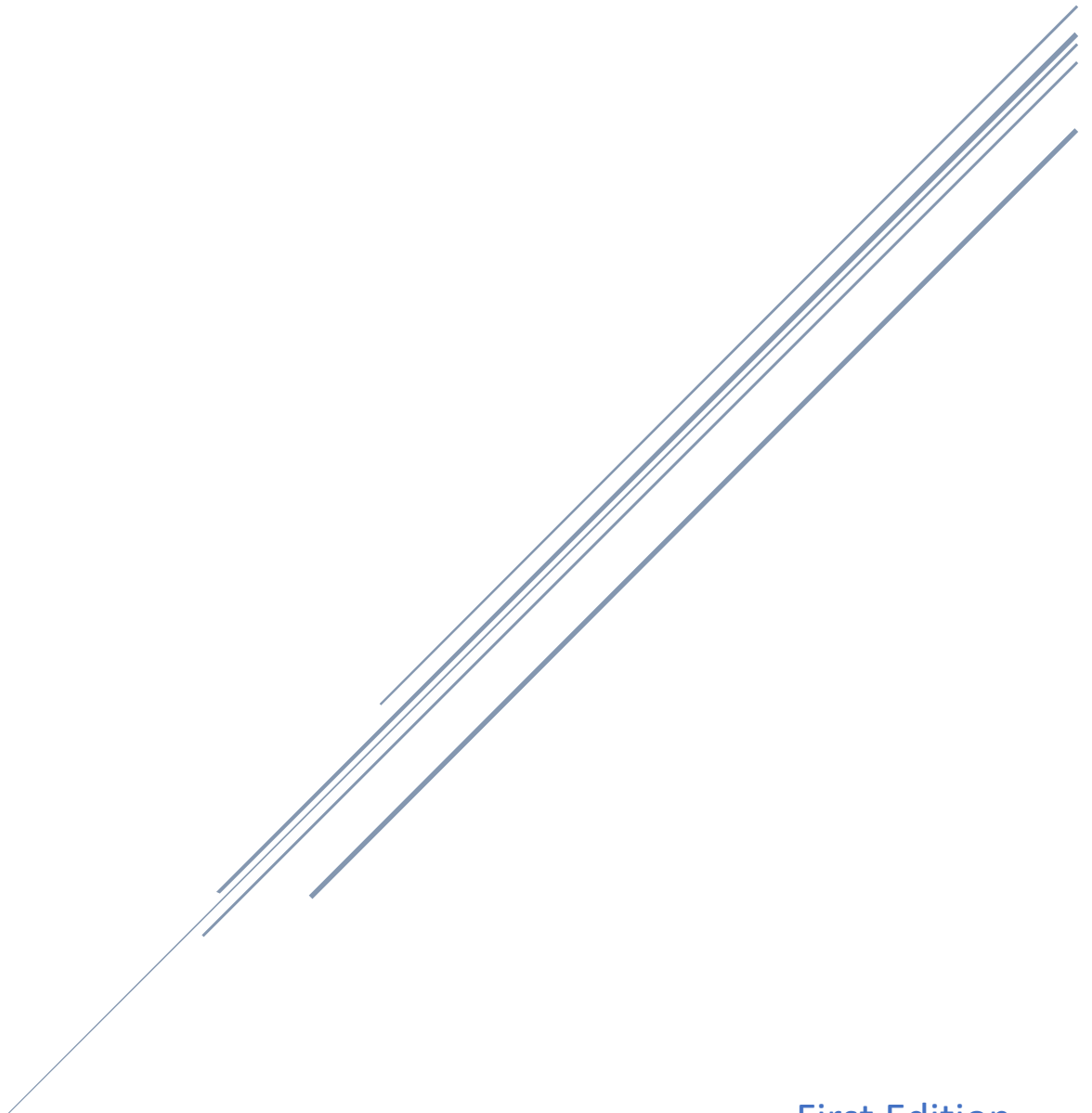


ETHICS COMPLAINT MANUAL

Standard Operating Procedures for Ethics Complaints



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INTRODUCTION

Chapter 1: Introduction

1.1 Purpose and Scope

The Guam Ethics Commission (GEthC) Complaint Handling Manual outlines the procedures for handling complaints and alleged violations of ethics laws, regulations, policies, and ethical principles. It is intended to provide guidance to GEthC staff on how to handle and process each complaint in compliance with applicable laws and regulations.

