

CHAPTER 3
ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES
(PUBLIC LAW 14-23)

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NOTE: Rule-making authority cited by the Commissioner, Commission on Election for the formulation of the following regulations 3 GCA §2104. These Rules and Regulations were filed with the Executive Secretary on May 7, 1986.

§3100. Purpose And Scope Of Rules. Purpose. It is the purpose of these rules to implement Chapter 19 of Title 3 GCA, as amended, cited as the *Election Campaign Contributions and Expenditures*.

(2) **Who must register and file.** Any political candidate, committee, or party which raises contributions, or other things of value, or which expends funds or anything of value for campaign or political purposes shall register with the Guam Election Commission and file all subsequent reports. (3 GCA §19101, as amended.)

§3101. Procedures For Registering And Filing. (1) Registering and Filing. In addition to the instructions accompanying reporting forms which are attached as appendixes to these rules, reports required to be filed under Rule 1.10 shall be governed by the following:

(a) When to Register:

(1) Each candidate, committee, and political party shall file an organizational report no later than the earliest of the following applicable days:

(i) On or before the day for filing for nomination or election;

(ii) By the tenth (10th) day after receiving any contributions or expending campaign funds of One Hundred Thousand Dollars (\$100,000) for the next election.

(2) All other organizations not meeting the above criteria and who have received political contributions or made political expenditures must register no later than the twentieth (20th) day

after the registration deadline for a candidate. (3 GCA §19104 and §19114, as amended.)

(b) **When to File Reports: Primary.** All candidates, committees, or organizations participating in the Primary Election must file the following reports:

(1) The Preliminary Primary Report is due no later than the tenth (10th) day prior to the Primary Election. The accounting reported must be current through the fifteenth (15th) calendar day prior to that election.

(2) The Final Primary Report is due ten (10) days after the Primary Election. Organizations not participating in the General Election need not file again with the Guam Election Commission unless a surplus or a deficit exists in their accounting.

(3) The Subsequent Primary Report is due sixty (60) days after the Primary Election. There are two (2) types of Subsequent Reports:

(i) **Surplus Subsequent Report.** Organizations with surplus contributions must file a Subsequent Report sixty (60) days after the Primary Election and every six (6) months thereafter until he becomes a candidate again or disposes the surplus in accordance with this Chapter.

(ii) **Deficit Subsequent Report.** Organizations with a deficit account must file a Subsequent Report sixty (60) days after the Primary Election and submit subsequent reports every three (3) months until the deficit is eliminated. (3 GCA §19113 and §19115, as amended.)

General. All candidates, committees, or organizations participating in the General Election must file the following reports:

(1) The Preliminary General Report is due no later than the tenth (10) day prior to the General Election. The accounting reported must be current through the fifteenth (15) calendar day prior to that election.

(2) The Final General Report is due twenty (20) days after the General Election. Organizations who show a surplus or deficit accounting in their

Final General Report must submit Subsequent General Reports to the Guam Election Commission.

(3) The Subsequent General Report is due sixty (60) days after the General Election. There are two (2) types of Subsequent Reports:

(i) **Surplus Subsequent Report.**

Organizations with surplus contributions must file a Subsequent Report sixty (60) days after the General Election and every six (6) months thereafter until he becomes a candidate again or disposes the surplus in accordance with this Chapter.

(ii) **Deficit Subsequent Report.**

Organizations with a deficit account must file a Subsequent Report sixty (60) days after the General Election and submit subsequent reports every three (3) months until the deficit is eliminated. (3 GCA §19113 and §19115, as amended.)

(c) **Where to Register/File.** Organizations must register/file with the Guam Election Commission, 3rd Floor, Suite 301, GCIC Building in Agana, Guam. (3 GCA §19102, as amended.)

(d) **Verification.** Reports required to be filed as Contributions and Expenditures shall be verified by oath or affirmation by the official of the committee or political party, or candidate, as prescribed by the forms attached as appendixes to these rules. (3 GCA §19103, as amended.)

Copies of reports shall be furnished to the public, subject to the payment of Twenty Five Cents (25¢) for the first page of a report, and Fifteen Cents (15¢) for each additional page of said report. (3 GCA §19102(d), as amended.)

