
AN ACT

To establish and regulate the National Public Service System of the Federated States of Micronesia; to repeal Title 61 of the Trust Territory Code, insofar as it applies to the central government of the Federated States of Micronesia; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Short Title. This act is known and may be cited as the
2 "National Public Service System Act".

3 Section 2. Establishment of National Public Service System. There
4 is hereby established in the central government of the Federated States of
5 Micronesia a system of personnel administration based on merit principles
6 and accepted personnel methods governing the classification of positions
7 and the employment, conduct, movement, and separation of public officers
8 and employees. This system of personnel administration shall be referred
9 to as the National Public Service System.

10 Section 3. Definitions. In this act, unless the context requires
11 otherwise, the following definitions shall apply:

12 (1) "Public Service" means all offices and other positions in
13 the central government of the Federated States of Micronesia not exempted
14 by Section 8 of this act.

15 (2) "Personnel Officer" means the head of the Office of Per-
16 sonnel of the central government of the Federated States of Micronesia.

17 (3) "Employee" means a person holding a position in the Public
18 Service, whether permanently or otherwise.

19 (4) "Regular employee" or "permanent employee" means an
20 employee who has been appointed to a position in the Public Service who
21 has successfully completed a probation period.

22 (5) "Position" means a group of duties and responsibilities

1 assigned by competent authority to be performed by one person, working
2 full-time or part-time. A position may be either occupied or vacant.

3 (6) "Class" or "class of positions" means a group of positions
4 sufficiently similar so that all can reasonably be identified by the same
5 title, be filled by applying the same qualification standards, and be
6 equitably compensated by the same salary level. A class may consist of
7 only one position or of any greater number of positions.

8 (7) "Position classification plan" means the arrangement in a
9 systematic order of the titles of all classes existing in the Public
10 Service, with a description of each class.

11 (8) "Promotional examination" means an examination for positions
12 in a particular class, admission to which is limited to regular employees
13 in the Public Service.

14 (9) "Open competitive examination" means an examination for
15 positions in a particular class, admission to which is not limited to
16 persons employed in the Public Service.

17 (10) "Reemployment list" means a list of persons who have been
18 regular employees in the Public Service and who are entitled to have their
19 names certified for appointment to a position in the class in which they
20 last held permanent status, or in a related class in the same or a lower
21 salary range for which they meet the qualification requirements.

22 (11) "Promotional list" means a list of persons who have been
23 found qualified by a promotional examination for appointment to a position
24 in a particular class.

25 (12) "Open-competitive list" means a list of persons who have

1 been found qualified by open-competitive examination for appointment to a
2 position in a particular class.

3 (13) "Eligible list" means a list of persons who have been found
4 qualified for appointment to a position in a particular class. Such a list
5 may be either reemployment, promotional or open-competitive.

6 (14) "Eligible person" or "eligible" means a person whose name
7 is on an active eligible list.

8 (15) "Management official" or "management" means a person
9 authorized to make appointments or changes in status of employees in the
10 Public Service.

11 (16) "Probation period" means a period of probationary employ-
12 ment status of not less than six months nor more than one year from the
13 beginning of an employee's service in a particular position or class in
14 the Public Service.

15 (17) "Base salary" means the specific rate of pay for a given
16 pay level and step as contained within the Base Salary Schedule established
17 by law. "Base salary" does not include differentials or allowances for
18 night work, transfer, overtime, holiday work, travel per diem, or other
19 similar ones.

20 (18) "Adjusted base salary" means the total of base salary plus
21 market place differential and foreign service differential. If an employee
22 is not entitled to either of these differentials, his adjusted base salary
23 means his base salary.

24 Section 4. Merit Principles. The National Public Service System
25 shall be administered in accordance with the merit principles set forth

1 below:

2 (1) Equal opportunity for all regardless of sex, race, religion,
3 political affiliation, ancestry, or place of origin.

4 (2) No discrimination against any person because of a physical
5 handicap unconnected to his ability to perform effectively the duties of
6 the position in which he is employed or in which he is seeking employment;
7 PROVIDED that the employment of such physically handicapped person will not
8 be hazardous to him nor endanger the health or safety of others, nor require
9 major expenditures by the central government to provide such employee or
10 candidate for employment with an adequate place of work or access thereto.

11 (3) Impartial selection of the ablest person for public service
12 by means of tests which are fair, objective, and practical.

