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**EXHIBIT A**

**GUAM ETHICS COMMISSION**

**Proposed Rules and Regulations Governing the Administration of the  
Guam Ethics Commission Relating to Standards of Conduct  
under 4 GCA Chapter 15**

**Guam Administrative Rules and Regulations  
Title 32**

PROPOSED

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**CHAPTER 1**  
**GENERAL PROVISIONS**

**§ 1101. Purpose.**

These rules and regulations are intended to carry out and to provide for the efficient administration of the provisions of Chapter 15 of Title 4, Guam Code Annotated, relating to Standards of Conduct; and to ensure the proper performance of the Guam Ethics Commission. They shall be liberally construed to secure the just, swift, and inexpensive determination of every proceeding.

**§ 1102. Policy.**

The Guam Ethics Commission is an independent and autonomous instrumentality within the Government of Guam, whose purpose is to hold officers and employees accountable to the Ethical standards established in Guam law. The Guam 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. Further the Guam Ethics Commission shall develop the standards for the Ethics in Government Program and ensure all officials of the Government of Guam are complying with the mandate of said training.

**§ 1103. Authority to Adopt Rules.**

This Chapter is adopted under the authority granted by 4 GCA § 15401(a)(5), and by any other law administered and enforced by the commission that establishes the commission's authority to adopt rules.

**§ 1104. Jurisdiction.**

(a) These rules and regulations shall apply to any nominated, appointed, or elected officer or individual employed with a Guam agency, including members of boards or commissions, and persons under personal services contracts.

1 (b) The Commission shall have jurisdiction to investigate and take appropriate  
2 action on alleged violations of 4 GCA Chapter 15 in all proceedings commenced  
3 within three (3) years of an alleged violation by an employee or a former employee.

4 **§ 1105. Definitions.**

5 (a) *Administrative Hearing* means an administrative hearing, closed to the  
6 public, following the Commission's determination that Probable Cause exists to  
7 believe that a violation of Governmental Ethics Laws has occurred.

8 (b) *Agency* means every branch of government, public corporations, all  
9 government of Guam departments, bureaus, and line agencies, autonomous and  
10 semi-autonomous agencies, instrumentalities, entities or sub-entities thereof, the  
11 Mayors' Council of Guam and Mayors' offices.

12 (c) *Commission* shall mean the Guam Ethics Commission.

13 (d) *Complainant* means a person who has submitted a complaint to the  
14 Commission, or the Commission or its Executive Director, if the Commission so  
15 designates itself or its Executive Director in a notice of alleged violation.

16 (e) *Complaint* means a written statement of facts or allegations giving rise  
17 to a reasonable inference that a violation of the standards of conduct by an officer or  
18 employee has occurred, which statement is either: (1) submitted to the Commission  
19 by a person other than the person whose conduct is in question; or (2) initiated by  
20 the Commission based on written or non-written information.

21 (f) *Decision* means the written opinion, findings, and conclusions of the  
22 Commission, rendered after an administrative hearing.

23 (g) *Employee* means any nominated, appointed, or elected officer or  
24 individual employed with a Guam agency as defined herein, including members of  
25 boards or commissions, and persons under personal services contracts.

1 (h) *Formal Advisory Opinion* means a written opinion in response to a  
2 request for advice of a complaint approved by an affirmative vote of no less than  
3 five (5) members of the Commission.

4 (i) *Informal Advisory Opinion* means the initial written opinion in response  
5 to a request for advice of a complaint approved by an affirmative vote of no less than  
6 five (5) members of the Commission; or written response rendered by the Executive  
7 Director pursuant to a request for advice, provided that the advice falls within  
8 established precedent by the Commission.

9 (j) *Preliminary Review* means an examination of the facts contained within  
10 a complaint for the sole purpose of determining whether the subject of the complaint  
11 is appropriate for consideration by the Commission.

12 (k) *Probable cause* means evidence sufficient to lead a person of ordinary  
13 caution and prudence to believe or entertain a strong suspicion that a violation of  
14 standards of conduct has been committed and that the Respondent committed or  
15 caused the violation.

16 (l) *Respondent* means the person who is alleged in a complaint or notice of  
17 alleged violation to have violated one or more provisions of the standards of conduct.

18 (m) *Staff* means all commission full and part time employees, those  
19 employed on a personal services contract, and consultants including, but not limited  
20 to, legal counsel, associate legal counsel, legal clerk, and investigator.

21 (n) *Standards of conduct* means the provisions regarding ethical conduct  
22 stated in 4 GCA Chapter 15.

23 **§ 1106. Disqualification of Commissioners; Bias or Prejudice.**

24 (a) Any person, officer or employee may file an affidavit that one or more  
25 of the commissioners or designee has a personal bias or prejudice. Such an affidavit  
26 may be filed on any matter before the Commission affecting or involving such  
27 person, officer or employee. The Commissioner or designee against whom the

1 affidavit is filed may answer the affidavit or may file a disqualifying certificate with  
2 the Commission. If the Commissioner or designee chooses to answer the affidavit,  
3 the remaining commissioners shall decide whether or not that Commissioner or  
4 designee should be disqualified from proceeding therein. Every affidavit shall state  
5 the facts and reasons for the belief that bias or prejudice exists and shall be filed at  
6 least ten (10) working days before the date on which the matter will be considered  
7 by the commission, or good cause shall be shown for the failure to do so.

