

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 43
NUMBER 09
SEPTEMBER 28, 2021**

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COMMONWEALTH REGISTER

VOLUME 43
NUMBER 09
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Commonwealth Ports Authority

Francisco C. Ada/Saipan International Airport
PO BOX 501055 • SAIPAN • MP • 96950
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PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS FOR THE COMMONWEALTH PORTS AUTHORITY (CPA)

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE TEMPORARY LAND USE PERMITS RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY
Volume 43, Number 05, pp. 046004–35, of May 28, 2021

Amendments to the Commonwealth Ports Authority Temporary Land Use Permits Rules and Regulations

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: Pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a), the Commonwealth Ports Authority HEREBY ADOPTS AS PERMANENT the Proposed Amendments to the Temporary Land Use Permits Rules and Regulations of the Commonwealth Ports Authority published in Number 05 of Volume 43 of the Commonwealth Register. I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 43, Number 05, pp. 046004–35 of the Commonwealth Register.

AUTHORITY: The authority for promulgation of regulations for CPA is set forth in 2 CMC § 2122.

EFFECTIVE DATE: These amendments to the Commonwealth Ports Authority’s Temporary Land Use Permits Rules and Regulations will become effective ten days after publication of this Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

COMMENTS, MODIFICATIONS, AND AGENCY CONCISE STATEMENT: During the 30-day comment period, the Authority received no comments regarding the Proposed Regulations. No individual requested the Authority issue a concise statement of the principal reasons for or against the adoption of the Proposed Regulations.

At an Airport Facilities Committee meeting held on August 10, 2021, the Committee agreed to recommend to the CPA Board of Directors that the Proposed Regulations be adopted. The Board of Directors adopted the Proposed Regulations as final at the August 10, 2021, Board of Directors meeting.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: The adopted regulations overhaul NMIAC § 40-60. The adopted regulations include CPA’s policies and procedures regarding the administration of leasing and permitting of CPA real property. The Chapter is renamed from “Temporary Land Use Permits Rules and Regulations” to “Land Management Rules and Regulations.” Part 001 - General Provisions of the adopted regulations provides, among other things, the authority, purpose, and applicability of Chapter 40-60; the definition of certain terms used throughout the Chapter; the authorized use and penalties for unauthorized use of CPA real property; and the minimum terms and conditions of a land use authorization. Part 100 of these proposed regulations provides CPA’s policies regarding short-term and long-term leases, including CPA’s procedure in leasing CPA real

property—whether through an unsolicited proposal or through a CPA-initiated land use proposal. Part 200 of these adopted regulations provides CPA’s policy regarding temporary use permits, including the process to apply for a permit, associated permit fees, and other terms and conditions. Subpart A of Part 200 provides the fees and minimum terms and conditions that apply specifically to temporary grazing permits.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 10th day of August, 2021, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:

Date: 9/13/2021


CHRISTOPHER S. TENORIO
Executive Director

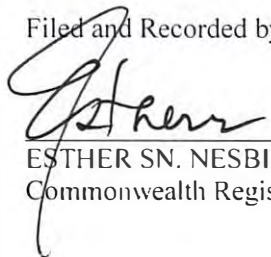
Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the certified final regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 2153(f).

Dated this 15th day of September, 2021.


EDWARD MANIBUSAN
Attorney General

Filed and Recorded by: _____

Date: _____


ESTHER SN. NESBITT
Commonwealth Register *ran*

09-27-2021



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
 DEQ: P.O. Box 501304, DCRM: P.O. Box 10007, Saipan, MP 96950-1304
 DEQ Tel: (670) 664-8500/01; Fax: (670) 664-8540
 DCRM Tel: (670) 664-8300; Fax: (670) 664-8315
www.deq.gov.mp and www.crm.gov.mp



Ralph DLG. Torres
 Governor

Eli D. Cabrera
 Administrator

Arnold I. Palacios
 Lt. Governor

Robert B. Deleon Guerrero
 Acting Director, DEQ

Richard V. Salas
 Acting Director, DCRM

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF
 BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
 DIVISION OF ENVIRONMENTAL QUALITY**

AMENDMENTS TO WATER QUALITY STANDARDS

ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) HEREBY ADOPTS AS PERMANENT amendments to revise the Division of Environmental Quality (DEQ) Water Quality Standards regulations at NMIAC Chapter 65-130 pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9101 *et seq.*, and the Environmental Protection Act, 2 CMC §§ 3101 *et seq.*

I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 43, Number 06, Addendum, pp 046895-046956 of the Commonwealth Register dated June 28, 2021.

ATTORNEY GENERAL APPROVAL: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register pursuant to 1 CMC § 2153(e).

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: These amendments are promulgated under the authority of BECQ pursuant to 2 CMC § 3121 to issue regulations to carry out its policies and purposes, including to develop and administer programs to prevent or regulate activities as necessary to protect the public health or welfare from any significant adverse effect of the discharge of pollutants. 2 CMC § 3122.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendments are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which in this instance is 10 days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: The Commonwealth Register dated June 28, 2021 provided for a 30-day comment period. BECQ extended the comment period through September 3, 2021. No written comments regarding the Proposed Regulations were submitted during the comment period. A public hearing was originally scheduled for July 26, 2021, but was rescheduled for September 2, 2021 in order to provide the public with additional time to review the proposed amendments and relevant documents prior to the hearing. One commenter submitted oral comments during the public hearing on September 2, 2021. BECQ considered fully the oral submission respecting the Proposed Regulations and determined that no revisions to the proposed regulatory text were warranted. Upon this adoption of the amendments, BECQ will, if requested to do so by any interested person within 30 days of adoption, issue a concise statement of the principal reasons for and against its adoption.

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on the date indicated below at Saipan, Commonwealth of the Northern Mariana Islands.

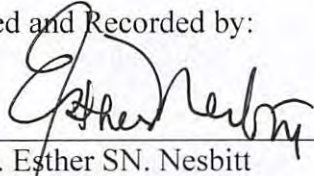
Submitted by:



Eli D. Cabrera
Administrator, BECQ

9/22/2021
Date

Filed and Recorded by:



Ms. Esther SN. Nesbitt
Commonwealth Registrar

9.27.2021
Date



Ralph DLG. Torres
Governor

Arnold I. Palacios
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF CORRECTIONS

Vicente Taman Seman Memorial Building
2834 Tekken Street, Susupe
P. O. Box 506506, Saipan MP 96950

Telephone: (670) 237-2700/2701/2711 Facsimile: (670) 664-9515



Wally F. Villagomez
Commissioner

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF REGULATIONS OF
The Department of Corrections**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 43, Number 8, pp 047479-047493, of August 28, 2021

**Regulations of the Department of Corrections: Chapter 57-20 Division of
Corrections, Inmates and Correctional Facility Rules and Regulations**

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Department of Corrections ("DOC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The DOC announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment.

PRIOR PUBLICATION: The prior publication was as stated above. The Commissioner adopted the regulations as final as of September 28, 2021.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: The Department of Corrections Commissioner is required by the Legislature to adopt rules and regulations regarding those matters over which DOC has jurisdiction, including its regulation of inmate grievance policy. PL 14-25, § 4 (2804, eff. August 20, 2004); amended by PL 15-51, § 2 eff. March 21, 2007 "Rule-making Authority," (1 CMC § 2854).

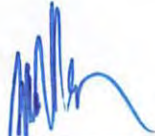
EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of September, 2021, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



Wally F. Villagomez
Commissioner, Department of Corrections

9/28/2021

Date

Filed and
Recorded by:



Esther SN. Nesbitt
Commonwealth Registrar

09.28.2021

Date



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED RULES AND REGULATIONS

Volume 43, Number 08, pp. 047494-047499, of August 28, 2021

AMENDMENTS TO THE CHCC HUMAN RESOURCES RULES AND REGULATIONS REGARDING TYPES OF EMPLOYMENT

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed Regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

PRIOR PUBLICATION: The prior publication was as stated above.

MODIFICATIONS FROM PROPOSED REGULATIONS: None

AUTHORITY: The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2824(K).

EFFECTIVE DATE: Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the Corporation, if requested to do

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STATE OF TEXAS

OFFICE OF THE ATTORNEY GENERAL

CIVIL DIVISION

MEMORANDUM

TO: THE ATTORNEY GENERAL

FROM: [Name]

DATE: [Date]

SUBJECT: [Subject]

[Text]

[Text]

[Text]

[Text]

[Text]

[Text]

[Text]

[Text]

[Text]

[Text]

OFFICE OF THE ATTORNEY GENERAL

CIVIL DIVISION

RECEIVED

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9/28/21


DATE

so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 28th day of September, 2021 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



ESTHER L. MUNA
Chief Executive Officer, CHCC

9/28/2021

Date



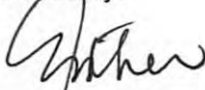
LAURI B. OGUMORO
Chair, CHCC Board of Trustees


09/28/2021

Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Register 

09.28.2021

Date

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



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In Re the Matter of:)	Consolidated Labor Case Nos.
)	20-025 to 20-026
Glenn Patrick Bell and Corrado Modica,)	
)	
Complainants,)	ORDER VACATING DEFAULT
)	JUDGMENT
v.)	
)	
Imperial Pacific International (CNMI) LLC,)	
)	
Respondent.)	
)	

I. BACKGROUND

On September 10, 2020, the complainants filed a complaint for unfair dismissal and discrimination. *See* Complaint. On September 30, 2020, the matter was referred to the Department’s Enforcement, Compliance, and Monitoring Section (“Enforcement”) for further investigation. On December 4, 2020, Enforcement issued a determination stating, “[o]n August 25, 2020, Complainant[s] [were] issued a termination letter,” effective immediately. Based on Enforcement’s investigation, the terminations were due to “violations pursuant to Section 6 § 6.2 of the employee handbook.” *See* Determination. Without any citation to or application of CNMI law, Enforcement recommended “Respondent pay the Complainant[s] up to the end of [their] visa which is [January 30, 2021] in the amount approved by the Hearing Officer.” *See* Determination. During the prehearing conference, Complainants clarified their claim against Respondent to be a claim for unlawful termination. *See* Complainants’ Prehearing Statement.¹ Subsequently, the matter was scheduled for an Administrative Hearing – to which Respondent failed to appear. On February 5, 2021, due to Respondent’s failure to appear, default judgment was entered in favor of Complainants pursuant to NMIAC § 80-20.1-480 9(1) and Complainants were ordered to submit additional briefing to establish the amount of damages.

///

¹ An amended complaint and supporting allegations were never filed at the Administrative Hearing Office.

1 A review of Complainants' Damages Calculation ("Complainant's Calculation")² and an
2 evidentiary hearing to establish the amount of damages prompted issues and ambiguity as to
3 Complainants' specific claim under CNMI law and the types of damages authorized under said
4 statute or regulation. Specifically, available relief differs based on dismissal under the unlawful
5 reduction in force statute,³ breach of employment contract,⁴ and in violation of public policy⁵.
6 Accordingly, the undersigned directed the record to be reopened for the limited issues of
7 specifying the statute or regulation within the Administrative Hearing Office's jurisdiction⁶ and
8 bringing the request for damages in compliance with the available relief.

9 On May 7, 2021, Complainants filed Complainants' Memorandum of Law in Support of
10 Claim for Damages ("Complainants' Memorandum").⁷ Instead of addressing the specific issues
11 presented in the Order to Reopen the Record and Submit Additional Filings, Complainants argued
12 that the issue is "what is included in the definition of 'contract damages' or 'damages for unlawful
13 termination' as contained within the statute and regulations" and does not cite or otherwise specify
14 the statute or regulation for unlawful termination within the undersigned's jurisdiction.
15 Subsequently, Complainants argue that the Administrative Hearing Office must turn to common
16 law to determine the meaning of the terms "contract damages" or "damages for unlawful
17 termination."

18 ///

19 ///

20 ///

21 ² Specifically, Complainants requested damages for prospective wages, consequential damages in lost income
22 stemming from a separate agreement with a different company, living expenses, transportation costs, cost of
23 repatriation, pain and suffering, loss or damage to reputation, and reasonable attorneys' fees.

24 ³ See 3 CMC § 4937 ("An employer who employs foreign national workers may reduce the number of current
25 employees based on economic necessity. The employer shall provide notice to the Department at least sixty days
26 prior to the reduction in force." See also NMIAC § 80-20.1-240 ("Before the commencement of a reduction in force,
27 an employer shall give at least 60 days written notice to the Department and at least 30 days notice to each affected
28 employee.")). See also 42 Com. Reg. 044008 (Aug. 28, 2020).

⁴ See NMIAC § 80-20.1-455(g) ("Any employer or employee may file a complaint with the Administrative Hearing
Office regarding. . . any breach of an [approved] employment contract."); see also NMIAC 80-20.1-
080 ("Approved employment contract" means a written contract between a foreign national worker and an
employer, which has been approved by the Secretary [of Labor], specifying the terms and conditions of work to be
performed by the foreign national worker within the Commonwealth."). However, since the federalization of
immigration, the Secretary of Labor no longer reviews or approve foreign labor contracts.

⁵ The Administrative Hearing Office does not have jurisdiction over EEOC claims regarding discrimination. See 41
Com. Reg. 042129 (June 28, 2019).

⁶ 3 CMC § 4942; NMIAC § 80-20.1-450; See 43 Com. Reg. 045473 (Mar. 28, 2021).

⁷ Complainants' Damages Calculation and Memorandum were served to Respondent on August 27, 2021.