13 (4) Just opportunity for competent employees to be promoted
14 within the service.

15 (5) Reasonable job security for competent employees, including
16 the right of appeal from adverse personnel actions as provided in this
17 act.

18 (6) Systematic classification of all positions through objective
19 job analysis.

20 (7) Fair and reasonable grievance procedures, appropriate to
21 conditions of employment, for all employees.

22 (8) Proper employer-employee relations to achieve a well-trained,
23 productive, and happy work force.

24 Section 5. Preference to Citizens of the Federated States of Micronesia.

25 (1) Notwithstanding the provisions of Section 4 above, with a

1 view to ensuring full participation by citizens of this country in its
2 Public Service, preference shall be given to qualified citizens of the
3 Federated States of Micronesia in making appointments and promotions and
4 providing opportunities for training.

5 (2) The provisions of this Section shall be enforced by
6 appropriate regulations.

7 Section 6. Tenure; Non-Discrimination.

8 (1) Every regular employee shall be entitled to hold his
9 position during good behavior, subject to suspension, demotion, lay-off,
10 or dismissal only as provided in this act and in the regulations adopted
11 in pursuance thereof; PROVIDED, however, that the tenure of a contract
12 employee is the term of his contract.

13 (2) No employee in the Public Service shall be suspended, demoted,
14 dismissed, laid off, or otherwise discriminated against because of sex,
15 marital status, race, religious or political preference, place of origin,
16 or ancestry.

17 Section 6. Personnel Officer.

18 (1) The Personnel Officer shall be appointed by the President
19 with the advice and consent of the Congress or its appropriate committee.

20 (2) The Personnel Officer shall direct and supervise all the
21 administrative and technical activities of the Office of Personnel.

22 (3) The Personnel Officer shall be a person qualified for
23 administrative responsibility by training and experience and of known
24 sympathy with merit principles of personnel administration.

25 (4) The Personnel Officer shall:

1 (a) Be directly responsible to the President and serve as a
2 principal adviser to the President and his staff on all matters concerning
3 personnel administration, and employee training.

4 (b) Administer the system of personnel administration for
5 the central government of the Federated States of Micronesia.

6 (c) Prepare proposed policies and regulations to carry out
7 the provisions of this act.

8 (d) Cooperate fully with and attend, or assign a qualified
9 representative to attend, all meetings of the ad hoc committees organized
10 under Section 25(3), and provide the committee with such technical advice
11 as it may require.

12 (e) Appoint other employees of the Office of Personnel, in
13 accordance with all other applicable provisions of law.

14 (f) Establish and maintain a current roster of all officers
15 and employees in the Public Service, indicating for each the class of
16 position held, the salary, and any other appropriate data.

17 (g) Develop and maintain a system of performance evaluation
18 for the purpose of appraising the productivity of employees in the Public
19 Service.

20 (h) Develop and maintain a position classification plan and
21 a pay plan in accordance with this act and other applicable laws.

22 (i) Develop and utilize recruitment and selection
23 procedures and methods.

24 (j) Develop training programs for the improvement of employee
25 skills and for the development of a systematic career program for employees

1 who are citizens of the Federated States of Micronesia.

2 (k) Perform any other lawful acts assigned to him by the
3 President or otherwise required to carry out the provisions and purposes
4 of this act.

5 Section 8. Exemptions.

6 (1) The National Public Service System shall apply to all
7 employees of and positions in the central government of the Federated
8 States of Micronesia now existing or hereafter established and to all
9 personnel services performed for that government except the following,
10 unless this act or provisions thereof are specifically made applicable to
11 them:

12 (a) Members of the Congress of the Federated States of
13 Micronesia.

14 (b) The President and Vice-President of the Federated
15 States of Micronesia.

16 (c) Justices and other judges of the national courts.

17 (d) The Legislative Counsel and the Clerk of the Congress.

18 (e) The Public Auditor.

19 (f) The administrative officer of the national courts.

20 (g) The special assistants and secretaries to the President
21 and Vice-President.

22 (h) Persons appointed by the President to fill the
23 following positions: Director of External Affairs, Director of Finance,
24 Director of Resources and Development, Director of Social Services, Budget
25 Officer, Information Officer, Personnel Officer, National Planner, Attorney

1 General, and Public Defender, and their deputies, if any.

2 (i) Persons appointed to any other positions by the
3 President with the advice and consent of the Congress.