8 (b) A Commissioner or designee may disqualify themselves by filing with  
9 the commission a disclosure of conflict of interest that they deem themselves unable  
10 for any reason to participate with absolute impartiality in the pending proceeding.

11 (c) A Commissioner or designee shall be disqualified from participating in  
12 any proceeding where such participation would be a violation of the conflict of  
13 interest provisions of the standards of conduct. A Commissioner or designee shall  
14 disclose before the commencement of any meeting agenda item or hearing all  
15 relationships to any of the parties or participants.

16 **§ 1107. Consolidation.**

17 The Commission, upon its own initiation or upon a motion, may consolidate  
18 for hearing or for other purposes or may contemporaneously consider two or more  
19 proceedings which involve substantially the same parties or issues which are the  
20 same or closely related, if it finds that such consolidation or contemporaneous  
21 hearing will be conducive to the proper dispatch of its business and to the ends of  
22 justice and will not unduly delay the proceedings.

23 **§ 1108. Right to Appear.**

24 Except as otherwise stated herein, any person, officer or employee, or his or  
25 her authorized representative, having business with the Commission may appear  
26 before it, unless the Commission determines that the person, officer or employee, or  
27 his or her representative, is acting in a manner which prevents the orderly and



1 peaceful conduct of its proceedings. The right to appear before the Commission or  
2 designee may be reinstated upon the Commission's acceptance of a written statement  
3 that the person will abide by the Commission's rules and will not disrupt the orderly  
4 and peaceful conduct of its proceedings. The Commission may set restrictions on  
5 appearances as it deems necessary to carry out its duties and functions.

6 **§ 1109. Maintenance and Custody of Files and Records.**

7 The Executive Director shall have charge of the Commission's official records  
8 and shall be responsible for the maintenance and custody of the files and records of  
9 the commission, including the papers, transcripts of testimonies and exhibits filed in  
10 proceedings, the minutes of all actions taken by the Commission, and all its  
11 decisions, advisory opinions, rules and approved forms. The Executive Director or  
12 Commission staff shall receive all documents required to be filed with the  
13 Commission and shall promptly stamp the time and date upon papers filed with the  
14 Commission.

15 **§ 1110. Authentication of Commission Action.**

16 All decisions, informal and formal advisory opinions, and guidelines of the  
17 Commission shall be signed by the chairperson of the Commission or in accordance  
18 with authority delegated by the Commission.

1 **CHAPTER 2**

2 **ORGANIZATION AND ADMINISTRATION**

3 **§ 1201. Composition and Function.**

4 The composition, duties, functions, powers and responsibilities of the Guam  
5 Ethics Commission shall generally be as provided and authorized in 4 GCA, Chapter  
6 15.

7 **§ 1202. Commission Officers.**

8 The officers of the Commission, elected by the voting members, shall be a  
9 Chairperson and Vice-Chairperson. The Executive Director appointed by the  
10 Commission shall serve as the ex-officio Secretary of the Commission in accordance  
11 with 4 GCA § 15407. Each officer shall have duties, functions, powers and  
12 responsibilities:

13 (a) as prescribed for such office by law;

14 (b) which, by general consent and parliamentary custom, pertain to  
15 such office, consistent with the law; and

16 (c) as are consistent with the foregoing and which, in addition, the  
17 Commission may prescribe.

18 **§ 1203. Election and Term of Chairperson.**

19 The Chairperson shall be that person so designated as the presiding officer for  
20 a term of one (1) year. The election of both offices shall take place during a regular  
21 meeting of the Commission held in January each year. The incumbent Chairperson  
22 of the Commission shall preside until a successor is elected. A majority of the voting  
23 members for a particular candidate shall be necessary for election. Voting shall be  
24 by open ballot. The term of office shall not exceed two (2) consecutive terms. In the  
25 event of a vacancy in any of the positions, the office shall be filled in the prescribed  
26 manner at the next regular meeting. The Commission may include such officer  
27 positions deemed necessary to effectively carry out its responsibilities.

1 **§ 1204. Duties of Chairperson.**

2 The duties of the Chairperson shall be:

- 3 (a) to call and preside at all meetings of the Commission;
- 4 (b) to call special meetings of the Commission;
- 5 (c) to serve ex-officio as a member of all committees established by
- 6 the Commission; and
- 7 (d) to appoint committees and to take such other action as is
- 8 consistent with these rules or the laws.

9 The Chairperson shall be entitled to vote on all matters before the  
10 Commission.

11 **§ 1205. Duties of Vice-Chairperson.**

12 The duty of the Vice Chairperson shall be to perform the duties of the  
13 Chairperson at his or her request or in case of his or her absence or incapacity.

14 **§ 1206. Duties of Treasurer.**

15 The duties of the Treasurer shall be:

- 16 (a) to report on the finances of the Commission periodically as
- 17 desired by the Commission;
- 18 (b) to present an annual budget to the Commission for approval; and
- 19 (c) to perform the duties of the Chairperson in case of the absence of
- 20 both the Chairperson and the Vice Chairperson.

