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IN THE SUPREME COURT OF GUAM

RE:)	Supreme Court Case No. PRM06-006
AMENDMENT OF)	
MISCELLANEOUS RULE 7.1 OF)	
THE LOCAL RULES OF)	PROMULGATION ORDER NO. 06-006-19
PRACTICE FOR THE SUPERIOR)	
COURT OF GUAM)	

In January 2008, Congress enacted the NICS Amendment Improvement Act (“NIAA”), which required that all states and territories allow persons with mental disabilities to petition for relief from their prohibiting data on file with the NICS. Specifically, NIAA requires that jurisdictions have a “Relief from Disabilities Program” which allows persons who have mental disabilities to petition for relief from their prohibiting data. Among the requirements of a Relief from Disabilities Program is that a jurisdiction, upon being made aware that a record no longer applies, must update, correct, modify, or remove the record from any database that the federal or local government maintains and makes available to the NICS, as well as notify the United States Attorney General that the record no longer applies.

On July 23, 2010, the Supreme Court of Guam adopted Promulgation Order No. PRM06-006-12, adopting Miscellaneous Rule 7.1 of the Local Rules of the Superior Court of Guam. Miscellaneous Rule 7.1 sets forth the procedures for Guam’s Relief from Disabilities Program. However, Miscellaneous Rule 7.1 does not require the updated information be corrected in NICS-accessible databases or that the United States Attorney General must be notified.

Therefore, to bring this rule into compliance with the NIAA and to make other appropriate amendments to Miscellaneous Rule 7.1, and under this court’s authority to “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of



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RELIEF FROM DISABILITIES

MR 7.1. Relief from Disabilities.

- (a) A person who has been involuntarily committed to a mental institution or otherwise formally adjudicated as mentally defective as defined in 27 C.F.R. § 478.11, may petition to the Superior Court of Guam for relief from the firearms prohibitions contained in 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
 - (1) The relief provided under this Rule shall only be from mental health adjudications or commitments which occurred within Guam.
 - (2) A Petition filed under this Rule must be served upon the Attorney General of Guam, who may object to and present evidence relevant to the relief sought by the Petitioner.
- (b) The Superior Court of Guam must consider the Petitioner's request for relief.
 - (1) In the case of a civil commitment, the Superior Court of Guam shall accept for filing in the Special Proceedings case in which the person was found to have a mental defect, without cost, a Petition for Relief from Disabilities under 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
 - (2) In the case of a criminal defendant who has put his mental state at issue, the Superior Court of Guam shall accept for filing in the underlying criminal case or cases in which the criminal defendant put his mental state at issue and a finding of defective mental state was found, without cost, a Petition for Relief from Disabilities under 18 U.S.C. § 922(d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
- (c) The court shall accord the petitioner all due process of law, including:
 - (1) Petitioner shall have an opportunity to submit evidence.
 - (2) Petitioner shall have the opportunity for a Judge of the Superior Court to review the evidence.
 - (3) Petitioner shall have a right to a record to be made of the matter, which shall be maintained for review.
- (d) Record of proceedings.
 - (1) The court must receive and consider a proper record of how the mental disability was imposed in the first place, which will be contained in the record of the case in which the disability arose.
 - (2) This must include but is not limited to
 - (A) the circumstances regarding the firearm disability;
 - (B) the Petitioner's record, including at a minimum, Petitioner's mental health and criminal history records; and
 - (C) Petitioner's reputation, which may be developed on the record, at a minimum, through character witness statements, testimony, or other character evidence.
- (e) The court must grant Petitioner's request for relief if, at the conclusion of the consideration of the evidence noted above, the court makes the following findings;

