- (3) Token solicitations for floral remembrances, retirement gifts, and for similar purposes.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2705 Outside business activity.**

An employee shall not engage in any business activity or work either in the capacity of employee or otherwise, which prevents an employee from devoting his or her primary interests, talents, and energies to the accomplishment of work for ASCC or tends to create a conflict between the private interest of an employee and his or her official responsibilities. The employee must notify his or her department head of any outside work or activity. If the department head finds there is a conflict of interest the employee must choose between jobs.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2706 Community and professional activities.**

Employees are encouraged to participate in activities of professional societies and of civic organizations whose purpose and objectives are not inconsistent with those of ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2707 ASCC property.**

(A) Employees shall be held accountable for ASCC property entrusted to them for their official use. It is their responsibility to protect and conserve ASCC property, including motor vehicles and other self-propelled equipment, and to use it economically and for official purposes only. The following rules apply to all ASCC-owned or ASCC-leased motor vehicles and other self-propelled equipment.

- (1) All ASCC vehicles or equipment are to be used for official business only.
- (2) No ASCC vehicles shall be issued to any employee of the agency who does not have a valid driving permit, and no other self-propelled equipment shall be issued to any person other than a qualified operator of the equipment.
- (3) No passengers or riders are to be transported unless they are on official ASCC business or are employees of ASCC.
- (4) A valid driving permit must be in the driver's possession at all times while operating an ASCC vehicle.
- (5) All accidents and traffic citations must be reported by the driver or operator to his or her immediate supervisor within 24 hours of the accident or citation.
- (6) Any department permitting an employee without a valid driving permit to drive an ASCC vehicle shall be held responsible for any damage or liability incurred as a result of an accident in which such employee is involved.
- (7) Employees using ASCC vehicles after hours must first fill out an after-hours usage request with the Office of the President.

(B) The rules pertaining to motor vehicles and other self-propelled equipment are the established rules of the President.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2708            Gifts.**

An employee shall not accept from or bestow upon any person or organization with which he or she deals officially anything of economic value, such as a gift, loan, or gratuitous service. No employee shall solicit or make a contribution for a gift for an official superior nor accept such a gift, except as specifically authorized by law or as cited in this chapter of these regulations. Except as specifically authorized by law, employees are not authorized to accept from private sources on behalf of ASCC voluntary donations or cash contributions for travel expenses or the furnishing of services in kind, such as hotel accommodations, meals, and travel accommodations. This exception does not apply to approved scholarship grants, etc., which ASCC has approved and supervises.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2709            Information.**

It is the policy of ASCC to accord the public free access to certain information about its activities. Employees should confine statements made in their official capacity to factual matters, and statements on policies and programs should be limited to those policies and programs presently in effect. If an employee is requested to give information outside the scope of his or her authority, he or she should refer the request through the immediate supervisor to his or her department head. Inquiries from the press, radio, or TV should be referred to the department head or other top management.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2710            Revolutionary organizations.**

An employee may not knowingly advocate the overthrow of the constitutional form of government through membership in any organization which asserts the right to militate against the United States, ASG, or ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2711 Political affiliation.**

No person with authority to take or recommend a personnel action relative to a person in, or an eligible applicant for, a position at ASCC may make inquiry concerning his or her political affiliation. All disclosures concerning political affiliation shall be ignored except membership in political parties or organizations constituted by law as a disqualification for ASCC employment. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person against or in favor of an employee in, or an eligible applicant for, a position at ASCC because of his or her political affiliation.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2712 Political activity.**

Employees shall not engage in unlawful political activities as defined in 7.0807 ASCA (see Appendix 1). Where doubt exists as to the legality of certain activities, the employee shall request a ruling in writing from the President.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2713 Financial responsibility.**

Employees of ASCC are expected to satisfy their financial commitments. Failure to meet one's obligations reflects adversely on one's standing as an ASCC employee.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2714 Contracts with employees.**

Because contracts with its own employees are considered to be against public policy, such contracts are not permitted at ASCC except where it is clearly shown that the interests of ASCC are the major consideration to be served thereby. The only announced exception to this policy concerns sales of certain types of surplus property to employees under competitive conditions as set forth by rules promulgated by the President.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2715 Financial interests.**

Employees may not have direct or indirect financial interest that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as employees, nor engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as other citizens.

History: Rule 11-84, eff 19 Dec 84, (part).



## Chapter 09

### TERMINATION, LAYOFF AND ADVERSE ACTIONS

#### Sections:

- 4.2801 Discipline policy generally - Scope of reasons for removal.
- 4.2802 Removal, suspension, demotion of career employees.
- 4.2803 Probational or trial employees
- 4.2804 Involuntary reassignment.
- 4.2805 Absence without leave - Abandonment of position.
- 4.2806 Resignation.
- 4.2807 Other termination actions.
- 4.2808 Layoff-Reduction-in-force.
- 4.2809 Clearance for terminating employees.

#### 4.2801 Discipline policy generally - Scope of reasons for removal.

It is the policy of ASCC to ensure that employees whose performance of their duties or conduct are not satisfactory are removed from their position promptly, that those who are guilty of misconduct not sufficiently serious to justify removal be properly disciplined, that voluntary and involuntary separations be handled in an orderly manner, and that employees be protected against arbitrary or capricious action. Removal may be effected for any of the reasons but not limited to those referred to in these regulations and in 7.0801 through 7.0807 ASCA.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.2802 Removal, suspension, demotion of career employees.

- (A) Employees in the career service, not serving probationary or trial periods and who are not serving under temporary appointments or contracts, shall not be removed, suspended, or involuntarily demoted except for such cause as will promote the efficiency and the good of ASCC.
- (B) Discrimination shall not be exercised in suspensions, removals, or demotions because of an employee's religious belief or affiliations, marital status except as may be required by law, and physical handicap unless an individual is unable to perform the duties of the position.
- (C) Like penalties shall be imposed for like offenses whenever removals, suspensions, or demotions are made or when other disciplinary actions are taken.
- (D) One of the following procedures shall be followed in cases of removal, suspension, and involuntary demotion;
  - (1) The employee shall be notified, in writing, of the charges against him or her, and of the corrective action recommended to the President to be taken against him or her.
  - (2) The notice shall set forth, specifically and in detail, the charges preferred against the employee.
  - (3) The employee shall be allowed 3 days for filing a written answer to such charges and for furnishing affidavits in support of his or her answer, or the employee may request and shall be given the opportunity to reply orally.
  - (4) If the employee answers the charges, his or her answer must be considered by the agency. Following consideration of the answer, the employee must be furnished with the agency's decision, in writing, as to the action to be taken.
  - (5) Then agency shall forward to the director of the Office of Human Resources copies of the charges, answer, and reasons for adverse action, all of which shall be made a part of the employee's official personnel file.

- (E) The employee shall be retained in an active duty status during the period of notice of purposed action except as follows:
- (1) The employee may be placed on annual leave when the President does not consider it advisable from an official standpoint to retain him or her in an active duty status during the advance notice period.
  - (2) When the employee is not placed on annual leave and the circumstances are such that his or her retention in an active duty status may result in damage to ASCC property, or may be detrimental to the interests of ASCC or injurious to the employee, fellow workers, or the general public, he or she may be temporarily assigned duties in which these conditions will not exist, or be placed on excused absence, and be required to submit a reply to the charges within 24 hours. The employee may be placed on immediately suspension pending removal thereafter if appropriate in the opinion of the President.
- (F) The President shall advise the employee in writing of the removal action to take effect 30 calendar days from the date of the notice, the reasons therefore, and that he or she may request a hearing before the board within 10 calendar days of the date of receiving the notice. ASCC shall follow the general format of the ASG sample letter for employee notification of suspension or termination with revisions to reflect ASCC's personnel organization.
- (G) If the employee does not appeal or if he or she appeals and the appeal is denied, his or her removal shall be processed finally in accordance with instructions applying within ASCC. ASCC shall follow the guidelines set forth in the ASG personnel rules entitled "Conduct of Government Employees - Disciplinary Action."

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2803 Probational or trial employees.**

Any employee serving a probationary or trial period shall be given a full and fair trial in the performance of the duties of the position to which appointed. Employees serving their original probationary period may be separated at any time during such period upon proper recommendation and 5 working days prior notice, without right of appeal.

- (A) Supervisors shall carefully observe the performance and conduct of employees who are serving the probationary period to determine whether the retention of such employee is in the best interests of ASCC.
- (B) Three months prior to the expiration of an employee's probationary period, the President shall determine whether the employee is to be retained. If the employee is not to be retained, the President and the employee's immediate supervisor shall advise the employee in writing. The President shall proceed with the separation action as follows:
  - (1) Issue a written notice to the employee advising him or her that he or she will be separated as of a particular date, the reason(s) therefore, and that he or she has no right of appeal, except in cases of alleged discrimination because of sex, creed, color, or marital status.
  - (2) The chapter of these regulations on recruitment and placement addresses separation of a career service employee serving a new trial period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2804 Involuntary reassignment.**

- (A) The President may move any employee involuntarily from one position to another, which may or may not involve a change in class, without the right of appeal, provided no reduction in grade or rate of compensation is involved.
- (B) An involuntary reassignment is considered an "administrative reassignment" with the best interests of the agency as the primary objective.
- (C) Failure of an employee to comply with an involuntary (administrative) reassignment shall result in immediate separation.
  
- (D) Any employee so reassigned may grieve through the agency's grievance procedures.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2805 Absence without leave - Abandonment of position.**

When an employee fails to report for duty or to return from leave for ten or more consecutive workdays, he or she may be considered to have abandoned his or her position. Care must be taken, however, before a final decision is made, to ascertain that the employee has truly abandoned the position. The supervisor should make an effort to contact the employee to determine his or her intentions. If the employee intends in fact to resign, this should be the action taken rather than to term the action abandonment of position, as future employment opportunity with ASCC or ASG may be affected. If the supervisor is unable to ascertain the employee's intention concerning return to duty, processing of abandonment of position is proper and should be handled as follows:

- (A) Action by Operating Officials. The employee's department head shall recommend to the President, using a position action request form, that the employee be separated for abandonment of position. Under the "Remarks" section, list when (date) and what effort the supervisor (name) made to contact the employee, and the results of that effort.
- (B) The President shall proceed with the separation action in accordance with these regulations.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2806 Resignation.**

An employee may resign at any time subject to the following conditions:

- (A) Notice.

The comply must notify his or her department head, in writing, of his or her resignation at least 2 weeks prior to the date of separation unless the department head waives such requirement.

- (B) Withdrawal.