II. DISCUSSION

1 Complainants' Memorandum is not persuasive. Aside from the fact that Complainants fail
2 to address the specific issues presented in the Order to Reopen the Record and Submit Additional
3 Filings, the undersigned is not persuaded by the argument that the Administrative Hearing Office
4 should apply common law principles for a number of reasons.

5 First, as previously stated, 7 CMC § 3401 states that the common law shall apply "in the
6 *courts of the Commonwealth*, in the absence of written or local customary law to the contrary."
7 7 CMC § 3401 (emphasis added). Notably, the Administrative Hearing Office is a quasi-judicial
8 tribunal within the CNMI Department of Labor – separate and distinct from the courts of the
9 Commonwealth. Title 7 does not apply to the proceedings at the Administrative Hearing Office.
10 *See* 7 CMC § 1101.

11 Second, the undersigned finds that the precedent in *Togawa v. Imperial Pacific*
12 *International (CNMI) LLC*, Labor Case 16-026⁸ is flawed. Complainants' Memorandum argues
13 that the Department of Labor relied on common law principles in *Togawa* "because 'constructive
14 discharge' is not defined in the regulations or statutes of the Department of Labor." However,
15 upon review of *Togawa*, the crucial step of establishing jurisdiction was not met. Specifically,
16 *Togawa* does not cite any applicable law regarding Department's jurisdiction⁹ over constructive
17 discharge or common law claims.

18 Third, the undersigned finds that the precedent in *Sevugan v. ABO International*
19 *Corporation*, LC-16-017,¹⁰ is an improper application of law. There, the former hearing officer
20 declared that the Commonwealth Legislature's grant of jurisdiction is broad enough to encompass
21 common law claims arising out of, and related to, the employment relationship. The undersigned
22 disagrees as it violates the separation of powers, canons of statutory construction, and general
23 principles of administrative law.

24 ⁸ 41 Com. Reg. 043190 (May 28, 2019).

25 ⁹ *See* 3 CMC § 4942 ("The Administrative Hearing Office shall have original jurisdiction to resolve all actions
26 involving alleged violations of the labor and wage laws of the Commonwealth, including but not limited to any
27 violation of this chapter and regulations promulgated thereunder."); *see also* NMIAC §8-020.1-455(g) ("Any
28 employer or employee may file a complaint with the Administrative Hearing Office regarding any violation of the
Commonwealth Employment Act of 2007, as amended; the Fair Labor Standards Act, as amended; the Resident
Worker Fair Compensation Act, or Public Laws 11-6 and 12-11, as amended, and the rules and regulations in this
subchapter; or any breach of an employment contract, or any breach of the undertakings in any document filed with
the Department."); *see also* 43 Com. Reg. 045537).

¹⁰ 41 Com. Reg. 041897 (May 28, 2019).

1 The Commonwealth Constitution provides for a tripartite system of government, which
2 gives rise to the separation of powers doctrine. The separation of powers operates in a broad
3 manner to confine legislative powers to the legislature, executive powers to the executive, and
4 those powers that are judicial in character to the judiciary. *Commonwealth v. Lot No. 218-5 R/W,*
5 *2016 MP 17 ¶ 8.* The legislature cannot exceed its constitutional authority, it cannot pass a law
6 that conflicts with the Commonwealth Constitution, and it cannot delegate the functions of a
7 constitutional entity to another governmental body. *Dep't of Publ. Lands v. Commonwealth,* 2010
8 MP 14 ¶ 24. Agency power is conferred by legislation or executive or judicial order and is
9 properly viewed as a means of facilitating the exercise of the governmental power vested in that
10 body which created the agency. *Northern Marianas College v. Civil Serv. Comm'n,* 2006 MP 4 ¶
11 10.¹¹ However, an agency cannot enlarge its jurisdiction or authority.¹² Moreover, the agency's
12 interpretation of its governing statute may not conflict with the language chosen in the grant of
13 authority. *Bauer v. McCoy,* 1 CR 248. Generally, administrative law deals with non-autonomous
14 agencies that exercise limited discretion through a predefined process. Such agencies have no
15 inherent rights, and *may only exercise the authority vested in them by constitution or*
16 *statute.* *Northern Marianas College v. Civil Service Commission,* 2006 MP 4 ¶ 8 (emphasis
17 added). Agencies are given the authority to make discretionary decisions over a *limited range of*
18 *matters.* *Northern Marianas College v. Civil Service Commission,* 2006 MP 4 ¶ 10 (emphasis
19 added). Accordingly, based on above, the prior hearing officer's decision to enlarge jurisdiction
20 was improper.

21 III. CONCLUSION

22 Based on the defects in the complaint, ambiguity of Complainants' claims, and question
23 as to jurisdiction,¹³ it is clear that the entry of default was premature and erroneous.¹⁴ Further,
24

25 ¹¹ Generally, "an administrative agency is a creature of statute, having only those powers expressly granted to it by
26 Congress or included by necessary implication from the Congressional grant." *Soriano v. United States,* 494 F. 2d
27 681, 683 (9th Cir. 1974) (citations omitted). If an administrative agency acts in excess of its statutory jurisdiction,
28 power or authority, or limitations, court shall review the agency agency and set aside any action in excess of its
authority. *Seman v. Aldan,* 2 CR 916, *aff'd,* 3 CR 152 (DNMI App. Div. 1987).

¹² An administrative agency may not enlarge its powers by waiving a time limit which is jurisdictional or a
prerequisite to the action taken. *Seman v. Aldan,* 2 CR 916, *aff'd,* 3 CR 152 (DNMI App. Div. 1987).

¹³ The issue of jurisdiction cannot be time barred. 42 Com. Reg. 044123 (Sept. 28, 2021).

¹⁴ "A hearing officer may sua sponte correct an error prior to the time the record is certified for appeal." NMIAC 80-
20.1-485(j).

1 considering that Respondents now have actual notice of the claims against them, a finding on the
2 merits is appropriate.

3 Accordingly, default judgment is hereby **VACATED**. Further, in order to provide the
4 parties' just resolution, the undersigned **ORDERS** Complainants to either (1) show cause why
5 the complaint should not be dismissed for lack of jurisdiction or; (2) file an amended complaint.
6 Complainants shall file and serve their filing on or before **September 24, 2021**, close of business.
7 In the event that Respondent chooses to responds to Complainants' filing, Respondents shall file
8 and serve their response no later than **October 1, 2021**, close of business.

9 So ordered this **10th** day of September, 2021.

10 /s/

11 **JACQUELINE A. NICOLAS**
12 Administrative Hearing Officer
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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



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In Re the Matter of:)	Labor Case No. 21-033
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Mark Philip Nieva,)	
)	
Complainant,)	ORDER OF DISMISSAL
)	
v.)	
)	
LSG Lufthansa Service Saipan, Inc.,)	
)	
Respondent.)	

This matter came for an Order to Show Cause Hearing on August 26, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Mark Philip Nieva (“Complainant”) was present and self-represented. Respondent LSG Lufthansa Service Saipan, Inc (“Respondent”) was present and represented by Resident Manager Rita Taitano. The Department’s Enforcement, Compliance, and Monitoring Section (“Enforcement”) was also present and represented by Labor Law Enforcement Specialist Arlene Rafanan.

Pursuant to 3 CMC § 4947(a), “the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” Pursuant to NMIAC § 80-20.2-130(c), dismissal is warranted on the following grounds: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; (4) insufficiency of service of process; and (5) failure to state a claim upon which relief can be granted. *See* also NMIAC § 80-20.10485(b).

Here, Complainant alleges a violation of unlawful reduction in force and retaliation. However, upon referral to Enforcement for further investigation, Enforcement filed a written determination recommending dismissal based on a lack of merit. Accordingly, the matter was scheduled for an Order to Show Cause Hearing to determine whether dismissal was appropriate. During the Order to Show Cause Hearing, both parties stated they had no objections or

1 disagreement with Enforcement's written determination. Nonetheless, Complainant believes his
2 termination was unlawful because he was not given 30 days' notice of termination.

3 Based on a review of the filings and available evidence, Complainant fails to state a claim
4 for unlawful reduction in force and retaliation. First, employers have the right to reduce the
5 workforce or close the business when circumstances of economic necessity require such action.
6 NMIAC 80-20.1-240(b). In the event of a reduction in force, employers are required to give 30
7 days' notice to employees. While Respondent reduced hours and furloughed staff hired through
8 a manpower agency, Complainant's employment was not affected by the reduction in force—
9 therefore he is not necessarily entitled to 30 days' notice under the cited law. Rather, Complainant
10 took time off because of back pain and did not return because he could not obtain a doctor's
11 certification that he was fit to return to work. After six months of being unable to reach or contact
12 Complainant—Complainant was deemed to have abandoned his job and terminated for cause.
13 The undersigned is not persuaded by Complainant's argument that he never received his schedule
14 to return to work considering that he did not obtain the required medical certification, stated he
15 decided to stay home because of COVID-19, and only contacted Respondent in order to obtain
16 employment certifications for public assistance. Secondly, there is no showing that Respondent
17 retaliated¹ against employee for filing a complaint considering that Complainant was terminated
18 for cause—before the labor case was filed. Moreover, Complainant has no other labor complaints
19 against Respondent.

20 Based on above, the undersigned finds that the parties failed to state a claim for unlawful
21 reduction in force and retaliation. Accordingly, pursuant to 3 CMC § 4947, this matter is hereby
22 **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the Notice of
23 Appeal form and filing fee with the Administrative Hearing Office within fifteen (15) days from
24 the date of this Order.²

25 So ordered this 26th day of August, 2021.

26
27 /s/
28 JACQUELINE A. NICOLAS
Administrative Hearing Officer

27 ¹ See NMIAC § 80-20.1-455(l).

28 ² The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the
Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative
Hearing Office, with the applicable filing fee.



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In Re Matter of:)	
)	Labor Case No. 21-040
Nerissa Ramos Mercado,)	
)	
Complainant,)	DISMISSAL ORDER
)	
v.)	
)	
Imperial Pacific International (CNMI), LLC,)	
)	
Respondent.)	

This matter came for an Order to Show Cause Hearing on August 25, 2021 at 9:00 a.m. at the Administrative Hearing Office. Due to the ongoing COVID-19 public health emergency, the hearing was held telephonically. Complainant Nerissa Ramos Mercado (“Complainant”) was present and self-represented. Respondent Imperial Pacific International (CNMI), LLC (“Respondent”) failed to designate a representative for the hearing and did not appear—despite effective service of process and adequate notice.

Pursuant to 3 CMC § 4947(a), “the hearing officer may, after notice and an opportunity to be heard is provided to the parties, dismiss *sua sponte* a complaint that the hearing officer finds to be without merit.” The CNMI Department of Labor’s Administrative Hearing Office only has jurisdiction to hear labor violations of CNMI law and regulations. *See* 3 CMC § 4942; *see also* NMIAC § 80-20.1-450.

Based on the applicable law and available evidence, Appellant fails to state a claim upon which relief can be granted. First, Appellant alleges violations of employer obligations, specifically, 20 CFR 655.423, which are promulgated and enforced by US Department of Labor. *See* 42 Com. Reg 044063 (Aug. 28, 2020). This office has no jurisdiction or authority to grant relief from the alleged violation of employer obligations. Second, although Complainant attempted to state a claim for unlawful termination during the hearing—there is no showing that the termination was unlawful. Here, Complainant received 30 days’ notice of the termination and the renewal of a CW-1 permit is not guaranteed by CNMI law.

1 After notice and opportunity to be heard, the undersigned finds that Appellant fails to state
2 a claim upon which relief can be granted. Accordingly, pursuant to 3 CMC § 4947, this complaint
3 is hereby **DISMISSED**. Any person or party aggrieved by this Order may appeal by filing the
4 Notice of Appeal form and filing fee with the Administrative Hearing Office within fifteen (15)
5 days from the date of this Order.¹

6 So ordered this **25th** day of August, 2021.

7 /s/
8 **JACQUELINE A. NICOLAS**
9 Administrative Hearing Officer

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¹ The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative Hearing Office, with the applicable filing fee.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

In Re Matter of:)	PUA Case No. 21-0119
)	
Lilian O. Ganot,)	
)	
Appellant,)	ORDER DENYING REQUEST TO
)	REOPEN;
v.)	FINAL AGENCY ACTION
)	
CNMI Department of Labor,)	
Division of Employment Services-PUA,)	
)	
Appellee.)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on July 8, 2021 at 9:00 a.m. at the Administrative Hearing Office. On July 13, 2021, the undersigned issued an Administrative Order affirming the Department’s Disqualifying Determination, dated May 4, 2021. Specifically, Appellant was found to be ineligible for PUA for the period of December 27, 2020 to September 4, 2021 because she was not a U.S. citizen, non-citizen national, or qualified alien eligible for federal public benefits at the time she filed her claims.

On September 3, 2021, Appellant filed a request to reopen their case stating that her application for permanent residency was approved on July 9, 2021—one day after the administrative hearing for her PUA appeal. For the reasons stated below, Appellant’s request to reopen is hereby **DENIED**.

II. LEGAL STANDARD

Pandemic Unemployment Assistance (“PUA”) and Federal Pandemic Unemployment Compensation (“FPUC”) was intended to support workers and employment affected by the COVID-19 pandemic. Pursuant to HAR §12-5-93(h)-(i), a decision may be reopened by written motion of the parties’ or the Administrative Hearing Officer’s own motion. If a case is reopened, “the [Administrative Hearing Officer] shall schedule the matter for further hearing and notify the parties to the appeal . . .” HAR §12-5-93(i). A decision can only be reopened once by a particular

1 party. HAR §12-5-93(j). In the event that an application to reopen is denied or parties have further
2 objections to a subsequent decision, the parties may obtain judicial review. *Id.*

3 **III. DISCUSSION**

4 There is insufficient basis to reopen Appellant's case. While the undersigned recognizes that
5 Appellant's status has recently changed, this change does not affect her eligibility for prior PUA
6 claims.¹ Here, it is clear that Appellant was not a qualified alien at the time she filed her claims.
7 As discussed in the Administrative Order, Appellant was claiming PUA benefits during the one-
8 month period where she was unemployed, August 30, 2020 to September 30, 2020. The recent
9 change to Appellant's immigration status is not retroactive and only effective, as of her approval,
10 July 8, 2021. Since the change in status has no effect on Appellant's prior PUA claims, there was
11 no unwarranted deprivation of benefits and reopening the case is not warranted.

