

3 GCA ELECTIONS
CH. 2 ELECTION COMMISSION

CHAPTER 2
ELECTION COMMISSION

NOTE: Unless otherwise noted, all sections within this chapter were included in the original Government Code of Guam enacted by P.L. 1-88 (Nov. 29, 1952), and repealed and reenacted by P.L. 7-164 (Aug. 28, 1964). During the Fifteenth Guam Legislature, the Compiler announced that Title 3 - Elections had been added to the new, permanent Guam Code Annotated. See 4 Guam Sess. L. Introduction (Mar. 1981).

- § 2101. Election Commission: Composition; Removal of Members; Chairperson; Quorum.
- § 2102. Executive Director: Appointment; Ex-officio Secretary; Compensation.
- § 2103. Election Commission, Duties and Responsibilities of; Audit Report; Rule-Making Authority.
- § 2104. Election Manual.
- § 2105. Same: Provisions of Forms.
- § 2106. Powers of the Commission.
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- § 2108. Chamorro Registry; Advisory Board.
- § 2109. Guam Decolonization Registry; Advisory Board.
- § 2110. Detailed Budget Requests.

§ 2101. Election Commission: Composition; Removal of Members; Chairperson; Quorum.

(a) There is within, as an autonomous instrumentality and an independent commission of the government of Guam, the Election Commission.

(b) The Commission shall consist of seven (7) members, all of whom shall be eligible voters on the date of their appointment.

(1) *I Maga'lahren Guåhan* (the Governor) shall appoint six (6) members from recommendations made by the recognized political parties of Guam.

(2) Each of the recognized political parties, via a duly passed resolution, shall recommend an equal number of names to *I Maga'lahren Guåhan* and the six (6) members appointed by *I Maga'lahren Guåhan* shall be appointed so that the recognized political

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parties are equally represented. If at any time there are more than three (3) recognized political parties, the six (6) members appointed by *I Maga'lahen Guåhan* shall be appointed so that no more than two (2) of such members shall be members of the same recognized political party.

(3) One (1) member shall be selected and appointed by the six (6) members appointed by *I Maga'lahen Guåhan*. The appointment of the seventh (7th) member of the Commission shall be ratified by at least four (4) members.

(c) Each member shall serve for a term of two (2) years, or until his or her successor is duly qualified and appointed.

(d) If a vacancy should occur on the Commission, said vacancy shall be filled for the remainder of the term only, and by the method originally prescribed for its appointment.

(e) No member may be an elected official of the government nor a candidate or nominee for an elected office within the government.

(b) Each member of the Commission shall be paid in accordance with Title 5 GCA § 43104, Uniform Compensation for Boards and Commissions.

(c) Any appointed member may be removed for misconduct in office by a resolution duly adopted by a vote of two-thirds (2/3) of the Members elected and serving in *I Liheslaturan Guåhan*.

(1) At the written request via a duly passed resolution of the state central committee of any political party that has recommended the appointment of a member, *I Maga'lahen Guåhan* immediately shall remove such member from the Commission.

(2) The seventh (7th) member chosen by the six (6) politically recommended members may be removed upon a vote by five (5) of the politically appointed members.

(3) Any vacancy resulting from the provisions of this Subsection shall be filled as provided in Subsection (a) of this Section.

(d) A majority of the members of the Commission shall constitute a quorum and no action of the Commission shall be authorized except upon a vote of four (4) of the members.

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(e) By majority vote the Commission shall elect annually a Chairperson from among its members. The term of the Chairperson shall expire on the last day of March.

SOURCE: GC § 2050. Repealed and reenacted by P.L. 11-202 (Dec. 12, 1972). Codified as 3 GCA § 2101. Repealed and reenacted by P.L. 25-146:3 (June 12, 2000), P.L. 31-255:2 (Dec. 11, 2012).

2016 NOTE: Subsection designations were added/alterd to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 2102. Executive Director: Appointment; Ex-officio Secretary; Compensation.

(a) The Commission shall appoint an Executive Director who shall administer the election laws of Guam and shall perform and discharge all of the powers, duties, purposes, functions and jurisdiction hereunder, or which hereafter by law may be vested in the Commission in accordance with the rules of the Commission, and subject to the right of appeal to the Commission.