4 (j) The Liaison Officer in Washington and all ambassadors.

5 (k) Persons or organizations retained by contract when the
6 Personnel Officer has certified that the service to be performed is special
7 or unique and non-permanent and is essential to the public interest, and
8 that, because of the degree of expertise or special knowledge required and
9 the nature of the services to be performed, it would not be practical to
10 obtain personnel to perform such services through normal public service
11 recruitment procedures.

12 (l) Persons presently under contract of employment not
13 included in Paragraph (k) of this Subsection, during the life of such
14 contract. No contract of employment shall be entered into, renewed, or
15 amended after the effective date of this act, except in accordance with the
16 provisions of this act.

17 (m) Temporary positions, required in the public interest,
18 for which the need does not exceed six months.

19 (n) Positions requiring part-time or intermittent work
20 which does not exceed sixty hours in any calendar month.

21 (o) Positions filled by inmates, patients, and students of
22 institutions of the Federated States of Micronesia.

23 (p) Members of any board, public corporation, commission,
24 or similar body, in their capacity as such.

25 (q) Officers, faculty, and employees of the Board of Regents

1 and the College of Micronesia.

2 (r) Positions specifically exempted by any other law of the
3 Federated States of Micronesia.

4 (2) Nothing in this Section shall be deemed to affect the Public
5 Service status of any incumbent as it existed on the effective date of
6 this act.

7 Section 9. Recruitment and Placement. Except as otherwise provided
8 in this act, all positions covered by this act and for which appropriations
9 shall have been made shall be recruited by advertisement, for the period and
10 by the media which are appropriate in the circumstances. The advertisement
11 shall include at least the position title, the salary, a brief description
12 of the class, the location of the vacancy or vacancies, the qualification
13 standards required, and the time and place of the examination, if any. The
14 closing date for filing applications shall be clearly stated. On applica-
15 tions which are mailed, the date stamp of the post office on the mailing
16 envelope shall be used to determine compliance with the deadline stated in
17 the advertisement.

18 Section 10. Examinations.

19 (1) General character. There shall be competitive examinations,
20 whenever possible and as determined by the Personnel Officer, to test the
21 relative fitness of candidates for Public Service positions covered by
22 this act. Examinations may be written, oral, performance, or any combina-
23 tion thereof, and shall provide for ascertaining the physical and educational
24 qualifications, experience, knowledge, and skill of applicants and their
25 relative capacity and fitness for the duties of the positions they seek.

1 All examinations shall be free and, except for promotional examinations,
2 shall be open to all candidates, but with such limitations in regard to
3 health, physical condition, education, training, experience, and other
4 relevant matters as are appropriate to the class for which the examination
5 is given. All examinations shall be under the control of the Personnel
6 Officer or of such person or persons as he may designate to administer
7 them. All persons who have passed an examination may be required to take
8 such physical examination as may be specified by the Personnel Officer.

9 (2) Promotional Examinations. Examinations may be promotional
10 whenever, in the opinion of the Personnel Officer, such examinations are
11 practicable and for the best advantage of the Public Service. The Person-
12 nel Officer shall give ample notice of any promotional examination.

13 (3) Open-competitive Examinations. Examinations shall be
14 open-competitive whenever, in the opinion of the Personnel Officer, such
15 examinations are practicable and for the best advantage of the Public
16 Service. The Personnel Officer shall give ample notice of any open-
17 competitive examination.

18 (4) Noncompetitive Examinations. Noncompetitive examinations
19 may be given when, in the opinion of the Personnel Officer, the class for
20 which the examination is to be given calls for special qualifications which
21 could not practically be evaluated through competition, or when the number
22 of qualified candidates does not exceed the number of vacancies to be
23 filled.

24 Section 11. Eligible Lists.

25 (1) General. The Personnel Officer shall cause to be established

1 and maintained separate eligible lists for all classes in which vacancies
2 exist or are anticipated. Eligible lists may be open-competitive, pro-
3 motional, or reemployment, depending on whether they result from open-
4 competitive examinations, promotional examinations, or reemployment registra-
5 tion. An eligible list may remain active for one year, except that the name
6 of a person otherwise eligible may remain on a reemployment list for three
7 years. The active life of an open-competitive or promotional list may be
8 extended by the Personnel Officer if candidates thereon remain available and
9 there are more vacancies to be filled than names on the list.