21 **§ 1207. Ex-Officio Secretary.**

22 The Executive Director may designate an employee of the Commission to  
23 carry out the duties as Ex-Officio Secretary under the direction of the Executive  
24 Director.

25 **§ 1208. Vacancies.**

26 In the event of a vacancy in the Officers of the Commission, the office shall  
27 be filled in the prescribed manner at the next regular meeting. The Commission may

1 include such other officer positions deemed necessary to effectively carry out its  
2 responsibilities.

3 **§ 1209. Removal of Officers.**

4 Four (4) affirmative votes of the Commission’s membership shall be required  
5 for the removal of the Chairperson or Vice-Chairperson.

6 **§ 1210. Commission Meetings.**

7 (a) Requirements for Public Notice. All meetings of the Commission shall  
8 be publicly noticed in accordance with Chapter 8 of Title 5, Guam Code Annotated,  
9 otherwise known as the Open Government Law.

10 (b) Quorum. A quorum shall consist of four (4) voting members. Actions  
11 of the Commission shall be carried by a vote of not less than four (4) voting  
12 members, unless otherwise provided in Guam law.

13 **§ 1211. Virtual Meetings and Attendance.**

14 The Commission may convene and conduct virtual meetings remotely via  
15 videoconference or similar technological means and allow Commission members  
16 and the public to participate. Commission members who participate remotely in  
17 Commission meetings and official Commission proceedings shall be considered  
18 present for purposes of a quorum and voting. Votes cast by Commission members  
19 participating remotely shall have the same effect as voting in-person.

20 **§ 1212. Relationship of Commission to Executive Director.**

21 Pursuant to 4 GCA § 15407, although the relationship between the Executive  
22 Director and individual Commission members is collegial, the relationship of the  
23 Commission to the Executive Director is hierarchical. The Executive Director shall  
24 be accountable only to the Commission as a whole, and not to individual  
25 Commission members.

26 **§ 1213. Authority to Hire Legal Counsel.**

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

8 **§ 1214. Fiscal Authority: Accounting; Expenditures.**

9 The Commission shall be responsible for the conduct of operational matters  
10 addressing its financial activities, in accordance with the provisions contained  
11 herein.

12 (a) General Fund Appropriations. The Department of Administration  
13 shall establish, for the benefit of the Guam Ethics Commission, an account  
14 where funds appropriated by the Guam Legislature and signed into law by the  
15 Governor of Guam shall be deposited.

16 (b) Government Ethics Fund Special Fund. All monies, except for  
17 monies appropriated to the Guam Ethics Commission by law, generated as  
18 revenue by the Guam Ethics Commission shall be deposited into the  
19 Government Ethics Fund and shall be made available to support the operations  
20 of the Guam Ethics Commission as well as all other activities authorized under  
21 §10112(b) of Chapter 10, Title 5 Guam Code Annotated.

1 **CHAPTER 3**

2 **REQUESTS FOR ADVICE**

3 **§ 1301. Who May Make a Request for Advice.**

4 Any person may make a request for advice from the Commission regarding  
5 the conduct of an officer or employee as it relates to the standards of conduct.

6 **§ 1302. Form and Content.**

7 Requests for advice may be made orally or in writing and shall describe with  
8 particularity all of the pertinent facts and circumstances, including, without  
9 limitation, the name(s) of the officer(s) or employee(s) involved, if known, and the  
10 nature of the acts or omissions at issue, and any other pertinent information known  
11 to the requestor.

12 **§ 1303. Acknowledgment of Receipt.**

13 The Commission shall acknowledge in writing the receipt of a verbal or  
14 written request for advice to the person submitting the request for advice. The  
15 Executive Director shall advise the requester of the confidentiality requirements  
16 relative to the request for advice.

17 **§ 1304. Response; Advisory Opinion.**

18 (a) Response by Commission. All Formal Advisory Opinions rendered by  
19 the Commission shall be in writing and shall be published in such form and with  
20 such deletions as may be necessary to prevent the disclosure of the identity of the  
21 persons involved unless disclosure is required or allowed under applicable law.

22 (b) Response by Executive Director.

23 (1) The Executive Director may provide Informal Advisory  
24 Opinions at the direction of the Commission or when the opinion is on a matter  
25 which is established by precedent or is clear under the applicable provisions  
26 of the law and the Executive Director determines that it is not likely that the

1 Commission would render a different opinion. The Executive Director shall  
2 submit the request to the Commission in the following circumstances:

3 (A) The case raises an important legal or policy issue on which  
4 the Commission has not taken a position in a formal advisory opinion  
5 or decision;

6 (B) An opinion in the case is likely to set new precedent;

7 (C) The requester asks for a formal advisory opinion from the  
8 Commission; or

9 (D) There are other unique aspects to the case of which the  
10 Commission should be made aware, including that the request concerns  
11 an elected official.

12 (2) The Executive Director may request from any source information  
13 that is reasonably related to the request for advice. When the Executive  
14 Director provides an Informal Advisory Opinion in response to a request for  
15 advice, he or she shall inform the person making the request that the requestor  
16 may make a written request for a formal advisory opinion from the  
17 commission.

