

6 GAR-ELECTIONS
CH. 1 CONDUCT OF ELECTIONS

TITLE 6
ELECTIONS
(ELECTION COMMISSION)

COMPILER NOTE: The Guam Election Commission pursuant to its authority granted by 3 GCA §§ 2103 and 2104 amended this entire title. In conformance with the Rule Making Procedures of Article 3, 5 GCA, Chapter 9 (Administrative Adjudication Law), these rules and regulations are effective August 14, 2014.

- Chapter 1. Conduct of Elections.
- Chapter 2. Initiative, Referendum and Legislative Submission.
- Chapter 3. Election Campaign Contributions and Expenditures.
- Chapter 4. Public Official Financial Disclosure.

CHAPTER 1
CONDUCT OF ELECTIONS

- Article. 1. Precinct Board.
- Article. 2. Rules for Election Days, Ballots.
- Article. 3. Absentee Voting.
- Article. 4. Provisional Voting.
- Article. 5. Administrative Complaints.
- Article. 6. Counting Ballots.

ARTICLE 1
PRECINCT BOARD

- § 1101. Precinct Board: Appointment.
- § 1102. Same: Members' Qualifications.
- § 1103. Same: Oath.
- § 1104. Same: Oath of Members.

NOTE: Rule-making authority cited for Election Commission, 3 GCA § 2103.

§ 1101. Precinct Board: Appointment.

At least ninety (90) days before any regular election is to be held, the Commission will solicit from each recognized political party, nominations of voters to serve as precinct board members. Party

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chairpersons should submit nominees for each precinct based on the total number of precinct officials required, including alternates, and then evenly divided among the recognized political parties. Final appointments of precinct workers will be on a master list concurred by members of the Commission. Notification of appointment by individual letters can be mailed or delivered to the chairperson of each of the political parties if requested.

SOURCE: Law governing 3 GCA § 4103.

§ 1102. Same: Members' Qualifications.

The Commission shall determine the qualifications of all precinct officials. Any person who cannot read or write the English language shall be deemed ineligible. Any nominee for an elective office, or a parent, grandparent, spouse, sibling, child, grandchild, or in-law of a candidate is automatically disqualified as a precinct official. In any event the Commission shall appoint any registered voter to take the place of a person being disqualified.

SOURCE: Law governing 3 GCA § 4105.

§ 1103. Same: Oath.

Upon the administration of the oath of office by a duly authorized official of the Commission, the Oath of Office (Form EC-11) shall be completed.

SOURCE: Law governing 3 GCA § 4106.

§ 1104. Same: Oath of Members.

The following oath must be taken by all members of the precinct board in the presence of an officer qualified to administer oaths:

“I do solemnly swear that I am a voter of the district of _____; that I can read and write the English language; that I am not holding, nor am I a nominee for, an elective office; that I am not a parent, grandparent, spouse, sibling, child, grandchild, or in-law of a candidate in the district in which I am being appointed; and that I will support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will faithfully discharge the duties of the office of _____ on the Precinct

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Board for Precinct # _____ in the District of _____ to the best of my ability.”

Any member who fails or refuses to take the Oath of Office shall be disqualified and replaced by the Commission. The Commission shall appoint a substitute and require the new member to take the Oath of Office, a copy of which must be filed with the Election Commission.

SOURCE: Law governing 3 GCA § 4106.

ARTICLE 2
RULES FOR ELECTION DAYS & BALLOTS

- § 1201. Same: Delivery of Ballots, Machines and Supplies.
- § 1202. Polling Places.
- § 1203. Loss or Destruction of Ballots.
- § 1204. Destruction of Facilities or Removal of Materials & Supplies.
- § 1205. Posting Instruction Cards.
- § 1206. Posting Registry Indices.
- § 1207. Times for Opening and Closing Polls.
- § 1208. Liquor Sales at Polling Places Prohibited.
- § 1209. Solicitation of Votes at Polling Places Prohibited.
- § 1210. Roster and Tally List.
- § 1211. Grounds for Challenge.
- § 1212. Delivery of Ballots by Election Officer Only.
- § 1213. Voting in Booth.
- § 1214. Time Allotted in Booth.
- § 1215. Accounting for Ballots.
- § 1216. Written Checklists.
- § 1217. Election Campaign and Campaign Offenses.