10 (2) Reemployment lists.

11 (a) Whenever any employee who has been performing his duties
12 in a satisfactory manner, as shown by the appropriate records, is laid off
13 or demoted because of lack of work or lack of funds, or has voluntarily
14 accepted a position in a lower class, or whenever such an employee's
15 position has been reclassified to a lower class, he shall have the right to
16 have his name registered on the appropriate reemployment list for a period
17 of three years thereafter by filing a written application for registration.
18 Such application form shall be provided to him at the time of notification
19 of adverse personnel action. A person on a reemployment list shall be
20 eligible for certification to positions in the class in which he last held
21 permanent status or in a related class, in the same or a lower salary range,
22 for which he meets qualification requirements.

23 (b) The Personnel Officer may remove the name of a person
24 from any eligible list or refuse to certify his name from any list of
25 eligible persons if he finds, after giving him notice and an opportunity

1 to be heard, that the person is no longer able to perform the necessary
2 duties satisfactorily.

3 Section 12. Filling Vacancies. All vacancies and new positions in
4 the Public Service shall be filled in the following manner:

5 (1) Whenever there is a position to be filled, the management
6 official shall ask the Personnel Officer to submit a list of persons
7 eligible. The Personnel Officer shall thereupon certify a list of five, or
8 such lesser number as may be available, taken from eligible lists in the
9 following order: first, reemployment lists; second, promotional lists; and
10 third, open-competitive lists. The management official shall make the
11 appointment from the list of eligibles submitted to him unless he finds no
12 person available and acceptable to him on the list, in which case he will
13 ask the Personnel Officer to certify a new list, stating in writing his
14 reasons for rejecting each of the eligibles on the list previously submitted
15 to him. If the Personnel Officer finds such reasons adequate, he shall then
16 submit a new list of no more than five eligibles selected in like manner,
17 from which the management official shall make an appointment. If the
18 Personnel Officer does not find the reasons adequate, he shall resubmit the
19 list and the appointment shall be made therefrom.

20 (2) A management official may fill a vacant position in his
21 department, office, or other agency by promoting any regular employee therein
22 without examination, if the employee meets the minimum class qualifications
23 of the position to which he is to be promoted, and if the position is in the
24 same series as the position held by the employee or is clearly an upward
25 progression in the same career-ladder of positions; PROVIDED that a qualified

1 employee who is a citizen of the Federated States of Micronesia shall be
2 given preference for promotion over a non-citizen employee; and PROVIDED
3 FURTHER that when there is no material difference between the qualifications
4 of employees holding the same citizenship status, the employee with the
5 longest public service will receive first consideration for promotion.

6 Section 13. Disqualification from Appointment.

7 (1) Conviction of a crime of moral turpitude shall not be a bar
8 to employment in the Public Service unless the nature of the crime renders
9 the candidate clearly unsuitable for the position applied for. The Person-
10 nel Officer shall maintain a list of positions and disqualifying crimes. A
11 pardon shall operate to remove any bar to employment which would have arisen
12 as a result of the crime for which the pardon was granted.

13 (2) The commission of or the attempt to commit any material
14 deception or fraud in connection with any application or examination shall
15 cause removal and permanent disqualification from appointment in the Public
16 Service, after due notice and hearing by the Personnel Officer.

17 Section 14. Provisional and Short-Term Appointment.

18 (1) Provisional Appointment Pending Establishment of an Eligible
19 List. When there is no eligible person available on a list appropriate for
20 filling a vacancy in a continuing position and the public interest requires
21 that it be filled before eligibles can be certified, the Personnel Officer
22 may authorize the filling of the vacancy through provisional appointment.
23 The Personnel Officer shall proceed without delay to announce an examination
24 to fill the vacancy. The provisional appointment shall continue only for
25 such period as may be necessary to make an appointment from an eligible list

1 but shall not extend beyond ninety days; PROVIDED that the Personnel
2 Officer may extend the provisional appointment for a maximum of ninety
3 additional days if an examination has failed to secure any qualified avail-
4 able eligible person.

5 (2) Emergency Appointments. To prevent the stoppage of essential
6 public business, management officials may make emergency appointments, not
7 to exceed ten working days, to fill positions temporarily in any serious
8 emergency when time is insufficient to follow normal appointment procedure.
9 The Personnel Officer may, for good and sufficient cause stated in writing
10 by the management official concerned, extend the appointment for an additional
11 period not to exceed twenty working days.