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- (1) the Petitioner will not be likely to act in a manner dangerous to public safety, and
 - (2) granting relief from disability will not be contrary to public interest.
- (f) If the court denies relief, the Petitioner may not petition again for relief under this Rule until one (1) year after the date of the judgment.
- (g) The Petitioner is entitled to *de novo* appellate review of a denied Petition in the Supreme Court of Guam.
- (1) the Supreme Court of Guam may but is not required to give deference to the decision of the Superior Court in denying the Petition.
 - (2) The Supreme Court of Guam has the discretion to receive additional evidence necessary to conduct an adequate review.
- (h) After a judgment granting restoration of rights under this Section has become final and the time period for appeal has passed without an appeal being filed, the Clerk of Court of the Superior Court shall, as soon as is practicable, but in no case later than ten (10) business days after the time period for appeal has passed without an appeal being filed, forward a copy of the judgment to the Marshal of the Court. The Marshal of the Court shall within fifteen (15) business days after receipt of the judgment revise the Petitioner's record in any information database that the Judiciary of Guam makes available to the National Instant Criminal Background Check System and shall notify the United States Attorney General for the purpose of reporting to the National Instant Criminal Background Check System that the basis for the disabilities imposed by 18 U.S.C. § 922(d)(4) and (g)(4) no longer applies.

SOURCE: New Rule MR7.1 adopted pursuant to Promulgation Order No. 06-006-19 (April 14, 2022).



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IN THE SUPREME COURT OF GUAM

RE:)	Supreme Court Case No. PRM06-006
AMENDMENTS TO)	
MISCELLANEOUS RULE 1.1.5 OF)	
THE LOCAL RULES OF THE)	PROMULGATION ORDER NO. 06-006-20
SUPERIOR COURT OF GUAM)	
(INDIGENT DEFENSE RULE))	

The Supreme Court created the Private Attorney Panel on January 18, 2007, through Promulgation Order No. 07-001. The current compensation schedule for the Private Attorney Panel was created as Miscellaneous Rule 1.1.5 of the Local Rules of the Superior Court of Guam when those rules were enacted by Promulgation Order No. 06-006-01 on May 3, 2007. On October 2, 2007, the Supreme Court issued Promulgation Order No. 06-006-03, amending Miscellaneous Rule 1.1.5 to clarify compensation in juvenile delinquency cases and to provide for compensation in juvenile special proceedings cases and for attorneys appointed for guardian ad litem services. On July 16, 2008, the Supreme Court issued Promulgation Order No. 06-006-06, making further amendments to Miscellaneous Rule 1.1, including raising the maximum compensation for felony cases in which the defendant faces life in prison.

Recognizing that the compensation schedule provided by Miscellaneous Rule 1.1 had not been amended in over ten years, the Administrative Office of the Courts, in collaboration with the Judiciary’s Financial Management Division, prepared draft amendments to Miscellaneous Rule 1.1. The proposed amendments raise the hourly rates and maximums for appointed attorneys, and include additional changes to address issues which have been raised by both the Financial Management Division and the Administrative Office of the Courts in processing payments under

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MR 1.1.5. COMPENSATION.

(a) Unless otherwise provided for, the hourly rate for legal services by counsel appointed under these Rules shall be \$100.00 per hour for legal services rendered in and out of the courtroom, subject to the following maximums:

(1) Not more than \$25,000.00 shall be paid in cases where the defendant faces life imprisonment (without the imposition of an Extended Term under 9 GCA § 80.32).

(2) Not more than \$20,000.00 for First Degree Felonies other than those compensated under category (1).

(3) Not more than \$10,000.00 for Second Degree Felonies.

(4) Not more than \$7,500.00 for Third Degree Felonies.

(5) Not more than \$3,500.00 shall be paid for misdemeanors.

(6) Not more than \$3,150.00 shall be paid for habeas corpus proceedings.

(7) Not more than \$3,150.00 shall be paid for juvenile delinquency cases.

(8) Not more than \$7,500.00 for attorneys appointed in juvenile special proceedings cases or appointed to provide guardian ad litem services.

(9) Not more than \$10,000.00 shall be paid for each level of appeal in a particular case.