This manual is designed to ensure that all complaints are handled efficiently, while upholding the highest standards of ethical conduct and professional excellence. It sets out clear protocols to ensure fairness in all aspects of complaint handling, from initial intake through investigation and resolution.

1.2 Background of the Guam Ethics Commission

The Guam Ethics Commission is an independent and autonomous entity, whose purpose is to hold officers and employees accountable to the Ethical standards established in Guam law. The Ethics Commission shall prescribe a process for receiving complaints, investigating the facts, conducting hearings, and rendering opinions on whether any violation of the standard of conduct for officials and employees have been violated. The Commission shall also conduct Ethics in Government Program workshops for elected officials, appointed officials, and employees.

1.3 Mission of the Guam Ethics Commission

The Guam Ethics 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. The Ethics Commission will do this by creating outreach programs for ethics in government and ensure compliance and enforcement of ethics and lobbying laws on Guam. In order to accomplish the mission of the Guam Ethics Commission, the Commission shall clearly inform candidates for public office, public employees, and other officials and members of the public of existing ethics laws and rules; recommend new laws, rules, and programs that will lead to ethics compliance and serve as a model for other elected and appointed officials and government employees; and faithfully adhere to its own Code of Ethics.

To ensure the public's trust in government. The Guam Ethics Commission will:

- Establish an orderly procedure for filing Financial Disclosure Statements of persons covered under 4 GCA Chapter 15 § 15208.
- Render advisory opinions on requests made by employees of the Government on whether the facts and circumstances of a particular case warrant a violation of the Code of Ethics.
- Establish a process to receive, hear, and investigate complaints.
- Make available every action, opinion, or decision made by the Commission online and have a registry to indicate the compliance levels for the mandates of persons covered under this chapter of the Guam code.

- Conduct Ethics in Government Program workshops for elected officials, appointed officials, and government employees.

ETHICS COMPLAINT PROCEDURES

Chapter 2: ETHICS COMPLAINT PROCEDURES

2.1 Role of the Ethics Commission Staff

In our pursuit of maintaining the highest ethical standards within the government of Guam, the Guam Ethics Commission plays a pivotal role in investigating and resolving ethics complaints. One crucial aspect of this process is the role of staff members, who serve as case managers. This briefing outlines the primary responsibilities and procedures that staff must follow when handling ethics complaints filed with the Guam Ethics Commission. The staff member's primary responsibility is to produce a comprehensive case file for review by the prosecutorial counsel and commissioners. This file is essential in facilitating a fair and thorough evaluation of the complaint.

2.2 Key Responsibilities

A. Record Compilation

Staff must compile a complete and accurate case file, ensuring that it contains all relevant documents, statements, and evidence pertaining to the complaint. This includes gathering records, correspondence, and any other relevant materials that can help in understanding the case.

B. Conflict Scrub

Before proceeding with the case, staff members are required to conduct a conflict scrub to identify and eliminate any potential conflicts of interest. This involves assessing whether there are any personal or professional relationships between the case manager and both the complainant and the accused that could compromise objectivity. If such conflicts are identified, appropriate steps must be taken to address them, including reassigning the case if necessary.

C. Maintaining Confidentiality

Case managers must ensure that all information related to the ethics complaint is handled with the utmost confidentiality. This includes protecting the identities of both the complainant and the accused, as well as any sensitive information that may emerge during the investigation.

D. Communication

Effective communication with all parties involved in the case is crucial. Case managers should facilitate the flow of information between the complainant, accused, legal counsel, and the Ethics Commission, while maintaining impartiality throughout the process.

E. Assisting Counsel

Case managers may be required to assist the prosecutorial counsel in building a case, which includes providing relevant documents and information as needed.