12 (3) Qualifications. Provisional and temporary appointees must
13 meet the qualification requirements for the class of the position to be
14 filled.

15 Section 15. Probationary Service.

16 (1) Every employee shall successfully serve a probation period
17 before becoming a regular employee. An employee whose services are
18 unsatisfactory during his probation period may be dismissed from the Public
19 Service at any time by the responsible management official. An employee so
20 dismissed shall have no right of appeal; but, if the employee so requests,
21 the Personnel Officer may in his discretion insert the employee's name on
22 the eligible list or lists for other positions in the same class.

23 (2) A regular employee who is promoted or transferred to another
24 position in the Public Service shall be required to serve a new probation
25 period in his new position, but he shall be entitled to all the rights and

1 privileges of a member of the Public Service except the right to appeal in
2 case of removal from the new position, as distinguished from dismissal from
3 the Public Service. In case of such removal, the employee shall be reinstated
4 in his former position or in another position in the same class, without
5 prejudice.

6 (3) When a provisional or temporary appointee subsequently becomes
7 a probationary employee, the period of service in provisional or temporary
8 status shall be counted toward meeting the probation period required by this
9 Section.

10 Section 16. Position Classification. All positions subject to the
11 provisions of this act shall be classified by the Personnel Officer according
12 to their duties and responsibilities, and shall be grouped into classes on
13 the basis of their similarities in duties, responsibilities, and desirable
14 qualifications. Each class shall be given a title which shall apply to all
15 positions therein, and which shall be used for all personnel, budgetary, and
16 financial purposes. In preparing the position classification plan, the
17 Personnel Officer shall consult with appropriate management officials. The
18 Personnel Officer may change a position from one class to another when
19 substantial changes have occurred in the duties and responsibilities of the
20 position. The Personnel Officer shall determine the status of occupants of
21 positions which have been so reclassified.

22 Section 17. Compensation Plan.

23 (1) Salary Schedule. There shall be a single salary schedule
24 for all employees and positions in the Public Service. The Personnel
25 Officer shall assign each class of positions to an appropriate salary level

1 of such schedule.

2 (2) Statutory Enactment. No salary schedule or change in any
3 salary schedule for employees of the National Public Service System, except
4 those excluded by the provisions of this act, shall be effective unless it
5 shall have been enacted into law by the Congress of the Federated States of
6 Micronesia.

7 (3) Periodic Review. The Personnel Officer shall periodically
8 conduct necessary and appropriate studies of rates of compensation and pay-
9 related practices in all geographic areas from which employees for the Public
10 Service are normally recruited, and shall adopt such amendments to the
11 existing compensation plan as he deems appropriate; PROVIDED that when the
12 amendment includes changes in the salary schedule, the rates or nature of
13 differentials or allowances, or other subjects covered in this act or in
14 other laws, the Personnel Officer shall submit the recommendations to the
15 President for review, approval, and further transmittal to the Congress for
16 its consideration, and that such amendment shall become effective only after
17 it has been enacted into law. In developing amendments, the Personnel
18 Officer shall give consideration to:

19 (a) The minimum standard of living which is compatible with
20 decency and health.

21 (b) The general economic conditions of the Federated States
22 of Micronesia.

23 (c) Compensation practices and conditions of appropriate
24 labor markets.

25 (d) Conditions of employment in the National Public Service

1 System.

2 (e) The financial resources estimated to be available to the
3 central government of the Federated States of Micronesia.

4 (f) Such other matters as the Personnel Officer may deem
5 appropriate.

6 (4) Premiums. To recognize circumstances of employment which
7 make it appropriate that recognition be given to labor market conditions
8 outside the Trust Territory, the following premiums are provided to Public
9 Service employees. When an employee is receiving a premium in addition to
10 his base salary, the sum of his base salary plus premium shall constitute
11 his adjusted base salary for the purpose of computing differentials.

12 (a) Market place premium. An employee who is recruited in
13 a location outside the Trust Territory, who is a non-citizen of the Trust
14 Territory and, at the time of original hire, a non-resident thereof, may
15 be paid a premium based on labor market conditions in the place of recruit-
16 ment and on the level of the base salary.

