

1 **EXHIBIT A**

2  
3 **Guam Administrative Rules and Regulations**

4 **Title 32**

5 **GUAM ETHICS COMMISSION**

6 **Proposed Rules and Regulations Governing the Administration of the**

7 **Guam Ethics Commission Relating to Standards of Conduct**

8 **under 4 GCA Chapter 15**

PROPOSED

1 **Title 32 - Guam Ethics Commission**

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PROPOSED

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

3 **§ 1101. Purpose.**

4         These rules and regulations are intended to carry out and to provide for the  
5 efficient administration of the provisions of Chapter 15 of Title 4, Guam Code  
6 Annotated, relating to Standards of Conduct for Elected Officers, Appointed  
7 Officers, and Employees of the Government of Guam; and to ensure the proper  
8 performance of the Guam Ethics Commission. They shall be liberally construed to  
9 promote the highest standards of ethical conduct within the government of Guam  
10 and to secure the just, swift, and inexpensive determination of every proceeding.

11 **§ 1102. Policy.**

12         The Guam Ethics Commission is an independent and autonomous  
13 Commission within the Government of Guam, whose purpose is to hold officers and  
14 employees accountable to the Ethical standards established in Guam law. The Guam  
15 Ethics Commission shall prescribe a process for receiving complaints, investigating  
16 the facts, conducting hearings, and rendering opinions on whether any violation of  
17 the standard of conduct for officials and employees have been violated. Further the  
18 Guam Ethics Commission shall develop the standards for the Ethics in Government  
19 Program and ensure all employees, as defined in 4 GCA § 15102(d), of the  
20 Government of Guam are complying with the mandate of said training.

21 **§ 1103. Authority to Adopt Rules.**

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

25 **§ 1104. Jurisdiction.**

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

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

8 **§ 1105. Definitions.**

9 (a) *Administrative Hearing* means an administrative hearing, closed to the  
10 public (unless the party complained against requests and open hearing), following  
11 the Commission's determination that Probable Cause exists to believe that a  
12 violation of Governmental Ethics Laws has occurred.

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

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

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

21 (e) *Complaint Form* means the form adopted by the Commission, which  
22 includes a written statement of facts or allegations giving rise to a reasonable  
23 inference that a violation of the standards of conduct by an officer or employee has  
24 occurred, which statement is submitted and signed under oath to the Commission by  
25 a person other than the person whose conduct is in question.

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

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

4 (h) *Advisory Opinion* means a written opinion issued pursuant to 4 GCA §  
5 15401 (a) (2) in response to a request for guidance from an employee or former  
6 employee which is approved by an affirmative vote of no less than five (5) members  
7 of the Commission.

8 (i) *Informal Advisory Opinion* means:

9 (1)

10 the initial written opinion approved by an affirmative vote of no less  
11 than five (5) members of the Commission that is rendered pursuant to 4 GCA  
12 § 15401 (b) after an investigation into alleged violation(s) of the Standards of  
13 Conduct.

14 (j) *Preliminary Review* means an examination of the facts contained within  
15 a complaint for the sole purpose of determining whether the subject of the complaint  
16 is appropriate for investigation by the Commission.(k) *Probable cause* means  
17 evidence sufficient to lead a person of ordinary caution and prudence to believe or  
18 entertain a strong suspicion that a violation of standards of conduct has been  
19 committed and that the Respondent committed or caused the violation.

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

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

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

1 **§ 1106. Disqualification of Commissioners; Bias or Prejudice.**

2 (a) Any interested person, officer or employee of the government of Guam  
3 may file an affidavit that one or more of the commissioners or designee has a  
4 personal bias or prejudice. Such an affidavit may be filed on any matter before the  
5 Commission affecting or involving such person, officer or employee. The  
6 Commissioner or designee against whom the affidavit is filed may answer the  
7 affidavit or may file a disqualifying certificate with the Commission. If the  
8 Commissioner or designee chooses to answer the affidavit, the remaining  
9 commissioners shall decide whether or not that Commissioner or designee should  
10 be disqualified from proceeding therein. Every affidavit shall state the facts and  
11 reasons for the belief that bias or prejudice exists and shall be filed at least ten (10)  
12 working days before the date on which the matter will be considered by the  
13 commission, or good cause shall be shown for the failure to do so.