§3102. Procedures For Campaign Contributions and Expenditures. (1) **What is a contribution.** Gifts, subscriptions, loans, advances, deposits of money or anything of value, or cancellation of a debt or legal obligation, or payment or compensation for personal services which are rendered without charge or at an unreasonably low charge (not including volunteer campaign services), or a contract, promise, or agreement to make a contribution for the purposes of influencing a

candidate, committee, or political party's campaign. (3 GCA §19101(f), as amended.)

(2) **Who can contribute.** Any individual, partnership, corporation, committee, association, organization, or political party may make contributions, provided that they are U.S. citizens, permanent residents, or if not an individual that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States. (3 GCA §19101(k), as amended and 2 USC 441e.)

It is unlawful for any bank or labor organization, whether or not to do business on Guam, to make a contribution or expenditure in connection with any election to any public office. (3 GCA §19111(b), as amended.)

(3) What are the limitations on contributions.

(a) **What is the limit amount of contributions.** No individual, partnership, corporation, committee, association, organization, or political party shall make aggregate contributions in excess of One Thousand Dollars (\$1,000.00) for any one candidate per each election. (3 GCA §19111(b), as amended.)

A corporation, whether or not authorized to do business on Guam, may purchase no more than Five Hundred Dollars (\$500.00) worth of tickets for each fundraising function provided it does not exceed One Thousand Dollars (\$1,000.00) in aggregate contributions per candidate per election. (3 GCA §19111(b), as amended.)

(b) What anonymous contributions are allowed.

(1) Aggregate contributions less than Two Hundred Fifty Dollars (\$250.00) when obtained through multiple contributions made by ten (10) or more persons at the same event are allowed.

(2) No individual, partnership, corporation, committee, association, organization, or political party shall make a contribution of his own money or property or money of another person of more than One Hundred Dollars (\$100.00) to any candidate, committee, or political party in connection with a nomination for election, or election, anonymously.

(3) No candidate, committee, or political party shall knowingly receive, accept, or retain the contribution or enter or cause the same to be entered in its accounts as an anonymous contribution or in another name than that of another person by whom it was actually furnished. (3 GCA §19109(b) and (c), §19110, as amended.)

Any anonymous contributions received by a candidate, committee, or political party and not allowed by these rules shall be returned to the donor or shall escheat to the territory.

(c) **When can contributions be transferred.** A candidate, campaign treasurer, or committee cannot transfer money or anything else of value to another organization. However, a candidate, campaign treasurer, or committee may contribute up to two (2) tickets for each fundraising affair held by another candidate, committee, or political party.

Political parties and/or joint expenditures by two (2) or more candidates are allowed to transfer funds provided that the transfer is in accordance with percentage allocation agreed by all the candidates involved within the political party.

(4) **What is an expenditure.** Purchases, transfers of money or anything of value, promises or agreements to purchase or transfer money or anything of value, payments incurred or made, consumption of any nonmonetary contribution, or the payment by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for the purpose of influencing a candidate, committee, or political party's campaign. (3 GCA §19101(h), as amended.)

(5) **Who can make expenditures.** No funds shall be withdrawn, paid, or incurred from a campaign depository except on the written authorization of the campaign treasurer. Each candidate or campaign treasurer must approve all nonmonetary expenditures on behalf of the organization. (3 GCA §19112(b), as amended.)

§3103. Dissolution Of Organizations. (1) **What is a dissolution.** All candidates who withdraw or cease to be candidates, or committees directly associated with these candidates, or persons who receive contributions but fail to

file for nomination, or committees or parties which discontinue their activities covered in these rules. (3 GCA §19116(a), as amended.)

(2) **When to dispose after dissolution.** All candidates, committees, or political parties who fall under the criteria as set forth in §3103(1) shall register and dispose their organizational residual contribution by the twentieth (20th) day after the registration deadline of a candidate or issue, or twenty (20) days after the organization cease its activities as prescribed in this Chapter. (3 GCA §19116(b), as amended.)

(3) **How to dispose.** All candidates, committees, or political parties shall return any residual contributions to the political party of the person or candidate or to the campaign committee of a person of the same party who is a candidate for the same office as the person who has ceased to receive contributions or to be a candidate. (3 GCA §19116(a) and (b), as amended.)