17 (b) Foreign service premium. An employee who is a citizen
18 of the Trust Territory and who is assigned to a permanent duty station
19 outside the Trust Territory may be paid a premium based on labor market
20 conditions in the place of assignment and on the level of the base salary.

21 (5) Differentials. To compensate for unusual circumstances of
22 employment which create hardships for Public Service employees, the following
23 differentials are provided for them; PROVIDED that in no case may an employee
24 receive differentials under both paragraphs (a) and (b) of this Subsection.

25 (a) Night work differential. An employee whose tour of duty

1 includes regularly scheduled hours falling between 7:00 p.m. and 6:00 a.m.
2 shall be paid a differential of fifteen percent of the adjusted base
3 salary for all hours falling within that period.

4 (b) Hazardous work differential. An employee whose position
5 entails unusual and extreme hazards to his health or safety shall be paid
6 a differential of twenty-five percent of the adjusted base salary for all
7 hours in which hazardous work is performed.

8 (c) Overtime differential. An employee shall be paid over-
9 time compensation at the rate of time and one-half of his adjusted base
10 salary for all time when he is directed to work and does work in excess of
11 eight hours in one day; or when he is directed to work and does work on the
12 sixth or seventh day of the workweek; PROVIDED that he has first worked forty
13 hours at straight time in the same workweek; and PROVIDED FURTHER that over-
14 time work performed on a holiday shall be subject to Paragraph (d) of this
15 Subsection.

16 (d) Holiday differential. An employee who is required to
17 work on a legal holiday shall be compensated at double his adjusted base
18 salary for all such hours worked.

19 (e) Typhoon emergency differential. Employees who are
20 required to work in a location and a period in which a typhoon or other
21 natural catastrophe has been declared by competent authority, and in which
22 other government employees are released from work because of such condi-
23 tions, shall be compensated for the hours worked while such emergency
24 remains in force at the rate of two and one-half times the adjusted base
25 salary. The differential provided in this Paragraph shall not limit the

1 employee's right to any other differential or allowance to which he may
2 otherwise be entitled by law or regulation.

3 (6) Transfer Allowance. To compensate employees for unusual
4 expenses resulting from changes of work location, the following allowance is
5 provided to Public Service employees: When an employee is recruited or
6 transferred beyond normal commuting distance from his place of permanent
7 residence for work elsewhere, he shall be entitled to all justifiable
8 expenses connected with travel of himself and his immediate family to the
9 new work location and transportation of a reasonable quantity of household
10 effects. He shall be entitled to an allowance equal to per diem at the
11 established rate for the new duty station for a period not exceeding thirty
12 calendar days from the date of entry into the new position.

13 (7) Performance Increase. When an employee's performance, as
14 determined through an objective evaluation, has met accepted standards
15 of productivity during a specified period, his base salary may be increased
16 by one step in the appropriate level of the base salary schedule. For an
17 increase to step 2, 3, or 4, the required period shall be 52 calendar
18 weeks; for an increase to 5, 6, or 7, the required period shall be 104
19 calendar weeks. No employee shall have a base salary above the maximum
20 step prescribed for his pay level unless he was receiving such compensation
21 on the effective date of this Section.

22 Section 18. Performance Evaluations. The Personnel Officer shall
23 develop and maintain a system of performance evaluation for the purpose
24 of appraising the productivity of employees in the Public Service. Each
25 agency shall develop performance evaluation criteria for every class or, if

1 appropriate, for individual positions, and shall rate each employee under
2 its jurisdiction at least once a year. The Personnel Officer shall
3 standardize performance evaluation criteria, develop evaluating procedures,
4 and certify the final evaluations. A copy of each evaluation shall be
5 given to the employee affected, and the management official shall give
6 written notification to any employee whose performance in his position is
7 substandard. Performance evaluations shall be used in determining
8 eligibility for step increases and retention status in reductions-in-force.

9 Section 19. Leaves of Absence.

10 (1) Leaves of absence with pay may be granted to employees by
11 management officials for reasons of vacation, illness, maternity, training,
12 or education, or for such other reasons as will be in the best interests
13 of the Public Service. Eligibility for such leaves, the method and rate
14 of earning such eligibility, and the duration of the leaves shall be
15 established by regulations.

16 (2) Leaves of absence without pay may be granted for such reasons
17 as management officials may deem proper and consistent with the best
18 interests of the Public Service. Regulations may prescribe the character-
19 istics of such leaves.