§ 1201. Same: Delivery of Ballots, Machines and Supplies.

A Ballot Box/Supply Box and Ballot Transfer Record (Form EC-16) must accompany ballot boxes to each precinct. The Precinct Leader, or in his or her absence, any of the four precinct clerks, shall immediately conduct an inventory of the number of ballots received and compare the total number counted with the number shown on Form EC-16. If for any reason the numbers do not agree, the official shall show the actual count

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received on Form EC-16. The Form EC-16 must be returned to the Commission's voter/ballot clearance officer at the tabulation center.

The Commission shall also prepare a Supply Inventory Sheet (Form EC-12) listing materials delivered to each precinct. The Precinct Leader is designated, or, in his or her absence, any of the four precinct clerks, to receive and sign the receipt for the materials sent by the Commission. A Precinct Official shall conduct an inventory. If for any reason the numbers in Form EC-12 differ from the inventory, the precinct board shall show in the Form EC-12 the actual numbers of supplies received. The Form EC-12 shall be submitted to Election Commission staff at the tabulation center.

SOURCE: Law governing 3 GCA § 7111.

§ 1202. Polling Places.

The Commission has the responsibility of developing a layout for each of the polling places in accordance with 3 GCA § 9103. The preparation of the polling place shall be completed prior to the opening of the polls.

Prior to any election the Commission shall solicit the assistance of the Department of Public Works of the Government of Guam to utilize its labor force for the preparation of the polls. The request from the Commission must be made well in advance so that the Department of Public Works can set its schedule to meet the deadline.

SOURCE: Law governing 3 GCA §§ 9113 and 9114.

§ 1203. Loss or Destruction of Ballots.

The Commission may prepare a form for use by Precinct Officials as an affidavit, in the event that a ballot is lost, damaged or destroyed at the polling place.

SOURCE: Law governing 3 GCA § 7113.

§ 1204. Destruction of Facilities or Removal of Materials and Supplies.

Precinct officials are charged with keeping all materials in order and shall immediately notify the Guam Police Department Officer assigned

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to the precinct of any adverse activity within the polling site. The Commission shall also be immediately notified.

SOURCE: Law governing 3 GCA § 9104.

§ 1205. Posting Instruction Cards.

The Commission shall prepare voter instruction cards and include them in Form EC-12 furnished to each precinct.

SOURCE: Law governing 3 GCA § 9106.

§ 1206. Posting Registry Indices.

Two (2) copies of the index of registration shall be prepared by the Commission, and provided to each precinct, strictly for the use of voters who may want to verify their registration. The indices must be placed where voters approaching the precinct may verify their registration. These indices are not for use by political party poll watchers.

SOURCE: Law governing 3 GCA § 9107.

§ 1207. Time for Opening and Closing Polls.

It is the responsibility of the Precinct Leader to ensure that all precinct board members are present and ready to conduct business when the polls open at seven o'clock a.m. and that they remain throughout until closing of the polls at eight o'clock p.m. on Election Day. It is the duty of the Precinct Leader to ensure that only one official at a time can leave the polling room. The Precinct Leader shall record the exact time the polls opened and closed as well as any changes in the makeup of the precinct board in the Record of Poll Status (Form EC-18), which shall be surrendered to Commission staff at tabulation center.

The Precinct Leader and other officials shall be at the polling place no later than six o'clock a.m. to receive the ballot boxes and other necessary materials and supplies.

SOURCE: Law governing 3 GCA § 9109.

§ 1208. Liquor Sales at Polling Places Prohibited.

The precinct board is charged with enforcing 3 GCA § 9110. Precinct officials shall seek assistance from the Guam Police Department, and shall immediately report any violation to the Commission.

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§ 1209. Solicitation of Votes at Polling Place Prohibited.

Enforcement of 3 GCA § 9112 rests with the Precinct officials and the Guam Police Officer assigned to the precinct. Anyone who has actual knowledge of any person soliciting votes on behalf of any candidate or speaking against any candidate should report the violation to a member of the precinct board. "Polling place" refers to the whole area where voting takes place including entire grounds of schools or other public buildings utilized as a polling place.

