
GUAM ETHICS COMMISSION

KUMISIÓN I GINIHAN AREKLAMENTON GUÅHAN

**S U M M A R Y
O F
O P I N I O N S**

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TABLE OF CONTENTS

Introduction	3
Duties	4
Ethics in Government Program Workshop	5
Legislation & Enforcement	6
Advisory Opinions	8
Summary of Opinions	9
Financial & Gift Disclosures	12
Commission & Staff	12

WHERE WE ARE NOW

The Guam Ethics Commission was created through the enactment of Public Law 23-105, and became an active part of the government in 2019 with the promulgation of Executive Order 2019-06. Its enabling law, the Standard of Conduct for Elected Officers, Appointed Officers and Public Employees of the Government of Guam, codified at 4 GCA Ch. 15 (the “Ethics Standards”) provides for the organization of the Commission, its administrative authority, and its jurisdiction. In Fiscal Year 2021, the Guam Legislature dedicated funds for essential personnel enabling the Commission to begin operation and meet its objectives. Since then, this esteemed body has been diligently working to promote the ethical practices by government employees and elected officials.

The Commission’s mandate is to uplift the public’s confidence in government employees, programs, and operations by ensuring the practice and promotion of the highest standards of ethical behavior in the Government of Guam. Its purpose is to review complaints concerning the conduct of officers and employees through the procedures in the Ethics Standards and provide guidance on ethical conduct through informal and formal opinions and coordination with the Attorney General and the Public Auditor.

As part of this directive, the Commission is responsible for helping to ensure that Guam's public officials and employees are aware of the Ethics Standards and conduct for public officials. This includes reviewing officials and employees compliance with laws related to accepting gifts, fair treatment, avoiding conflicts of interest in government contracting, and post-employment activities. Additionally, financial statements and disclosures must be regularly filed by elected officials, board and commission members, and certain other personnel of the Government of Guam.

GovGuam officials and employees number approximately 12,000 individuals. This covers personnel from all three branches of government—legislative, executive, and judicial (excluding judges) as well as members of boards or commissions appointed by the Governor.

DUTIES

Guidance

The process for the Commission to determine violations of the Ethics Standards are provided in Section 15401 (b). Charges may be investigated and if supported by sufficient evidence, an informal advisory opinion is rendered. The employee or official is then given opportunity to comply, or the Commission is authorized to render a formal opinion after which a hearing is held to determine whether the charges are supported by a preponderance of the evidence. These proceedings and the opinions are confidential; however, they may be published in summary form with redactions to prevent disclosing the identity of the employee.

Educational Training

Following the enactment of Public Law 36-25, all government of Guam employees must attend and complete the Ethics in Government Program hosted by the Guam Ethics Commission. All new government of Guam employees hired after May 2021 are required to attend ethics in government training within the first six (6) months of his or her employment as opposed to thirty-six months for those hired prior to May 2021.

Ensuring Compliance with Disclosure Laws

Disclosure statements filed by government of Guam officials and certain high-ranking employees are maintained by the Guam Ethics Commission during the term of office of the employee, and for a period of three years thereafter. Our government's transparency and accountability are bolstered by these filing requirements. The Commission undertakes the task of reviewing compliance with the Public Official Disclosure Act and, thus holding them accountable for their actions.

Enforcing Ethics Laws

The Commission is tasked with receiving and reviewing grievances of official misconduct and allegations of ethical violations. The Commission is empowered to subpoena witnesses and administer oaths in relation to matters before the Commission. Furthermore, the Commission can require the production of documents for examination, including books, papers or electronic records related to a matter being investigated.

ETHICS IN GOVERNMENT PROGRAM WORKSHOP

In May 2021, Governor Leon Guerrero enacted Public Law 36-25 requiring ethics training for all government of Guam employees. The Commission took on the challenge and began the ethics workshop within eight months of its operations. Due to the Covid-19 pandemic, workshops were initially conducted virtually via ZOOM.

In addition to the in-person and virtual Zoom workshops, the Commission launched its online training module in January 2023. The online module is available on the Commission's website at <https://www.guamethics.com/training/online-training>. The Commission's new online learning module has been a great success since its launch, with an average of 150 employees completing their ethics training requirement every month, a 50% increase compared to last year.

