

4 GCA PUBLIC OFFICERS AND EMPLOYEES
CH. 2 APPOINTMENTS TO OFFICE

CHAPTER 2
APPOINTMENTS TO OFFICE

2025 NOTE: Pursuant to 5 GCA § 1510, *I Maga'hågan/Maga'låhen Guåhan* means the “Governor of Guam” and *I Maga'håga/Maga'låhi* means the “Governor.” Pursuant to 2 GCA § 1101, *I Liheslatura/Liheslaturan Guåhan* means the “Legislature”/“Guam Legislature.”

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§ 2101. Appointments to Fill Vacancies.

Whenever a vacancy occurs in any office and there is no other provision of law for the filling of such vacancy, *I Maga'håga/Maga'låhi* shall appoint some qualified person to fill such office.

SOURCE: GC § 3100.

2025 NOTE: Reference to the “Governor” replaced with *I Maga'håga/Maga'låhi* pursuant to 5 GCA § 1510.

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§ 2102. Same: Where Term is Fixed by Law.

Whenever a vacancy occurs in any office the term of which is fixed by law, such vacancy shall be filled as provided by law for the balance of the unexpired term thereof.

SOURCE: GC § 3101.

§ 2103. Same: Where Consent of *I Liheslatura* Required.

Whenever an appointment by *I Maga'hāga/Maga'lāhi* requires the consent of *I Liheslatura*, *I Maga'hāga/Maga'lāhi* shall submit such appointment to *I Liheslatura* within ten (10) days of making the appointment. If such *Liheslatura* has adjourned sine die, then the appointment shall be submitted to the first meeting of the next *Liheslatura* within ten (10) days after the commencement thereof. Whenever *I Liheslatura* has adjourned sine die without having confirmed or rejected an appointment, such appointment shall thereupon automatically terminate. Any appointment not submitted to *I Liheslatura* in accordance with this Section shall automatically terminate as of the end of the last day available for submission. Any office to which appointment requires legislative consent which becomes vacant shall remain vacant until *I Liheslatura* consents to the appointment; provided, however, that the confirmation of an Acting appointee shall automatically include approval of retroactive pay to the date of his acting appointment. As to positions requiring legislative appointment, no appointment or acting appointment to fill a position which is vacant is effective until the appointment or acting appointment is transmitted to the Speaker of *I Liheslatura*.

SOURCE: GC § 3102, amended by P.L. 11-098:1 (Oct. 27, 1971). Amended by P.L. 22-108:1 (Apr. 1, 1994).

2025 NOTE: References to the “Governor” replaced with *I Maga'hāga/Maga'lāhi* pursuant to 5 GCA § 1510. References to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 2103.1. Persons Denied Confirmation; Acting Capacity.

No funds appropriated by the law may be expended to pay salary and personnel benefits or to pay someone on contract who serves in an acting capacity in a position to which he or she was appointed by *I Maga'hāga/Maga'lāhi* and subsequently denied confirmation by *I Liheslatura* for any period of time following the denial of confirmation.

SOURCE: Added as uncodified law by P.L. 18-009:7 (July 23, 1985). Codified by Compiler.

2025 NOTE: Reference to the “Governor” replaced with *I Maga'hāga/Maga'lāhi* pursuant to 5 GCA § 1510. Reference to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 2103.2. Same: Contracts and Unclassified Positions.

[Repealed.]

SOURCE: Added as uncodified law by P.L. 18-009:8 (July 23, 1985). Codified by the Compiler. Repealed by P.L. 22-108:15 (Apr. 1, 1994).

§ 2103.3. Excessive Duration of Vacancies. Appointment by Speaker.

If a vacancy on any board or commission, which is to be filled by appointment of *I Maga'hāga/Maga'lāhi*, occurs for longer than ninety (90) days without transmittal to *I Liheslatura* of documents indicating *I Maga'hāga/Maga'lāhi*'s choice to fill the vacancy, then the Speaker of *I Liheslatura* shall appoint someone to fill the vacancy, with the advice and consent of *I Liheslatura*, by transmitting the documents indicating the appointment to the Legislative Secretary and to *I Maga'hāga/Maga'lāhi*. Any appointment to fill a vacancy which is made by the Speaker pursuant to this Section shall not become void due to a later appointment by *I Maga'hāga/Maga'lāhi* to fill the same vacancy. If any portion or application of this Section is held invalid with respect to any board or commission, such portion or application that remains valid for any other board or commission shall remain in effect. This Section shall apply to any

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vacancy existent on the effective date of this Section which has occurred for longer than ninety (90) days either before or after the effective date of this Section.