Any organization not affiliated with the political party shall escheat any residual contribution to the territory of Guam.

Each candidate or committee official shall file their disposition with the Guam Election Commission. The report used shall be the same as the form needed to register. This report shall be a detailed accounting of all funds expended and returned.

§3104. Contents Of Report. (1) **Forms.** Pursuant to 3 GCA Chapter 19, and the Administrative Adjudication Law, the Organizational Report and Campaign Contributions and Expenditures Report forms, and accompanying instructions thereto, are herein incorporated as Appendix I and II, respectively, to these rules and regulations. Said appendixes, not in conflict or inconsistent with Public Law 18-30, shall govern the contents of reports filed pursuant to the Election Campaign Contributions and Expenditures Chapter. (3 GCA §19102, as amended.) [5.00]

§3105. Penalties. (1) **Knowing or willful filing of a false report: Punishment.** Any person willfully violating any provision in this Chapter shall be punishable in the manner prescribed as follows:

- (a) If a natural person, he shall be guilty of a misdemeanor and shall be subject to the penalties specified therefor; or

(b) If a corporation, organization, or association, it shall be punishable by a fine not exceeding One Thousand Dollars (\$1,000.00); and

(c) Whenever a corporation, organization, or association violates this Chapter, the violations shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, or association, who have knowingly authorized, ordered, or done any of the acts constituting the violation. (3 GCA §19119, as amended.)

(2) **Investigatory Powers.** To permit the Guam Election Commission to make a determination as required by Section 19118 of Public Law 18-30, relative to the Complaints and Investigations, the Guam Election Commission shall have powers to investigate information contained in reports filed with this office.

(3) **Reporting of Violations.** The Guam Election Commission shall report to the Attorney General any person who has failed to file a report, or who in the professional judgment of the Guam Election Commission has knowingly or willfully filed a false report. This section shall not be construed to permit prosecution of a person who has unintentionally filed an erroneous report, which report shall be subject to correction. (3 GCA §19118 and §19120, as amended.)

(4) **Prosecuting.** Prosecuting for violation(s) for any provision in this Chapter shall not be commenced after one (1) year has elapsed from the date of the violation or date of filing the report covering the period in which the violation occurred, whichever is later. (3 GCA §19120, as amended.)

§3106. Complaints, Investigation And Rule Amendments. (1) **Correction of Report.** Correction of information contained in a report filed pursuant to the Election Campaign Contributions and Expenditures Chapter may be made at any time upon the findings by the Guam Election Commission that the correction is not the product of a knowing or willful misrepresentation or omission made in a prior report. (3 GCA §19102 and §19118(f), as amended.)

(2) **Appeal of Findings.** The appeal of any finding made by the Guam Election Commission relative to the filing of a report may be made by an interested party. The complaint shall be in writing and shall be signed under oath by the complainant. (3 GCA §19118, as amended.)

(3) **Investigation.** The Guam Election Commission may conduct investigations on the alleged violation and may subpoena any persons, documents, or relevant materials pertaining to the case. (3 GCA §19118(b), as amended.)

(4) **Informal Hearing.** Upon receipt of a formal complaint, the Guam Election Commission shall give notice to the person(s) cited in the alleged violation of its receipt of the complaint and a copy of the complaint. All interested party(s) shall be granted an information within fifteen (15) days from receipt of the complaint, on any matter relevant to the filing of the report. Until the determination of probable cause by the Guam Election Commission, all proceedings, including the filing of the complaint, investigation, and hearing shall be confidential unless the person complained of requests an open session. (3 GCA §19118(b) and (d), as amended.)

(5) **Formal Hearing.** Should the informal hearing, prescribed in §3106(4), not resolve a matter, a formal hearing shall be granted within twenty (20) days of the informal hearing. Any person who appears before the Guam Election Commission shall have all of the rights, privileges, and responsibilities of a witness appearing before the courts of the territory. (3 GCA §19118(1), as amended.)