Once submitted, the resignation is binding upon the employee and it may be withdrawn only with the department head's consent.

- (C) In lieu of separation for cause.

An employee may resign with prejudice in lieu of removal or while issuance of charges leading to removal are pending. In such instances, the department head must indicate the abnormal nature of the resignation on the request for personnel action.

(D) Rehire.

An employee who resigns without prejudice is eligible for reinstatement at any time, assuming an opening exists and he or she has completed the probationary period. If the employee has not completed the probationary period or if, within the five years preceding the date of his or her current application, he or she resigned from ASCC in lieu of removal, he or she will compete through regular competitive channels and if selected shall serve a new probationary period.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2807 Other termination actions.**

- (A) A person serving under a temporary appointment may be terminated at any time prior to the expiration of the temporary appointment, but must be terminated on the NTE (not-to-exceed) date unless approval has been granted by the President for extension of the appointment.
- (B) A non career employee who has failed to qualify for a probational or career service appointment to continue his or her employment may be terminated by the agency upon notification to his or her department that he or she has failed to qualify.
- (C) An employee who, during a leave of absence, accepts other employment which is contrary to the purpose for which leave is granted may be terminated.
- (D) An employee who fails to provide his or her department head with proper notice of his or her resignation may be terminated with prejudice.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2808 Layoff - Reduction-in-force.**

- (A) When there is an impending layoff because of lack of funds, curtailment of work, or reorganization, the department head shall notify the President and the affected employee(s) in writing as soon as possible but at least 60 days in advance of the layoff unless cutoff of funds requires a shorter notice period, in which case such requirement must be stated in writing.
- (B) The provision of this section concerning placement rights are applicable to career service employees whose positions are to be abolished and to a career service employee who will be displaced by another career service employee. The provisions of this section also apply to a career service employee who is displaced by a career service employee returning from the military duty, furlough, or leave.
- (C) The President shall exhaust all possibilities in placing the employee within the before a reduction-in-force is effectuated.
  - (1) When there is no appropriate vacant position in which the career service employee may be placed, the agency shall follow the order below in determining which employee shall be displaced:
    - (a) A non career service employee in the same class and pay range. When there is more than one such employee, layoff will be, first, of:
      - (1) An employee serving under emergency or temporary appointment;
      - (2) An employee serving a probational appointment;
      - (3) A career service employee who occupies a position in the same class and grade and has the least seniority based on the service computation date;
    - (b) A non career service employee who occupies a position in another class at the same pay range, in accordance with divisions (A) (1), (II), and (III) of

- this subsection, provided the displacing employee meets the minimum qualifications for such position;
- (c) A non career status employee who occupies a position in the same series, but a lower class and pay range in accordance with divisions (A) (I), (II), and (III) of this subsection;
  - (d) A non career status employee who occupies a position in a different series and lower class for which the displacing employee meets minimum qualifications in accordance with divisions (A) (I), (II), and (III) of this subsection.
- (D) If the President is unable to place the employee, he or she shall immediately notify the Director of the Human Resources Office, who will place the employee on ASCC's reemployment register, and effect territory-wide RIF procedures. The President will issue the two-week notice of termination and place the employee on ASCC's reemployment register.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2809 Clearance for terminating employees.**

The standard ASCC clearance form must be completed by all terminating employees and kept on file by ASCC.

History: Rule 11-84, eff 19 Dec 84, (part).

## **Chapter 10**

### **APPEAL, GRIEVANCE AND ADMINISTRATIVE REVIEW**

#### **Sections:**

- 4.2901 Appeal - Right of career employees.**
- 4.2902 Appeal - Procedure.**
- 4.2903 Grievances.**
- 4.2904 Administrative review.**

#### **4.2901 Appeal - Right of career employees.**

Career employees may file appeals on matters concerning their suspension, involuntary demotion, or removal.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2902 Appeal - Procedure.**

##### **(A) Form and Deadline.**

All appeals must be made in writing and state clearly the basis for appeal to the chairman of the board and must be filed within 10 calendar days after the effective date of the action appealed, except in the case of a reduction-in-force. The appeal should also include the employee's request for a hearing if he or she desires and is entitled to one.

##### **(B) Scheduling Hearing.**

The written appeal shall be on the agenda of the board's next meeting. If the appeal involves a removal, suspension, or demotion, however, the appeal hearing shall be arranged so as to effect a board decision within 30 days after appeal. However, the chairman of the board may deny a hearing when a hearing is impractical by reason of unusual location or other extraordinary circumstances.

(C) Hearing Procedures.

Hearings before the board shall be conducted in accordance with the procedures promulgated by the board.

(D) Counsel and Openness.

Attendance of other interested parties and/or counsel may be limited by the chairman of the Board of Higher Education if good order, justice, and fairness will be promoted.

(E) Death of Appellant.

A proper appeal filed before the death of the employee must be processed to completion and adjudicated. If appropriate, the board may provide for amendment of the employee's records to show retroactive restoration and the employee's continuance on the rolls in an active duty status to the date of death.

(F) Adverse Action Appeal.

If the decision is to take adverse action and the employee appeals this action, the appeal must then go to the Chairman of the Board for a final decision at the administrative level.

(G) File Access.

Prior to the hearing the entire appeal file shall be made available upon request to the employee and his or her representative except when a file contains medical records concerning a physical or mental condition of which a prudent physician would hesitate to inform the person concerned.

Hh) Notice of Hearing.

All parties shall be served with notice at least 10 days before the date set for the hearing. The notice shall state the time and place of such hearing.

(I) Depositions.

A party who desires to take the deposition of any person in an oral examination shall give reasonable notice of not less than 3 days in writing to the board and all place of taking the deposition and the name and address of each person to be examined.

- (1) The deposition officer shall be a person who is authorized to administered oaths by the laws of the territory of American Samoa.
- (2) The officer shall certify on the deposition that the witness was duly sworn by him or her and that the deposition in an envelope endorsed with the title of the proceedings and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the Chairman of the Board for filing. The party taking the deposition shall give prompt notice of its filing to all other parties.

(J) Case Presentation and Testimony.

- (1) The employee shall present his or her case first. Evidence may be either documentary or by affidavit. The employee must not use affidavits to exempt persons from cross-examination. The employee should not accept an affidavit in lieu of personal testimony from a witness who is present at the hearing.
- (2) All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys and witnesses before the Court of American Samoa. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.
- (3) Witnesses shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony. Employees are in a duty status during the time they are made available as witnesses.

(K) Conclusions.

Within thirty days after the original notice, the board shall make a fully record in its permanent records findings of fact and reasons for the action taken and its order based thereon which shall be final, subject only to further action if the employee appeals the decision in court. At the same time the board shall send a copy of the findings and

conclusions to the employee at his or her address as given at the hearing or to a representative designated by him or her.

(L) Restoration of Rights.

Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, annual leave accrual, and retirement.

(M) Correction of Performance Evaluation.

A correction of a performance evaluation shall not affect a certification or appointment which has already been made from the register.

(N) Correction of Classification.

Correction of a classification decision which results in a promotion or demotion shall be handled as stated in the chapter in these regulations on recruitment and placement, specifically the section on "Promotion - Lateral movement - Transfer - Detain - Demotion." The board will determine the effective date of any such action.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.2903 Grievances.**

- (A) Filing Grievances may be filed orally or in writing by any person, at any point of contact within ASCC. If the grievance is misdirected (complaints about another department) the grievant shall be properly directed. The following types of action are typical of those which may be grieved, but is not all inclusive:

- (1) Performance evaluation;
- (2) Leave (denial);
- (3) Promotion;
- (4) Letters of reprimand;
- (5) Reassignment;
- (6) Increment (denial);
- (7) Hours of work;
- (8) Discrimination or bias.

(B) Procedure. ASCC shall have a three-part grievance procedure, as follows;

- (1) Each grievance shall be placed in writing, and resolution attempted by the appropriate supervisor at the lowest level.
- (2) Failing resolution, the grievance shall then be elevated to an uninvolved higher level in the agency and the grievant allowed to present testimony in his or her behalf in an informal hearing.
- (3) If the recommendation of the informal hearing fails to satisfy the grievant, the case will be forwarded to the President for final decision. If the case is carried beyond this point by the grievant, it must be as an appeal to the board.

(C) Exception. In cases involving suspension, demotion, or dismissal of a career service employee, no grievance is filed. The only appropriate and allowable employee response is an appeal to the board.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.2904 Administrative review.**

The President has responsibility for the recruitment, examination and certification of eligibles, and for the proper classification of positions to titles, grades and pay. Any person who believes his or her application to have been improperly evaluated and/or any employee who believes his or her position to have been improperly evaluated, may request in writing that his or her case be reviewed.

- (A) The request must indicate the person's basis for the belief that the application or position was improperly evaluated.
- (B) The request, to be acceptable, must be filed within 10 calendar days of the official notice to the employee.
- (C) The President shall cause the case to be reviewed and notify the person, in writing, of the findings upon review.
- (D) If still dissatisfied, the person may file an appeal, following the procedures outlined in these regulations.

History: Rule 11-84, eff 19 Dec 84, (part).

## **Chapter 11**

### **CONTRACT SPECIALISTS**

#### **Sections:**

- 4.3001 When hiring permitted - Employment agreement.**
- 4.3002 Temporary contract specialists.**
- 4.3003 Assignment - Recruitment - Selection.**
- 4.3004 Compensation - Absence with pay - Review and reclassification.**
- 4.3005 Transportation.**
- 4.3006 Annual leave - Sick leave.**
- 4.3007 Medical benefits.**
- 4.3008 Termination of cause.**
- 4.3009 Resignation - Termination without cause.**
- 4.3010 Renewal of contract.**
- 4.3011 Employment after term of contract.**
- 4.3012 Conduct - Reassignment - Career service eligibility - Self-employment.**



- 4.3013 Grievances - Striking prohibited.
- 4.3014 Training.
- 4.3015 Work-product ownership - Discoveries and documents.
- 4.3016 Dependents defined - Family status reports.
- 4.3017 Immigration status - Departure upon termination.

**4.3001            When hiring permitted - Employment agreement.**

When there are no qualified eligibles available for a given position, excepted appointments of qualified eligibles residing outside of American Samoa may be made by contract. The terms of a contract specialist's employment are specified in the employment agreement he or she signs with ASCC.