18 (3) Each Informal Advisory Opinion shall include a statement  
19 informing the person submitting the request for advice or complaint that he or  
20 she may request the commission to review the informal advisory opinion. A  
21 record shall be kept of all Informal Advisory Opinions given under this rule  
22 and shall be available to the Commissioners at the Commission meeting  
23 following the date on which the opinion is given.

24 (c) Additional Information. Upon receipt of a request for advice, the  
25 Commission may render its opinion on the basis of the information available, or it  
26 may conduct an investigation or hold hearings if additional information is deemed  
27 necessary to render an advisory opinion.

1 (d) Within thirty (30) calendar days after a request for advice has been  
2 submitted to the Commission, or within thirty (30) calendar days after a final hearing  
3 or meeting on a request for advice shall have been concluded, whichever is later, the  
4 Commission shall render its advisory opinion to the person who has requested the  
5 advice.

6 **§ 1305. Confidentiality.**

7 Any and all information provided to and obtained by the Commission  
8 regarding the request for advice shall be confidential. Any Commission member or  
9 any individual, including the individual requesting for advice, who without  
10 permission of the Commission, divulges confidential information and actions shall  
11 be guilty of a misdemeanor, in accordance with 4 GCA § 15401(c).

12 **§ 1306. Basis for Refusal to Entertain.**

13 Except in the case of a request by an officer or employee involving his or her  
14 own conduct, the commission may for good cause refuse to entertain a request for  
15 advice. Without limiting the generality of the foregoing, the Commission may refuse  
16 to entertain a request when:

17 (a) the Commission has no jurisdiction over the allegations made in  
18 the request. A matter is outside the jurisdiction of the Commission if:

19 (1) the subject of the request is a person who is not identified  
20 as being within the scope of the Commission's investigative and  
21 enforcement authority;

22 (2) the request does not allege a violation of the Standard of  
23 Conduct for elected officers, appointed officers, and public employees  
24 of the government of Guam; or

25 (3) the allegations made in the request pertain to actions or  
26 events that occurred three (3) years prior to the date of filing of the  
27 complaint.



1           (b)     The request restates other complaints containing essentially  
2 similar or identical allegations that have already been disposed of, and the  
3 evidence presented does not warrant reopening the previous case;

4           (c)     The allegations contained in the request are already under  
5 investigation by the Commission;

6           (d)     The request consists of speculation, opinion, frivolous  
7 contentions, or absurd accusations;

8           (e)     The request consists entirely of one or more non-material  
9 violations that were previously discovered in a Commission audit and, in the  
10 Executive Director's judgment, were appropriately excused or remedied; or

11          (f)     The request consists entirely of one or more material findings of  
12 a Commission opinion, and the Commission has already voted against  
13 initiating an enforcement action based on those findings.

1 **CHAPTER 4**  
2 **COMPLAINTS**

3 **§ 1401. Who May File.**

4 Complaints may be made by any person or the commission on its own  
5 initiative.

6 **§ 1402. Filing of Complaints.**

7 Complaints may be filed with the Commission in accordance with the  
8 following provisions:

9 (a) Any person may file a formal complaint alleging violations of the  
10 Standard of Conduct for elected officers, appointed officers, and public  
11 employees of the government of Guam. The Executive Director shall process  
12 and review all formal complaints. Formal complaints must be made in writing  
13 on a form specifically provided by the Commission, and must be dated,  
14 verified, and signed by the Complainant under penalty of perjury. If the  
15 Complainant is an entity, the complaint must be dated, verified, and signed  
16 under penalty of perjury by an authorized officer or agent of the entity. Formal  
17 complaints must include the following information, upon the Complainant's  
18 information and belief:

19 (1) The name and address of the Complainant, and the  
20 telephone number at which the Complainant may be reached during  
21 normal business hours;

22 (2) the name and any known addresses and telephone numbers  
23 of the Respondent;

24 (3) the title or position of the Respondent, if known;

25 (4) the Standard of Conduct allegedly violated;

26 (5) the facts constituting each alleged violation;

1                   (6) the names, addresses, and telephone numbers of persons  
2 with knowledge of the facts constituting an alleged violation, if known;  
3 and

4                   (7) an identification of documents or other evidence that may  
5 prove the facts constituting the alleged violation, if known.

6                   (b) Any person may file an informal complaint alleging violations of  
7 Standard of Conduct for elected officers, appointed officers, and public  
8 employees of the government of Guam. The Executive Director shall have no  
9 obligation, but has the discretion, to review and process informal complaints.  
10 Informal complaints include the following: written complaints that are not  
11 verified or signed under penalty of perjury; written complaints that do not  
12 contain all of the information required by law; unwritten complaints;  
13 anonymous complaints; and referrals from other governmental agencies.

14                   (c) The Commission, individual Commissioners, the Executive  
15 Director, and the staff of the Commission, may submit a complaint for a  
16 Preliminary Review on their own initiative.

17                   (d) The Commission shall not receive complaints at public meetings.  
18 The Commission shall urge the public in the strongest terms possible not to  
19 make complaints at public meetings.

20                   (e) Complaints shall be made in writing and signed by the  
21 complainant; provided that the Commission may initiate an investigation of a  
22 possible violation of the standards of conduct based on any written or non-  
23 written information.