The Guam Election Commission shall cause a record to be made of all proceedings pursuant to this Subsection. At the conclusion of proceedings concerning an alleged violation or upon receiving a report from its investigating officer, the Guam Election Commission shall immediately begin deliberations and then proceed to determine by majority of vote of the members whether probable cause exists that a violation has been committed. (3 GCA §19118(c), as amended.)

In the event the Guam Election Commission shall determine that probable cause does not exist, then the complaint shall be dismissed and the entire records of the proceedings shall be kept confidential at the option of the person complained of. The Guam Election Commission shall give written notice to the person complained of and to the complainant as to whether probable cause of a violation exists or whether the complaint has been dismissed. (3 GCA §19118(d), as amended.)

In the event a determination is made that probable cause of an unintentional violation exists, the Guam

Election Commission shall issue a confidential order that may require the violator to: 1) Temporarily cease and desist violation of this Chapter; or 2) File any report, statement, or other information as required by this Chapter. (3 GCA §19118(f), as amended.)

(6) **Advisory Opinion.** Any interested person may request for an advisory opinion regarding the compliance with the requirements of this Chapter. Said request shall be in writing.

(7) **Petition for Adoption of Rules.** Any interested person may petition the Guam Election Commission requesting the promulgation, amendment, or repeal of any rule. Said petition shall be in writing and shall fully state the reasons and factual basis for such a request.

(8) **Public Hearing.** In the event a petition made pursuant to Rule 7.30 is granted, a public hearing on the matter shall be granted with thirty (30) days of receipt of such petition as provided by Administrative Adjudication Law (5 GCA Chapter 9, Article 3).

SPECIFIC INSTRUCTIONS

ORGANIZATIONAL REPORT AND CAMPAIGN

CONTRIBUTIONS AND EXPENDITURES REPORT

(1) **Name Of Candidate, Committee, Or Party.** The name of the candidate or the official name of the committee, political party, or association should be indicated here. (3 GCA §19105, as amended.)

(a) A Candidate is an individual who seeks nomination for election or election into office by filing his nomination papers or consents to have a declaration of nomination for office held on his behalf; receives contributions in an amount of more than One Hundred Dollars (\$100.00) or incurs any expenditures to bring about his nomination for election, or election, to office; or gives his consent for any other person to receive contributions or makes expenditures to aid his nomination for election, or election, to office. (3 GCA §19101(c), as amended.)

(b) A committee is any individual, partnership corporation, association, or organization who accepts contributions or makes an expenditure for or against any individual or candidate or group of candidates. (3 GCA §19101(e), as amended.)

A committee may also be any individual(s), partnership, corporation, association, or organization who accepts a contribution or makes an expenditure for or against any question or issue which is to appear on the ballot at the next applicable election. (3 GCA §19101(e), as amended.)

(c) A political party is a party who has filed with the Guam Election Commission under such uniform regulations as required by Title 3 GCA.

(2) **Treasurers** Each organization shall appoint one (1) official campaign treasurer and may appoint up to five (5) deputy campaign treasurers. Each treasurer shall be authorized to receive contributions or make expenditures on behalf of the candidate, committee, or political party. A

candidate may appoint himself as campaign treasurer (3 GCA §19105(a)(2) and §19106, as amended.)

Each campaign treasurer shall be authorized to receive contributions or make expenditures on behalf of the candidate, committee, or political party appointing him. All transactions received or expended must be accounted for, recorded, and prepared in the report format as required by the Guam Election Commission. (3 GCA §19106(c), as amended.)

(3) **Chairpersons.** The chairperson and the deputy chairperson serves as the two (2) highest ranking officials of the organization.

(4) **Financial Institutions.** Each organization shall keep a comprehensive record of all financial institutions it does business with. A detailed accounting of all transactions, safety deposit boxes, deposits, loans, and all applicable account numbers shall be kept and reported to the Commission. (3 GCA §19107, as amended.)

All monetary contributions shall be promptly deposited in a financial depository duly authorized to do business in the territory, such as a bank, savings and loan institution, industrial loan company, or similar financial institution, in the name of the candidate, committee, or political party, whichever is applicable. (3 GCA §19105(a)(4) and §19107(a), as amended.)