12 **IV. CONCLUSION**

13 In conclusion, Appellant does not provide any new information to justify reopening this case
14 or reversing the decision. Accordingly, based on the applicable law and circumstances of this
15 case, Appellant's request to reopen is **DENIED**. The Administrative Order, issued July 13, 2021,
16 and this present Order Denying Request to Reopen shall constitute a **FINAL AGENCY**
17 **DECISION**.

18 In the event a party aggrieved by this Order would like to dispute or contest this decision, said
19 party may seek judicial review with the CNMI Superior Court under the local Administrative
20 Procedures Act within 30 days of this Order. *See* 1 CMC § 9112.

21 So ordered this 10th day of September, 2021.

22 */s/*

23 **JACQUELINE A. NICOLAS**
24 Administrative Hearing Officer

25
26
27
28 ¹ PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a).

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
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In Re Matter of:)	PUA Case No. 21-0128
)	
Presentacion V. Carreon,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-PUA,)	
)	
Appellee.)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on August 17, 2021 at 9:00 a.m. at the Administrative Hearing Office. Appellant Presentacion V. Carreon (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Coordinator Tiyani Camacho and Labor Certification Worker Dennis Cabrera. There were no other witnesses that provided testimony at the hearing.

Exhibits:

1. Exhibit 1: Copy of the Appellant’s Initial Application Snapshot, filed August 6, 2020;
2. Exhibit 2: Copy of the Appellant’s Reopened Application Snapshot, filed January 26, 2021;
3. Exhibit 3: Copy of Department’s Disqualifying Determinations
 - a. Initial Determination, dated June 14, 2021
 - b. Determination (upon reconsideration), dated June 16, 2021;
 - c. Determination, dated August 11, 2021
4. Exhibit 4: Copy of Appellant’s Request to file an Appeal, filed June 17, 2021;
5. Exhibit 5: Copy of the Notice of Hearing issued June 17, 2021;

6. Exhibit 6: Copy of Appellant’s Employment Certification, dated February 17, 2021;
7. Exhibit 7: Copy of Appellant’s Termination Notice, dated July 15, 2020;
8. Exhibit 8: Copy of Appellant’s Philippines Passport (valid from August 23, 2018 to August 22, 2028);
9. Exhibit 9: Copy of USCIS Notice of Action (CW1 Approval Notice valid from February 3, 2020 to September 30, 2020);
10. Exhibit 10: Copy of USCIS Notice of Action (CW2 Approval Notice valid from October 1, 2020 to October 10, 2021);
11. Exhibit 11: Copy of USCIS Notice of Action (C37 Approval Notice valid from June 9, 2021 to June 8, 2026);
12. Exhibit 12: Copy of Appellant’s EAD Card, Category C37, valid from June 9, 2021 to June 8, 2026;
13. Exhibit 13: Copy of Department’s SAVE verification results, initiated on June 2, 2021; and
14. Exhibit 14: Copy of Department’s Email from Benefit Payment Control Unit, dated August 11, 2021.

For the reasons stated below, the Department’s Determination dated August 11, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of February 2, 2020 to March 13, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)¹ and Federal Pandemic Unemployment Compensation (“FPUC”).² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for Unemployed Workers Act of 2020” or “Continued Assistance Act”).

1 is charged with the responsibility in administering the above-mentioned programs in the CNMI
2 in accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing
3 Office has been designated to preside over appeals of agency decisions.

4 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is
5 established.

6 III. PROCEDURAL BACKGROUND & ISSUES

7 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs.
8 Upon review of Appellant's application and supporting documents, the Department issued a
9 Disqualifying Determination. Upon Appellant's request for reconsideration, the Department
10 issued a second Disqualifying Determination on the same basis. Appellant filed the present
11 appeal and the matter was scheduled for a hearing. As stated in the Notice of Hearing, the issues
12 on appeal are: (1) whether Appellant is eligible for PUA; and (2) whether an overpayment
13 occurred and funds should be returned.

14 IV. FINDINGS OF FACT

15 In consideration of the evidence provided and credibility of witness testimony, the
16 undersigned issues the following findings of fact:

- 17 1. Prior to the COVID-19 pandemic, Appellant was employed as an Accounting Assistant
18 at Saipan Adventures ("Employer"), located in Saipan. As an Accounting Assistant,
19 Appellant was paid an hourly rate of \$8.65.⁵
- 20 2. Due to the economic impact of the pandemic, Employer implemented cost-cutting
21 measures that affected Appellant's employment. Due to the lack of business, Appellant
22 was furloughed starting February 1, 2020 then ultimately laid off, effective August 16,
23 2020.⁶
- 24 3. On or around August 6, 2021, Appellant submitted an application⁷ for unemployment
25 assistance under the PUA and FPUC programs administered by the Department. In the
26 Application Snapshot,⁸ Appellant self-certified under penalty of perjury that:

27 ⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
28 Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and
guidance.

⁵ Exhibit 6.

⁶ Exhibit 6 -7.

⁷ Exhibit 1.

⁸ *Id.*

- 1 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
- 2 b. Appellant's employment was directly affected by COVID-19 when her place of
- 3 employment closed; and
- 4 c. Appellant's employment was affected since February 17, 2020.
- 5 4. On January 26, 2021, Appellant applied to reopen her application for unemployment
- 6 assistance. In her application to reopen,⁹ Appellant again self-certified under penalty of
- 7 perjury the following:
- 8 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
- 9 b. Appellant's employment was directly affected by COVID-19 when her place of
- 10 employment closed; and
- 11 c. Appellant's employment was affected since February 17, 2020.
- 12 5. By submitting the application, Appellant certifies and acknowledges¹⁰ to certain
- 13 responsibilities.
- 14 a. First, the answers provided in Appellant's initial application and weekly
- 15 certifications were submitted under penalty of perjury. This means it is
- 16 Appellant's responsibility to provide true, accurate, and complete answers.
- 17 b. Second, it is Appellant's responsibility to be informed about the program by
- 18 reading the PUA Benefit Rights Information Handbook and other official written
- 19 material regarding PUA.
- 20 c. Third, it is Appellant's responsibility to comply with a PUA Coordinator's
- 21 request for information and/or documents within the applicable timelines.
- 22 6. With respect to Appellant's immigration status and employment authorization,
- 23 Appellant provided testimony and substantiating evidence to demonstrate:
- 24 a. Appellant is a citizen of the Philippines.¹¹
- 25 b. Appellant was authorized to work for Employer as CNMI Only Transitional
- 26 Worker ("CW-1") from February 23, 2020 to September 30, 2020.¹² Upon the
- 27 elimination of her position and termination on August 15, 2020, Appellant's
- 28 CW-1 permit expired.

⁹ Exhibit 2.

¹⁰ See Exhibits 1-2.

¹¹ See Exhibit 8.

¹² Exhibit 9.

1 c. After filing an application to extend or change her nonimmigrant status, USCIS
2 approved Appellant's status to Dependent of a CNMI Only Transitional Worker
3 ("CW-2").¹³ As a CW-2, Appellant does not have authorization to work in the
4 CNMI.

5 d. Subsequently, Appellant applied for the CNMI Long Term Resident status and
6 employment authorization. Appellant's application for employment authorization
7 was approved under Category C37, valid from June 9, 2021 to June 8, 2026.¹⁴

8 7. Appellant has no other documents or evidence to demonstrate that she is a qualified alien
9 during the time period she is claiming benefits.

10 8. On June 2, 2021, the Department entered Appellant's information into the Systematic
11 Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification
12 Division.¹⁵ This database is used to determine the immigration status of PUA applicants
13 so only those entitled to benefits receive them. On June 10, 2021, the SAVE results
14 indicated that Appellant has CW-2 status until October 10, 2021.¹⁶ The results further
15 confirmed that Appellant had pending applications for CNMI Long Term Resident
16 status (USCIS Form I-955) and Employment Authorization Document (USCIS Form I-
17 765).¹⁷

18 9. On June 14, 2021, the Department issued a determination disqualifying Appellant from
19 PUA and FPUC benefits from December 27, 2020 to March 13, 2020 ("PUA Round 2")
20 because the Department found that Appellant did not meet the U.S. citizen, non-citizen
21 national or qualified alien definition since she was CW-2.¹⁸

22 10. On June 16, 2021, upon Appellant's request for reconsideration, the Department issued a
23 second determination disqualifying Appellant from PUA and FPUC benefits for the
24 same time period and on the same basis.¹⁹

25 11. On August 11, 2021, the Department issued its third Determination disqualifying
26 Appellant from PUA benefits from claim period February 2, 2020 to March 13, 2021

27 ¹³ Exhibit 10.

28 ¹⁴ Exhibits 11-12.

¹⁵ Exhibit 13.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Exhibit 3a.

¹⁹ Exhibit 3b.

1 (“PUA Round 1 and 2”) on the basis that Appellant is not a US citizen, non-citizen
2 national or a qualified alien.²⁰

3 12. On June 17, 2021, Appellant filed the present appeal and the matter was scheduled for
4 an Administrative Hearing.²¹

5 13. As indicated in Appellant’s appeal form and as discussed during the Administrative
6 Hearing, Appellant is appealing the Department’s Disqualifying Determinations for the
7 claim period February 2, 2020 to March 13, 2021. Appellant does not contest the status
8 or work authorizations asserted above; Appellant simply disagrees with the finding she
9 is ineligible.

10 14. On August 11, 2021, the Department’s Benefit Payment Control Unit confirmed that
11 there is no overpayment at issue because the payment that was issued to Appellant was
12 cancelled and reversed.²² At the Administrative Hearing, the parties confirmed that
13 Appellant did not receive payment of PUA and FPUC benefits. For these reasons, the
14 issue of overpayment is not discussed further below.

15 V. CONCLUSIONS OF LAW

16 In consideration of the above-stated findings and applicable law, the undersigned issues the
17 following conclusions of law:

18 1. Appellant’s employment was affected as a direct result of COVID-19.

19 In accordance with the CARES Act and Continued Assistance Act, payment of PUA and
20 FPUC benefits are available to “covered individuals.” A “covered individual” is someone who:
21 (1) is not eligible for regular compensation or extended benefits under State or Federal law or
22 pandemic emergency unemployment compensation under Section 2107 of the CARES Act,
23 including an individual who has exhausted all rights to regular unemployment or extended benefits
24 under State or Federal law or Pandemic Emergency Unemployment Compensation under Section
25 2107;²³ (2) self-certifies²⁴ that the individual is unemployed, partially unemployed, or unable or
26 unavailable to work²⁵ as a direct result²⁶ of a listed COVID-19 reason in Section 2102(a)(3)(A)(ii) of

27 ²⁰ Exhibit 3c.

28 ²¹ Exhibits 4-5.

²² Exhibit 14.

²³ This condition is generally not at issue with claimants in the CNMI because there are no other State or Federal unemployment insurance programs in the CNMI.

²⁴ The PUA program utilizes initial and weekly applications where claimants self-certify and report under penalty of perjury.

²⁵ A claimant must be able to work and be available for work, as defined by Hawaii state law, in order to be eligible

1 the CARES Act, and (3) provides required documentation of employment/self-employment within
2 the applicable period of time.²⁷

3 With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act
4 specifically identifies the COVID-19 qualifying reasons²⁸ as:

- 5 (aa) The individual has been diagnosed with COVID-19 or is
6 experiencing symptoms of COVID-19 and is seeking a medical
7 diagnosis;
- 8 (bb) A member of the individual's household has been diagnosed with
9 COVID-19;
- 10 (cc) The individual is providing care for a family member or a
11 member of the individual's household who has been diagnosed
12 with COVID-19;
- 13 (dd) A child or other person in the household for which the individual
14 has primary caregiving responsibility is unable to attend school
15 or another facility that is closed as a direct result of the COVID-
16 19 public health emergency and such school or facility care is
17 required for the individual to work;
- 18 (ee) The individual is unable to reach the place of employment
19 because of a quarantine imposed as a direct result of the COVID-
20 19 public health emergency;
- 21 (ff) The individual is unable to reach the place of employment
22 because the individual has been advised by a health care provider
23 to quarantine due to concerns related to COVID-19;
- 24 (gg) The individual was scheduled to commence employment and
25 does not have a job or is unable to reach the job as a direct result
26 of the COVID-19 public health emergency;
- 27 (hh) The individual has become the breadwinner or major support for
28 a household because the head of the household has died as a
direct result of COVID-19;
- (ii) The individual has to quit his or her job as a direct result of
COVID-19;
- (jj) The individual's place of employment is closed as a direct result
of the COVID-19 public health emergency; or

for benefits. *See* HAR § 12-5-35.

²⁶ Pursuant to 20 CFR § 625.5, unemployment is considered a "direct result" of the pandemic where the employment is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events precipitated or exacerbated by the pandemic.

²⁷ Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating employment or self-employment, or the planned commencement of employment or self-employment, if he or she files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31, 2021 and receives PUA benefits on or after December 27, 2020. Failure to supply said documents, and any other relevant, requested documents is a justifiable basis to deny benefits under HAR § 12-5-81(j).