SOURCE: Added by P.L. 19-011:11 (Nov. 27, 1987).

2025 NOTE: References to the “Governor” replaced with *I Maga’håga/Maga’låhi* pursuant to 5 GCA § 1510. References to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 2103.4. Definitions.

As used in this chapter, the following terms have the following meanings:

(a) “Appointing authority” means either *I Maga’hågan/Maga’låhen Guåhan* or any other board, commission or duly authorized public entity or individual charged with the duty to appoint an approved official or an approved board official.

(b) “Appointed official” means any official who is appointed by *I Maga’håga/Maga’låhi*.

(c) “Approved official” means an official who is appointed by *I Maga’håga/Maga’låhi* with the advice and consent of *I Liheslatura*.

(d) “Appointed position” means any position which is filled by appointment by *I Maga’håga/Maga’låhi*.

(e) “Approved position” means a position which is filled by *I Maga’håga/Maga’låhi* with the advice and consent of *I Liheslatura*.

(f) “Appointed board official” means any official who is appointed by any board or commission of the government of Guam.

(g) “Approved board official” means an official who is appointed by any board or commission with the advice and consent of *I Liheslatura*.

(h) “Official” means a member of a board or commission of the government of Guam, or an officer or employee of the government of Guam.

(i) “Undated courtesy resignations” means the practice of requiring or submitting undated resignations to be accepted at a later date by the appointing authority.

(j) “Legislative day” means a day during which *I Liheslatura* is in actual session, and during which it engages or may engage in debate. Excluded are sessions in which *I Liheslatura* convenes solely for ceremonial purposes for state funerals or addresses by *I Maga’håga/Maga’låhi*, Chief Justice, or Guam Delegate. In computing the period “ninety (90) days plus three (3) legislative days” or any similar terminology using a different number of days, the term “plus ___ Legislative days” shall be deemed to refer to legislative days which occur following the expiration of the ninety (90) day or other initial period.

(k) “Acting appointment” means the filling of a position by a person who has not been appointed to fill the position on a permanent basis, or, in the case of positions requiring the advice and consent of *I Liheslatura*, the situation where a person is filling the position in an acting capacity whose nomination to fill the position permanently has been received by *I Liheslatura*, but has not been confirmed to the position by *I Liheslatura*. Acting appointments include so-called “holdover” positions on boards and agencies, such as when the enabling legislation provides that an appointee shall serve until his or her successor is appointed. In construing the time limits in this Chapter, all time as an acting appointee shall be included together, even if such acting time was spent in an acting position pursuant to different appointments or as a “holdover.” *I Maga’hågan/Maga’låhen Guåhan* shall

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inform the Speaker of *I Liheslaturan Guåhan*, in writing, of any acting appointments upon appointment.

(l) “Acting capacity” means the serving of a person in a position in an acting capacity or pursuant to an acting appointment.

(m) “Salaried position” means any position receiving a salary, but not including members of boards and commissions receiving a stipend for each meeting attended.

(n) “Ninety (90) days” - in computing the ninety (90) day time limit imposed in this Chapter, the term ninety (90) days shall mean ninety (90) calendar days from the date of the initial acting appointment.

SOURCE: Added by P.L. 22-108:2 (Apr. 1, 1994). Subsections (k) and (l) amended by P.L. 27-106:VI:28 (Sept. 30, 2004); and P.L. 28-068:IV:83-84 (Sept. 30, 2005). Subsection (n) amended by P.L. 35-008:2 (April 5, 2019).

2025 NOTE: References to the “Governor of Guam” replaced with *I Maga'hågan/Maga'låhen Guåhan* pursuant to 5 GCA § 1510. References to the “Governor” replaced with *I Maga'håga/Maga'låhi* and pursuant to 5 GCA § 1510. References to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

2015 NOTE: Pursuant to an amendment to § 22A(b)(2) of the Organic Act of Guam by P.L. 108-378:1(b) (Oct. 30, 2004), references to “Presiding Judge” have been changed to “Chief Justice.” See 48 U.S.C. § 1424-1(b)(2).

§ 2103.5. Submission for Legislative Advice and Consent.