20 Section 20. Employee Associations. Employees shall have the right
21 to form associations for the purpose of presenting their views to the
22 government and shall be free from restraint or reprisal in exercising
23 this right. The government shall give reasonable opportunity to representa-
24 tives of such associations to present their views.

25 Section 21. Outside Employment.

1 (1) No employee subject to the provisions of this act shall
2 engage in any outside employment or other outside activity which is not
3 compatible with the full and proper discharge of the responsibilities
4 of his position or is otherwise prohibited by law. It shall be deemed
5 incompatible with such discharge of responsibilities for any such employee
6 to accept any fee, compensation, gift, payment of expenses, or any
7 other thing of monetary value in circumstances such that acceptance may
8 result in, or create the appearance of resulting in:

- 9 (a) use of public office for private gain;
10 (b) an undertaking to given preferential treatment to any
11 person;
12 (c) impeding government efficiency or economy;
13 (d) any loss of complete independence or impartiality;
14 (e) the making of a government decision outside official
15 channels; or
16 (f) any adverse effect on the confidence of the public in
17 the integrity of the government.

18 (2) No employee subject to the provisions of this act shall
19 receive compensation or anything of monetary value, other than that to
20 which he is duly entitled from the government, for the performance of any
21 activity during his service as such employee and within the scope of his
22 official responsibilities.

23 Section 22. Grievances. The regulations shall prescribe a system
24 for hearing the views of employees on their working conditions, status,
25 pay, and related matters and for hearing and adjudicating grievances of

1 any employee or group of employees. These regulations shall ensure that
2 employees are free from coercion, discrimination, and reprisals and that
3 they may have representatives of their choice.

4 Section 23. Resignation. Resignations shall be in writing. If an
5 employee ceases work without explanation for not less than six consecutive
6 working days, the management official shall file with the Personnel Officer
7 a statement showing termination of employment because of abandonment of
8 position. The management official shall promptly transmit a copy of the
9 statement to the employee by the most practical means.

10 Section 24. Reductions-in-Force. Regulations shall be developed and
11 promulgated to govern the conditions under which an employee shall be
12 laid off from his position when lack of work or lack of funds makes such
13 action necessary. The regulations shall provide that, in establishing
14 order of layoff, consideration shall be given, first, to the employee's
15 individual merit, as shown by performance evaluations; second, to his
16 qualifications of education, training, and experience; and, third, to his
17 seniority as measured by total creditable service.

18 Section 25. Disciplinary Action.

19 (1) Suspension. A management official may, for disciplinary
20 purposes, suspend any employee without pay for such length of time as he
21 considers appropriate but not to exceed thirty days at any one time or
22 sixty days in any twelve-month period. No single suspension for a period
23 of more than three working days, whether consecutive or not, shall take
24 effect until the management official transmits to the employee, by the
25 most practical means, a written notice setting forth the specific reasons

1 for the suspension and the employee's rights of appeal. A copy of the
2 notice shall be filed with the Personnel Officer without delay. With the
3 approval of the Personnel Officer, an employee may be suspended for a
4 period longer than thirty days pending the investigation of any charge
5 against him. When an employee has been suspended pending such an investiga-
6 tion and the charge is subsequently dropped, he shall be reinstated in his
7 position with full pay and benefits retroactive to the date of suspension.

8 (2) Dismissal; Demotion. A management official may, for
9 disciplinary reasons, dismiss or demote an employee when he determines that
10 the good of the Public Service will be served thereby. Demotions may
11 also be made for reasons other than disciplinary ones; the Personnel
12 Regulations shall specify the circumstances in which such demotions may
13 be authorized. No dismissal or demotion of a permanent employee shall be
14 effective for any purpose until the management official transmits to the
15 employee, by the most practical means, a written notice setting forth
16 the specific reasons for the dismissal or demotion and the employee's
17 rights of appeal. A copy of the notice shall be filed with the Personnel
18 Officer without delay.

19 (3) Appeals from Suspension, Dismissal, or Demotion.

20 (a) The President shall nominate and, with the advice
21 and consent of the Congress, shall designate not fewer than seven persons
22 to constitute a panel from which ad hoc hearing committees may be drawn
23 for the purpose set forth in this Subsection. The President may remove
24 a member of the panel for cause. Persons nominated shall be officers
25 or employees of the Government of the Federated States of Micronesia,

1 of mature judgment and experience. The panel shall include at least one
2 member from each of the three branches of government. The President and
3 Vice-President of the Federated States of Micronesia, members of the
4 Congress, and justices and other judges of the national courts shall not
5 be eligible for membership on the panel.