²⁸ These reasons are further defined or illustrated in UIPL 16-20, Change 4.

1 (kk) The individual meets any additional criteria established by the
2 US Secretary of Labor for unemployment assistance under PUA.

3 Additional criteria established by the US Secretary of Labor under item (kk)²⁹, above, includes:

- 4 (1) The individual is an independent contractor who is unemployed
5 (total or partial) or is unable or unavailable to work because of
6 the COVID-19 public health emergency has severely limited his
7 or her ability to continue performing the customary job;
8 (2) The individual has been denied continued unemployment
9 benefits because the individual refused to return to work or
10 accept an offer of work at a worksite that, in either instance, is
11 not in compliance with local, state, or national health and safety
12 standards directly related to COVID-19. This includes, but is not
13 limited to, those related to facial mask wearing, physical
14 distancing measures, or the provision of personal protective
15 equipment consistent with public health guidelines;
16 (3) An individual provides services to an educational institution or
17 educational service agency and the individual is unemployed or
18 partially unemployed because of volatility in the work schedule
19 that is directly caused by the COVID-19 public health
20 emergency. This includes, but is not limited to, changes in
21 schedules and partial closures; and
22 (4) An individual is an employee and their hours have been reduced
23 or the individual was laid off as a direct result of the COVID-19
24 public health emergency.
25

26 Here, Appellant submitted a claim for PUA and FPUC benefits self-certifying in her initial
27 application and her application to reopen, under penalty of perjury, that her place of
28 employment was closed as a direct result of the COVID-19 public health emergency. While
Saipan Adventures was not closed completely, Appellant testified at the Administrative Hearing
that she was told to stop working (furloughed) effective February 17, 2020.³⁰ Based on the letter
from Saipan Adventures to Appellant, dated July 15, 2020, Appellant's job position was
eliminated effective August 15, 2020 due to the impact of COVID-19 outbreak and Saipan
Adventures financial difficulties due to the complete shutdown of tourism activities in Saipan
brought by the COVID-19 pandemic.³¹ Appellant testified that she has not returned to work for
Saipan Adventures or found other employment since her termination on August 15, 2020.
Based on the applicable law and evidence provided, Appellant's employment was affected

²⁹ See Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

³⁰ Exhibits 6-7.

³¹ Exhibit 7.

1 under item (kk)(1), listed above. Accordingly, Appellant’s employment was affected as a direct
2 result of COVID-19.

3 **2. Appellant is not a U.S. citizen, non-citizen national, or qualified alien.**

4 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
5 eligibility for any federal public benefit, the claimant must be a U.S. citizen, non-citizen national or
6 qualified alien at the time relevant to the claim. *See* claim. 8 USC §1611(a). Pursuant to 8 USC
7 §1641, the term “qualified alien” is:

- 8 1. An alien admitted for permanent residence under the Immigration and Nationality Act
9 (INA);
- 10 2. An alien granted asylum under § 208 of the INA;
- 11 3. A refugee admitted to the US under § 207 of the INA;
- 12 4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
- 13 5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose
14 removal is being withheld under § 241 (b)(3) of the INA;
- 15 6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
- 16 7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education
17 Assistance Act of 1980; or
- 18 8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in
19 the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

20 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only
21 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under
22 the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, “CW-1 workers
23 may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with
24 claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3,
25 2021).”

26 There is no showing that Appellant meets the U.S. citizen, non-citizen national, or qualified
27 alien requirement. First, as a citizen of the Philippines, Appellant is clearly not a U.S. citizen or
28 non-citizen national. Second, Appellant’s subsequent statuses do not satisfy the qualified alien
definition. Specifically, Appellant had a CW-1 permit to work for Employer from October 1,
2019 to September 30, 2020.³² However, Appellant CW-1 status expired upon her termination
on August 16, 2020. Further, the CW-1 status was not considered part of the qualified alien
definition until after December 27, 2020. Further, Appellant’s subsequent CW-2 status or

³² Exhibit 9.

1 CNMI Long Term Resident status is not linked to any qualified alien provision and the
2 argument that her friend with the same status received PUA is not persuasive. Since Appellant
3 is not a U.S. citizen, non-citizen national, or qualified alien, Appellant is not eligible for PUA
4 benefits.

4 **3. Appellant is not able and available to work in the CNMI.**

5 In accordance with the CARES Act, an individual must be able and available to work in the
6 CNMI during the week that benefits are claimed. “An individual shall be
7 deemed able and available for work . . . if the individual is able and available for suitable work
8 during the customary work week of the individual’s customary occupation which falls within the
9 week for which a claim is filed.”³³ “An individual shall be deemed *able* to work if the individual
10 has the physical and mental ability to perform the usual duties of the individual’s customary
11 occupation or other work for which is the individual is reasonably fitted by training and
12 experience.”³⁴ “An individual shall be deemed *available* for work only if the individual is ready
13 and willing to accept employment for which the individual is reasonably fitted by training and
14 experience. The individual must intend and wish to work, and there must be no undue
15 restrictions either self-imposed or created by force of circumstances which prevent the
16 individual from accepting employment.”³⁵ For qualified aliens, the inquiry of whether an
17 individual is “able and available” also hinges on whether they are authorized to work during the
18 weeks claimed. *See* 43 Com. Reg. 044736 (Jan. 28, 2021); *see also* 43 Com. Reg. 045439 (Feb.
19 28, 2021); *see also* 43 Com. Reg. 046852 (June 28, 2021).

19 There were a number of issues with Appellant’s employment authorization. First, Appellant
20 had authorization to work as a CW-1 for Saipan Adventures from February 3, 2020 to
21 September 9, 2020. However, upon her termination from Saipan Adventures on August 16,
22 2020 – Appellant did not have authorization to work for any other employer. Second, while
23 Appellant was permitted to stay in the CNMI under the CW-2 permit from October 1, 2020 to
24 October 10, 2021, Appellant was not authorized to work. Third, Appellant’s employment
25 authorization under Category C37 was not approved until June 9, 2021. For these reasons,
26 Appellant was not able and available to work from August 17, 2020 to June 8, 2021—which
27 serves as further reason to disqualify Appellant from PUA benefits.

28 ³³ HAR § 12-5-35(a)

³⁴ HAR § 12-5-35(a)(1) (emphasis added).

³⁵ HAR § 12-5-35(a)(2) and (b) (emphasis added).

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VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated August 11, 2021, is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of February 2, 2020 to March 13, 2021.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **26th** day of August, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



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In Re Matter of:)	PUA Case No. 21-0134
)	
Regina Crisostomo,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-PUA,)	
)	
Appellee.)	

Pursuant to Appellant’s Request to Appeal, the matter was scheduled for an Administrative Hearing on September 28, 2021 at 9:00 a.m. On August 5, 2021, Appellant filed a written request to withdraw her appeal. Further, on August 18, 2021 the Department confirmed that the Overpayment issue was resolved and there are no pending issues to discuss at a hearing. The Department does not contest dismissal.

In consideration of above, the undersigned finds that there are no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for September 28, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 24th day of August, 2021.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE

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In Re Matter of:)	PUA Case No. 21-0145
)	
Jian Xiao,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-PUA,)	
)	
Appellee.)	
)	

Pursuant to Appellant’s Request to Appeal, the matter was scheduled for an Administrative Hearing on November 23, 2021 at 9:00 a.m. On August 17, 2021, Appellant filed a written request to withdraw the appeal. Further, on August 27, 2021 the Department filed a Motion to Dismiss stating that the issues in dispute were resolved and no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for November 23, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **8th** day of September, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
DEPARTMENT OF LABOR
ADMINISTRATIVE HEARING OFFICE



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In Re Matter of:)	PUA Case No. 21-0146
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Mailau P. Pome'e,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
Division of Employment Services-PUA,)	
)	
Appellee.)	

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on November 30, 2021 at 9:00 a.m. On September 10, 2021, Appellant filed a written request to withdraw the appeal. Further, on September 16, 2021 the Department filed a Motion to Dismiss stating that the issues in dispute were resolved and no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for November 30, 2021 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 16th day of September, 2021.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

I. LEGAL STANDARD

Pursuant to 3 CMC § 4967, “[a]ny employer of any foreign national worker shall keep, and present immediately upon demand . . . (a) Personnel records for each foreign worker . . . (b) Payroll records for each foreign national worker . . . (c) Documentation for each foreign national worker . . . and (d) Business license and any other information of documentation required by regulations.” In addition to the above-stated documents, the regulations require employers to submit compliance documents such as the quarterly Total Workforce Listing¹ and yearly Workforce Plan.²

Pursuant to 3 CMC § 4527 and 3 CMC § 4940, the Department’s Enforcement, Compliance, and Monitoring Section has the authority to conduct investigations as the Department may deem appropriate and necessary to ensure compliance with applicable labor laws. In conducting these investigations, Enforcement “shall have all of the powers delegated [under the Employment Rules and Regulations] and the powers to inspect any records that an employer is required to keep, to make copies of records, and to interview employees.” *Id.* Depending on the investigation, Enforcement may initiate a consolidated agency action. NMIAC § 80-20.2-455(i). If, after notice and an opportunity to be heard, a company has been found to violate the above-stated laws, the Administrative Hearing Officer has authority to sanction or levy a fine not to exceed two thousand dollars *for each* violation of the CNMI labor laws and impose any other sanction, order, or relief as may reasonably give effect to the requirements of Commonwealth law. 3 CMC § 4528 (f); *see* NMIAC § 80-20.1-485(c) (emphasis added).

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¹ Each business employer shall report quarterly, as of the last day of the calendar quarter, the number of employees, job classification, and the hourly wage of employees for whom wages were paid during the quarter. NMIAC § 80-20.1-505(b).

² All employers who employ nonimmigrant alien workers, unless exempt, must submit a new or updated Workforce Plan every twelve months. NMIAC § 80-20.1-510(c). A workforce plan shall identify specific positions currently occupied by a foreign national worker and timetable for accomplishing the replacement of the foreign national worker with qualified U.S. citizens, CNMI permanent residents, and U.S. permanent residents until the workforce participation objective is met. NMIAC § 80-20.1-510(b); *see also* 3 CMC § 4525 and NMIAC § 80-20.1-210(c)(3) (regarding minimum workforce participation requirement).

- 1 k. Yong Teng Ou;
- 2 l. Chien Nan Chen;
- 3 m. Jie Yin Cheng;
- 4 n. Sen Wei Lai;
- 5 o. Kuan Neng Liao;
- 6 p. Wen Hao Huang; and
- 7 q. Yang Yong Yuan.

- 8 3. Each request was received by an employee and authorized representative of Respondent,
- 9 Jamie Itibus.⁷
- 10 4. Enforcement followed up on their requests for required documents with Respondent's
- 11 multiple representatives and employees on numerous occasions—to no avail.
- 12 Accordingly, on June 15, 2021, Enforcement filed a Notice of Violation/Determination⁸
- 13 against Respondent for failure to submit the required documents. The Determination was
- 14 served to Respondent pursuant to alternative service,⁹ using contact information provided
- 15 by the parties.¹⁰
- 16 5. On July 29, 2021, the undersigned scheduled the matter for an administrative hearing and
- 17 and the Notice of Hearing¹¹ was served to both parties pursuant to alternative service,
- 18 using contact information provided by the parties.¹²
- 19 6. During the Administrative Hearing, Respondent failed to appear or present any evidence
- 20 regarding the failure to submit required documents.
- 21 7. Based on applicable law and available evidence, the undersigned finds that Respondent
- 22 violated 3 CMC § 4967 by failing to immediately provide the required documents for the
- 23 22 employees.

26 ⁷ See Exhibits 1-2.
27 ⁸ Exhibit 3.
⁹ See NMIAC § 80-20.1-475(d)(4).
28 ¹⁰ Exhibit 5.
¹¹ Exhibit 4.
¹² Exhibit 5.

1 8. In consideration of the numerous violations, unjustifiable delays, and Respondent's
2 overall disregard for the applicable law and these administrative proceedings, the
3 undersigned finds the maximum fine or penalty for each violation is warranted.

4 **III. JUDGMENT AND SANCTIONS**

5 In accordance with above, **JUDGMENT** is entered against Respondent for failure to
6 submit documents in accordance with 3 CMC § 4947. Respondent is **SANCTIONED** \$2,000 for
7 each 22 violations or a total of \$44,000. Payment shall be made to the CNMI treasury by check
8 or money order, on or before September 24, 2021. Failure to comply with the payment terms of
9 this order shall be subject to additional monetary sanctions of up to twenty-five dollars per day
10 until the obligation is satisfied.¹³ The additional sanction shall apply without the need for any
11 additional hearing.

12 In order to further give effect to the requirements of Commonwealth law, Enforcement is
13 **ORDERED** to inform the Department's Division of Employment Service to deny or disapprove
14 any request to post a Job Vacancy Announcement on the Department website made by or in
15 connection to Respondent—effectively limiting Respondent's ability to hire foreign workers—
16 until all the above-stated records are submitted and sanctions are paid.¹⁴

17 Any person or party aggrieved by this Order may appeal by filing the Notice of Appeal
18 form and filing fee with the Administrative Hearing Office within fifteen (15) days from the date
19 of this Order.¹⁵

20 So ordered this **24th** day of August, 2021.

21 /s/

22 **JACQUELINE A. NICOLAS**
23 Administrative Hearing Officer
24

25 _____
26 ¹³ 1 CMC § 4964(n).

27 ¹⁴ See NMIAC § 80-20.1-(c)(14) ("The hearing officer is authorized to: ... (14) Use the inherent powers of a hearing
28 officer and powers granted by the Administrative Procedures Act to further the interests of justice and fairness in
proceedings.").