SOURCE: Law governing 3 GCA § 9111.

§ 1210. Roster and Tally List.

The Commission shall issue each precinct a roster of all registered voters in that precinct. The roster shall contain the voters' names, dates of birth and mailing addresses.

SOURCE: Law governing 3 GCA § 9116.

§ 1211. Grounds for Challenge.

The precinct board shall address any challenge by a voter for any reason cited in 3 GCA § 9118. The challenge must be duly and fully documented by the precinct board on the Entry of Challenge Form (EC-14) which shall be surrendered to the Commission staff at the tabulation center. The appeal of the voter or the challenger must also be duly and fully documented by the precinct board and reported on the Challenge Rebuttal Form (EC-14A). The precinct board member(s) shall inform the Commission at its headquarters of any challenges recorded before the close of the polls.

Members of the precinct board shall inform the voter and the challenger that he or she may appeal the decision of the precinct board to the GEC board of Commissioners and that the board's decision may then be appealed to the Superior Court of Guam.

SOURCE: Law governing 3 GCA §§ 9118 and 9119.

§ 1212. Delivery of Ballot by Election Officer Only.

Only precinct board member(s) or authorized Election Commission official(s) may handle a marked or unmarked ballot. Anyone other than a precinct board member or authorized Election Commission official

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handling any ballot shall be cause for a challenge of distributing an illegal ballot.

SOURCE: Law governing 3 GCA § 9129.

§ 1213. Voting in Booth.

Immediately following certification, a voter is not permitted to leave the enclosed space until the voter has properly deposited his or her ballot(s) into the ballot box(es).

SOURCE: Law governing 3 GCA § 9131.

§ 1214. Time Allotted in Booth.

Precinct officials are charged with enforcing 3 GCA § 9112 to ensure that voters do not occupy the voting booth for more than five (5) minutes, unless it is a voter who requires assistance as described in 3 GCA § 9136.

SOURCE: Law governing 3 GCA §§ 9130 and 9136.

§ 1215. Accounting for Ballots.

An accurate accounting of all cast, unused, and spoiled ballots must be entered on Ballot Inventory Sheet (Form EC-13) and signed by all precinct officials. The completed Form EC-13 shall be submitted to Election Commission staff at tabulation center. Ballot reconciliation procedures will be covered in detail during precinct official training.

SOURCE: Law governing 3 GCA § 9140; P.L. 31-061.

§ 1216. Written Checklists.

Written Checklists will be utilized during Elections relative to providing instructions to voters; treatment of absentee ballots and voters; treatment of provisional voters; handling of ballots; dealing with challenges; absentee voting and handling of absentee ballots; setting up the polling place; and any other training needs. Checklists will include:

- (a) supplies adequate to perform election day duties;
- (b) standardized procedures to inform voters and handle ballots;
- (c) contact information for all critical personnel to answer questions and make decisions;

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- (d) guide on how to assist disabled voters;
- (e) what constitutes proper voter identification;
- (f) the process for provisional voting;

(g) A specific checklist, including a step-by-step process to close precincts following the conclusion of voting. (Closing procedures in polling places shall not be initiated until after the polling place has ended operations and all voters have departed.)

SOURCE: Law governing P.L. 31-061

§ 1217. Election Campaign and Campaign Offenses.

It is the duty of every voting citizen and precinct official to report any offense as listed in Chapter 8 of 3 GCA. It is the responsibility of precinct officials to document all complaints and ensure the complainant is given ample opportunity to complete the Administrative Complaint (EC-49) Form. The precinct official shall notify the Commission immediately following each filing of an Administrative Complaint. The Commission will take appropriate action by investigating and reporting the infraction to the Attorney General.

SOURCE: Law governing 3 GCA, Chapter 8.

ARTICLE 3
ABSENT VOTING

- § 1301. Absent Voting: Requirements.
- § 1302. Absent Voting: Disposition of Ballot by Commission.
- § 1303. Same: Challenges.

§ 1301. Absent Voting: Requirements.