6 (b) Any regular employee who is suspended for more than
7 three working days, demoted, or dismissed may appeal through the Personnel
8 Officer within fifteen calendar days after written notice of the suspension,
9 demotion, or dismissal has been transmitted to him. Upon receiving such
10 appeal, the Personnel Officer shall constitute an ad hoc hearing committee
11 of three members, drawn from the panel established under Paragraph (a).

12 (i) The ad hoc committee shall comprise one member
13 chosen by the Personnel Officer, one chosen by the appellant, and a third
14 chosen jointly by the first two members. If the first two are unable to
15 agree on the choice of a third member, the third member shall be selected
16 by lot from among the remaining members of the panel.

17 (ii) No member of an ad hoc committee shall be an
18 officer or employee of the agency to which the appellant is or was assigned,
19 or a close relative of either the appellant or the responsible management
20 official.

21 (iii) Members of ad hoc committees shall not be
22 entitled to additional compensation for such service, but shall be
23 reimbursed for necessary expenses connected with any hearing to which
24 they are assigned.

25 (c) The hearing shall be held within fifteen calendar days

1 after the Personnel Officer receives the appeal, unless the appellant
2 requests a delay. At the hearing, the appellant and the responsible
3 management official shall each have the right to be heard, to present
4 evidence, to be confronted by all adverse witnesses, and to be represented
5 by counsel of his own choosing.

6 (d) At the hearing, technical rules of evidence shall not
7 apply and evidence shall be taken stenographically or be recording machine.
8 The committee shall on its own motion or on that of the Personnel Officer,
9 management, or the appellant subpoena witnesses and tangible evidence,
10 when such witnesses or evidence are relevant and material to the hearing.
11 Hearings shall be public except when the appellant requests a closed
12 hearing.

13 (e) The committee shall prepare a full written statement of
14 its findings of fact and its recommendations for action, within seven
15 calendar days after the close of the hearing. Its recommendations may
16 include modification or reversal of the disciplinary action from which
17 appeal was taken. It shall forthwith transmit that statement, with such
18 supporting documentation as it deems appropriate, to the highest manage-
19 ment official responsible for the agency in which the appellant is or was
20 employed. The decision of that management official shall be final.

21 (f) Disciplinary actions taken in conformance with this
22 Section shall in no case be subject to review in the courts until the
23 administrative remedies prescribed herein have been exhausted; nor shall
24 they be subject to such review thereafter except on the grounds of
25 violation of law or regulation or of denial of due process or of equal

1 protection of the laws.

2 Section 26. Regulations. The Personnel Officer shall draft regula-
3 tions for personnel administration in the central government of the
4 Federated States of Micronesia, and shall submit such proposed regulations,
5 together with his comments and recommendations thereon, to the President.
6 The President, after considering the recommendations of the Personnel
7 Officer, shall promulgate personnel regulations in the manner provided by
8 law. When promulgated, such regulations shall have the force and effect
9 of law. They may relate to any matter not inconsistent with law concerning
10 the establishment and maintenance of a system of personnel management
11 based on merit principles, including but not limited to matters set forth
12 in this act, and may be amended or repealed through the same procedure by
13 which they were adopted or by statute.

14 Section 27. Transition. A regular employee holding a valid
15 appointment in the Trust Territory Public Service may be admitted without
16 examination, on or after the effective date of this act, to a position of
17 the same class or an equivalent class in the National Public Service
18 System of the Federated States of Micronesia. In subsequently computing
19 the seniority of such an employee for retention and similar purposes, his
20 time of service in the Trust Territory Public Service shall be credited
21 in the same way as if it had been in the National Public Service System.

22 Section 28. Repealer. Title 61 of the Trust Territory Code, insofar
23 as it applies to the central government of the Federated States of
24 Micronesia, is hereby repealed in its entirety.

25 Section 29. Effective Date. Upon approval by the President of the

1 Federated States of Micronesia, or upon becoming law without such approval,
2 this act shall take effect on October 1, 1979.

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September 17, 1979

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Tosiwo Nakayama
Tosiwo Nakayama
President
Federated States of Micronesia

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