For First Degree Felonies in which the court appoints more than one attorney, not more than \$30,000.00 total will be paid, to be divided among the attorneys. For any other case in which the court appoints more than one attorney, the cap and hourly rates will remain the same, to be divided among the attorneys.

In the event an attorney is appointed in separate cases that are fully or partially consolidated, the attorney may not submit duplicative billings in multiple cases for the same hours worked. Instead, the attorney should divide the hours worked by the number of cases in which the hours will be claimed, and apply the appropriate fraction in the billings for each case.

Counsel appointed under these rules may apply to the Administrator of the Courts to exceed these maximums and/or contest whether the appropriate maximum has been identified for a specific case. Counsel must demonstrate extraordinary circumstances and good cause to justify an exception to the maximums. Approval of any amount in excess of the limits herein shall be approved by the Administrator of the Courts. The Superior Court Judge presiding over the case may provide input in this regard. In determining whether the circumstances of a particular case are extraordinary, the Administrator of the Courts shall consider the following non-exhaustive list of factors:

- i. Multiple defendants
- ii. Joint or separate trials with co-defendants
- iii. Multiple incidents (including multiple victims in separate incidents)
- iv. Mistrials and re-trial(s)
- v. Substitution of trial counsel; additional trial proceedings or phases (e.g., grand jury, competency phase, sanity phase)
- vi. Multiple special circumstances
- vii. Prior convictions or unadjudicated conduct admitted at penalty phase
- viii. Prosecution's use of informants
- ix. Extensive litigation of the admissibility of evidence
- x. Forensic testing, analysis, and evidence (e.g., DNA, hair, fingerprint, blood, ballistics) introduced at trial or necessary for habeas investigation

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- xi. Mentally ill or mentally impaired defendants
- xii. Non-English-speaking defendant or witnesses
- xiii. Minimal guilt and/or penalty phase investigation done for trial
- xiv. Investigation requirements in multiple locations, requiring travel
- xv. Extended elapsed time since offenses/trial
- xvi. Necessity of expert witnesses
- xvii. Necessity of using some fees to cover investigative and incidental expenses
- xviii. Length of record
- xix. Number of trial witnesses

No single factor is dispositive, and the Administrator of the Courts shall weigh all factors in determining whether the representation in any particular case is extraordinary.

(b) Application for payment by appointed counsel shall be submitted on the appropriate voucher form to the Clerks of the Superior Court and Supreme Court, whichever is applicable. Appointed counsel shall submit vouchers on a monthly basis. The Clerks for each court shall not approve payments unless vouchers are submitted as herein provided. The Administrator of the Courts shall have sixty (60) days to act on the submitted voucher. Failure to act within the sixty-day time period shall be deemed an approval of the submitted voucher.

(c) Court Interpreter Compensation.

(1) REGISTERED BLOCK PAY – Non-Trial Hearings:

(A) \$60.00 per HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block will be paid in full even if the interpreter only works for a fraction of a Half Day Block.

(B) \$90.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.

(C) \$16.00 per hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(2) REGISTERED BLOCK PAY – Trial

(A) \$80.00 per HALF DAY BLOCK - Morning Block 9:00 a.m. – 12:00 p.m.; Afternoon Block 1:30 p.m. to 5:00 p.m. Compensation for a Half Day Block will be paid in full even if the interpreter only works for a fraction of a Half Day Block.

(B) \$110.00 per FULL DAY BLOCK - Morning Block plus same day Afternoon Block. Compensation for a Full Day Block will be paid in full so long as the interpreter works for any fraction of both the Morning Block and Afternoon Block of a given day.

(C) \$20.00 per hour after 5:00 p.m., compensated at $\frac{1}{4}$ fractions of the hour.

(3) REGISTERED NON-BLOCK PAY – Non-Courtroom Matters (office appointments/visits to the Department of Corrections)

(A) \$28.00 per hour, compensated at $\frac{1}{4}$ fractions of the hour.