24                   (f) Complaints should describe the pertinent facts and circumstances,  
25 including, without limitations, the name of each officer or employee involved,  
26 if known, and the nature of the acts or omissions at issue and any other  
27 pertinent information known to the complainant.

1 (g) It is not a defense to a violation of the standards of conduct that  
2 the complainant failed to supply all information relevant to the complaint.

3 **§ 1403. Acknowledgment of Receipt.**

4 The Commission shall acknowledge in writing or by email the receipt of a  
5 complaint to the complainant, if the complainant has provided sufficient contact  
6 information to the Commission.

7 **§ 1404. Basis for Refusal to Entertain.**

8 The Commission may for good cause refuse to entertain a complaint. Without  
9 limiting the generality of the foregoing, the commission or legal counsel may refuse  
10 to entertain a complaint if the request is:

11 (a) Speculative or purely hypothetical and does not involve an actual  
12 situation;

13 (b) The complaint does not present a question within the jurisdiction  
14 of the commission; or

15 (c) Frivolous.

16 **§ 1405. Preliminary Review.**

17 Upon receipt of a complaint that complies with the requirements of Section  
18 §§ 1402 and 1404, the Executive Director shall:

19 (a) Make a determination as to whether the subject matter of the  
20 complaint is within the jurisdiction of the Commission.

21 (1) If the Executive Director determines that the complaint  
22 should be dismissed because the subject matter of the complaint does  
23 not come within the jurisdiction of the Commission, he or she shall  
24 notify the complainant in writing of the determination and of the  
25 complainant's right to submit a written request for the Commission to  
26 review the determination. This written notification shall satisfy the

1 Commission's obligation to render an advisory opinion in response to  
2 a complaint.

3 (2) To obtain commission review of the Executive Director's  
4 determination under § 1405(a)(1), the complainant must make a written  
5 request stating the reasons for the requested review within twenty (20)  
6 calendar days of the complainant's receipt of the notification.

7 (b) Make a determination as to whether the allegations, if taken as  
8 true, would constitute a violation of the standards of conduct.

9 (1) If the Executive Director determines that the complaint  
10 should be dismissed because the allegations, even if taken as true,  
11 would not constitute a violation of the standards of conduct or the  
12 conduct is *de minimis*, he or she shall notify the complainant in writing  
13 of the determination and of the complainant's right to request in writing  
14 that the Commission review the determination. This written notification  
15 shall satisfy the Commission's obligation to render an advisory opinion  
16 in response to a complaint.

17 (2) To obtain Commission review of the Executive Director's  
18 determination under § 1405(b)(1), the complainant must make a written  
19 request stating the reasons for the requested review within twenty (20)  
20 calendar days of the complainant's receipt of the notification.

21 **§ 1406. Confidentiality.**

22 Any and all information provided to and obtained by the Commission  
23 regarding the complaint shall be confidential. Any Commission member or any  
24 individual, including the individual requesting for advice, who without permission  
25 of the Commission, divulges confidential information and actions shall be guilty of  
26 a misdemeanor.

27

1 **§ 1407. Preliminary Investigation.**

2 (a) After the Executive Director makes the preliminary determinations  
3 required under §§ 1402, 1404 and 1405, he or she shall conduct a preliminary  
4 investigation into the allegations of complaint that are within the jurisdiction of the  
5 Commission and the allegations, which, if taken as true, would constitute a violation  
6 or violations of the standards of conduct. The primary purpose of the preliminary  
7 investigation is to determine whether there is probable cause to believe that a  
8 violation of the standards of conduct has occurred.

9 (b) The Executive Director shall determine the nature and scope of the  
10 preliminary investigation, and shall have the authority without limitation, to conduct  
11 interviews or depositions of the complainant, the respondent and other witnesses, to  
12 request and review records, and to obtain information reasonably related to the  
13 nature and scope of the preliminary investigation from any officer, employee,  
14 agency, person or entity.

15 (c) Nothing herein shall prevent the Executive Director from investigating  
16 possible violations of the standards of conduct that are not stated in the complaint  
17 and which are based on information obtained in the course of the investigation of the  
18 complaint.

19 **§ 1408. Probable Cause Determination.**

20 (a) After conducting a preliminary investigation under § 1407 of this  
21 Chapter, the Executive Director shall make a determination as to whether there is  
22 probable cause of a violation of the standards of conduct.

23 (b) If the Executive Director determines that there is not probable cause to  
24 believe that there has been a violation of the standards of conduct, he or she shall  
25 dismiss the complaint and notify the complainant in writing of the dismissal and of  
26 the complainant's right to request that the Commission review the legal counsel's  
27 determination by submitting a written request stating the reasons for the request

1 within twenty (20) calendar days of the receipt of the notification. The written  
2 notification shall satisfy the Commission's obligation to render an advisory opinion  
3 in response to a complaint.

4 (c) If the Executive Director determines that there is probable cause to  
5 believe that there has been a violation of the standards of conduct, but that the  
6 violation was *de minimis*, he or she may dismiss the complaint and notify the  
7 complainant in writing of the determination and of the complainant's right to request  
8 that the Commission review the legal counsel's determination by submitting a  
9 written request within twenty (20) calendar days of the receipt of the notification  
10 stating the reasons for the request. The written notification shall satisfy the  
11 Commission's obligation to render an advisory opinion in response to a complaint.