The contract is prepared by ASCC Human Resource Office and approved by the President. ASCC may ask ASG to assist in recruitment.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3002            Temporary contract specialists.**

- (A) In addition to permanent contract specialists, ASCC will hire contract specialists to fill temporary positions or to work on temporary special projects. These temporary contract specialists are not entitled to career service status as defined by Chapter 7.13 ASCA (i.e., they do not accrue benefits or leave). All payments to these employees are made through ASCC's regular payment process for accounts payable, as stated in their terms of contract. The temporary contract specialists are subject to the same standards of conduct as any other ASCC employee.
- (B) A temporary service contract is prepared by ASCC. The contract is approved by the President and all employee records are maintained by ASCC Human Resource Office. The contracts may be terminated upon 14 days written notice by either party.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3003            Assignment - Recruitment - Selection.**

The following are rules concerning contract specialists which are not contained in the standard contracts, or which required amplification:

(A) Assignment of Duties.

While the contract specialist is designated to serve in the position for which he or she signs, the needs of ASCC will determine other assignments and specific designations.

(B) Recruitment Policy.

- (1) Positions must be advertised locally prior to off-island, except that where the shortage of qualified eligibles is known in advance, recruitment may be performed simultaneously.
- (2) ASCC Human Resource Office coordinate off-island recruitment efforts.

(C) Selection Policy.

Selection for contract positions must be made solely based upon fitness and merit, without regard to race, color, sex, age, religion, national origin, or politics.

(D) Medical Examination.

All selectees and their accompanying dependents shall be required to provide evidence of good health as shown by reemployment physical examinations, the reports of which shall be evaluated by the Director, Department of Health.

(E) Verification of Qualifications.

Acceptance by the President of verifications of the candidate's claimed qualifications and references, and any reports of interviews of candidates and married candidates' spouses, is required.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3004 Compensation - Absence with pay-Review and reclassification.**

- (A) Compensation for positions filled by contract shall be in accordance with established ASCC salary rates based on the salary rates of the career service. Base salaries shall be taken from the appropriate ASCC salary schedule and the rules concerning same.
- (B) Contract specialists are not entitled to overtime compensation.
- (C) Contract specialists may be granted absence from duty with pay on those holidays recognized by ASCC.
- (D) If substantial changes are contemplated in the duties and responsibilities assigned to a contract specialist during the life of his or her agreement, ASCC may review and reclassify the contract position.
  - (1) If the change is to a vacant position which is not under the supervision of ASCC then ASCC will be made a party to the agreement and he or she will also sign the amendment form and personnel/payroll action request which authorizes the position change.
  - (2) If a change of position involves a change of grade and salary, then a lump-sum accumulated-leave payment will be made to the employee at the salary rate in effect at the conclusion of his or her un-amended term of service. The employee will begin to accumulate annual leave at the adjusted salary rate, commencing with the effective date of the contract amendment.
- (E) During the tenure of the contract, the contract specialist shall receive step increments as detailed in the section of these regulations which addresses classification and pay.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3005 Transportation.**

- (A) Entitlement at Hiring and Separation ASCC will furnish transportation for the contract specialist and his or her dependents, his or her household goods and professional materials from his or her permanent residence to American Samoa. If the contract specialist has fully performed the terms and conditions for his or her agreement in a manner satisfactory to ASCC, ASCC will furnish transportation for the contract specialist, his or her dependents, his or her household goods and professional materials to his or her point of hire.
  - (1) The contract specialist and his or her dependents are authorized economy, jet air travel accommodations between the point of hire and American Samoa. Unless specifically authorized on the travel authorization, additional cost for superior accommodations or excess baggage shall be borne by the contract specialist.

- (2) When a vacant contract specialist position is filled by a qualified nonresident candidate who is temporarily residing in American Samoa, no provision will be made by ASCC for his or her travel or shipment of household goods to the territory.
- (3) Non-ASCC furnished transportation expenses (private yacht, aircraft) incurred by a contract specialist and his or her dependents by travel to American Samoa to report to duty may be reimbursed to him or her in amounts not to exceed that authorized for one-way, economy jet air fare as stipulated by ASCC travel rules. The request for reimbursement must be supported by receipts or other evidence of payment.
- (4) The transportation expenses mentioned in his or her employment agreement shall constitute the measures of damages for a breach of his or her agreement by the contract specialist.

(B) Remaining After Contract.

If the contract specialist, with immigration approval, elects to remain in American Samoa upon completion of his or her contract, ASCC's obligation for return transportation and household shipment shall be forfeited.

(C) Property Allowed and Prohibited.

The weight allowance for the shipment of household effects is limited to that personal property essential to the comfort and convenience of the contract specialist and his or her dependents which may be transported legally in interstate commerce. It includes household furnishings, equipment and appliances, furniture, clothing, books, and similar property. Household effects do not include property which is for resale or disposal rather than for use by the contract specialist or members of his or her immediate family, nor does it include such items as motor vehicles, airplanes, trailers, boats, pets, livestock, cordwood, building materials, property intended for use in conducting a business or other commercial enterprise.

- (1) The firearms laws in the United States differ from territorial legal restrictions. Weapons and ammunition of any kind are prohibited, including air guns, without prior licensing and registration.
- (2) The only domestic pets which may be brought into the territory are dogs and cats from the mainland U.S., Hawaii, Guam, Trust Territory of the Pacific Islands, Australia, and New Zealand. Animals from the mainland, Guam and T.T.P.I. must be quarantined for 120 days in Hawaii. The extensive rules pertaining to this matter are available from the department of agriculture; some are codified at Chapter 24.03 ASCA.
- (3) The importation, production, and use of hallucinogens and potentially harmful drugs are strictly prohibited and punishable by law.

(D) Weight Allowance.

Shipment of authorized weight allowances for overland and ocean shipments for contract employees will be handled in a reimbursement system. Contract employees terminating service with ASCC and entitled to authorized shipping allowances may submit to the CFO all paid shipping invoices for remittance in accordance with the following shipping allowance schedule:

Family Size	Estimated weight		
	Used for calculations (pounds)	East of Mississippi	West of Mississippi
1	1,125	\$1,200	\$1,000
2	1,810	2,000	1,600
3	2,030	2,100	1,700
4	2,250	2,300	1,900
5	2,360	2,400	2,100

Special arrangements will be separately negotiated for contract employees not residing in the U.S. Any portion of a cash payment from this schedule that is not applied to the cost of household/professional effects shipment insures to the benefit of the employee. Employees will be issued cash reimbursements from the schedule upon arrival in the territory. Any exception for newly hired employees resulting in the issuance of a letter of credit to the selected shipping agency may be made only by the President.

- (1) Standard insurance coverage that is provided by the packer and shipper is based upon net weight only. If the contract specialist wishes to insure on the basis of value, he or she must acquire additional insurance at his or her own expenses.
- (2) Customs rules applicable to the shipment of household effects must be observed for all travel. The contract specialist is responsible for compliance with the appropriate rules. Except for extenuating circumstances, he or she is liable for additional charges imposed by customs or port authorities.

(E) Renewal Benefits.

If the contract specialist's employment agreement is renewed:

- (1) A renewal bonus of \$1,000 will be paid for two years' renewal on the first pay period following the effective date of the new contract.
- (2) Round-trip, economy jet air transportation is authorized for himself or herself and any dependents.
  - (a) A contract specialist who renews his or her contract may be authorized round-trip transportation to a point other than his original point of hire; however, ASCC will only pay up to as much as the cost of economy jet transportation directly to his or her original point of hire. The contract specialist is required to pay for any extra charges in excess of his or her allowance.
  - (b) If the contract specialist's selected travel routing is at less cost than that to the original point of hire, the contract specialist is not entitled to the difference.
  - (c) All travel purchased by the contract specialist with the travel authorization must be used on the same trip. For example, if a renewing contract specialist is authorized round-trip fare to San Francisco and decides to go only as far as Hawaii and return, he or she has exhausted all travel authorized by his or her travel authorization form. He or she may not, at some future date, use the difference in fare to obtain further travel.

(F) Completion-of-contract Entitlement.

If the contract specialist satisfactorily fulfills the conditions of his or her employment agreement, he or she and any dependents are entitled to:

- (1) One-way, economy jet air transportation to his or her permanent residence.
- (2) Unaccompanied air freight allowances provided by the original travel authorizations;
- (3) Ocean freight shipment allowance for household effects as provided by the original travel authorization;
- (4) Additional ocean freight shipment allowance for professional materials as provided by original travel authorizations.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3006 Annual leave - Sick leave.

- (A) A contract specialist whose employment agreement is on a 12 month basis shall accrue annual leave at the rate of one working day for each full biweekly pay period during the tenure of his or her agreement, regardless of the amount of time worked during each pay period, except for periods of leave without pay.
- (1) Provided that he or she is fulfilling all of the terms and conditions of his or her agreement in a manner satisfactory to ASCC and, if ASCC determines that his or her services can be spared, he or she may be granted leave upon his or her request at any time.
  - (2) He or she may be administratively required by ASCC to take leave at any time.
  - (3) At the expiration of his or her agreement, the contract specialist will be paid in a lump sum for a maximum of 60 days of unused, accumulated annual leave, computed at the salary then in effect.
  - (4) Only if it is for the convenience of ASCC, the contract specialist may elect to apply accumulated annual leave in total or in part in lieu of lump sum payment to an equivalent number of days' absence immediately preceding and extending to the expiration date of his or her agreement. He or she will not, however, be entitled to accrue annual leave while on terminal leave.

(B) The contract specialist shall accrue sick leave with pay at the rate of one-half day per full biweekly pay period and may be allowed such additional sick leave without pay as ASCC at its discretion may deem necessary.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3007 Medical benefits.

- (A) The contract specialist and his or her dependents will be entitled to medical and dental services in American Samoa to be furnished by ASG. Such services may be subject to a nominal service charge to be paid by the contract specialist. Medical services shall be within the limits of ASG's personnel, supplies, and facilities available from time to time in American Samoa. The contract specialist and his or her dependents will also be entitled to off-island medical care to the same extent furnished from time to time to American Samoans by ASG: provided that the contract specialist will be required to use and apply entitlement to hospital, medical and dental care benefits which he or she may have as a veteran of the armed forces or as a participant under any other program or insurance plan; and provided further that return travel of the discharged patient, or an authorized accompanying family member, will not be provided should it be determined, in the judgment of ASG's Director, Department of Health, that due to the health of the contract specialist or the dependent, the contract specialist should not remain in American Samoa, in which event the entitlements upon normal expiration of the term of service will be provided.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3008 Termination of cause.

ASCC may discharge the contract specialist and terminate his or her employment agreement for cause, including dereliction or unsatisfactory performance of duty or misrepresentation or conviction of any criminal offense. Pending a hearing and final determination, the contract specialist may be suspended without pay or other benefits.