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

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

22 **§ 1107. Consolidation.**

23 The Commission, upon its own initiation or upon a motion, may consolidate  
24 for hearing or for other purposes or may contemporaneously consider two or more  
25 proceedings which involve substantially the same parties or issues which are the  
26 same or closely related, if it finds that such consolidation or contemporaneous



1 hearing will be conducive to the proper dispatch of its business and will not unduly  
2 delay the proceedings.

3 **§ 1108. Maintenance and Custody of Files and Records.**

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

12 **§ 1109. Authentication of Commission Action.**

13 All decisions, informal and formal advisory opinions, and guidelines of the  
14 Commission shall be signed by the chairperson of the Commission or in accordance  
15 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 Chapter 15 of Title 4, Guam Code Annotated,
- 9 relating to Standards of Conduct for Elected Officers, Appointed Officers, and
- 10 Employees of the Government of Guam.

11 The Chairperson shall be entitled to vote on all matters before the

12 Commission.

13 **§ 1205. Duties of Vice-Chairperson.**

14 The duty of the Vice Chairperson shall be to perform the duties of the

15 Chairperson at his or her request or in case of his or her absence or incapacity.

16 **§ 1206. Ex-Officio Secretary.**

17 The Executive Director may designate an employee of the Commission to

18 carry out the duties as Ex-Officio Secretary under the direction of the Executive

19 Director.

20 **§ 1207. Vacancies.**

21 In the event of a vacancy in the Officers of the Commission, the office shall

22 be filled in the prescribed manner at the next regular meeting. The Commission may

23 include such other officer positions deemed necessary to effectively carry out its

24 responsibilities.

25 **§ 1208. Removal of Officers.**

26 Four (4) affirmative votes of the Commission’s membership shall be required

27 for the removal of the Chairperson or Vice-Chairperson.

1 **§ 1209. Commission Meetings.**

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

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

8 (c) Closed Proceedings. The proceedings of the Commission outside of an  
9 executive session to adjudicate ethics complaints are confidential in nature, unless  
10 otherwise authorized in statute.

11 **§ 1210. Virtual Meetings and Attendance.**

12 Subject to Executive Order or other express statutory authority permitting  
13 virtual meetings, the Commission may convene and conduct virtual meetings  
14 remotely via videoconference or similar technological means and allow Commission  
15 members and the public to participate. Commission members who participate  
16 remotely in Commission meetings and official Commission proceedings shall be  
17 considered present for purposes of a quorum and voting. Votes cast by Commission  
18 members participating remotely shall have the same effect as voting in-person.

19 **§ 1211. Relationship of Commission to Executive Director.**

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

25 **§ 1212. Authority to Hire Legal Counsel.**

26 The Commission may retain one (1) or more attorneys, who shall be admitted to  
27 practice before the courts of Guam, who shall advise the Commission and its

1 Executive Director on all legal matters pertaining to the Commission. The  
2 designated counsel shall represent the Commission in litigation in which the  
3 Commission is interested or involved. The terms, conditions and compensation of  
4 employment of any such attorney shall be determined by the Commission, and the  
5 attorney shall serve at the pleasure of the Commission.

6 **§ 1213. Fiscal Authority: Accounting; Expenditures.**

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

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

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

1 **CHAPTER 3**

2 **REQUESTS FOR ADVISORY OPINIONS**

3 **§ 1301. Purpose.**

4 Pursuant to 4 GCA § 15401 (a) (2), the Commission may provide a  
5 confidential advisory opinion to any employee, as defined in 4 GCA § 15401(d), as  
6 to whether the facts and circumstances of a particular case constitute or would  
7 constitute a violation of Chapter 15 of Title 4, Guam Code Annotated, relating to  
8 Standards of Conduct for Elected Officers, Appointed Officers, and Employees of  
9 the Government of Guam. Nothing in this Chapter shall prevent the Commission  
10 from investigating alleged violations resulting from a refusal to follow guidance.

11 **§ 1302. Form and Content.**

12 Requests for an Advisory Opinion shall be made in writing and describe with  
13 particularity all of the pertinent facts and circumstances, including, without  
14 limitation, the name(s) of the officer(s) or employee(s) involved, if known, and the  
15 nature of the acts or omissions at issue, and any other pertinent information known  
16 to the requestor.

