

I Mina Trentai Kuattro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
267-34 (COR)	Mary Camacho Torres	AN ACT TO AMEND §§ 4406 and 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM.	3/23/18 2:23 p.m.						

I MINA'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 267-34 (COR/LS)

Introduced by:

Mary Camacho Torres *MC*

AN ACT TO AMEND §§ 4406 and 4406.2 OF ARTICLE 4, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO ENHANCING PROCEDURAL PROTECTIONS WITHIN THE CIVIL SERVICE COMMISSION IN FAVOR OF INCREASING TIMELINESS, EFFICIENCY, AND DUE PROCESS FOR CLASSIFIED EMPLOYEES OF THE GOVERNMENT OF GUAM.

2018 MAR 23 PM 2:33 LG

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 4406 of Article 4, Chapter 4, Title 4, Guam Code Annotated, is
3 hereby *amended* to read:

4 **“§ 4406. Adverse Action Procedures and Appeals.**

5 (a) Notice of Adverse Action. An employee in the classified
6 service who is dismissed, demoted or suspended shall be given
7 immediate notice of the action, together with a specific statement of
8 the charges upon which such action is based in the manner required by
9 Article 2 of this Chapter. Copies thereof shall be filed with the
10 Commission and, if applicable, with the government entity charged
11 with hearing that person’s appeal under the personnel rules governing
12 that person’s appointment not later than the working day next

1 following the effective date of the action. ~~In no event may an~~
2 ~~employee in the classified service be given notice and statement of the~~
3 ~~charges required by this Section after the sixtieth (60th) day after~~
4 ~~management knew or should have known the facts or events which~~
5 ~~form the alleged basis for such action. Any action brought by~~
6 ~~management in violation of this Section is barred and any decision~~
7 ~~based upon such action is void.~~

8 (b) Ninety (90) Day Rule. Management shall give the employee
9 in the classified service notice and statement of the charges under this
10 Section no later than ninety (90) calendar days from the date in which
11 management knew or should have known the facts or events which
12 form the alleged basis for such action. Any action brought by a
13 government department, agency, or instrumentality in violation of this
14 paragraph is barred and any decision based upon such action is void.

15 (c) Suspension and Reinstatement Pending Appeal. While an
16 employee's appeal is pending, the employee may be suspended by the
17 department, instrumentality or agency. The Commission or
18 appropriate entity may order the employee reinstated to active duty
19 during pendency of the appeal.

20 (d) Twenty (20) Day Rule. The employee within twenty (20)
21 days of effective date of the action, may appeal to the Commission or
22 appropriate entity by filing that person's written answer to the charges
23 against the employee, regardless whether the employee has tendered
24 any resignations, which shall have no effect upon the employee's
25 appeal rights. In the event an employee resigns before the issuance of
26 the final notice of adverse action, the employee's twenty (20) day
27 appeal period to the Commission shall begin to run at the time the

1 employee submits the resignation, which notice of Proposed Adverse
2 Action shall be deemed a final notice of adverse action. Management
3 may not fill the employee's position until: ~~the appeal time frames or~~
4 ~~appeal, if taken, has been exhausted.~~

5 (1) the twenty (20) day period has elapsed and no appeal
6 has been filed; or

7 (2) an appeal has been decided by the Commission in
8 favor of management to affirm the adverse action.

9 (e) Adverse Action Hearing. The Commission or appropriate
10 entity shall set an adverse action appeal ~~then set the matter~~ for hearing
11 as expeditiously as possible and in accordance with the time standards
12 provided under this Article. The employee, or that person's
13 representative, shall be given the opportunity to inspect any
14 documents relevant to the action which would be admissible in
15 evidence at the hearing, and to depose, interview or direct written
16 interrogatories to other employees having knowledge of the acts or
17 omissions upon which the dismissal, demotion or suspension is based.
18 The Commission or appropriate entity may sustain, modify or revoke
19 the action taken. The decision of the Commission or appropriate entity
20 shall be final, but subject to judicial review.

21 (f) Judicial Review.

22 (1) The government department, agency or
23 instrumentality, or the employee may petition the Superior
24 Court for judicial review of an adverse action appeal only after:

25 (A) the appeal has been heard by the Commission
26 and a final decision has been issued; or

1 ~~aspire to~~ attain in all cases filed with the Commission after ~~December~~
2 ~~31, 2015.~~ the effective date of this act:

3 (a) For appeals from actions resulting in the termination
4 of an employee, a Hearing on the Merits shall commence no
5 later than four (4) months from the initial filing of the appeal.

6 (b) For all other appeals from adverse actions, a Hearing
7 on the Merits shall commence no later than six (6) months from
8 the initial filing of the appeal.

9 (c) For grievances filed before the Commission, a
10 Grievance Hearing shall be held no later than four (4) months
11 from the initial filing of the grievance.

12 (d) All matters shall be adjudicated within (12) twelve
13 months from the filing of a notice of appeal unless the time
14 standards are waived by the employee. ~~The CSC~~
15 ~~Commissioners may also waive the time standards for~~
16 ~~substantial and compelling reasons by either party.~~

17 (e) Failure on the part of the Commission to adhere to the
18 time standards described in Subsections (a), (b) and (c) shall in
19 no way result in the dismissal of the employee's right to appeal
20 their adverse action.

21 (f) The time standards described in Subsections (a), (b)
22 and (c) may be waived by the employee.

23 (g) The time standards described in Subsections (a), (b)
24 and (c) may be waived by the Commissioners upon finding
25 substantial and compelling reasons to determine that a waiver
26 of the time standards is the only option available, and only upon
27 mutual consent of the parties.

1 (h) Following all oral decisions by Commissioners, the
2 prevailing party shall present their proposed written decision
3 for Commissioners to sign no later than ten (10) working days
4 from the date of the hearing in which the oral decision was
5 rendered.

6 (i) All written decisions following any and all hearings
7 shall be signed and ordered within sixty (60) days of the date of
8 the hearing.”

9 **Section 3. Effective Date.** This Act *shall* become effective immediately
10 upon enactment.