Processing and execution of absent voting applications and absentee ballots are covered by the Uniformed and Overseas Citizens Absentee Voting Act, the Military and Overseas Voter Empowerment Act and 3 GCA Chapter 10.

§ 1302. Absent Voting: Disposition of Ballot by Commission.

On Election Day the Commission shall deliver, if there are any, absentee ballots and affidavits to the precinct(s) along with the Absentee

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Ballot Transfer Receipt (Form EC-15). The precinct board shall immediately take inventory of all absentee ballots received. Should the name(s) or number of absentee ballots received differ from that shown on Form EC-15, the precinct board shall record the difference on Form EC-15 and immediately notify the Commission. Form EC-15 shall be submitted to Election Commission staff at the tabulation center.

The precinct officials prior to the closing of the polls shall cross check the names of absentee voters listed in Form EC-15 against the signature roster. This ensures that all absentee voters have been properly processed.

SOURCE: Law governing 3 GCA § 10115.

§ 1303. Same: Challenges.

The provisions of 6 GAR § 1211 shall apply in the case of a challenge of a voters absentee ballot.

SOURCE: Law governing 3 GCA §§ 9118 and 10121.

ARTICLE 4
PROVISIONAL VOTING

- § 1401. Provisional Ballot.
- § 1402. Provisional Ballots: General.
- § 1403. Processing Provisional Ballots.
- § 1404. Notice.
- § 1405. Notice of Disposition.
- § 1406. Tabulating Provisional Ballots.
- § 1407. Security of Provisional Ballots.
- § 1408. Provisional Affidavit in Lieu of Registration.

§ 1401. Provisional Ballot.

The Commission will provide provisional ballots to each precinct in accordance with 3 GCA § 14102. The provisional ballot is printed with a different color ink and paper with the words “Official Provisional Ballot” printed across the top.

SOURCE: Law governing 3 GCA § 14102.

§ 1402. Provisional Ballots: General.

(a) Before issuing a provisional ballot the precinct board must make every effort to determine a voter's registration status and correct polling location by:

- (1) Reviewing the list of all registered voters in the precinct;
- (2) Reviewing the list of all registered voters in the polling area; and
- (3) Contacting the Commission at its headquarters to make the final determination of voter registration status and polling location; in the event attempts to contact Election headquarters by precinct officials are unsuccessful, the Precinct Leader must document the times, the names of the precinct officials who made the attempt and the name of the provisional voter in the precinct log. Prior to executing the provisional ballot.

(b) If the voter is registered in another polling location and it is determined by both the precinct official and the voter that the voter will not reach the correct polling location in time to cast a regular ballot before polls close, the precinct official shall offer the voter a provisional ballot.

(c) To assist the precinct boards in determining a voter's registration status and correct polling location, the Commission shall provide each precinct with a:

- (1) List of all registered voters in the precinct;
- (2) List of all registered voters in the polling area;
- (3) Directions to all polling locations; and
- (4) Commission contact information so the provisional voter can ascertain the status of his or her provisional ballot.

(d) Precinct board members shall inform the Commission at its headquarters of all provisional ballots issued before the close of the polls. All provisional ballots issued must be documented in detail in the precinct log which will be submitted to Election Commission staff at the tabulation center.

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SOURCE: Law governing 3 GCA § 14104 (b), (e).

(e) Provisional ballot guidelines will be posted at each polling site and at the Guam Election Commission office. These guidelines will include an explanation of what a voter should do before casting a provisional ballot in order to increase the chances of the provisional vote being counted. An explanation sheet will be provided to provisional voters that defines their status, the criteria used to qualify their ballot, how the provisional voter will be contacted regarding the final disposition of the ballot, and the fact that a provisional voter may appeal the disqualification of their ballot.

SOURCE: Law governing P.L. 31-061.

§ 1403. Processing Provisional Ballots.

(a) If a potential voter wishes to vote but does not appear in the register, and precinct board members have exhausted all efforts to determine the voters registration status and polling location as prescribed in 6 GAR § 1402 (a), the following procedures must be strictly followed:

(1) The precinct leader shall issue the voter a Provisional Ballot Affidavit Envelope to complete. The voter must fill the in required information and sign the affirmation in the presence of the precinct leader.