(a) The appointing authority shall submit to the Speaker of *I Liheslaturan Guåhan* the name of the nominee to a position in a nomination letter to be hand delivered to the office of the Speaker. The nomination letter shall include the following:

- (1) name;
- (2) position to which the appointment is made;
- (3) address;
- (4) citizenship;
- (5) age;
- (6) educational background;
- (7) prior government service whether within or without the government of Guam;
- (8) information pertinent to the position’s qualifications;
- (9) police clearance report;
- (10) a copy of DD Form 214 for those with prior military service;
- (11) special distinctions and honors;

(12) whether the nominee has been found guilty of a felony in any court, whether within or without the United States, and if so, shall specify in detail the address of the court, the date of conviction and the specific infraction committed;

(13) whether the nominee has been declared mentally incompetent by any court, whether within or without the United States, and if so, specify in detail reasons and facts related to such declaration;

(14) whether the nominee has been found not guilty or not punishable in any criminal proceedings by reason of insanity;

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(15) whether the nominee has been confined to a mental institution for any reason, and if so, the reasons why the appointing authority believes the nominee is not suffering from any mental illness or affliction.

(b) The applicant shall execute an affidavit under penalty of perjury that the applicant has read and reviewed the information contained in the nomination letter from *I Maga'hågan/Maga'låhen Guåhan* that the matters contained in such nomination letter and all attachments thereto are true and correct. If the applicant cannot, or will not, certify or verify the accuracy of any part of the nomination letter, it shall be so noted in the applicant's affidavit.

SOURCE: Added by P.L. 22-108:3 (Apr. 1, 1994). Amended by P.L. 26-119:4 (Aug. 14, 2002); P.L. 29-020:2 (Oct. 10, 2007).

2025 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 2103.6. Resignations from Positions.

(a) A resignation from any position shall be in writing (Resignation Letter) and directed to the appointing authority, and shall, by its terms, be effective immediately or on a date certain. If no effective date is indicated, it shall be effective upon delivery to the appointing authority. Upon receipt by the appointing authority of any such Resignation Letter, the appointing authority may make the resignation effective immediately or sooner than the effective date in the Resignation Letter. Such resignation shall be effective according to its terms unless the appointing authority, at its discretion, makes the resignation effective immediately or at sometime sooner than the Resignation Letter. If the position involved requires the advice and consent of *I Liheslatura*, the appointing authority shall immediately after receipt of the Resignation Letter forward a copy of such Resignation Letter to the Speaker of *I Liheslatura*. Once such a Resignation Letter is delivered to the appointing authority, it may not be later withdrawn by the resigning person without the consent of the appointing authority. Acceptance of such resignation by the appointing authority is not required for the resignation to become effective.

(b) When, as to positions requiring the advice and consent of *I Liheslatura*, the appointing authority and the appointee following delivery of a Resignation Letter to the appointing authority, jointly decide to withdraw the resignation after its submittal, the appointing authority shall within five (5) calendar days submit the name of the appointee to *I Liheslatura* for a new confirmation process as a new appointee.

(c) A Resignation Letter by any officer or employee of the government of Guam, its agencies and instrumentalities, which is directed to *I Maga'håga/Maga'låhi* or directed to any of the person's supervisors shall be treated as a non-revocable resignation as if it had been directed to an appointing authority.

(d) In the case of appointments awaiting action by *I Liheslatura* for confirmation, either the appointing authority or the appointee may unilaterally request the Speaker of *I Liheslatura* to withdraw the nomination of the appointee, which withdrawal shall be effective immediately. Such a withdrawal of nomination shall have the effect of terminating any acting appointments for the position in question which the appointee may hold.

(e) In the case of resignations by elected officials, every elected official except *I Maga'håga/Maga'låhi* and a senator, may submit a Resignation Letter to *I Maga'håga/Maga'låhi*. *I Maga'håga/Maga'låhi* may submit a Resignation Letter to the Speaker of *I Liheslatura*, and a senator may submit a Resignation Letter to either *I Maga'håga/Maga'låhi* or the Speaker. A judge or justice shall submit a Resignation Letter to *I Maga'håga/Maga'låhi*.

SOURCE: Added by P.L. 22-108:4 (Apr. 1, 1994).

2025 NOTE: References to the "Governor" replaced with *I Maga'håga/Maga'låhi* and pursuant to 5 GCA § 1510. References to the "Legislature" replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

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§ 2103.7. Undated “Courtesy” Resignations Not Allowed.