(4) UNREGISTERED NON-BLOCK PAY - All matters.

(A) \$16.00 per Hour, not to exceed \$60.00 per day, including after 5:00 p.m. Unregistered interpreters may be compensated for waiting time in addition to actual interpreting time. Calculations should be made to the nearest $\frac{1}{4}$ fraction of the hour.

(5) APPEARANCE FEE. The following compensation shall apply to a courtroom hearing, or

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non-courtroom matter/appointment that is cancelled due to no fault of the interpreter, and the interpreter appeared in conformity with his/her scheduled assignment.

- (A) Courtroom Appearance Fee - \$30.00
- (B) Appointment Appearance Fee - \$12.00

SOURCE: Added by Sup. Ct. of Guam Prom. Order No. PRM02-009 (Nov. 19, 2002). Rule 13.5(A) and (C) repealed and reenacted by PRM04-003 (Feb. 27, 2004). Rule 13.5(A) and (C) amended by PRM05-004. MR 1.1.5(a)(5) added by Promulgation Order No. 06-006-03 (Oct. 2, 2007). MR 1.1.5(a)(1) amended by PRM06-006-06 (July 16, 2008). MR 1.1.5(a)(4) amended by PRM06-006-07 (July 28, 2009). MR 1.1.5(d) adopted pursuant to PRM13-001-01 (Mar. 6, 2013), amended by PRM13-001-03 (July 1, 2013).



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IN THE SUPREME COURT OF GUAM

RE:)	Supreme Court Case No. PRM06-006
)	
AMENDMENTS TO MISCELLANEOUS)		
RULE 6.1 OF THE LOCAL RULES OF)		PROMULGATION ORDER NO.
SUPERIOR COURT OF GUAM ON)		PRM06-006-21
RECORDS RETENTION)		
_____)		

On May 31, 2007, the Supreme Court of Guam through Promulgation Order 06-006-02 promulgated and adopted Miscellaneous Rule 6.1 of the Local Rules of the Superior Court on Records Retention. The Rule on Records Retention previously existed in an appendix to Title 7 GCA of the Guam Rules of Civil Procedure as Rule 93.

The Subcommittee held several meetings over the last year to review and revise the existing retention schedule for court records. The Subcommittee was chaired by a judicial officer and members included the Deputy Administrator of the Courts, Clerks of Court for the Supreme and Superior Court, Compiler of Laws, Court Archivist, and Court Programs Administrator. The proposed amendments include a retention schedule for both Superior Court and Supreme Court records and allows for the preservation and retention of records in a digitized format, especially as technology advances. The proposed amendments are also consistent with Title 7 GCA § 7120 on the disposition of court records.



Attachment 1

Local Rules of the Superior Court of Guam, Miscellaneous Rule 6.1

MR 6.1. Records Retention.

(a) Supreme Court of Guam. Title 7 GCA § 7120 and Miscellaneous Rule 6.1 of the Local Rules of Court govern the retention periods and disposition of court records. The record retention and disposition periods provided in this section are effective April 14, 2022, and apply to all court records in existence. Case records may be preserved on paper, microfilm, or as electronic documents. The paper records, microfilm or electronic documents are the official record of the court. The Clerk may certify a copy of the paper case records, a printed copy of microfilm or a printed electronic copy of an electronic document as a true and correct copy of the document in the record of the court.

Case Type	Retention Period (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	Disposition
Appellate Procedure	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Attorney Discipline	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Certified Question	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Civil Case	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Criminal Case	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Pro Hac Vice	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Promulgation Order	At least 6 months after order is entered.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.

Writ of Habeas Corpus	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Mandamus	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Prohibition	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.
Writ of Certiorari	6 months after case is closed.	Microfilm or convert to electronic document; retain microfilm or electronic indefinitely unless otherwise ordered by the court.