Government officials can satisfy their training mandate through one of three modes offered by the Commission: live in-person, live virtually through ZOOM, or through an asynchronous online module available on the Commission's website. Currently, 7,563 Government workers have achieved the Ethics in Government workshop since November 2021. This impressive number demonstrates our commitment to helping public officials and government officials alike, understand ethical practices while on the job.



7,563
INDIVIDUALS TRAINED



LEGISLATION

The Commission, first established in 1996, was left dormant until the first members were confirmed in 2019. Without a budget or any operational infrastructure, Executive Order No. 2019-06 assigned the Civil Service Commission to provide the Guam Ethics Commission administrative assistance. Thanks to the passage of Public Law 35-99, the Commission was granted its first legislative appropriation, and with it came much needed resources to establish operations. This marked a significant milestone. With the resources appropriated, the Commission recruited an executive director to set up the office operations and began a thorough review of applicable ethics statutes.

The Commission worked hard to achieve two notable legislative changes. First, Public Law 36-28, which strengthened the Guam Ethics Commission's status as an independent and autonomous entity of the government of Guam. Second, Public Law 36-67— which authorized the Commission to retain necessary legal services outside of the Attorney General's office. By uniting these two policy changes, the Commission is empowered to address grievances in accordance with established law.

ENFORCEMENT

On March 8, 2022, the Guam Ethics Commission officially opened its doors to receive complaints. The Commission operates within compliance of 4 GCA Chapter 15, receiving and carefully reviewing all complaint allegations in a confidential manner. The Commission may elect to begin formal charges against an alleged violator if there is probable cause to believe ethical standards have been violated. The person charged will be given an opportunity to respond and the Commission shall hold a hearing if there is reason to believe a violation has been committed.

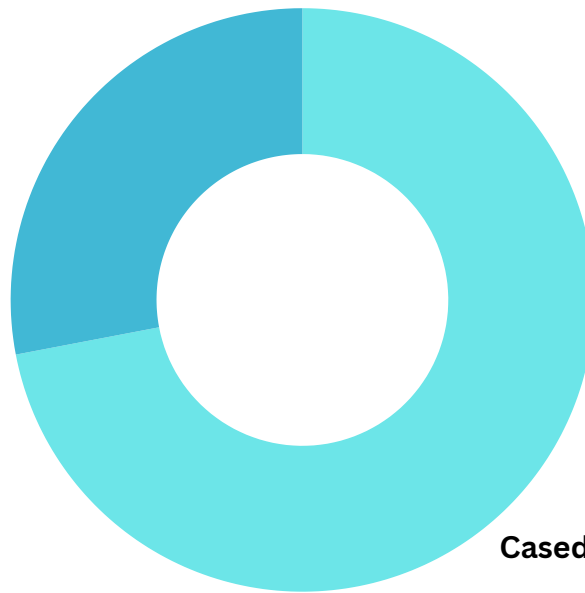
In this edition, the Commission processed 25 complaints involving allegations of ethical misconduct. Of those cases, 18 have since been dismissed and seven (7) were forwarded to the Office of the Attorney General. Specifically, nine (9) stemmed from allegations of violations of the Prohibition Against Unfair Treatment, four (4) involved alleged Conflicts of Interest, and 12 fell beyond the authority of the Commission's jurisdiction.

Forwarded to the Attorney General's Office

7

25

CASES RECEIVED



Cases Dismissed

18

Prohibition Against Gift	-
Required Reporting of Gifts	-
Employee Use of Confidential Info.	-
Prohibition Against Unfair Treatment	9
Conflicts of Interest	4
Contracts	-
File GEC Reports	-
Restrictions on Post Employment	-
Other	12
Total	25

ADVISORY OPINIONS

This year, the Commission issued three (3) formal Advisory Opinions. A summary of the advisory opinions are provided below.

1. On March 28, 2023, an appointed official asked whether their participation as a board member of government agency “A” which is deciding to take action in support of government agency “B” who the appointed official is employed with. Advisory Opinion 23-001 advised the appointed official that their participation in the discussion and decision as a board member of government agency “A” would not pose a conflict of interest with their role as an employee of government agency “B”. The Commission recommended full disclosure of the appointed official’s employment be placed on the record prior to any discussion by the board of government agency “A” regarding the proposed action.