(2) The precinct leader will write on the Provisional Ballot Affidavit Envelope the reason(s) for issuing that provisional ballot.

(3) The precinct leader shall then provide the voter a ballot with the words “Official Provisional Ballot” printed at the top, along with a Ballot Envelope. The provisional voter is required to sign the receipt of the provisional ballot(s) on the back of the signature roster. When signing receipt for a provisional ballot, the provisional voter must indicate his or her name, date of birth, mailing address, residential address.

(4) After receiving his or her voting instructions the provisional voter may proceed to the voting booth to vote in secret.

(5) The precinct official shall instruct the provisional voter to place his or her completed provisional ballot in the Ballot Envelope provided, seal it, and then insert it in the Provisional Ballot

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Affidavit Envelope and seal it. Precinct officials are prohibited from opening the Provisional Ballot Affidavit Envelope. A precinct official must notify the Commission headquarters after a provisional ballot is completed. The precinct official will put the Provisional Ballot Affidavit Envelope in the supply box until further instructions are received from the Commission.

(6) The precinct official shall provide the provisional voter Commission contact information in the event he or she wishes to ascertain the status of his or her provisional ballot. Provisional ballots are not to be cast into the ballot boxes, unless upon the direction from the Commission headquarters as confirmed by two precinct officials.

(7) At tabulation center precinct officials shall surrender all provisional ballot affidavits along with Provisional Ballot Transfer Receipt (Form EC-15P) to Election Commission staff at the tabulation center.

(b) The disposition of a voter's provisional ballot must be completed and signed by the Executive Director to the Commission within ten (10) days after any election.

SOURCE: Laws governing 3 GCA § 14104 (d), (e), (g), (h), (i), and (j).

§ 1404. Notice.

The Provisional Voter shall be provided notice of the plausible remedies of their provisional ballot by the precinct official.

§ 1405. Notice of Disposition.

The Commission shall after the tenth (10) day after any election notify the provisional voter by mail the disposition of his or her provisional ballot, and, if applicable, the reason the ballot was not counted.

§ 1406. Tabulating Provisional Ballots.

The Commission at any time within ten (10) days after any election count a valid provisional voter's choices for every race for which the voter was eligible to vote. The provisional ballots may be tabulated by hand or by machine.

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§ 1407. Security of Provisional Ballots.

Immediately after any election, the Commission shall, under lock and key, secure all provisional ballots received at tabulation center. Only the Executive Director or designated staff, under the direction of the Executive Director, may open a “provisional ballot box”.

At any time within ten (10) days after an election the Commission may remove provisional ballots from under lock and key and placed in secured storage.

§ 1408. Provisional Ballot Affidavit in Lieu of Registration.

The Commission shall deem as registered those provisional voters who meet all voter registration requirements. The Provisional Ballot Affidavit shall constitute as sufficient registration in the municipality, municipal division, or district in which the provisional voter resides provided that provisions of 3 GCA § 3102 pertaining to citizenship, age and Guam residency requirements are met. The Commission shall preserve Provisional Ballot Affidavits constituting as registration in the same manner as it preserves affidavits of registration.

SOURCE: Laws governing 3 GCA §§ 14105(d) and 3102.

ARTICLE 5
ADMINISTRATIVE COMPLAINTS

- § 1501. Scope.
- § 1502. Definitions.
- § 1503. Who May File.
- § 1504. Form of Complaint.
- § 1505. Place and Time of Filing.
- § 1506. Processing of Complaint.

§ 1501. Scope.

These provisions provide a uniform, nondiscriminatory procedure for resolving any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002 (“HAVA”), including a violation that has occurred, is occurring, or is about to occur. This procedure does not apply to alleged violations of Guam or federal law

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not involving Title III. Any writing received by the Guam Election Commission that does not appear to involve an alleged violation of Title III shall be referred to appropriate persons or agencies for processing.

§ 1502. Definitions.

(a) “Complainant” means the person who files a complaint with the Guam Election Commission under these provisions.

(b) “Person” shall be any individual residing in Guam, at the time the complaint is filed.