(b) Superior Court of Guam. Title 7 GCA § 7120 and Miscellaneous Rule 6.1 of the Local Rules of Court govern the retention periods and disposition of court records. The record retention and disposition periods provided in this section are effective April 14, 2022, and apply to all court records in existence. Case records may be preserved on paper, microfilm, or as electronic documents. The paper records, microfilm or electronic documents are the official record of the court. The Clerk may certify a copy of the paper case records, a printed copy of microfilm or a printed electronic copy of an electronic document as a true and correct copy of the document in the record of the court.

(1) For Records Prior to 2011.

Record Title	Retention Period (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	Disposition
A. Case Files (Paper)		
Adoption (AT)	5 years	Microfilm or convert to electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Child Support (CS)	3 years	Convert complaint, final order or judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

Civil (CV)	5 years	Convert complaint, final order, or judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Felony (CF)	7 years	Convert complaint, indictment, information, plea agreement, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Misdemeanor (CM)	7 years	Convert complaint, information, plea agreement, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Domestic (DM)		
1. Divorce	5 years	Convert complaint, settlement agreement, interlocutory judgment, and final decree, or final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
2. All Others	5 years	Convert complaint, judgment, or final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Foreign Order (FO)	5 years	Convert complaint, foreign judgment, and final order; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Delinquency (JD)	5 years	Destroy pursuant to 19 GCA § 5124
Juvenile Proceedings (JP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court; Destroy pursuant to 19 GCA § 5124

Land Registration (LR)	7 years	Convert to microfilm or electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Probate (PR)	7 years	Convert to microfilm or electronic document; retain microfilm or electronic document indefinitely unless otherwise ordered by the court
Special Proceedings (SP)	5 years	Convert petition, final order, and judgment to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Protective Order (PO)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Restitution (RS)	1 year	Convert collection order and final order to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Small Claims (SD)	2 years	Destroy
Traffic	2 years	Destroy
Marriages (SPM)	1 year	Destroy
B. Other Records	Retention Period (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	Disposition
Original Wills	Permanent	Permanent

Exhibits	Return to party submitting after time for appeal has passed	Return to party submitting after time for appeal has passed
Jury Records		
1. Juror Lists	4 years after the master jury wheel is emptied	Destroy
2. Grand Jury Voting Sheets	3 years	Destroy
3. Trial Questionnaires	3 years	Destroy
Court Recordings	10 years	Destroy
1. Cassette Tapes		
2. DVD Audio recordings		
Search Warrants	5 years	Destroy
Docket Sheets	2 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Cardex File	2 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

(2) For Records from 2011 to Present.

Record Title	Retention Period (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	Disposition
A. Case Files (Paper)		
Adoption (AT)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

Child Support (CS)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Civil (CV)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Felony (CF)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Criminal Misdemeanor (CM)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Domestic (DM)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Foreign Order (FO)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Delinquency (JD)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Juvenile Proceedings (JP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Land Registration (LR)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Probate (PR)	7 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Special Proceedings (SP)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Protective Orders (PO)	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court

Restitution (RS)	1 year	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Small Claims (SD)	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Traffic	3 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court
Marriages (SPM)	1 year	Destroy
B. Other Records	Retention Period (Original copy destroyed after expiration of period and/or microfilming/conversion to electronic document)	Disposition
Original Wills	Permanent	Permanent
Exhibits	Return to party submitting after time for appeal has passed unless electronically presented pursuant to EFR 4.12	Return to party submitting after time for appeal has passed unless electronically presented pursuant to EFR 4.12
Jury Records 1. Juror Lists	4 years after the master jury wheel is emptied	Destroy
2. Grand Jury Voting Sheets	3 years	Destroy
3. Trial Questionnaires	3 years	Destroy
Audio and electronic recordings of official court proceedings	10 years	Destroy
Search Warrants	5 years	Convert to electronic document; retain electronic document indefinitely unless otherwise ordered by the court