- (1) Removal shall be recommended to the Board of Higher Education by the President in writing, supported by a written account of the circumstances and events underlying the recommendation.

- (2) Upon receipt of the written justification recommending the removal of an employee, the Board of Higher Education shall give careful consideration to such recommendation and all background information of record. In this connection, the Board of Higher Education is expected to consult with the ASCC employee concerned.
- (3) If the Board of Higher Education considers the recommendation to be reasonable, it shall advise the employee in writing of:
  - (a) The charges brought against him or her;
  - (b) The fact and effective date of his or her suspension without pay.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3009 Resignation - Termination without cause.**

- (A) If the health of the contract specialist or that of any dependents, through no fault of her or her own, becomes so impaired that, in the judgment of ASG's Director of Health, he or she should not remain in American Samoa, he or she may resign and receive full benefits according to a contract specialist whose employment agreement has been satisfactorily fulfilled. ASCC will not be liable for the return travel of the contract specialist, any dependents, household goods, and personal effects if the physical disability is a direct result of excessive and non prescribed use of alcohol or harmful drugs.
- (B) If an unforeseen personal emergency should arise which requires the immediate presence of the contract specialist outside of American Samoa and such emergency is verified to the satisfaction of ASCC by the American Red Cross or other appropriate agency, the contract specialist may resign and be entitled to the full benefits to which he or she would have been entitled upon normal expiration of the term of service under his or her employment agreement.
- (C) Should the contract specialist breach his or her agreement by resignation from his or her employment with ASCC prior to the end of the contracted tenure (or during the first half of his or her term of service), he or she shall forfeit all rights to transportation for himself or herself, any dependents, and their personal effects and household goods and shall be obligated to repay to ASCC such expenses as ASCC may have incurred or paid to him or her on this account in connection with his or her term of service. Should the contract specialist's resignation from his or her obligations to his or her agreement occur after one year's contracted tenure (or during the second half of his or her term of service), he or she shall forfeit all rights to transportation for himself or herself, any dependents, and their personal effects and household goods but shall not be obligated to repay to ASCC such expenses as ASCC may have incurred or paid to him or her on this account in connection with his or her term of service.
- (D) Upon 30 days' notice to the employee, ASCC may terminate his or her employment agreement at the discretion of ASCC without recourse on the part of the employee. In the case of termination of employment as provided in this subsection, the employee shall be entitled to transportation, subsistence, and other benefits to which he or she would be entitled upon normal expiration of the term of service under his or her agreement.

History: Rule 11-84, eff 19 Dec 84, (part)

#### **4.3010 Renewal of contract.**

- (a) Contract renewal is the prerogative of ASCC and is based solely upon need and performance of a contract specialist as determined by ASCC and is contingent upon approval of the contract specialist's continued employment by the Board of Higher Education.

- (b) A contract specialist must address his or her request for contract renewal in writing to the Board of Higher Education not less than 90 calendar days prior to the expiration date of his or her present agreement.
- (c) Renewal of contract for a one year period will be limited to one renewal unless prior approval is obtained in writing from the Board of Higher Education.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3011 Employment after term of contract.**

If employment of the contract specialist continues beyond the term of service specified in his or her agreement without the execution of a new agreement, such employment shall be deemed to be at will and may be terminated by either party on reasonable notice to the other. All of the terms and conditions of his or her agreement, except those pertaining to termination for cause, shall continue in effect during such extended period of employment.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3012 Conduct - Reassignment - Career service eligibility - Self-employment.**

- (A) Contract specialists are expected to conduct themselves both on and off the job as employees of ASCC. Rules regarding outside work, conflict of interest, and political activities published elsewhere in these regulations apply equally to contract employees.
- (B) A contract specialist is precluded by and for the duration of his or her contracted term of service from competing for other vacant positions within ASCC or ASG. He or she may, however, request reassignment to a vacant position and his or her request may be granted at the discretion of the President and the selecting authority when to do so is in the interest of ASCC.
- (C) At the expiration of a contract, every effort shall be made to fill the contract position in the career service. If a position which has been filled by contract can be filled within the career service, the incumbent of that position can compete for the position on a career service basis if he or she is entitled to permanent residency in American Samoa or if his or her spouse is entitled to permanent residency.
- (D) Contract specialists shall not engage in self-employment in American Samoa either directly or indirectly, in any form whatsoever, during the terms of their agreements. See Appendix 1 7.06 ASCA.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3013 Grievances - Striking prohibited.**

- (A) Contract specialist grievances shall be processed the same as those made by other employees. In case of an alleged violation of the contract specialist's agreement, his or her continued employment shall not be deemed a waiver by either party of his or her claim. ASCC consents to be sued on account of any matter of dispute arising over his or her agreement but only in the High Court of American Samoa.
- (B) The contract specialist agrees by contract not to participate in any strike against ASCC during his or her term of service.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3014 Training.**

Nominations for training of contract specialists shall be submitted to the President or the Board of Higher Education, who shall retain discretion for approval or disapproval. No contract specialist shall be recommended for training to gain skills or knowledge which he or she might reasonably be expected to possess in order to have been selected for his or her position.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3015 Work-product ownership - Discoveries and documents.**

Any and all inventions, improvements, discoveries, documents, reports, memoranda, and data developed by the contract specialist relating to his or her position with ASCC will be the sole and absolute property of ASCC and ASCC will be the sole and absolute owner of all patents, copyrights, or other rights connection therewith.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3016 Dependents defined - Family status reports.**

Dependents, as defined, shall be interpreted to mean the spouse and minor dependent children of the contract specialist, who are identified as such at the time his or her agreement is executed and who will reside with him or her in American Samoa for at least one year of the term of his or her agreement. It is the responsibility of the contract specialist to make known to the President changes in his or her family status as they occur.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3017 Immigration status - Departure upon termination.**

- (A) A contract specialist, by virtue of his or her employment with ASCC, obtains residency status within the territory for the duration of his or her agreement or term of service. In the event of the termination of his or her agreement for any reason whatsoever, the contract specialist contractually agrees to depart from the territory within 30 days from the termination date.
- (B) Contract specialists who are not United States citizens must register annually as alien residents with the immigration division of the department of legal affairs of the ASG.

History: Rule 11-84, eff 19 Dec 84, (part).

## Chapter 12

### EQUAL OPPORTUNITY - AFFIRMATIVE ACTION

#### Sections

- 4.3101 Policy generally - American Samoan preference.**
- 4.3102 Affirmative action conformance to federal provisions.**
- 4.3103 Enforcement responsibility - staff, subcontract, or contracting agency compliance.**
- 4.3104 Compliance officer.**
- 4.3105 EEO coordinators - Publicity.**
- 4.3106 Contract-seeker compliance - Third parties -Monitoring.**
- 4.3107 Grievances - Appeals.**
- 4.3108 Equal Employment Opportunity Affirmative Action Plan.**

**4.3101 Policy generally - American Samoan preference.**

- (A) It is the policy of ASCC to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other non merit consideration.
- (B) Pursuant to 7.0204 (b) ASCA, and as an integral part of the equal employment opportunity policy, ASCC shall employ residents of American Samoa who are American Samoans or United



States nationals, and shall employ other persons only when no American Samoans or United States nationals who meet the minimum qualifications for a particular class of work can be found. This policy is initiated in recognition that:

- (1) It is necessary to identify and deal with discrimination and obstacles to equal employment opportunity, intended or unintended;
- (2) Well-conceived, planned, and realistic actions are necessary to provide for achieving true equality of opportunity;
- (3) These actions must be aggressively pursued;
- (4) An effective periodic self-evaluation is needed to ascertain whether predetermined goals are being met; and
- (5) This evaluation will result in updating the action plan as necessary, to meet changing needs and to effectively resolve problems.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3102 Affirmative action conformance to federal provisions.**

An affirmative action plan has been prepared for use by ASG in its efforts to provide equity in employment to women, minors, and other victims of discrimination. ASCC will follow ASG's affirmative action plan. This EEO-AA plan is intended to conform to federal requirements of Title VI of the Civil Rights Act of 1968, Executive Orders 11063, 11246, and 11375, - 109 of the HUD Act of 174 and - 3 of the HUD Act of 1968.

History: Rule 11-84, eff. 19 Dec 84, (part).

#### **4.3103 Enforcement responsibility - Staff, subcontract, or contracting agency compliance.**

- (A) The responsibility and authority for the enforcement of this policy pertaining to the ASCC Affirmative Action Plan and its goals are vested in the President, who will be responsible for the implementation, administration, and compliance of the EEO policies and AA plan.
- (B) All ASCC staff, subcontractors, and contracting agencies are required to comply with this policy with reference to recruitment, hiring, training and compensation.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3104 Compliance officer.**

The EEO compliance officer (EEOCO), appointed within the Office of Human Resources, will have the responsibility of promoting, coordinating and monitoring ASCC's plan. The duties and responsibilities of the EEOCO as defined in the ASAC are as follows:

- (A) Following the policy statement and Affirmative Action Plan, providing an effective procedure to communicate EEO procedures;
- (B) Acting as the focal point of all EEO activities, particularly in the development and implementation of the Affirmative Action Plan;
- (C) Providing continuous assistance to management in collecting and analysis of employment data, identifying problem areas, setting goals and timetables, and developing programs to achieve goals. Following through on programs to assure set goals are accomplished on time;
- (D) Consulting with and advising all appropriate ASCC staff on matters pertaining to the administration of the EEO policies;
- (E) Submitting to the director of the Office of Human Resources quarterly progress reports pertaining to ASG's and ASCC's EEO program;
- (F) Assisting ASG and ASCC administrators and contractors in preparing effective programs, criteria, compiling and disseminating public information for the Governor and his department/agency heads including the President of ASCC, implementing equal-employment-

opportunity policies and open-occupancy statements, directing preparation of related correspondence including recommendations on EEO, investigating formal and informal complaints of alleged discrimination by parties to agreements and recommending procedures to ensure compliance with all ASG and ASCC contract provisions which promote equal opportunity objectives, and attending pre-award and pre-occupancy conferences;

- (G) Implementing a system for receiving and investigating complaints and/or grievances of discrimination in accordance with EEO rules;
- (H) Investigating formal and informal complaints of alleged discrimination and contract noncompliance, and implementing procedures to resolve each case;
- (I) Participating in programs and conferences regarding fair and equal opportunity practices and assisting in servicing the Affirmative Action Plan;
- (J) Establishing and maintaining contact as the ASG and ASCC primary working liaison and representative with the community and all ASG and ASCC contracting groups with regard to equal employment policies and opportunities;
- (K) Requiring that all affirmative action plans submitted by subcontractors or proposed subcontractors are in line with ASG's and ASCC's affirmative action requirements for employment for American Samoan and United States nationals.
- (L) Submitting to the director of the Human Resources Office reports on the progress of ASG and ASCC in achieving established goals and making necessary recommendations for additional efforts in accomplishing goals of the affirmative action program.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3105 EEO coordinators - Publicity.**

ASCC's EEO policy and Affirmative Action Plan will require an overall understanding of each department head about his or her role in meeting ASCC goals and objectives. The President shall appoint an EEO coordinator. The EEO coordinator will direct every effort in educating ASCC, contractor, and subcontractor personnel to clarify their understanding and responsibilities for carrying out EEO policy and the Affirmative Action Plan.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3106 Contract-seeker compliance-Third parties-Monitoring.**

All nonfederal or non-federally assisted projects, contractors, subcontractors, developers, consultants, appraisers, and other technical specialists will be informed by ASCC that anyone seeking a contract with ASCC must undertake a program of equal employment opportunity. Any company or individual discriminating in employment practices on the basis of race, creed, color, religion, sex, or national origin will not be eligible for contracts with ASCC. The EEOCO will monitor these procedures and activities for compliance, and to undertake any necessary corrective measures. The actions and guidelines contained in this policy shall be applicable also to all third parties involved in the project.