(b) The Executive Director shall be the ex-officio secretary for the Commission, but shall not be a voting member thereof. As such secretary, the Executive Director shall keep the minutes of the Commission's proceedings, preserve all reports made to it, keep a record of all examinations held under its direction, and perform such other duties as the Commission shall prescribe.

(c) The Executive Director shall be a member of the unclassified service and shall receive an annual salary within a range of compensation to be prescribed by the Commission in accordance with the laws of Guam. Said Executive Director shall serve at the pleasure of the Commission; provided, however, that the Executive Director may not be removed unless that person's removal is ratified by four (4) Commission members.

SOURCE: GC § 2050.1. Added by P.L. 11-202 (Dec. 12, 1972). Amended by P.L. 12-038 (July 27, 1973). Codified as 3 GCA § 2102. Amended by P.L. 25-146:4 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 2103. Election Commission, Duties and Responsibilities of; Audit Report; Rule-Making Authority.

(a) The Commission shall have direct and immediate supervision over the municipal and district officials designated in accordance with the laws of

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Guam to perform duties relative to the conduct of elections. The Commission may suspend from the performance of said duties any of said officials who fail to comply with its instructions, orders, decisions or rulings, and appoint substitutes; and the Commission shall remove any such officials who have been found guilty of nonfeasance or misfeasance in connection with the performance of their duties relative to the conduct of elections.

(b) The Commission shall designate such subordinate officers and employees as may be necessary for the efficient performance of its functions and duties, each of whom, if not already employed by the government, shall receive a salary to be determined in accordance with the laws of Guam.

(c) The Commission may retain one (1) or more attorneys, who shall be admitted to practice before the courts of Guam, who shall advise the Commission and its Executive Director on all legal matters pertaining to the Commission. The designated counsel shall represent the Commission in litigation in which the Commission is interested or involved. The terms, conditions and compensation of employment of any such attorney shall be determined by the Commission, and the attorney shall serve at the pleasure of the Commission.

(d) As early as is reasonably possible, but not later than June 30 in each odd-numbered year, the Commission shall prepare and deliver an annual report to *I Maga'låhen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and the chairperson of the legislative committee with jurisdiction over matters of elections, showing, with respect to the prior year:

(1) recommendations of the Commission as to amendments or supplementation of laws affecting elections or the office of the Commission; and

(2) statistical information regarding the elections conducted during the prior year.

(e) The Commission shall promulgate rules, pursuant to Title 5 GCA Chapter 9, necessary and convenient to carry out the provisions of this Title.

(f) Relative to electronic voting machines, the Commission shall:

(1) determine, through extensive testing and development of comprehensive training procedures, that all duly authorized election officials stationed at all polling sites on each election day are properly

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trained to demonstrate, operate and monitor the operations of the machines;

(2) develop an island-wide education program to inform and demonstrate to voters the proper use of such machines, and shall ensure such education program is tested prior to an actual election day or days to determine the education program's effectiveness;

(3) facilitate the conduct of tests to determine the integrity of the machines with an independent entity or organization as deemed appropriate by the Commission; and

(4) provide the results and analysis of such testing, training and education required in this Subsection (e) to *IMaga'lahen Guåhan* and *I Liheslaturan Guåhan*, and wherever necessary shall promulgate rules as required in Subsection (d) of this § 2103.

SOURCE: GC § 2051. Amended by P.L. 11-202 (Dec. 12, 1972). Codified as 3 GCA § 2103. Amended by P.L. 25-146:5 (June 12, 2000). Subsection (e) added by P.L. 29-033:1 (Oct. 25, 2007). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012). Subsection (c) amended by P.L. 33-148:5 (Apr. 15, 2016), recodified as (d) by the Compiler.

2016 NOTE: Subsection designations were added/alterd to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 2104. Election Manual.

It shall be the duty and responsibility of the Commission to prepare an Election Manual of administrative procedures, rules, regulations and forms to be used in the conduct of elections. All manuals and publications shall be prepared pursuant to the Administrative Adjudication Law. The manual shall set forth the regulations to be followed by all election officials, as well as the descriptions of the necessary equipment and forms to be used in election procedures.