The practice of requiring or submitting undated resignations to be accepted at a later date by the appointing authority or any other person is hereby declared to be contrary to public policy for any position within the government of Guam. Neither *I Maga'hågan/Maga'låhen Guåhan* nor any other person may request an undated resignation letter or courtesy resignation from any officer or employee of the government of Guam, whether or not the position held by such person is subject to the advice and consent of *I Liheslatura*; and no officer or employee of the government of Guam shall submit such an undated resignation letter, and any such undated “courtesy” resignation letter submitted in violation of this section shall be void.

SOURCE: Added by P.L. 22-108:5 (Apr. 1, 1994).

2025 NOTE: Reference to the “Governor of Guam” replaced with *I Maga'hågan/Maga'låhen Guåhan* pursuant to 5 GCA § 1510. References to the “Legislature” replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 2103.8. Moving from Unclassified to Classified Position.

No government of Guam official or employee who occupies an unclassified position within the government of Guam, (including positions on boards and commissions which are paid a stipend for each meeting attended), may fill a permanent classified position with the government of Guam for a period of one hundred eighty (180) days following termination of his or her employment at the unclassified position; provided, however, that such a former unclassified official or employee may be hired to fill a critical, but vacant, classified position during such one hundred eighty (180) day period, but such appointment may not be made permanent during such one hundred eighty (180) day period, and the person shall be subject to dismissal without cause during the one hundred eighty (180) day period in the same manner as an unclassified employee, notwithstanding any other law, or rule, or regulation of the government of Guam to the contrary.

SOURCE: Added by P.L. 22-108:6 (Apr. 1, 1994).

AG OPINION: This section is a violation of the equal protection provisions of the U.S. Constitution through the Organic Act, and is also a Bill of Attainder. AG Opin. #DOA 94 0875 (Aug. 5, 1994).

§ 2103.9. Time Limits on Acting Capacity for Positions Requiring Legislative Approval.

(a) *I Maga'hågan/Maga'låhen Guåhan* or appointing authority may, by separate appointment, appoint a person in an acting capacity to fill a salaried position which requires the advice and consent of *I Liheslaturan Guåhan*. No person may serve in such an acting capacity for a period in excess of ninety (90) days, provided, that no acting director who is not otherwise a classified employee of the government of Guam may serve in the capacity of acting director without the transmittal of such person’s name to *I Liheslaturan Guåhan* for the purpose of confirmation within fifteen (15) days of their appointment as acting director. This Section does not apply to appointments to classified positions, but does apply to classified employees appointed in an acting capacity to a position requiring the advice and consent of *I Liheslaturan Guåhan*.

(b) In the event of that person’s rejection, a candidate’s nomination may be resubmitted by the appointing authority to fill the same position, but the candidate may not function in an acting capacity for that position following such rejection, and may assume the position only when confirmed by *I Liheslaturan Guåhan*.

(c) No funds appropriated by law may be expended to pay a salary or any personnel benefits of any kind, or to pay someone on payroll or contract who serves in an acting capacity in a position to which that person was appointed by *I Maga'hågan/Maga'låhen Guåhan* and subsequently denied confirmation by *I*

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Liheslaturan Guåhan, for a period of three (3) years following rejection of that person's appointment by *I Liheslaturan Guåhan*.

(d) No person shall serve in an acting capacity on any board or commission requiring legislative advice and consent. Failure to comply with this Subsection shall render the actions of a defective appointee null and void.

(e) An appointed board or commission member may continue to serve for ninety (90) calendar plus three (3) legislative days in that person's position after that person's term has expired in an acting holdover capacity until that person, or another person, is appointed by *I Maga'hågan/Maga'låhen Guåhan* and confirmed by *I Liheslaturan Guåhan*.

(f) The ninety (90) calendar day plus the three (3) legislative day limitation period for serving in an acting capacity shall not be tolled because another person is serving in a temporary acting capacity during the nominee's absence, nor shall it be tolled by the appointment of some other person to temporarily fill the position in an acting capacity.

SOURCE: Added by P.L. 22-108:7 (Apr. 1, 1994). Amended by P.L. 26-119:4 (Aug. 14, 2002). Subsection (d) amended by P.L. 27-106:IV:29 (Sept. 30, 2004) and P.L. 28-068:IV:85 (Sept. 30, 2005). Subsection (a) amended by P.L. 29-113:VI:29 (Sept. 30, 2008). Subsections (d) and (e) amended by P.L. 29-113:VI:31(a) (Sept. 30, 2008), effective 60 days from the enactment of the Act, pursuant to P.L. 29-113:VI:31(b).