12 (d) If the Executive Director determines that there is probable cause to  
13 believe that there has been a violation of the standards of conduct, he or she shall  
14 provide a written report to the Commission containing the basis for the  
15 determination.

16 (1) The Commission shall consider the report of the Executive  
17 Director and any other information it deems relevant and determine whether  
18 there is probable cause to believe that the respondent has violated the  
19 standards of conduct.

20 (2) Neither the complainant nor the respondent has a right to appear  
21 or to submit information to the Commission at the probable cause stage.

22 (3) If the Commission determines that probable cause of a violation  
23 of the standards of conduct does not exist or there is probable cause of a  
24 violation of the standards of conduct, but that the violation was *de minimis*, it  
25 may request additional information or it shall dismiss the complaint and notify  
26 the complainant and the respondent of its determination in writing.

1 (4) If the Commission determines that probable cause of a violation  
2 of the standards of conduct does exist, it shall issue an Informal Advisory  
3 Opinion to the respondent outlining the notice of alleged violation in  
4 accordance with these rules.

5 **§ 1410. Informal Advisory Opinion.**

6 If the Commission determines that probable cause of a violation of the  
7 standards of conduct does exist, it shall issue an Informal Advisory Opinion to the  
8 respondent in accordance with the following:

9 (a) The Informal Advisory Opinion shall include:

10 (1) An explicit statement in plain language of the factual  
11 allegations constituting the alleged violation(s) of the standards of  
12 conduct;

13 (2) The specific provision(s) of the standards of conduct  
14 alleged to have been violated;

15 (3) Notification to the respondent of his or her right to make a  
16 written request for a Formal Advisory Opinion or an administrative  
17 hearing before the Commission and the time period within which the  
18 request for the hearing must be made;

19 (4) A statement that the respondent may retain legal counsel if  
20 the respondent so desires and that an individual may appear on the  
21 respondent's behalf; and

22 (5) A copy of the complaint with such deletions as may be  
23 necessary to prevent the disclosure of the identity of the complainant  
24 and witnesses.

25 (b) The Informal Advisory Opinion shall designate the party alleging  
26 the violation of the standards of conduct as the complainant and the officer or  
27 employee involved as the respondent. In the discretion of the Commission or



1 the Executive Director, the Commission itself or its Executive Director may  
2 be the complainant or may be made a co-complainant.

3 (c) The Informal Advisory Opinion shall be served in accordance  
4 with rules for personal service under the Guam Rules of Civil Procedure. The  
5 respondent shall have twenty (20) days after service thereof to respond in  
6 writing to the charge and statement.

7 (d) The Commission, in its discretion, may amend an Informal  
8 Advisory Opinion.

9 **§ 1411. Response.**

10 The respondent shall respond to the notice of alleged violation within twenty  
11 (20) calendar days of receipt. If a timely response is not submitted, the Commission  
12 may render its opinion on the basis of the information available, or the Commission  
13 or designee may conduct further investigation if additional information is necessary  
14 in order to render an advisory opinion.

15 (a) Respondent Request for Formal Opinion. If the respondent,  
16 within twenty (20) calendar days after receipt of a notice of alleged violation  
17 via an Informal Advisory Opinion, requests a Formal Advisory Opinion, the  
18 Commission shall issue a notice of administrative hearing, setting forth the  
19 date, time, place and nature of the hearing and the legal authority under which  
20 the hearing is to be held.

21 (1) A notice of administrative hearing shall be served in  
22 accordance with Guam Rules of Civil Procedure.

23 (2) The Executive Director may, in his or her discretion and as  
24 directed by the Commission, conduct further investigation into the  
25 complaint prior to the commencement of the hearing.

26 (b) Compliance with Informal Advisory Opinion. If the respondent,  
27 after receipt of an Informal Advisory Opinion outlining the notice of alleged

1 violation, agrees to comply with the Informal Advisory Opinion, the  
2 respondent shall have twenty (20) calendar days to comply with the  
3 stipulations provided in the Informal Advisory Opinion.

4 **§ 1412. Formal Advisory Opinion.**

5 Within thirty (30) calendar days after a complaint has been submitted to the  
6 Commission, or within thirty (30) calendar days after a final hearing or meeting on  
7 a complaint shall have been concluded, whichever is later, the Commission shall  
8 render a Formal Advisory Opinion.

9 (a) If the Commission finds that there has been a violation of the  
10 standards of conduct, its Formal Advisory Opinion shall contain a  
11 recommendation to the respondent's appointing authority or the board or  
12 commission, in the case of a board or commission member, of appropriate  
13 disciplinary action, and a copy of the advisory opinion shall be provided to  
14 the respondent's appointing authority or the board or commission, in the case  
15 of a board or commission member.

16 (b) The Commission shall provide copies of its Formal Advisory  
17 Opinion to the complainant, if known, and to the respondent in accordance  
18 with applicable law. The copy of the Formal Advisory Opinion provided to  
19 the respondent shall delete information that would disclose the identity of the  
20 complainant and witnesses, unless the complainant and witnesses agree to the  
21 disclosure of their respective identities.