2.3 Ethics Case File Preparation

A. Introduction

The overarching goal of establishing standardized procedures within the Guam Ethics Commission is twofold: first, to ensure a consistent and equitable approach to handling ethics complaints, and second, to guarantee the accurate and prompt compilation of all ethics complaint files. By implementing these standardized procedures, we aim to create a transparent and accountable system that upholds the highest ethical standards in our government operations.

These procedures not only enhance the efficiency and effectiveness of our processes but also foster public trust by demonstrating our commitment to a fair and timely resolution of ethics complaints. Through these standardized procedures, we intend to streamline the compilation of complaint files, which will serve as the foundation for the Commission's review and decision-making processes, ultimately promoting integrity and ethical conduct within the government of Guam.

B. Process of Establishing a Case File

1. Intake Interview:

The first step in the process is to conduct an intake interview with the complainant. During this interview, use the Ethics Intake Form to systematically gather crucial information and take detailed notes. Ensure that you record the name of the government agency involved, any possible violations, the name(s) of the government official(s) allegedly involved, the date(s) when the violation occurred, and the complainant's name and contact information. This initial step serves as the foundation for the case and sets the stage for a thorough investigation.

2. Fill out an Ethics Complaint Form:

Following the intake interview, provide the complainant with an Ethics Complaint Form to complete. It is essential to ensure that all necessary information is provided by the complainant. Additionally, ensure that the complainant signs both the confidentiality agreement and declaration of the complainant, emphasizing the importance of maintaining the confidentiality of the case. If the complainant has any supporting documents, collect these as they can be crucial in substantiating the complaint.

3. Log New Case into the Case Tracker and Master Log:

Create an organized record of the new case by logging it into the Case Tracker and Master Log. This step is crucial for efficient case management. Include essential details such as the unique Case Number, the responsible Ethics Investigating and Complaint Officer (EICO) handling the case, the name and contact information of the complainant, important dates (e.g., date of intake, date of complaint submission), the status of the case (e.g., open, under review, closed), any preliminary recommendations, detailed notes, and a summary of the case for quick reference.

4. Review and Analyze Ethics Complaint:

Thoroughly review and analyze the ethics complaint in light of the applicable legal framework, such as the 4 GCA Chapter 15 Standard of Conduct for Elected Officers, Appointed Officers, and Public Employees of the Government of Guam. This step involves understanding the specific allegations, identifying potential violations, and assessing the severity and merit of the complaint. It's essential to ensure that the complaint aligns with ethical standards and legal requirements.

5. Prepare Memo and Recommendation:

Based on your analysis, prepare a memorandum summarizing the case findings and recommendations for the Guam Ethics Commission. Include the date of the memo, an attestation confirming no conflicts of interest with either the agency or the complainant, and your signature. This memo serves as a critical document that guides the Commission's decision-making process.

6. Compile Ethics Case Folder:

Assemble a physical Ethics Case Folder for the comprehensive documentation of the case. Print a label with the assigned Ethics Case number and affix it to the folder. Inside the folder, include all pertinent documents, including the Ethics Intake Form, Ethics Complaint Form, Transmittal Memorandum, supporting documents provided by the complainant, and any other relevant materials. An organized folder is essential for easy reference and accessibility during the case review process.

7. Create a Digital Copy and Upload on the Drive:

To ensure data security and easy access, create a digital copy of the entire case file. Create a folder on the designated drive with the Ethics Case Number as the title. Scan all the documents, including the Ethics Intake Form, Ethics Complaint Form, Transmittal Memorandum, and any supporting materials. Upload these digital copies to the designated drive folder. This step enhances data backup, retrieval, and sharing among relevant parties involved in the case.

By meticulously following these seven steps, you ensure that ethics case files are prepared systematically, facilitating a fair and efficient resolution of ethics complaints in line with the Guam Ethics Commission's mission and standards.