§ 2103.10. Withdrawal of Nominations.

The appointing authority or the appointee may withdraw a Nomination Letter at any time prior to confirmation by delivering a letter of withdrawal to the Speaker. The withdrawal shall become effective upon receipt by the Speaker, effected in the same manner as submission. A person whose nomination has been withdrawn may neither serve nor be reappointed to serve in an acting capacity for that position until *I Liheslatura* confirms a nominee to fill that position permanently.

SOURCE: Added by P.L. 22-108:8 (Apr. 1, 1994).

2025 NOTE: Reference to the "Legislature" replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

§ 2103.11. Deputy May Become Acting.

If upon the expiration of the maximum term for serving in an acting capacity, a nominee to an approved position has not been confirmed, any person appointed to a deputy position, if such exists, may assume the position in an acting capacity for the maximum term provided by this chapter, pending completion of the confirmation process.

SOURCE: Added by P.L. 22-108:9 (Apr. 1, 1994).

§ 2103.12. Acting Capacity.

(a) No person who shall be appointed to a position which requires advice and consent of *I Liheslatura* may serve in an acting capacity as head or director of a department, agency or instrumentality for a period in excess of ninety (90) days. Any employee so appointed shall have the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the ninety (90) day period is exhausted. The time limitation of this Section may not be circumvented by an interruption in the appointment to an acting capacity or by transfer back to the position the employee held immediately before the appointment for a period of less than three hundred sixty (360) days or by a temporary transfer to any other position for a period of less than three hundred sixty (360) days.

(b) Extended Absence Due to Military Deployment.

(1) In the event the legislatively confirmed head or director of a department, agency or instrumentality is a member of the Department of Defense or the Department of Transportation

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Reserve Component, including, but not limited to, the United States Navy, Army, Marine Corps, Air Force, the Coast Guard, or the Guam National Guard, and the individual's Unit of Assignment receives a Unit call to active military duty for a period in excess of ninety (90) days, the appointing authority may appoint in an acting capacity a person who meets the qualification requirements for the position and is a classified employee of the same department, agency or instrumentality, for a period of up to fourteen (14) months, or the duration of the confirmed director's active military duty, whichever is shorter.

(2) Information specified in § 2103.5, Chapter 2, Title 4 GCA shall be transmitted to the Speaker of *I Liheslaturan Guåhan* within ten (10) days of making the appointment to serve in an acting capacity. Said appointment to acting capacity shall become effective five (5) working days from the date of receipt of the background information by the Speaker.

(3) Any employee so appointed shall have the right to return to the position the employee held immediately before the appointment to serve in an acting capacity after the time limit is exhausted, or at the request of the employee.

(4) The time limitation of this Section may not be circumvented by an interruption in the appointment to an acting capacity or by transfer back to the position the employee held immediately before the appointment for a period of less than three hundred sixty (360) days or by a temporary transfer to any other position for a period of less than three hundred sixty (360) days.

(5) The compensation of the employee shall not be made to suffer as a result of the appointment to acting capacity, but instead shall be maintained at the average of the preceding twelve (12) months earnings.

(c) Notification of Acting Director or Acting Deputy Director Appointments.

(1) An appointing authority, as defined in § 2103.4 of this Chapter, shall issue written notifications regarding any appointments or detail to the positions of Acting Director or Acting Deputy Director. These notifications shall be delivered to the Speaker of *I Liheslaturan Guahan*, the Attorney General of Guam, and the Office of Public Accountability.

(2) The notice shall be sent within twenty-four (24) hours of the appointment date and should include the appointed individual's name, the start date of their acting tenure, and the anticipated duration of their appointment.

(3) Notifications shall be transmitted electronically, or hand delivered with confirmation of receipt required to ensure proper documentation and compliance with this Section.

SOURCE: Added by P.L. 22-108:10 (Apr. 1, 1994). Amended by P.L. 27-106:VI:30 (Sept. 30, 2004), P.L. 28-068:IV:86 (Sept. 30, 2005), P.L. 29-113:VI:30 (Sept. 30, 2008), P.L. 32-007:2 (Mar. 8, 2013). Subsection (c) added by P.L. 37-124:XII:49 (Sept. 11, 2024).

§ 2103.13. Convictions.