17 **§ 1303. Acknowledgment of Receipt.**

18 The Commission shall acknowledge in writing the receipt of a verbal or  
19 written request for guidance to the person submitting the request for guidance. The  
20 Executive Director shall advise the requester of the confidentiality requirements  
21 relative to the request for guidance.

22 **§ 1304. Issuance of Advisory Opinion.**

23 (a) All Advisory Opinions issued by the Commission pursuant to 4 GCA §  
24 15401 (a) (2) shall be in writing and shall be published in such form and with such  
25 deletions as may be necessary to prevent the disclosure of the identity of the persons  
26 involved unless disclosure is required or allowed under applicable law.

27 (b) Proposed Advisory Opinion submitted by Executive Director.

1           (1) The Executive Director may submit a Proposed Advisory  
2 Opinion for consideration by the Commission. The Commission may order  
3 the Advisory Opinion to be issued upon a vote of 5 or more members of the  
4 Commission. The Executive Director's Proposed Advisory Opinion may be  
5 submitted for consideration by the Commission in the following  
6 circumstances:

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

10           (B) An advisory opinion in the case is likely to set new  
11 precedent;

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

14           (D) There are other unique aspects to the case of which the  
15 Commission should be made aware, including but not limited to that  
16 the request concerns an elected official.

17           (2)

18           (c) Additional Information. Upon receipt of a request for an Advisory  
19 Opinion, the Commission shall render its opinion on the basis of the information,  
20 facts, and circumstances provided to the Commission by the employee or former  
21 employee, or it may conduct an investigation or hold hearings if additional  
22 information is deemed necessary to render an advisory opinion.

23           (d) Within thirty (30) calendar days after a request for guidance has been  
24 submitted to the Commission, or within thirty (30) calendar days after a final hearing  
25 or meeting on a request for guidance shall have been concluded, whichever is later,  
26 the Commission shall render its advisory opinion to the person who has requested  
27 the guidance.

1 **§ 1305. Confidentiality.**

2 Any and all information provided to and obtained by the Commission  
3 regarding the request for guidance shall be confidential. Any Commission member  
4 or any individual, including the individual requesting for guidance, who without  
5 permission of the Commission, divulges confidential information and actions shall  
6 be guilty of a misdemeanor, in accordance with 4 GCA § 15401(c).

7 **§ 1306. Basis for Refusal to Entertain.**

8 The commission may deny a request for an Advisory Opinion in the following  
9 circumstances:

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

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

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

18 (3) the allegations made in the request pertain to actions or  
19 events that occurred three (3) years prior to the date of filing of the  
20 complaint.

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

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

26 (d) The request is without sufficient factual basis;



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

4           (f)     The request consists entirely of one or more material findings of  
5 a Commission opinion, and the Commission has already voted against  
6 initiating an enforcement action based on those findings; or

7           (g)     Other good cause.

PROPOSED

**CHAPTER 4**  
**COMPLAINTS**

**§ 1401. Who May File.**

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

**§ 1402. Filing of Complaints.**

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

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

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

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

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

(4) the Standard of Conduct allegedly violated;

(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 if adopted in writing by the complainant or the  
24 Commission.

25           (f) Complaints should describe the pertinent facts and circumstances,  
26 including, without limitations, the name of each officer or employee involved,

1 if known, and the nature of the acts or omissions at issue and any other  
2 pertinent information known to the complainant.

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

5 **§ 1403. Acknowledgment of Receipt.**

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

9 **§ 1404. Basis for Refusal to Entertain.**

10 The Commission may for good cause refuse to entertain a complaint. Without  
11 limiting the generality of the foregoing, the commission or its Executive Director,  
12 acting on behalf of the Commission, may refuse to entertain a complaint if the  
13 request is:

14 (a) Speculative or purely hypothetical and does not involve an actual  
15 situation;

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

18 (c) Frivolous.

19 **§ 1405. Preliminary Review.**

20 Upon receipt of a complaint that complies with the requirements of Section  
21 §§ 1402 and 1404, the Executive Director shall:

22 (a) Make a recommendation to the Commission as to whether the  
23 subject matter of the complaint is within the jurisdiction of the Commission.

24 (1) If the Executive Director determines that the complaint  
25 may be dismissed because the subject matter of the complaint does not  
26 come within the jurisdiction of the Commission, he or she shall submit  
27 the recommendation to the Commission in a confidential meeting.