History: Rule 11-84, eff 19 Dec 84, (part).

#### **4.3107 Grievances - Appeals.**

Grievances and appeals resulting from the implementation of this plan shall be handled in accordance with the procedures outlined in the chapter of these regulations which addresses appeal, grievance and administrative review.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3108 Equal Employment Opportunity Affirmative Action Plan.

ASCC's policy, to provide and promote equal opportunity in employment to people without discrimination because of race, creed, color, sex, religion, national origin, age, handicaps, marital status, political affiliation, or other non merit consideration, shall be implemented in accordance with the ASG Equal Employment Opportunity Affirmative Action Plan incorporated in full, by reference, herein.

History: Rule 11-84, eff 19 Dec 84, (part).

### Chapter 13

#### DEVELOPMENT AND TRAINING

##### Sections:

- 4.3201 Purpose.
- 4.3202 Management responsibility - Individual responsibility.
- 4.3203 Departmental committees.
- 4.3204 Scope of activities.
- 4.3205 Records - Reports - Expenditures.

##### 4.3201 Purpose.

ASCC has an obligation to its employees to utilize and develop the talents and abilities of each employee to the maximum extent. It is therefore necessary to establish and operate programs in order to:

- (1) Improve public service;
- (2) Increase efficiency and economy;
- (3) Build and retain a work force of skilled and efficient employees;
- (4) Install and use the best modern practices and techniques in the conduct of government business.

History: Rule 11-84, eff 19 Dec 84, (part).

##### 4.3202 Management responsibility - Individual responsibility.

- (A) The President, ASCC, will develop an annual departmental training program and incorporate it into the department's annual budget. The President will advise the Director of the Human Resources Office of ASCC's annual departmental training program.
- (B) ASCC may request the Director of the Human Resources Office to provide technical advice and assistance in the development of the departmental annual employee development and training plans.
- (C) Individual's responsibility; because training and development is an individual matter, one that must be accepted and recognized by the person concerned in order to be of any benefit, each employee is, therefore, responsible both to himself or herself and to ASCC for his or her personal development and growth.

History: Rule 11-84, eff 19 Dec 84, (part)

#### 4.3203 Departmental committees.

- (A) The ASCC employee development and training committee will consist of appropriate representation within the department and will advise in the development of policies, procedures, and training programs.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3204 Scope of activities.

ASCC, in establishing an employee development and training plan, will include, but not be limited to the following:

- (A) Induction Training. Induction training consists of two phases;

- (1) Orientation Training. Orientation training will be given each new employee upon entry to give him or her an understanding of the department, its policies, objectives, programs, functions, and organizational structure, basic laws affecting departmental operations, and the relationship of his or her job to the overall organization. The standard employee orientation schedule form should be completed at the conclusion of employee orientation.
- (2) Basic Job Training. The immediate supervisor is responsible for providing to a new employee or an employee transferred into another job the basic knowledge of his or her job, including work standards, and to assist him or her in acquiring the skills, techniques, work habits, and attitudes essential for satisfactory work performance.

- (B) Refresher Job Training.

This training is provided to bring employees up to date on information in an occupation in which they had been previously trained and to brush up on skills that have become "rusty" through disuse or improper use.

- (C) New Activities, Procedures, Laws, Policies.

- (1) Whenever new activities or procedures in work methods are instituted, ASCC will provide orientation to the activity or procedure and adequate instructions to employees in performing the new activity before effecting the changeover. Such orientation and instructions will be given to all employees involved, to effect the change with a minimum of work disruptions and to facilitate transition to the new setup from both the standpoint of management and the employees.
- (2) Whenever changes to existing laws or whenever new laws, policies, and rules are made, ASCC will provide the means for informing all management personnel, including supervisors and such other persons as are affected, of these changes.

- (D) Management Development Activities (Supervisors).

- (1) Basic Supervisory Training.

ASCC shall enroll all supervisors in the Office of Human Resources basic supervisory training program within 6 months of their appointment. This program will cover the basic skills, knowledge, and attitudes necessary for the efficient performance of their managerial and operational responsibilities.

- (2) Advanced Supervisory Training.

A supervisory development activity of an advanced and continuing nature shall be established to further assist administrative and supervisory personnel in keeping up with new developments in management, supervisory, and human relations techniques.

(E) Methods Improvements Activity (Work Simplification).

This training is provided to assure a systematic plan for developing better operating methods through the cooperative efforts of management and employees in recognizing, stimulating, and using the common sense and imagination of all employees and supervisors to produce valuable ideas for effecting economy and developing better methods for getting work done in the easiest, simplest, and fastest way possible.

(F) Self-development Activities.

This training provides employees with the means for self-improvement in developing essential knowledge, skills, and attitudes, and individual potential for career service through voluntary participation in government-sponsored and agency-sponsored activities both within and without the government service.

(G) Special Purpose Activities.

This training provides for meeting the needs imposed by technological improvements or employment displacement, changes in public services requirements, civil defense matters, legislation, or conditions, usually of a non-recurring nature. Included in this category are:

- (1) Internship training activity, a formalized activity of related academic study and on-the-job instruction designed to develop outstanding individuals to meet the employment needs of ASCC and to upgrade the quality of ASCC service through improved personnel effectiveness;
- (2) Training agreements, which provide ASCC with the means for obtaining qualified personnel to carry out the agency's mission when there are no other available resources through which these qualified personnel could be obtained. They are formal plans whereby ASCC or ASG training is used to supplement the employee's present qualifications.

(H) Out-service Training.

This provision permits ASCC to send employees to non agency or non government facilities for needed training which is not available within the government's jurisdiction and to pay all or any part of the expenses of such training. The training may be full time, part time, on duty or off duty, day or evening, or any necessary combination of these, provided the training is of primary benefit to ASCC service.

History: Rule 11-84, eff 19 Dec 84, (part).

**4.3205 Records - Reports - Expenditures.**

(A) Records.

(1) Basic Records.

ASCC will prepare for documentation in official personnel jackets, letters of completion for individuals completing satisfactorily any approved employee development and training activity. The letter will include the following information:

- (a) Title of Course;
- (b) Hours of training received;

- (c) A brief outline of subject matter covered;
  - (d) Dates of attendance;
  - (e) Where and by whom sponsored if other than ASCC;
- (2) Training Certificate.

The Human Resources Office will insure training certificates to employees completing satisfactorily any endorsed employee development and training activity with 20 or more hours of instruction time. ASCC will advise the Office of Human Resources of employee development and training activities through submission of employee development and training plans and of any additions or amendments to them.

(B) Report Requirements.

A system of reporting is necessary to give meaningful information which will assist management in assessing the past and in planning the future activities and to funnel in the data from ASCC to the Human Resource Office, which is responsible for preparing a master employee development and training report for the Governor. ASCC will submit a consolidated semi-annual report to the Human Resources Office by the tenth working day following the end of each semi-annual period.

(C) Expenditures.

(1) For items in the annual agency employee development and training plan requiring expenditure of funds for which appropriations have been included in the agency's operating budget;

(a) In-service Training.

An invoice for expenditure of funds will be completed and processed according to the ASCC standard operating procedure.

(b) Out-service Training.

An invoice for expenditure of funds will be completed and processed according to the ASCC standard operating procedure.

(2) For items requiring agency expenditures of funds above and beyond those covered in the operating budget;

(a) In-service Training.

Training using resources and facilities outside the agency but within the jurisdiction of ASCC and involving expenses for which funds have not been included in the agency annual training budget will be submitted for prior approval to the President.

(b) Out-service Training.

Training using resources and facilities outside of the jurisdiction of ASCC will be submitted for prior approval to the President.

(3) ASCC will use as guidelines for training expenditures, Part VI of the American Samoa Government Employee Development and Training Manual.

History: Rule 11-84, eff 19 Dec 84, (part)

## Chapter 14

### TRAVEL

#### Sections:

- 4.3301 Per diem allowance - Rates set by ASCC
- 4.3302 Per diem allowance - Intra-territorial travel - Rate.
- 4.3303 Amendment to Travel, adopted 10/01/97 by Board of Higher Education

#### 4.3301 Per diem allowance - Rates set by ASCC.

For travel or temporary official business away from a permanent duty station in the territory, ASCC's per diem rate shall be the same as that applicable to ASG employees.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.3302 Per diem allowance - Intra-territorial travel - Rate.

- (A) Effective July 14, 1980, the per diem rate for travel on temporary official business away from a permanent duty station in the territory by an employee of ASCC between the island of Tutuila, the Manu'a group of islands and Swains Island is \$40 per day.
- (B) To be entitled to the full per diem, the employee must stay overnight and provide, with his or her travel expense report, a receipt evidencing that he or she stayed in a duly licensed accommodation facility. If such evidence is not presented or if the employee does not stay overnight, the employee is entitled to only 50% of the per diem rate.
- (C) Travel authorization must be submitted and approved by the Executive or Deputy Director prior to any ASCC related travel.

History: Rule 11-84, eff 19 Dec 84, (part).

#### 4.330 Amendment to Travel Policy, adopted 10/01/97 by Board of Higher Education

(A) A Travel Authorization (TA) request form must be used whenever an employee of the College travels on official business. The TA form used by American Samoa Community College requires the purpose, justification, and all appropriate signatures to be completed before travel. All TA's must be submitted to the Business Office 2 weeks prior to date of travel.