22 (c) The Commission shall publish its Formal Advisory Opinion in  
23 such form and with such deletions as required or allowed under applicable  
24 law.

25 **§ 1413. Administrative Hearing.**

26 (a) Notice, When Conducted.

1           (1) The Commission or a person with a matter pending before the  
2 commission may request an administrative hearing. An administrative hearing  
3 may be held by the Commission upon written notice to the parties and  
4 participants at least forty-five (45) calendar days prior to the hearing.

5           (2) The purpose of the administrative hearing is to obtain information  
6 or evidence on any matter under investigation or any question before the  
7 Commission so that the commission may render a decision.

8 (b) Procedures.

9           (1) The Commission or any person with a matter pending before the  
10 Commission may request that any officer, employee or other person or entity  
11 with information that may be relevant to the matter before the commission  
12 appear for the purpose of investigation including, but not limited to, answering  
13 questions and producing records.

14           (2) The Commission or its Executive Director may subpoena  
15 witnesses and records, administer oaths, and take testimony and receive  
16 evidence.

17           (3) The officer, employee, person or entity whose presence is  
18 requested or subpoenaed may be represented by counsel or by the public  
19 employee union representative if the employee is entitled to union  
20 representation.

21           (4) Each party may present witnesses, records or a statement of  
22 position, including memoranda, briefs, arguments or other relevant material  
23 regarding the matter under investigation.

24           (5) Each party shall, at least twenty (20) calendar days prior to the  
25 hearing, submit eight (8) copies of the following to the Commission:

26           (A) A written statement of his or her position;

1 (B) For each witness a party intends to call, the witness' name,  
2 along with address, email address and telephone number, and a  
3 summary of the witness' statement; and

4 (C) A copy of each record to be presented.

5 (6) The Executive Director shall prepare a memorandum which  
6 discusses the issues and includes any staff recommendations. At least seven  
7 (7) calendar days prior to the hearing, the staff memorandum shall be provided  
8 to members of the Commission, legal counsel for the Commission and the  
9 respondent.

10 (7) Any other interested person may, upon request, be permitted to  
11 present oral testimony or records.

12 (8) The respondent shall have the right to request for an open  
13 administrative hearing, in accordance with 4 GCA § 15401(d).

14 (9) Except as otherwise provided by law, the burden of proof,  
15 including the burden of producing the evidence and the burden of persuasion,  
16 shall be upon the complainant. Proof of a matter shall be by preponderance of  
17 the evidence.

18 **§ 1414. Ex Parte Communications.**

19 In any matter pending where the commission has found probable cause:

20 (a) No person shall communicate privately regarding the facts or  
21 contentions of the case with any member of the commission or designee unless  
22 specifically allowed by law or these rules;

23 (b) No commissioner or designee shall communicate privately  
24 regarding the facts or contentions of the case with any party, witness, counsel  
25 or representative for a party or a witness unless specifically allowed by law or  
26 these rules; and

1 (c) All written and oral ex parte communications received by any  
2 commissioner or designee containing facts or contentions in a matter where  
3 probable cause has been determined by the commission, that are known or  
4 believed to be unauthorized at the time of receipt, shall be immediately sent  
5 to all interested parties to the proceeding and made an official part of the  
6 record.

7 (d) The following classes of ex parte communications are authorized:

8 (1) Communication that relates solely to matters which a  
9 commissioner or designee is authorized to dispose of on an ex parte  
10 basis;

11 (2) Communication with the Executive Director or staff for the  
12 commission relating solely to matters of practice and procedure;

13 (3) Communication had after adequate notice and opportunity  
14 for all parties to participate; and

15 (4) Communication with legal counsel for the commission or  
16 designee other than the legal counsel to the commission.

17 **§ 1415. Decision and Order.**

18 (a) Upon conclusion of the administrative hearing, the Commission may  
19 render an Formal Advisory Opinion or decision, or the Commission may take other  
20 action it deems appropriate under the circumstances.

21 (b) Within thirty (30) days after the final hearing or meeting has been  
22 concluded, the Commission shall render its decision. If the Commission finds that  
23 there has been a violation of the standards of conduct, its decision shall contain a  
24 recommendation to the respondent's appointing authority or the board or  
25 commission, in the case of a board or commission member, of appropriate  
26 disciplinary action, and a copy of the decision shall be provided to the respondent's

1 appointing authority or the board or commission, in the case of a board or  
2 commission member.

3 (c) The Commission shall provide copies of its decision to the complainant  
4 and to the respondent in such form and with such deletions as may be necessary to  
5 prevent the disclosure of the identities of the persons involved unless disclosure is  
6 in accordance with applicable law.

7 (d) The Commission shall publish its decision in such form and with such  
8 deletions as required or allowed under applicable law.

9 **§ 1416. Contested Hearings, When Conducted.**

10 (a) A contested administrative hearing shall be conducted when the  
11 respondent has requested a contested case hearing within twenty (20) calendar days  
12 following the receipt of a Formal Advisory Opinion or decision from the  
13 Commission.

14 (b) A contested administrative hearing may be conducted when determined  
15 to be in the public interest by the Commission.