(c) “Respondent” means any Guam Election Official or local election official, or any other person or entity, whose action or actions are alleged, in a complaint under these provisions, to have violated, are violating, or are about to violate Title III.

(d) “Title III” means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code § 15481-15485.

§ 1503. Who May File.

Any person who believes that there has been a violation, there is a violation, or a violation is about to occur of any provision of Title III may file a complaint.

§ 1504. Form of Complaint.

(a) Writing and Notarization. As required by HAVA, a complaint shall be in writing and notarized, signed and sworn by the Complainant.

(b) What to file.

(1) The Complainant may use the form prescribed by the Guam Election Commission, which may be downloaded from the Guam Election Commission’s website. Alternatively, the Complainant may use any other writing containing the information solicited by the prescribed form.

(2) The Guam Election Commission shall consult with an advisory committee, appointed for such purpose, on ways to ensure that the complaint procedure is accessible to persons with disabilities.

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§ 1505. Place and Time of Filing.

(a) Where to File. A complaint shall be sent to Guam Election Commission, or delivered in person to the Office of the Guam Election Commission, Suite 200, GCIC Building, 414 W. Soledad Avenue, Hagatna, Guam 96910.

(b) When to File. A complaint shall be filed within 60 days after the occurrence of the actions or events that form the basis for the complaint, or within 90 days after the Complainant becomes aware of the actions or events, whichever is later.

§ 1506. Processing of Complaint.

(a) Consolidation. The Guam Election Commission may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

(b) Notice to Respondents. The Guam Election Commission, at a time which it deems appropriate, but in any case prior to making any determination regarding the complaint, shall notify all Respondents of the allegations made in the complaint. This subsection shall not apply if the Guam Election Commission has reason to believe that notifying a respondent or respondents of the complaint filed might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

(c) Record. The Guam Election Commission shall compile and maintain an official record in connection with each complaint filed pursuant to these provisions. The official shall contain:

- (1) A copy of the complaint, including any amendments;
- (2) A copy of any written submission by the Complainant;
- (3) A copy of any written response by any Respondent or other interested person;
- (4) A written report of any investigation conducted by agents of the Guam Election Commission or of any local election official, who may not be directly involved in the actions or events complained of;

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(5) Copies of all notices and correspondence to or from the Guam Election Commission in connection with the complaint;

(6) Originals or copies of any tangible evidence produced at any hearing conducted under subsection (d) of this section.

(7) The original tape recording produced at any oral hearing conducted under subsection (d) of this section, and a copy of any transcript produced; and

(8) A copy of any final determination.

(d) Hearing. At the request of the Complainant, the Guam Election Commission shall conduct a hearing on the record. This hearing may be oral, at the discretion of the Guam Election Commission, but otherwise it shall be based on:

(1) All writings and tangible evidence listed under record subsection (c).

(2) The hearing shall be conducted no sooner than 10 days and no later than 60 days after the Guam Election Commission receives the complaint.

(3) The Guam Election Commission may designate the Executive Director or any other qualified person to act as the hearing officer.

(e) Final Determination.

(1) The Guam Election Commission's designated hearing officer shall review the record, including the record of any hearing conducted, and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established.

(2) Form of Determination.

(A) If the Guam Election Commission or its designated hearing officer determines that a violation of Title III has occurred, the Guam Election Commission shall provide an appropriate remedy if an appropriate remedy is available. No remedy may involve the awarding of compensatory or punitive monetary damages to a Complainant.

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(B) If the Guam Election Commission or its designated hearing officer determines that violation of Title III has not occurred or that there is insufficient evidence to establish a violation of Title III, the Guam Election Commission shall dismiss the complaint.

(3) The Guam Election Commission or its designated hearing officer shall explain in a written decision the reasons for the determination and for any remedy selected.

(4) Except as specified in subsection (v)(e) of this section, the final determination of the Guam Election Commission shall be issued within 90 days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Guam Election Commission website and made available on request to any interested person. However, publication or other providing of the determination or remedy shall be required if the Guam Election Commission has reason to believe that such mailing, publication or providing might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

(5) If the Guam Election Commission cannot make or has not made a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under subsection (e) below (Alternate Dispute Resolution). The record compiled under subsection (c) of this section shall be made available for use under subsection (e).