¹⁵ The Notice of Appeal Form is available online at www.marianaslabor.net or hard copies are available at the
Administrative Hearing Office. The aggrieved person or party must file the completed form at the Administrative
Hearing Office, with the applicable filing fee.



SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE
Office of the Mayor
Municipality of Saipan

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO RULES AND REGULATIONS
FOR THE SAIPAN HIGHER EDUCATION FINANCE ASSISTANCE PROGRAM
(SHEFA)

Intended Action to Adopt These Proposed Amendments to Rules and

Regulations: The Saipan Higher Education Financial Assistance (SHEFA) Board of Directors intends to adopt as permanent the attached proposed amendments to the rules and regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board of SHEFA intends to adopt them as permanent, and hereby gives thirty (30) days' notice of its intent. *Id.* The amendments will become effective ten (10) days after adoption. 1 CMC § 9105(b).

Statutory Authority: The Board of SHEFA is authorized to prescribe reasonably necessary rules and regulations to carry out the intent of the Saipan Higher Education Financial Assistance Act. 10 CMC § 3924(n).

The Terms and Substance: The Board of SHEFA is publishing the proposed amendments to carry out its decision concerning NMIAC § 165-20.1-205 (Promissory Note/Memorandum of Agreement Form; Repayment Term), as expressed in Board Resolution No. 2021- 001 (adopted on January 28, 2021).

The Subjects and Issues Involved: The proposed amendments to the rules and regulations deal primarily with the following:

The SHEFA Board is sensitive to and recognizes the unfathomable and untold sacrifices borne by our men and women in the U.S. armed forces in order that we may enjoy our enduring freedom and liberty, and has determined that the obligations of recipients of SHEFA assistance who serve in the United States military should be modified to allow the obligation to return to Saipan and work to be satisfied by active duty military service as well a deferral of any repayment obligation while in active duty service.

The proposed amendments to the SHEFA regulations give effect to this revised policy adopted by the Board to (i) to waive qualified active members of the U.S. armed

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services from the SHEFA assistance requirement to “return to Saipan and work”; and (ii) to count years of military service as credit towards the required service contribution in the private or public sector here on Saipan, in acknowledgement of the local and national interests served by the military service of Saipan residents.

DIRECTIONS FOR FILING AND PUBLICATION: Chairman, Oscar M. Babauta, Saipan Higher Education Financial Assistance Program, P.O Box 10001, PMB 3648, Saipan MP 96950 or contact (670) 233-5995/235-1020/21 or by facsimile at (670) 233-5996 or email saipanshefa@gmail.com.

TO PROVIDE COMMENTS: Send or deliver your comments to Chairman, Oscar M. Babauta, SHEFA Board of Directors, P.O. Box 10001, PMB 3648, Saipan MP 96950, or via facsimile to (670) 233-5996. Comments must be received by the SHEFA Board within thirty days of the date this notice is published in the Commonwealth Register.

These proposed amendments to the rules and regulations were approved by SHEFA Board of Directors on January 28, 2021.

Submitted by:



Oscar M. Babauta
Chairman
SHEFA Board of Directors

9/21/2021
Date

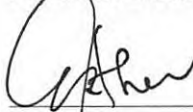
Received by:



Mathilda A. Rosario
Governor's Special Assistant for Administration

09/22/21
Date

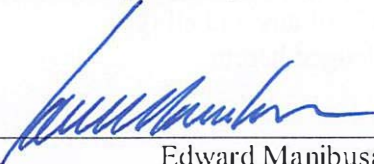
Filed and Recorded by:



Esther SN. Nesbitt
Commonwealth Registrar

9.28.2021
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval), the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).



Edward Manibusan
Attorney General

Northern Mariana Islands Administrative Code Proposed Amendment

Section 165-20.1-205 shall be amended as follows to read:

§ 165-20.1-205 Promissory Note/Memorandum of Agreement Form; Repayment Term

As a condition of receiving Saipan Higher Education Financial Assistance, the recipient of any type of financial assistance shall agree in writing to the terms and conditions of such financial assistance and to repay such financial assistance in accordance with Saipan Local Law No. 13-21 and any amendments thereto and the applicable rules and regulations. Said agreement shall be in writing and be in the form approved by the Board and incorporated herein as part of this regulation by reference. Promissory notes entered into after the adoption of Board Resolution No. 2021-001 (adopted on January 28, 2021) shall be amended to conform to the following, which terms shall supersede those of promissory notes entered into by SHEFA (as "Lendor") and recipients of SHEFA financial assistance (as "Debtors") after January 28, 2021.

THIS PROMISSORY NOTE/MEMORANDUM OF AGREEMENT made and entered into this _____ day of _____, 20____, by and between the Board of SHEFA for the Municipality of Saipan within the Office of the Mayor of Saipan and

_____, and/or with his/her parent, _____, if below 18 years, hereinafter referred to as the "Debtor" at address: _____ (permanent & current postal address) residing in _____ (village) of Saipan.

WITNESSETH

WHEREAS, Saipan Local Law (SLL) 13-21 established the Saipan Higher Education Financial Assistance within the Office of the Mayor of Saipan to be governed by the Saipan Higher Education Financial Assistance Board (SHEFA):

WHEREAS, the SHEFA Board, in administering the SHEFA fund, will enter into a legally binding and enforceable promissory note/memorandum of agreement

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with a qualified and eligible resident of Saipan together with a parent, if recipient of SHEFA financial assistance is below 18 years, prior to the disbursement of any SHEFA fund. In entering into a mutually binding promissory note/ memorandum of understanding, the SHEFA Board becomes the "Lender" of record for SHEFA fund and the recipient of SHEFA financial assistance together with the parent, if recipient is below 18 years, become individually and collectively the "Debtor" of any and all type and amount of SHEFA financial assistance received and acknowledged herein pursuant to § 165-20.1-105 including:

1. Grant-in-Aid,

2. Scholarship, and

3. Loan. WHEREAS, the Saipan Higher Education Financial Assistance (SHEFA) is established as a supplementary financial assistance to eligible residents of the Municipality of Saipan, inclusive of the Northern Islands who desire to pursue postsecondary education at a U.S. accredited institution of higher learning on Saipan or abroad, or SHEFA approved skilled, trade or vocational institution, with the intention of returning on the condition that a recipient of SHEFA fund shall return to Saipan pursuant to SHEFA rules and regulations for purposes of employment, and to provide services to the private or public sector or both, in recognition of the need for educated citizenry and workforce on Saipan and other contributions to the local and national interest.

NOW, THEREFORE, in consideration of SHEFA financial assistance including grant-in aid, scholarship and loan which recipient/debtor received and acknowledged by signing this promissory note/memorandum of understanding between the Debtor and the Lender, the Debtor agrees, covenants and represents as follows:

1. The Debtor is admitted to or enrolled in _____ (name of institution, a U.S. accredited post-secondary institution of higher learning, or SHEFA Board approved trade/vocational institution) in pursuit of a degree or certificate in _____ (specify type of certificate or degree e.g., A.A., B.A., M.A., PH.D., J.D., MD. etc. and field of study).

2. The Debtor shall utilize all financial assistance for educational expenses directly related or incidental to attendance and continued attendance at an institution of record and shall enroll in at least a minimum of 12 credits for undergraduate; full-time status as defined by the institution for graduate; and full-time status as defined by the institution for advanced standing and maintain the minimum or higher grade point average (GPA) in accordance with the SHEFA Rules and Regulations.

3. The Debtor shall complete the required credits for each term that financial assistance was received (mark one):

i. Certificate and Undergraduate Full-Time: Twelve or more credits ii. Graduate Full-Time: As defined by the institution iii. Advanced Full-Time: As defined by the institution

4. The Debtor shall maintain at the end of each term the required cumulative grade point average and term grade point average as it applies below by marking the appropriate category:

i. Undergraduate: 2.5 Cumulative GPA
Twelve or more credits

ii. Performance-Based Scholarship: 3.5 Term† GPA;
Twelve or more credits for undergraduates

iii. Graduate: Pass (P) on a letter grade system or 3.0 CGPA on a grade point system as defined by the institution

iv. Advanced: Pass (P) on a letter grade system or 3.0 CGPA on a grade points system as defined by the institution

v. Priority Field of Study: 2.5 Cumulative GPA

vi. Loan Applicant/Recipient: 2.5 Cumulative GPA.

vii. Trade/Vocational Recipient; Pass (P) on a letter grade system or 2.0 cumulative GPA on a grade point system or 70% on a numerical grade point system. Must be enrolled full time per term as defined by the institution.

†Term refers to fall term and spring term per academic year for applicant or recipient on semester system; fall term, winter term and spring term for applicant or recipient on quarter system; winter and spring term GPA may be combined in computing the higher of the term GPA for purposes of GPA scholarship. GPA scholarship for semester term is awarded on the fall and spring semester and fall and winter/spring for quarter term.

5. The Debtor shall submit a copy of his/her official grade report/transcript promptly after the conclusion of each academic term directly from the institution of record to the SHEFA Office. The grade report submittal will determine the eligibility for continued assistance on every subsequent term. Within ninety days upon matriculation from the institution of record, the Debtor shall submit a copy of his/her college degree and proof of employment on Saipan or the Northern Islands. The Debtor also fully understands and agrees to his/her legal obligations pursuant to the explicit and implicit terms and conditions set forth in this promissory note/memorandum of agreement.

6. The Debtor understands, acknowledges, and accepts the maximum duration of eligibility for financial assistance from the SHEFA fund:

2 Academic Years - Associate Degree

4 Academic Years - Bachelors' Degree††

2 Academic Years - Graduate Degree

2 Academic Years - Advanced Degree†††

Less than 2 Years – Certificate/Diploma

††maximum of five academic years for specialized majors and/or specialized certification by the institution of record.

†††maximum of three academic years not including summer, with a provision for up to three additional academic years for dissertation writing, dissertation defense, and internship requirements or medical degree training requirement, and up to two years for jurisprudence work or related residence internship or related training requirements.

7. The Debtor hereby declares that he/she is not pursuing an academic program that leads to a religious studies degree, and shall not take religion courses not specifically prescribed in the Individualized Degree Plan (IDP).

8. The Debtor shall agree, except as provided by and subject to the provisions of paragraph 11, to return to Saipan within nine (9) months after the completion of his/her degree plan or six (6) months within termination of or non-enrollment from the institution of record, and provide services by working on Saipan for any employer-whether in the private or public sector or both. The Debtor further agrees to perform services in the private or public sector or both on Saipan for a period equal to the period for which the Debtor received financial assistance under § 165-20.1-105(a)(b) from the Lender, subject to paragraph 11. The Debtor agrees to pay back twenty-five percent of the total amount of loan received under § 165-20.1-105(c) and a minimum of three years of service to either in the private or public sector or both on Saipan. If the recipient of SHEFA financial assistance does not return back to Saipan after completion of his/her studies, or non-enrollment from school or termination from the institution of record, he/she must, except as provided by paragraph 11, repay the entire debt back on all SHEFA funds received under § 165-20.1- 105(a)(b)(c) with interest in accordance with this promissory note/memorandum of agreement.

9. The Debtor understands and hereby agrees that failure to comply with any part of sections 1-8 of this promissory note/memorandum of agreement and the SHEFA rules and regulations will constitute a material breach of the promissory note/memorandum of agreement and a default, and will require the Debtor to pay the entire award received. If such a default occurs, the Debtor must repay their entire debt to the Lender with equal monthly payments within 6 years of the default. The Debtor may repay according to any of the following repayment options as shown below.

Total Debt	Per	Per	Per	Per	Per	Per
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for repayment	Month 12 months	Month 24 months	Month 36 months	Month 48 months	Month 60 months	Month 72 months
\$1,000 - \$4,999	\$84 - \$417	\$42 - \$209	\$28 - \$139	\$121* \$21 - \$104	\$17 - \$84	\$14 - \$70
\$5,000 - \$9,999	\$417 - \$834	\$209 - \$417	\$139 - \$278	\$104 - \$209	\$84 - \$167	\$70 - \$139
\$10,000 - \$14,999	\$834 - \$1,250	\$417 - \$625	\$278 - \$417	\$209 - \$313	\$167 - \$250	\$139 - \$209
\$15,000 - \$19,999	\$1,250 - \$1,667	\$625 - \$834	\$417 - \$556	\$313 - \$417	\$250 - \$334	\$209 - \$278
\$20,000 - \$24,999	\$1,667 - \$2,084	\$834 - \$1,042	\$556 - \$694	\$417 - \$521	\$334 - \$417	\$278 - \$348
\$25,000 - \$29,999	\$2,084 - \$2,500	\$1,042 - \$1,250	\$694 - \$834	\$521 - \$625	\$417 - \$500	\$348 - \$417
\$30,000 - \$34,999	\$2,500 - \$2,917	\$1,250 - \$1,459	\$834 - \$973	\$625 - \$730	\$500 - \$584	\$417 - \$487
\$35,000 - \$40,999	\$2,917 - \$3,334	\$1,459 - \$1,667	\$973 - \$1,111	\$730 - \$834	\$584 - \$667	\$487 - \$556

~~*So in original; likely \$21.~~

The Debtor must inform the Lender of which repayment schedule he or she has accepted within thirty days of the default. If the Debtor does not select a repayment schedule within thirty days, the Debtor will be deemed to have selected the "Per Month 72 Months" repayment schedule listed above. The Debtor's first monthly payment shall be due on the first of the month following the default, but at least thirty days after the default. All subsequent payments will be due on the first of each following month until the Debtor repays the entire debt to the Lender. Note: the Debtor may pay the balance in full at any time within the schedule plan.