#### (B) Air Transportation

- (1) Routing. Travel should be by the most direct route available. Class of travel. Air travel should normally be by coach (economy) class.
- (2) Vouchers. The original of the traveler's ticket receipt (last copy of ticket) must be attached to the Travel Voucher submitted to the College by the traveler. Copies are invalid.

(C) Ground Transportation.

- (1) Car Rental Approval. Car rental must be explicitly approved on the Travel Authorization. Class of Car. Compact cars are normally to be rented. If not available, the next highest class may be rented, but this fact is to be noted on the voucher.
- (2) Receipts. Traveler's copy of receipt(s) for care rental are to be submitted to ASCC with the Travel Voucher. Taxi/Limo. When taxi/Limo are used, a listing of costs (tips included) and destinations are to be included on the Travel Voucher.

(D) Lodging Allowable Costs. ASCC travelers will be advanced the US Federal Government per diem rate for the actual location at the end of the travel day. Lodging costs in excess of US Federal Government per diem rate must be approved prior to travel and must be noted on the TA. Excess lodging costs will not be reimbursed if not approved prior to travel by ASCC signators.

(E) Meais Allowable Costs. ASCC travelers will be advanced the US Federal Government per diem rate for the actual location during travel. Voucher. Do not attach meal receipts. No amounts in excess of the daily US Federal Government per diem rate will be allowed.

(F) Travel Advances. College personnel may obtain travel advances for ASCC-related travel.

(G) Per Diem Rates. The following is a per diem rate list for ASCC's most common travel destinations. Please refer to these when preparing your Travel Authorization. These rates are effective January 1, 1998. Contact the Business Office if you need rates for other areas.

Commonly Used Per Diem Rates

<u>Location</u>	<u>Lodging</u>	<u>M &amp; I</u>	<u>Total</u>
<b>HAWAII</b>			
Oahu	\$110.00	\$70.00	\$180.00
Mauai	100.00	63.00	163.00
Kauai	114.00	75.00	189.00
<b>CALIFORNIA</b>			
Los Angeles	\$109.00	\$42.00	\$151.00
San Diego	93.00	38.00	131.00
San Francisco	120.00	42.00	162.00
<b>WASHINGTON D. C.</b>	\$126.00	\$42.00	\$168.00
<b>GUAM</b>	\$190.00	\$85.00	\$275.00
<b>SAIPAN</b>	\$138.00	\$89.00	\$227.00
<b>WESTERN SAMOA</b>	\$107.00	\$61.00	\$168.00
<b>MANU'A</b>	\$ 40.00	\$20.00	\$ 60.00



Per diem rates will be updated annually based on Federal guidelines. Effective dates will be January 1<sup>st</sup> of each year.

- (H) **Reimbursement for Travel.** The Board of Higher Education recognizes that employees/board members may be required to travel and or incur expenses in conducting college business.
- (I) **General Provision.** ASCC staff members are directed to exercise reasonable and prudent judgment in incurring expenses while carrying out ASCC business. No employee is authorized to have a vendor charge directly to the college for employee personal travel and/or meeting expenses which the employee has incurred.
- (J) **Submitting the Travel Voucher.**
- (1) In order for a current TA to be processed, the employee must have filed trip reports for previous travel. The trip report must be filed within thirty (30) days of the occurrence.
  - (2) The employee copy of the travel approval/advance form must be attached to the reimbursable expense report.
  - (3) Vouchers indicating budget accounts are to be approved by the appropriate Dean/Director before submission to the business office.
  - (4) When a voucher is approved, the authorized signator is verifying that the expenditure is in conformance with all procedures and board policies.
  - (5) The authorizing signator has the authority to deny approval if the expenditure does not conform to the college procedures or policies.
- (K) **The Business Office will audit all vouchers for conformance with policy and procedures. The Business Office will verify and correct addition and extension accuracy, and will deny payment for vouchers which are not in conformance with policy or procedure. Denied expenses will be communicated through the authorized signator.**
- (L) **Review of Procedure Steps:**
- 1) Voucher prepared by Traveler
  - 2) Approval or denied by Division Dean/Director
  - 3) Reviewed by Business Office
  - 4) Approved or denied based on Business Office review and by President review.
  - 5) Receipts are required for all air and ground transportation, and lodging costs in excess of per diem rates for which reimbursement is requested.
  - 6) Reimbursable expenses must be itemized by day.
  - 7) Receipts should be attached for airfare, other than per diem rates of advance per diem. (Excess lodging costs must be approved prior to travel).
- (Travel Expense Report Form is available in the ASCC Business Office.
- (M) **Expenses Chargeable to ASCC:**
- (1) Airfare, lodging, and per diem. Normally airfare reimbursements will be made on coach airfare. Lodging costs should not exceed the per diem rate unless otherwise authorized. Meal expenses will be reimbursed in accordance with the per diem rate set by the US Federal Government.
  - (2) Vouchers. Vouchers or lodging statements are required only if the lodging costs exceed the US Federal Government per diem rates. Employees are expected to limit their expenses within the allowed US Federal Government per diem rates.

- 2X5 = \$10.00 Max allowable
- (3) Ground Transportation. Reimbursement for ground transportation, taxis and/or car rentals, may be made on the basis of actual expenses for the meeting date(s) and one day prior and one day after.
  - (4) Mileage reimbursement for the use of privately-owned automobiles will be at the rate established for mileage allowance as published by the American Samoa Government. Revised rates will become effective the first day of the month following ASG announcement or effective date, whichever is later. Rate adjustment will not be retroactive.
  - (5) Telephone Calls. Phone calls related to college business may be claimed on a voucher. No phone calls are to be charged to the college on a third party basis. Two (2) phone calls to home, not to exceed \$5.00 are allowed.

**(N) Expenses not chargeable to ASCC:**

- (1) Barber or beautician, shoe care, personal entertainment, insurance or personal property, travel insurance, misuse of lost credit cards, purchase of clothing or toiletries, normal travel to and from work, loss of personal property, loss of personal funds or cash advances, fines for traffic violations, damages to employee's cars, excess cost of circuitous or side trips for personal reasons, living expenses applicable to days by which the duration of a trip is extended for personal reasons, laundry and valet charges on trips of short duration, gifts, maintenance or repair of personal property, interest charges on credit cards, and expenses for social entertainment meetings between college employees.

**(O) Reimbursable Expenses for Non-Employees**

ASCC recognizes the need to reimburse reasonable expenses incurred by certain non-employees such as consultants, performers, etc., who perform services for ASCC. Advance agreement for such reimbursements must be specified in a contract or letter of agreement before the commencement of services. Reimbursements must be approved by the appropriate authorized signator before payment can be made. Such approval indicates that the reimbursement is within limitations set by the budget.

**Chapter 15**

**EMPLOYEE SAFETY**

**Sections:**

**4.3401 Safely practices**

**4.3401 Safely practices.**

All ASCC employees should be familiar with and observe the safety rules of ASCC as set forth in Appendix A which appears at the end of this chapter.

History: Rule 11-84, eff 19 Dec 84, (part)

## Chapter 16

### CONDUCT OF COLLEGE EMPLOYEES

#### Sections:

- 5.01 Introduction
- 5.02 Misconduct
- 5.03 Subordination to Authority
- 5.04 Selling or Soliciting
- 5.05 Outside Business Activity
- 5.06 Community and Professional Activities
- 5.07 College Property
- 5.08 Gifts
- 5.09 Information
- 5.10 Equal College Employment Opportunity Policy
- 5.11 Unintentional and Indirect Insubordination
- 5.12 Political Affiliation
- 5.13 Political Activity
- Contract with Employees
- Financial Interest

#### 5.01 Introduction

It is the policy of the ASCC to urge its career service employees and contract specialists to cultivate those personal qualities which characterize a good employee's loyalty to the Government of the United States and the American Samoa College; a sense of responsibility for the public trust, and a standard of personal deportment which is a credit to the individual himself and to the College if it reflects adversely upon the dignity, integrity and prestige of the College service.

#### 5.02 Misconduct

Any criminal, dishonest, immoral or any other conduct on the part of an employee which would adversely affect the College will be cause for his removal from ASCC. Gambling or the use of alcoholic beverages by employees in public buildings, construction sites or offices administered by the College will not be tolerated. Disciplinary action will be taken for the breach of this Section.

#### 5.03 Subordination to Authority

An employee is required to carry out the announced policies and programs to the Department of Interior and this Government. While policies related to his work are under consideration, he may - and is expected to - express his opinions and points of view; but, once a decision has been rendered by those in authority, he will be expected unreservedly to assure the success of programs which it is his responsibility to effectuate. If he fails to carry out any lawful regulation, order or policy or deliberately refuses to obey the proper requests of his superiors who have responsibility for his performance, he is subject to appropriate disciplinary action.

#### 5.04 Selling or Soliciting

Employees and other persons are prohibited from selling or soliciting for personal gain within a College building occupied or used by the College without proper permission. This prohibition does not apply to:

- (1) Authorized and installed business activities, e.g., employee cafeterias, etc.
- (2) Solicitation for other approved purposes and;
- (3) Token solicitations for floral remembrances, retirement gifts and for similar purposes.

#### **5.05 Outside Business Activity**

An employee shall not engage in any business activity, either in the capacity of employee or other wise which contravenes the American Samoa Government regulations on conflict of interest or in inconsistent with ASCC policies concerning outside employment as separately treated in Section 6.1 U of this chapter.

#### **5.06 Community and Professional Activities**

Employees are encouraged to participate in activities of professional societies and of civic organizations whose purpose and objectives are not inconsistent with those of American Samoa College.

#### **5.07 College Property**

Employees shall be held accountable for College property and moneys entrusted to their official duties. It is their responsibility to protect and conserve College property and to use it economically and for official purposes only.

#### **5.08 Gifts**

An employee shall not accept from or bestow upon any person or organization with which he deals officially anything of economic value, such as a gift, loan or gratuitous service. No employee shall solicit or make a contribution for a gift for an official superior to accept such a gift, except as specifically authorized by law or as cited under Section 6.1 C (3) of this chapter. Except as specifically authorized by law, employees are not authorized to accept from private sources on behalf of the United States Government or of the American Samoa Community College voluntary donations or cash contributions for travel expenses or the furnishing of services in kind, such as hotel accommodations, meals and travel accommodations. This exception does not apply to approved scholarship grants etc., which the College has approved and supervises.