1 (b) Make a recommendation to the Commission in a confidential  
2 meeting as to whether the allegations, if taken as true, would constitute a  
3 violation of the standards of conduct.

4 (1)

5 **§ 1406. Confidentiality.**

6 Any and all information provided to and obtained by the Commission  
7 regarding the complaint shall be confidential. Any Commission member or any  
8 individual, including the individual requesting for guidance, who without permission  
9 of the Commission, divulges confidential information and actions shall be guilty of  
10 a misdemeanor.

11 **§ 1407. Preliminary Investigation.**

12 (a) Prior to the Executive Director's recommendations under §§ 1402, 1404  
13 and 1405, the Commission may by a vote of five (5) or more members authorize the  
14 Executive Director to conduct an investigation into the allegations of the complaint.  
15 The primary purpose of the preliminary investigation shall be to determine whether  
16 there is probable cause to believe that a violation of the standards of conduct has  
17 occurred.

18 (b) The Commission shall determine the nature and scope of the preliminary  
19 investigation, including without limitation whether the Executive Director may  
20 conduct interviews or depositions, subpoena, request and review records, or  
21 otherwise to obtain information reasonably related to the nature and scope of the  
22 preliminary investigation from any officer, employee, agency, person or entity.

23 (c) The Commission may by a vote of five (5) or more members authorize  
24 the Executive Director to investigate possible violations of the standards of conduct  
25 that are not stated in the complaint but which are based on information obtained in  
26 the course of the investigation of the complaint.

27 **§ 1408. Probable Cause Determination.**

1           (a)     After conducting a preliminary investigation under § 1407 of this  
2 Chapter, the Executive Director shall make recommendation to the Commission as  
3 to whether there is probable cause of a violation of the standards of conduct.

4           (b)     If the Executive Director concludes that there is not probable cause to  
5 believe that there has been a violation of the standards of conduct, he or she shall  
6 recommend that the Commission dismiss the complaint and request that it notify the  
7 complainant in writing of the dismissal. The written notification shall satisfy the  
8 Commission's obligation to render an advisory opinion in response to a complaint.

9           (c)     If the Executive Director concludes that there is probable cause to  
10 believe that there has been a violation of the standards of conduct, but that the  
11 violation was *de minimis*, he or she may recommend that the Commission dismiss  
12 the complaint and notify the complainant in writing of the determination. The written  
13 notification shall satisfy the Commission's obligation to render an advisory opinion  
14 in response to a complaint.

15           (d)     If the Executive Director concludes that there is probable cause to  
16 believe that there has been a violation of the Standards of Conduct, he or she shall  
17 provide a written recommendation to the Commission containing the basis for his  
18 conclusion.

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

23           (2)     Neither the complainant nor the respondent has a right to appear  
24 or to submit information to the Commission at the probable cause stage,  
25 although the Commission may by a vote of five (5) or more members require  
26 the complainant or respondent to appear or submit information.

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

6 (4) If the Commission determines that probable cause of a violation  
7 of the standards of conduct does exist, it shall issue an Informal Advisory  
8 Opinion to the respondent outlining the notice of alleged violation in  
9 accordance with these rules. A further statement of the alleged violation shall  
10 be personally served upon the alleged violator in accordance with the rules for  
11 personal service found in the Guam Rules of Civil Procedure.

12 (e) The probable cause determination by the Commission shall be held in  
13 a confidential meeting.

14 **§ 1410. Informal Advisory Opinion.**

15 If the Commission determines that probable cause of a violation of the  
16 Standards of Conduct does exist, it shall issue an Informal Advisory Opinion to the  
17 respondent pursuant to 4 GCA § 15401 (b).

18 (a) The Informal Advisory Opinion shall and include:

19 (1) An explicit statement in plain language of the factual  
20 allegations constituting the alleged violation(s) of the standards of  
21 conduct;

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

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

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

4 (5) A copy of the complaint with, if so warranted after  
5 consideration by the Commission, such deletions as may be necessary  
6 to prevent the disclosure of the identity of the complainant and  
7 witnesses.

8 (b) The Informal Advisory Opinion may designate the party alleging  
9 the violation of the standards of conduct as the complainant and the officer or  
10 employee involved as the respondent. Upon a vote of five (5) or more  
11 members, the Commission may decide that the Commission itself or its  
12 Executive Director be the complainant or may be made a co-complainant.