If any person whose name is submitted to *I Liheslatura* for confirmation is convicted of any felony, misdemeanor involving moral turpitude, or of any offense or violation involving narcotics while the nomination is pending, the nomination shall be considered automatically withdrawn upon such conviction. The appointing authority may, however, resubmit such nomination to *I Liheslatura* thereafter.

SOURCE: Added by P.L. 22-108:11 (Apr. 1, 1994).

2025 NOTE: References to the "Legislature" replaced with *I Liheslatura* pursuant to 2 GCA § 1101.

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§ 2103.14. Retroactive Pay.

No unclassified employee or officer of the government of Guam may receive a retroactive pay increase unless specifically authorized by statute.

SOURCE: Added by P.L. 22-108:12 (Apr. 1, 1994).

§ 2103.15. Duration of Unclassified Appointments and Contracts.

All contracts for personal services for the government of Guam and all employment within the unclassified service of the government of Guam, including autonomous and semi-autonomous agencies, where no specific term of appointment or employment is specified in law as to that particular and specific position, shall be at the pleasure of the appointing authority. No employment agreement, however described, shall provide for any other term, nor shall such agreement prohibit the appointing authority from exercising its discretion in terminating said employment agreement. Any terms in conflict with this Section in any employment agreement executed after the effective date of this Section shall be null and void from the beginning.

SOURCE: Added by P.L. 22-108:13 (Apr. 1, 1994).

§ 2103.16. Employment and Employment Contracts; When Forbidden.

No contract of employment shall be entered into between the government of Guam and any employee or officer in the unclassified service within the government of Guam unless such employment contract is specifically permitted by law or is for a physician or dentist. Such employment shall be effected through the standard form of personnel action. This Section shall not affect the ability of the government of Guam to contract for temporary services or for specific contracts not involving an employment relationship with the government of Guam, but shall apply to a contract which is essentially a contract for full time personal services; provided, however, that the executive branch and the autonomous agencies and instrumentalities of the government of Guam may contract for the independent services of any retired employee of the government of Guam, who shall not receive thereunder the standard government of Guam retirement benefits given non-contract employees; and provided, further, that, in addition, the executive branch and the autonomous agencies and instrumentalities of the government of Guam may also hire under independent contracts persons who do not wish to be full time employees (2080 hours per year) and who agree that they shall not receive any of the benefits given full time non-contractual employees of the government of Guam.

SOURCE: Added by P.L. 22-108:14 (Apr. 1, 1994). Amended by P.L. 22-144:2 (Dec. 27, 1994).

§ 2104. Same: Conflict of Interest.

(a) No person who has served as a director, administrator, manager or who has had authority to approve, disapprove or direct Guam action of any department, agency, public corporation or instrumentality of the government of Guam may be appointed to any position, be employed in any capacity whatsoever, or enter into any contract in an individual capacity or as a partner or as a director or shareholder of a corporation with any department, agency, public corporation or other instrumentality of the government of Guam in which such person had previously served in such capacity until after the expiration of one hundred eighty (180) days from termination of said service.

(b) No person who has served as a Director, Administrator, Manager, or has held authority to approve, disapprove or direct Guam action of any department, agency, public corporation or instrumentality of the government of Guam may be appointed to any position, be employed in any capacity whatsoever, or may contract in an individual capacity or as a partner or as a director or shareholder of a corporation with any department, agency, public corporation or other instrumentality of the government of Guam in which he had previously served in such capacity until after the expiration of one (1) year from the termination of said service.

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SOURCE: GC § 3103, as added by P.L. 13-131:3 (Jan. 30, 1976). Amended by P.L. 17-070:10 (Sept. 21, 1984), Subsection (b) added by P.L. 17-070:11 (Sept. 21, 1984). Subsection (a) repealed and reenacted by P.L. 20-041:2 (Sept. 13, 1989).

2025 NOTE: References to “territorial” replaced with “Guam” pursuant to 1 GCA § 420.

§ 2104.1. Service Limited.

Notwithstanding any other provision of law, elected officials of any branch, agency, department, office, public corporation, or commission of the government of Guam, are prohibited from serving in any other capacity on a board or commission of the government of Guam unless specifically holding said position on the board or commission by virtue of the elected office or pursuant to the duties of that elected office as provided by law.

SOURCE: Added by P.L. 27-104:2 (June 30, 2004)

§ 2105. Same: Representation of Both Genders on Boards.