1 **CHAPTER 5**  
2 **DISCLOSURES**

3 **§ 1501. Gift Disclosures.**

4 (a) Gifts disclosure statements shall be filed using forms and methods  
5 prescribed by the Commission. All officers and employees shall file a gifts  
6 disclosure statement with the Commission on June 30 of each year if all conditions  
7 under 4 GCA § 15202 are met.

8 (b) The Commission may require that gifts disclosure statements be filed  
9 using an electronic filing system.

10 **§ 1502. Financial and Conflict of Interest Disclosures.**

11 The Commission shall receive all Disclosure of Conflicts of Interest forms  
12 filed by officials and employees from the Guam Election Commission (GEC) no  
13 later than three (3) working days after receipt of such forms by the GEC.

1 **CHAPTER 6**

2 **ETHICS IN GOVERNMENT TRAINING PROGRAM**

3 **§ 1601. Applicability.**

4 The Commission shall establish an Ethics in Government Program to provide  
5 training on the standard of conduct and related laws administered and enforced by  
6 the Commission for:

7 (a) Any person who is an elected official of the government of Guam;

8 (b) Any person who is appointed to a position as board or  
9 commission member, including autonomous agencies, director, deputy  
10 director, or by whatever title denotes the head and first assistant of a  
11 government of Guam agency, department, public corporation, authority, or  
12 any other entity of the executive branch; and

13 (c) All government of Guam employees, as defined in § 1105 of this  
14 Chapter.

15 **§ 1602. Guidelines.**

16 (a) Scheduling. The Executive Director shall establish an Ethics Training  
17 Calendar to be sent via electronic mail to respective agencies or interested  
18 participants. The Calendar shall consist of available dates and hyperlinks embedded  
19 within those dates that navigate to the Online Registration Form.

20 (b) Rescheduling. Participants who require their Ethics Training date to be  
21 rescheduled are advised to contact the Commission or submit a rescheduling request  
22 to the Commission via electronic mail forty-eight (48) hours prior to the scheduled  
23 training.

24 (c) Participation. All participants are required to be present throughout the  
25 duration of the Ethics Training. Excusals between training sessions will be at the  
26 discretion of the Executive Director in consultation with the employee's supervisor.



1 (d) Certification. The Commission shall provide participants with  
2 certificates of completion who have met all Ethics in Government program  
3 guidelines and have paid the training fee established by the Commission.

4 **§ 1603. Tuition Charges.**

5 (a) The Commission shall establish and adopt a training fee at a public and  
6 open meeting for each participant in the Ethics in Government program.

7 (b) The revenue from the Ethics in Government program shall be earmarked  
8 to support the operations of the Commission and the direct costs of conducting the  
9 training, which include, but are not limited to, instructor compensation, venue,  
10 supplies, and certificates.

11 (c) The Executive Director shall prepare and submit to the Commission an  
12 annual report on the following:

13 (1) The total funds collected and all expenditures under the training  
14 fee fund; and

15 (2) The performance of the training fee fund whenever the Executive  
16 Director determines a review of the training fee established by the  
17 Commission is necessary.

18 **§ 1604. Compliance Reports.**

19 The Commission shall receive no later than thirty (30) days after the end of  
20 each fiscal year Ethics Training Compliance Reports from all government of Guam  
21 agencies via electronic submission.

22 **§ 1605. Non-Compliance.**

23 Upon receipt of Ethics Training Compliance Reports from all government of  
24 Guam agencies and instrumentalities, the Commission shall conduct a review of  
25 training compliance for every employee of the government of Guam and shall, upon  
26 determination of an employee's non-compliance with the mandated training within  
27 the timeline set by law, make recommendations to the appointing authority or the

1 board or commission, in the case of a board or commission member, of the following  
2 appropriate disciplinary action:

3 (a) Counseling. The Commission may recommend this informal  
4 corrective action, where the supervisor calls to the employee's attention the  
5 non-compliance and encourages them to improve and comply;

6 (b) Letter of Warning. The Commission may recommend this  
7 informal corrective action, where the supervisor calls to the employee's  
8 attention the non-compliance and encourages them to improve and comply;  
9 advises consequences may occur such as a letter of reprimand if non-  
10 compliance continues;

11 (c) Letter of Reprimand. The Commission may recommend this  
12 formal corrective action, where the supervisor calls to the employee's  
13 attention the non-compliance and advises that the continued non-compliance  
14 will lead to an adverse action being pursued;

15 (d) Disqualification from Promotion. The Commission may  
16 recommend that the employee be disqualified from any promotion until the  
17 ethics training requirement is met;

18 (e) Disqualification from Salary Adjustment. The Commission may  
19 recommend that the employee be disqualified from any salary adjustments  
20 until the ethics training requirement is met; or

21 (f) Any other recommended disciplinary actions as determined by the  
22 Commission.

23 **§ 1606. Submission of Personnel Action for New Employees.**

24 (a) All government of Guam agencies, as defined in § 1105 of this Chapter,  
25 shall submit to the Commission copies of personnel actions for new employees no  
26 later than fifteen (15) days after the date of employment.

1           (b)    The Executive Director shall notify officials and employees of the  
2    timeline required by law to attend the Ethics in Government program.

PROPOSED