2. On April 14, 2023, an employee asked whether a former employee of a government agency was in violation of 4 G.C.A. § 15210 Restriction on Post Employment based on their former employment with the agency as the former employee is now employed privately while simultaneously applying to be certified as an approved contractor for the agency. Advisory Opinion 23-002 advised the employee that a former employee of the agency based on his former employment with the agency and his current employment with a third party while simultaneously applying to be certified as a agency contractor does not violate 4 G.C.A. § 15210. Restrictions on Post Employment. The Commission stated that restrictions on post-employment in this context are meant to ensure that government employees, especially those in management positions, do not use their government position to favor a particular individual or company and then accept a job from that individual or company once they are no longer employed by the government. The purpose is to prevent government employees from taking actions which may not be in the government’s best interest in order to secure employment from the new employer.

3. On December 01, 2023, an employee asked whether it was appropriate for employees from government agency “A” to attend a holiday party at the invitation of government agency “B”, while government agency “B” remains a contracted vendor of government agency “A”. Advisory Opinion 23-003 advised employee that it is not appropriate for employee of government agency “A” to attend a holiday party hosted by government agency “B”. Based on the information provided, government agency “A” provides funding to government agency “B” for the operations of the senior centers on Guam. Without a thorough review of the Memorandum of Understanding referenced in the request, arguably, in return for accepting funding from government agency “A”, government agency “B” must ensure the funds are spent and used for the purposes required and supervised in an official capacity by government agency “A”. The Commission stated that it would appear that a conflict of interest exists since government agency “A” supervises government agency “B” to ensure the proper use of government agency “A” funds and therefore, government agency “A” attendance could be in violation of 4 G.C.A. §§ 15201 and 15204(d).

SUMMARY OF OPINIONS

ETH-22-201-COI-204

A complainant filed a case against officials serving on a board or commission of an agency for failing to state their conflicts of interest and not recusing themselves when voting on certain matters. After further investigation, the Ethics Commission voted to forward the case to the Attorney General’s office for further action.

ETH-23-101-OT-201

A complainant filed a case against government officials, alleging that the government officials retaliated against the complainant after the complainant inquired about protocols in the workplace. The complainant later withdrew their complaint.

ETH-23-102-UT-202

A complainant filed a case against a government official for alleged retaliation. The complainant claimed that the government official used their position to intimidate constituents into opposing a policy introduced by the complainant. After further investigation, the Ethics Commission determined it did not have jurisdiction and issued an order of dismissal for the case.

ETH-23-103-OT-202

A complainant filed a case against a government official for allegedly seizing the complainant's electronic devices after allegedly being permitted to use them. After further investigation, the Ethics Commission determined it did not have jurisdiction and issued an order of dismissal for the case.

ETH-23-104-OT-202

A complainant filed a case against a government official for breaking a government policy, which the complainant discovered while detained. Upon the Commission's review of the case, it determined that it lacked jurisdiction over the matter and issued an order of dismissal for the case.

ETH-23-105-OT-202

A complainant filed a case against a government official for allegedly providing false information to a law enforcement officer regarding the complainant's place of employment. After further investigation, the Ethics Commission determined it did not have jurisdiction and issued an order of dismissal for the case.

ETH-23-106-OT-201

A complainant filed a case against a government official, accusing them of unfair treatment and asserting that their freedom was infringed when the official violated court orders. After further investigation, the Ethics Commission determined it did not have jurisdiction and issued an order of dismissal for the case.

ETH-23-107-OT-202

A complainant filed a case against a government official for allegedly offering job opportunities in return for sexual favors and falsifying official documents. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's office for further action.

ETH-23-108-OT-201

A complainant filed a case against a government official for being unprofessional and allegedly slandering the complainant after they submitted an employment application and was later rejected by the agency for intentional false statements or deception. After further investigation, the Ethics Commission determined it lacked jurisdiction over the matter and issued an order of dismissal for the case.

ETH-23-109-OT-201

A complainant filed a case against a government official after allegedly being bullied when the official told the complainant to return a laptop they purchased inside the military base. After further investigation, the Ethics Commission determined that it lacked jurisdiction over the matter and issued an order of dismissal for the case.