#### **5.09 information**

It is the policy of the College to accord the public free access to information about its activities. Guidelines for release of information may be obtained from the Attorney General's Office. Employees should confine statements made in their official capacity to factual matters and statements on policies and programs should be limited to those policies and programs already on record. If an employee is requested to give information outside the scope of his authority, he should refer the request through the immediate supervisor to his agency head.

#### **5.10 Equal College Employment Opportunity Policy**

All personnel actions taken regarding career service and contract specialist employees shall be based solely on merit and fitness and entirely without regard to race, color, religion, national origin, sex, age and physical disability. However, where positions can be filled locally, preference will be given to permanent residents of American Samoa. Any regulation or order of conflict with this Section is hereby rescinded.

#### **5.11 Unintentional and Indirect Subordination**

An employee may not knowingly advocate the overthrow of our constitutional form of Government in the United States through membership in any organization which asserts the right to strike against the United States Government or the American Samoa Community College.

#### **5.12 Political Affiliation**

No person in the College with authority to take or recommend a personnel action relative for a position in the College service, may make inquiry concerning his political affiliation. All disclosures

concerning political affiliation shall be ignored, except membership in political parties or organizations constituted by law as a disqualification for College employment. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person in the College against or in favor of an employee in or an eligible applicant for a position in the career service because of his political affiliation.

### **5.13 Political Activity**

(a) Leave without pay, annual leave and sick leave shall be granted in accordance with regulations issued by the Governor; provided, however, that any regulation to the contrary notwithstanding, leave without pay shall be freely granted to any government employee for the purpose of campaigning as a candidate for public office in American Samoa for a period beginning 30 days before and ending 10 days after the date set for the election. (ASCA 7.1201)

(b) Leave without pay may not be granted for periods of more than 1 year unless otherwise provided in the regulations, and then only for reasons which are determined to be in the best interest of the ASCC.

### **5.14 Contracts with Employees**

Because contracts with its own employees are considered to be against public policy, such contracts are not permitted in the College, except where it is clearly shown that the interests of the United States and the American Samoa Community College are the major consideration to be served thereby. The only announced exception to this policy concerns sales of certain types of surplus property to employees under competitive conditions as set forth by regulations promulgated by the American Samoa Community College.

### **5.15 Financial Interest**

Employees may not have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as employees, nor engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizen.

## **CHAPTER 17**

### **LETTER OF REPRIMAND**

#### **Sections:**

- 6.01 Letter of Reprimand
- 6.02 Involuntary Reassignment
- 6.03 Abandonment of Position
- 6.04 Hearing Before the Board (not same as BHE)

#### **6.01 Letter of Reprimand**

- A. Authority and Preliminary Investigation - Letters of Reprimand may be issued by first line supervisors. The following procedure shall be used when it is proposed to issue a letter of reprimand to any employee. Before action is taken against an employee, the supervisor having authority to propose or effect such action or his designated representative shall make such inquiry or investigation as he considers necessary to assure himself of the facts in the case.

- B. Discussion with Employee - When investigation indicates that action should be taken, the supervisor shall hold an informal discussion with the employee. At the outset of this discussion, the employee should be advised of the contemplated penalty, the specific instances of misconduct, dereliction of duty or other reasons for the contemplated action and of his right to reply. The employee shall be permitted to present his side of the case. The employee shall be advised of the decision at the conclusion of the discussion, if this is practicable. Neither the President nor members of his staff shall conduct these discussions unless appropriate staff are involved.
- C. Decision - If the decision is made to take disciplinary action, the letter of reprimand shall reference the discussion held and shall cite the specific reasons for the action to be taken.

#### 6.02 INVOLUNTARY REASSIGNMENT

- A. When the President concurs with an agency head's recommendation the employee may be moved involuntarily from one position to another, which may or may not involve a change in line of work, without reference to any protective provisions described, provided no reduction in grade or rate of compensation is involved.
- B. An involuntary reassignment is actually an "administrative assignment" with the best interests of the American Samoa Community College as the primary objective.
- C. Failure of an employee to comply with an involuntary (administrative) reassignment shall result in his immediate separation.
- D. All recommendations and final processing of involuntary reassignments are effected by the use of a Request for Personnel Payroll Action Form.

#### 6.03 ABANDONMENT OF POSITION

When an employee fails to report for duty or to return from leave for five or more consecutive work days, he may be considered to have abandoned his position. Care must be taken, however, that before a final decision is made that he has truly abandoned his position, the supervisor should make an effort to contact the employee to determine his intentions. If the employee intends in fact to resign, this should be the action taken rather than abandonment of position, as future employment opportunity with the College may be effected. If the supervisor is unable to ascertain the employee's intention concerning his return to duty, processing of abandonment of position is proper and should be handled as follows:

- A. Action by Operating Officials - The employee's agency head and immediate supervisor shall recommend to the President with a Request for Personnel Payroll Action form that the employee be separated for abandonment of position. Under the "Remarks" section, list when (date) and what effort the supervisor (name) made to contact the employee and the result of that effort.
- B. Action by the College - Upon receipt of the request mentioned above, the President shall proceed with the separation action in accordance with instructions applying within the College only, including issuance of a Notice of Official Personnel Payroll Action.

#### 6.04 HEARINGS BEFORE THE BOARD (not same as BHE)

Hearings before the Board will be conducted in accordance with the procedure promulgated by the Board, copies of which are available in the Director's office.

## Chapter 18

### Standard Schedule of Disciplinary Offenses and Penalties

#### Sections

General Statement  
Purposes  
Application  
Combination of Offenses  
Reckoning Period  
Letter of Reprimand  
Suspensions  
Deferred Suspension  
Demotions  
Considering the Past Record

#### 7.01 General Statement

The Standard Schedule of Disciplinary Offenses and Penalties (Annex "A") is provided as a guide in the administration of discipline. Since the schedule is of the utmost concern to all employees, conspicuous posting is required. The Standard Schedule provides a uniform code of penalties for a reasonably complete list of offenses. The range of penalties is provided to give flexibility in dealing with particular situations. In general, after consideration of all circumstances, the penalty assessed should be the minimum which may reasonably be expected to correct the employee and maintain discipline and morale among other employees.

#### 7.02 Purposes

The purposes of the Schedule are:

- (1) To provide a measure of uniformity in imposing penalties consistent with individual differences and the nature of the position held.
- (2) To develop generally on the part of employees a clearer understanding of what constitutes reasonable cause for disciplinary action.
- (3) To provide a standard and uniform basis for disciplinary offenses and penalties and to support management in its administration of disciplinary matters.

#### 7.03 Application

In applying the Standard Schedule, the following instructions and guides are provided:

- (1) Use of Standard Schedule in presenting charges - When presenting charges to the employee, a blanket statement from the Schedule should not be used. Use only the parts which describe the employee's actual conduct and leave out parts which do not apply. For example, if an employee used abusive language which was not obscene, he should be charged with abusive language only and not with Offense No. 23 in its entirety. If the reason for the contemplated disciplinary action cannot be described in terms of an offense from the Schedule, it should be possible to state the reason in terms of regulations or rules of general conduct which have been violated or damage to or interference with management operations resulting from the employee's action. The factor of willful negligence should be avoided, as willfulness is difficult to establish. Generally, the question of willfulness may be discarded if the fact of negligence, failure or dereliction of the employee is established.

#### 7.04 Combination of Offenses

The Schedule provides for disciplinary action in the case of a combination of any of the offenses listed. However, the preferment of more than one charge for single offense (example: "Sleeping and loafing"), is prohibited. In such cases, the more appropriate offense should be used and the proper penalty assessed. Where the infraction covers a combination of two or more normally unrelated offenses (example: "intoxication" and "insubordination"), charges covering each offense should be preferred and a heavier penalty than that prescribed for any one such offense may be assessed.

#### 7.05 Reckoning Period

The Standard Schedule provides for a reckoning period or specific interval of time, after an offense occurs. A repetition of the offense within the period calls for a more severe penalty as determined by the circumstances. Reckoning periods are not cumulative. The commence with the occurrence of the offense and expire absolutely at the end of the period of time specified for the offense. To identify the offense as the first, second, or third within a reckoning period, review the record and determine if the employee has committed a like offense during the period, occurring just prior to the current offense.

#### 7.06 Letters of Reprimand

The Standard Schedule provides for a letter of reprimand as the minimum penalty for all offenses. A copy of each reprimand shall be placed in the official personnel folder of the employee concerned. Reprimands may be considered in determining disciplinary action taken at later dates. The letter of reprimand should not be confused with letters of caution or requirement which establish standards of conduct and performance, with written warnings as used with performance ratings or with other adverse correspondence such as used in cases involving abuse of sick leave.

#### 7.07 Suspensions

The Standard Schedule provides for suspensions of varying lengths of time for all offenses. Suspension penalties are applicable to work days only.

##### (1) Deferred Suspension

Deferred suspensions help reduce lost time and may be suitable in some circumstances. If a suspension is deferred, it is held in abeyance during the reckoning period, contingent upon satisfactory conduct of the employee. When a suspension is deferred, the employee should be told in writing of the specific conditions under which it will be held in abeyance. (Note: A deferred suspension shall not be used as a PROPOSED disciplinary measure).

##### (2) A deferred suspension

may be invoked when a subsequent offense of any kind occurs during the reckoning period. The suspension may be summarily carried out if the employee does not have permanent status. If he does, and the proposed disciplinary action for the current offense is Demotion or Removal, the employee must be advised by written notice proposing disciplinary action as a result of the current offense. If a current offense is not established, a deferred suspension shall be considered a letter of reprimand.

#### 7.09 Demotions

The Standard Schedule provides that, where appropriate, consideration may be given to demotion as a disciplinary penalty in lieu of removal. Normally, demotion should be taken as a disciplinary measure only in cases involving supervisory personnel.

#### 7.10 Considering the Past Record.



- (A) The Standard Schedule provides that penalties for disciplinary offenses will, in general, fall within the ranges indicated. However, in unusual cases, depending upon the gravity of the offense and the past record of the employee, a penalty, either more or less severe than the maximum or minimum range provided for in the schedule may be imposed. If an employee's record of past disciplinary offenses is considered in assessing the penalty for a current offense, the employee must be so advised of this fact in the advance notice proposing the adverse action or in the notice of adverse action if no advance notice is required. Not more than two years of an employee's past disciplinary record shall be considered in such connection.
- (B) Depending upon the severity of the offense, removal proceedings may be instituted against an employee for any four offenses committed in any 24 months period which include two or more offenses of the Standard Schedule or for the fourth occurrence of the same offense within the reckoning for that offense.