(5) **Contributions.** Means a gift, subscription, loan, advance, deposit of money or anything of value, or cancellation of a debt or legal obligation, or payment or compensation for personal services which are rendered without charge or at an unreasonably low charge (not including volunteer campaign services), or a contract, promise, or agreement to make a contribution for the purposes of influencing a candidate's campaign or an issue's outcome. (3 GCA §19101(f), as amended.)

(a) **Cash Contributions.** All monetary contributions shall be promptly deposited in a financial institution. Every organization shall establish an itemized record showing the names, addresses and dates of each individual who donates a cumulative amount of One Hundred Dollars (\$100.00) or more. No

organization shall accept Two Hundred Fifty Dollars (\$250.00) in cash without issuing a receipt and keeping a record of the transaction. (3 GCA §19107 (a), (b) and (d), as amended.)

Each organization shall report the names, dates and addresses of each individual who has donated cumulative amount of at least One Hundred Dollars (\$100.00) or more to the campaign. (Do not include multi-candidate contributions in this section). (3 GCA §19107(b), as amended.)

(b) **Aggregate Contributions.** Every organization shall report fundraising activities, the ticket at cost for which is not more than Twenty-five Dollars (\$25.00) per person or ticket. Each such aggregate contribution shall be reported by the cash amount received, description of the means (i.e., birthday, rallies, etc.), method (i.e., cost of one ticket, etc.), place and date. (3 GCA §19107(b), as amended.)

(c) **Other Cash Contributions.** All monetary contributions received and not reported in the aforementioned categories shall be reported in this section. Each such contribution shall be reported by the cash amount received, description of the means (i.e., birthday, rallies, etc.), method (i.e., cost of one ticket, etc.), place and date. (3 GCA §19107(b), as amended.)

(d) **Non-monetary Contributions.** All gifts, subscription, cancellation of debt, contract, promise or agreement to make a contribution other than cash, or the payment by any person other than the candidate or committee or compensation for the person, personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge other than volunteer campaign services. (3 GCA §19101(f) and §19107(b), as amended.)

All nonmonetary contributions shall be reported based on fair-market value of the contribution exceeding One Hundred Dollars (\$100.00) with the name and address of the donor, nature of contribution and date. (3 GCA §19107(b) and (c), as amended.)

(e) **Earmarked Contributions.** All cash or nonmonetary contributions received by the organization on the condition that the funds be contributed to only certain candidates, issues, or questions. (3 GCA §19107(f), as amended.)

All earmarked contributions shall be reported by the total amount earmarked, the ultimate receipt of earmarked funds, the name and address of the donor, the description of the contribution, date and name(s) of sharing candidates, issues, or questions. (3 GCA §19107(e), as amended.)

(6) **Expenditures.** Means any purchase, transfer of money or anything of value, promise or agreement to purchase or transfer money or anything of value, payment incurred or made, consumption of any nonmonetary contribution, or the payment by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for the purpose of influencing a candidate, committee, or political party's campaign. (3 GCA §19101 (h), as amended.)

(a) **Funds Expended.** Every organization shall record all cash transactions spent in aid of their campaign. The record shall be an itemized accounting of the cash amount spent, name and address of the payee, the purpose for the expenditure and the date of the expenditure. (3 GCA §19112(a), as amended.)

(b) **Incurred Expenditures.** Every organization shall make a detailed accounting of all promises or agreements to purchase. The current balance of all monetary liabilities (current and long term) shall be recorded in this section. (3 GCA §19113(c) and §19115(a)(3), as amended.)

(c) **Non-monetary Expenditures.** All gifts, consumption of non-monetary contribution, promise or agreement to make an expenditure other than cash, or the payment by any person other than the candidate or committee or compensation for the person, personal services of another person which are rendered to the candidate or committee without charge other than volunteer campaign services. (3 GCA §19101(h)(1), as amended.)

(d) **Earmarked Expenditures.** All cash or nonmonetary expenditures made by the organization on the condition that the funds be expended to only certain candidates, issues, or questions. (3 GCA §19107(f), as amended.)

All earmarked expenditures shall be reported by the total amount earmarked, the ultimate receipt of earmarked funds, the name and address of the donor, the description of the contribution, date and name(s) of sharing candidates, issues or questions. (3 GCA §19107(e), as amended.)