ETH-23-111-OT-202

A complainant filed a case against government officials who were laughing and insulting an individual for having sexual relations with the individuals' spouses on webcam. After a review of the Commission, it concluded that it has no jurisdiction over the matter and issued an order of dismissal.

ETH-23-112-UT-202

A complainant filed a case against a government official for alleged retaliation. The government official allegedly uses his/her position to intimidate and influence the operations and the organizational structure of the agency. After further review of the Commission, it found that the complainant's alleged facts were insufficient to support ethical violations and ordered a dismissal of the case.

ETH-23-113-UT-201

A complainant filed a case against a government official for fraud and abuse after using a company vehicle for personal errands during business hours and instructing staff to process requisitions improperly. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's Office for further action.

ETH-23-114-UT-201

A complainant filed a case against a government official for unfair treatment and conflict of interest. The official allegedly made employees run personal errands during work hours and delayed governmental functions of that office, causing higher costs for the government. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's Office for further action.

ETH-23-116-UT-201

A complainant filed a case against a government official for using government vehicles for personal errands. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's Office for further action.

ETH-23-117-UT-201

A complainant filed a case against a government official for allegedly using another employee's USER ID on a government server to perform governmental functions within that agency despite the official being assigned to a different agency. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's Office for further action.

ETH-23-118-UT-201

A complainant filed a case against a government official for allegedly leaving during working hours to do personal errands and being gone for most of the day without signing leave, and not having a modified schedule. The government official also allegedly sleeps in the office and cleans his/her car using government resources during working hours. After further investigation, the Ethics Commission voted to forward the case to the Attorney General's Office for further action.

ETH-23-119-UT-202

A complainant filed a case against a government official for giving them the "run around" and not acting on a case filed by the complainant. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-120-OT-202

A complainant filed a case against a government official for allegedly diagnosing the complainant with schizophrenia based on insufficient evidence. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-121-UT-201

A complainant filed a case against a government official who allegedly required employees to submit a favorable report about a supervisor despite allegations of his/her harassment towards a female employee in the media. Additionally, the official asked other employees to write a negative report about the complainant to discredit their leadership. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-123-OT-202

A complainant filed a case against a government official for allegedly being disrespectful and unprofessional during working hours. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-124-OT-202

A complainant filed a case against a government official for allegedly requesting the surrender of a stolen vehicle from a federal home office. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-125-OT-202

A complainant filed a case against a government official after not receiving a hard or electronic copy of a document that the complainant requested. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-126-OT-202

A complaint was made against a non-government employee for being dishonest about their sibling's military compensation. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

ETH-23-127-OT-201

A complainant filed a case against a government official for allegedly showing favoritism towards another customer who is extremely disrespectful and arrogant. Despite the complainant filing a complaint against this customer, no action was taken by the accused official. After further review of the Commission, it determined that it has no jurisdiction over the matter and issued an order to dismiss the case.

FINANCIAL & GIFT DISCLOSURES

Pursuant to 4 GCA 15 § 15202, every employee shall file a gifts disclosure statement with the Guam Ethics Commission on June 30 of each year. Gift disclosure forms are available on the Commission's [website](#). In addition, All financial disclosure reports required to be filed with the Guam Election Commission pursuant to Chapter 13 of Title 4, Guam Code Annotated, shall be reported to the Guam Ethics Commission within three working days of filing with the Guam Election Commission.

COMMISSION & STAFF

The Commission currently has six members who have been appointed by the Governor and confirmed by the Guam Legislature. The current members of the Commission are Christopher A. Cruz – Chairman, Margaret (Meg) E.R. Tyquiengco – Vice-chairperson, Shannon J. Murphy, Marilyn R. Borja, Dr. Robert S. Jack and Daphne M. Leon Guerrero. The Commission is hopeful to have the final vacant seat on the board filled in the upcoming term.

COMMISSION & STAFF

The Commission employs the following staff:

Executive Director: Jesse J. Quenga

Ethics Investigation and Compliance Officer II: Reuben C. Bugarin

Ethics Investigation and Compliance Officer II: Pamela D. Mabazza

Administrative Assistant: Arielle L. Navarro.

Legal Counsel: McDonald Law Office

Prosecutorial Counsel: The Law Offices of Phillips & Bordallo, P.C.



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