(f) Alternate Dispute Resolution.

(1) If, for any reason, the Guam Election Commission or its designated hearing officer does not render a final determination within 90 days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this subsection.

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(2) On or before the fifth (5th) business day after a final Guam Election Commission determination was due, the Guam Election Commission shall designate in writing a Hearing Officer who shall be a neutral party not associated with the Complainant or any respondent.

(3) The Hearing Officer may review the record compiled in connection with the complaint, but need not receive additional testimony or evidence. The Hearing Officer may request that the parties present additional briefs, memoranda, or oral testimony.

(4) The Hearing Officer shall determine the appropriate resolution of the complaint. No resolution may involve the awarding of compensatory or punitive monetary damages to a Complainant.

(5) The Hearing Officer must issue a written resolution within 60 days after the final Guam Election Commission determination was due. This 60-day period may not be extended without the express consent of the Complainant. The final resolution shall be transmitted the Hearing Officer to the Guam Election Commission and shall be the final resolution of the complaint. The final resolution shall be mailed by the Guam Election Commission to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall also be published on the Guam Election Commission website and made available on request to any interested person. However, no mailing, publication or other providing of the determination or remedy shall be required if the Guam Election Commission has reason to believe that such mailing, publication or providing might compromise a criminal investigation or prosecution or other enforcement action by any local, state or federal agency.

COMMENT: Subsection (e)(4) contains a reference to “subsection (v)(e) of this section”; however, the reference appears to be in error, as this section does not have a subsection (v).

ARTICLE 6
COUNTING BALLOTS

§ 1601. Opening Boxes and Counting Ballots.

§ 1602. Ballots Exceeding Number of Signatures on Roster.

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- § 1603. Signing Roster.
- § 1604. Ballot Not Rejected for Technical Error.
- § 1605. Write-in Votes.
- § 1606. Same: Incomplete or Ambiguous Precinct Forms.

§ 1601. Opening Boxes and Counting Ballots.

At the tabulation center the precinct board shall immediately begin conducting an inventory and record the counts of cast, unused and spoiled ballots on the Form EC-13. Form EC-13 shall be signed by all members of the precinct board.

§ 1602. Ballots Exceeding Number of Signatures on Roster.

If it is necessary for ballots to be extracted from the cast ballots and destroyed, an account of this act, including the number of ballots destroyed, and the precinct officials giving authorization, should be written on the last page of the roster and also on Form EC-13 and submitted to Election Commission staff at tabulation center.

SOURCE: Law governing 3 GCA § 11104.

§ 1603. Signing Roster.

At tabulation center the precinct board shall indicate on the last page of the roster:

- (1) The number of voters.
- (2) The following wording:
“We the undersigned precinct officials hereby certify that _____ (number of voters) appeared before us this _____ day of _____, 20____, and each did cast a ballot as is their right.”
- (3) The five (5) precinct officials on duty shall place their signatures after the statement.

SOURCE: Law governing 3 GCA § 11105.

§ 1604. Ballot Not Rejected for Technical Error.

The Election Commission will provide marked “sample ballots”, of ways it anticipates voters might mark a ballot. If a voter’s ballot is

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marked differently and rejected by the tabulator, the tally crew must hand the ballot to the Commission Resolution Committee for final determination and validity. If questions as to validity arise in regard to a ballot the Commission Resolution Committee may refer to the file of these samples.

SOURCE: Law governing 3 GCA § 11113.

§ 1605. Write-in Votes.

Persons authorized by the Election Commission to manually count rejected ballots shall count a write-in vote as valid only when the voting oval or other defined space provided adjacent to a write-in candidate's name is marked. Failure to mark the oval or other defined space renders the vote invalid.

SOURCE: Law governing 3 GCA § 11115.

§ 1606. Incomplete or Ambiguous Precinct Forms.

Precinct board members are prohibited from leaving the clearance section of the tabulation center until all forms and inventories are completed. In the event a problem arises after precinct officials have departed from the tabulation center, they may be subpoenaed and required to appear before the Commission.

SOURCE: Law governing 3 GCA § 11125.