Each Board or Commission, of which at least four (4) members are appointed by *I Maga'håga/Maga'låhi* shall include at least two (2) members from each gender.

SOURCE: GC § 3104. Amended by P.L. 19-003:13 (Apr. 24, 1987); and P.L. 29-128:3 (Dec. 22, 2008).

NOTE: GC § 3104 was originally added to the Government Code as GC § 4026 by P.L. 15-135:18 (Aug. 22, 1980), later renumbered to GC § 3104 by P.L. 16-023:2 (Aug. 11, 1981).

§ 2105.1. Same: Youth Membership.

In addition to all other statutory conditions and qualifications concerning eligibility for appointment to voting membership on and composition of the following boards and commissions: Agricultural Board of Commissioners, Chamorro Language Commission, Commission on Persons with Disabilities, Board of Cosmetology, Council on the Arts and Humanities, Criminal Injuries Compensation Commission, Grand Prix Racing commission, Guam Community College Board of Trustees, Guam Council on Youth Affairs, Guam Educational Telecommunication Corp., Guam Mass Transit Authority Board, Guam Museum Board of Trustees, Guam Public Library Board, Guam Visitors Bureau Board, *Guma Onra* Commission, Mental Health and Substance Abuse Council, Parks and Recreation Commission, Vocational Rehabilitation Board, and Status of Women Commission, no less than one (1) appointee shall meet the following criterion: The appointee must be eighteen (18) years of age or older but not over twenty six (26) prior to the date of appointment. Such appointee's term of appointment shall expire on such appointee's 26th birthday.

SOURCE: Added by P.L. 22-049:1 (Dec. 2, 1993). Amended by P.L. 22-140:7 (Dec. 30, 1994).

§ 2106. Duration of Appointments.

Any employment within the unclassified service of the government of Guam including autonomous and semi-autonomous agencies where no specific term of appointment or employment is specified in law shall be at the pleasure of the appointing authority. No employment agreement, however described, shall provide for any other term, nor shall such agreement prohibit the appointing authority from exercising its pleasure in terminating said employment agreement. Any terms in conflict with this Section in any employment agreement executed after the effective date of this Section shall be null and void from the beginning.

SOURCE: Added by P.L. 17-003:1 (Mar. 1, 1983).

§ 2107. Employment Contracts When Forbidden.

No contract of employment shall be entered into between any employee, in the unclassified service within the government of Guam unless such employment contract is specifically permitted by law. Such employment shall be effected through the standard form of personnel action. This Section shall not affect

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the ability of the Government to contract for temporary services or for specific contracts not involving an employment relationship with the Government.

SOURCE: Added by P.L. 17-003:2 (Mar. 1, 1983).

§ 2108. Re-Employed Employees.

(a) Former classified employees of the government of Guam who were in good standing at the time of resignation may be hired at not less than the salary they earned at their former position if they apply for the same or comparable job in the same department. This re-employment credit privilege must be exercised within a four (4) year period, and employees must pass drug testing prior to re-employment. The employee may waive the re-employment privilege of this Section.

(b) Notwithstanding any other provision of law, or administrative or personnel rules and regulations, any employee who resigns within thirty (30) days of an announced or random government-sponsored drug testing within the employee's department that would subject the employee to drug testing, shall submit to and pass said drug testing, prior to resignation, or forfeit all re-employment rights.

SOURCE: Added as uncodified law by P.L. 17-025:19 (Oct. 6, 1983). Codified by the Compiler. Amended by P.L. 38-004:1 (Apr. 12, 2025.)

§ 2109. Prohibition Against Hiring New, Unclassified Employees Following the Defeat of an Incumbent in an Election.

No new, unclassified employees may be hired in the Executive Branch of government following the defeat of a sitting *Maga'hågan/Maga'låhen Guåhan* in a primary election or general election until after such date that such *Maga'hågan/Maga'låhen Guåhan* leaves office. No new, unclassified employees may be hired in any Legislative Office of a sitting Senator following the defeat of such Senator in a primary or general election. No new, unclassified employees may be hired in any Mayoral Office of a sitting Mayor following the defeat of such Mayor in a primary or general election. No new contract workers or unclassified employees may be hired in the Department of Law following the defeat of a sitting Attorney General in a primary or general election until said Attorney General leaves office. No new unclassified employees may be hired in the Office of Public Accountability following the defeat of said Public Auditor in a primary or general election until said Public Auditor leaves office. Following the defeat of a sitting Attorney General in a primary or general election, no contract workers or unclassified employees employed in the Office of the Attorney General may receive a pay increase until said Attorney General leaves office. Following the defeat of a sitting Public Auditor in a primary or general election, no contract workers or unclassified employees employed in the Office of Public Accountability may receive a pay increase until said Public Auditor leaves office.