10. If the Debtor fails to pay any monthly payment, or any part of any monthly payment ("payment default"), then the whole principal sum shall become immediately due and payable at the option of the Lender, without notice, and interest shall accrue at the rate of five percent per annum on the total amount outstanding. Interest shall accrue until Debtor fully cures the payment default by paying all past due monthly

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payments and all accrued interest. Payments received shall be applied first to the accrued interest and then the balance thereof to the principal.

11. Military Deferral; Return and Work Waiver. The time for the Debtor to comply with the requirements of section 8, above, shall be extended indefinitely upon request if the Debtor enlists in the armed forces of the United States of America. Specifically, the Debtor's obligation to comply with the requirements of section 8 shall be deferred, upon request, until the Debtor's service in the armed forces ends. ~~The Debtor may take advantage of this deferral for a maximum of four (4) years after the termination or completion of his/her degree plan or non-enrollment from an institution of higher education of record. Once the Debtor's service in the armed forces ends or three years passes from the termination or completion of his/her degree plan or non-enrollment from institution of higher education of record, whichever event occurs first, the Debtor shall have to comply with the requirements of section 8. All deferrals granted under this section are not valid unless approved in writing by SHEFA. The Debtor must renew his or her deferral annually. Every full month of military service so deferred shall be credited against the return-to-Saipan-and-work requirement of section 8 up to 100% of the return to Saipan work requirement, and said return-to-Saipan-and-work requirement shall be waived and deemed satisfied to such extent.~~

12. In the event of commencement of suit to enforce payment of this promissory note/memorandum of agreement, the undersigned agree(s) to pay the Lender for attorney's fees as the Court in the Commonwealth of the Northern Mariana Islands may deem reasonable.

13. The recipient of SHEFA financial assistance together with the parent, if applicant is below 18 years, fully understands and agrees that compliance with the provisions in this promissory note/memorandum of agreement and all provisions of the SHEFA rules and regulations shall constitute a condition for any and all financial assistance herein by SHEFA as hereby acknowledged and attested to by both the recipient and parent, if recipient is below 18 years. Moreover, this agreement shall authorize SHEFA to request and obtain any and all necessary information from other agencies related to the application for financial assistance, and shall further authorize the SHEFA Office to provide essential information and data such as resume, diploma, or degree name and contact mailing, or e-mail addresses to potential employer(s) on Saipan including posting such information and data on SHEFA's website or its affiliate on Saipan.

14. The parties agree that the courts of the Commonwealth of the Northern Mariana Islands (Superior Court and Supreme Court) shall have exclusive jurisdiction over any action involving this promissory note/memorandum of agreement.

This agreement shall be interpreted using the laws of the Commonwealth of the Northern Mariana Islands.

IN WITNESS WHEREOF, the recipient (Debtor) and/or parent, if recipient is below 18 years, have hereunto set his/her or their hand(s) on the date first above written.

Print Recipient Name / Signature

Date

Print Parent Name / Signature

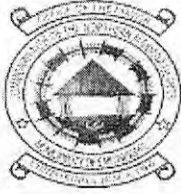
Date if Recipient is below 18 yrs.

NOTARY PUBLIC:

On this ____ day of 20 __, before me appeared _____ and (recipient parent, if recipient is below 18 years), who executed the agreement contained herein, and duly acknowledged to me that he/she and parent, if recipient is below 18 years, executed the same freely and voluntarily for the uses and purposes therein mentioned.

Notary Public (Print & Sign)

My Commission expires: _____



ASISTENSIAAN FAINANSIAÁT LATAKKILU' EDUKASION SA'IPAN
Ufisinan Mayót
I Munisipát Sa'ipan

NUTISIAN PUBLIKU PUT I MANMAPROPONI NA AMENDA GI AREKLAMENTU
YAN REGULASION SIHA PARA I PRUGRÁMAN ASISTENSIAAN FAINANSIAÁT GI
LATAKKILU' NA EDUKASION SA'IPAN (SHEFA)

I Ma'intensiona Na Aksion Para U Ma'adáp̄ta Esti Siha Manmapropoñi Na Amenda Gi Areklamentu Yan Regulasion Siha: I Asistensian Fainansiát gi Latakkilu' na Edukasion Sa'ipan (SHEFA) i kuetpun Direktot siha ha intensiona para u adáp̄ta komu petmanienti i mañechettun na manmapropoñi na amenda gi areklamentu yan regulasion siha, sigun gi maneran nu Ákton Administrative Procedure, I CMC § 9104(a). I Kuetpun SHEFA ha intensiona para u adáp̄ta siha komu petmanienti, yan manná'i guini trenta (30) dihas na nutisia nu i intension-ñã. *Id.* I amenda siempri umifektibu gi dies (10) dihas dispues di adáp̄tasion. I CMC § 9105(b).

Estatua Aturidát: I Kuetpun SHEFA ma'aturisa para u mapega rasonáp̄bli yan nisisáriu na areklamentu yan regulasion siha ni para u makátga huyung i intension nu i Asistensian Fainansiát gi Latakkilu' na Edukasion Sa'ipan, Ákton. 10 CMC § 3924(n).

I Tema Yan I Sustansian Palábra Siha: I Kuetpun nu SHEFA mapupublika i manmapropoñi na amenda siha para u kátga huyung i disisasion-ñiha put i intires gi NMIAC § 165-20.1-205 (Notan Promisiu/Fotma Kuntrátamentun Memorandun; Teman Inempas), komu ma'ekspressa gi halum Resolution Kuetpu No. 2021-001 (ma'adáp̄ta gi Ineru 28, 2021).

I Suhetu Ni Masumária Yan Asuntu Ni Tinekka: I manmapropoñi na amenda gi areklamentu yan regulasion siha ha a'atan esti siha i mantinattiyi:

I Kuetpun SHEFA mandilikáo para yan marekuknisa i disfonda yan i ti manmatungu' na sakrifisiu ni manmácho'gui ni laláhi yan famalao'an-ta siha gi halum "U.S. armed forces" put para ta na'siña gumosa linibre-ta yan maditetmina na i ubligasion nu "recipients" asistensian SHEFA i háyi mansietbi gi halum militát Estádus Unidus debi di u mamodifika para u sedi i ubligasion para u mabira siha tãtti iya Sa'ipan ya u fanmácho'chu' para u mana'satisfetchu ginen i "active duty" na sitbisiun militát kuntu du i "deferral" nu kuatkuet na ubligasion ápas mientras gaigi gi halum "active duty" na sitbisiu.

I manmaproponi na amenda siha gi regulasion SHEFA ifekta maná'i para esti maribisa na inadâptan "policy" ni Kuetpu gi (i) para u "waive" i mangkuálifikáo na "active members" gi "U.S. armed services" gi dinimândan asistensian SHEFA para "mabira tâtti para Sa'ipan yan fanmacho'chu"; yan (ii) para u matufung kuântus añus na sitbisiun militât komu "credit" guatu gi madimânda na kuntribusion sitbisiu parehu gi halum "private" yan "public sector" guini iya Sa'ipan, gi rinekuknisa na hinalum nu i "local" yan intires nasionât ni masietbi ginen i sitbisiun militât nu residentin Sa'ipan.

Direksion Para U Mapo'lu Yan Mapupblika: I kabesiyu, as Oscar M. Babauta, gi Prugráman Asistensian Fainansiât gi Latakkilu' na Edukasion Sa'ipan, P.O Box 10001, PMB 3648, Saipan MP 96950 pat âgang (670) 233-5995/235-1020/21 osino ginen fâcsimile gi (670) 233-5996 pat gi email saipanshefa@gmail.com.

Para U Mapribeniya Upiñon Siha: Na'hanáo pat intrega i upiñon-mu guatu gi Kabesiyu, as Oscar M. Babauta, Direktot Kuetpun SHEFA, P.O. Box 10001, PMB 3648, Saipan MP 96950, pat ginen fâcsimile guatu gi (670) 233-5996. I upiñon siha debi na u marisibi ginen i Kuetpun SHEFA gi halum trenta dihas nu fêchan esti na nutisia ni mapupblika gi halum Rehistran Commonwealth.

Esti i manmaproponi na amenda gi areklamentu yan regulasion siha ginen maninaprueba ni Direktot Kuetpun SHEFA gi Ineru 28, 2021.

Nina'hálum as:



Oscar M. Babauta
Kabesiyu
Direktot Kuetpun SHEFA



Fetcha

Rinisibi as:



Mathilda A. Rosario
Ispisiât na Ayudânti
para i Administrasion



Fetcha

Pine'lu yan Ninota as:




Esther SN. Nesbitt
Rehistran Commonwealth

9.28.2021

Fetcha

Sigun i I CMC § 2153 (e) (Inapruewan Abugâdu Henerât i regulasion siha ni para u macho'gui kumu fotma) yan i I CMC § 9104 (a) (3) (inahentan inapruewan Abugâdu Henerât) i manmaproponi na regulasion siha ni maitechettun guini ni manmaribisa yan manma'apruewa kumu fotma yan sufisienti ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, I CMC § 2153 (f) (pupublikasion areklamentu yan regulasion siha).



Edward Manibusan
Abugâdu Henerât

Northern Mariana Islands Administrative Code Proposed Amendment

Section 165-20.1-205 shall be amended as follows to read:

§ 165-20.1-205 Promissory Note/Memorandum of Agreement Form; Repayment Term

As a condition of receiving Saipan Higher Education Financial Assistance, the recipient of any type of financial assistance shall agree in writing to the terms and conditions of such financial assistance and to repay such financial assistance in accordance with Saipan Local Law No. 13-21 and any amendments thereto and the applicable rules and regulations. Said agreement shall be in writing and be in the form approved by the Board and incorporated herein as part of this regulation by reference. Promissory notes entered into after the adoption of Board Resolution No. 2021-001 (adopted on January 28, 2021) shall be amended to conform to the following, which terms shall supersede those of promissory notes entered into by SHEFA (as "Lendor") and recipients of SHEFA financial assistance (as "Debtors") after January 28, 2021.

THIS PROMISSORY NOTE/MEMORANDUM OF AGREEMENT made and entered into this _____ day of _____, 20____, by and between the Board of SHEFA for the Municipality of Saipan within the Office of the Mayor of Saipan and _____, and/or with his/her parent, _____, if below 18 years, hereinafter referred to as the "Debtor" at address: _____ (permanent & current postal address) residing in _____ (village) of Saipan.

WITNESSETH

WHEREAS, Saipan Local Law (SLL) 13-21 established the Saipan Higher Education Financial Assistance within the Office of the Mayor of Saipan to be governed by the Saipan Higher Education Financial Assistance Board (SHEFA);

WHEREAS, the SHEFA Board, in administering the SHEFA fund, will enter into a legally binding and enforceable promissory note/memorandum of agreement with a qualified and eligible resident of Saipan together with a parent, if recipient of SHEFA financial assistance is below 18 years, prior to the disbursement of any SHEFA fund. In entering into a mutually binding promissory note/ memorandum of understanding, the SHEFA Board becomes the "Lender" of record for SHEFA fund and the recipient of SHEFA financial assistance together with the parent, if recipient is below 18 years, become individually and collectively the "Debtor" of any and all type and amount of SHEFA financial assistance received and acknowledged herein pursuant to § 165-20.1-105 including:

1. Grant-in-Aid,
2. Scholarship, and
3. Loan.

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WHEREAS, the Saipan Higher Education Financial Assistance (SHEFA) is established as a supplementary financial assistance to eligible residents of the Municipality of Saipan, inclusive of the Northern Islands who desire to pursue post-secondary education at a U.S. accredited institution of higher learning on Saipan or abroad, or SHEFA approved skilled, trade or vocational institution, with the intention of returning on the condition that a recipient of SHEFA fund shall return to Saipan pursuant to SHEFA rules and regulations for purposes of employment, and to provide services to the private or public sector or both, in recognition of the need for educated citizenry and workforce on Saipan and other contributions to the local and national interest.

NOW, THEREFORE, in consideration of SHEFA financial assistance including grant-in-aid, scholarship and loan which recipient/debtor received and acknowledged by signing this promissory note/memorandum of understanding between the Debtor and the Lender, the Debtor agrees, covenants and represents as follows:

1. The Debtor is admitted to or enrolled in _____ (name of institution, a U.S. accredited post-secondary institution of higher learning, or SHEFA Board approved trade/vocational institution) in pursuit of a degree or certificate in

_____ (specify type of certificate or degree e.g., A.A., B.A., M.A., PH.D., J.D., MD. etc. and field of study).

2. The Debtor shall utilize all financial assistance for educational expenses directly related or incidental to attendance and continued attendance at an institution of record and shall enroll in at least a minimum of 12 credits for undergraduate; full-time status as defined by the institution for graduate; and full-time status as defined by the institution for advanced standing and maintain the minimum or higher grade point average (GPA) in accordance with the SHEFA Rules and Regulations.

3. The Debtor shall complete the required credits for each term that financial assistance was received (mark one):

- | | |
|---|-------------------------------|
| i. Certificate and Undergraduate Full-Time: | Twelve or more credits |
| ii. Graduate Full-Time: | As defined by the institution |
| iii. Advanced Full-Time: | As defined by the institution |

4. The Debtor shall maintain at the end of each term the required cumulative grade point average and term grade point average as it applies below by marking the appropriate category:

- | | |
|------------------------------------|---|
| i. Undergraduate: | 2.5 Cumulative GPA
Twelve or more credits |
| ii. Performance-Based Scholarship: | 3.5 Term† GPA;
Twelve or more credits for undergraduates |

- iii. Graduate: Pass (P) on a letter grade system or 3.0 CGPA on a grade point system as defined by the institution
- iv. Advanced: Pass (P) on a letter grade system or 3.0 CGPA on a grade point system as defined by the institution
- v. Priority Field of Study: 2.5 Cumulative GPA
- vi. Loan Applicant/Recipient: 2.5 Cumulative GPA.
- vii. Trade/Vocational Recipient: Pass (P) on a letter grade system or 2.0 cumulative GPA on a grade point system or 70% on a numerical grade point system. Must be enrolled full time per term as defined by the institution.