ETHICS COMPLAINT FORM

Chapter 3: ETHICS COMPLAINT FORM

3.1 Jurisdiction

Title 4 GCA § 15000 et seq. (The Act), brought into existence the Guam Ethics Commission. This commission holds the authority to thoroughly investigate any claims of misconduct violations. The Ethics Complaint Form is used for Complainants to file an official, confidential complaint with the Commission. It asks for the essential details of a Complaint so that the Commission has enough information to determine whether the complaint is (i) about a violation of the Ethical Standards, (ii) involves an Employee, and (iii) occurred within the last 3 years. These essential details allow the Commission to take jurisdiction over a complaint. If the complaint does not include at least these essential details, the Commission is not permitted to take further action on it, and the complainant will be informed about the Commission's not having jurisdiction over it. If the Commission does take jurisdiction over your complaint, the complainant may be contacted for further information and or to make statements in support of an investigation. Complainants may also be asked to testify at a formal hearing before the Commission.

3.2 Confidentiality

Once a complaint is filed, it becomes CONFIDENTIAL under the Act, and the sharing of information related to a complaint is restricted to assigned employees, management, Commission members, and the Commission's attorney(s), unless the Act permits the sharing of information:

4 GCA § 15401 (c). Any Commission member or any individual, including the individual making the charge, who without permission of the Commission, divulges information obtained from the Commission or who reveals confidential actions of or what happened in closed proceedings before the Commission concerning the charge prior to the issuance of the complaint or other final action by the Commission except as permitted by this Chapter, shall be guilty of a misdemeanor.

Generally, the sharing of information is permitted when the Commission makes a referral to the Attorney General or the Employee's Agency, or if the Commission decides to make a matter involving a former Employee public.

3.3 Filing of False Charges

The Act prohibits the filing of FALSE CHARGES and requires that statements made to the Commission be truthful and accurate to the best of your knowledge and belief:

4 GCA § 15402. Filing of False Charges. (a) Any person who knowingly and intentionally files a false charge with the commission, or any member of the commission who initiates action against any Guam official, Guam employee, or any other person covered by this chapter, knowing such charge to be false, shall be guilty of

the crime of perjury and subject to the penalty set forth in Title 9 of Guam Code Annotated (Crimes and Corrections).

(b) Whoever is convicted in a court of competent jurisdiction of the crime of perjury under this section, in addition to any other punishment prescribed by law thereof, shall be required by court order to reimburse the person against whom the false charge was filed for all of the person's legal expenses and court costs incurred in relation to that person's defense against the false complaint.

(c) If such charge is filed within six months prior to an election in which the accused's name appears on the ballot, the person filing the false complaint shall pay to the accused the amount set out above and shall also pay an equal amount to the general fund of Guam.

(d) This section shall not supersede or preclude any other right or remedy at law available to the person falsely accused.

At the end of the Form, the complainant must attest that the information and statements provided are truthful and accurate to the best of your knowledge and belief. When filing a Complaint, the complainant acknowledges that intentionally filing false charges may subject them to criminal liability under Guam law.

3.4 Appointment of Investigator(s)

The process of assigning investigators to ethics complaints is designed to ensure objectivity and fairness. A master complaint log serves as the central repository for all cases. Cases are interchangeably assigned between the two Ethics Investigation and Compliance Officers (EICOs) based on a predefined rotation schedule. This rotation helps distribute the workload evenly and minimizes the risk of bias in case assignments. However, should a situation arise where a conflict of interest is identified between an EICO and a specific case we adhere to Rule 2.2 of the Ethics Manual. This rule outlines key responsibilities when processing ethics complaints, including reassigning the case to another qualified investigator to ensure the integrity of the investigation process and maintain the highest ethical standards in our operations. The Commission's commitment to transparency and impartiality in handling ethics complaints is paramount, and we are dedicated to upholding the principles outlined in our Ethics Manual.

3.5 Timelines for Investigation

The investigation of ethics complaints is a crucial process in maintaining the integrity and ethical standards within the government. The timeline for investigating complaints may vary depending on the complexity and magnitude of each individual case. Each case will come with its own circumstantial evidence, which must be thoroughly examined to reach a fair and just conclusion.

It is essential to understand that there is no fixed timeline for investigating ethics complaints, as each case requires a unique approach and varying amounts of time. Some cases may be resolved quickly, while others may require more in-depth

investigations and discussions before reaching a final decision. However, all cases will be presented to the Commission while in session for their deliberation and subsequent order. This ensures that each complaint is given fair consideration by multiple individuals before a final decision is made.