SOURCE: Added by P.L. 25-026:2 (June 3, 1999). Amended by P.L. 29-016:1 (Sept. 7, 2007); and P.L. 30-047:1 (July 14, 2009).

2009 NOTE: Pursuant to P.L. 30-027:2 (June 16, 2009), references to Office of Public Auditor were changed to Office of Public Accountability.

§ 2110. Prohibition Against Hiring Unclassified Employees Employed by Incumbents Not Seeking Re-Election.

No new unclassified employees may be hired in the Executive Branch of government after October 1st of the last year of office of a sitting *Maga'hågan/Maga'låhen Guåhan* who is not seeking re-election until after such date that such *Maga'hågan/Maga'låhen Guåhan* leaves office. No new, unclassified employees may be hired in any Legislative Office of a sitting Senator, opting not to seek re-election, after October 1st of the last year in office of such Senator. No new, unclassified employees may be hired in any Mayoral Office of a sitting Mayor opting not to seek re-election, after October 1st of the last year in office of such Mayor. No new contract workers or unclassified employees may be employed in the Department

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of Law or the Office of Public Accountability when the Attorney General or Public Auditor, respectively, opts not to seek re-election, until that Attorney General or Public Auditor leaves office.

SOURCE: Added by P.L. 25-026:3 (June 3, 1999). Amended by P.L. 29-016:2 (Sept. 7, 2007), P.L. 30-047:2 (July 14, 2009).

2009 NOTE: Pursuant to P.L. 30-027:2 (June 16, 2009), references to Office of Public Auditor were changed to Office of Public Accountability.

§ 2111. Screening of Volunteers in Government of Guam Agencies.

(a) **Volunteers Exempt from Certain Screening Costs.** All volunteers working uncompensated in any agency of the government of Guam, including volunteers with the ServeGuam Commission, or its authorized successor, or volunteer applicants of a youth recreational organization as evidenced by a form or letter issued by such youth recreational organizations shall be exempt from clearance and screening fees charged by government of Guam agencies, including police and court clearances and skin test for tuberculosis administered by a government of Guam agency. This exemption does not apply to chest x-rays required of positive skin test readers or drug testing; however, nothing herein shall prevent any appointing agency from paying for such examinations for its volunteers.

(b) **Judiciary of Guam is Authorized to Submit Requests for Criminal History Checks to the Federal Bureau of Investigation for all Guam AmeriCorps Volunteers.**

(1) The Judiciary of Guam, as the central repository of all criminal information, shall obtain federal-level criminal history clearances through the Federal Bureau of Investigation for all Guam AmeriCorps volunteer and employee applicants, or existing volunteers and employees, at the request of the ServeGuam Commission.

(2) An applicant for a federal-level criminal history clearance shall apply therefore on a form supplied by the Judiciary of Guam, and shall provide such information as may be necessary to afford the Judiciary of Guam reasonable opportunity to ascertain information required for such clearance. The applicant shall further submit to the Judiciary of Guam his or her fingerprint through a fingerprint card, or electronic fingerprint data, if so utilized.

(c) **Waiver of Local Processing Fee(s) for Federal Bureau of Investigation Clearances.** Individuals applying to serve as volunteers with the ServeGuam Commission or Guam AmeriCorps programs are hereby exempted from paying any application or processing fee required by the Judiciary of Guam for clearance required herein, except those fees which are required by the Federal Bureau of Investigation. The Judiciary of Guam and the ServeGuam Commission, or its authorized successor, shall adopt a Memorandum of Agreement relative to the payment of Federal Bureau of Investigation fees.

SOURCE: Added by P.L. 25-151:2 (July 10, 2000) as 4 GCA § 2112; recodified to this section by the Compiler pursuant to the authority granted by 1 GCA § 1606. Amended by P.L. 27-027:5 (July 18, 2003); P.L. 27-095:3 (June 25, 2004). P.L. 31-252:2 (Dec. 26, 2012) amended subsection (a) and added subsections (b) and (c).

2025 NOTE: Subsection designations added to (b) pursuant to the authority of 1 GCA § 1606.