## Chapter 19

### STANDARD SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR EMPLOYEES OF THE AMERICAN SAMOA COMMUNITY COLLEGE INSTRUCTIONS FOR USE OF SCHEDULE

#### Sections:

#### 8.01 Instructions Nature of Offenses Instructions

- (1) This is not a list to cover every possible type of offense. Penalties for offenses not listed will be prescribed as consistent with penalties for offenses of comparable gravity.
- (2) Many of the items listed on this schedule combine several offenses in one statement, connected by the word "OR". Therefore, when drawing up charges, use only that part of the applicable item on the schedule which actually describes the offense under consideration. Do not use the word, "OR", in a charge; usage of this word in a charge makes it nonspecific.
- (3) Penalties for disciplinary offenses will, in general, fall within the ranges indicated. In unusual circumstances, depending on the gravity of the offense, the past record, and the position of the employee, a penalty either more or less severe than the MIN or MAX range, provided for herein, may be imposed.
- (4) Depending on the severity of the offenses, removal proceedings may be instituted against an employee for any four offenses committed in any 24 months' period which include two or more offenses of this schedule, or for the fourth occurrence of the same offense within the reckoning period for that offense.
- (5) Reckoning periods are not cumulative.
- (6) Where appropriate, consideration may be given to demotion in lieu of removal.
- (7) The suspension penalties listed herein are applicable to work days only.

#### 8.02 NATURE OF OFFENSES: RANGE OF PENALTIES FOR STATED OFFENSES (Reprimands - Suspension - Removal)      Number of occurrences in reckoning period

- (1) Unexcused Failure to ring clock or sign attendance record or otherwise check in or out.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Suspend for 1 day
Second Offense:	Minimum:	Suspend for 1 day
	Maximum:	Suspend for 5 days
Third Offense:	Minimum:	Suspend for 5 days
	Maximum:	Suspend for 15 days
	Reckoning Period:	6 months

- (2) Unexcused Tardiness

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Suspend for 1 day
Second Offense:	Minimum:	Suspend for 1 day
	Maximum:	Suspend for 5 days
Third Offense:	Minimum:	Suspend for 5 days
	Maximum:	Suspend for 15 days
	Reckoning Period:	6 Months
	Remarks:	Disciplinary action is in addition to non-pay status for period of tardiness.

- (3) Unexcused or unauthorized absence on 1 or more scheduled days of work.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Suspend for 5 days
Second Offense:	Minimum:	Suspend for 3 days
	Maximum:	Suspend for 10 days
Third Offense:	Minimum:	Suspend for 10 days
	Maximum:	Removal
	Reckoning Period:	1 year
	Remarks:	Charge may also be used for failure to report for overtime.

The charge of Excessive Unauthorized Absences with the penalty of removal may be used when the absence is prolonged to exceed 5 working days or when it appears the employee has abandoned his position. Extenuating circumstances offered by the employee should be considered.

- (4) Leaving job to which assigned or government premises at any time during working hours without proper permission.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Suspend for 5 days
Second Offense:	Minimum:	Suspend for 3 days
	Maximum:	Suspend for 10 days
Third Offense:	Minimum:	Suspend for 5 days
	Maximum:	Removal
	Reckoning Period:	1 year

- (5) Violating traffic regulations, reckless driving on government premises, or improper operation of motor vehicle: operating or authorizing the operation of, a government vehicle by one not possessing an "Official" license.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Suspend for 5 days
Second Offense:	Minimum:	Suspend for 3 days
	Maximum:	Suspend for 10 days
Third Offense:	Minimum:	Suspend for 10 days

Maximum: Removal  
 Reckoning Period: 1 year  
 Remarks: Driver's permit to operate vehicle may be suspended or revoked, in lieu of other penalty, if recklessness or hazard to others is not involved in offense.

(6) Loafing or wasting time.

First Offense: Minimum: Letter of Reprimand  
 Maximum: Suspend for 5 days  
 Second Offense: Minimum: Suspend for 3 days  
 Maximum: Suspend for 10 days  
 Third Offense: Minimum: Suspend for 10 days  
 Maximum: Removal  
 Reckoning Period: 1 year

(7) Careless workmanship resulting in spoilage or waste of materials or delay in production.

First Offense: Minimum: Letter of Reprimand  
 Maximum: Suspend for 5 days  
 Second Offense: Minimum: Suspend for 3 days  
 Maximum: Suspend for 10 days  
 Third Offense: Minimum: Suspend for 10 days  
 Maximum: Removal  
 Reckoning Period: 1 year

(8) Failure or delay in carrying out orders, work assignments or instructions of superiors.

First Offense: Minimum: Letter of Reprimand  
 Maximum: Suspend for 5 days  
 Second Offense: Minimum: Suspend for 3 days  
 Maximum: Suspend for 10 days  
 Third Offense: Minimum: Suspend for 10 days  
 Maximum: Removal  
 Reckoning Period: 1 year

(9) Loss of, or damage to, Government property or the property of others, or endangering same, through carelessness.

First Offense: Minimum: Letter of Reprimand  
 Maximum: Suspend for 10 days  
 Second Offense: Minimum: Suspend for 10 days  
 Maximum: Removal  
 Third Offense: Minimum: Suspend for 15 days  
 Maximum: Removal  
 Reckoning Period: 1 year

(10) Gambling or unlawful betting on Government premises.

First Offense: Minimum: Letter of Reprimand  
 Maximum: Suspend for 10 days  
 Second Offense: Minimum: Suspend for 10 days  
 Maximum: Removal  
 Third Offenses: Minimum: Suspend for 15 days  
 Maximum: Removal  
 Reckoning Period: 2 years

- (11) Covering up or attempting to conceal defective work; removing or destroying same without permission.
- |                 |                   |                     |
|-----------------|-------------------|---------------------|
| First Offense:  | Minimum:          | Letter of Reprimand |
|                 | Maximum:          | Suspend for 10 days |
| Second Offense: | Minimum:          | Suspend for 10 days |
|                 | Maximum:          | Removal             |
| Third Offense:  | Minimum:          | Suspend for 15 days |
|                 | Maximum:          | Removal             |
|                 | Reckoning Period: | 2 years             |
- (12) Disorderly conduct; fighting; threatening or attempting to inflict bodily injury to another; engaging in dangerous horse-play; or resisting competent authority.
- |                 |                   |                     |
|-----------------|-------------------|---------------------|
| First Offense:  | Minimum:          | Letter of Reprimand |
|                 | Maximum:          | Suspend for 10 days |
| Second Offense: | Minimum:          | Suspend for 10 days |
|                 | Maximum:          | Removal             |
| Third Offense:  | Minimum:          | Suspend for 15 days |
|                 | Maximum:          | Removal             |
|                 | Reckoning Period: | 2 years             |
- (13) Reporting for duty or being on duty under the influence of intoxicants; unauthorized possession of, or attempting, to bring, intoxicants on government premises.
- |                 |                   |   |
|-----------------|-------------------|---|
| First Offense:  | Minimum:          | Letter of Reprimand   |
|                 | Maximum:          | Removal   |
| Second Offense: | Minimum:          | Suspend for 10 days   |
|                 | Maximum:          | Removal   |
| Third Offense:  | Minimum:          | Suspend for 15 days   |
|                 | Maximum:          | Removal   |
|                 | Reckoning Period: | 2 years   |
|                 | Remarks:          | Habitual use of intoxicants to excess should be dealt with by Removal rather than lesser penalties. |
- (14) Selling intoxicants on government premises.
- |                 |                   |                     |
|-----------------|-------------------|---------------------|
| First Offense:  | Minimum:          | Letter of Reprimand |
|                 | Maximum:          | Removal             |
| Second Offense: | Minimum:          | Suspend for 10 days |
|                 | Maximum:          | Removal             |
| Third Offense:  | Minimum:          | Removal             |
|                 | Maximum:          | Removal             |
|                 | Reckoning Period: | 2 years             |
- (15) Promotion of gambling on government premises
- |                 |                   |                     |
|-----------------|-------------------|---------------------|
| First Offense:  | Minimum:          | Letter of Reprimand |
|                 | Maximum:          | Removal             |
| Second Offense: | Minimum:          | Suspend for 15 days |
|                 | Maximum:          | Removal             |
| Third Offense:  | Minimum:          | Removal             |
|                 | Maximum:          | Removal             |
|                 | Reckoning Period: | 2 years             |

(16) Sleeping during working hours

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Removal
Second Offense:	Minimum:	Suspend for 15 days
	Maximum:	Removal
Third Offense:	Minimum:	Removal
	Maximum:	Removal
Reckoning Period:		1 year

(17) Smoking in unauthorized places or carrying matches in explosive areas

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Removal
Second Offense:	Minimum:	Suspend for 15 days
	Maximum:	Removal
Third Offense:	Minimum:	Removal
	Maximum:	Removal
Reckoning Period:		2 years

(18) Endangering the safety of, or causing injury to, personnel through carelessness.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Removal
Second Offense:	Minimum:	Suspend for 15 days
	Maximum:	Removal
Third Offense:	Minimum:	Removal
	Maximum:	Removal
Reckoning Period:		2 years

(19) Making false or unfounded statements which are slanderous or defamatory about other employees or officials.

First Offense:	Minimum:	Letter of Reprimand
	Maximum:	Removal
Second Offense:	Minimum:	Suspend for 15 days
	Maximum:	Removal
Third Offense:	Minimum:	Removal
	Maximum:	Removal
Reckoning Period:		2 years
Remarks:		Consider the duties and position of the employee, the nature of the statements made and the extent to which they damage the government or the injured party, the nature and timing of any retraction by the employee, and the extent to which the damaging statements are supported by established facts.

(20) Malicious damage to government property or the property of others.

First Offense:	Minimum:	Letter or Reprimand
	Maximum:	Removal
Second Offense:	Minimum:	Suspend for 15 days
	Maximum:	Removal
Third Offense:	Minimum:	Removal
	Maximum:	Removal
Reckoning Period:		2 years

(21) Actual or attempted theft of government property or the property of others.

First Offense: Minimum: Letter of Reprimand  
Maximum: Removal

Second Offense: Minimum: Suspend for 15 days  
Maximum: Removal

Third Offense: Minimum: Removal  
Maximum: Removal

Reckoning Period: 2 years

Remarks: Whether or not restitution was made should enter into the determination of the penalty for this offense.

(22) Immoral, indecent, or notoriously disgraceful conduct.

First Offense: Minimum: Letter of Reprimand  
Maximum: Removal

Second Offense: Minimum: Suspend for 15 days  
Maximum: Removal

Third Offense: Minimum: Removal  
Maximum: Removal

Reckoning Period: 2 years