†Term refers to fall term and spring term per academic year for applicant or recipient on semester system; fall term, winter term and spring term for applicant or recipient on quarter system; winter and spring term GPA may be combined in computing the higher of the term GPA for purposes of GPA scholarship. GPA scholarship for semester term is awarded on the fall and spring semester and fall and winter/spring for quarter term.

5. The Debtor shall submit a copy of his/her official grade report/transcript promptly after the conclusion of each academic term directly from the institution of record to the SHEFA Office. The grade report submittal will determine the eligibility for continued assistance on every subsequent term. Within ninety days upon matriculation from the institution of record, the Debtor shall submit a copy of his/her college degree and proof of employment on Saipan or the Northern Islands. The Debtor also fully understands and agrees to his/her legal obligations pursuant to the explicit and implicit terms and conditions set forth in this promissory note/memorandum of agreement.

6. The Debtor understands, acknowledges, and accepts the maximum duration of eligibility for financial assistance from the SHEFA fund:

2 Academic Years - Associate Degree

4 Academic Years - Bachelors' Degree††

2 Academic Years - Graduate Degree

2 Academic Years - Advanced Degree†††

Less than 2 Years – Certificate/Diploma

††maximum of five academic years for specialized majors and/or specialized certification by the institution of record.

†††maximum of three academic years not including summer, with a provision for up to three additional academic years for dissertation writing, dissertation defense, and internship requirements or medical degree training requirement, and up to two years for jurisprudence work or related residence internship or related training requirements.

7. The Debtor hereby declares that he/she is not pursuing an academic program that leads to a religious studies degree, and shall not take religion courses not specifically prescribed in the Individualized Degree Plan (IDP).

8. The Debtor shall agree, except as provided by and subject to the provisions of paragraph 11, to return to Saipan within nine (9) months after the completion of his/her degree plan or six (6) months within termination of or non-enrollment from the institution of record, and provide services by working on Saipan for any employer-whether in the private or public sector or both. The Debtor further agrees to perform services in the private or public sector or both on Saipan for a period equal to the period for which the Debtor received financial assistance under § 165-20.1-105(a)(b) from the Lender, subject to paragraph 11. The Debtor agrees to pay back twenty-five percent of the total amount of loan received under § 165-20.1-105(c) and a minimum of three years of service to either in the private or public sector or both on Saipan. If the recipient of SHEFA financial assistance does not return back to Saipan after completion of his/her studies, or non-enrollment from school or termination from the institution of record, he/she must, except as provided by paragraph 11, repay the entire debt back on all SHEFA funds received under § 165-20.1-105(a)(b)(c) with interest in accordance with this promissory note/memorandum of agreement.

9. The Debtor understands and hereby agrees that failure to comply with any part of sections 1-8 of this promissory note/memorandum of agreement and the SHEFA rules and regulations will constitute a material breach of the promissory note/memorandum of agreement and a default, and will require the Debtor to pay the entire award received. If such a default occurs, the Debtor must repay their entire debt to the Lender with equal monthly payments within 6 years of the default. The Debtor may repay according to any of the following repayment options as shown below.

Total Debt for repayment	Per Month 12 months	Per Month 24 months	Per Month 36 months	Per Month 48 months	Per Month 60 months	Per Month 72 months
\$1,000 - \$4,999	\$84 - \$417	\$42 - \$209	\$28 - \$139	\$121 * \$21 - \$104	\$17 - \$84	\$14 - \$70
\$5,000 - \$9,999	\$417 - \$834	\$209 - \$417	\$139 - \$278	\$104 - \$209	\$84 - \$167	\$70 - \$139
\$10,000 - \$14,999	\$834 - \$1,250	\$417 - \$625	\$278 - \$417	\$209 - \$313	\$167 - \$250	\$139 - \$209
\$15,000 - \$19,999	\$1,250 - \$1,667	\$625 - \$834	\$417 - \$556	\$313 - \$417	\$250 - \$334	\$209 - \$278
\$20,000 - \$24,999	\$1,667 - \$2,084	\$834 - \$1,042	\$556 - \$694	\$417 - \$521	\$334 - \$417	\$278 - \$348
\$25,000 - \$29,999	\$2,084 - \$2,500	\$1,042 - \$1,250	\$694 - \$834	\$521 - \$625	\$417 - \$500	\$348 - \$417

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\$30,000 - \$34,999	\$2,500 - \$2,917	\$1,250 - \$1,459	\$834 - \$973	\$625 - \$730	\$500 - \$584	\$417 - \$487
\$35,000 - \$40,999	\$2,917 - \$3,334	\$1,459 - \$1,667	\$973 - \$1,111	\$730 - \$834	\$584 - \$667	\$487 - \$556

*So in original; likely \$21.

The Debtor must inform the Lender of which repayment schedule he or she has accepted within thirty days of the default. If the Debtor does not select a repayment schedule within thirty days, the Debtor will be deemed to have selected the "Per Month 72 Months" repayment schedule listed above. The Debtor's first monthly payment shall be due on the first of the month following the default, but at least thirty days after the default. All subsequent payments will be due on the first of each following month until the Debtor repays the entire debt to the Lender. Note: the Debtor may pay the balance in full at any time within the schedule plan.

10. If the Debtor fails to pay any monthly payment, or any part of any monthly payment ("payment default"), then the whole principal sum shall become immediately due and payable at the option of the Lender, without notice, and interest shall accrue at the rate of five percent per annum on the total amount outstanding. Interest shall accrue until Debtor fully cures the payment default by paying all past due monthly payments and all accrued interest. Payments received shall be applied first to the accrued interest and then the balance thereof to the principal.

11. Military Deferral; Return and Work Waiver. The time for the Debtor to comply with the requirements of section 8, above, shall be extended indefinitely upon request if the Debtor enlists in the armed forces of the United States of America. Specifically, the Debtor's obligation to comply with the requirements of section 8 shall be deferred, upon request, until the Debtor's service in the armed forces ends. ~~The Debtor may take advantage of this deferral for a maximum of four (4) years after the termination or completion of his/her degree plan or non-enrollment from an institution of higher education of record.~~ Once the Debtor's service in the armed forces ends or three years passes from the termination or completion of his/her degree plan or non-enrollment from institution of higher education of record, whichever event occurs first, the Debtor shall have to comply with the requirements of section 8. All deferrals granted under this section are not valid unless approved in writing by SHEFA. The Debtor must renew his or her deferral annually. Every full month of military service so deferred shall be credited against the return-to-Saipan-and-work requirement of section 8 up to 100% of the return to Saipan work requirement, and said return-to-Saipan-and-work requirement shall be waived and deemed satisfied to such extent.

12. In the event of commencement of suit to enforce payment of this promissory note/memorandum of agreement, the undersigned agree(s) to pay the Lender for attorney's fees as the Court in the Commonwealth of the Northern Mariana Islands may deem reasonable.

13. The recipient of SHEFA financial assistance together with the parent, if applicant is below 18 years, fully understands and agrees that compliance with the provisions in this promissory note/memorandum of agreement and all provisions of the SHEFA rules and regulations shall constitute a condition for any and all financial assistance herein by SHEFA as hereby acknowledged and attested to by both the recipient and parent, if recipient is below 18

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years. Moreover, this agreement shall authorize SHEFA to request and obtain any and all necessary information from other agencies related to the application for financial assistance, and shall further authorize the SHEFA Office to provide essential information and data such as resume, diploma, or degree name and contact mailing, or e-mail addresses to potential employer(s) on Saipan including posting such information and data on SHEFA's website or its affiliate on Saipan.

14. The parties agree that the courts of the Commonwealth of the Northern Mariana Islands (Superior Court and Supreme Court) shall have exclusive jurisdiction over any action involving this promissory note/memorandum of agreement. This agreement shall be interpreted using the laws of the Commonwealth of the Northern Mariana Islands.

IN WITNESS WHEREOF, the recipient (Debtor) and/or parent, if recipient is below 18 years, have hereunto set his/her or their hand(s) on the date first above written.

Print Recipient Name / Signature Date

Print Parent Name / Signature, Date if Recipient is below 18 yrs.

NOTARY PUBLIC:

On this ____ day of 20 __, before me appeared _____ and (recipient parent, if recipient is below 18 years), who executed the agreement contained herein, and duly acknowledged to me that he/she and parent, if recipient is below 18 years, executed the same freely and voluntarily for the uses and purposes therein mentioned.

Notary Public (Print & Sign)

My Commission expires: _____



SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE
Bwulaasiyol Mayor
Municipality of Saipan

ARONGORONGOL TOULAP REEL PPOMWOL LIIWEL NGÁLI ALLÉGH ME
MWÓGHUTUGHUTÚL NGÁLI PROGRÓOMAL SAIPAN HIGHER EDUCATION
FINANCE ASSISTANCE
(SHEFA)

Tapéléghúl Angaang ngáre sibwe adóptááli ppwomwol liiwel llól Alléghúl me

Mwóghutughutúl Bwulasiyo: Saipan Higher Education Financial Assistance (SHEFA) Board-il Directors re mánghemángil rebwe adóptááli pommwol liiwel ngáli allégh me mwóghutughut, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC §9104(a). Board-il SHEFA re mánghemángil rebwe adóptááli bwe ebwe llégheló fféerúl, me re isiisiwowo eliigh (30) ráál reel arongorong yeel me mánghemángil. *Id.* Ebwe bwunguló liiwel kkal seigh (10) ráál mwiril aal adóptááli. 1 CMC § 9105(b).

Lemelemúl Allégh: Board-il SHEFA nge eyoor bwángiir le ghal ayoora allégh me mwóghutughut kka e fil reel affárághil me ppwomwol Saipan Higher Education Financial Assistance Act.10 CMC § 3924(n).

Kkapsal me Aweewel: Board-il SHEFA re akkatééwow ppwomwol liiwel ikka e ssúl ngáli tipetchówul NMIAC § 165-20.1-205 (Promissory Note/Memorandum of Agreement Form; Repayment Term), iye re affata llól Board Resolution No. 2021-001 (re adóptááli wóol Schoow 28, 2021).

Kkapsal me Autol: Ppwomwol liiwel ngáli allégh me mwóghutughut kkaal e ssúl ngáli ikka e amwirimwiritiw:

Board-il SHEFA re mángi me re weri ikkewe e weires me rese apasa reel alongal aar téréyágh sáangi mwáál me schóóbwtul “U.S. armed forces” reel igha sibwe meseighiiti ghúllammwey , me aa itittiw bwe lemelemil schóó kka rebwe bwughi alillis sáangi SHEFA ikka re lo mwo llól militóód rebwe siiweli lemelemil igha ebwe sefáál ló Seipél me angaang reel ebwe ghatch sáangi “active duty military service” me bwal “deferral” reel inamwo meeta iye e bwe óbwóss sefáál igha e lo llól “active duty service”.

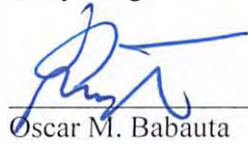
Ppwomwol liiwel ngáli mwóghutughutúl SHEFA ebwe ayoorai mwóghut ngáli “policy” iye re fféerú sefáaliy me adóptáali sáangi Board igha (i) rebwe lighiti ngáliir schóo kka re fíil membról “U.S. armed services” sáangi “SHEFA assistance requirement” ngáli “sefáaliti Seipél me angaang”; me (ii) fitoow ráagh re angaang llól militóod ebwe “credit” ngáli “required service contribution” llól “private” ngáre “public sector” igheey wóol Seipél, ebwe ghikkil “local” me “national interest served” sáangi angaangil militóodil schóo kka re lollo wóol Seipél.

Afal Reel Ammwelil me Akkatééwowul: Chairman, Oscar M. Babauta, Saipan Higher Education Financial Assistance Program. P.O Box 10001, PMB 3648, Saipan MP 96950 or contact (670) 233-5995/235-1020/21 or by facsimile at (670) 233-5996 or email saipanshefa@gmail.com.

Reel Isiisilongol Kkupas: Afanga ngáre bwughiló reel Chairman, Oscar M. Babauta, SHEFA Board-il Directors, P. O. Box 10001, PMB 3648, Saipan MP 96950, llól eliigh (30) ráal mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register.

E átirow ppwomwol liiwel ngáli allégh me mwóghutughut sáangi SHEFA Board-il Directors wóol Schoow 28, 2021.

Isáliyalong:



Oscar M. Babauta
Chairman
SHEFA Board-il Directors

9/21/2021
Ráal

Bwughiyal:



Mathilda A. Rosario
Layúl Soulemelem Special Assistant
ngáli Administration

09/22/21
Ráal

Ammwelil:



Esther SN. Nesbitt
Commonwealth Registrar

9/28/21

Ráál

Sáangi I CMC § 2153(e) (mwiril aal AG átirowa mwóghutughut bwe aa llégheló reel fféerúil) me I CMC § 9104(a)(3) (sáangi átirowal AG), reel ppwomwol mwóghutughut ikka e appasch bwe ra takkal amwuri físchiiy me aa átirow bwe aa llégheló reel fféerúil me legal sufficiency sáangi Soulemelemlil Allégh Lapalapal CNMI me ebwe akkatééw, I CMC § 2153(f) (arongowowul allégh me mwóghutughut).