SOURCE: GC § 2052. Codified as 3 GCA § 2104. Amended by P.L. 25-146:6 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 2105. Same: Provisions of Forms.

The Commission shall provide all necessary forms as described in the Election Manual for the conduct of elections.

SOURCE: GC § 2053. Codified as 3 GCA § 2105. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

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§ 2106. Powers of the Commission.

(a) The Commission shall have the authority to summon the parties or any relevant witnesses to a controversy pending before it, issue subpoenas duces tecum, and otherwise to take testimony in any investigation or hearing pending before it and delegate such power to any officer. Any controversy submitted to the Commission shall be tried, heard and decided within ten (10) days, counted from the time the corresponding petition giving rise to said controversy is filed. The Commission shall have the power to certify to the Superior Court of Guam for contempt. No witness fee shall be paid to a person subpoenaed in that person's capacity as a government employee or agent of the Commission.

(b) The Commission may sue and be sued in its name.

(c) The Commission may take such action as is necessary or appropriate to the carrying out of its powers and duties as specified in this Title, or as may be otherwise imposed upon the Commission by law.

SOURCE: GC § 2054. Codified as 3 GCA § 2106. Amended by P.L. 25-146:7 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 2107. Placement on Ballot.

(a) No person shall be placed on the ballot for election to any public office unless the Commission has determined that said person has met the qualifications and submits all required documents for the office for which that person is a candidate.

(b) The name of every candidate who has been certified shall be printed on or adjacent to the appropriate ballot.

(c) The Commission shall determine the appropriate method of casting ballots, method of tabulating ballots, the appropriate vote tabulating device, if such a device is to be used, and the form of ballot to be used in any election on Guam.

(d) The Commission may authorize manual tabulation for all or part of ballots cast in any election.

SOURCE: GC § 2055. Repealed by P.L. 11-202:5 (Dec. 12, 1972). Reenacted by P.L. 12-149:2 (June 19, 1974). Codified as 3 GCA § 2107. Amended by P.L. 25-146:8 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

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2016 NOTE: The last sentence of subsection (c) was codified as a new subsection (d) to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

2012 NOTE: Subsections (b) and (c) were previously codified as 3 GCA §§ 7103 (b) and (a), respectively. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

§ 2108. Chamorro Registry; Advisory Board.

It shall be the responsibility of the Election Commission to administer the Chamorro Registry with the advice of the Chamorro Registry Advisory Board. It shall also be the duty of the Commission to approve the content of informational materials issued by the Chamorro Registry Advisory Board. When a complaint is filed and heard before the Chamorro Registry Advisory Board, the Commission shall serve as an appellate panel for any ruling rendered by the Chamorro Registry Advisory Board, and the Commission's ruling shall be final.

SOURCE: Added by P.L. 23-103:3 (June 24, 1996). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 2109. Guam Decolonization Registry; Advisory Board.

It shall be the responsibility of the Election Commission to administer the Guam Decolonization Registry, with the advice of the Decolonization Registry Advisory Board. It shall also be the duty of the Commission to approve the content of all materials relating to registration issued by the Decolonization Registry Advisory Board. When a complaint relating to registration is filed and heard before the Decolonization Registry Advisory Board, the Commission shall serve as an appellate panel for any ruling rendered by the Decolonization Registry Advisory Board, and the Commission's ruling shall be final.

SOURCE: Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from P.L. 31-061:4 (May 24, 2011), entitled "*Detailed Budget Requests.*" Reenacted as 3 GCA § 2110 by P.L. 31-255:2 (Dec. 11, 2012).

§ 2110. Detailed Budget Requests.

GEC's annual budget submission for election years shall include a detailed breakdown of the funding level necessary to meet all of its statutory requirements and abide by all policies and procedures set forth in its rules and regulations.

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SOURCE: Added by P.L. 31-061:4 (May 24, 2011), as an uncodified permanent law. Codified by the Compiler as 3 GCA § 2109. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).