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

17 **§ 1411. Response.**

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

23 (a) Respondent Request for Formal Opinion. If the respondent,  
24 within twenty (20) calendar days after receipt of a notice of alleged violation  
25 via an Informal Advisory Opinion, requests a Formal Advisory Opinion, the  
26 Commission shall issue a notice of administrative hearing, setting forth the



1 date, time, place and nature of the hearing and the legal authority under which  
2 the hearing is to be held.

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

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

8 (b) Compliance with Informal Advisory Opinion. If the respondent,  
9 after receipt of an Informal Advisory Opinion outlining the notice of alleged  
10 violation, agrees to comply with the Informal Advisory Opinion, the  
11 respondent shall have twenty (20) calendar days to comply with the  
12 stipulations provided in the Informal Advisory Opinion.

13 **§ 1412. Formal Advisory Opinion.**

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

18 (a) If the Commission finds that there has been a violation of the  
19 standards of conduct, its Formal Advisory Opinion shall contain a  
20 recommendation to the respondent's appointing authority or the board or  
21 commission, in the case of a board or commission member, of appropriate  
22 disciplinary action, and a copy of the advisory opinion shall be provided to  
23 the respondent's appointing authority or the board or commission, in the case  
24 of a board or commission member.

25 (b) The Commission shall provide copies of its Formal Advisory  
26 Opinion to the complainant, if known, and to the respondent in accordance  
27 with applicable law. The copy of the Formal Advisory Opinion provided to

1 the respondent shall delete information that would disclose the identity of the  
2 complainant and witnesses, unless the complainant and witnesses agree to the  
3 disclosure of their respective identities.

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

7 **§ 1413. Administrative Hearing.**

8 (a) Notice, When Conducted.

9 (1) The respondent may request an administrative hearing, or the  
10 Commission may, upon a vote of no less than five (5) members, order an  
11 administrative hearing. An administrative hearing may be held by the  
12 Commission upon written notice to the parties and participants at least forty-  
13 five (45) calendar days prior to the hearing.

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

17 (b) Procedures.

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

23 (2) All parties may request the Commission to issue subpoenas for  
24 witnesses and require the production of any books, papers, records, or  
25 electronic recordings relative to the proceedings. The Commission or its  
26 Executive Director may administer oaths take testimony, and receive  
27 evidence.

1 (3) The officer, employee, person or entity whose presence is  
2 requested or subpoenaed may be represented by counsel.

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

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

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

9 (B) For each witness to be subpoenaed by the Commission, the  
10 witness' name, along with address, email address and telephone  
11 number, and a summary of the witness' statement; and

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

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

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

20 **§ 1414. Decision and Order.**

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

24 (b) Within thirty (30) days after the final hearing or meeting has been  
25 concluded, the Commission shall render its decision. If the Commission finds that  
26 there has been a violation of the standards of conduct, its decision shall contain a  
27 recommendation to the respondent's appointing authority or the board or

1 commission, in the case of a board or commission member, of appropriate  
2 disciplinary action, and a copy of the decision shall be provided to the respondent's  
3 appointing authority or the board or commission, in the case of a board or  
4 commission member.

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

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

11 **§ 1415. Contested Hearings, When Conducted.**

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

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

18 **§ 1416. Limited Basis for Release of Employee Information.**

19 It shall not be a violation of 4 GCA § 15401(c) for the Commission to disclose  
20 information related to a violation of the ethical standards of conduct to the Office of  
21 the Attorney General or the appointing authority for the employee, or for other good  
22 cause, as determined 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 or before June 30 of each year if all  
7 conditions 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 (a) The Commission shall receive all financial disclosures filed by officials  
12 and employees from the Guam Election Commission (GEC) no later than three (3)  
13 working days after receipt of such forms by the GEC.

14 (b) All officials who have authority to direct how government resources  
15 are spent or used shall file a Disclosure of Conflicts of Interest form with the GEC.  
16 The Commission shall receive all Disclosure of Conflicts of Interest forms filed with  
17 the GEC no later than three (3) working days after receipt of such forms by the GEC.  
18 The requirement to file a Disclosure of Conflicts of Interest form shall be a  
19 continuing duty.

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