Edward Manibusan
Soulemelemlil Allégh Lapalap

Northern Mariana Islands Administrative Code Proposed Amendment

Section 165-20.1-205 shall be amended as follows to read:

§ 165-20.1-205 Promissory Note/Memorandum of Agreement Form; Repayment Term

As a condition of receiving Saipan Higher Education Financial Assistance, the recipient of any type of financial assistance shall agree in writing to the terms and conditions of such financial assistance and to repay such financial assistance in accordance with Saipan Local Law No. 13-21 and any amendments thereto and the applicable rules and regulations. Said agreement shall be in writing and be in the form approved by the Board and incorporated herein as part of this regulation by reference. Promissory notes entered into after the adoption of Board Resolution No. 2021-001 (adopted on January 28, 2021) shall be amended to conform to the following, which terms shall supersede those of promissory notes entered into by SHEFA (as "Lendor") and recipients of SHEFA financial assistance (as "Debtors") after January 28, 2021.

THIS PROMISSORY NOTE/MEMORANDUM OF AGREEMENT made and entered into this _____ day of _____, 20____, by and between the Board of SHEFA for the Municipality of Saipan within the Office of the Mayor of Saipan and _____, and/or with his/her parent, _____, if below 18 years, hereinafter referred to as the "Debtor" at address: _____ (permanent & current postal address) residing in _____ (village) of Saipan.

WITNESSETH

WHEREAS, Saipan Local Law (SLL) 13-21 established the Saipan Higher Education Financial Assistance within the Office of the Mayor of Saipan to be governed by the Saipan Higher Education Financial Assistance Board (SHEFA);

WHEREAS, the SHEFA Board, in administering the SHEFA fund, will enter into a legally binding and enforceable promissory note/memorandum of agreement with a qualified and eligible resident of Saipan together with a parent, if recipient of SHEFA financial assistance is below 18 years, prior to the disbursement of any SHEFA fund. In entering into a mutually binding promissory note/ memorandum of understanding, the SHEFA Board becomes the "Lender" of record for SHEFA fund and the recipient of SHEFA financial assistance together with the parent, if recipient is below 18 years, become individually and collectively the "Debtor" of any and all type and amount of SHEFA financial assistance received and acknowledged herein pursuant to § 165-20.1-105 including:

1. Grant-in-Aid,
2. Scholarship, and
3. Loan.

WHEREAS, the Saipan Higher Education Financial Assistance (SHEFA) is established as a supplementary financial assistance to eligible residents of the Municipality of Saipan, inclusive of the Northern Islands who desire to pursue post-secondary education at a U.S. accredited institution of higher learning on Saipan or abroad, or SHEFA approved skilled, trade or vocational institution, with the intention of returning on the condition that a recipient of SHEFA fund shall return to Saipan pursuant to SHEFA rules and regulations for purposes of employment, and to provide services to the private or public sector or both, in recognition of the need for educated citizenry and workforce on Saipan and other contributions to the local and national interest.

NOW, THEREFORE, in consideration of SHEFA financial assistance including grant-in-aid, scholarship and loan which recipient/debtor received and acknowledged by signing this promissory note/memorandum of understanding between the Debtor and the Lender, the Debtor agrees, covenants and represents as follows:

1. The Debtor is admitted to or enrolled in _____ (name of institution, a U.S. accredited post-secondary institution of higher learning, or SHEFA Board approved trade/vocational institution) in pursuit of a degree or certificate in

_____ (specify type of certificate or degree e.g., A.A., B.A., M.A., PH.D., J.D., MD. etc. and field of study).

2. The Debtor shall utilize all financial assistance for educational expenses directly related or incidental to attendance and continued attendance at an institution of record and shall enroll in at least a minimum of 12 credits for undergraduate; full-time status as defined by the institution for graduate; and full-time status as defined by the institution for advanced standing and maintain the minimum or higher grade point average (GPA) in accordance with the SHEFA Rules and Regulations.

3. The Debtor shall complete the required credits for each term that financial assistance was received (mark one):

- | | |
|---|-------------------------------|
| i. Certificate and Undergraduate Full-Time: | Twelve or more credits |
| ii. Graduate Full-Time: | As defined by the institution |
| iii. Advanced Full-Time: | As defined by the institution |

4. The Debtor shall maintain at the end of each term the required cumulative grade point average and term grade point average as it applies below by marking the appropriate category:

- | | |
|------------------------------------|---|
| i. Undergraduate: | 2.5 Cumulative GPA
Twelve or more credits |
| ii. Performance-Based Scholarship: | 3.5 Term† GPA;
Twelve or more credits for undergraduates |

- iii. Graduate: Pass (P) on a letter grade system or 3.0 CGPA on a grade point system as defined by the institution
- iv. Advanced: Pass (P) on a letter grade system or 3.0 CGPA on a grade point system as defined by the institution
- v. Priority Field of Study: 2.5 Cumulative GPA
- vi. Loan Applicant/Recipient: 2.5 Cumulative GPA.
- vii. Trade/Vocational Recipient: Pass (P) on a letter grade system or 2.0 cumulative GPA on a grade point system or 70% on a numerical grade point system. Must be enrolled full time per term as defined by the institution.

†Term refers to fall term and spring term per academic year for applicant or recipient on semester system; fall term, winter term and spring term for applicant or recipient on quarter system; winter and spring term GPA may be combined in computing the higher of the term GPA for purposes of GPA scholarship. GPA scholarship for semester term is awarded on the fall and spring semester and fall and winter/spring for quarter term.

5. The Debtor shall submit a copy of his/her official grade report/transcript promptly after the conclusion of each academic term directly from the institution of record to the SHEFA Office. The grade report submittal will determine the eligibility for continued assistance on every subsequent term. Within ninety days upon matriculation from the institution of record, the Debtor shall submit a copy of his/her college degree and proof of employment on Saipan or the Northern Islands. The Debtor also fully understands and agrees to his/her legal obligations pursuant to the explicit and implicit terms and conditions set forth in this promissory note/memorandum of agreement.

6. The Debtor understands, acknowledges, and accepts the maximum duration of eligibility for financial assistance from the SHEFA fund:

2 Academic Years - Associate Degree

4 Academic Years - Bachelors' Degree††

2 Academic Years - Graduate Degree

2 Academic Years - Advanced Degree†††

Less than 2 Years – Certificate/Diploma

††maximum of five academic years for specialized majors and/or specialized certification by the institution of record.

†††maximum of three academic years not including summer, with a provision for up to three additional academic years for dissertation writing, dissertation defense, and internship requirements or medical degree training requirement, and up to two years for jurisprudence work or related residence internship or related training requirements.

7. The Debtor hereby declares that he/she is not pursuing an academic program that leads to a religious studies degree, and shall not take religion courses not specifically prescribed in the Individualized Degree Plan (IDP).

8. The Debtor shall agree, except as provided by and subject to the provisions of paragraph 11, to return to Saipan within nine (9) months after the completion of his/her degree plan or six (6) months within termination of or non-enrollment from the institution of record, and provide services by working on Saipan for any employer-whether in the private or public sector or both. The Debtor further agrees to perform services in the private or public sector or both on Saipan for a period equal to the period for which the Debtor received financial assistance under § 165-20.1-105(a)(b) from the Lender, subject to paragraph 11. The Debtor agrees to pay back twenty-five percent of the total amount of loan received under § 165-20.1-105(c) and a minimum of three years of service to either in the private or public sector or both on Saipan. If the recipient of SHEFA financial assistance does not return back to Saipan after completion of his/her studies, or non-enrollment from school or termination from the institution of record, he/she must, except as provided by paragraph 11, repay the entire debt back on all SHEFA funds received under § 165-20.1-105(a)(b)(c) with interest in accordance with this promissory note/memorandum of agreement.

9. The Debtor understands and hereby agrees that failure to comply with any part of sections 1-8 of this promissory note/memorandum of agreement and the SHEFA rules and regulations will constitute a material breach of the promissory note/memorandum of agreement and a default, and will require the Debtor to pay the entire award received. If such a default occurs, the Debtor must repay their entire debt to the Lender with equal monthly payments within 6 years of the default. The Debtor may repay according to any of the following repayment options as shown below.

Total Debt for repayment	Per Month 12 months	Per Month 24 months	Per Month 36 months	Per Month 48 months	Per Month 60 months	Per Month 72 months
\$1,000 - \$4,999	\$84 - \$417	\$42 - \$209	\$28 - \$139	\$121* \$21 - \$104	\$17 - \$84	\$14 - \$70
\$5,000 - \$9,999	\$417 - \$834	\$209 - \$417	\$139 - \$278	\$104 - \$209	\$84 - \$167	\$70 - \$139
\$10,000 - \$14,999	\$834 - \$1,250	\$417 - \$625	\$278 - \$417	\$209 - \$313	\$167 - \$250	\$139 - \$209
\$15,000 - \$19,999	\$1,250 - \$1,667	\$625 - \$834	\$417 - \$556	\$313 - \$417	\$250 - \$334	\$209 - \$278
\$20,000 - \$24,999	\$1,667 - \$2,084	\$834 - \$1,042	\$556 - \$694	\$417 - \$521	\$334 - \$417	\$278 - \$348
\$25,000 - \$29,999	\$2,084 - \$2,500	\$1,042 - \$1,250	\$694 - \$834	\$521 - \$625	\$417 - \$500	\$348 - \$417

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\$30,000 - \$34,999	\$2,500 - \$2,917	\$1,250 - \$1,459	\$834 - \$973	\$625 - \$730	\$500 - \$584	\$417 - \$487
\$35,000 - \$40,999	\$2,917 - \$3,334	\$1,459 - \$1,667	\$973 - \$1,111	\$730 - \$834	\$584 - \$667	\$487 - \$556

*So in original; likely \$21.

The Debtor must inform the Lender of which repayment schedule he or she has accepted within thirty days of the default. If the Debtor does not select a repayment schedule within thirty days, the Debtor will be deemed to have selected the "Per Month 72 Months" repayment schedule listed above. The Debtor's first monthly payment shall be due on the first of the month following the default, but at least thirty days after the default. All subsequent payments will be due on the first of each following month until the Debtor repays the entire debt to the Lender. Note: the Debtor may pay the balance in full at any time within the schedule plan.

10. If the Debtor fails to pay any monthly payment, or any part of any monthly payment ("payment default"), then the whole principal sum shall become immediately due and payable at the option of the Lender, without notice, and interest shall accrue at the rate of five percent per annum on the total amount outstanding. Interest shall accrue until Debtor fully cures the payment default by paying all past due monthly payments and all accrued interest. Payments received shall be applied first to the accrued interest and then the balance thereof to the principal.

11. Military Deferral; Return and Work Waiver. The time for the Debtor to comply with the requirements of section 8, above, shall be extended indefinitely upon request if the Debtor enlists in the armed forces of the United States of America. Specifically, the Debtor's obligation to comply with the requirements of section 8 shall be deferred, upon request, until the Debtor's service in the armed forces ends. ~~The Debtor may take advantage of this deferral for a maximum of four (4) years after the termination or completion of his/her degree plan or non-enrollment from an institution of higher education of record.~~ Once the Debtor's service in the armed forces ends or three years passes from the termination or completion of his/her degree plan or non-enrollment from institution of higher education of record, whichever event occurs first, the Debtor shall have to comply with the requirements of section 8. All deferrals granted under this section are not valid unless approved in writing by SHEFA. The Debtor must renew his or her deferral annually. Every full month of military service so deferred shall be credited against the return-to-Saipan-and-work requirement of section 8 up to 100% of the return to Saipan work requirement, and said return-to-Saipan-and-work requirement shall be waived and deemed satisfied to such extent.

12. In the event of commencement of suit to enforce payment of this promissory note/memorandum of agreement, the undersigned agree(s) to pay the Lender for attorney's fees as the Court in the Commonwealth of the Northern Mariana Islands may deem reasonable.

13. The recipient of SHEFA financial assistance together with the parent, if applicant is below 18 years, fully understands and agrees that compliance with the provisions in this promissory note/memorandum of agreement and all provisions of the SHEFA rules and regulations shall constitute a condition for any and all financial assistance herein by SHEFA as hereby acknowledged and attested to by both the recipient and parent, if recipient is below 18

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years. Moreover, this agreement shall authorize SHEFA to request and obtain any and all necessary information from other agencies related to the application for financial assistance, and shall further authorize the SHEFA Office to provide essential information and data such as resume, diploma, or degree name and contact mailing, or e-mail addresses to potential employer(s) on Saipan including posting such information and data on SHEFA's website or its affiliate on Saipan.

14. The parties agree that the courts of the Commonwealth of the Northern Mariana Islands (Superior Court and Supreme Court) shall have exclusive jurisdiction over any action involving this promissory note/memorandum of agreement. This agreement shall be interpreted using the laws of the Commonwealth of the Northern Mariana Islands.

IN WITNESS WHEREOF, the recipient (Debtor) and/or parent, if recipient is below 18 years, have hereunto set his/her or their hand(s) on the date first above written.

Print Recipient Name / Signature Date

Print Parent Name / Signature, Date if Recipient is below 18 yrs.

NOTARY PUBLIC:

On this ____ day of 20 __, before me appeared _____ and (recipient parent, if recipient is below 18 years), who executed the agreement contained herein, and duly acknowledged to me that he/she and parent, if recipient is below 18 years, executed the same freely and voluntarily for the uses and purposes therein mentioned.

Notary Public (Print & Sign)

My Commission expires: _____